

7.8 A Memorandum of Understanding for Regional Collaboration for Gardiners Creek

Executive Summary

Purpose

To present a Memorandum of Understanding (MOU) between groups participating in the Gardiners Creek Collaboration.

Background

Council has been participating in a regional collaboration working for the care and improvement of the Gardiners Creek catchment and corridor.

Key Issues

The collaboration members have developed a MOU to better define and formalise the collaboration. The MOU is intended to be non-binding and primarily symbolic. Commitments about funding and project specific collaboration will be subject to separate individual agreements.

This report provides information about the MOU and recommends that it is received and noted by Council.

Officer's recommendation

That Council:

1. Receive and note the Gardiners Creek Collaboration Memorandum of Understanding as at Attachment 1; and
2. Authorise the Director Places and Spaces to sign the Gardiners Creek Memorandum of Understanding on behalf of the Council.

Responsible director: Daniel Freer, Director Places and Spaces

1. Purpose

To present a proposed Memorandum of Understanding (MOU) between groups participating in the Gardiners Creek Collaboration.

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

Relevant actions from the **Boroondara Community Plan (2021-2031)** include:

1.6 Residents and visitors feel safe in public spaces through encouraging local activity and creating and maintaining civic areas.

2.2 Our sustainable urban forest is preserved and increased through managing and renewing our open space trees and understorey growth.

2.4 Green spaces are maintained and increased through management practices and investigating opportunities to acquire or modify existing land.

3.6 Our biodiversity is conserved and maintained through improving the way we manage our diverse plants, animals and natural spaces.

7.1 Decision-making is transparent and accountable through open governance processes with timely communication and reporting.

7.5 The community's interests are represented by Council through leadership and strong advocacy to external stakeholders.

The Boroondara Gardiners Creek Master Plan includes actions and reference to the Collaboration.

The Gardiners Creek Collaboration also aligns with elements other Council environmental Strategies including:

- The **Climate Action Plan 2021**
- The **Urban Biodiversity Strategy 2013-2023**
- The **Integrated Water Management Strategy 2014-2024**.

3. Background

Regional collaboration and approaches are considered critical for the effective management and care for waterways that cross the boundaries of multiple authorities. In 2020 a joint project to explore a regional, shared vision for Gardiners Creek and the possibility of an ongoing regional collaboration commenced.

Officers from Boroondara contributed to this collaboration from its inception and in Council formalised participation through a budget allocation to support collaboration. The provision of funding, participation and Council's role as a Partner was the subject of a Councillor Briefing and Discussion report presented on 28 February 2022. From July 2022 the Collaboration Lead role has been hosted at the City of Boroondara as part of the Environmental Sustainability Team. Salary and other costs are met through contributions from a number of project partners.

Current collaboration participants include:

- AFL Victoria;
- Bicycle Network;
- Boroondara City Council;
- Cricket Victoria;
- Deakin University;
- Field Naturalists Club of Victoria;
- Football Victoria;
- Glen Eira City Council;
- Golf Victoria;
- KooyongKoot Alliance;
- Melbourne Water;
- Monash Council;
- Stonnington City Council;
- Whitehorse City Council;
- Yarra Riverkeeper Association; and
- Yarra Valley Water.

Through significant consultation with key internal and external stakeholders, there is a shared vision and objectives which were co-designed through various workshops. The Vision and Objectives are noted in **Attachment 1** and additionally in the adopted Boroondara Gardiners Creek Master Plan.

4. Outline of key issues/options

The members of the collaboration have identified the value in better defining and formalising the collaboration and ways of working. Various approaches were considered with the collaboration settling on a Memorandum of Understanding (MOU).

A MOU was preferred as it was regarded as being a relatively straight forward process with low risk. Additionally, the local government members of this group are members of the Eastern Alliance for Greenhouse Action (EAGA) in which collaboration is primarily defined by an MOU. The EAGA MOU was used as a template to assist in the development of the proposed MOU for the Gardiners Creek Collaboration albeit significantly reduced in scale and levels of commitment.

