

COUNCIL MEETING

MINUTES

(Open to the public)

Monday 19 December 2022

Online - Delivered via Webex Events.

Commencement 6.32pm

Attendance

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

Apologies Councillor Susan Biggar

<u>Officers</u>	Phillip Storer	Chief Executive Officer
	Daniel Freer	Director Places and Spaces
	Carolyn McClean	Director Community Support
	Scott Walker	Director Urban Living
	Mans Bassi	Director Customer and Transformation
	Amy Montalti	Chief Finance Officer
	Bryan Wee	Manager Governance and Legal
	Paul Mitchelmore	Manager Civic Services
	Fiona Brown	Manager Community Planning and Development
	Andrew McHugh	Manager Health and Wellbeing Services
	Katherine Wright	Acting Manager Liveable Communities
	Graeme Mawson	Senior Coordinator Children, Young People and Families
	Jarrold Filosa	Coordinator Building Projects
	Sapphire Allan	Coordinator Management Accounting
	Matthew Dixon	Coordinator Environmental Sustainability
	Michael Hutchison	Head of Strategic Property and Revenue
	Saajida Laher	Project Manager
	Jay Seyedi	Senior Project-Architect
	Elizabeth Manor	Senior Governance Officer
	Liam Merrifield	Senior Governance Officer

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1. Adoption and confirmation of the minutes**MOTION****Moved Councillor Gault****Seconded Councillor Hollingsworth**

That the minutes of the Council meetings held on 14 November 2022, 21 November 2022 and 28 November 2022 be adopted and confirmed.

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

Refer to Item 7.7 - Contract 2021/104 Internal Audit - Councillor Gillies.

3. Deputations, presentations, petitions and public submissions

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

No.	Ref. no.	Title / Description	No. of signatures	Referred to
1	CAS-1297434-W4V5L8	Petition for the installation of residents parking signs with a two-hour limit for non-residents on the western side of Redvers Street, Surrey Hills	27	DP&S

Legend:

DP&S

Director Places & Spaces

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

- 1. To receive and note the petitions.**
- 2. To note that the petitions have been referred to the relevant director for consideration and to advise the first named signatory to the petitions 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 Hollingsworth

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 Ian Hundley of Balwyn North

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

"Will Council now open the matter of the proposed dirt Jumps at Koonung Creek Reserve for broader public consultation and commit to any decision on the proposal being made in a regular Council meeting which is open to the public instead of at officer level under delegation as currently advised."

The question was allowed in accordance with Chapter 2 of the Governance Rules. The question was previously raised with a councillor more than 10 working days before the Council meeting at which the question is submitted.

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

- Council manages its parks and reserves in accordance with the principles and aims of the Boroondara Open Space Strategy. One of the aims of this strategy is:
 - Open space encourages the community to be outside, play sport, exercise and/or keep fit to improve their health and wellbeing.
- Skate and BMX activities were identified as experiencing high growth in the development of the Sport and Recreation Strategy. It was recognized within the strategy that:
 - Council should continue to assess the suitability of open space and parkland that respond to the diverse needs of the community, balancing the needs for structured and unstructured recreation across all ages and stages; and

- The North East and North West precincts have been identified as the most appropriate locations for skate and BMX facilities.
- The development of a dirt bike jump track in Koonung Creek Reserve is in accordance with both of these strategies and as such has been progressed under officer delegation.
- Consultation was undertaken on this project in July 2021 and March 2022. Officers distributed approximately 230 letters to residents within an approximate 200m radius of Koonung Creek Reserve, in addition to the installing four corflute A3 signs around the reserve. Feedback from residents was positive, with a number of young people interested in being involved in the project.
- Council is aware of the potential impact the North East Link Project may have on the Koonung Creek Reserve and in response negotiated an agreement to undertake a masterplan for the reserve in the new year. The community will be invited to participate in the creation of the masterplan which will determine the future development and balance of usage within the reserve. The draft and final masterplan will be the subject of consideration by Council at an Ordinary Council Meeting or Services Delegated Committee meeting, both of which are open to the public.

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

PQT2 Ian Hundley of Balwyn North

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

“Will the Council in future facilitate adequate public participation in its annual budget process, commencing with the 2023-24 budget, by formally inviting public submissions early in the budget cycle to allow sufficient time for their consideration, preferably no later than in December each year prior to the formal adoption of the budget the following May, instead of limiting comments on the proposed budget to about a month prior to its adoption, as has been the historic practice.”

The question was allowed in accordance with Chapter 2 of the Governance Rules. The question was previously raised with a councillor more than 10 working days before the Council meeting at which the question is submitted.

The **Chief Executive Officer** responded as follows:

- Council will make a decision next year about how it wishes to consult in relation to its next budget.

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

6. Notices of motion

Nil

7. Presentation of officer reports**Procedural motion - En Bloc****MOTION**

Moved Councillor Gault

Seconded Councillor Parke

That the following items:

7.2 Greythorn Shopping and Business Centre - Marketing and Business Development Fund

7.3 Ashburton Shopping and Business Centre - Marketing and Business Development Fund

7.4 September 2022 Quarterly Performance Report

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

CARRIED**7.2 Contract No 2022/139 - Rowen Street Kindergarten Building Refurbishment Works****Purpose**

The purpose of this report is for Council to consider the award of Contract No. 2022/139, Rowen Street Kindergarten Refurbishment Works.

Background

Council has allocated funding in the Council budget 2022/23 for the refurbishment works of Rowen Street kindergarten at 27 Rowen Street, Glen Iris. The kindergarten is on a large corner block and one of the more generous kindergarten premises in the municipality. The kindergarten service currently offers the community two 3-year-old and two 4-year-old classes in two classroom facilities.

The renewal of Rowen Street Kindergarten will provide a refreshed and more functional kindergarten facility, supporting the service to continue to meet the changing needs of the children, families, and the community of Glen Iris. The project will provide additional capacity for licensed places within Glen Iris, an area identified with forecast unmet demand by 2024.

The kindergarten service will move to Parkhill Primary School while construction works are underway supporting them to maintain a service.

Some minor works are required to the school facilities to achieve compliance with current regulations and standards, and to support the smooth operation of the kinder until the refurbishment works are complete.

The building works to Rowen Street Kindergarten will realize a major renewal and refurbishment of the existing building, including the following proposed scope of works:

- Removal of all asbestos during demolition
- Reconfiguration of staff administrative office
- New DDA-compliant toilet
- Creation of a new consultation / small meeting room
- Improved DDA-compliant building entry including ramps and steps
- More functional foyer entry
- Expansion of one playroom to increase the licensed capacity of the service
- Renewed internal floor finishes
- New joinery
- Upgrade of lighting to energy efficient LED lighting

Key Issues

The key issues are outlined below:

- Rowen Street Kindergarten is an important facility to support 3- and 4-year-old classes
- The current building requires significant refurbishment works to achieve compliancy with current regulations
- The current facility has opportunity to expand to increase licenced capacity to support more families accessing kindergarten

Next Steps

Upon award of the contract, Council will oversee the delivery of the refurbishment works of the Rowen Street Kindergarten.

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 in order for Council to make a decision, this item will be deferred to the confidential section of the agenda.

MOTION

Moved Councillor Gault

Seconded Councillor Parke

That Council resolve:

- 1. To award Contract No. 2022/139, Rowen Street Kindergarten Refurbishment Works to Black Sheep Construction Pty Ltd (ABN/ACN 75 639 577 825 /639 577 825) for a total cost of \$789,294.97 (including GST). The cost to Council after return of the GST Tax Input Credits (\$71,754.09) is \$717,540.88.**
- 2. Approve the allocation of a separate contingency, as set out in the attached confidential Appendix 1, and delegate authority to the Contract Superintendent to expend this contingency to ensure successful completion of the project.**
- 3. To authorise the Director Places and Spaces to sign and execute the contract agreements with the above contractors.**
- 4. To note that expenditure under this contract is in accordance with Council's 2022/2023 adopted budget and expenditure in future years will be in accordance with the approved budget allocations.**

CARRIED**7.3 Contract No 2021/230 Freeway Golf Course Management**Purpose

This report seeks Council endorsement for the award of Contract No. 2021/230 - Golf Course Pro-Shop Management. This contract will provide golf course pro-shop management services for Freeway Golf Course for an initial contract term of two (2) years with two possible extensions of four (4) years to be exercised at the discretion of Council. It is a replacement for the previous contract which reached the end of its term during the course closure for reconfiguration in response to the North East Link Project.

The estimated cost of this contract in 2022/2023 is \$52,000 excluding GST which is in accordance with Council's adopted 2022/2023 budget. The estimated total contract cost over the maximum term of ten years is \$2,065,875 (excluding GST).

Background

This contract will replace the previous contract 2015/21 Management of Freeway Golf Course which has expired.

Through this contract Council will support the strategic objective of the Boroondara Community Plan to ensure open spaces are well utilised.

Key Issues

Freeway Golf Course is currently closed to complete reconfiguration works required in response to the North East Link Project. The course is expected to reopen early in 2023. To support its usage a management contractor is required to manage golf participation and provide supporting services to make the golf experience a quality one.

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:

- a) Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released;
- b) 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 Gault

Seconded Councillor Parke

That Council resolve to:

- 1. Award Contract No. 2021/230, Golf Course Pro-Shop Management, to Greenspace Management Pty Ltd, (ACN 626 072 053) at their tendered schedule of rates for an initial contract period of two (2) years plus two optional extension periods of four (4) years to be exercised at the discretion of Council. The estimated total contract cost for the maximum contract period is \$2,065,875 (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 \$2,065,875 (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 2022/23 adopted budget and expenditure in future years will be in accordance with the approved budget allocations.**

CARRIED

7.4 October 2022 Monthly Financial Report

Purpose

The purpose of this report is to provide Council the Monthly Financial Report for October 2022. The Monthly Financial Report is designed to identify and explain major variances at an organisational level and is provided in **Attachment 1**.

Background

The year to date annual budget referred to in this report reflects the 2022-23 Annual Budget, approved by Council on 27 June 2022.

Key Issues

Year to date actuals vs. Annual Original Budget

Council's favourable operating result against year to date budget of \$142.04 million is \$1.31 million or 1% above the Annual Original Budget of \$140.73 million primarily due to a number of factors which are outlined in **Section 2 of Attachment 1 - Financial Overview**.

Capital works actual expenditure is \$17.52 million which is \$2.53 million below year to date budget phasing of \$20.05 million. Priority projects expenditure of \$6.72 million is \$527,000 below year to date budget phasing of \$7.25 million.

Council's Balance Sheet and cash position are sound and depict a satisfactory result. At the end of October Council's cash position stood at \$158.97 million or \$55.31 million above year to date budget.

MOTION

Move Councillor Gault

Seconded Councillor Parke

That Council resolve to receive and note the Monthly Financial Report for October 2022 (Attachment 1).

CARRIED

7.1 Contract No 2022/138 - Anderson Road Family Centre Building Refurbishment Works

Purpose

The purpose of this report is for Council to consider the awarding of Contract No. 2022/138, Anderson Road Family Centre Refurbishment Works to the recommended tenderer Kinetic Constructions Pty Ltd for the sum of \$1,301,024.10 excluding GST.

Background

The Centre is a Council-owned building located within a residential area. This community facility provides a range of services to Boroondara community including facilities for maternal child health services, Auburn South Preschool, community meeting rooms/kitchen and use of sporting facilities and changerooms for various clubs.

The proposed scope of works is to renew and upgrade the building and surrounds to achieve compliance with current regulations and standards whilst also improving access and functionality of the facilities.

The Centre is constructed in brick veneer and is in good condition. The building was renovated in 2009. The sports pavilion facilities are in poor state of repair, with outdated amenities. The public toilets associated with the tennis club serve the requirement for provision of accessible and public toilets, however they are some distance from the sports pavilion and the ovals. One of the two change rooms are used as a Social Room. The existing building is not compliant with current building codes and Disability Discrimination Act (DDA).

The design of the proposed scope of works was developed in consultation with the committee of Auburn South Preschool, the sporting clubs, and the Service Departments over a series of design workshops with the lead architect, Mantric Architecture and Council officers.

In accordance with Council's Procurement Policy 2021-25, a Request for Public Tender (RFT) was issued, and a recommendation to award Contract No. 2022/138, Anderson Road Family Centre Refurbishment Works is presented for Council's consideration. The works are expected to commence in February 2023 and be completed by June 2023.

The total cost of this contract is \$1,301,024.10 (excluding GST).

Next Steps

Upon award of the contract, Council will oversee the delivery of the refurbishment works for Contract No. 2022/138, Anderson Road Family Centre Refurbishment Works.

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 in order 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. 2022/138, Anderson Family Centre Refurbishment Works to Kinetic Constructions Pty Ltd (ABN/ACN 59 641 009 725/ 641 009 725) at a total cost of \$1,431,126.51 (including GST). The cost to Council after the return of the GST Tax Input Credits (\$130,102.41) is \$1,301,024.10.**
2. **To authorise the Director Places and Spaces to sign and execute the contract on behalf of the Council.**
3. **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.**
4. **To note that expenditure under this contract is in accordance with Council's 2022/2023 amended budget and expenditure in future years will be in accordance with the approved budget allocations.**

CARRIED**7.5 20 and 22 Sir Garnet Road, Surrey Hills - Proposed sale of land from a previously discontinued road**Purpose

This report is to consider commencement of the statutory procedures to sell a parcel of previously discontinued road at the front of 20 and 22 Sir Garnet Road, Surrey Hills. The land is considered by officers to be of little value to Council and has been occupied by the adjoining properties for in excess of 15 years.

Background

In May 1991, the former City of Camberwell discontinued a 4.88m wide section of road reserve at the front of 20 to 24 Sir Garnet Road, Surrey Hills and at the rear of 29 Guildford Road, Surrey Hills, shown hatched, cross-hatched and shaded in **Attachment 1**.

The discontinuance included the northern 4.88m of road reserve forming part of the 1.83m wide walkway between 22 and 24 Sir Garnet Road, Surrey Hills, shown shaded in **Attachment 1**.

Following the discontinuance, two parcels of land from the former road at the front of 24 Sir Garnet Road and the rear of 29 Guildford Road, Surrey Hills, shown hatched on **Attachment 1**, were sold. Two parcels of land at the front of 20 and 22 Sir Garnet Road, Surrey Hills, shown cross-hatched in **Attachment 1** and as Lots 1 and 2 on Title Plan TP969126J in **Attachment 2**, remain unsold.

The unsold parcels of land from the discontinued road reserve forming part of the walkway (shown shaded in **Attachment 1**) and at the front of 20 and 22 Sir Garnet Road, Surrey Hills (shown cross-hatched in **Attachment 1**) remain in the name of the original subdivider.

The land at the front of 20 and 22 Sir Garnet Road, Surrey Hills has formed part of the front garden area of both properties for many years. Recent consultation and negotiations have resulted in the owners of 20 and 22 Sir Garnet Road, Surrey Hills signing conditional Offers to Purchase the land shown as Lots 1 and 2, respectively on Title Plan TP969126J in **Attachment 2**.

Furthermore, it is proposed Council take title to the land shown shaded in **Attachment 1** and as Lot 3 on Title Plan TP969126J in **Attachment 2**, consistent with its use as part of a walkway through the area.

Key Issues

The land proposed to be sold is considered by officers to be of little value to Council and has been occupied by the adjoining properties for in excess of 15 years.

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

As discussions with the adjoining landowners in occupation of the land were undertaken in good faith well before the recent policy changes adopted by Council in August 2022, this report has been prepared applying the principles contained within the Discontinuance of Roads and Reserves Policy 2021.

Given the long-time occupation of the land in excess of 15 years by 20 and 22 Sir Garnet Road, Surrey Hills, the land may be subject to adverse possession claims by the occupying properties. If an adverse possession claim is lodged, this will be dealt with by Land Victoria in advance of any attempt by Council to sell the land. Any subsequent dealings with the title will be dealt with secondary.

Council will take title to Lot 3 on Title Plan TP969126J in **Attachment 2**.

Confidentiality

Confidential information is contained in **Attachment 4**, 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, 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 for Council to make a decision, this item will be deferred to the confidential section of the agenda.

MOTION

Moved Councillor Addis

Seconded Councillor Stavrou

That Council resolve to:

- 1. Commence the statutory procedures to sell the land from the previously discontinued road at the front of 20 and 22 Sir Garnet Road, Surrey Hills, shown as Lots 1 and 2 on Title Plan TP969126J in Attachment 2 and annexed to the minutes.**

2. Give notice of its intention to sell the land in the appropriate newspaper and on Council's website and in such notice state that Council proposes to sell the land to the owners of 20 and 22 Sir Garnet Road, Surrey Hills, by private treaty.
3. If any submissions are received following publication of the notice of intention to sell the land, 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 sale of the land.
4. If no submissions are received following publication of the notice of intention to sell the land, 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 sale of the land.
5. Sell the land from the previously discontinued road to the owners of 20 and 22 Sir Garnet Road, Surrey Hills, for the sum of \$15,156.60 each (inclusive of GST), in accordance with Principle 3 of Council's Discontinuance of Roads and Reserves Policy 2021.
6. 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 4 of this report and annexed to the confidential minutes.
7. Note Council will take title to the land shown as Lot 3 on Title Plan TP969126J in Attachment 2 and annexed to the minutes.

CARRIED

7.6 Smart Street Reserve Dog Off Lead Timeshare

Purpose

The purpose of this report is to present a summary of the findings from the trial conducted at Smart Street Reserve, permitting dog owners to exercise their dog off-lead based on a time-share arrangement from 6:00pm to 7.30am, seven days a week. The report provides a summary of the findings from the trial and assesses multiple other considerations relevant to the shared use of Smart Street Reserve by stakeholders.

Background

Smart Street Reserve, Hawthorn is a medium-sized, local reserve consisting of an area of open green space with walking paths and a large children's playground (**Attachment 1**).

The reserve is in a densely populated residential area with multiple stakeholders possessing a shared boundary fence including residential properties (made up of single dwellings and a multistorey residential building), the West Hawthorn Pre-school and the West Hawthorn Early Childhood Centre and Kindergarten.

The reserve is well utilised for unstructured recreational use including the pre-school and early childhood centres and residents. It was not designated under Council's Order No.1 Control of Dogs (Order) for dog off-lead use.

In 2018, a petition was received by Council requesting Smart Street Reserve be made available for dog off-lead use. In response, a detailed assessment of the suitability of the reserve for off-lead use was undertaken that included extensive community consultation.

At the 25 March 2019 Council meeting, the findings of the Site Suitability Assessment were presented - Smart Street Reserve Report (**Attachment 2**). Officers recommended the proposal from the 2018 petition not be supported as Smart Street Reserve was considered unsuitable for dog off-lead use and that the open space should remain available for the safe use and enjoyment of the multiple users of the reserve, noting that the area was already well serviced by four neighbouring dog off-lead facilities. Council resolved that the Order be amended to designate Smart Street Reserve for off-lead use between the hours of 6.00pm and 7.30am the following day, seven days a week and this arrangement be trialled for a 12-month period.

Once the "timeshare" trial commenced, officers undertook regular patrols to observe and monitor behaviours and compliance, educated dog owners of their obligations, and enforced, as required. In consideration of the overarching principle of shared use, the data collected was analysed to assess user compliance, impact on personal as well as dog safety, impact on infrastructure and amenity, any emerging limitations to accessing this open space and other potential health impacts. The assessment indicated an initial impact on the amenity of the area relating to the reported increase of dog faeces in the open grassed area and the children's playground by customers and the Open Spaces and Park Maintenance teams. Other environmental, safety and amenity impacts were reported to be minor and manageable.

No issues were reported impacting the safe use of the reserve by the two neighbouring children's services with residents and visitors, including families and their children, having continued to utilise the reserve unaffected by the presence of off-lead dogs during the permitted off-lead hours. Smart Street Reserve benefits from not having competing interests from a sporting club and regular access from multiple children's services.

Data collected during the trial did not show or indicate any adverse or negative effects associated with the timeshare arrangement. All Council departments have reconfirmed their previous advice regarding the use of Smart Street Reserve for off-lead use on a timeshare basis and there are no significant barriers to it continuing.

Key Issues

- Concerns were raised by respondents during the community consultation regarding the potential risk to vulnerable users of the reserve and in particular, young children from the neighbouring childcare and child educational facilities, other children who live locally and, elderly visitors.
- Potential impacts on amenity of the reserve and concerns relating to excess dog faeces in the open grassed area as well as the nearby children's playground and the potential creation of an ongoing nuisance for residents by barking dogs.

- Compliance of dog walkers in controlling their dogs while off-lead and picking up after them.

Key themes considered in the report are:

1. Safety
2. Impact on amenity
3. Compliance with the Order and dog owners maintaining control of their dogs
4. Impact to the environment and asset maintenance.

Next Steps

Council considers and decides on the Officer's recommendation to maintain the designation of Smart Street Reserve for dog off-lead use on a timeshare basis of 6.00pm and 7.30am, seven days a week. No change is required with the Order as an expiry date was not set when Smart Street Reserve was included in the Order at the beginning of the trial

MOTION

Moved Councillor Gault

Seconded Councillor Addis

That Council:

That Council resolve to maintain the designation of Smart Street Reserve for dog off-lead use on a timeshare basis (dog off lead 6pm to 7:30am daily) as currently detailed in the Dog Control Order.

CARRIED

7.7 Contract 2021/104 Internal Audit

Purpose

This report seeks Council endorsement to award Contract No. 2021/104 - Internal Audit Consultancy Services.

Background

This contract engages an Internal Auditor to assist Council to manage its strategic risks and support the Audit and Risk Committee.

Sections 53 and 54 of the *Local Government Act 2020* require Council to have an Audit and Risk Committee subject to an Audit and Risk Committee Charter. Council's Audit and Risk Committee Charter requires Council to engage an internal auditor to perform the internal audit function.

Key Issues

The procurement was by public tender with an evaluation panel included senior officers and an Audit and Risk Committee member as required by Council's Procurement Policy and the Audit and Risk Committee Charter.

The preferred tenderer achieved the highest qualitative and quantitative result.

The proposed contract replaces a previous contract. The proposed contract initial term is for three (3) years with two options for Council to extend of one (1) year each. This contract replaces its predecessor which expired in November 2022. The estimated cost of this contract (including the two discretionary options) over five years is \$650,000 (excluding GST).

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:

- (a) Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released;
- (g) 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.

Councillor Gillies declared a conflict of interest in accordance with the Local Government Act 2020. Councillor Gillies left the meeting at 7.08pm prior to the consideration and vote on this item.

MOTION

Moved Councillor Stavrou

Seconded Councillor Parke

That Council resolve:

- 1. To award Contract No. 2021/104, Internal Audit Consultancy Services to Findex (Aust) Pty Ltd trading as Crowe Australia (ABN 84 006 466 351) at their tendered schedule of rates for an initial contract period of three (3) years plus two optional extension periods each of one year to be exercised at the discretion of Council. The estimated total contract cost is \$650,000 (excluding GST).**
- 2. To authorise the Manager, Governance and Legal to sign and execute the contracts on behalf of the Council and to authorise invoices to an amount not exceeding the total contract price and any approved contingency.**
- 3. To authorise the Manager, Governance and Legal to negotiate and execute optional extension periods.**

4. **To note that expenditure under this contract is in accordance with Council's 2022/23 adopted budget and expenditure in future years will be in accordance with the approved budget allocations.**

CARRIED

Councillor Gillies re-entered the meeting at 7.11pm.

7.8 A Memorandum of Understanding for Regional Collaboration for Gardiners Creek

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.

MOTION

Moved Councillor Thompson

Seconded Councillor Franco

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.**

CARRIED

7.9 Contract 2020/116 Canterbury Community Precinct Redevelopment Works - Variation to Project Contingency

Purpose

The purpose of this report is for Council to approve a variation to the contract contingency sum for Contract 2020/116 Canterbury Community Precinct Redevelopment Works.

Background

On 24 August 2020 Council resolved the following:

1. To award Contract No. 2020/116, Canterbury Community Precinct Redevelopment Works, to Harris HMC Construction Pty Ltd (ACN 119 426 952) as trustee for Harris HMC Construction Trust (ABN 11 938 385 442), at a cost of \$10,465,565 (including GST). The estimated cost to Council after return of GST Input Credits is \$9,514,150.
2. To authorise the Director Environment and Infrastructure to execute the contract agreement with the above Contractor.
3. To note that anticipated expenditure under this Contract is in accordance with Council's 2020/21 adopted budget and foreshadowed 2021/22 budget.

Harris HMC took possession of the site at 2 Kendall Street Canterbury for early works to Stage One on 9 March 2021 and has been progressing construction works since. Stage One works are approaching completion with Stage Two works planned to begin in early 2023.

Key Issues

In conjunction with the contract award, Council also approved a separate contract contingency sum to enable the Contract Superintendent (or its nominated representative) to accept variations as needed to maintain the delivery of the works.

A number of variations have arisen during Stage 1 construction of Canterbury Community Precinct, including hydraulic engineers change in fire pump /tank arrangements to address external authority requirements, replacement of bowling club windows, re-stumping, high-end solar panel alternative, electrical supply offer, retaining works to the embankment on Kendall Street, contaminated soil removal, additional soil removal for soft spots, landscape design changes to maximise tree root protection in play area, community garden space improvements aligning with revised community expectations, and latent conditions. All parties including the contractor, design team and relevant Council departments have generally continued to work collaboratively to resolve issues as they emerge, and plan for foreseeable future risks.

Officers are forecasting that the sum of all variations for this contract across both Stages One and Two will exceed the pre-approved contingency sum for this Contract.

Council has approved a budget increase to this project through the 2022-23 Amended Budget process (14 November 2022). The proposed increase to the contract contingency sum is within this adopted budget for the project.

To align with Councils procurement policy and delegation limits, this report seeks Council approval to increase the project contingency to complete stage 1 and 2 works.

Next Steps

Council officers will assess variation claims by the builder and consultants to successfully complete the Canterbury Community Precinct for community use and benefit.

Confidentiality

Confidential information is contained in **Attachment 1**, as circulated in the confidential section of the agenda attachments. The information in this attachment is deemed to be confidential in accordance with Section 66(2)(a) and the definition 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. If discussion of the confidential information in the attachments to this report is required for Council to make a decision, Council may resolve to discuss the matter in a confidential session or to defer the matter to the confidential section of the agenda.

MOTION

Moved Councillor Addis

Seconded Councillor Watson

That Council resolve:

- 1. To increase the contract contingency sum for Contract 2020/116 Canterbury Community Precinct Redevelopment Works in accordance with the confidential attachment (Attachment 1) to this report.**
- 2. To note that expenditure under this contract is in accordance with Council's 2022/23 amended budget.**

CARRIED

8. General business

8.1 Recycling

Councillor Franco referred to the Australian Government's joining of the High Ambition Coalition and noted the collapse of Redcycle.

Councillor Franco advised he had been contacted by a concerned resident about impacts of this on Council and our involvement moving forward.

The **Director Places and Spaces** noted this matter would be listed for discussion at the upcoming Waste Management Advisory Group meeting.

8.2 Acknowledgement - Director Community Support

Councillor Addis acknowledged it was the Director Community Support's last Council meeting as she had tendered her resignation.

Councillor Addis thanked the Director Community Support for her advice and assistance and wished her well.

The **Mayor, Councillor Sinfield** echoed Councillor Addis' comments.

The **Director Community Support** noted it was a privilege to work for the community and wished the Council all the best for the future.

8.3 Tributes - Passing of Maria Karvouni

Councillor Thompson advised the community that Auburn High School Principal Ms Maria Karvouni had passed away.

Councillor Thompson acknowledged Ms Karvouni's achievements in her career and the community and expressed his sympathy to Ms Karvouni's family and friends on behalf of Council.

Councillor Gillies and **Councillor Franco** echoed the comments of Councillor Thompson and expressed their condolences on behalf of Council.

8.4 Acknowledgement - Councillor Addis and Councillor Sinfield

Councillor Hollingsworth acknowledged Councillor Addis as the outgoing Mayor and thanked her for her commitment to the community during her tenure as Mayor.

Councillor Hollingsworth also congratulated Councillor Sinfield on her appointment as Mayor for the 2022-23 term.

8.5 Acknowledgement - Not for Profit Organisations and Community Groups

Councillor Hollingsworth noted the impacts COVID-19 is continuing to have on the community.

Councillor Hollingsworth acknowledged the not-for-profit organisations and community groups in the municipality keeping the community connected during the pandemic.

Councillor Hollingsworth advised that Council looks forward to working with these groups in 2023.

8.6 Christmas Events

The **Mayor, Councillor Sinfield** thanked the community groups in the municipality who had organised Christmas carol events and noted they had been well attended.

9. Urgent business

Nil

10. Confidential business

Nil

The meeting concluded at 7.35pm

Confirmed

Chairperson

Date

MINUTES ATTACHMENTS



Council

Monday 19 December 2022

Attachments annexed to the minutes for the following items:

- 4. Informal Meetings of Councillors
- 7.5 20 and 22 Sir Garnet Road, Surrey Hills - Proposed sale of land from a previously discontinued road

Record of Informal Meetings of Councillors

Assembly details	Councillor attendees	Officer attendees	Matters discussed	Conflict of Interest disclosures
Councillor Briefing & Discussion 7 November 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 Victor Franco	Phillip Storer (CEO) Daniel Freer (DPS) Carolyn McClean (DCS) Scott Walker (DUL) Amy Montalti (CFO) Bryan Wee (MGL) Kirstin Ritchie (CG) Christian Wilmsen (CSP) Sapphire Allan (MA)	<ul style="list-style-type: none"> Community Heritage Nomination Process 2022-23 Amended Budget Civic Reception 	Nil
Councillor Briefing & Discussion 14 November 2022	Cr Jane Addis Cr Jim Parke Cr Felicity Sinfield Cr Wes Gault Cr Di Gillies Cr Lisa Hollingsworth Cr Garry Thompson Cr Victor Franco	Phillip Storer (CEO) Mans Bassi (DCT) Carolyn McLean (DCS) Amy Montalti (CFO) David Cowan (MSSP) Nick Lund (MSP) Paul Mitchelmore (MCS) Sapphire Allan (CMA) Serena Horg (CPLLAM) Kirstin Ritchie (CG) Freda Duraku (CRL) Liam Merrifield (SGO)	<ul style="list-style-type: none"> September 2022 Quarterly Performance Report Smart Street Reserve - Dog Off-Lead Timeshare Trial Review Draft 2023 Meeting Cycle Councillor Meeting Invitations Election of the Mayor 	Nil

Record of Informal Meetings of Councillors

Assembly details	Councillor attendees	Officer attendees	Matters discussed	Conflict of Interest disclosures
Councillor Briefing & Discussion 28 November 2022	Cr Jane Addis Cr Jim Parke Cr Felicity Sinfield Cr Wes Gault Cr Di Gillies Cr Lisa Hollingsworth Cr Susan Biggar Cr Nick Stavrou Cr Victor Franco	Phil Storer (CEO) Mans Bassi (DCT) Carolyn McClean (DCS) Daniel Freer (DPS) Scott Walker (DUL) Bryan Wee (MGL) David Cowan (MPP) David Shepard (MESOS) Fiona Brown (MCPD) Nick Lund (MSP) Michele Forster (AMLC) Kirstin Ritchie (CG) Christian Wilmsen (CSP) Caddy Purdy (SCCS) Brendon Burke (SLA) Jessica Donaldson (PSP) Katelyn Stanyer (CDO) Lucinda Bakhach (LEL) Liam Merrifield (SGO)	<ul style="list-style-type: none"> Boroondara Housing Strategy 2022 Part 2 Review of Planning Application Briefing (PAB) process and Q&A for UPDC matters Public Realm Asset Manual Draft Neighbourhood Houses Framework Draft Economic Development and Tourism Plan Discussion Paper Available Property (4 Macedon Avenue, Balwyn North) 	Nil
Councillor Briefing & Discussion 5 December 2022	Cr Jane Addis Cr Jim Parke Cr Felicity Sinfield Cr Wes Gault Cr Di Gillies Cr Lisa Hollingsworth Cr Susan Biggar Cr Garry Thompson Cr Nick Stavrou Cr Victor Franco	Phillip Storer (CEO) Scott Walker (DUL) David Cowan (MSSP) Bryan Wee (MGL) Michael Hutchinson (HSPR) Kirstin Ritchie (CG) Christian Wilmsen (CSP) Elizabeth Manou (SGO) Nick Brennan (SSP) Peter Waite (Swinburne University) Pascale Quester (Swinburne University) Nancy Collins (Swinburne University)	<ul style="list-style-type: none"> Presentation by Swinburne University of Technology 	Nil

MINUTES ATTACHMENTS



Council

Monday 19 December 2022

Attachments as annexed to the resolution:

- 7.5 20 and 22 Sir Garnet Road, Surrey Hills - Proposed sale of land from a previously discontinued road

Attachment Page 1 of 1