



WHITEHORSE
CITY COUNCIL

Whitehorse City Council

AGENDA

Council Meeting

on

Monday 22 May 2023 at 7.00pm

**To be held in the
Council Chamber
Nunawading Civic Centre**

Members: Cr Mark Lane
Cr Prue Cutts
Cr Blair Barker
Cr Raylene Carr
Cr Andrew Davenport
Cr Tina Liu
Cr Denise Massoud
Cr Amanda McNeill
Cr Andrew Munroe
Cr Trudy Skilbeck
Cr Ben Stennett

Mayor
Deputy Mayor

Mr Simon McMillan, Chief Executive Officer

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AGENDA

1 WELCOME

Prayer for Council

We give thanks, O God, for the Men and Women of the past whose generous devotion to the common good has been the making of our City.

Grant that our own generation may build worthily on the foundations they have laid.

Direct our minds that all we plan and determine, is for the wellbeing of our City.

Amen.

Aboriginal Reconciliation Statement

“Whitehorse City Council acknowledges the Wurundjeri Woi-wurrung people of the Kulin Nation as the traditional owners of the land we are meeting on and we pay our respects to their Elders past, present and emerging and Aboriginal and Torres Strait Islanders from communities who may be present today.”

2 APOLOGIES

3 DISCLOSURE OF CONFLICT OF INTERESTS

4 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

Minutes of the Council Meeting 08 May 2023

RECOMMENDATION

That the minutes of the Council Meeting 08 May 2023 having been circulated now be confirmed.

5 URGENT BUSINESS

6 PUBLIC PRESENTATIONS

7 PUBLIC QUESTION TIME

8 PETITIONS AND JOINT LETTERS

9 NOTICES OF MOTION

10 COUNCIL REPORTS

10.1 Proposed Part Discontinuance of Road Adjoining 811 Whitehorse Road Mont Albert, 813-823 Whitehorse Road Mont Albert, and 465 Elgar Road Mont Albert

Property and Leasing
City Development

SUMMARY

Having received a request from an adjoining owner to discontinue the road adjoining 811 Whitehorse Road Mont Albert, 813-823 Whitehorse Road Mont Albert, and 465 Elgar Road Mont Albert; Council Officers undertook non-binding preliminary consultation with the three adjoining owners and there was no objection to the proposal to discontinue.

It is recommended that Council commence the road discontinuance in accordance with the *Local Government Act 1989*.

One of the abutting owners included the adjoining road in their Town Planning Permit application. This inclusion does not place any disposal obligations on Council when considering discontinuance.

The due diligence process identified that a small section of the road was located within the Whitehorse Road road-reserve and consequently cannot be discontinued by Council.

Additionally, the due diligence identified that the surveyed land area does not align with the title land area held by Land Registry. Council can only discontinue in accordance with the title land area.

In the opinion of Council Officers it has been deemed that the road adjoining 811 Whitehorse Road Mont Albert, 813-823 Whitehorse Road Mont Albert, and 465 Elgar Road Mont Albert is no longer required for public use based on the following assessment criteria:

- the nature and extent of the present and past use of the road;
- the likelihood of the road being required for ongoing and future use, both vehicle and pedestrian; and
- Section 9 of the Road Management Act 2004

Council Officers recommend that Council commence the statutory process to discontinue part of the road adjoining 811 Whitehorse Road Mont Albert, 813-823 Whitehorse Road Mont Albert, and 465 Elgar Road Mont Albert.

10.1
(cont)

RECOMMENDATION

That Council:

1. Acknowledges that the section of road shown with cross-hatching on the Location Plan below is no longer reasonably required for public use, and should be discontinued, with the road (if discontinued) to be offered to an adjoining owner for a price not less than that determined by an independent valuation obtained by Council.
2. Commence statutory procedures under section 206, schedule 10, clause 3 of the *Local Government Act 1989* to discontinue the road.
3. In accordance with sections 207A and 223 of the *Local Government Act 1989*, gives public notice of the proposed discontinuance in The Age newspaper and on Council's website.
4. Send a copy of the public notice (and an explanatory letter) to the owners, occupiers and users of all nearby properties and land, and being persons who, in the opinion of the Manager of Property & Leasing, will, or are likely to be, impacted by the proposed road discontinuance, and advising such persons that they can make a written submission relating to the proposed discontinuance.
5. Authorises the Manager of Property & Leasing to undertake the administrative procedures necessary to enable Council to perform its duties and carry out its functions and exercise its powers under section 223 of the *Local Government Act 1989* in relation to this matter.
6. Consider and hear any submissions, made in accordance with section 223 of the *Local Government Act 1989*, at the Council Meeting 10 July 2023.

KEY MATTERS

Having received a request from an adjoining owner, the road adjoining 811 Whitehorse Road Mont Albert, 813-823 Whitehorse Road Mont Albert, and 465 Elgar Road Mont Albert has been deemed to no longer be required for public use based the following assessment criteria:

- the nature and extent of the present and past use of the road;
- the likelihood of the road being required for ongoing and future use, both vehicle and pedestrian; and
- Section 9 of the Road Management Act 2004

The three adjoining landowners have been consulted regarding potential discontinuance and there was support from all three adjoining owners.

10.1

(cont)

The owners of 811 Whitehorse Road Mont Albert, 813-823 Whitehorse Road Mont Albert included the adjoining road in a Town Planning Permit application for the construction of a multi-use tower building with basement car parking.

The inclusion of the adjoining road in the Town Planning Permit application does not place any disposal obligations on Council when considering discontinuance of the adjoining road.

Road discontinuances are still undertaken in accordance with the *Local Government Act 1989* and not the *Local Government Act 2020*.

Relying on *Local Government Act 1989* circumvents the community engagement obligations contained within Council's Community Engagement Policy; however, Council's Public Transparency Policy still applies.

The road discontinuance is a part discontinuance to ensure that Council does not discontinue a section of Whitehorse Road.

The due diligence identified a discrepancy; that being the land area as surveyed does not align with the title land area held by Land Registry.

Council can only discontinue in accordance with the title land area, with the obligation to correct the discrepancy being the responsibility of any future owner post discontinuance.

If discontinued, Council has the option to retain freehold ownership or dispose to an adjoining owner.

If Council, at a future date resolves to dispose of the land to an adjoining owner, the sale price will be for a price not less than that determined by an independent valuation obtained by Council.

STRATEGIC ALIGNMENT

The proposed road discontinuance aligns with "Strategic Direction 2": A Thriving Local Economy; Business, Employment, Education and Skill Development in the Whitehorse City Council "Council Plan 2021-2025" (the Council Plan).

The objectives of "Strategic Direction 2" are job creation and providing facilities to support local business and attract new business investment and innovation.

Additionally, the proposed road discontinuance aligns with "Strategic Direction 4": "Our Built Environment; Movement, and Public Places" in the Council Plan, with the following objectives applying to the proposed land exchange.

Objective 4.1: Assets, facilities and urban design of a quality that provides the highest levels of utility and enhances the connection between the built, natural, heritage and social environments

10.1
(cont)

4.1.1: Plan, build, renew and maintain community assets and facilities to meet current and future service needs in an environmentally, financially and socially sustainable way.

Policy

Whilst the proposed road discontinuance will be undertaken in accordance with the *Local Government Act 1989* (LGA 1989), Council's "Discontinuance and Sale of Unnecessary Roads and Reserves" policy also applies.

Additionally, select sections of the State Government's "Local Government Best Practice Guideline for the Sale, Exchange & Transfer of Land" will also be applied by Council Officers.

BACKGROUND

The road abutting 811 Whitehorse Road Mont Albert and 813-823 Whitehorse Road Mont Albert (the Road) until 2022 was listed on Council's Road Register in accordance with the *Road Management Act 2004* (RMA 2004).