The draft MOU is provided as **Attachment 1**.

The MOU outlines principles and objectives for the Gardiners Creek Collaboration. Governance and other arrangements are also described. The attached MOU is relatively brief with key details as follows:

Council's obligations under the MOU

Officers have previously received advice that an MOU is a non-binding agreement, however, it is noted that legal advice received by collaboration members has differed substantially in interpretation of enforceability. In respect of this uncertainty, the MOU has been drafted to avoid defining substantive obligations for any party.

Regardless of its enforceability, endorsement of the MOU poses minimal risk to Council. Endorsement of the MOU is considered primarily a symbolic statement rather than a contractual obligation.

A Terms of Reference document has also been prepared to support the effective functioning of the collaboration.

Funding and other agreements

The importance of funding is described in the MOU however no specific funding commitments are described. The MOU identifies that members of the collaboration should consider their ability to make contributions. Any funding arrangements will be subject to separate consideration and will follow Council's standard processes. Council already has funding arrangements in place with Melbourne Water and other partners to support the collaboration which is currently used to fund the Gardiners Creek Collaboration Lead.

It is anticipated that the collaboration will develop and deliver projects. These projects will be subject to specific agreements with the nature of the agreement depending on the scale and approach to the project. Council currently runs collaborative projects with neighbouring Councils where typically, a lead organisation is identified, and project partners enter into a financial agreement with the lead organisation. The lead organisation is then responsible for contractual arrangements.

The importance of the collaboration is documented in the adopted Boroondara Gardiners Creek Master Plan. Actions within the masterplan are expected to draw heavily on the benefits of regional collaboration. This is particularly relevant for catchment wide initiatives.

Recognition of Traditional Owners

Members of the collaboration have advocated strongly for traditional owner involvement in the collaboration and recognition of traditional owners in collaboration documentation. Wurundjeri representatives have participated in the collaboration but have had limited involvement due to resourcing limitations. The MOU includes recognition statements that have not yet been endorsed by the Wurundjeri Registered Aboriginal Party (RAP). The Wurundjeri RAP has recently received a grant of \$125,000 from the Victorian Government that will support its involvement in the collaboration.

Approach to Endorsement

The Collaboration does not have any specific expectation about the endorsement approach taken by members. The recommended approach is that Council resolve to receive and note, with the MOU to be signed by the Director Places and Spaces.

As the document is regarded primarily as symbolic and non-binding, Council and other collaboration members may choose to make minor amendments and different approaches to signing or demonstrating their commitment.

If organisations sign different versions of the MOU document, this may reduce its enforceability, however as noted above, the document is not intended to be enforceable.

5. Consultation/communication

The development of the MOU has involved substantial consultation with collaboration participants as noted above.

Advice on the MOU has been sought from Council's Governance Team.

The Gardiners Creek Collaboration is described in the Boroondara Gardiners Creek Master Plan that was communicated to our community during the consultation phase and post adoption.

6. Financial and resource implications

There are no new financial or resource implications associated with the MOU.

The collaboration and delivery of the Gardiners Creek Master Plan have resource implications that have been noted previously and which will be further considered as part of Council's budget process.

The regional collaboration is anticipated to provide opportunities for State and Federal Funding beyond that available to Council as a single organisation.

7. Governance issues

Officers involved in the preparation of this report have no conflict of interest. The list of prescribed human rights contained in the Victorian Charter of Human Rights and Responsibilities has been reviewed as per Council's Human Rights Compatibility Assessment Tool and it is considered that the proposed actions contained in this report represent no breaches of, or infringements upon, those prescribed rights.

8. Social and environmental issues

Endorsement of the MOU will support regional collaboration for the improvement of the Gardiners Creek Corridor and Catchment. The collaboration seeks to deliver broad environmental and social values.

9. Conclusion

It is recommended that Council resolve to receive and note the MOU to be signed by the Director Places and Spaces.

