



BOROONDARA
City of Harmony

COUNCIL MEETING MINUTES

(Open to the public)

Monday 22 August 2022
Online - Delivered via Webex Events.

Commencement 6:34 pm

Attendance

Councillor Jane Addis (Mayor)
Councillor Jim Parke
Councillor Felicity Sinfield
Councillor Victor Franco
Councillor Wes Gault
Councillor Di Gillies
Councillor Lisa Hollingsworth
Councillor Cynthia Watson
Councillor Susan Biggar
Councillor Garry Thompson
Councillor Nick Stavrou

Apologies Nil

<u>Officers</u>	Phillip Storer Daniel Freer Carolyn McClean Scott Walker Mans Bassi	Chief Executive Officer Director Places and Spaces Director Community Support Director Urban Living Director Customer and Transformation
	Amy Montalti Christine White Bryan Wee David Shepard	Chief Financial Officer Manager Capital Projects Manager Governance and Legal Manager Environmental Sustainability and Open Spaces
	Jarrold Filosa Sapphire Allan Prudence Ho Elizabeth Manou Rebecca Dewar Liam Merrifield	Coordinator Building Projects Management Accountant Project Architect Senior Governance Officer Senior Property Management Officer Senior Governance Officer

9

Table of contents

1.	Adoption and confirmation of the minutes of then Council meeting held on 25 July 2022	3
2.	Declaration of conflict of interest of any councillor or council officer	3
3.	Deputations, presentations, petitions and public submissions	3
4.	Informal Meetings of Councillors	4
5.	Public question time	4
	PQT1 & PQ2 Matthew Roberts of South Melbourne	4
	PQT3 Margaret Whitehead of Kew	5
	PQT4 Roderick Fawns of Kew	6
	PQT4 Roderick Fawns of Kew	7
6.	Notices of motion	7
7.	Presentation of officer reports	7
7.4	Contract 2021/106 General Tree Services	8
7.5	Street Numbering Policy	10
7.6	Telecommunications Facilities Policy	11
7.8	Bi-annual Report from the Audit and Risk Committee	12
7.10	June 2022 Quarterly Financial Report	13
7.1	Weed Management Practices	14
7.2	Contract No 2022/53 Lewin Reserve - New Pavilion Building Works	18
7.3	State Government Cost Shifting to Local Government	19
7.7	Proposed Sale of the rear 218 - 224 High Street, Kew	21
7.9	Discontinuance of Roads and Reserves Policy	23
7.11	35 McShane Street, Balwyn North - Proposed discontinuance and sale of road reserve	24
8.	General business	26
8.1	Leaves of Absence - Councillor Thompson, Councillor Watson and Councillor Biggar	26
8.2	Councillor Stavrou and Councillor Watson - Preselection	27
8.3	Boroondara Eagles Football Club	27
8.4	Pasing of Judith Durham	27
8.5	Passing of Judith Durham, Olivia Newton-John and Archie Roach Acknowledgement	27
8.6	Wear it Purple - Councillor Franco	28
8.7	Census Results	28
9.	Urgent business	28
10.	Confidential business	29

1. Adoption and confirmation of the minutes of then Council meeting held on 25 July 2022

MOTION

Moved Councillor Parke

Seconded Councillor Hollingsworth

That the minutes of the Council meeting held on 25 July 2022 be adopted and confirmed.

CARRIED

2. Declaration of conflict of interest of any councillor or council officer

Item 8.1 Leaves of Absence - Councillor Watson, Councillor Thompson and Councillor Biggar

Item 7.11 35 McShane Street, Balwyn North - Proposed discontinuance and sale of road reserve - Councillor Watson

3. Deputations, presentations, petitions and public submissions

Council has received one (1) petition. Details of the petition is set out below.

No.	Ref. no.	Title / Description	No. of signatures	Referred to
1	CAS-1214608	To "urgently seek a meeting with the Minister for Transport and the City of Boroondara and its councillors and in the meantime requesting an immediate pause on proposed works" to the Yarra Boulevard	20	DPS

Legend:

DCS	Director Support	Community	DUL	Director Urban Living
DC&T	Director Transformation	Customer and	DP&S	Director Places & Spaces
			GOV	Governance & Legal

MOTION

Moved Councillor Biggar

Seconded Councillor Gault

That Council resolve:

1. To receive and note the petition.

2. **To note that the petition has been referred to the relevant director for consideration and to advise the first named signatory to the petition that they will receive a response from the Mayor in due course advising of Council's action.**

CARRIED

4. Informal Meetings of Councillors

Chapter 6 of Council's Governance Rules requires that a summary of matters discussed at Informal Meetings of Councillors be reported to a Council meeting as soon as practicable.

The attached summary of Informal Meetings of Councillors (**Attachment 1**) is reported to Council in accordance with the requirements of the Governance Rules.

MOTION

Moved Councillor Gillies

Seconded Councillor Biggar

That Council resolve to receive and note the summary of Informal Meetings of Councillors, as annexed to the minutes.

CARRIED

5. Public question time

PQT1 & PQT2 Matthew Roberts of South Melbourne

The **Mayor, Councillor Addis** read the following questions submitted with notice:

"Element 7 of a carried motion under item 5.2 of the 6 September 2021 Council Urban Planning Delegated Committee Meeting Minutes requires Council to use its communication channels to inform the community about the decriminalisation of sex work. Why has Council not yet commenced this information campaign?"

"When will Council commence the information campaign about sex work decriminalisation, as required by a carried motion in 2021?"

The questions were allowed in accordance with Chapter 2 of the Governance Rules. The questions were previously raised with members of Council Staff more than 10 working days before the Council meeting at which the question is submitted.

The **Director Urban Living** responded as follows:

- On 22 February 2022, the Sex Work Decriminalisation Act 2022 was passed by the Victorian Parliament.
- Two key components to the changes included decriminalisation of the sex industry (which commenced May 2022) and associated changes to the

Planning Scheme (proposed to commence late 2023) and are yet to be finalised.

- Council made a submission to the Department of Justice and Community Safety in August 2021 raising our concerns with the proposed changes to the Sex Work Act 1994 and to regulating sex work under the Planning and Environment Act 1987. Council supports key principles of the reforms including protecting the safety and health of sex workers, however Council has strong concerns with the removal of separation distances between sex work businesses and particular sensitive land uses.
- The potential to allow sex work to occur as a home-based business may cause significant amenity impacts, and the display of signage or advertising may adversely affect streetscape character. Officers have attended information sessions, lodged submissions to the State Government, liaised with other Councils, met with relevant Government Ministers, responded to media enquires and public questions and raised specific concerns about the way that the reforms will operate including the proposed planning scheme changes.

The **Mayor, Councillor Addis** informed the meeting all councillors had received a copy of the question and a written response would be provided to Mr Roberts in due course.

PQT3 Margaret Whitehead of Kew

The **Mayor, Councillor Addis** read the following question submitted with notice:

"Have you considered the environmental impact of the recently installed freeway-style lights on Yarra Boulevard on the local Grey-headed Flying-foxes, a threatened species, who at dusk in summer commute from their roosting site to foraging areas along a route that includes now very brightly lit intersections?"

The question was allowed in accordance with Chapter 2 of the Governance Rules. The question related to a matter on the agenda for the current meeting (Item 3) and was therefore allowed in accordance with Chapter 2 of the Governance Rules.

The **Director Places and Spaces** responded as follows:

- Yarra Boulevard is a tourist road which falls under the care and management of Department of Transport, formerly VicRoads.
- The Department of Transport is delivering a range of traffic treatments to address the long standing serious safety issues along the Yarra Boulevard involving speeding, hooning and the high number of crashes.
- The Department of Transport has advised public lights over new speed humps and traffic management devices in Yarra Boulevard are designed to Australian Standards, specifically AS11581.2 2010 Cat V3. Their advice is there is a requirement to maintain a minimum 7.5 lux 'Point Horizontal Illuminance' around the design areas and this includes a distance of 5m from the edge of the design of the refuge islands.

- The Department of Transport has also advised they arranged for an ecological assessment to identify rare or threatened species within the area. The grey-headed flying fox was identified, however it was determined the impact would be low as the works would not be impacting the suitable habitat of feeding trees.

The **Mayor, Councillor Addis** informed the meeting all councillors had received a copy of the question and a written response would be provided to Ms Whitehead in due course.

PQT4 Roderick Fawns of Kew

The **Mayor, Councillor Addis** read the following question submitted with notice:

"How will Council act to restore the local environment of residents, both human citizens and wildlife, around the Kew Boulevard, mitigating against the extreme high intensity lighting that has been installed at the Molesworth St, Yarra St and Yarravale Rd intersections."

The question was allowed in accordance with Chapter 2 of the Governance Rules. The question related to a matter on the agenda for the current meeting (Item 3) and was therefore allowed in accordance with Chapter 2 of the Governance Rules.

The **Director Places and Spaces, Daniel Freer** responded as follows:

- Yarra Boulevard is a tourist road which falls under the care and management of Department of Transport (DoT), formerly VicRoads. The DoT is delivering a range of traffic treatments to address the long standing serious safety issues along the Yarra Boulevard involving speeding, hooning and the high number of crashes.
- The DoT has advised public lights over new speed humps and traffic management devices in Yarra Boulevard are designed to Australian Standards. Their advice is there is a requirement to maintain a minimum 7.5 lux 'Point Horizontal Illuminance' around the design areas and this includes a distance of 5m from the edge of the design of the refuge islands.
- DoT has advised during the design stage, they sought to avoid light spill to neighbouring properties as much as possible, however they also gave priority to meeting the standard to avoid any traffic hazards as well. They have also acknowledged that it is not possible to completely avoid any light spill to properties.
- DoT has also advised they arranged for an ecological assessment to identify rare or threatened species within the area. They identified the Little Egret, Powerful Owl, Grey-headed Flying Fox, Freshwater Catfish and Great Egret, however impacts were determined to be low as the works would not be impacting the suitable habitat of feeding trees or works were not occurring within suitable habitat.

The **Mayor, Councillor Addis** informed the meeting all councillors had received a copy of the question and a written response would be provided to Mr Fawns in due course.

PQT4 Roderick Fawns of Kew

The **Mayor, Councillor Addis** read the following question submitted with notice:

"How will Council ensure that future infrastructure on the Boulevard will protect the natural beauty and amenity of the Boulevard, against very brightly lit environmentally inappropriate, roadside safety barriers, raised coloured platforms, and pedestrian crossings, while seeking to protect speeding road traffic from their own propensities?"

The question was allowed in accordance with Chapter of the Governance Rules. The question related to a matter on the agenda for the current meeting (Item 3) and was therefore allowed in accordance with Chapter 2 of the Governance Rules.

The **Director Places and Spaces, Daniel Freer** responded as follows:

- In line with the first response, the Department of Transport is responsible for Yarra Boulevard.
- Council has and continues to support an effective suite of traffic treatments to address the long standing serious safety issues along the Yarra Boulevard involving speeding, hooning and the high number of crashes.
- The community has long called for action to address these issues and the DoT is responding through the delivery of a range of traffic treatments funded by the Federal Government.
- The Department of Transport is required to ensure all traffic treatments comply with all relevant standards and guidelines.

Council will continue to raise resident issues with the Department of Transport

The **Mayor, Councillor Addis** informed the meeting all councillors had received a copy of the question and a written response would be provided to Mr Fawns in due course.

6. Notices of motion

Nil

7. Presentation of officer reports**Procedural Motion****MOTION**

Moved Councillor Parke

Seconded Councillor Stavrou

That the following items:

7.4 Contract 2021/106 General Tree Services

7.5 Street Numbering Policy**7.6 Telecommunications Facilities Policy****7.8 Bi-annual Report from the Audit and Risk Committee****7.10 June 2022 Quarterly Financial Report**

be moved en bloc as per the officers' recommendations outlined in the agenda.

CARRIED**7.4 Contract 2021/106 General Tree Services**Purpose

The purpose of this report is for Council to consider the awarding of Contract No. 2021/106 - General Tree Services. This contract will provide reactive tree work services for an initial contract term of three (3) years with two possible extensions of one (1) year each, up to a total contract period of five (5) years, to be exercised at the discretion of Council. It is a schedule of rates contract and is a replacement for the existing contract which has reached the end of its contract term.

