

# COUNCIL MEETING MINUTES

(Open to the public)

**Monday 17 April 2023**

Council Chamber, 8 Inglesby Road, Camberwell.

**Commencement** 6.38pm

**Attendance**

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

**Apologies** Councillor Susan Biggar

<b><u>Officers</u></b>	Phillip Storer	Chief Executive Officer
	Daniel Freer	Director Places and Spaces
	Kate McCaughey	Director Community Support
	Scott Walker	Director Urban Living
	Mans Bassi	Director Customer and Transformation
	Mary Anne-Palatsides	Executive Manager People Culture and Development
	Sapphire Allan	Acting Chief Financial Officer
	Bryan Wee	Manager Governance and Legal
	Christine White	Manager Capital Projects
	David Shepard	Manager Environmental Sustainability and Open Spaces
	Jarrold Filosa	Coordinator Building Projects
	Matthew Dixon	Coordinator Environmental Sustainability
	Elizabeth Manou	Senior Governance and Integrity Officer

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

**That the minutes of the Council meeting held on 27 March 2023 be adopted and confirmed.**

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

Nil

**3. Deputations, presentations, petitions and public submissions**

Nil

**4. Informal Meetings of Councillors**

Nil

**5. Public question time****PQT1 Ian Hundley of Balwyn North**

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

*"Is the Victorian Government's policy decision to expand the availability of early learning also now a factor in the continuing occupation of the former Balwyn Leisure Centre at 260 Balwyn Road, Balwyn North, and earlier indications that this area in the Gordon Barnard Reserve would ultimately be converted by Council to open space?"*

The question was allowed in accordance with Chapter 2 of the Governance Rules as the question related to a matter listed on the agenda.

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

- Council regularly renews kindergarten and early learning centres to ensure suitable learning environments for our youth.
- The kindergarten projects were foreshadowed for renewal before the State Government's announced kindergarten reforms.
- The State Government's reform is placing additional pressure on community owned infrastructure. Any kindergarten capacity required to meet anticipated demand requires additional infrastructure investment and may prolong periods where kindergartens require re-location.

- Council will only deliver additional works to that planned, should grant funding be provided to meet State reforms.
- Balwyn Leisure Centre has been identified as a suitable temporary location to enable near-by kindergartens to operate while existing infrastructure is renewed. Council remains committed to the demolition and conversion to open space as part of future works.

The **Mayor, Councillor Sinfield** informed the meeting that 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 Council arrange for tender and completed contract documents to be made available to members of the public on the Council website rather than through the Vendor Panel Marketplace?"*

The question was allowed in accordance with Chapter 2 of the Governance Rules. The question had previously been put in writing to a Councillor or a member of Council staff more than 10 working days before the Council meeting at which the question was submitted.

The **Acting Chief Financial Officer** responded as follows:

- Council, along with many other Victorian Councils, utilises VendorPanel to manage our tendering processes for all tendering requirements.
- E-tendering software is used as an essential tool to ensure probity during the tendering process.
- Council requires an avenue to identify all parties who have downloaded council's tender documents so that should there be any amendments to tender documents after they have been released all potential tenderers can be notified of these.
- Should tender documents be available on Council's website we have no way of identifying who we must contact should there be any relevant amendments. We aim to ensure that all potential tenderers have the same information to enable a fair and equitable process.
- To view full tender documents you are required to register within VendorPanel which is free. If you do not wish to register in VendorPanel a summary of the Tender Details can still be accessed via our website and further information can be obtained via Council's Procurement team.

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

**PQT3 Ro of Surrey Hills**

The **Mayor, Councillor Sinfield** read the following question submitted without notice:

*"Will the consultant report be made available to residents who had input to the project/consultation please?"*

The question was allowed in accordance with Chapter 2 of the Governance Rules as the question related to a matter listed on the agenda.

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

**PQT4 Ro of Surrey Hills**

The **Mayor, Councillor Sinfield** read the following question submitted without notice:

*"Will the Friends of Back Creek East be established as discussed during the project (i.e. to assist with reserve and creek management?"*

The question was allowed in accordance with Chapter 2 of the Governance Rules as the question related to a matter listed on the agenda.

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

**PQT5 Mary of Camberwell**

The **Mayor, Councillor Sinfield** read the following question submitted without notice:

*"Why are you not protecting heritage areas?"*

The question was allowed in accordance with Chapter 2 of the Governance Rules. The question had previously been put in writing to a Councillor or a member of Council staff more than 10 working days before the Council meeting at which the question was submitted.

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

**6. Notices of motion**

Nil.

## 7. Presentation of officer reports

### Procedural Motion - En Bloc

#### MOTION

Moved Councillor Addis

Seconded Councillor Hollingsworth

That the following items on the agenda be moved en bloc as per the officers' recommendation:

7.2 February 2023 Monthly Financial Report

7.3 Opportunities for Management of Back Creek East and Medlow Reserve

7.4 Contract No 2022/89 Hays Paddock Playground Construction

#### CARRIED

## 7.2 February 2023 Monthly Financial Report

### Purpose

The purpose of this report is to provide Council the Monthly Financial Report for February 2023. 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 Amended Budget, approved by Council on 14 November 2022 which includes the carry forward funding for final 2021-22 priority projects and capital works forward commitments.

### Key Issues

#### **Year to date actuals vs. 2022-23 Amended Budget**

Council's favourable operating result against year to date budget of \$83.40 million is \$9.27 million or 13% above 2022-23 Amended Budget of \$74.13 million primarily due to a number of factors which are outlined in **Section 2 of Attachment 1 - Financial Overview**.

Capital works actual expenditure is \$32.11 million which is \$281,000 below year to date budget phasing of \$32.39 million. Priority projects expenditure of \$14.44 million is \$3.05 million below year to date budget phasing of \$17.49 million.

Council's Balance Sheet and cash position are sound and depict a satisfactory result. At the end of February Council's cash position stood at \$184.91 million or \$17.55 million above year to date budget.

#### MOTION

Moved Councillor Addis

Seconded Councillor Hollingsworth

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**That Council resolve to receive and note the Monthly Financial Report for February 2023 (Attachment 1).**

**CARRIED**

### **7.3 Opportunities for Management of Back Creek East and Medlow Reserve**

#### Purpose

This report presents the recommended approach for the ongoing management of Back Creek East / Medlow Reserve from Warrigal Road to Union Road for Council endorsement.

Following endorsement, officers will communicate with residents regarding future site management and implement the recommended management approach.

#### Background

Medlow Reserve is a small Council managed reserve in Surrey Hills. The site is steep and uneven and is currently fenced with no public access. Back Creek East refers to the section of Back Creek between Warrigal Road and Union Road in Surrey Hills (see **Attachment 1** for site location and plan).

The banks of the creek are eroded in some locations and experience lateral movement. The site is the subject of ongoing local community concern. Council is the responsible management authority for Back Creek East and Medlow Reserve.

There is currently no formalised management approach for this site.

#### Key Issues

Back Creek East has highly complex property ownership arrangements and property boundaries. Council is the responsible management authority but documented ownership of the creek bed and banks varies. In several locations, property boundaries are defined by the creek. As the creek moves over time, so to do property boundaries.

Property ownership and boundary issues would need to be resolved if any substantive works were to proceed. Council would need to acquire private land in order to undertake civil works. Resolution of property ownership is expected to be a complex and costly exercise. Additionally, significant civil works would impact the current values and appearance of the creek environment which is currently appreciated by the community.

Council has previously undertaken targeted bank stabilisation works. These rockworks were expected to last several years but are now failing in some areas.

No statutory provisions requiring Council to undertake enhanced site management have been identified.

The recommended management approach is an uplift in level of service through additional revegetation and pest plant and animal management.

The following alternatives have been investigated and are not recommended:

- Changes in property ownership including acquisition of land by Council or divestment of land by Council.

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- Substantial Civil Works.
- Opening the Medlow Reserve to Public Recreation.

#### Next Steps

Following endorsement, officers will:

- Communicate with residents regarding future site management.
- Implement the preferred management approach.

#### Confidentiality

Confidential information is contained in **Attachment 2**, 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 land use planning information, being information that if prematurely released is likely to encourage speculation in land values.

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.

Council has obtained specialist public land management advice on matters related to statutory public land and creek management obligations, which has been considered as part of preparing this report. A copy of the advice is included at confidential **Attachment 2**.

#### **MOTION**

**Moved Councillor Addis**

**Seconded Councillor Hollingsworth**

**That Council:**

- 1. Manage Back Creek East and Medlow Reserve as a biodiversity site with a focus on revegetation and pest management in accordance with section 4.3.1 of the officers' report.**
- 2. Inform the local community of the management approach for Back Creek East and Medlow Reserve.**

**CARRIED**





## 7.4 Contract No 2022/89 Hays Paddock Playground Construction

### Purpose

This report seeks Council endorsement for the award of Contract No. 2022/89, Hays Paddock Playground Construction.

### Background

As part of Council's Playground Renewal Program (PRP), Council requires a suitably qualified organisation to undertake the construction of Hays Paddock Regional Playground. This construction project will renew an existing accessible Regional Playground asset and includes:

- a new accessible timber structure
- a new sand-play area
- a new sensory water zone
- more places to gather and sit
- new shade structures and more trees
- plants and associated landscaping works.

Proposed works also include car park upgrades to bring the associated adjacent DDA car park to current compliance, including lighting renewal and modifying Council's maintenance vehicle access to reduce proximity to children and pedestrians near the playground entrance. The bird hide is also proposed to be renewed, due to condition of the asset.

These redevelopment works are expected to commence in August 2023 and be completed by end of June 2024.

### Key Issues

Maintaining the playground as an accessible facility to encourage side by side play was a key issue. Early consultation ensured key design principles, aimed at meeting the needs of members of the community with disabilities, were well considered. Additionally, incorporation of the community's preferred themes and favourite play items has meant that the final concept design for the new playground reflects what leaders in the disability sector and our community told us was most important to them.

The new playground will remain inclusive and prioritise side-by-side play opportunities for all children. While 81% liked the proposed mix of play equipment, community consultation has confirmed that we also have strong support for:

- retaining the billabong theme and rustic timber character
- increased shade and places for adults to sit and gather
- increased challenging play opportunities for older children
- renewed custom timber structures with renewed play options
- A new sand play zone and the inclusion of water.

### Next Steps

Following contract award, construction is expected to commence in August 2023.

### 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 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.

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 Hollingsworth**

**That Council:**

1. **Award Contract No. 2022/89, Hays Paddock Playground Construction, to: Warrandale Industries Pty Ltd (ABN 45 132 425 361) at a total cost of \$2,555,893.41 excluding GST.**
2. **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. **Authorise the Director Places and Spaces to execute the contract agreement with the above contractor.**
4. **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**

## 7.1 Temporary Occupation of Former Balwyn Leisure Centre

### Purpose

This report seeks Council's approval for temporary occupation of the former Balwyn Leisure Centre by community-based early years services while planned building renewal works occur over the coming years.

### Background

The Council-owned Balwyn Leisure Centre (BLC) is located at 230 Balwyn Road in Balwyn North, and includes an internal sports court, childcare centre and administrative spaces. The facility was originally intended to be closed and demolished following the completion of works at the Boroondara Sports Complex. Since this time, the site has continued to be utilised by a range of community groups, early years service providers and Council services as a temporary accommodation solution, due to its adaptability to suit a range of needs, accessible location, convenience and cost effectiveness.

The BLC has provided temporary accommodation to Greythorn Early Childhood Centre, Balwyn Library, Through Road Early Learning Centre and Interchange Inner East. The overall project costs to date, are estimated to have saved Council approximately \$1.5M by providing suitable temporary portable accommodation.

The BLC has been maintained as a licenced childcare and kindergarten facility, enabling the use of the site to support community services while Council owned early years infrastructure is renewed. Council's Long Term Financial Plan (LTFP) includes several kindergarten building redevelopment projects in coming years which require temporary accommodation to support continuity of service.

### Key Issues

At the Council meeting on 23 August 2021, Council resolved to:

1. Endorse the proposal to temporarily accommodate Through Road Early Learning Centre and other community groups that require temporary accommodation during the construction period of the Canterbury Community Precinct.
2. Receive budget bid for the demolition of the Balwyn Leisure Centre and open space conversion as part of the 2022/23 budget process.
3. Undertake community engagement to shape the future open space development of this site in the 2022/23 financial year.

With recent construction cost escalations and associated budget impacts, the use of existing assets for accommodation to reduce overall project costs is recommended.

Council's LTFP includes several kindergarten building renewal projects in coming years which require a temporary accommodation solution and are listed in **Table One** of this report.

Each of these services' existing sites are considered physically constrained and not practical to maintain uninterrupted delivery of kindergarten services at the same time as significant construction works.

Further, setting up temporary accommodation facilities, to the satisfaction of licencing requirements, will be costly and is not considered good value for money. It is estimated that operating the nominated services from BLC during construction would save Council between \$1.5-\$1.8 million over the next five years.

The BLC building remains suitable for temporary accommodation by early year service providers. It is anticipated each site will be delivered in successive calendar years, where possible, to minimise service disruption. The demolition of the BLC and community engagement on new open space will be referred to Councils LTFP for consideration, with demolition of the BLC anticipated in 2029, pending budget approval.

#### Next Steps

Council officers continue to work closely with the Committee representatives of JJ McMahon Memorial Kindergarten to finalise the design and documentation of the proposed redevelopment project. The works are planned to be tendered in July-August 2023, with Council to be presented with recommendation to award the contract in late 2023. The kindergarten is supportive of relocating to BLC as temporary accommodation during construction.

Planning, design, and delivery of the remaining kindergarten projects will proceed in accordance with Council's adopted Budget.

#### Confidentiality

There is no confidentiality consideration relevant to this proposal.

#### Procedural motion - laying question on the table

#### **MOTION**

**Moved Councillor Watson**

**Seconded Councillor Parke**

**That the question lie on the table.**

#### **CARRIED**

### **8. General business**

#### **8.1 The Australian Heritage Festival in Victoria**

**Councillor Hollingsworth** informed the community that the National Trust's Australian Heritage Festival was being held from 18 April 2023 to 18 May 2023.

Councillor Hollingsworth advised various events would be held across Victoria, including Council's libraries hosting events, and local heritage and history groups hosting events and walks.

## 8.2 Eastern Freeway Tragedy

The Mayor, Councillor Sinfield advised that on 22 April 2023, it would be the third anniversary since Constable Glen Humphris, Constable Josh Prestney, Leading Senior Constable Lynette Taylor and Senior Constable Kevin King tragically lost their lives on the Eastern Freeway.

Councillor Sinfield informed the community that the clock tower at Hawthorn Arts Centre will be lit up in blue in the evening, as a mark of respect and to pay condolence to their families and friends, staff of Boroondara Police Complex and the wider Victoria Police community.

Councillor Sinfield thanked Victoria Police for the work they do every day to keep our community safe.

## 8.3 ANZAC Day

The Mayor, Councillor Sinfield recognised ANZAC Day and the sacrifices of our servicemen and women in the First World War and every conflict Australia has participated in since.

The Mayor Councillor Sinfield noted their efforts have created the freedoms we enjoy today and encouraged the community to attending one of the dawn services taking place across Boroondara.

Councillor Hollingworth encouraged the community who could not attend a dawn service, to attend the service in Wattle Park, Hawthorn on 24 April 2023.

## 9. Urgent business

Nil

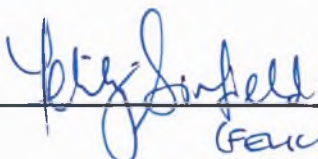
## 10. Confidential business

Nil

The meeting concluded at 7.00pm

Confirmed

Chairperson

  
(FELICITY SINFIELD)

Date

22-MAY-2023