Manager: David Shepard, Manager Environmental Sustainability & Open Spaces
Report officer: Mathew Dixon, Coordinator Environmental Sustainability

GARDINERS CREEK REGIONAL COLLABORATION

MEMORANDUM OF UNDERSTANDING

We acknowledge the Wurundjeri Woi Wurrung as the traditional custodians of the Gardiners (KooyongKoot) Creek and its catchment. We pay our respects to their ancestors and Elders, past and present. We recognise and respect their unique cultural heritage, beliefs and ongoing relationship to their traditional lands.

The sub-catchment continues to be important to all those who live, work and visit in the area.

(EDITORIAL NOTE: Along with other references to the Traditional Owners this is still the subject of consultation with the Traditional Owners. Once Traditional Owners have confirmed their position on the GCRC, we will provide an addendum to this MOU, formalising the status of their involvement.)

1. BACKGROUND

- 1.1 The Gardiners Creek (KooyongKoot) sub-catchment is 112 square kilometres and spans much of the eastern suburbs of Melbourne. As well as the municipalities that it runs through, it has a significant impact on the quality and health of the Birrarung (Yarra) River and in turn Port Phillip Bay. It is a significant open space network containing parks, reserves and sports grounds that provide recreation, exercise, events and activities, sports, urban ecology, transport and biodiversity connectivity, and public amenities to the local community. Along its banks, areas of remnant riparian bushland survive.
- 1.2 Gardiners Creek Regional Collaboration (GCRC) is a formal alliance of councils, water authorities, , community groups, Traditional Owners, educational and environmental organisations, and peak sport and recreation bodies working together on joint efforts to ensure that the Gardiners Creek (KooyongKoot) sub-catchment is protected, valued and loved, supporting thriving biodiversity and diverse uses. We see Traditional Owners as sovereign partners in the GCRC, and their involvement is still the subject of consultation with the Traditional Owners (understanding that it is their decision through self-determination).1.3 GCRC was formed as a result of a series of forums in 2021 and 2022 that included the Collaboration members. The forums revealed the need for regional collaboration to provide direction on the scope and required strategic planning for Gardiners Creek (KooyongKoot) sub-catchment. A shared vision, objectives and principles were developed at the forums, and priorities were suggested to provide a framework for GCRC activities.

2. DEFINITIONS

GCRC refers to the formal alliance formed to protect and enhance the Gardiners Creek sub-catchment. May also be referred to as the Collaboration.

Host Organisation means organisation that will host GCRC and administer GCRC's finances as described in Sections 10 of this MOU. The Host Organisation will be generally one of the Partner organisations of the collaboration.

Integrated Water Management is a collaborative approach to planning that brings together organisations that influence all elements of the water cycle, including waterways and bays, wastewater management, alternative and potable water supply, stormwater management and water treatment. It considers environment, social and economic benefits.

Member can refer to the Sovereign Partner or any Partner or Supporter of the GCRC as defined below:

Partner is a party that will endorse the vision and objectives of the Collaboration; participate in the governance structure at the highest level; be publicly listed as a Partner in written and digital public material; provide in-kind staff and volunteer leadership and on a case by case basis contribute to implementing agreed initiatives;.

Sovereign Partner means the Traditional Owners, who have an essential role in land and water management.

Supporter is an organisation that will endorse the vision and objectives of the Collaboration; be publicly listed as a supporter in written and digital public material; provide in-kind staff and volunteer leadership and contribute to implementation of relevant initiatives.

Stakeholder is an organisation that will not be a member of the GCRC but continue to be engaged in the Collaboration and will be consulted on general direction, in particular with initiatives that impact them.

Steering Committee is the governing body of the Collaboration, made up of the Partners that will make strategic and operational decisions on behalf of the Collaboration.

Water efficiency means doing more with the same or less volume of water. This is different to water conservation which is restricting the total amount of water used by people.