(Refer Photographs #1 & #2) and (Refer Location Plan)

Photograph #1: The Road facing south towards Whitehorse Road



10.1
(cont)

Photograph #2: The Road facing north from Whitehorse Road



The road status imposes statutory road obligations on Council, and has resulted in the Road being vested in Council in accordance with the LGA 1989 and the RMA 2004.

Statutory vesting has occurred even though the existing Road title still records the Road as being owned by the original subdivider of the land, Thomas Burrows.

The Road's legal description is as follows:

Title Description: Volume 1501 Folio 015
 Lot 1 on Title Plan 941235K

Registered Proprietor: Thomas Burrows

In June 2021 Council received a town planning permit application that included the Road along with two of the three adjoining properties; namely 811 Whitehorse Road Mont Albert and 813-823 Whitehorse Road Mont Albert.

The town planning permit application relates to the construction of a multi-use tower building with basement car parking.

It is important to note, that the inclusion of the Road in the town planning permit application does not place any disposal obligations on Council when considering this discontinuance matter.

10.1
(cont)

To establish if discontinuance of the Road was viable, Council wrote to the three adjoining owners seeking their views on the proposed road discontinuance and to ascertain whether, if the Road was to be discontinued by Council, they would participate in a sale and transfer based on terms and conditions established by Council.

The owners of 465 Elgar Road Mont Albert, advised that they would not participate in a sale or transfer process.

However, it is important to note that the abovementioned correspondence with the adjoining owner does not preclude the owners of 465 Elgar Road Mont Albert from participating in the road discontinuance process and does not obligate Council to sell the Road, if discontinued, to one of the other adjoining owners.

During the due diligence stage Council Officers confirmed that approximately 26 square metres of the Road, located at the southern end of the Road, was incorporated in the works associated with road widening of the Elgar Road and Whitehorse Road intersection; the road widening works were most likely completed to accommodate the tramline extension to central Box Hill in circa 2003 (Refer Single Hatching on Location Plan).

The 26 square metres of road located within Whitehorse Road mentioned above cannot be discontinued by Council and will remain a road vested in the Department of Transport, who will administer this section in its capacity as the statutory road authority for Whitehorse Road under the RMA 2004.

If Council completes the statutory road discontinuance procedures the land comprising the discontinued section of the Road will, free of road encumbrance, be vested in Council as freehold land, with Council, subject to Council resolution, then being entitled to sell the land to an adjoining owner (Refer Cross-Hatching on Location Plan).

It is important to also note, that during the due diligence process Council's appointed Surveyor advised that the Road has a discrepancy; that being the land area as surveyed does not align with the title land area held by Land Registry, there is an "overlap".

Council Officers believe that the "overlap" is associated with road widening of the Elgar Road and Whitehorse Road intersection mentioned above.

Consequently, the land area of the Road to be considered for discontinuance and for potential sale by Council will be based on the title land area and not the survey land area.

Prior to Council resolving to discontinue the Road, Council's Surveyor will prepare a plan based on title dimensions. Any future purchaser of the discontinued Road will be responsible for the title consolidation requirements, including any additional surveying required to deal with the discrepancy in the dimensions of the land.

10.1
(cont)

Location Plan:



Discussion and Options

The recording of a road on Council's Road Register is not the only consideration regarding public use, the other considerations are as follows:

- the nature and extent of the present and past use of the road;
- the likelihood of the road being required for ongoing and future use, both vehicle and pedestrian; and
- Section 9 of the RMA 2004

10.1

(cont)

Council Officers have assessed the Road against these three considerations and believe that there are sufficient grounds for Council to complete the statutory procedures in accordance with the section 206 of the LGA 1989.

Any public authority assets located in the Road will require an easement to be 'saved' over the Road after and following any discontinuance, thereby granting proprietary interests in the Road to the relevant asset owners.

Any 'saved' easements that encumber the Road after discontinuance will be considered by the Valuer engaged by Council to complete the independent valuation that establishes the future sale price.

SUPPORTING REPORT DETAILS

Legislative and Risk Implications

The discontinuance of roads by Council is undertaken in accordance with the LGA 1989 and not the Local Government Act 2020 (LGA 2020); consequently Council is required to publish a Public Notice and consider any submissions relating to that Public Notice in accordance with section 223 of the LGA 1989.

The section 223 process circumvents the community engagement obligations contained within Council's Community Engagement Policy; however, Council's Public Transparency Policy, which defines Council's commitment to the Public Transparency Principles as outlined in section 58 of the LGA 2020, does apply.

Additionally, the section 223 process must not only be "genuine" but must be seen to be "genuine" by the community.

Equity, Inclusion, and Human Rights Considerations In developing this report to Council, the subject matter has been considered in accordance with the requirements of the *Charter of Human Rights and Responsibilities Act 2006*.

It is considered that the subject matter does not raise any human rights issues.

Community Engagement

No community engagement was required for this report; however, this report seeks permission to commence a community engagement process in accordance with section 223 of the LGA 1989.

All necessary public authorities will need to be consulted in respect to the proposal, and as mentioned above, any required easements will need to be 'saved'.

The statutory procedures under the LGA 1989 require Council to give public notice of its intention to discontinue the road, and to invite submissions from affected persons and the general public under section 223 of the LGA 1989.

The Public Notice of the proposed discontinuance will be given in The Age newspaper and published on Council's website.

10.1

(cont)

In addition, all nearby property owners and occupiers and land users will be advised of the proposal in writing, and informed of their right to make a submission under section 223 of the LGA 1989.

All and any submitters in relation to the proposal may request to be heard by a Committee of Council, prior to a decision being made to proceed or otherwise not to proceed with the proposal.

Key processes and timelines that are proposed, if agreed to by Council, are likely to be:

1. Wednesday 24 May: Public Notice advertisement and other notification given
2. Tuesday 20 June: Public Notice submissions close
3. Monday 10 July: Council to hear any submission/s (if required)
4. Monday 24 July: Final report to Council for consideration

Financial and Resource Implications All expenses associated with the statutory process will be borne by the Property & Leasing 2022-2023 recurrent budget and these expenses are estimated to be approximately \$30,000 + GST.

Innovation and Continuous Improvement

There are no Innovation and Continuous Improvement matters arising from the recommendation contained in this report.

Collaboration

No collaboration was required for this report.

Conflict of Interest

The *Local Government Act 2020* requires members of Council staff, and persons engaged under contract to provide advice to Council, to disclose any direct or indirect interest in a matter to which the advice relates.

Council Officers involved in the preparation of this report have no conflict of interest in this matter.

Conclusion Given that the Road Adjoining 811 Whitehorse Road Mont Albert, 813-823 Whitehorse Road Mont Albert, and 465 Elgar Road Mont Albert is deemed to be no longer required for public use, Council Officers recommend that Council commence the statutory process to discontinue part of the Road.

10.2 Overview of CROWAG Tree Forum

City Planning and Development
City Development

SUMMARY

On Saturday 1 April 2023, Council officers and some Councillors attended a community forum presented by the Combined Residents of Whitehorse Action Group (CROWAG).

Officers from City Planning and Development and from Parks and Natural Environment made presentations as part of the forum, alongside a number of other community members and industry experts.

The forum was attended by approximately 100 people. At the completion of the afternoon, CROWAG members tabled a number of motions, with the intention of presenting these to Council.

These motions have now been submitted to Council seeking a response.

This report is intended to inform Councillors of the content of the forum, provide context and an officer response to each motion, and is for noting by Council.

RECOMMENDATION

That Council notes the submission from CROWAG and writes to the President acknowledging receipt of the motions.

KEY MATTERS

Context

On Saturday 1 April 2023, the Combined Residents of Whitehorse Action Group (CROWAG), hosted a community forum called Save Our Canopy Trees. The forum invited a keynote speaker, Council officers, community representatives and data analysts to present on different approaches to managing impacts on tree canopy in Whitehorse and Melbourne more broadly.

The forum was focussed on canopy tree and vegetation protection, threats to the Whitehorse treed landscape and environment, and the impacts of tree canopy loss on climate change. The keynote speaker for the forum was Dr Greg Moore, a renowned advocate for the protection of and increase in tree canopy as being essential components in tackling climate change.

Council officers spoke about the work Council is doing to manage vegetation impacts through the Urban Forest Strategy and the planning system. Player Piano Data Analytics Principal Data Scientist Felix Lipkin spoke about data analytics on canopy cover and canopy change, and a community member from Boroondara provided case studies of trees on development sites.

10.2 (cont)

As the final topic for the session, CROWAG presented a number of motions with the intent of submitting these to Whitehorse Council.

Post Forum Outcomes

In a letter submitted on 13 April 2023, from CROWAG, these motions were put forward as seeking action from Council. These motions are:

- *To give more weight to the retention of trees as this is the thrust of Council Policy and the Planning Scheme Clause 22.04 TREE CONSERVATION.*
- *To immediately review its Urban Forest Strategy Action Plan and allocate real funding for realistic actions.*
- *To include an additional \$300,000 in the 2023-2024 Budget to the planting of street trees.*
- *To include an additional \$20,000 in the 2023-2024 Budget to monitor canopy cover changes to understand changes in canopy cover according to land tenure.*
- *To liaise with the other 35 LGA`s that have an Urban Forest Strategy and advocate jointly to the State Government to have the document incorporated into their respective Planning Schemes.*

This report is intended to provide comment on work currently being undertaken by Council, or programmed, as they relate to these motions.

STRATEGIC ALIGNMENT

The preparation of this report aligns with the strategic policies of the Council Plan and the Community Vision as they relate to transparent governance and decision making, and engagement with the Whitehorse community.

Policy

Theme 6 of the Community Vision 2040 – Whitehorse is an Empowered Collaborative Community - states the following as the underpinning driver and the two key priorities:

Active citizenship and Council engagement with all sectors of the community from the outset is vital for success in meeting all other priorities in this Vision.

Key priority 6.1: *Engage with the community collaboratively to hear their views on what needs to be done.*

Key priority 6.2: *Encourage everyone to feel engaged with, and involved in, the Whitehorse community.*

10.2
(cont)

BACKGROUND

On Saturday 1 April 2023, the Combined Residents of Whitehorse Action Group (CROWAG), hosted a community forum called Save Our Canopy Trees.

On 13 April 2023, CROWAG submitted the list of motions tabled at the Forum, calling Council to action. These motions have been outlined above.

Discussion and Options The motions submitted to Council are detailed below, and each is addressed in turn.

To give more weight to the retention of trees as this is the thrust of Council Policy and the Planning Scheme Clause 22.04 TREE CONSERVATION

The presentation made to the Forum by Council officers, centred on 3 key points:

- The role of the planning scheme in the protection and enhancement of tree canopy;
- The challenges of the current system including matters of community/land owner views of trees on their land, changing expectations of how people use their land, land cost, changing community need, planning decisions made by Council versus the Victorian Civil and Administrative Tribunal (VCAT), and the role of statutory planning enforcement; and
- What Whitehorse Council is doing to contribute to tree protection which includes on-going advocacy on permanent tree controls through the Significant Landscap Overlya (schedule 9) (SLO9) or other vegetation/landscape controls, creation of the Tree Education Officer role within the planning team, and introduction of arboricultural expertise in the team.

Officers in the Strategic Planning team continue to engage with the State Government to seek extension and permanency to the SLO9 controls as an appropriate localised means of providing weight to both the policy at Clause 22.04, but also to the State Planning objectives at Clause 12 that state *'planning should protect, restore and enhance sites and features of nature conservation, biodiversity, geological or landscape value.'*

10.2
(cont)

To immediately review its Urban Forest Strategy Action Plan and allocate real funding for realistic actions.

Council's Urban Forest Strategy Action Plan sets realistic targets and timeframes to achieve outcomes that benefit the urban forest in Whitehorse. In addition to ongoing programs being undertaken, new budget initiatives to implement projects and actions are submitted as part of the annual budget process each year. The Strategy was endorsed in 2021, and as part of the reporting process the action plan is due for an initial review in late 2023 to track progress towards these targets.

To include an additional \$300,000 in the 2023-2024 Budget to the planting of street trees

\$300,000 has been budgeted for 2023/24 financial year for street tree planting and is considered sufficient. Additional tree planting is also undertaken in parks which is in addition to the \$300,000 budget. In total, over 4,000 trees were planted in public spaces last financial year.

There are long lead times for tree production and trees are ordered up to two years in advance to secure the best stock, so increasing the funding for next financial year would not necessarily result in the best outcomes for tree planting. Council has undertaken a municipal wide street tree data capture to calculate all gaps in every streetscape, and is currently assessing this data to assist with planning for future years planting programs. This may result in additional funding being requested for future years.

To include an additional \$20,000 in the 2023-2024 Budget to monitor canopy cover changes to understand changes in canopy cover according to land tenure.

Officers across City Planning and Development, Property and Leasing and Parks and Natural Environment are investigating options to source appropriate data analytics to assist in understanding impact and change to the tree canopy cover on public and private land over time. This may result in a future request for funds to obtain this information.

In addition, officers across departments are currently using a program called Forestree to capture and map street tree removal and replanting, with discussions also occurring on how this program could be used for capturing similar data for tree related planning applications on private land.

10.2 (cont)

To liaise with the other 35 LGAs that have an Urban Forest Strategy and advocate jointly to the State Government to have the document incorporated into their respective Planning Scheme.

Actions as outlined in the of the Whitehorse Urban Forest Strategy, 2021-2031 – Implementation and Action Plan, 2021, will be considered and incorporated into relevant programs across Council over the coming financial years and will be actioned progressively.

Further, as part of the regular review of the Whitehorse Planning Scheme, the adopted strategies since the previous review will be considered. Relevant strategic directions from these strategies (including the Urban Forest Strategy) will be incorporated into the Whitehorse Planning Scheme as appropriate.

It is noted that the process of introducing a local strategy document into the Planning Scheme (such as the UFS) through a planning scheme amendment is lengthy, and is required to meet a number of legislative hurdles. The first hurdle is a request for authorisation to commence a planning scheme amendment process to the Minister for Planning. Given the work currently being undertaken at a State Government level investigating a broader policy for greening and cooling of Melbourne as a whole, it is unlikely that the Minister would consent to commencement of a PSA that seeks to implement the UFS until their policy work has been completed.

A review of the actions in the UFS shows that the majority of actions are either not related to planning (ie relate to Parks and Natural Environment) or are actions which require advocacy rather than implementation into the planning scheme. As noted above, the actions which could result in a PSA will be reviewed as part of the review of the planning scheme.

In a broad organisational sense, Whitehorse officers regularly liaise with their counterparts at other Councils through Living Melbourne, EAGA, ERG and CASBE. The Living Melbourne network in particular focuses on urban canopy cover and vegetation quality and is endorsed by DELWP and forty other organizations including Whitehorse as a result of joint advocacy.

SUPPORTING REPORT DETAILS

Legislative and Risk Implications

There are no legal or risk implications arising from the recommendation contained in this report.

Equity, Inclusion, and Human Rights Considerations

It is considered that the subject matter does not raise any human rights issues.

10.2
(cont)

Community Engagement

No community engagement was required for this report, outside of that provided through the hosting of the Forum by CROWAG.

Financial and Resource Implications There are significant financial implications should Council decide to implement and/or action some or all of the motions.

However, given at this stage, this report is intended for noting, there are no financial or resource implications arising from the recommendations.

Innovation and Continuous Improvement

There are no Innovation and Continuous Improvement matters arising from the recommendation contained in this report.

Collaboration

This report has been written in collaboration between Statutory Planning, Strategic Planning and Parks and Natural Environment.

Conflict of Interest

Council officers involved in the preparation of this report have no conflict of interest in this matter.

Conclusion This report is to provide Council with information and details about the forum that was hosted by CROWAG to provide context to the letter and motions, submitted by them.

This report should be noted.

ATTACHMENT

- 1 CROWAG Forum Officer Presentation

10.3 Strategic Property Projects in 2023/24

Transformation

SUMMARY

As noted in the Council Plan 2021, in early 2020 Council undertook a Strategic Organisational Review which identified opportunities for Council to move from 'good' to 'great' through a period of transformation. One of the transformational initiatives is to more strategically manage Council's property portfolio.

Council's property portfolio should enable services to meet the needs of the community, appropriately manage Council assets and support achieving long term financial sustainability. Planning and managing Council's property portfolio is complex requiring balancing community needs, service delivery requirements and environmental challenges. Property in the context of this Report is used to describe an interest in land, which Council either holds or has been granted. It includes all buildings or assets within buildings, rights of way, leases, tenancies, licences, easements, and ground leases on the land.

The drivers for change to how we manage our property portfolio are:

- Increasing asset renewal requirements which impact on long term financial sustainability
- Increasing demand for community facilities and assets
- Aging infrastructure which requires significant investment (e.g. Libraries, Aquatic facilities, Community and Civic buildings)
- Surplus land
- Changing local context (e.g. Box Hill activity centre, Stat Government Projects e.g. Suburban Rail Loop, North East Link)

This report outlines a series of options for Council to consider which would result in a dedicated focus from the Transformation Program of work. This would progress informing Council decisions regarding:

- Library infrastructure (not services)
- Vacant and under-utilised sites
- Aquatic infrastructure (not services)

10.3
(cont)

RECOMMENDATION

That Council:

1. Includes \$400,000 in the 2023/24 budget for the completion of a business case for construction options for Aqualink Nunawading.
2. Includes \$700,000 in the 2023/24 budget to enable the delivery of:
 - a) Establishes a dedicated 2-year team to establish a long-term approach to maximising strategic value from Council's property portfolio.
 - b) Conducts an investigation into the infrastructure (building) requirements for the library service.
 - c) Conducts an investigation into the options for a key strategic site at Silver Grove in Nunawading.

KEY MATTERS

The key matters are summarised in the list below:

- A dedicated project team is required to inform considered strategic property decisions. Council has committed to improving its long term financial sustainability and has a responsibility to review and make decisions regarding property within its ownership. This will enable w Council to maintain a balanced approach to asset renewal/upgrade.
- The Aqualink Nunawading facility is coming into the last conclusion of its asset life. A decision is required regarding infrastructure investment.
- Library Infrastructure is aging and requires a service led decision regarding infrastructure investment.
- The Silver Grove site is vacant. The site is underutilised and a decision regarding its future is required.

Strategic Alignment

In early 2020, Council undertook a Strategic Organisational Review which identified opportunities for Council to move from 'good' to 'great' through a period of transformation. Council's Transformation Principles were established to guide this journey and are outlined in the figure below.

10.3
(cont)



The drivers for change to how we manage our property portfolio are:

- Increasing asset renewal requirements which impact on long term financial sustainability
- Increasing demand for community facilities and assets
- Aging infrastructure which requires significant investment (e.g. Libraries, Aquatic facilities, Community and Civic buildings)
- Surplus land
- Changing local context (e.g. Box Hill activity centre, Stat Government Projects e.g. Suburban Rail Loop, North East Link)

BACKGROUND

Council’s property portfolio should enable services to meet the needs of the community, appropriately manage Council assets and support achieving long term financial sustainability. Planning and managing Council’s property portfolio is complex requiring balancing community needs, service delivery requirements and environmental challenges. Property in the context of this Report is used to describe an interest in land, which Council either holds or has been granted. It includes all buildings or assets within buildings, rights of way, leases, tenancies, licences, easements, and ground leases on the land.

Discussion and Options

This report puts forward options for Council to progress Strategic Property Work for 2023/24 which are summarised below:

Site	What is required	Options
Aqualink Nunawading	Aqualink Nunawading is coming to the end of its asset life and will require significant financial investment. A Construction Business Case for Aqualink Nunawading would be required to inform an investment decision.	<ul style="list-style-type: none"> • Complete in 23/24 • Delay – do not complete in 23/24

10.3
(cont)

Site	What is required	Options
Library Infrastructure	Investigate the Council’s Library infrastructure requirements noting the aging library buildings at Box Hill, Blackburn and Nunawading. This is required to inform a Council decision regarding its investment into the Library infrastructure.	<ul style="list-style-type: none"> • Complete in 23/24 • Delay – do not complete in 23/24
Silver Grove, Nunawading	The Silver Grove site in Nunawading is vacant. Council needs to make a decision regarding this site. I Work is required to be completed to develop options for this site which may or may not include community space.	<ul style="list-style-type: none"> • Complete in 23/24 • Delay – do not complete in 23/24

SUPPORTING REPORT DETAILS

Legislative and Risk Implications

There are legal or risk implications which will be considered during the investigations. The Local Government Act and associated legislation informs Council on processes required.

Equity, Inclusion, and Human Rights Considerations

In accordance with the requirements of the *Charter of Human Rights and Responsibilities Act 2006*. It is considered that the subject matter does not raise any human rights issues.

Community Engagement

No community engagement was required for this report. Community engagement will be completed during the work outlined above to inform Council’s future decisions.

10.3
(cont)

Financial and Resource ImplicationsThe financial impact for 23/24 and 24/25 budgets are outlined below.

Option	FY23/24	FY24/25
Inform Council decision regarding library infrastructure investment & silver grove divestment options	\$700k	\$255k
Aqualink Nunawading Redevelopment Construction Business Case	\$400k	-

This work be associated with a 2.0FTE increase to organisational human resources.

Innovation and Continuous Improvement

There are no Innovation and Continuous Improvement matters arising from the recommendation contained in this report.

Collaboration

No collaboration was required for this report.

Conflict of Interest

The Local Government Act 2020 requires members of Council staff, and persons engaged under contract to provide advice to Council, to disclose any direct or indirect interest in a matter to which the advice relates. Council officers involved in the preparation of this report have no conflict of interest in this matter.

Conclusion

It is the responsibility of Council to make the most public value from its property portfolio. This report puts forward an approach to progressing this in 2023/24.

10.4 Whitehorse Asset Management Policy (2023)

Project Delivery and Assets
Infrastructure

SUMMARY

The Whitehorse Asset Management Policy ensures comprehensive and effective asset management practices are developed and utilised across all asset classes. It guides Council's overall strategic direction for asset management and its objectives are linked to the Whitehorse 2040 Community Vision and the Council Plan. A 'whole of organisation' approach to asset management is the basis of the Policy and it builds on the solid asset management fundamentals already established in Whitehorse.

The current Asset Management Policy (2017) was adopted by Council on 18 September 2017 with a minor administrative amendment in 2020. The Asset Management Policy (2023) has been reviewed, updated and amended to reflect the current demands and objectives of asset management within the City of Whitehorse.

RECOMMENDATION

That Council adopts the Whitehorse Asset Management Policy (2023).

KEY MATTERS

The key objectives of the Whitehorse Asset Management Policy (2023) are:

- To ensure sustainable management of assets by applying Best Appropriate Practice in Asset Management and adhering to all legislative and statutory requirements applicable to the management and financial reporting of all asset classes.
- To have an Asset Plan as required by the Local Government Act 2020 and associated Asset Management Plans informed by community engagement and aligned with Whitehorse 2040 Community Vision, Council Plan and other long term plans.
- To ensure plans and decisions that guide the management of Council's assets consider and acknowledge the needs and impacts on Council's diverse communities.
- To give funding priority to asset maintenance and renewal to sustain existing assets.
- To consider upgrades, demand management, innovative and better use solutions when making capital investment decisions, to ensure assets provided by Council offer acceptable levels of service in a financially sustainable manner.
- To use a life-cycle asset management approach and ensure a cost-effective asset base.

10.4

(cont)

- To use effective and affordable maintenance programs aimed at minimising life cycle costs and maximising the service potential of assets.
- To use a risk-based approach to asset management that considers the impacts of climate change, to achieve a desired balance of cost, risk and performance.
- To use an integrated Asset Management System to ensure a common asset data set is available for strategic, operational and financial reporting purposes.
- To promote a culture of cross collaboration and accountability for asset management to meet service needs across all Directorates of Council.
- To report to the Council and the community on asset performance outcomes and levels of service delivered.
- To align Council's Asset Management Practices with the International Asset Management Standards; ISO55000, ISO55001, ISO55002, and the National Asset Management Assessment Framework.

Strategic Alignment

Council's assets play an integral part in delivering services to the community and achieving the Whitehorse 2040 Community Vision, especially relating to:

- Whitehorse is a resilient community where everyone belongs.
- We are active citizens who value our natural environment, history and diversity.
- We embrace sustainability and innovation.

A key theme of the Whitehorse 2040 Community Vision is to enrich 'movement and public spaces.'

The Council Plan also identifies the following strategies which relate to this Policy:

- 3.1.9: Support gender equality at Council and in the community.
- 4.1.1: Plan, build, renew and maintain community assets and facilities to meet current and future service needs in an environmentally, financially and socially sustainable way.
- 4.2.1: Review the provision and use of open spaces considering current and future needs for active and passive recreation, safe meeting spaces and wellbeing programs in accessible green open spaces.
- 4.2.3: Maximise the usage of Council and Community facilities to improve community access opportunities.

10.4

(cont)

- 4.5.1: Maintain, enhance and advocate for transport accessibility and improved transport routes and modes.
- 5.1.1: We will adapt to climate change and build the resilience of our community, infrastructure and the built environment through relevant Council plans and policies.
- 8.2.2: Ensure responsible financial and resource management to maintain Council's long term financial sustainability within a rate capping environment.

BACKGROUND

Council's asset base represents a significant investment made over many generations and provides for the social, environmental and economic values of the community. The asset replacement cost now totals \$1.84 billion excluding land. Stewardship of community assets is a core Council function and these assets support the delivery of necessary services and provide facilities to the community. Millions of dollars are spent annually managing and maintaining assets and it is important that Council continues to implement high-level management skills, practices and systems to ensure that services are delivered economically and sustainably. To optimise the management of these assets, Council will need to continue to implement a best practice asset management framework. This framework extends from Council's Asset Management Policy and Improvement Plan to Asset Management Plans and Information Systems. The framework is being implemented by the Strategic Asset Steering Committee (SASC), which comprises of staff representatives from all directorates of Council.

Council's first Asset Management Policy, adopted in August 2006, has subsequently been reviewed and updated every three years since. The Policy has now been reviewed by the SASC and management as required by the expiry provisions of the Policy. It has been determined upon this revision that a number of amendments are required to ensure Council's asset management objectives align with the current organisational objectives, and to set an appropriate strategic direction for the continuous improvement of asset management at Whitehorse. The revised Policy has been reviewed in accordance with the requirements of the National Asset Management Assessment Framework.

Discussion and Options

The key amendments to the Whitehorse Asset Management Policy (2023) following the review are:

- Updating of the Related Legislation, Policy and Plans section
- Updating statements that link the Asset Policy with objectives in the Whitehorse 2040 Community Vision and the Council Plan 2021-2025

10.4

(cont)

- Simplifying and updating of policy objectives to reduce the single focus on infrastructure asset management and to better reflect service planning and strategic capital works activities
- Minor changes to the responsibilities for Council, Executive Leadership Team and proposed Strategic Asset Steering Committee (SASC)
- Overall clean-up of policy document wording and sections
- Reset the Policy revision date to June 2026

The Strategic Asset Steering Committee (SASC) has responsibility to monitor this Policy in terms of operational and service needs, along with expectations, corporate goals and targets and to report to the Executive Leadership team on a regular basis.

SUPPORTING REPORT DETAILS

Legislative and Risk Implications

There are no legal or risk implications arising from the recommendation contained in this report.

The Asset Management Policy (2023) provides guidance to the organisation to comply with Asset Plan provisions as outlined within the Local Government Act 2020.

Equity, Inclusion, and Human Rights Considerations

In developing this report to Council, the subject matter has been considered in accordance with the requirements of the *Charter of Human Rights and Responsibilities Act 2006*.

It is considered that the subject matter does not raise any human rights issues.

Community Engagement

No community engagement was required specifically for this report.

The overall aims and objectives for asset management in Whitehorse that underpin the Asset Management Policy were informed through community engagement during the development of the Whitehorse 2040 Community Vision and the Council Plan 2021-2025.

Financial and Resource Implications

Capital funding to progress the continued development and enhancement of Council's Asset Management System has been included in Council's 10 Year Capital Works Program.

Where necessary and not funded by the ongoing budget, asset management improvement initiatives requiring capital or operational funding will be presented to Council for consideration as part of the annual budget process.

10.4
(cont)

Innovation and Continuous Improvement

There are no innovation and continuous Improvement matters arising directly from the recommendation contained in this report.

Collaboration

The review of Council's Asset Management Policy has involved input from key internal stakeholders within the organisation, including members of the Strategic Asset Steering Committee and Department Managers with significant asset management responsibilities.

Council officers participate in regional and sector meetings relating to asset management.

Conflict of Interest

Council officers involved in the preparation of this report have no conflict of interest in this matter.

Conclusion

Adoption of the Asset Management Policy (2023) will allow Council's continued commitment to comprehensive and effective asset management practices as articulated in the Council Plan to be implemented.

Attachment

- 1 Whitehorse Asset Management Policy (2023)

10.5 Tender Evaluation (Contract 30425) - Kerbside Recycling and Processing

City Services
Infrastructure

SUMMARY

A suitably qualified and experienced contractor is required for the receipt and processing of recyclable material collected as part of the kerbside bin recycling collection service. The objective of the Contract is to meet the legislative requirements in the Victorian Government's Recycling Victoria policy, to meet community expectations that kerbside recyclables are genuinely recycled, and to contribute to achieving Council's recycling targets in the Whitehorse Waste Management Strategy 2018-2028.

This report is to consider tenders received for the provision of kerbside recycling receipt and processing and to recommend accepting the tender received from The Trustee for Southern Paper Converters Trust, trading as Visy Recycling, on a Schedule of Rates basis for a period of five years commencing on 1 July 2023 with an option to extend the contract for two further two-year periods.

RECOMMENDATION

That Council:

1. Accepts the tender and signs Contract 30425 Kerbside Recycling Receipt and Processing received from The Trustee for Southern Paper Converters Trust (ABN 49 984 541 896), trading as Visy Recycling, on a Schedule of Rates basis for a period of five years commencing on 1 July 2023.
2. Authorises the Chief Executive Officer to award extensions of this contract, subject to a review of the Contractor's performance, Council's business needs and market conditions at the time, at the conclusion of the initial five year contract term.

KEY MATTERS

Council collects mixed recycling through its kerbside bin collection service and some public place bins. The contract includes options for the receipt and processing of:

- mixed recycling;
- glass only;
- mixed recycling excluding glass; and
- public place recycling.

The options for glass only and mixed recycling excluding glass are included pending the introduction of a separate glass collection service, which Council

10.5

(cont)

is required to introduce by 2027 in line with Victorian Government policy. The timeline and service model to introduce the glass recycling service in Whitehorse is yet to be determined and subject to community consultation and Council decision.

A significant change for the kerbside recycling industry will occur on 1 November 2023 with the introduction of the Victorian Container Deposit Scheme that will provide a financial return to Council on some containers collected via the kerbside bin service.

A suitably qualified and experienced contractor is required for the receipt, sorting and sale of kerbside recyclable products to viable end-markets for subsequent reuse or remanufacture.

The recycling processing contract is critical to ensuring the kerbside recycling bin collection service can operate successfully and reliably. The collections rely on ready and safe access to the processing facility and a quick turn-around to ensure collections are completed on the required day.