The estimated cost of this contract in 2022/2023 is \$2,112,657 excluding GST which is above what was forecasted in Council's adopted 2022/2023 budget. The shortfall of \$253,597 is related to funding required for storm events and will be sought as emergency funding if required (reimbursed through Emergency Management claims post events). The estimated total contract cost over the maximum term of five years is \$10,563,286 (excluding GST).

Background

This contract will replace the previous General Tree Services contract 2016/35 which has expired.

Through this contract Council will manage its reactive tree works program in order to maintain our urban forest commitments under the Boroondara Community Plan, and as a responsible land owner. This program is primarily driven by customer requests and therefore this contract is vital in enabling Council to respond to resident issues in a timely manner.

Confidential information is contained in **Attachment 1**, as circulated in the confidential section of the agenda attachments, in accordance with Section 66(2)(a) and the definitions of 'confidential information' in section 3(1) of the *Local Government Act 2020*. The information relates to:

- a) private commercial information, being information provided by a business, commercial or financial undertaking that—
 - i. relates to trade secrets; or
 - ii. if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage;

The item has been included in the public agenda to facilitate transparency and accountability in Council's decision making.

If discussion of the confidential information in the attachments to this report is required in order for Council to make a decision, this item will be deferred to the confidential section of the agenda.

MOTION

Moved Councillor Parke

Seconded Councillor Stavrou

That Council resolve:

1. To award Contract No. 2021/106 General Tree Services to:

Panel A - Amenity Tree Services (reactive tree work excluding powerlines)

- ArborCo Australia Pty Ltd (ACN 076 529 7470);
- Professional Tree Care Services Pty Ltd (ACN 061 896 259) The Trustee for the J & N Bradley Family Trust (ABN 24 846 035 915);
- Recovery Tree Services Pty Ltd (ACN 159 236 414);
- Reynolds Tree Care Pty Ltd (ACN 120 160 170) as Trustee for Reynolds Family Trust (ABN 62 466 410 772);
- TreeServe Pty Ltd (ACN 169 334 712); and
- The Tree Company Arboricultural Services Pty Ltd ACN 120 997 239).

Panel B: Amenity Tree Services & Electric Line Clearances (reactive tree work around powerlines)

- Recovery Tree Services Pty Ltd (ACN 159 236 414);
- TreeServe Pty Ltd (ACN 169 334 712); and
- The Tree Company Arboricultural Services Pty Ltd (ACN 120 997 239).

Panel C: Arboricultural Consultancy Services

- C & R Ryder Consulting Pty Ltd (ACN 601 897 929) the trustee for C & R Ryder Family Trust (ABN 47 376 684 521);
- Greenscape Tree Consulting Pty Ltd (ACN 602 134 476) as Trustee for Brown Family Trust (ABN 28 848 635 812); and
- Xylem Tree Care Pty Ltd (ACN 640 958 532).

Panel D: Specialist Tree Care Services (tree health care)

- Arbor Spray Pty Ltd (ACN 076 529 747); and
- Xylem Tree Care Pty Ltd (ACN 640 958 532).

at their tendered schedule of rates for an initial contract period of three (3) years with two possible extensions of one (1) year each, up to a total contract period of five (5) years to be exercised at the discretion of Council. The estimated total contract cost for the maximum contract period is \$10,563,286 (excluding GST).

2. **To authorise the Director Places and Spaces to sign and execute the contracts on behalf of the Council and to authorise invoices to an amount not exceeding \$10,563,286 excluding GST.**
3. **To authorise the Director Places and Spaces to negotiate and execute optional extension periods.**
4. **To note that expenditure under this contract is in accordance with Council's 2022/223 adopted budget, with a shortfall of \$253,597 to be sought as emergency funding if required to respond to a storm event, and expenditure in future years will be in accordance with the approved budget allocations.**

CARRIED

7.5 Street Numbering Policy

Purpose

The purpose of the Street Numbering Policy is to provide a clear and consistent approach in relation to the allocation of street numbers throughout the municipality.

Background

Council is the street numbering authority for all properties within the municipality.

Street numbering must be compliant with *AS/NZS 4819:2011 Rural and urban addressing Australian/New Zealand Standards*. These Standards are used throughout Australia and New Zealand to:

- provide a unique address for each property within the municipality;
- facilitate emergency vehicle response to ensure the safety of the community; and
- support the effective delivery of mail, goods and other services, by ensuring all properties are readily locatable and identifiable.

The Standards provide direction as to how property addresses should be allocated to ensure that a consistent approach is applied Australia wide.

The Standards were prepared by the Street Address Working Group of the Intergovernmental Committee on Surveying and Mapping (ICSM) which includes representation of, among others, the Australasian Fire and Emergency Service Authorities Council.

Key Issues

Council's existing Street Numbering Policy requires review, as it does not reflect the Naming rules for places in Victoria Statutory requirements for naming road, features and localities 2016 (the Rules) issued by the Office of Geographic Names Victoria.

The Rules introduced in 2016 detail that street number allocation should be undertaken in accordance with the Standards. Council is required to strictly comply with the principles set out in the Standards.

MOTION

Moved Councillor Parke**Seconded Councillor Stavrou**

That Council resolve to adopt the reviewed and updated policy document, Street Numbering Policy (as annexed to the minutes).

CARRIED**7.6 Telecommunications Facilities Policy**Purpose

To seek Council approval of the reviewed and updated document, Telecommunications Facilities Policy (**Attachment 1**).

Background

Telecommunications companies wishing to install a telecommunications tower on Council land must lodge a Planning Application. The Planning Application cannot be lodged without first obtaining Council's consent as the landowner.

The need for telecommunications tower facilities is sometimes required throughout the suburbs to meet demand. Although the community recognises the need for telecommunications facilities they are not often favourably embraced, particularly in public parks.

The policy was developed in 2016 and provides guidance to Council and the telecommunications industry regarding the criteria against which Council will consider applications for consent to lodge a Planning Application to locate telecommunications facilities.

Key Issues

The policy was developed following internal consultation with relevant Council departments and guidance from Councillors.

This policy sets out that any application will be subject to public consultation prior to any decision being made on whether or not consent will be provided for a telecommunications facility on Council land or a facility.

MOTION**Moved Councillor Parke****Seconded Councillor Stavrou**

That Council resolve to:

- 1. Adopt the reviewed policy document, Telecommunications Facilities Policy (as annexed to the minutes).**
- 2. Adopt the amendments to the 2022-23 Fees and Charges Schedule - Attachment 2 as attached to the minutes.**

CARRIED

7.8 Bi-annual Report from the Audit and Risk Committee

Purpose

This report presents to Council the 30 June 2022 Bi-annual Report from the Audit and Risk Committee as required by Section 54 (5) of the Local Government Act 2020.

Background

Section 54 (5) of the Local Government Act 2020 ('the Act') states:

"An Audit and Risk Committee must:

- a) prepare a biannual audit and risk report that describes the activities of the Audit and Risk Committee and includes its findings and recommendations; and
- b) provide a copy of the biannual audit and risk report to the Chief Executive Officer for tabling at the next Council meeting."

Key Issues

The attached Bi-annual Report from the Audit and Risk Committee (**Attachment 1**) was approved by the Chair of the Audit and Risk Committee for tabling at this Council meeting.

Next Steps

The Audit and Risk Committee will continue to prepare biannual audit and risk reports for tabling at future Council meetings.

MOTION

Moved Councillor Parke

Seconded Councillor Stavrou

That Council resolve to note the tabling of the Bi-annual report from the Audit and Risk Committee as required by section 54(5) of the Local Government Act 2020 as contained in Attachment 1 (as annexed to the minutes).

CARRIED

7.10 June 2022 Quarterly Financial Report

Purpose

The Quarterly Financial Report for June 2022 provides detailed reporting on financial performance against both the Budget and the Boroondara Community Plan 2021-31 for the year.

Background

The year to date and annual budget figures referred to in this report reflects the October 2021 Amended Budget, approved by Council on 25 October 2021 which includes the carry forward funding from 2020-21 priority projects and capital works forward commitments.

The 2021-22 Full Year Forecast reflects the final result of the full year review of the annual financials to be undertaken during the year.

Key Issues

Full year actual vs October Amended Budget

The full year net operating surplus of \$10.96 million is \$11.70 million favourable against the October Amended Budget deficit of (\$735,000). The favourable variance is attributable to a number of factors which are outlined in **Section 2 of Attachment 1 - Financial Overview**.

Full year actual vs. Full year forecast

The full year forecast was presented to Council on 6 June 2022. The full year net operating surplus of \$10.96 million is \$4.36 million favourable against the full year forecast surplus of \$6.60 million.

Capital works actual expenditure is \$76.92 million which is \$22.77 million below the October Amended Budget phasing of \$99.69 million. Priority projects expenditure of \$25.34 million is \$14.30 million below the October Amended Budget phasing of \$39.64 million.

The overall financial position at 30 June 2022 is satisfactory with a working capital ratio of 2.14 to 1 (includes reserve funds of \$23.47 million and 0.5% cash contingency for emergency response works).

MOTION

Moved Councillor Parke

Seconded Councillor Stavrou

That Council resolve to:

- 1. Receive and note the Quarterly Financial Report for June 2022 and adopt the final forward commitment listing and amendments for capital works and priority projects as outlined in (Attachment 1).**
- 2. Receive and note the results of the Local Government Performance Reporting Framework (LGPRF) sustainable capacity and financial indicators (Attachment 2).**

CARRIED

7.1 Weed Management Practices

Purpose

The purpose of this report is to confirm Boroondara's weed management practices with consideration of the findings of the '*Weed Management options for Victorian councils - Alternatives to glyphosate*' report, **Attachment 2** and the current position of relevant Australian authorities.

Background

Council undertakes weed management to ensure the high-quality presentation of our parks, reserves, streetscapes and to protect and enhance biodiversity. In different locations weeds can present different risks to the community, flora and fauna as well as general amenity and appearance.

A range of methodologies are currently utilised including use of herbicides, removal of flowers or seed pods, steaming, hand weeding, mulching and dense plantings. Each of these methodologies is determined in respect to the location and requirement of the site. Details of Council's weed control program are provided in Attachment 1, which provides an overview of locations and methods.

Key Issues

The use of herbicides as a method for treatment of weeds has with some members of the community become a contentious issue in the public. Concerns raised are in relation to the use of glyphosate-based products and the impacts on biodiversity and more broadly human health.

Next Steps

If there are any significant changes to professional advice or legislative change relating to the safety or impacts of utilising specific products Officers will undertake a further reassessment of operational and contracted practice.

MOTION

Moved Councillor Thompson

Seconded Councillor Franco

1. Resolve to continue to implement a weed management approach that enhances the appearance of public spaces and biodiversity, including a variety of approaches and seeks to minimise the use of herbicides and any potential negative impacts on human health and the environment, including
 - a. Immediately cease the use of glyphosate for a trial period of 12 months along waterway corridors.
 - b. Immediately cease the use of Starane within a specific trial site (Winton Rd Reserve and behind properties along Gardiners Creek from Winton Rd to Solway St, Ashburton) for a trial period of 12 months.
2. Publish on our website the Weed Control Site Methods and Practices, and the dates and locations for Yearly weed management activities.

3. Bring a Report on the findings of the 12 month trial to a future Services Delegated Committee.

LOST

Division

Councillor Franco called for a division

Affirmative

Councillor Thompson
Councillor Biggar
Councillor Gillies
Councillor Franco
Councillor Gault

Negative

The Mayor, Councillor Addis
Councillor Sinfield
Councillor Parke
Councillor Hollingsworth
Councillor Watson
Councillor Stavrou
Councillor Watson

The Mayor, Councillor Addis declared the motion LOST

Councillor Stavrou exited the meeting at 7:59pm

Procedural Motion - Adjournment

MOTION

Moved Councillor Parke

Moved Councillor Sinfield

That the Council meeting be adjourned.

CARRIED

The Council meeting was adjourned at 8:00pm

Procedural Motion - Resumption

MOTION

Moved Councillor Parke

Moved Councillor Sinfield

That the Council meeting be resumed.

CARRIED

The Council meeting was resumed at 8:08pm with all Councillors present

Councillor Stavrou exited the meeting at 8:12pm

Councillor Gault exited the meeting at 8:14pm

Councillor Stavrou returned to the meeting at 8:14pm

Councillor Stavrou exited the meeting at 8:15pm

Councillor Gault returned to the meeting at 8:16pm

Procedural Motion - Adjournment

MOTION

Moved Councillor Parke

Seconded Councillor Thompson

That the Council meeting be adjourned.

CARRIED

The Council meeting was adjourned at 8:16pm

Procedural Motion - Resumption

MOTION

Moved Councillor Parke

Moved Councillor Thompson

That the Council meeting be resumed.

CARRIED

The Council meeting resumed at 8:18pm with all Councillors present

MOTION**Moved Councillor Thompson****Seconded Councillor Biggar**

1. Resolve to continue to implement a weed management approach that enhances the appearance of public spaces and biodiversity, including a variety of approaches and seeks to minimise the use of herbicides and any potential negative impacts on human health and the environment, including
 - a. Ceasing the use of glyphosate for a trial period of 12 months along the Gardiners Creek corridor (adjoining open space), commencing at the start of Summer 2022 and concluding at end of Spring 2023.
 - b. Ceasing the use of Fluroxypyr within a specific trial site (Winton Rd Reserve and behind properties along Gardiners Creek from Winton Rd to Solway St, Ashburton), commencing at the start of Summer 2022 and concluding at end of Spring 2023.
2. Publish on our website the Weed Control Site Methods and Practices, and the dates and locations for Yearly weed management activities.
3. Bring a Report on the findings of the 12 month trial to a future Services Delegated Committee.

CARRIED**Division****Councillor Franco called for a division****Affirmative**

Councillor Biggar
Councillor Hollingsworth
Councillor Thompson
Councillor Gillies
Councillor Franco
Councillor Gault

Negative

The Mayor, Councillor Addis
Councillor Parke
Councillor Sinfield
Councillor Watson
Councillor Stavrou

The Mayor, Councillor Addis declared the motion CARRIED

7.2 Contract No 2022/53 Lewin Reserve - New Pavilion Building Works

Purpose

The purpose of this report is for Council to award Contract No. 2022/53, Lewin Reserve - New Pavilion Building Works to the recommended tenderer Neo Construct Pty Ltd for the sum of \$3,620,313 excluding GST.

Background

The existing sports pavilion at Lewin Reserve is in poor condition and no longer meets the needs of its users, nor caters for an increase in female participation in community sport. A two-story pavilion design was proposed in late 2020 and community feedback at the time identified several design elements to be reviewed.

In response, a community reference group was formed to assist with shaping an updated concept design that would address the feedback received. As a result, the revised design has been carefully considered in consultation with the various tenant sporting clubs as well as the community reference group, while also maintaining the requirements set out in Boroondara Council's Pavilion Policy 2019.

In accordance with Council's Procurement Policy 2021-25, a Request for Tender (RFT) was issued to five shortlisted suppliers, and a recommendation to award Contract No. 2022/53, Lewin Reserve - New Pavilion Building Works is presented for Council's consideration. The works are expected to commence during September 2022 and be completed by June 2023.

The total cost of this contract is \$3,620,313 (excluding GST). The current project budget available for 2022-23 is \$2,357,669. A grant from the Victorian Government through the 2021-22 Local Sports Infrastructure Fund of \$800,000 provides a total project budget of \$3,157,669.

The total project cost, including consultancy, contingency and authority fees has a budget shortfall of \$877,478. It is proposed the shortfall be resolved through reallocation of funds from selected renewal program projects and the September amended budget process where additional funding will be requested to fund the remainder of the project.

Next Steps

Upon award of the contract, Council will oversee the delivery of the construction works for the new sports pavilion.

Confidentiality

Confidential information is contained in Attachment 1, as circulated in the confidential section of the agenda attachments, in accordance with Section 66(2)(a) and the definitions of 'confidential information' in section 3(1) of the *Local Government Act 2020*. The information relates to Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released.

The item has been included in the public agenda to facilitate transparency and accountability in Council's decision making.

If discussion of the confidential information in the attachments to this report is required for Council to make a decision, this item will be deferred to the confidential section of the agenda.

MOTION

Moved Councillor Franco

Seconded Councillor Thompson

That Council resolve:

- 1. To award Contract No. 2022/53, Lewin Reserve - New Pavilion Building Works, to Neo Construct Pty Ltd, ABN 78 145 177 215, at a total cost of \$3,620,313 excluding GST for the estimated period 23 August 2022 to 30 June 2024.**
- 2. To approve the allocation of a separate contract contingency, as detailed within the attached confidential Attachment 1, and delegate authority to the Contract Superintendent to expend this contingency to ensure the successful completion of the contract works**
- 3. To authorise the Director Places and Spaces to execute the contract agreements with the above contractor.**
- 4. Approve the reallocation of funding through the identified renewal budget programs in section 7 of this report and refer the further \$377,478 required to Council's September amended budget process.**

CARRIED

7.3 State Government Cost Shifting to Local Government

Purpose

The purpose of this report is to outline the key issues and implications of cost shifting from State and Federal Government to Local Government. The report also identifies the primary cost shifting that is currently occurring which is primarily from the State Government.

Background

Cost shifting occurs when the responsibility for, or merely the cost of, providing a certain service, concession, asset or regulatory function is shifted from one sphere of government to another, without corresponding funding or revenue raising ability required to deliver that new responsibility. Cost shifting from the Federal and more significantly from the Victorian State Government has been a major financial issue for many years and poses a serious risk to both the ability to deliver services and local governments' financial sustainability.

Revenue sources for Council are limited, coming primarily from rates and charges and to a lesser extent grants, user fees and charges and statutory fees and fines. Rate capping has prevented Councils from increasing their rates beyond the cap set by the State Government since 2016 with the cap generally based on or close to the CPI.

However, costs for local government have been increasing substantially more than CPI given the high focus on staffing delivery costs and also infrastructure renewal.

Whilst Boroondara is in a generally strong and stable financial position, the effects of rate capping will continue to diminish the ability to deliver services and infrastructure renewal needs in to the future. This means that cost shifting is a significant issue which will impact the financial sustainability of the municipality.

Some of the traditional cost shifts have occurred in areas such as libraries and the school crossing supervision program but are expanding into non traditional areas such as social housing, maternal and child health and Building Enforcement.

Key Issues

Given the current economic climate with an increased cost of services and infrastructure and reduced grants, cost shifting is becoming a heightened issue once again. The following outlines some of the current cost shifts:

- Libraries
- School Crossing Supervision
- Maternal and Child Health
- Early Years Infrastructure
- Building Reform
- Urban Planning
- Social Housing
- Landfill Levy and Waste Services
- State Infrastructure Projects
- Urban Stormwater
- Electrical Line Clearance
- Environment Protections
- Climate Change Response and Mitigations
- Road Network Projects
- State Road Amenity Maintenance
- Disaster Response and Recovery
- Compliance and other indirect costs

Next Steps

The impacts of cost shifting will continue to be monitored and reported to Council where significant issues are identified. Specific concerns such as social housing and building reform have already been part of separate advocacy and discussions with the Municipal Association of Victoria. The issue will also be raised with State Government representatives and as part of advocacy leading up to the State election in November.

MOTION**Moved Councillor Hollingsworth****Seconded Councillor Parke****That Council resolve to:**

- 1. Write to the Premier of Victoria, Daniel Andrews, expressing concern about the extent of cost shifting from the State Government to Local Government, limiting Council's ability to meet the future operational and infrastructure needs of its community.**
- 2. Request the Municipal Association of Victoria undertake an advocacy campaign drawing attention to the issue of cost shifting from the State Government to Local Government.**
- 3. Seek support from the opposition and Local State Members of Parliament to campaign to address the cost shifting concerns from the State Government to Local Government.**
- 4. Write to the Mayor of all Victorian Councils raising the concerns outlined in the cost shifting report and seeking their support for advocacy to the MAV, State Government and the Opposition on the issue.**
- 5. Continue to monitor cost shifting that is occurring and bring future reports back to Council on specific significant cost shifting that is occurring.**
- 6. Commit to the Campaign being led by Monash Council raising concern with the State Government about the school crossing supervisor program including the funding model.**

CARRIED**7.7 Proposed Sale of the rear 218 - 224 High Street, Kew**Purpose

The purpose of this report is to consider the proposed sale of the Council owned property located at the rear 218-224 High Street, Kew.

Background

The land is located at the rear of 218-224 High Street, Kew and has been owned by Council since 1982. It is 211m² in size and resembles two joined triangular shapes, see **Attachment 1** for location. Council acquired the land as part of a planning permit in 1980 to allow for potential development under the then Interim Development Policy of 30 September 1980.

The terms of the acquisition of land included an agreement for Council to lease the land back to 218-224 High Street, Kew for use as a car park.

The land adjoins the southern boundary of 218-224 High Street, Kew and is accessed from a right of way from Derrick Street, Kew.

In 2021 a request to purchase the parcel of land was made by the new owner of 218-224 High Street. The land comprises an asphalt carpark with painted line marking. There is also signage in place indicating it is a private car park, see **Attachment 2** for images. This is consistent with the terms of the planning permit issued in 1980.

If the land is sold to the owner of 218-224 High Street, Kew, the land can continue to be used as parking for the property. The host building comprises approximately 1857m² of leasable office floor area with 52 car parking spaces. This equates to a car parking rate of 2.8 car parking spaces to each 100m². The Boroondara Planning Scheme for a new development requires a rate of 3.5 car parking spaces to each 100m² under Parking Overlay (Schedule 1) for office.

Four of the 52 car parking spaces are partly located on the Council parcel of land. It is not possible to reconfigure the existing car park to gain any efficiency in the layout of the car park given the location of structural columns and the irregular shape of the land.

The potential consolidation of the Council land with the parent title would allow for possible future development. Any future development would require a planning permit and the parking requirements would be considered as part of the process in accordance with the Boroondara Planning Scheme. Officers have advised that parking in the area is sufficient for current demands and do not believe there is a need to place restrictions on the land by way of a section 173 agreement under the *Planning and Environment Act 1987*.

Given the suite of planning controls that relate to the site, including the Commercial 1 Zone and the Design and Development Overlay (Schedule 14), future land uses and development will be restricted and controlled in line with objectives consistent with other sites within the Kew Activity Centre.

Based on the size and location of the land, and due to this having limited independent development potential, it is proposed to sell the land by private treaty to the adjoining owner at 218-224 High Street, Kew at market value plus Council's associated costs.

Key Issues

As a condition of the sale, the proposed purchaser would be required to apply to have the Planning Permit issued on 15 October 1980 amended to remove the requirements of the agreement and lease for use of the land, and impose a condition for the provision of car parking spaces consistent with the existing use of 218-224 High Street, Kew.

Any sale requires Council to comply with section 114 *Local Government Act 2020*.

Confidentiality

Confidential information is contained in **Attachment 3**, as circulated in the confidential section of the agenda attachments, in accordance with Section 66(2)(a) and the definitions of 'confidential information' in section 3(1) of the *Local Government Act 2020*. The information relates to Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released.

The item has been included in the public agenda to facilitate transparency and accountability in Council's decision making.

If discussion of the confidential information in the attachments to this report is required in order for Council to make a decision, this item will be deferred to the confidential section of the agenda.

MOTION

Moved Councillor Stavrou

Seconded Councillor Sinfield

That Council resolve to:

- 1. Secure an offer from the owner of 218-224 High Street Kew for the purchase of the land at full market value plus Council's associated costs, subject to Council officers complying with section 114 *Local Government Act 2020*.**
- 2. Commence the statutory procedures under section 114 of the *Local Government Act 2020*, for the sale of the Council owned land located at the rear 218-224 High Street, Kew, and described as Lot 2 on Plan of Subdivision 139875, Volume 9688, Folio 749 in Certificate of Title.**

CARRIED

7.9 Discontinuance of Roads and Reserves Policy

Purpose

The purpose of the Discontinuance of Roads and Reserves Policy (the Policy) is to set out Council's approach to the discontinuance and disposal of roads and reserves.

Background

The policy documents how roads and reserves no longer reasonably required for access, no longer required for the purpose for which they were originally set aside, or roads being closed for any other purpose will be discontinued and sold or transferred.

The policy is important to ensure transparency, equity, and consistency in this process.

The Discontinuance of Roads and Reserves Policy was first adopted in 1998 with periodic reviews undertaken, most recently in December 2021.

The policy has been updated to specifically call out the possible location of all potential parcels of land to be considered under this policy. Additionally, the method of disposing of land no longer required has been expanded to contemplate both a more competitive financial return and a means of resolving disagreements between and with prospective adjoining purchasers.

Key Issues

The current policy does not adequately address the means of dealing with road reserves fronting properties. Further the need for this policy to provide alternate sale methods of discontinued roads where adjoining property owners disagree with each other or with Council's offering.

MOTION**Moved Councillor Parke****Seconded Councillor Thompson****That Council resolve:**

- 1. To adopt the revised Discontinuance of Roads and Reserves Policy (as annexed to the minutes).**
- 2. To receive an update on the operation of the pricing principles in 12 months.**

CARRIED**7.11 35 McShane Street, Balwyn North - Proposed discontinuance and sale of road reserve**Purpose

This report is to consider commencement of the statutory procedures to discontinue and sell 3.05m of the road reserve fronting 35 McShane Street, Balwyn North. The section of road reserve is considered by officers to be no longer required for public access and has been enclosed within the adjoining property for in excess of 15 years.

Background

The owners of 35 McShane Street, Balwyn North have requested to purchase the section of road reserve fronting their property.

In 1919 when the area was subdivided, the road was shown on the plan as 18.29m (60ft) wide. When the area was developed the road, footpaths and nature strips were set out at only 15.24 (50ft). The difference in width was enclosed within the properties on the eastern side of McShane Street, 35 McShane Street being one of those properties.

Consultation has been undertaken with relevant Council departments and external service authorities as detailed in section 5 of this report resulting in no objection to the sale. Adjoining owners have also been notified of the proposal and to date no objections have been received.

Key Issues

The proposed commencement of the statutory procedures requires Council to give public notice of its intention to discontinue and sell the road reserve and invite submissions from affected parties.

The process of discontinuance and sale of the road reserve fronting 35 McShane Street commenced in March 2020. As a result of issues with the base map, negotiations have been required with various external authorities resulting in a protracted process. As a consequence, this report has been prepared applying the principles contained within the *Discontinuance of Roads and Reserves Policy 2021*. Discussions with the landowners have also proceeded in good faith in accordance with the 2021 policy as opposed to any impending changes under consideration.

If an adverse possession claim is lodged, this will be dealt with by Land Victoria in advance of any attempt by council to discontinue the road with a view to then selling. Any subsequent dealings with the title, including sale following a discontinuance, will be dealt with secondary.

Confidentiality

Confidential information is contained in **Attachment 5**, as circulated in the confidential section of the agenda attachments, in accordance with section 66(2)(a) and the definition of 'confidential information' in section 3(1) of the *Local Government Act 2020* as the information relates to Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released. This item has been included in the public agenda to facilitate transparency and accountability in Council's decision making.

If discussion of the confidential information in the attachments to this report is required in order for Council to make a decision, this item will be deferred to the confidential section of the agenda.

Councillor Watson declared a General Conflict of interest in Item 7.11 35 McShane Street, Balwyn North in accordance with section 127 of the *Local Government Act 2020* and the Governance Rules.

Councillor Watson advised that the nature of the interest was that she owned property abutting the area in question.

Councillor Watson left the meeting at 9:05pm prior to consideration and a vote on this item.

MOTION

Moved Councillor Thompson

Seconded Councillor Parke

That Council, acting under section 206 clause 3 of Schedule 10 of the *Local Government Act 1989* and section 114 of the *Local Government Act 2020*, resolve to:

- 1. Commence the statutory procedures to discontinue part of the road reserve fronting 35 McShane Street, Balwyn North, shown hatched in Attachment 1 and as annexed to the minutes.**
- 2. Give public notice under sections 223 of the *Local Government Act 1989* and section 114 of the *Local Government Act 2020* in the appropriate newspaper and on Council's website of the intention to discontinue the road reserve and sell the land from the road reserve to the owner of 35 McShane Street, Balwyn North by private treaty for \$9,000 inclusive of GST plus Council's costs.**

3. If any submissions are received following publication of the public notice, note a further report will be presented to a future meeting of the Services Delegated Committee of Council to enable consideration of the submissions and for a decision on whether to proceed with the discontinuance and sale of the road reserve in full, in part, or not to discontinue and sell the road reserve.
4. If no submissions are received following publication of the public notice, authorise the Chief Executive Officer, or such other person as the Chief Executive Officer approves, to undertake the necessary procedural steps to complete the formal procedures for the discontinuance and sale of the road reserve.
5. Authorise the Chief Executive Officer, or such other person as the Chief Executive Officer approves, to sign all necessary documentation for the sale of the land to the adjoining property owners in accordance with the purchase price detailed in Attachment 5 of this report and annexed to the confidential minutes.
6. Note the discontinuance and sale will not affect any right, power or interest held by Yarra Valley Water in the road reserve in connection with any sewers, drains or pipes under the control of Yarra Valley Water in or near the road reserve.

CARRIED

Councillor Watson returned to the meeting at 9:09pm.

8. General business

8.1 Leaves of Absence - Councillor Thompson, Councillor Watson and Councillor Biggar

Councillor Thompson, Councillor Watson and Councillor Biggar declared a General Conflict of Interest in Item 8.1 General business in accordance with section 128 of the Local Government Act 2020 and the Governance Rules.

Councillor Thompson, Councillor Watson and Councillor Biggar advised that the nature of the interest was that the request is for personal leave for the dates requested.

Councillor Thompson, Councillor Watson and Councillor Biggar exited the meeting at 9:11pm prior to the consideration and vote on this item.

MOTION

Moved Councillor Parke

Seconded Councillor Hollingsworth

That Council resolve to grant:

1. **Councillor Watson** a leave of absence from Council for Monday 11 July 2022.
2. **Councillor Thompson** a leave of absence from Council for Monday 1 August 2022.
3. **Councillor Biggar** a leave of absence from Council for Monday 18 July 2022 and Monday 25 July 2022.

CARRIED

Councillor Thompson, Councillor Watson and Councillor Biggar returned to the meeting at 9:12pm.

8.2 Councillor Stavrou and Councillor Watson - Preselection

Councillor Stavrou brought to Council's attention that he had been preselected by the Liberal Party for the seat of Southern Metropolitan Region for the upcoming state election.

Councillor Watson brought to Council's attention that he had been preselected by the Liberal Party for the seat of Ringwood for the upcoming state election.

8.3 Boroondara Eagles Football Club

Councillor Sinfield acknowledged the Boroondara Eagles Soccer Club and its recent premiership, in addition to its men's soccer team being promoted to the national premiere league.

8.4 Passing of Judith Durham

Councillor Sinfield acknowledged the passing of Judith Durham and paid tribute to her life achievements. Councillor Sinfield acknowledged Ms Durham's contribution to the community and to the performing arts in Australia. Councillor Sinfield passed on her condolences on behalf of Council to Ms Durham's family and friends.

8.5 Passing of Judith Durham, Olivia Newton-John and Archie Roach Acknowledgement

Councillor Hollingsworth acknowledged the passing of Judith Durham, Olivia Newton-John and Archie Roach and paid tribute to their life achievements. Councillor Hollingsworth acknowledged their contribution to the performing arts in Australia. Councillor Hollingsworth passed on her condolences on behalf of Council to all their families and friends.

8.6 Wear it Purple - Councillor Franco**MOTION****Moved Councillor Franco****Seconded Councillor Biggar****That Council resolves to:**

- 1. Commend the upcoming Wear It Purple Day, on Friday August 26 2022, which raises awareness of the challenges LGBTIQ+ young people face across our community.**
- 2. Condemn homophobia, biphobia, transphobia and intersexism in all its forms.**
- 3. Continue to support LGBTIQ+ young people across the City of Boroondara, who are overrepresented in poor mental health outcomes.**
- 4. Encourage LGBTIQ+ young people across our community to live authentically and without fear of discrimination.**

CARRIED**Division****Councillor Franco called a Division:****Affirmative**

Councillor Biggar
Councillor Hollingsworth
Councillor Thompson
Councillor Stavrou
Councillor Franco
Councillor Gault

Negative

Councillor Parke

Abstained

The Mayor, Councillor
Addis
Councillor Sinfield
Councillor Watson
Councillor Gillies

The Mayor, Councillor Addis declared the motion CARRIED**8.7 Census Results**

Councillor Franco commented on the results of the religious diversity statistics recorded in the recent 2021 Australian Census, noting that 45% of the Boroondara population now identifies as having no religion, up from 37% in 2016.

9. Urgent business

Nil



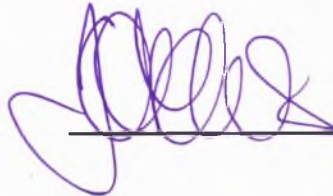
10. Confidential business

Nil

The meeting concluded at 10:05pm

Confirmed

Chairperson

A handwritten signature in purple ink, consisting of several loops and a long horizontal stroke, positioned above a horizontal line.

Date

MINUTES ATTACHMENTS



Council Meeting

Monday 22 August 2022

Attachments annexed to the minutes for the following items:

4.1 Informal Meetings of Councillors

7.5 Street Numbering Policy

7.6 Telecommunications Facilities Policy

7.8 Bi-annual report from the Audit and Risk Committee

7.9 Discontinuance of Roads and Reserves Policy

7.11 35 McShane Street, Balwyn North - Proposed
discontinuance and sale of road reserve

3

Record of Informal Meetings of Councillors

Assembly details	Councillor attendees	Officer attendees	Matters discussed	Conflict of Interest disclosures
Councillor Briefing & Discussion 4 July 2022	Cr Jane Addis Cr Jim Parke Cr Felicity Sinfield Cr Wes Gault Cr Di Gillies Cr Lisa Hollingsworth Cr Cynthia Watson Cr Susan Biggar Cr Garry Thompson Cr Nick Stavrou Cr Victor Franco	Phillip Storer (CEO) Daniel Freer (DPS) Scott Walker (DUL) Mans Bassi (DCT) Amy Montalti (CFO) David Shepard (MESOS) Kirstin Ritchie (COG) Elizabeth Manou (SGO) Jennifer Reid (MS&P) Sapphire Allen (MA) Craig Woods (CP)	<ul style="list-style-type: none"> Weed Management Practices Budget 	Nil
Councillor Briefing & Discussion 11 July 2022	Cr Jane Addis Cr Jim Parke Cr Felicity Sinfield Cr Wes Gault Cr Lisa Hollingsworth Cr Cynthia Watson Cr Susan Biggar Cr Garry Thompson Cr Nick Stavrou	Phillip Storer (CEO) Daniel Freer (DPS) Mans Bassi (DCT) Scott Walker (DUL) Amy Montalti (CFO) Adele Thyer (AMG&L) David Cowan (MSTSP) Kirstin Ritchie (COG) Elizabeth Manou (SGO) Fiona Brown (MCPD)	<ul style="list-style-type: none"> Strategic Planning 3-year Work Program Street Numbering Policy Telecommunications Facilities on Council Land or Facilities Policy Social and Affordable Housing Compact Cost Shifting to Council 	Cr Thompson

Record of Informal Meetings of Councillors

Assembly details	Councillor attendees	Officer attendees	Matters discussed	Conflict of Interest disclosures
Councillor Briefing & Discussion 25 July 2022	Cr Jane Addis Cr Jim Parke Cr Felicity Sinfield Cr Wes Gault Cr Di Gillies Cr Lisa Hollingsworth Cr Cynthia Watson Cr Garry Thompson Cr Nick Stavrou Cr Victor Franco	Phillip Storer (CEO) Daniel Freer (DPS) Mans Bassi (DCT) Scott Walker (DUL) Amy Montalti (CFO) Bryan Wee (MG&L) David Cowan (MSTSP) Kirstin Ritchie (COG) Elizabeth Manou (SGO) Fiona Brown (MCPD) Sapphire Allen (MA) Jennifer Reid (MS&P) Jeanine Nieuwenhuizen (CCO) Katherine Stakula (HSC) Christian Wilmsen (CSTRP) Megan Levvey (CL) Paula Vigorelli (CES)	<ul style="list-style-type: none"> • Customer satisfaction survey • Community Heritage Nomination Process • Community Consultation • Staff working arrangements • Health and wellbeing 	Nil



MINUTES ATTACHMENTS



Council Meeting

Monday 22 August 2022

Attachments as annexed to the resolution:

7.5 Street Numbering Policy

9

Street Numbering Policy

2022

Responsible Directorate: Chief Financial Office
Authorised By: Council
Date of Adoption: <Date>
Review Date: <Date>
Policy Type: Council

Table of contents

1	Introduction	3
1.1	Purpose	3
1.2	Scope	3
1.3	Corporate framework	3
2	Background	3
2.1	Policy environment	3
2.2	Policy context	4
3	Methodology	4
3.1	Consultation	5
4	Policy statement	5
5	Implementation and monitoring	6
5.1	Evaluation	6
5.2	Accountabilities	6
6	References	6
6.1	Related documents	6
6.2	Definitions	6

1 Introduction

1.1 Purpose

To provide a clear and consistent approach in relation to the allocation of street numbers throughout the municipality. Its aims are to:

- (a) Ensure accurate and logical street number allocations for all properties (new, existing or redevelopments) in compliance with *AS/NZS 4819:2011 Rural and urban addressing Australian/New Zealand Standards*;
- (b) provide a unique address for each property within the municipality;
- (c) facilitate emergency vehicle response to ensure the safety of the community; and
- (d) support the effective delivery of mail, goods and other services, by ensuring all properties are readily locatable and identifiable.

1.2 Scope

This policy will be applicable to all owners and property developers within Boroondara and will be applied in the following circumstances:

- (a) when new allotments or properties are created;
- (b) when there are physical changes to existing allotments;
- (c) when there is a change in the number or configuration of tenements; and
- (d) where an application is received for a street number to be changed.

1.3 Corporate framework

This policy supports Council's Mission and Vision as it is consistent with the *Boroondara Council Plan 2021-31*:

Theme 7: Leadership and Governance, Strategic objective 7 - *Ensure decisions are financially and socially responsible through transparent and ethical processes.*

2 Background

2.1 Policy environment

Local Government Act 1989 (the Act) sets out that Local Councils' are the governing bodies in relation to the street numbering of properties within its municipality.

Schedule 10, Section 5 of the Act provides for Council to approve, assign and change the number of any premises next to a road. It also provides that Council may require people to renumber their premises and renew those numbers allocated by Council.

The Office of Geographic Names Victoria, operating under the *Geographic Place Names Act 1998*, released *Naming rules for places in Victoria, Statutory requirements for naming roads, features and localities* (the Rules) for the naming of roads, features and localities. Appendix D of these Rules dictates that all street

numbering must be carried out under and be compliant with the *AS/NZS 4819:2011 Rural and urban addressing Australian/New Zealand Standards* (the Standards).

2.2 Policy context

The policy has been formed to ensure street numbers issued are compliant with the requirements set out in:

- *AS/NZS 4819:2011 Rural and urban addressing Australian/New Zealand Standards* (the Standards).

The Standards provide direction as to how property addresses should be allocated to ensure that a consistent approach is applied Australia wide.

The Standard was prepared by the Street Address Working Group of the Intergovernmental Committee on Surveying and Mapping (ICSM) which includes representation of, among others, the Australasian Fire and Emergency Service Authorities Council.

3 Methodology

All applications for a new or a change in street number must be done so in writing addressed to the Coordinator Revenue and Property Services. Applications should contain all supporting documentation and reasoning for the request.

When considering applications for new or a change in street number, as well as ensuring compliance with the Standards, Council will allocate numbers with consideration taken to the following:

- (a) All properties in the municipality shall be allocated a unique street number;
- (b) The owner and/occupier shall ensure the street number is prominently displayed to the street abuttal to which the property is addressed;
- (c) Council reserves the right to change the street number of a property where the existing number is inappropriate or confusing;
- (d) Re-numbering of all or part of a street will be considered where there are multiple numbering problems and then only after consultation with affected owners and/or occupiers and all relevant stakeholders;
- (e) Council will not approve requests for changes to street numbering that conflict with the policy or which are based upon any of the following:
 - (i) A number considered "unlucky";
 - (ii) Vendor or Agent preferences or where the selling agent has misrepresented the property address;
 - (iii) Personal preferences and requests based on aversion to certain numbers;
 - (iv) The number proposed to be not good for business;
 - (v) The number is believed to make the property unattractive; and
 - (vi) The street number address is perceived to devalue the property;

- (f) If applicable and where possible, allowance shall be made for any possible future street numbering for new developments;
- (g) Street numbers shall be allocated in sequential order within a street. A new parcel created by subdivision where there are no available unique numbers, will be allocated an alphanumeric number (as per the Standards) in ascending order from the appropriate existing property number. Numbers with alphabetic suffixes will be applied if required, after the prime number. e.g. 5A will be created between number 5 and number 7;
- (h) Where properties have more than one street frontage, numbers shall be allocated to the primary street frontage. Allocation to the adjoining street may occur provided that the existing street numbering pattern can continue and the dwelling access point faces that street;
- (i) In order for a property to be numbered to a laneway or right of way, that laneway or right of way must be named in accordance with Council's *Naming of Council Managed Roads, Features and Localities Policy 2022* before allocation of street addresses or numbers. Alphabetical suffixes may be used where the property being numbered has a clear street abuttal and where there is no common property and there is no alternative street number available; and
- (j) Any scenario not specifically identified above, will be assessed in accordance with the Standards.

3.1 Consultation

In the process of numbering property in Boroondara, owners and surveyors are notified of the street numbering that is proposed for their developments. Should a street numbering change result in an extra address to a specific number then the adjoining property owners of existing properties with that base number will be consulted.

All requests by property owners, relating to a change of street number, must be submitted in writing setting out the reasons for the request. Any proposal received must be considered in accordance with the Standards and this Policy.

4 Policy statement

Council recognises the importance of a consistent and logical approach to street numbering. The Standards enable a uniform view of properties for both delivery services and, more importantly, emergency services that rely on a simple method of locating properties to provide potentially life-saving services.

A consistent approach to the display of street numbering is supported to ensure ease of identification by emergency services and the community at large. Shop fronts should have numbers clearly displayed in a front window, all other properties, numbers are expected to be displayed on letterboxes fronting properties. If numbers are displayed on the kerb fronting properties, they should be presented in the preferred format detailed on Council's website. The preferred format is a black surround with white numbers to the height of the kerb.



5 Implementation and monitoring

5.1 Evaluation

Owners and developers not complying with the street numbers issued will be dealt with in accordance with Council's Street Numbering Local Law.

This policy will be reviewed in five years.

5.2 Accountabilities

For all queries or feedback regarding this policy, please use the contact details for the responsible department below.

Position Title	Contact number	Contact department email
Coordinator Revenue and Property Services	9278 4325	revenue@boroondara.vic.gov.au

6 References

6.1 Related documents

- AS/NZS 4819:2011 rural and urban addressing guidelines Australian/New Zealand Standard
- Council's Street Numbering Local Law 2020
- *Geographic Place Names Act 1998*
- *Local Government Act 1989*
- *Local Government Act 2020*
- Naming Policy 2022
- Naming rules for places in Victoria, Statutory requirements for naming roads, features and localities.

6.2 Definitions

Council	Indicates reference to the City of Boroondara as a geographical area and also refers to the entity which has the authority to make decisions on behalf of the Boroondara community.
Rules	Means the <i>Naming rules for places in Victoria, Statutory requirements for naming roads, features and localities</i> released by the Office of Geographic Names in line with the <i>Geographic Place Names Act 1998</i> , as amended from time to time.
Standards	AS/NZS 4819:2011 rural and urban addressing Australian /New Zealand Standards.
Street	An officially named thoroughfare.
Street number	The address allocated to an individual property or occupancy.

MINUTES ATTACHMENTS



Council

Monday 22 August 2022

Attachments as annexed to the resolution:

7.6 Telecommunications Facilities Policy

9

Telecommunications Facilities Policy

2022

Responsible Directorate: Chief Financial Office
Authorised By: Council
Date of Adoption: <Date>
Review Date: <Date>
Policy Type: Council



Table of contents

1	Introduction	3
1.1	Purpose	3
1.2	Scope	3
1.3	Corporate framework	3
2	Background	4
2.1	Policy environment	4
2.2	Policy context	4
3	Methodology	5
3.1	Consultation	5
3.2	Compliance with Legislation	5
4	Policy statement	5
4.1	Aim	5
4.2	Planning Permit	5
4.3	Assessment	6
4.4	Application requirements	6
4.5	Application Fee	7
4.6	Consideration of Applications	7
4.7	Redundant Telecommunication Facilities	7
4.8	Financial implications	7
5	Implementation and monitoring	8
5.1	Evaluation	8
5.2	Accountabilities	8
6	References	8
6.1	Related documents	8
6.2	Definitions	9
Appendix 1	Application for consent to lodge a Planning Application to locate or upgrade Telecommunications Facility on Council Land or Council Facilities	11



1 Introduction

1.1 Purpose

The purpose of this policy is to provide guidance to the telecommunications industry regarding the criteria against which Council will consider applications for consent to lodge a planning application to locate telecommunications facilities on council land or facilities by:

- Setting the principles for the uniform management of requests to host telecommunications facilities on council land or facilities.
- Providing a consistent approach to the decision making process in relation to all requests for consent to make a planning permit application to construct or carry out works for a telecommunications facility on council land or facilities.
- Considering all relevant issues prior to determining any application for consent to lodge a planning application, including the effect of the proposal on adjacent land.
- Establish guidelines to encourage the siting and design of low-impact telecommunications facilities in a manner which results in minimal impact on the local amenity.

Applications for consent to lodge a planning application to place telecommunications facilities on land or facilities will only be approved by Council acting under the guidance contained in this policy. Consent provided as land owner to proceed with lodging a planning application does not guarantee the outcome of the consideration of that planning application.

1.2 Scope

The scope of this policy applies to existing telecommunications facilities on council land or facilities* when existing leases are due for renewal and for all new applications to install telecommunications facilities on Council land or Council facilities.

This policy documents the assessment to be applied to all applications for consent to lodge a planning application to upgrade existing telecommunications facilities and to all new applications to install telecommunications facilities on Council land or facilities.

**For any telecommunications facility to be located on a building the telecommunications provider will need to obtain a structural report if the application is to progress.*

1.3 Corporate framework

This policy is consistent with the Boroondara Community Plan 2021-31 (BCP) (Incorporating the 10-year Community Vision, Council Plan 2021-25 and Municipal Public Health and Wellbeing Plan 2021-25).

In particular strategies;

2.3: Parks and green spaces are accessible and appealing through maintaining, improving and increasing amenities". It also supports Strategic Objective 2 of the BCP, that "Green and open spaces are provided, well-utilised and enhanced"; and

7.1 "Decision-making is transparent and accountable through open governance processes with timely communication and reporting". It also supports Strategic Objective 7 of the BCP, to "Ensure decisions are financially and socially responsible through transparent and ethical processes".

2 Background

2.1 Policy environment

Telecommunications facilities are becoming more prevalent throughout suburbs and towns across the world to keep up with the growing needs of society as a means for communication.

The community recognises the need for such facilities however they are often not favourably embraced, particularly in built up areas and public parks.

The Commonwealth Government has established a legislative and policy framework to ensure consistency across the nation in the provision of telecommunications infrastructure. This has led to some telecommunications facilities, depending on the type of facility and the zoning of the site, being exempt from state legislation including the need to obtain a planning permit.

All telecommunications facilities, including mobile phone antennas, must be licensed by the Australian Communications and Media Authority (ACMA). ACMA maintains a register of telecommunications licenses, which lists operational facilities.

ACMA's electromagnetic energy (EME) regulatory arrangements consider possible adverse health effects associated with the use of telecommunications devices. Applicants must demonstrate the proposed installation meets the ACMA regulatory requirements.

2.2 Policy context

Council officers have an obligation to consider all requests for use of Council land or facilities. All requests should be dealt with in an open, transparent, and consistent manner with consideration given to community benefit, risk management, financial impact and appropriate land use and neighbourhood amenity.

There are a number of telecommunications devices within Boroondara situated on land and or structures which are not Council owned or managed. Council's only input on these is through a building or planning permit application where required.

This policy informs the general community regarding the principles, general practices and requirements by Council that will be applied to all applications for consent to

lodge a planning application to install or upgrade telecommunications facilities within Boroondara.

3 Methodology

3.1 Consultation

This policy is largely consistent with the previous policy which was developed following internal consultation with relevant Council departments and guidance from Councillors.

This policy sets out that any application will be subject to public consultation prior to any decision being made on whether or not consent will be provided for a telecommunications facility on Council land or facility.

3.2 Compliance with Legislation

It is the responsibility of the telecommunications carrier to ensure compliance with all the requirements under the *Telecommunications Act 1997*, the *Telecommunications Code of Practice 1997* and the *Telecommunications (Low-Impact Facilities) Determination 1997*.

Council must ensure that any proposed telecommunications facilities comply with the *Code of Practice for Telecommunications Facilities in Victoria, July 2004*, which is an incorporated document in all Planning Schemes within the State.

It is the responsibility of the telecommunications carrier when claiming to be exempt from State legislation to provide Council proof that they are exempt.

4 Policy statement

4.1 Aim

Council seeks to ensure that the installation and operation of the telecommunications facilities in Boroondara does not detract from the local amenity nor lead to any detrimental environmental, health, social or economic effects on the local community.

This policy supports consolidation of telecommunications facilities by encouraging the co-location of facilities or the upgrade of existing facilities whilst recognising the public benefits of telecommunication infrastructure.

Any telecommunications carrier which ultimately receives the necessary planning permit to locate a telecommunications facility on Council's land or Council's facilities will be required to enter into a lease on commercial terms including at current market rent as assessed by Council's valuer.

4.2 Planning Permit

Where consent to lodge a planning application is granted by Council officers to locate or upgrade a telecommunications facility on Council land or Council facility the

telecommunications carrier will be required to follow the standard process to seek a planning permit under relevant sections of the *Boroondara Planning Scheme*.

4.3 Assessment

The following criteria will be used to assess applications requesting consent to lodge a planning application to locate or upgrade telecommunication facilities on Council owned or managed land:

- the need for the facility;
- the upgrading of an existing facility;
- the co-locating with an existing facility;
- the site's ability to host more than one telecommunications carrier;
- the need for vegetation and habitat removal; and
- minimising the visual impact by:
 - insisting equipment structures including fencing are designed, landscaped and finished in colours and materials that harmonise with the immediate surroundings;
 - insisting that any tower or antennae is of both colour and design which are as unobtrusive as possible; and
 - insisting that no signage, except any required by law, will be attached to the tower or equipment structure.

4.4 Application requirements

All applications** for consent to lodge a planning application for a telecommunications facility to be located on Council land or Council facilities must be accompanied by the following information:

- 1 written explanation of why the telecommunications facility is required including a demand analysis of the area the proposed telecommunications facility is to serve;
- 2 steps that have already been taken to improve existing telecommunications facilities in the area and any considerations for co-location;
- 3 a written assessment of a minimum of three other feasible sites on different properties and the rationale for the preferred proposed site;
- 4 detailed images of both long and short range views of the proposed telecommunications facility from key vantage points;
- 5 a detailed analysis of the proposed site and surrounding area including identification of any other telecommunications facilities in the area;
- 6 details of any vegetation that requires removal;
- 7 a written explanation of how the facility has been designed in order to minimise the visual impact;
- 8 a written description of how new and existing landscaping will assist in screening the proposed telecommunications facility from short and long range view;
- 9 details showing compliance with all relevant legislation; and
- 10 a report addressing as a minimum the following:
 - The measures to be taken to fulfil the principles of prudent avoidance and to minimise public exposure to electromagnetic fields (EMFs).

- Projected EMF levels at 5, 10, 50, 100, 150, 300, 500 and 1000 metres from the site for the frequency allocated to them. On completion of construction and conditioning of the facility, a subsequent reading will be required at these ranges.
- Details of the cumulative EMF levels and impact of any existing facility within close proximity to the proposed site.
- Details of proposed equipment, including evidence that the proposed facility is the latest design and technology being employed by the applicant and complies with relevant Australian Standards.

***Application form attached as Appendix 1*

4.5 Application Fee

An application fee, as determined in the annual Council budget, will be payable at the time the application is submitted.

Current fee as at the adoption of this policy is \$2,000 GST exempt.

4.6 Consideration of Applications

All applications will be submitted to a meeting of the Building and Property Working Group for consideration and recommendation.

The report to the Building and Property Working Group will include but not be limited to:

- the application details;
- rental return expected;
- outcome of public consultation.

The recommendation of the Building and Property Working Group will either grant or refuse the application for consent to lodge a planning application. Any subsequent proposed lease be included in a report to Council seeking a Council resolution to support an offer to lease.

4.7 Redundant Telecommunication Facilities

Where a telecommunications facility exists and is no longer required it is a requirement of Council's lease that all infrastructure is removed and the area is returned to its original form. All costs must be met by the telecommunications carrier.

4.8 Financial implications

Should Council proceed with a lease for a telecommunications facility on Council land or facilities there is the potential for annual rental income. For any lease agreement granted for the purpose of a telecommunications facility the rent will be at current market rent, as assessed by Council's valuer, and increased annually by the greater of 5% or CPI.

Council will not incur any costs in respect to installation, site restoration, maintenance requirements or lease preparation. These costs are to be met solely by the owner of the telecommunications facility.

5 Implementation and monitoring

5.1 Evaluation

This policy will be reviewed in five years.

5.2 Accountabilities

For all queries or feedback regarding this policy, please use the contact details for the responsible department below.

Position Title	Contact number	Contact department email
Coordinator Revenue and Property Services	9278 4325	revenue@boroondara.vic.gov.au

6 References

6.1 Related documents

- *Administrative Decisions (Judicial Review) Act 1977*
- Australian Communication Industry Forum (ACIF) Deployment of Mobile Phone Network Infrastructure Industry Code
- Boroondara Planning Scheme
- Building Regulations 2006
- Code of Practice for Telecommunications Facilities in Victoria 2004
- Council Assets - Leasing and Licensing Policy 2017
- *Local Government Act 2020*
- *Planning and Environment Act 1987*
- *Telecommunications Act 1997*
- Telecommunications Code of Practice 1997
- Telecommunications (Low-Impact Facilities) Determination 1997



6.2 Definitions

ACMA	means the Australian Communications and Media Authority and includes its successors and assigns.
Australian Radiation Protection and Nuclear Safety Agency (ARPANSA)	is the Australian Government's primary authority on radiation protection and nuclear safety. ARPANSA regulates Commonwealth entities using radiation with the objective of protecting people and the environment from the harmful effect of radiation. ARPANSA undertakes research, provides services, and promotes national uniformity and the implementation of international best practice across all jurisdictions.
Building and Property Group	This is an internal advisory group consisting of the Chief Executive Officer, directors and key managers across Council.
CBAA	means the Community Broadcasting Association of Australia and includes its successors and assigns.
Community group	means a group of people currently leasing or licensing the Council facility in question under Council's <i>Council Assets - Leasing and Licensing Policy</i> .
Council	means Boroondara City Council and includes the Council's successors and assigns and where it is consistent with the context includes the Council's employees and agents.
Council land or facility	means any land or facilities owned or managed by Council.
EME	means electromagnetic energy.
EMF	means electromagnetic field.
Low-impact facility	means a facility as defined under the Telecommunications (Low-Impact Facilities) Determination 1997.
Emergency service	means services provided in an emergency or disaster as defined (however described) within the meaning of an emergency law as specified by the Minister administering the <i>Administrative Decisions (Judicial Review) Act 1977</i> .

Telecommunications facility	means land or structure used to accommodate any part of the infrastructure of a Telecommunications network. It includes any telecommunications line, equipment, apparatus, telecommunications tower, mast, antenna, tunnel, duct, hole, pit, pole, or other structure or thing used, or for use in or in connection with a Telecommunications network.
Telecommunications network	means a system, or series of systems, that carries, or is capable of carrying, communications by means of guided and/or unguided electromagnetic energy.

Appendix 1 Application for consent to lodge a Planning Application to locate or upgrade Telecommunications facilities on Council Land or Facilities

Please complete the application form including providing numbered responses and attachments to the required details listed below. Completed applications and attached documentation should be forwarded to revenue@boroondara.vic.gov.au for assessment and consideration.

Applicant:		
Contact name:		
On behalf of which telecommunications provider(s):		
Applicants address:		
		Postcode:
Telephone:	Business:	Mobile:
Email:		
Proposed site and site address: (Please include a detailed map)		
Required details	Checklist:	
1. Provide details of why the telecommunications facility is required - include a demand analysis of the area the proposed telecommunications facility is to serve.	Yes	<input type="checkbox"/>
2. Provide details of steps that have already been taken to improve existing telecommunications facilities in the area and any considerations for co-location and why this is not an option.	Yes	<input type="checkbox"/>
3. Provide a written assessment of a minimum of three other feasible sites on different properties and the rationale for the preferred proposed site over each of the other assessed sites.	Yes	<input type="checkbox"/>
4. Provide detailed images of both long and short range views of the proposed telecommunications facility from key vantage points.	Yes	<input type="checkbox"/>
5. Provide a detailed analysis of the proposed site and surrounding area including: a. topography of the land b. location of proposed vehicle access c. identification of any other telecommunications facilities in the area.	Yes	<input type="checkbox"/>
6. Provide details of any vegetation that requires removal.	Yes	<input type="checkbox"/>
7. Provide a written explanation of how the facility has been designed in order to minimise the visual impact.	Yes	<input type="checkbox"/>
8. Provide a written description of how new and existing landscaping will assist in screening the proposed telecommunications facility from short and long range view.	Yes	<input type="checkbox"/>
9. Provide details showing compliance with all relevant legislation and codes of practice.	Yes	<input type="checkbox"/>



10.A report detailing the required information as stated under 3.5.10.	Yes	<input type="checkbox"/>
11.Any other information relevant to your application.	Yes	<input type="checkbox"/>

Privacy Statement:

This personal information will be used solely by Council for the primary purpose or directly related purposes of the application. Council will not disclose this information. If this information is not collected Council will not be able to confirm your booking. The applicant understands that the personal information provided is for booking purposes only and that he or she may apply to Council for access to and/or amendment of the information. Requests for access and or correction should be made to Council's Privacy Officer

MINUTES ATTACHMENTS



Council

Monday 22 August 2022

Attachments as annexed to the resolution:

7.8 Bi-annual report from the Audit and Risk Committee

3

Second Biannual audit and risk report describing the activities of the Audit and Risk Committee and its findings and recommendations.

Introduction

Section 54 (5) of the *Local Government Act 2020* ('the Act') states:

"An Audit and Risk Committee must:

- (a) prepare a biannual audit and risk report that describes the activities of the Audit and Risk Committee and includes its findings and recommendations; and
- (b) provide a copy of the biannual audit and risk report to the Chief Executive Officer for tabling at the next Council meeting.

This report has been prepared following the June 2022 Audit and Risk Committee meeting. The next Biannual report will be prepared in December 2022 following the November 2022 Audit and Risk Committee meeting.

Establishment of Audit and Risk Committee

Following adoption of the Act, a new Audit and Risk Committee was established by Council at its meeting of 24 August 2020. A new Audit and Risk Committee Charter was adopted ensuring Council complied with relevant provisions of the Act.

Membership and attendance during the reporting period

Membership of the Audit and Risk Committee during the reporting period comprised:

- Cr Cynthia Watson
- Cr Nick Stavrou
- Mr John Watson (Chair)
- Ms Fiona Green
- Ms Freya Marsden

All members attended both meetings held during the reporting period.

Meetings of the Audit and Risk Committee and findings and recommendations.

During the reporting period the following meetings of the Audit and Risk Committee have been held:

30 March 2022

Agenda items considered:

1. Standard Questions for Tabling at the Audit and Risk Committee meetings.
2. Business Arising.
3. Audit and Risk Committee Administrative Matters.
4. Internal Audit Review - Building Inspections and Swimming Pool Registrations

5. COVID-19 Update.
6. Internal Audit Review - Records Management.
7. Three-year Strategic Internal Audit Plan.
8. Internal Audit Update.
9. Reports to Parliament by VAGO and other regulatory authorities.
10. Risk Management Update.
11. Update - Implementation of Business Continuity Planning.
12. Annual IT Security Testing Update.

1 June 2022

Agenda items considered:

1. Standard Questions for tabling at Audit and Risk Committee meetings.
2. Quarterly Performance Report.
3. Business Arising.
4. External Audit Plan for the year ending 30 June 2022.
5. Audit and Risk Committee Administrative Matters.
6. COVID-19 Update.
7. Internal Audit Report - Human Resource Management.
8. Internal Audit Report - Follow-Up.
9. Asset Accounting Policy.
10. Internal Audit Update.
11. Risk Management Update.
12. Annual Review of Audit and Risk Committee Charter and Annual Work Program.
13. IT Security Update.

The relevant findings and recommendations from each meeting have been reported to Council through the respective Council reports entitled "Recommendations of Audit and Risk Committee Meeting" which have been presented to Council after each Audit and Risk Committee meeting.

Responding to Emerging Risks

The Committee, and management, continue to pay close attention to identifying and reviewing emerging risks. During the reporting period, the Committee requested reports covering cyber security and information privacy and reviewed Council's management of these key risks. The Committee also received briefings at each meeting on Council's response to the COVID-19 Pandemic.

A new standing agenda item "Chief Executive Officer Update" has been introduced to enable the Committee to be briefed on current and emerging issues within the municipality and organisation. The Committee's Agenda Papers now provide formal opportunity to review the Quarterly Performance Report prepared by Management. This inclusion expands the Committee's ability to monitor Council's financial and non-financial performance.

Internal Audit

Council's contracted provider of Internal Audit services is Pitcher Partners. Each meeting of the Committee provides opportunity for the Committee to meet 'in camera' with the Internal and External Auditors in the absence of management.

All Internal Audit report recommendations are recorded on a register with their appropriate implementation actions and timeframes. This register of actions is formally followed up and progress is reported to the Committee at each meeting.

The progress of Internal Audit recommendations during the reporting period can be summarised as:

	High	Medium	Low	Total
Number open at start of reporting period	0	3	1	4
Number added during reporting period	2	14	7	23
Number completed during reporting period	0	10	4	14
Number open at end of reporting period	2	7	4	13

The Committee notes management has shown diligence in implementing internal audit recommendations in a prompt and accountable manner.

Annual assessment of performance of the Audit and Risk Committee

Section 54 (4) of the *Local Government Act 2020* ('the Act') states:

An Audit and Risk Committee must—

- (a) undertake an annual assessment of its performance against the Audit and Risk Committee Charter; and
- (b) provide a copy of the annual assessment to the Chief Executive Officer for tabling at the next Council meeting.

To assist the Committee, meet this obligation, the next annual self-assessment performance survey will be completed by the Committee in November 2022.

Conclusion

The Committee looks forward to continuing to fulfil its role and working with management, Council, and its auditors during the 2022-23 financial year and will provide its next Biannual report in December 2022 following the November 2022 Audit and Risk Committee meeting.

John Watson
Chair Audit and Risk Committee
July 2022

MINUTES ATTACHMENTS



Council

Monday 22 August 2022

Attachments as annexed to the resolution:

7.9 Discontinuance of Roads and Reserves Policy

8

Discontinuance of Roads and Reserves Policy

2022

Responsible Directorate: Chief Financial Office

Authorised By: Council

Date of Adoption:

Review Date:

Policy Type: Council



Table of contents

1	Introduction	3
1.1	Purpose	3
1.2	Scope	3
1.3	Corporate framework	3
2	Background	3
2.1	Context	3
2.2	Policy environment	5
3	Methodology	6
3.1	Consultation	6
4	Policy statement	6
4.1	Policy Aims	6
4.2	Discontinuance Conditions	7
4.2.1	Conditions of Sale	7
4.2.2	Costs and GST	8
4.2.3	Division of Land	8
4.2.4	Gazetting a Notice of Discontinuance	9
4.2.5	Conditional Agreements	9
4.2.6	Sale of land previously discontinued	9
4.2.7	Title to unsold land	9
4.2.8	Valuation of Land	10
4.3	Recovery of Costs	11
5	Implementation and monitoring	11
5.1	Evaluation	11
5.2	Accountabilities	11
5.3	Financial implications	11
6	References	11
6.1	Related documents	11
6.2	Definitions	12
	Appendix 1 Road Discontinuance Process Steps	14
	Appendix 2 Reserve Discontinuance Process Steps	15



1 Introduction

The Council owns or controls property as custodian on behalf of the community. The Council is committed to the responsible management of Council's assets and resources.

1.1 Purpose

This policy sets out Council's approach to the discontinuance and disposal of roads and reserves.

This policy documents how the discontinuance and disposal of roads that are *no longer reasonably required for access* or for reserves that are no longer reasonably required for the purpose they were originally set aside for, or no longer required for any other public purpose, will be handled in a transparent and equitable manner. The roads and reserves to be dealt with under this Policy can be located at the front, rear, side, above, below or within adjoining properties.

1.2 Scope

This policy applies to all roads, reserves and other similar land as defined below:

- "Road" is as defined in Section 3 of the *Local Government Act 1989*.
- "Reserve" means land reserved on title for which Council has the power to deal with under section 24A of the *Subdivision Act 1988*, but does not include reserves set aside for recreational purposes or public open space.

These roads and reserves include, but are not limited to:

- Vehicular or pedestrian roads and rights of way, easements of way, streets or footpaths.
- Constructed trafficable roads, where part of those roads may be no longer reasonably required for public use.
- Roads or reserves that have a demonstrated historical occupation.
- Drainage or sewerage reserves and other similar land.
- Revenge strips.

1.3 Corporate framework

The Policy supports Council's Mission and Vision as it is consistent with the *Boroondara Council Plan 2021-31*:

Theme 7: Leadership and Governance, Strategic objective 7 - *Ensure decisions are financially and socially responsible through transparent and ethical processes.*

2 Background

2.1 Context

It is estimated that there are up to 2000 roads not part of the formal road network in the municipality, estimated at over 100 kilometres in length or 40 hectares in area. Of these, approximately 30 per cent are constructed (paved) and 70 per cent unconstructed.



Unconstructed roads typically arise from earlier private subdivisions of broad acres into house blocks and the creation of access roads from the original title. When individual house blocks were sold and removed from the parent title, eventually only roads and reserves remained. A parent title may be, and on occasion has been sold, however, public access rights remain.

Under section 7B of the *Limitations of Actions Act 1958*, a person cannot claim land by adverse possession in respect of Council titled land. Not all road or reserve property is held in Council title.

Roads or reserves enclosed within abutting properties for more than 15 years may be claimed by adverse possession however the road or reserve status is not removed unless occupation of more than 30 years can be established. The original property owner is precluded from reclaiming ownership. Due to the cost of claiming adverse possession and time involved, sale by Council can be a cost-effective means of acquiring ownership by interested parties without relying on expensive and time consuming legal processes.

Council does not condone unauthorised occupation of land. When Council becomes aware of unauthorised occupation of roads and reserves Council will act to ensure that unauthorised occupation is not rewarded or encouraged.

1) Occupation of Council titled land

Where Council becomes aware of the occupation of a road or a reserve on Council titled land, it will first determine whether the road or reserve is reasonably required.

- a) If the road or reserve is no longer reasonably required:
 - (i) Council will seek to discontinue the road or reserve and negotiate the sale of the land in line with Principles 1 or 2 under section 4.2.8 of this Policy. In some instances, Principles 4 or 5 may be appropriate; and
 - (ii) If the land is not sold Council will ordinarily seek to restore occupied land to Council control.
- b) If the road or reserve is reasonably required, Council will order the occupiers to vacate the land.

2) Occupation of non-Council titled land (e.g. still in the name of the original subdivider)

Where Council becomes aware of the occupation of a road or reserve on non-Council titled land, it will first determine whether the road or reserve is reasonably required.

- a) If the road or reserve is no longer reasonably required:
 - (i) Council will seek to discontinue the road or reserve and negotiate the sale of the land in line with Principles 1, 3, 4 or 5 under section 4.2.8 of the Policy;
 - (ii) Council will take title to any unsold land; and
 - (iii) For land that Council has taken title, Council will consider ordering the occupier to vacate the land. If a request to vacate is not complied with,



legal advice shall be sought as to how to achieve restoration of the occupied land to Council control.

- b) If the road or reserve is reasonably required, Council will consider ordering the occupier to vacate the land. If an order to vacate is not complied with, advice shall be sought as to how to achieve legal restoration of the occupied land to Council control.
- c) If the road or reserve is considered minor, provides little amenity benefit, is not used, or required as a thoroughfare or access to surrounding properties and is of little monetary value, Council may take no action.

3) Continued occupation of land

For any land, Council titled or non-Council titled, that has been deemed not reasonably required and the occupier continues to occupy the land, the occupier will be responsible for the continued maintenance of the land including but not limited to all fencing, vegetation and structures on the land

2.2 Policy environment

As part of the road network, roads and reserves were developed to satisfy a historical need and were documented in early plans of subdivision. In most cases this land is still required for access or other strategic purposes and as such Council will ensure the land remains open and available to the public and is kept free of any encroachment or obstruction.

Council will retain public ownership of roads and reserves where it determines a need exists, for example;

- the land is still required for public access;
- the land continues to add character to the public realm;
- the land has a future strategic purpose or there may be a future opportunity to activate the road or reserve;
- the land may improve the walkability and permeability of the public realm;
- the land may be suitable for indented parking;
- the land may be identified as offering an opportunity for an enhanced tree canopy;
- the land improves the amenity of the area;
- the land provides options for improved environmental outcomes;
- balances are required between competing needs (private vs public ownership); or
- the historical element of the road or reserve continues to be celebrated.



The Council may support the discontinuance and sale of a road or reserve for reasons including the following;

- the road or reserve is not required for general public use;
- it may result in amenity improvements particularly where the land becomes a haven for anti-social behaviour or a place to dump rubbish;
- it may result in a safer and more secure neighbourhood by reducing access points to properties;
- it may result in a better use of land;
- Council, on behalf of the community, may obtain a fair and equitable return on land that was originally set aside for a public purpose;
- Council will reduce its maintenance burden;
- it may rectify an anomaly which will result in greater certainty of property ownership and associated rights;
- the land has no strategic value to Council;
- the road or reserve has no heritage value;
- the road or reserve is not required to maintain the urban character of the area; or
- the road or reserve is not reasonably required for access to other premises.

3 Methodology

A typical road or reserve discontinuance includes the procedural steps outlined in Appendix 1 (roads) and Appendix 2 (reserves).

3.1 Consultation

Under this policy consultation will be undertaken about specific land parcels with all internal and external stakeholders in line with Council's *Community Engagement Policy* prior to any road or reserve being recommended for a discontinuance.

The relevant Ward Councillor will also be kept informed.

4 Policy statement

4.1 Policy Aims

Through this policy, Council seeks to provide a consistent and efficient process for the discontinuance and sale of roads and reserves, and a high-quality customer service to all those affected. Council will work towards this outcome by providing the community with clear direction about the circumstances in which roads and reserves will be discontinued. The policy recognises the land falling within its ambit can often be a burden to Council and abutting neighbours. The pricing mechanism is designed to strike a balance between achieving a fair financial return for the community and incentivising transfer of the land into private ownership.



The policy also acknowledges that in many instances Council does not have title to the land, has never incurred any costs or taken responsibility for maintenance and may have gained advantage through placement of an asset in the land at no rental or purchase cost to Council. In some cases abutting residents will have improved the presentation of the land to the streetscape at their expense, often unaware the land is not on their title.

Council supports the following aims:

- To discontinue and dispose of roads and reserves no longer required by the public or Council, subject to appropriate consultation and adequate commercial return.
- Not to discontinue and sell any road or reserve adjoining public open space unless extenuating circumstances exist. Fencing along the open space proportion of any road or reserve abutting open space will generally be removed.
- Not to discontinue a road or reserve with heritage value.
- Where a road or reserve is no longer reasonably required for any public purpose, Council's preference is to discontinue and dispose of the entire road or reserve at one time rather than engage in a series of individual transactions over a period of time.
- Council will take title to land from a discontinued road or reserve that remains unsold.
- Council will consider ordering the occupiers of a discontinued road or reserve to vacate the land. If a request to vacate is not complied with, legal advice shall be sought as to how to achieve restoration of the occupied land to Council control.
- To pursue a fair balance between maximising a financial return for land disposed of while also applying a pricing mechanism designed to make a sale attractive to prospective purchasers.

4.2 Discontinuance Conditions

4.2.1 Conditions of Sale

The sale price will be in accordance with Council's Principles outlined under 4.2.8 Valuation of Land of the policy.

Council reserves the right to place any easement, covenant or other condition deemed required on the land to be sold.

The title to the land from the discontinued road or reserve must, within 12 months of the transfer, and at the purchasers' expense, be consolidated with the title of the purchaser's main property, except where the purchasers' property is subject to an Owners Corporation. Should the purchasers' property be subject to an Owners Corporation then approval of the purchase must be provided by the Owners Corporation.



4.2.2 Costs and GST

1) Costs

In addition to the purchase price, the purchaser of the land shall be responsible for payment of their own conveyancing costs, and for all costs associated with the creation and lodgement of any easements, covenants or other conditions over the land deemed necessary.

Where the sale of the land contains infrastructure:

- Any costs of relocating the assets of any service authority are to be borne by the purchaser of the land.
- Any bluestone pitchers or other re-useable materials remain the property of the Council and the cost of recovery is to be apportioned to the purchasers.
- Any new or replacement drainage, and other associated costs are to be apportioned equally to those abutting owners involved in the road or reserve discontinuance and sale.
- Any required fencing or special conditions relating to special or unique fencing requirements shall be costs borne by the purchaser. This would be particularly relevant in ensuring that overland drainage flow is not restricted in any way as a direct result of the discontinuance and sale of a road or reserve to adjoining owners.

2) GST

In accordance with the provisions of the GST Act 1999, the sale of discontinued roads and reserves will generally attract GST. This obligates Council to ensure that the sale price of such land is GST inclusive. Council's lawyers will assess in each sale instance the GST status of such sale.

4.2.3 Division of Land

The division of unoccupied roads and reserves will be on an equal share basis to adjoining property owners. Unless exceptional circumstances apply, Council will provide all abutting owners with first opportunity to purchase land from a discontinued road or reserve adjoining their property before seeking offers from other parties.

If an adjoining property owner is not interested in purchasing part of the land adjoining their property, the "full" area may be offered to other adjoining property owners for purchase.

In the event the property owners cannot agree upon the proposed subdivision and sharing of the land to be sold, the land will be sold on the open market to the highest bidder above the reserve price in accordance with the methods available under the *Local Government Act 2020*.

Roads and reserves that have been occupied for less than 15 years (insufficient time to accrue possessory rights) may be divided as though the land were unoccupied.

Page 8 of 15



Roads and reserves that have been exclusively occupied for more than 15 years (so as to accrue possessory rights) will be offered to the occupier in the first instance.

4.2.4 Gazetting a Notice of Discontinuance

Gazetting of a notice of discontinuance frees the land from all private and public rights and encumbrances except for certain rights and powers of the public authorities.

Unless the subject road is on Crown land, the gazetting vests ownership of the land in Council, and Council can subsequently sell the land or retain it for municipal purposes.

The discontinuance of a road or reserve is viewed as a significant action because of the potential negative impacts a loss of a legal right of way or light and air rights can cause.

4.2.5 Conditional Agreements

If a road or reserve is to be discontinued and the land sold, the statutory discontinuance procedures will only be commenced once a Conditional Agreement, in the form of an Offer to Purchase, has been secured from the intended purchaser/s.

4.2.6 Sale of land previously discontinued

If Council intends to sell land from a previously discontinued road or reserve which was not sold at the time of the discontinuance, it will comply with the requirements of section 114 of the *Local Government Act 2020* including a community engagement process in accordance with its Community Engagement Policy.

4.2.7 Title to unsold land

1) Roads

The discontinuance and sale of a road does not normally involve a plan of subdivision. The land 'vests' in Council on the date that the discontinuance is published in the Government Gazette.

A Title Plan is used to allocate/divide the land when transfers reach Land Use Victoria and to record easements 'saved' as part of the discontinuance process.

Council will take title to all unsold discontinued sections of road. Once Council becomes the registered proprietor (Council titled land) occupiers are no longer able to claim the land by adverse possession.

2) Reserves

The discontinuance and sale of a reserve or similar land normally involves a plan of subdivision under section 24A of the *Subdivision Act 1988*.

Upon registration of the plan of subdivision at Land Use Victoria, Council will become the registered proprietor of all Lots in the subdivision (Council titled land), and occupiers will no longer be able to claim the land by adverse possession.



4.2.8 Valuation of Land

The following principles apply when determining the sale price of land from a discontinued road or reserve. The application of these principles is subject to a Council resolution when considering a proposal to discontinue a road or reserve and to sell land.

Principle 1

Council will offer land from a discontinued road or reserve to the abutting property owners for purchase at the current market value, as determined by Council's contract valuers where the abutting owners have agreed to the proposed subdivision and sharing of the land. The valuations under this policy will reflect the additional value the subject parcel of land will add to the value of the existing property of the potential acquirer and will take into consideration the market value of land within the immediate locale having regard to the location of the subject land and characteristics including whether the land:

- Is incapable of being developed in its own right given the small land area;
- Is only marketable to the adjoining owners;
- Is long and narrow, and/or;
- Is encumbered with an easement.

Principle 2

Council titled land will be offered at market value.

Principle 3

When a residential property owner can demonstrate exclusive occupation of a non-Council titled road or reserve for 15 years or longer and the purchase price of a parcel of land is substantially higher than the cost of an adjoining owner acquiring the land via an adverse possession claim (where adverse possession claim criteria are satisfied) the purchase price maybe discounted to an amount equal to adverse possession costs (estimated at \$11,000 as at the date of adoption of this policy). This amount will be reviewed annually to ensure it reflects the current costs of an adverse possession claim.

The property owner will have to provide evidence of exclusive occupation to the satisfaction of Council. Evidence of exclusive occupation will include the signing of a statutory declaration together with any other supportive documentation. Council's GIS aerial photograph records may also be used to provide information for this purpose.

Principle 4

In exceptional circumstances Council may consider a price negotiation on the market value. Exceptional circumstances will be determined by Council in Council's absolute discretion.

Principle 5

Where abutting landowners cannot agree upon the proposed subdivision and share of the unoccupied land to be sold, the land may be sold as a single unsubdivided lot.



The land will be sold for not less than the set reserve price, using any of the methods available to Council under the *Local Government Act 2020*.

4.3 Recovery of Costs

Council will endeavour to recover the costs associated with it undertaking the discontinuance procedures in certain circumstances, including instances where:

- the purchase price of the land, based on market value alone, is insufficient to cover Council's costs.
- where a commercial development or gain is involved.
- in a large or complex project where significant costs are likely to be incurred.

5 Implementation and monitoring

5.1 Evaluation

It is anticipated this policy will be reviewed within 5 years unless arising circumstances require a review sooner or later than this.

5.2 Accountabilities

For all queries or feedback regarding this policy, please use the contact details for the responsible department below.

Position Title	Contact number	Contact department email
Coordinator Revenue and Property Services	9278 4325	revenue@boroondara.vic.gov.au

5.3 Financial implications

This policy aims to provide Council with a more relevant pricing structure to facilitate the disposal of roads and reserves that are no longer required for public access thus generating once off income for Council.

Each sale of a discontinued right of way will realise proceeds for council and incur a small level of legal and conveyancing costs. In the event that an individual transaction cannot cover the costs to be incurred, Council will not proceed with the transaction.

Where requested, Council will consider receiving payments for discontinued land by instalments on the condition that the Transfer of Land will not occur until full and final payment has been received.

6 References

6.1 Related documents

Legislation

Limitations of Actions Act 1958

Local Government Act 1989

Local Government Act 2020

A handwritten signature in purple ink, consisting of a large loop followed by a vertical stroke.



Road Management Act 2004

Planning and Environment Act 1987

Subdivision Act 1988

Transfer of Land Act 1958

Policy

Community Engagement Policy 2021

6.2 Definitions

Council	Indicates reference to the City of Boroondara as a geographical area and also refers to the entity which has the authority to make decisions on behalf of the Boroondara community.
Discontinuance	means the exercise of power under clause 3 of Schedule 10 of the <i>Local Government Act 1989</i> with respect to a road and the vesting and removal of reserve status under section 24A of the <i>Subdivision Act 1988</i> .
Encroachment	means an intrusion on to another's property rights by building or occupation.
Historical occupation	means occupation of land that has come about due to historical anomalies that have arisen when subdivisions have been laid out or streets constructed.
Obstruction	means the placement of a fence, gate, equipment or any other matter or material to prevent lawful access to a road.
Occupied land	Land that is occupied and has been occupied for in excess of 15 years.
Road	means Road as defined in Section 3 of the <i>Local Government Act 1989</i> . These roads include, but are not limited to: <ul style="list-style-type: none"> • Vehicular or pedestrian roads and rights of way, easements of way, streets or footpaths. • Constructed trafficable roads, where part of those roads may be no longer reasonably required for public use. • Roads that have a demonstrated historical occupation.
Reserve	means land reserved on title for which Council has the power to deal with under section 24A of the <i>Subdivision Act 1988</i> , but does not include reserves set aside for recreational purposes or public open space.



These reserves include, but are not limited to:

- Reserves that have a demonstrated historical occupation.
- Drainage or sewerage reserves and other similar land.
- Revenge strips.

Revenge strip	Revenge Strip means a small parcel of land or a reserve which has been created by subdivision, generally for the purpose of separating subdivisions and preventing access to public roads and services.
Unoccupied land	Land that is not occupied or occupation of in excess of 15 years cannot be confirmed.



Appendix 1 Road Discontinuance Process Steps

Step 1

Following either an application from an abutting property owner or an internal enquiry, determine whether or not the road is reasonably required for access.

Step 2

Consult all necessary internal Council departments and external Service Authorities seeking comments on the proposal including any assets within the land or requirements over the land.

Step 3

Obtain a valuation for the land and consult all abutting property owners to establish support or otherwise for the discontinuance of the road and sale of the land.

Step 4

Secure conditional agreements, in the form of an Offer to Purchase, from property owners entitled and interest in purchasing the land.

Step 5

Providing sufficient interest exists, present a report to Council recommending that Council commence the formal procedures under section 206, clause 3 of Schedule 10 of the *Local Government Act 1989*.

Step 6

If the recommendation is adopted, give public notice of Council's intention to discontinue and sell the road in both a newspaper and on Council's website. The public notice will inform interested parties of their right to make a submission to Council on the proposal. In addition, all abutting property owners are to be advised of the proposal in writing and provided with a copy of the public notice.

Step 7

If any submissions are received within 28 day of the public notice, a further report will be presented to Council's Services Special Committee to enable the consideration of any written and/or verbal submissions and for a decision on whether to discontinue and sell the road in full, in part or not to discontinue and sell the road.

Step 8

If no submissions are received, the Chief Executive Officer, or any such other person as the Chief Executive Officer approves, will determine whether to discontinue and sell the road in full, in part or not to discontinue and sell the road.

Step 9

If Council resolves to discontinue and sell the road, place a notice of discontinuance in the Victoria Government Gazette.

Step 10

Sell/Transfer the land to adjoining property owners and Council to take title to any unsold land.

A large, stylized handwritten signature in purple ink, consisting of a large loop and a vertical stroke.

Appendix 2 Reserve Discontinuance Process Steps

Step 1

Following either an application from an abutting property owner or an internal enquiry, determine whether or not the reserve or similar land is reasonably required for the purpose it was originally required for.

Step 2

Consult all necessary internal Council departments and external Service Authorities seeking comments on the proposal including any assets within the land or requirements over the land.

Step 3

Obtain a valuation for the land and consult all abutting property owners to establish support or otherwise with a discontinuance of the road and sale of the land.

Step 4

Secure conditional agreements, in the form of an Offer to Purchase, from property owners entitled and interest in purchasing the land.

Step 5

Providing sufficient interest exists, present a report to Council recommending that Council commence the formal procedures:

- Part A: Sale of Land Procedures under section 114 of the *Local Government Act 2020*.
- Part B: Subdivision procedures under part 4 of the *Planning & Environment Act 1987* (Vic) and section 24A of the *Subdivision Act 1988* (Vic)

PART A: Sale of Land Procedures

Step 6

If the recommendation is adopted, give public notice of Council's intention to sell the land from the reserve in both a newspaper and on Council's website. The public notice will inform interested parties of their right to make a submission to Council on the proposal. In addition, all abutting property owners are to be advised of the proposal in writing and provided with a copy of the public notice.

Step 7

If any submissions are received within 28 day of the public notice, a further report will be presented to Council's Services Special Committee to enable the consideration of any written and/or verbal submissions and for a decision on whether or not to sell the land.

Step 8

If no submissions are received, the Chief Executive Officer, or any such other person as the Chief Executive Officer approves, will determine whether or not to sell the land.

PART B: Subdivision Procedures

Step 9

If Council resolves to sell the land, commence the subdivision procedures including preparation and certification of a plan of subdivision to vest the reserve in Council, remove (discontinue) reserve status from the land and subdivide the land into various lots.

Step 10

Once the Plan of Subdivision is registered at Land Use Victoria, sell/transfer the land to the adjoining property owners. Council will retain title to any unsold land.

MINUTES ATTACHMENTS



Council

Monday 22 August 2022

Attachments as annexed to the resolution:

- 7.11 35 McShane Street, Balwyn North - Proposed discontinuance and sale of road reserve

2