3. PARTIES

3.1 Members of the Collaboration are noted below:

- AFL Victoria
- Bicycle Network
- Boroondara City Council
- Cricket Victoria
- Deakin University
- Field Naturalists Club of Victoria
- Football Victoria
- Glen Eira City Council
- Golf Victoria
- KooyongKoot Alliance
- Melbourne Water
- Monash Council
- Stonnington City Council
- Whitehorse City Council

- Yarra Riverkeeper Association
- Yarra Valley Water

3.2 The following members are Partners that will form the governing body of the Collaboration, also known as the Steering Committee:

- Boroondara City Council
- Deakin University
- Field Naturalists Club of Victoria
- Football Victoria
- KooyongKoot Alliance
- Melbourne Water
- Monash City Council
- Stonnington City Council
- Whitehorse City Council
- Yarra Valley Water

3.3 The Wurundjeri Woi Wurrung Cultural Heritage Aboriginal Corporation are regarded as the Sovereign Partner as Traditional Owners have an essential role in land and water management.

4. PURPOSE AND SCOPE

4.1 The purpose of this MOU is to articulate the governance arrangements and expectations by:

- 4.1.1 defining the roles and obligations of the Host Organisation and Partners in the GCRC's governance structure.
- 4.1.2 facilitating the opportunity for all members to contribute to planning projects, programs and other initiatives.
- 4.1.3 providing, in general, a framework to guide collaborative work consistent with the agreed shared vision and objectives of the Collaboration.

5. SHARED VISION

The following is the shared vision agreed to by members of the Collaboration:

KooyongKoot and its catchment is protected, valued and loved, supporting diverse uses and thriving biodiversity.

As custodians of our natural environment, Traditional Owners play a key role in its management.

Community and all stakeholders are working together to heal, strengthen and ensure the resilience of KooyongKoot and its catchment.

6. OBJECTIVES

The following are the objectives agreed to by members of the Collaboration:

- 6.1 Traditional Owners have a key role in the management of KooyongKoot, and KooyongKoot is a place where we collectively celebrate Country.
- 6.2 Protect sensitive environmental areas, enhance and expand biodiversity, habitat and bio-links along the creek corridors.
- 6.3 Promote consistent and collaborative planning across the sub-catchment, recognising that impacts go beyond sub-catchment borders.
- 6.4 Enable climate resilience.
- 6.5 Improve water efficiency, water quality and water management.
- 6.6 Enable diverse recreational uses to support health and wellbeing, community connection and environmental protection.
- 6.7 Encourage sustainable transport use within the sub-catchment.
- 6.8 Preserve and expand green space.
- 6.9 Celebrate culture and heritage.
- 6.10 Connect people to nature.
- 6.11 Advocate to protect and enhance the ecological and social values of the sub-catchment.
- 6.12 Manage expectations and encourage harmony between different stakeholders.
- 6.13 Encourage innovation and sharing of research and learning by community, education, corporate and public sectors.

7. PERIOD

- 7.1 From 1 January 2023 to 30 June 2026.

8. PRINCIPLES

- 8.1 In all matters arising under this MOU, the parties agree to the following principles:
 - 8.1.1 inclusive and respectful working environment
 - 8.1.2 open and transparent communication and sharing of information
 - 8.1.3 acting in good faith, foremost in the interests of the sub-catchment
 - 8.1.4 fostering a culture of learning with regular monitoring and review
 - 8.1.5 working in collaboration to achieve positive outcomes
 - 8.1.6 participating parties recognise that seeking or offering early consultation and collaboration opportunities within the GCRC on best practice approaches will improve

outcomes across the sub-catchment. Parties will best endeavour to consult and inform other parties about relevant and substantial developments, projects or other non-emergency works.