The Contract is a Schedule of Rates that is subject to annual adjustments. The term of the contract is five years commencing on 1 July 2023, with an option to extend the contract for two further two-year periods at Council's discretion. This arrangement provides for some flexibility for Council should there be a need to change the service or if there has been any significant changes to the recycling markets.

Council's current Contract 11012/4: Receipt of Recyclables with Visy Recycling commenced on 1 July 2012 for an initial seven-year term to 30 June 2019, which was subsequently varied in 2018 with Ministerial approval due to the global recycling crisis. The current contract is due to expire on 30 June 2023.

Strategic Alignment

This contract aligns with:

- Council Plan 2021–25, Objective 5.3: Enable and build capacity for the community to reduce, reuse, and recycle using circular waste principles.
 - 5.3.1: Identify, promote and implement viable recycling and resource recovery opportunities.
 - 5.3.2: Advocate to and work with State Government agencies and Councils on initiatives that promote and contribute to circular waste principles and State targets.

10.5

(cont)

Policy

The objective of the contract is to meet the legislative requirements in the Victorian Government's Recycling Victoria policy, to meet community expectations that kerbside recyclables are genuinely recycled, and to contribute to achieving Council's recycling targets in the Whitehorse Waste Management Strategy 2018-2028. The Strategy includes a target of 60 per cent diversion of waste from landfill by 2023 and 80 per cent by 2028.

BACKGROUND

Tenders were advertised and closed on 18 January 2023. Two tenders were received before the closing time and the evaluation is provided in Confidential Attachment 1.

The tenders were evaluated against the following criteria and weightings:

- The Tender Offer;
- Capability;
- Credibility;
- Social and environmental sustainability;
- Local content; and
- Occupational health and safety and equal opportunity (Pass/Fail)

An external industry expert consultant was engaged to assist in the development of the specification, tendering and tender evaluation process.

The tender specification and contract has been designed to accommodate the required service needs and to have mechanisms to deal with commodity market fluctuations designed to minimise Council's financial risk exposure. The tender includes options to cater for future service changes required by the Victorian Government's Recycling Victoria policy.

A five year initial contract term, with an option to extend the contract for two further two-year periods, at Council's discretion, was selected to provide options if Council's business needs change or the market conditions change.

The recommended tender from Visy Recycling demonstrates the resources, capacity, capability and expertise required to undertake the requirements of the tender specification. Visy Recycling has provided continuous and uninterrupted recyclable processing services for Whitehorse for the last 10 years. Visy Recycling is Australia's largest integrated business linking recycling and manufacturing. Visy Recycling has demonstrated that material is processed and recycled to achieve maximum resource recovery and circular economy outcomes. There is a commitment from Visy to a partnership with Council for community education.

The tender received from Visy Recycling is assessed to provide the best value for money for this contract.

10.5 (cont)

SUPPORTING REPORT DETAILS

Legislative and Risk Implications

The scope of services within this contract aligns with Victorian Government legislative requirements outlined in the Circular Economy (Waste Reduction and Recycling) Act 2021 and circular economy policy and action plan Recycling Victoria: a new economy 2020.

Consultation

Consultation on the specification of this contract occurred with internal stakeholders, other councils and an independent consultant with waste industry expertise to ensure best practice and reflect changes to the recycling and waste industry in the past five years and significant reform in forthcoming years.

Council's Procurement team has been consulted to ensure that the procurement is compliant with the Procurement Policy. The scoping of the services and evaluation was undertaken with input from the relevant officers within City Services, Finance and Corporate Performance and an independent waste consultant.

The preferred tenderer's business viability has been considered.

Collaboration

In 2021, Whitehorse expressed its interest in participating in a proposed metropolitan-wide multi-Council collaborative tender process facilitated by Metropolitan Waste and Resource Recovery Group (MWRRG), on behalf of potentially 26 metropolitan councils. However, the proposed tender did not eventuate for a range of reasons, and the MWRRG was disbanded in June 2022.

Collaborative opportunities with other councils were explored, however, a joint procurement model was not available due to varying timeframes and priorities.

Recycling processing contract specifications were obtained from other councils and reviewed to understand and incorporate current best practice and latest specification considerations.

Financial and Resource Implications

The contract is based on a Schedule of Rates. The rates are subject to an adjustment on each anniversary of the contract. There is no 'contamination' clause contained in the tendered response from Visy as the Whitehorse material is known to be of low contamination due to the good recycling practices of the Whitehorse community.

The financial advantage of each tender submission was determined by comparing the rates multiplied by the estimated recycling quantities.

10.5

(cont)

The tendered rates for 2023/24 are within the budget estimate calculated and provided in the draft 2023/24 Budget.

The expenditure at a high limit for the contract over the initial five year term is estimated at \$8 million extending to approximately \$20 million if both extension options were to be awarded. The total value is difficult to estimate due to fluctuations in the volume of kerbside recyclables collected each year, the estimated financial impact of the Victorian Container Deposit Scheme and cost changes when a separate kerbside glass recycling service is introduced.

Funding for this contract will be part of Council's Waste Service Charge that covers the full cost of all of Council's kerbside waste and recycling services, including the processing of kerbside recyclables.

Discussion and Options

The successful and viable processing of kerbside recyclables requires specialised and highly technical machinery to separate and sort the commingled recyclables into the different resource components, ready for reuse or remanufacture. This tender was publically advertised to seek the widest response given the limited number of known providers of this service.

The tender evaluation process included examination of the tendered rates, assessment of the commodity pricing elements, processing methodology, processing site capacity and overall capability to provide the required service. Once these factors had been assessed, a Best and Final Offer was requested.

Evaluation of this Contract also considered implications on the recycling kerbside bin collection contract. The collection contract has costs associated with wait times at the processing facility and costs associated with the location of the facility and travel distance. The Visy Recycling tender provides no cost implications for the collection contract.

If Council is not able to secure a suitable contractor to provide the service of kerbside recycling receipt and processing, the option may be that recyclable materials would need to be sent to landfill.

Conflict of Interest

The Local Government Act 2020 requires members of Council staff, and persons engaged under contract to provide advice to Council, to disclose any direct or indirect interest in a matter to which the advice relates.

Officers involved in the preparation of this report have no conflict of interest in this matter.

Conclusion It is recommended that Council appoint Visy Recycling for the kerbside recycling receipt and processing. The contract will commence from 1 July 2023.

10.5
(cont)

Attachment

- 1 Confidential - Evaluation Form - Recycling Reveal and Processing
Whitehorse City Council designates this attachment and the information contained in it as CONFIDENTIAL INFORMATION.

10.6 Council Owned Land - 20 Neil Court, Blackburn South

Property and Leasing
City Development

SUMMARY

Whitehorse City Council has owned 20 Neil Court, Blackburn South since 1962 and leased the property to the Yooralla Society of Victoria from 1965 until 2019.

In 1965 the Yooralla Society of Victoria constructed the Sir Edgar and Lady Coles Kindergarten and the kindergarten operated from 1966 until its closure in 2018.

The Yooralla Society of Victoria in September 2019 formally surrendered their lease agreement with Council and the property including the kindergarten building was handed back to Council.

20 Neil Court, Blackburn South has remained vacant since September 2019.

As Council did not construct the kindergarten and has never occupied 20 Neil Court Blackburn, Council officers formed the opinion that 20 Neil Court, Blackburn South was surplus to Council's needs and requirements.

Under section 114 of the *Local Government Act 2020* Council is required to undertake a community engagement process in accordance with its community engagement policy, advertise its intention to sell by publishing a public notice for a minimum of four (4) weeks and obtain an independent valuation from a Valuer who holds the qualifications or experience specified under section 13DA(2) of the *Valuation of Land Act 1960*.

Having correctly completed all statutory processes in accordance with section 114 of the *Local Government Act 2020*; this report recommends that Council resolve to sell 20 Neil Court Blackburn South by an expression of interest (EOI) process, for a price not less than a price established by an independent valuation report obtained by Council.

10.6
(cont)

RECOMMENDATION

That Council:

1. Having completed the statutory process in accordance with section 114 of the Local Government Act 2020, now resolves to sell the property known as 20 Neil Court, Blackburn South with the title description of Volume 8345 Folio 915 and Volume 8345 Folio 916.
2. Authorises the Manager Property & Leasing to sell 20 Neil Court, Blackburn South by an expression of interest (EOI) process, for a price not less than a price established by an independent valuation report obtained by Council.
3. Authorises the Chief Executive Officer to sign all documents for the sale of 20 Neil Court, Blackburn South and also authorise the affixing of the Council seal, if required, to the transfer documents.

KEY MATTERS

Having identified in September 2022 that 20 Neil Court, Blackburn South was surplus to Council's needs, Council undertook community engagement in accordance with Council's Community Engagement policy.

The results of the community engagement were presented to Council in February 2023 and based on these results Council resolved to advertise its intention to sell 20 Neil Court, Blackburn South.

A public notice was published on Council's website for more than four (4) weeks and no submissions were received.

Council has obtained a valuation from an independent Valuer who holds the qualifications or experience specified under section 13DA(2) of the *Valuation of Land Act 1960*.

Council has correctly completed all statutory processes in accordance with section 114 of the *Local Government Act 2020*.

Council Officers recommend that Council resolve to sell 20 Neil Court Blackburn South by an expression of interest (EOI) process, for a price not less than a price established by an independent valuation report obtained by Council.

STRATEGIC ALIGNMENT

The completed community engagement aligns with "Strategic Direction 3" of the Whitehorse City Council Plan 2021-2025: Strategic Direction 3: Our Diverse and Inclusive Community.

The objectives of "Strategic Direction 3", in particular 3.1, are "increase social inclusion, community participation and access to community services".

10.6

(cont)

Policy

The statutory process undertaken in accordance with section 114 of the *Local Government Act 2020*, compelled Council to engage with the Whitehorse community in accordance with Council's Community Engagement Policy.

Whilst not a Council policy, the "*Local Government Best Practice Guidelines for the Sale, Exchange & Transfer of Land*" will be referenced by Council's Property & Leasing Department; this will ensure that good governance principles are adhered to by Council.

BACKGROUND

Subject Property:	20 Neil Court, Blackburn South (Subject Property)	Legal
Description:	Lot 11 LP55140	Volume 8345 Folio 915
	Lot 11 LP55140	Volume 8345 Folio 916
Land Area:	1,535m ² approximately	
	199m ² approximately	
Use:	Vacant Kindergarten	
Zoning:	Residential Growth Zone 1	

Photograph #1: 20 Neil Court, Blackburn South



Council has owned the two parcels of land contained within the Subject Property since 1962.

In 1965 Council (the former City of Nunawading), via a land only lease, leased the Subject Property to Yooralla Society of Victoria (Yooralla).

Yooralla vacated the Subject Property in September 2019.

10.6
(cont)

Site Map #1: 20 Neil Court, Blackburn South



Council was not involved in the construction of the kindergarten building in 1966 and Council has never occupied the Subject Property.

Council at its meeting held on 26 September 2022 resolved that the Subject Property was surplus to Council's future needs and requirements.

Council also authorised the manager of Council's Property & Leasing Department to undertake the community engagement process and report the results back to Council for consideration.

10.6

(cont)

The results of the community engagement process were presented to Council at its meeting of 13 February 2023 where Council resolved the following:

1. Having completed the mandated participatory engagement in accordance with Section 114(2)(b) of the Local Government Act 2020, gives notice of its intention to sell 20 Neil Court, Blackburn South by an expression of interest (EOI) process in accordance with Section 114 of the Local Government Act 2020.
2. Authorise the manager of Council's Property & Leasing Department to undertake all remaining statutory processes in accordance with Section 114 of the Local Government Act 2020 and upon completion of all remaining statutory processes prepare a report for Council's consideration.

Having completed the community engagement process Council resolved to commence the intention to sell process.

Discussion and Options

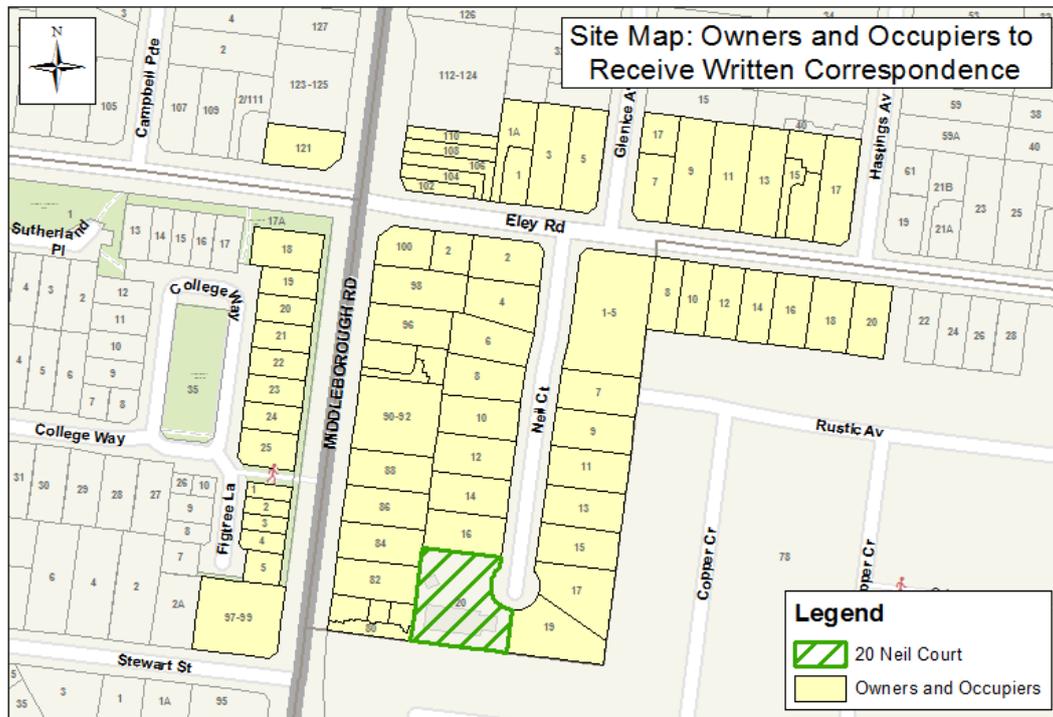
On 9 March 2023 Council published a public notice on its website advertising its intention to sell 20 Neil Court, Blackburn South via by an expression of interest (EOI) process, for a price not less than a price established via an independent valuation report obtained by Council.

The public notice was advertised for a period of more than four (4) weeks and no submissions were received.

Additionally, the surrounding owners and occupiers, who in October 2022 were invited to participate in the community engagement process, were written to thanking them for participating in the community engagement process and advising them that Council resolved to advertise its intention to sell 20 Neil Court, Blackburn South. (Refer Site Map#2: Owners and Occupiers Map)

10.6
(cont)

Site Map #2: Owners and Occupiers Map



An Expression of Interest (EOI) process has been identified as the preferred selling method because in the current uncertain market, an EOI process provides Council with the best opportunity to maximise the sale price because it does not have to disclose its reserve price.

Additionally, the EOI process provides Council with a high level of transparency.

Given that Council has no strategic plans for 20 Neil Court, Blackburn South obtaining best value is the ultimate outcome for Council.

Prior to commencing the EOI process Council's Property & Leasing Department will determine the following:

- Establish the most appropriate marketing strategy;
- Appoint the most suitable selling agent; and
- Negotiate a competitive commission fee.

Please note that the Council EOI evaluation panel will comprise of the Manager Property & Leasing, the Coordinator Leasing and an independent Probitry Advisor.

10.6

(cont)

To ensure good governance principles are adhered to Council will dispose of the property in accordance with the *“Local Government Best Practice Guidelines for the Sale, Exchange & Transfer of Land”*.

These guidelines were developed in 2009 by the Department of Planning and Community Development Department in consultation with Local Government Victoria and the State Government Land Monitor, and they were drafted to provide detailed guidance to Victorian councils when selling, exchanging or transferring land.

Prior to resolving to sell land Council is compelled, in accordance with section 114 (2)(c) of the *Local Government Act 2020*, to obtain from a person who holds the qualifications or experience specified under section 13DA(2) of the *Valuation of Land Act 1960* a valuation of the land which is made not more than 6 months prior to the sale or exchange.

The market value of 20 Neil Court, Blackburn South, as established by an independent valuation report, commissioned by Council’s Property & Leasing Department is attached to this report and known as *“Confidential Attachment A-Valuation of 20 Neil Court, Blackburn South”*.

Additionally, the public notice stated that the land cannot be disposed of for a sale price less than the market value of the land that has been established by an independent valuation obtained by Council.

This independent valuation requirement ensures good governance and transparency.

The reserve price for the EOI will be single point valuation figure contained within *“Confidential Attachment A-Valuation of 20 Neil Court, Blackburn South”*.

The marketing campaign associated with the EOI process is likely to be four (4) weeks in duration, with a likely opening date in either late June or early July.

It is important to note that there will be a lead time prior to the EOI opening date; this lead time will be used to create the EOI documents including the vendor’s statement, appoint the marketing agent and complete the marketing strategy.

10.6
(cont)

SUPPORTING REPORT DETAILS

Legislative and Risk Implications

Given that Council has correctly undertaken the statutory process required by section 114 of the *Local Government Act 2020*, there are no legal or risk implications arising from the recommendation contained in this report.

However, to ensure that there are no legal or risk issues associated with the proposed EOI process, Council's lawyers will be appointed to complete all legal documents and an independent probity advisor will oversee the governance associated with the proposed EOI process.

Equity, Inclusion, and Human Rights Considerations
In developing this report to Council, the subject matter has been considered in accordance with the requirements of the *Charter of Human Rights and Responsibilities Act 2006*.

It is considered that the subject matter does not raise any human rights issues.

Community Engagement

In arriving at the decision to sell 20 Neil Court, Blackburn Council Officers undertook participatory engagement in accordance with Council's Community Engagement Policy and in accordance with section 114(2) (b) of the *Local Government Act 2020*.

Under the IAP2 Public Participation Spectrum the following applies to participatory engagement (Consult):

- Consult Goal: "To obtain feedback on analysis, alternatives and/or decisions."
- Promise to target participants: "We will keep you informed, listen to and acknowledge concerns and aspirations, and provide feedback on how public input influenced the decision."
- Role of target participants: "Contribute"

To comply with the above mentioned IAP2 Public Participation Spectrum Council's Property & Leasing Department completed the following engagement methods:

- Wrote to nearby owners and occupiers of 20 Neil Court Blackburn South inviting them to participate in the consultation process.
- Conducted an on-site "drop in session".
- Established via "Your Say Whitehorse" a survey platform that was open for a minimum of four weeks

Council has fully complied with its community engagement obligations under section 114 of the *Local Government Act 2020*.

10.6
(cont)

Financial and Resource Implications

At the commencement of the EOI process Council will incur legal fees, marketing costs and probity fees; the recurrent budget of Council's Property & Leasing Department will fund these upfront fees and costs.

The commission paid by Council to the marketing agent will be deducted from the purchaser's deposit upon deposit release.

Innovation and Continuous Improvement

There are no Innovation and Continuous Improvement matters arising from the recommendation contained in this report.

Collaboration

No collaboration was required for this report.

Conflict of Interest

The *Local Government Act 2020* requires members of Council staff, and persons engaged under contract to provide advice to Council, to disclose any direct or indirect interest in a matter to which the advice relates.

Council officers involved in the preparation of this report have no conflict of interest in this matter; however, the two Council officers who will form Council's evaluation panel will be required to sign a Deed of Confidentiality and a Conflict of Interest Declaration.

Additionally, the independent Valuer appointed by Council signed a Conflict of Interest Declaration prior to completing their valuation. The Valuer declared that they did not have a conflict of interest relating to 20 Neil Court, Blackburn South.

Conclusion Having correctly completed all statutory processes in accordance with section 114 of the *Local Government Act 2020*; this report recommends that Council resolve to sell 20 Neil Court Blackburn South by an expression of interest (EOI) process, for a price not less than a price established by an independent valuation report obtained by Council.

Attachment

- 1 Valuation of 20 Neil Court, Blackburn South

Whitehorse City Council designates this attachment and the information contained in it as CONFIDENTIAL INFORMATION

10.7 Records of Informal Meetings of Councillors

RECOMMENDATION

That the records of Informal Meetings of Councillors be received and noted.

Pre-Council Meeting Briefing 8 May 2023 – 6.35pm -6.55pm		
Matter/s Discussed:	Councillors Present	Officers Present
<ul style="list-style-type: none"> • Public Presentations • Public Questions • Council Agenda Items 8 May 2023 	Cr Lane (Mayor & Chair)	S McMillan
	Cr Cutts (Deputy Mayor)	V Ferlaino
	Cr Barker	J Green
	Cr Carr	L Letic
	Cr Massoud	A Ghastine
	Cr Davenport	S White
	Cr Liu	C Altan
	Cr McNeill	C Clarke
	Cr Skilbeck	K Woods
	Cr Stennett	S Lozsan
Others Present N/A		
Disclosures of Conflict of Interest None Disclosed		
Councillor /Officer attendance following disclosure N/A		

10.7
(cont)

Councillor Briefing 15 May 2023 – 6.30pm – 9.50pm		
Matter/s Discussed:	Councillors Present	Officers Present
1. 2022/23 Capital Works Program – March Quarter Review	Cr Lane (Mayor & Chair) Cr Cutts (Deputy Mayor) Cr Barker	S McMillan V Ferlaino J Green
2. Whitehorse Kindergarten Strategy	Cr Carr Cr Massoud	L Letic A Ghastine
3. Dog Off Lead Review	Cr Davenport	S White
4. Naming Projects	Cr Liu	C Altan
5. Review of Garage Sale Trail Program	Cr McNeill Cr Munroe	K Woods N Brown
6. 'Creative Whitehorse' Brand Update	Cr Skilbeck Cr Stennett	T Johnson S Morison
7. Naming Projects		T Jenvey S Price
8. Council Meeting Agenda Items – 22 May 2023		T Peak B Fenton S Durbin
Others Present:		
Disclosures of Conflict of Interest: None Disclosed		
Councillor /Officer attendance following disclosure: N/A		

11 COUNCILLOR DELEGATE AND CONFERENCE / SEMINAR REPORTS

11.1 Reports by Delegates

(NB: Reports only from Councillors appointed by Council as delegates to community organisations/committees/groups)

RECOMMENDATION

That the reports from delegates be received and noted.

11.2 Reports on Conferences/Seminars Attendance

RECOMMENDATION

That the record of reports on conferences/seminars attendance be received and noted.

CLOSURE OF THE MEETING TO THE PUBLIC

That in accordance with the Section 66(2)(A) of the *Local Government Act 2020*, Council closes the meeting to members of the public and adjourns for five minutes to allow the public to leave the Chamber prior to considering the following confidential matter:

10 CONFIDENTIAL REPORTS

12.1 Strategic Property Options

RECOMMENDATION

That in accordance with Section 61 (1) and 66 (2)(a) of the Local Government Act 2020 the Council should resolve to go into camera and close the meeting for the consideration of this item, as the matter to be discussed is confidential information for the purposes of section 3 (1) of the *Local Government Act 2020*.

The ground applies because it is land use planning information, being information that if prematurely released is likely to encourage speculation in land values (Section 3(1)(c)).

13 CLOSE MEETING