9. GOVERNANCE ARRANGEMENTS

- 9.1 9.2 On behalf of the broader Collaboration, the above organisations listed in 9.1 commit to maintaining a robust governance structure to ensure:
- 9.1.1 objective and effective decision-making
 - 9.1.2 appropriate processes for accountability
 - 9.1.3 effective communications and information exchange within GCRC's networks.
- 9.3 GCRC undertakes its work under the guidance of:
- 9.2.1 a **Steering Committee**
 - 9.2.2 **Working Groups**
 - 9.2.3 a **GCRC Collaboration Lead**.
- 9.4 The roles, responsibilities and operational processes of the governance structure are detailed in the separate Terms of Reference.
- 9.5 The Terms of Reference can be amended at any time by decision of the Steering Committee

10. FINANCE

- 10.1 Both participation and funding are important to the success of the GCRC but the ability to provide funding contributions should not restrict participation. Organisations may choose to make in-kind contributions in addition to or as an alternative to financial contributions.
- 10.2 Each GCRC Partner considers their ability to make funding contributions as part of their annual budget process.
- 10.3 The detail of the funding arrangements, including any individual organisational contributions, will be clarified in a separate funding agreement (or multiple agreements).
- 10.4 Host Organisation will be responsible for managing GCRC's finances. Funding received from Partners will be used for either the core operation of GCRC or for programs, projects and initiatives.
- 10.5 The Host Organisation will report to members on an annual basis regarding the GCRC funds spent in each financial year and the budget balance (the GCRC Reserve).

11. STAFF

11.1 The GCRC Collaboration Lead will be hosted and employed at Host Organisation on behalf of all members. The Host Organisation and its role will be subject to change by decision of the Steering Committee and Host Organisation when required.

11.2 The GCRC Collaboration Lead:

- a) will be accountable to and will report to the GCRC Steering Committee for strategic and operational direction
- b) will report to the Host Organisation in regard to employment conditions, and the Host Organisation will review the annual work plan for the GCRC Collaboration Lead, in consultation with the Steering Committee.

11.3 The parties agree to reach a mutually satisfactory hosting arrangement that best meets the needs of all members and/or the initiative in question.

11.4 Additional GCRC project staff may be employed at any time during the period of the MOU as required. This will be arranged and managed by the relevant organisations participating in the particular project, program or initiative.

12. SHARING INFORMATION AND RESOURCES

12.1 All members will aim, where reasonably possible, to share information relevant to the Collaboration with each other. In the normal course of events, the members will work on the assumption that information should be freely exchanged.

13. DISPUTE RESOLUTION

13.1 If any dispute or difference arises between the parties in carrying out the principles of this MOU that cannot be resolved, then the parties will seek an agreed independent mediator to resolve the matter.

14. ADDITIONS TO THE COLLABORATION

14.1 Any additional organisation wishing to join GCRC as members can express interest in writing to the GCRC Collaboration Lead. The decision to accept new members will be made by agreement of the GCRC Steering Committee.

14.2 Any additional organisation wishing to join the GCRC will need to commit to:

- a) the vision and objectives of the collaboration
- b) to act in the best interest of the collaboration.

15. TERMINATION OF MEMBERSHIP AND DISSOLUTION

15.1 Any party may cease being a party to this MOU at any time by writing to the Host Organisation. Any unspent fees will not be refunded to the exiting Partner member, except via agreement of the Steering Committee.

- 15.2 Any obligations and commitments agreed to before the date of exit are to be fulfilled by the exiting party. Exiting Partners are also to provide any information required to fulfil any contractual obligations beyond the time of exit.
- 15.3 The Collaboration may be dissolved by a vote of the Steering Committee through processes as described in the Terms of Reference.
- 15.4 The trigger for a vote dissolution is when membership declines to a point where the Collaboration's ongoing operation is no longer viable.

16. MOU REVIEW PROCESS

- 16.1 A formal review of the MOU will start no later than 1 July 2025, to be completed no later than 30 June 2026, though the Steering Committee can elect to commence one earlier.

17. EXECUTION

SIGNED for and on behalf of <insert name of
organisation> (as member)

by:

(Name of signatory)

(Signature)

Date: