



# Whitehorse City Council

## AGENDA

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### Council Meeting

on

**Monday 9 May 2022**

at 7:00pm

**Members:** Cr Liu (Mayor), Cr Massoud (Deputy Mayor), Cr Barker, Cr Carr, Cr Cutts, Cr Davenport, Cr Lane, Cr McNeill, Cr Munroe, Cr Skilbeck, Cr Stennett

Mr Simon McMillan, Chief Executive Officer



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## **AGENDA**

### **1 Prayer**

#### **1.1 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.**

#### **1.2 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 Welcome**

### **3 Apologies**

### **4 Disclosure of Conflict of Interests**

### **5 Confirmation of Minutes of Previous Meetings**

Minutes of the Council Meeting 26 April 2022

#### **RECOMMENDATION**

That the minutes of the Council Meeting 26 April 2022 having been circulated now be confirmed.

### **6 Public Presentations**



**7      Petitions and Joint Letters**

**8      Public Question Time**

**9      Notices of Motion**

**10     Urgent Business**

**11     Council Reports**

## **11 COUNCIL REPORTS**

### **11.1 Tender Evaluation (Contract 30326) Morack Golf Course Redevelopment**

Major Projects  
ATTACHMENT

#### **SUMMARY**

The Morack Golf Course Redevelopment project is designed to reinvigorate the course facilities and visitor experience by providing a new club house, café and mini-golf facility and an upgraded driving range. The redevelopment aims to vastly improve the visitor/golfing experience. The new facilities will increase the opportunities for revenue generation under a new operating/management model.

Morack Golf Course Redevelopment Contract No. 30326 has been tendered and closed 17 February 2022. Six contractors with golf course infrastructure experience were selected to tender from the State government's Construction Supplier Register (CSR). Four conforming submissions were received.

The Tender Evaluation Panel (TEP) has reviewed all submissions and scored them against the selection criteria.

The tender submissions all exceed the budget allocation by more than \$2.3M. The design was subject to a number of value management sessions pre-tender and a post-tender value management exercise has not resulted in any significant cost savings. The Quantity Surveyor has advised that supply chain issues, labour shortages and a highly congested market as the main driver for the cost escalation over the last three months that has resulted in the tenders being above the pre tender estimate.

Post tender clarifications were issued to the two highest scoring tenderers to better understand their inclusions and exclusions. Both tenderers have agreed to Council's amended AS2124 contract.

Council also undertook a BAFO process in accordance with the conditions of tender with the highest scoring tenderer. The adjusted tender price of \$9,900,000 excluding GST from Buxton Constructions (Vic) Pty Ltd has been submitted as the Best and Final Offer and achieves the highest scoring tenderer, resulting in a tender outcome of \$2,370,000 more than the total project budget of \$9,745,000 excluding GST once all contingency allowances are applied.

It is recommended that Council award the Morack Golf Course Redevelopment Contract No. 30326 to Buxton Constructions (Vic) Pty Ltd.

**11.1**  
(cont)

**RECOMMENDATION**

That Council:

1. Accepts the tender and sign the formal contract document for Contract 30326 for the Morack Golf Course Redevelopment received from Buxton Constructions (Vic) Pty Ltd (ABN 93 141 994 425), of Level 1, 262 Lorimer Street Port Melbourne VIC 3207, trading as Buxton Construction, for the tendered amount of \$9,900,000 excluding GST; and
2. Notes that by accepting the tender from Buxton Constructions (Vic) Pty Ltd an additional \$2,370,000 excluding GST of funding will be required from the 2022/23 capital program budget to allow the project to proceed for a total project cost of \$12,115,000 excluding GST and the additional funding will be from forecast savings across other projects identified during 2022/23.

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**Key Matters**

The scope of work and budget for this project were confirmed as part of the 2021/22 Budget process in mid 2021. The designs and tender documentation were prepared accordingly and in line with the advice of Quantity Surveyors to develop a project compatible with the allocate budget.

The impact of the Covid-19 pandemic on the construction industry and the significant number of infrastructure projects commencing in the Melbourne region has seen an increase in labour and material costs beyond expectation during the tender period for this project. This evidenced towards the end of 2021 and during 2022 with contractors no longer being prepared to accept the risk of further increase in costs and potential supply chain delays due to Covid-19 and as a result, these risks are being priced into the tenders.

The project Quantity Surveyor has confirmed that tender results coming into Christmas 2021 and across January and February 2022 have seen significant spikes in some trade pricing, far in excess of the average anticipated price shifts predicted. Trades such as structural steel, mechanical and electrical services have all increased in excess of 25% above cost planned allowances during this period. Concrete experienced similar movements in the months leading up to Christmas 2021.

**11.1**  
(cont)

It is difficult to translate these specific trade cost spikes into an average cost escalation across an entire project value, however, these results suggest:

1. Supply chain issues in some trade sections are having a significant cost impact;
2. Labour shortages are flowing into higher labour costs;
3. General inflationary pressures (such as transport fuel costs) and;
4. Contractor preliminary cost (on site labour) and profit margins are also increasing significantly.

The above pressures have resulted in tender submissions all in excess of the pretender estimates. The tender submissions are consistent, showing no one contractor is out of step. The tender submissions are subsequently assessed as being reasonable in the current market. The current costs escalations are more apparent in larger valued projects.

The Morack Golf Course Expression of Interest for an Operator of the redeveloped facility was advertised and closed on 29 April 2022. At the time of preparing this report it is understood that there has been significant interest in the Operator role and with such a response a favourable outcome for Council is anticipated. This response is expected to be in recognition of the service offering of golf, mini golf, driving range and café. A Council report to consider the future operational arrangements for the Morack Golf Course facility is scheduled to be presented to the June 2022 meeting cycle.

Having an Operator engaged at the commencement of the redevelopment building project will assist to de-risk any functional design issues which may arise in the retail space, commercial kitchen and golf reception areas.

In March 2022 an existing pole mount transformer was replaced to increase electricity supply capacity in preparation for this redevelopment. This is an essential part of the project that has now been removed from the critical path of the program.

Accepting the tender from Buxton Construction (VIC) Pty Ltd will deliver the project in accordance with the services sought to be offered under the revenue generating Operational arrangements. The tendered price exceeds the project budget by \$2,370,000 excluding GST.

**STRATEGIC ALIGNMENT**

The contract is primarily relevant to Strategic Direction 4: Our Built Environment; Movement, and Public Places. It is used for the renewal of Council's infrastructure assets.

**Policy**

The tender, tender evaluation and appointment of the successful contractor and the contract administration is governed by Council's Procurement Policy.

## **11.1**

(cont)

### **Background**

Council is redeveloping Morack Golf Course into a contemporary community facility that will provide diverse leisure and social opportunities for golf enthusiasts and the wider Whitehorse community.

The redevelopment will deliver:

1. A multipurpose golf pavilion with inside/outside café overlooking the picturesque golf course and bushland surrounds;
2. 25-bay driving range with premium bays for group functions and hospitality services and;
3. 18-hole premium adventure mini-golf facility.

The redevelopment is an outcome of the Morack Public Golf Course Strategic Plan, adopted in 2017. The plan acknowledges the ageing facilities at Morack and notes the limited social and hospitality offerings not meeting the needs of existing or future patrons.

Council aims to transform Morack into a facility that:

1. Is more inclusive and inviting for families;
2. Is attractive to corporate hospitality;
3. Has modern technology in line with golfing industry trends and;
4. Meets the needs of serious golfers and mini-golfers alike.

Community engagement conducted in late 2021 revealed a high level of support for the proposed design and plans by stakeholders and the wider Whitehorse community.

Construction is expected to start in late May 2022 with an expected project completion late 2023.

The golf course will remain open during construction for playing nine or 18 holes however, the driving range will be closed. Temporary portable buildings, with amenities and limited food/beverage offerings, will be set up on the existing practice putting green. The putting green will be reinstated at the conclusion of the redevelopment works.

### **SUPPORTING REPORT DETAILS**

#### **Legislative and Risk Implications**

There are no legal or risk implications arising from the approval for this plan.

**11.1**  
(cont)

**Consultation**

Community engagement conducted in late 2021 revealed a high level of support for the proposed design and plans by stakeholders and the wider Whitehorse community. The design has been developed with input from key stakeholders. The design, operating model and assessment of golfing trends have been informed by expert golfing facility consultants and hospitality consultants. Councils Procurement team have been consulted extensively to ensure that the procurement is compliant with the Procurement Policy.

**Collaboration**

Between 27 September and 25 October 2021, Council conducted a consultation and engagement process to gather feedback from key stakeholders and the wider community about the proposed Morack Public Golf Course Redevelopment. Overall, there was a high level of support for the proposed design and plans. Suggestions and requests for improvements to the golf course itself were also raised, with drainage, overgrown vegetation and expenditure being highlighted.

Council will continue to liaise with key stakeholders and the community where required to progress key elements of the project, such as the provision of car parking. Through our YourSay platform, Council has provided feedback to the community, patrons and clubs members of outcomes from the consultation process. A dedicated project web page is available for all too keep up with the progress of the project.

**Financial and Resource Implications**

Awarding a fixed price lump sum of \$9,900,000 excluding GST to Buxton Construction (VIC) Pty Ltd will require a total project expenditure of \$12,115,000 excluding GST resulting in a budget shortfall of \$2,370,000 excluding GST above the approved project budget of \$9,745,000 excluding GST.

	<b>Budget</b>	<b>Expenditure</b>
Capital Works Funding Account No. (Acc. No. Y596)	<b>\$9,745,000</b>	
Total Budget	<b>\$9,745,000</b>	
Preferred tenderer's lump sum offer (including GST)		<b>\$10,890,000</b>
Less GST		<b>-\$990,000</b>
Net cost to Council		<b>\$9,900,000</b>
Plus Contingencies		<b>\$990,000</b>
Plus Consultants		<b>\$422,000</b>
Plus Design Contingency		<b>\$40,000</b>
Plus Authority Fee (Origin Energy)		<b>\$278,000</b>
Plus Project Management Fee		<b>\$460,000</b>
Plus FFE		<b>\$25,000</b>
<b>Total Expenditure excl. GST</b>		<b>\$12,115,000</b>

## **11.1**

(cont)

Total budget shortfall is \$2,370,000 excluding GST. An additional \$2,370,000 of funding will be required from the 2022/23 capital program budget to allow the project to proceed for a total project cost of \$12,115,000 excluding GST and the additional funding is proposed to be sourced from forecast savings across other projects identified during 2022/23.

Buxton Construction (VIC) Pty Ltd is a well-known construction company having completed Peninsula Kingswood Country Golf Club, Eastern Golf Club, Portsea Golf Club, Kingston Heath Golf Club and Yering Meadows. This contractor successfully completed the Harrow Street Car Park for Whitehorse City Council in 2019.

Given the increase in overall cost of this project to more than \$10 million, a Business Case has been developed and is provided in Attachment 2.

### **Discussion and Options**

The allocating of additional funding will provide the community benefits associated with this project in the shortest possible timeframe. The capital program for 2022/23 would need to be assessed to identify a range of forecast project budget savings to fund the budget shortfall. Accepting this tender will allow the new commercial arrangements for the Operator of the facility to commence as planned and the improved revenue generation to not be delayed.

An option exists to not accept a tender and to recommence the procurement process at a later time, potentially 12, 18 or 24 delay. This delay may see a stabilising of the construction industry and the return of more competitive tender submissions. However, given current market conditions delaying the project and re-tendering at a later time is not guaranteed to result in a lower cost outcome. The escalation costs associated with any delay would be expected to not present a better outcome.

Any delay would also require reassessing the appointment of the Operator which is designed to be income generating for Council and is currently scheduled for June 2022.

Delaying will result in golfers and members not receiving the benefits of the new mini-golf and driving range facility until a later time and may trigger further requirements for community consultation.

Mini-golf is a new part of the facility and a service not currently offered. A saving of \$1,133,000 would be achieved if this element was deleted from the project. Mini-golf is a popular pastime and a significant component of the service offering for the facility Operator. If the mini-golf component was to be deleted, it would significantly decrease the revenue expectations of the site. Mini-golf is a high volume, high value service for a future Operator and will factor heavily in the commercial decisions about the facility operation.

**11.1**  
(cont)

The business case for Morack Golf Course is attached to this report and encompasses updated financial modelling demonstrating financial merit in proceeding with this redevelopment project with the increased capital cost.

**Conflict of Interest**

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

**Conclusion**

It is recommended to accept the tender from Buxton Construction (Vic) Pty Ltd. A business viability check has been carried and returned with a strong rating.

**ATTACHMENT**

- 1 Business Case Morack Golf Course



## **11.2 Response to Petition for Netball Court at Springfield Park**

Leisure and Recreation Services  
ATTACHMENT

### **SUMMARY**

Council received a petition from the Whitehorse Colts Netball Club in December 2021, requesting Council to fund the feasibility, design and installation of outdoor netball courts at Springfield Park. The petition contained over 1000 signatories from members and community in support of the proposal.

As part of the petition submitted, the club included a proposed masterplan showing where a netball court could be located. This plan is shown in Attachment 1.

Springfield Park has recently had its pavilion redeveloped as part of Council's capital program, and this redevelopment was intended to reflect the needs of the tenant clubs, and the community. Springfield Park, in addition to the pavilion and two sports ovals, also has a playground, cricket nets, and associated car parking. Coupled with the constraints of the surrounding residential properties, Springfield Park is developed to its fullest extent, with limited, if any capacity for additional facilities or infrastructure without removing or impacting upon existing facilities and mature vegetation.

This report is coming to Council as a response to the petition is required to be provided back to the Colts Football and Netball Club.

The key issues associated with this request can be summarised as follows:

- There is limited space available within Springfield Park, with the park being considered at capacity for facilities and infrastructure. The majority of the Springfield Park area is used for organised sport, with the south-east corner of the site accommodating a playspace and park environment for passive and non-organised sport. Springfield Park as a public space currently services both passive and active activities and an extension to the dominant land use being for organised sport would compromise options for passive recreation for the surrounding community.
- There would be a significant loss of vegetation in the area proposed, which is an outcome that is not consistent with the principles of the Urban Forest Strategy, and does not reflect other needs of the park for those users that enjoy the open park and bush setting as non-organised sport participants.
- Locating a netball court where the playspace currently exists would result in unreasonable amenity impacts to surrounding residential properties.
- Development of a single outdoor court does not provide a strong business case for utilisation as it would facilitate training for only one club. In addition, the current netball associations within Whitehorse do not require home courts for games, as the Whitehorse Netball Association fixtures all games based at Sportlink and the Eastern

**11.2**  
(cont)

Football Netball League accommodates multiple teams playing games at a small number of existing indoor stadiums.

- There are other options nearby that would service the training needs of the club including Surrey Park at Box Hill Aqualinks.
- The future needs of netball are currently being investigated in alternate locations that could provide a larger offering than a single court. Development of multiple outdoor courts would offer a stronger business case as they would potentially service a larger number of clubs within Whitehorse. Further to this, the work being undertaken on the Indoor Sports Facility Feasibility Study will assist in identifying where opportunities might exist for better utilisation of existing netball facilities, or where partnerships could be established to serve a broader need.
- The costs of constructing a single netball court, including lighting would be approximately \$300,000-\$350,000, in addition to the costs of relocating the playspace and construction of additional car parking.

Given the key issues the development of a single netball court in Springfield Park is not supported for reasons outlined in this report.

**RECOMMENDATION**

That:

1. Council acknowledge the petition submitted by the Whitehorse Colts Netball Club.
  2. Council resolve not to fund the feasibility, design and installation of outdoor netball courts at Springfield Park based on the evidence contained in this report.
  3. The club be advised by Council Officers of the decision and offer support to the club in alternate ways.
- 

**KEY MATTERS**

The key matters for consideration are as follows:

- Need for a stand-alone netball court in the context of current netball competitions, broader considerations of additional netball facilities.
- Implications on Springfield Park and surrounding residential properties from a current and future land use mix should a netball court be developed.
- Other options and opportunities for a more suitable location for outdoor netball courts that would serve a broader community need and better address the future growth of netball.
- Costs associated with construction of a netball court

**11.2**  
(cont)

**STRATEGIC ALIGNMENT**

This report has considered all matters under the relevant Strategic Directions contained within the Council Plan 2021-2025 and the Whitehorse 2040 Community Vision, as listed below:

- Our Built Environment; Movement, and Public Places.
- Health and Wellbeing

**POLICY**

There are no current policies that guide how a request such as this is to be considered however consideration has been given to Council's Urban Forest Strategy and Council's Indoor Sports Facility Feasibility Study.

**BACKGROUND**

Council received a petition from the Whitehorse Colts Netball Club in December 2022, seeking support to fund a feasibility into the investigation of and development of a netball court in Springfield Park. The petition contained over 1000 signatories from members and community in support of the proposal.

As part of the petition submitted, the club included a proposed masterplan showing where a netball court could be located. This plan is shown in Attachment 1.

The Whitehorse Colts Junior Football and Netball Club offers a range of predominantly junior football teams through its Auskick program, as well as fielding boys and girls junior football teams in the Yarra Junior Football League. The club also has junior netballers in the Whitehorse Netball Association and supports a senior women's football team in the Eastern Football League. The football club's home ground is situated at Springfield Park, Box Hill North, with the netball teams being based at Sportlink as part of the Whitehorse Netball Association.

Whilst the Yarra Junior Football League and senior Eastern Football League play a home and away competition whereby games are played across the season at competing clubs home grounds (i.e. Home games for Whitehorse Colts are played at Springfield Park), the netball program plays all games at Sportlink as part of the Whitehorse Netball Association.

**SUPPORTING REPORT DETAILS**

**Legislative and Risk Implications**

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

**11.2**  
(cont)

**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**

This report provides a response to a petition raised by the Whitehorse Colts Netball Club including over 1000 signatories from members and community in support of the proposal.

**Financial and Resource Implications**

Officers have undertaken a preliminary cost assessment associated with the development of a netball court in Springfield Park as follows:

- Construction of single hard surface netball court (sealed concrete or asphalt-type surface) - \$300,000-\$350,000
- Lighting - \$130,000
- Play space relocation - \$200,000
- Estimate total cost - \$630,000 - \$680,000
- Additional costs would also be required for site investigations, tree removal, community consultation and car park construction.

There are no funds allocated for this project in Council's current capital works program and Springfield Park has not been identified in the 10 year capital works plan for additional facilities or upgrades.

The club has not provided details of any potential contributions they may be able to make toward the proposed project, nor any funding that they may have received.

**Innovation and Continuous Improvement**

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

**Discussion and Options**

Springfield Park is located at the corner of Springfield Rd and Dorking Road in Box Hill North. The park offers two sporting ovals used for cricket in summer and football in winter, cricket nets in the south-east corner and a recently redevelopment pavilion servicing the needs of the tenants clubs. A playspace is also located in the south-east corner of the site.

The site is accessed from Dorking Rd and has car parking that runs to the south and east of the pavilion, wrapping around the north of the playground.

**11.2**  
(cont)

Springfield Park is home to the Whitehorse Colts Football Netball Club, and the Box Hill Cricket Club. The Box Hill Cricket Club is the tenant club during summer, holding a seasonal licence for 6 months of the year, with the Whitehorse Colts being the tenant club during winter, holding a seasonal licence for the other 6 months of the year.

A pavilion redevelopment was completed in 2013 as part of Council's capital program. The redevelopment costing over \$3million was intended to reflect the needs of the tenant clubs, and the community, replacing 3 old club room buildings.

Coupled with the constraints of the surrounding residential properties, Springfield Park is developed to its fullest extent, with limited, if any capacity for additional facilities or infrastructure without removing or impacting upon existing facilities, and significant stands of mature vegetation.

Whitehorse Colts Football Netball Club seeks support from Council to fund the feasibility and construction of a netball court at Springfield Park. The club has prepared a masterplan for the site that shows the proposed location of the netball court as being the site of the existing playground. The masterplan put forward by the club reflects removal of the playground to facilitate a netball court and additional car parking. This would subsequently require removal of significant amounts of vegetation as a netball court is a larger footprint than the existing playground, and would also require further space to rebuild the playground in an alternate location. Extensions to the existing car park are also proposed which would extend the existing carpark into what is currently open space around the playground, and would result in the further loss of mature vegetation.

This report is coming to Council as a response to the petition.

**Is the proposed netball court an appropriate outcome?**

Development of a single outdoor netball court does not provide a strong business case for utilisation. A single court at Springfield Park, whilst offering benefits to the Colts as a venue for training, would only serve a small broader benefit to the netball community as it offers very localised value. For Council to invest in outdoor sports courts, there needs to be a strong business case for broad community benefit, or servicing a need for the further development and growth of the sport.

In this case, there would be greater value and broader community benefit in investigating opportunities for developing netball courts that can meet the future needs of netball as a sport and accommodate multiple clubs and teams for training purposes. Such an option could also serve the needs of the Colts netballers, but provide similar training options for other clubs seeking additional infrastructure.

**11.2**  
(cont)

Whilst there are examples of standalone netball courts within recreation reserves outside of Whitehorse, these are generally part of country and/or outer suburban football/netball leagues and used for matches as well as training. Examples of such are the AFL Outer East League. This operates in much the same way as the football fixture with netball games scheduled at club home courts.

Initial investigations are currently underway as to the feasibility of incorporating outdoor netball courts elsewhere in Whitehorse. Whilst these are preliminary, they are seeking to address and respond to future growth in netball, but consider a location that would be better suited due to the potential capacity to accommodate multiple netball courts.

In addition consideration should be given to better utilisation of existing facilities that have not traditionally been available for public use, or investment in expanding existing facilities to enable them to better meet future growth of the sport. In this regard, the work undertaken on the Indoor Sports Facility Feasibility Study and the Strategic Partnerships Framework will open opportunities for partnerships to be established to grow the needs of the sport, and should also be considered as an option to address the needs of the Colts netballers, and other netball clubs in a similar position.

**Is there space to construct a netball court?**

There is limited space available within Springfield Park, with the park being developed to capacity with its existing facilities and infrastructure. Whilst Springfield Park is home to football in winter and cricket in summer, it also serves as a key recreational space for the surrounding community. When not being used for football or cricket, the ovals are enjoyed for passive and active recreation and activity, as is the playground.

The area proposed by the club for siting of a netball court and additional car parking is within the location of the existing playground. The club are proposing that a new playground be constructed adjacent to the new netball court, citing in the document presented, that the current carpark and play space configuration is unsafe.

The current location of the playspace is setback from the access road and the existing carpark, and provides good visibility between the playground and the carpark, as well as providing good separation between the ovals and the activities occurring in these spaces. In this regard the configuration is not considered to be unsafe.

If the existing play space were to be removed, the expectation of the community would be that a new playspace is constructed. The proposed masterplan shows a new playspace located between the netball court and the new car parking areas. Siting a new playspace in this location would bring it much closer to the road and car park, would be a smaller space and would not provide any open grassed areas for passive play or recreation. This is not a desirable outcome, and not supported by officers.

**11.2**  
(cont)

The proposed removal of the existing playspace to facilitate a standalone netball court poses significant concerns from a land use perspective in that it fails to acknowledge the broader users of the park and the purpose it plays within the surrounding community. Football and cricket are important functions of the reserve, however the addition of a netball court at the expense of the existing playspace would mean nearly all of the reserve is set aside for organised sport. Springfield Park is an asset to be enjoyed by all in the community, not just those who are part of club sport. Unlike larger reserves such as Elgar Park Reserve which have a primary purpose of providing sporting infrastructure, localised reserves such as Springfield Park need to ensure that the right balance continues to be struck in serving the needs of the Whitehorse sporting community, and the needs of those who seek passive and informal recreation.

Further to this, stands of large mature trees surround the current playspace, which would need to be removed to facilitate a netball court, and more would be impacted upon and/or removed to construct additional car parking. Given the work undertaken within the Urban Forest Strategy as endorsed by Council, loss of parkland trees would add to concerns about the incremental loss of canopy within the municipality. This would be an unnecessary loss of mature vegetation, especially given contribution this vegetation makes to the amenity of the park.

The proposed location of a netball court would also result in unreasonable amenity impacts to surrounding residential properties, most notably those properties abutting the south-east corner of the reserve. Given the anticipated usage of the netball court, largely by the Colts Netball club, the court would be highly utilised after school hours and into the early evening. This brings with it noise generated by netball players, coaches, whistles, and bouncing balls without any significant distance or physical buffer to surrounding properties. Whilst the ovals and playspace at Springfield Park also generate their own levels of noise, the use of a netball court in the south-east corner would concentrate activity in a way that is beyond how these spaces are ordinarily used.

The addition of court lighting would add a further nuisance to this space and to proximate residents. To facilitate use of the court for netball training, the lights would need to meet suitable standards for safe activity, creating problems of light spill into residential properties which, due to the limited space and need for tree removal, could not be mitigated without constructing additional physical barriers to diffuse or reduce light and noise.

**What would it cost?**

Notwithstanding that Springfield Reserve has had recent investment into it through the pavilion construction, the current capital budget nor the 10 year capital program have Springfield Park listed for additional facilities.

Based on knowledge of the costs associated with construction of hardcourts, floodlighting and playspaces, a conservative estimated cost of the proposed

**11.2**  
(cont)

works would be in the order of \$630,000 - \$680,000. Construction of additional car parking would increase this cost, (although car parking numbers would need to be quantified), as would any site works needed to prepare the site for the court construction.

In the absence of other information provided by the club, this cost would be entirely borne by Council. To facilitate this type of investment into Springfield Park, it would mean other projects already on the capital program would either need to be pushed back, or would need to have budgets reduced.

Given the recent investment into a new pavilion for Springfield Reserve, it is not considered an appropriate or equitable spend when considered against the many other reserves waiting for pavilion and facility upgrades.

Further to this, upgrades to the Sportlink facility will accommodate greater outdoor capacity for netball and is a significant investment into the sport of netball that can benefit more clubs and teams, as opposed to investing in a single court for the use of one club, as would be the case at Springfield Park.

**Conflict of Interest**

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

**Conclusion**

Having considered all of the matters associated with the request to fund and undertake the feasibility and construction of a netball court at Springfield Park, it is officer's assessment that it not be supported.

There is limited space available within the reserve, and constructing a netball court and associated car parking would result in loss of passive and informal recreational space, as well as require the relocation of an existing playground and loss of mature trees. This would compromise the amenity and land use mix of the park, and limit opportunities for the local community not otherwise associated with the tenant clubs to use the space.

Consideration of the future needs of netball can, and are being investigated through other locations that have the potential to offer multiple outdoor courts in the future, thereby providing a much broader benefit to the wider netball community including servicing the needs of the Colts netball club.

Whilst the proposed development of a netball court in this location is not supported, officers will continue to support the Whitehorse Colts.

**ATTACHMENT**

- 1 Proposed Masterplan Submitted by Whitehorse Colts



### **11.3 Review of Council Delegations to Council Staff**

Governance and Integrity  
ATTACHMENT

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#### **SUMMARY**

The legislative landscape in which local government operates is in continual change. This is not surprising given the vast portfolio of legislation that impacts on the activities, duties and responsibilities imposed on local governments, as they go about their task of meeting the needs of their respective communities.

There are numerous statutes which confer a responsibility on councils to take action or determine matters, it is not practical for the Council or the Chief Executive Officer (CEO) alone to exercise the many statutory powers bestowed on Council.

Delegations are an effective means of streamlining decision-making and enables Council to concentrate on the broader strategic issues rather than administrative and routine matters.

Maintaining current and relevant instruments of delegation allow decisions and action to be undertaken by delegated officers on behalf of Council to ensure the business of Council is efficiently performed and conducted.

The following Acts require delegations directly to staff:

- Planning & Environment Act 1987
- Residential Tenancies Act 1997
- Food Act 1984
- Environmental Protection Act 1970
- Domestic Animals Act 1994
- Road Management Act 2004

#### **RECOMMENDATION**

That Council resolves:

1. To approve Instruments of Delegation to Council Staff, s6 and s18 (provided as Attachments 1 and 2 respectively).
  2. That the Chief Executive Officer be authorised to sign the Instruments of Delegation, s6 and s18.
  3. That the Instruments of Delegation come into force immediately upon execution.
  4. That on the coming into force of the Instruments, the Instrument of Delegation s6 authorised by Council on 17 May 2021 is revoked.
-

**11.3**  
(cont)

**KEY MATTERS**

- Recognising the importance of properly actioning legislative changes, Council has for many years, subscribed to the Maddocks Delegations and Authorisation Service.
- During 2021, Council also subscribed to Reliansys Software that provides for the streamlining and maintenance of delegation documents.
- The attached updated delegation documents capture all the legislative changes reflected in the Maddocks July 2021 and January 2022 updates.

**STRATEGIC ALIGNMENT**

Strategy 8.3.1 of Objective 8.3 Good Governance and Integrity of the Council Plan, is focused on compliance with Council policies, legislative requirements and regulations.

**BACKGROUND**

A Delegation is a form which sets out who the delegate is and what power is conferred upon that delegate. Delegations are essential to enable Council staff to carry out operational duties particularly in areas which involve enforcement, such as town planning, local laws, environmental health, animal management and parking control.

Council has utilised the Maddocks Delegation Update Service for many years. The Maddocks Service provides Council subscribers with at least two legislative updates, generally in January and July each year. The updated delegation documents capture both of the last two updates.

**SUPPORTING REPORT DETAILS**

**Legislative and Risk Implications**

Failure to update Instruments of Delegation in response to legislative changes, reduces the capacity for delegated officers to undertake actions on behalf of Council. Such action will ultimately mean that more matters will require reporting to Council for a formal decision. Consequently, increasing timeframes for decisions and the potential for legislative and operational non-compliance.

Maddocks Solicitors have advised that whilst the 2020 Act provides that Council can no longer delegate directly to staff, only through sub-delegation via the CEO, it remains that certain Acts do not allow for sub-delegation from the CEO and can only be delegated directly from Council.

There Acts are the:

- Planning & Environment Act 1987
- Residential Tenancies Act 1997
- Food Act 1984

**11.3**  
(cont)

- Environmental Protection Act 1970
- Domestic Animals Act 1994
- Road Management Act 2004

As these Acts specifically require certain powers to be delegated directly from Council it is recommended that the powers continue to be delegated directly from Council by Council resolution to ensure compliance with said Acts.

**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.

**Financial and Resource Implications**

There are no financial or resource implications arising from the recommendation contained in this report.

**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.

**11.3**  
(cont)

**Discussion and Options**

The changes captured are as follows:

**S6 Council to Members of Council Staff**

Environment Protection Act 1970 has been removed.

Food Act 1984 –

- ss36A, 36B and 40F are now in force.
- S38G(4) amended to reference correct provision.
- s45AC inserted to enable a delegate to authorise a person for purposes of bringing proceedings,
- ss19EA(3), 19N(2), 38G(2), 39(2) and 43 have been inserted and s39A amended to reflect the new power to register or renew registration of a food premises.
- ss 191A(1) and (2), 39A(6), 40(1) and 40E have been inserted.

Planning and Environment Act 1987 –

- s12A has been removed, as repealed.
- ss4H, 4I, 18, 21(2), 26(1), 26(2), 28(1), 28(2), 28(4), 41(1), 41(2), 42(2), 51, 57(5), 70, 97G(6) and 179(2) have been amended to reflect change under the Planning and Environment Amendment Act 2021.

Residential Tenancies Act 1997 –

- ss91ZU(1), 91ZZC(1) 91ZZE(1), 91ZZE(3), 206AZA(2), 207ZE(2) are now in force, but subsequently in January 2022 update the following were removed from s6 instrument, ss91ZU, 91ZZC, 91ZZE, 142D, 142G, 142I, 206AZA, 207ZE, 311A and 317ZDA.

Residential Tenancies Regulations 2021 inserted as in force, but subsequently removed in January 2022 update, from s6 instrument.

Road Management Act 2004 inserted to enable a delegate to authorise a person for the purposes of instituting legal proceedings.

**S18 Council to Members of Council Staff**

A new Instrument of Delegation of the Environment Protection Authority dated 4 June 2021, which gave Councils the power to exercise the EPA's powers and functions under the Environment Protection Act 2017 only for the regulating:

- Onsite wastewater management systems with a design or actual flow rate of sewage not exceeding 5000Litres on any day; and
- Noise from the construction, demolition or removal of residential premises.

**11.3**  
(cont)

**Conflict of Interest**

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

**Conclusion**

To ensure that Council's delegations are valid and abide by current legislation, the delegations need to be updated on a regular basis. Failure to do so, may result in an increase in Council workload and reduced organisational effectiveness in maintaining legislative and operational compliance.

**ATTACHMENT**

- 1 Attachment 1 - S6\_Instrument\_of\_Delegation\_ - \_Members\_of\_Staff
- 2 Attachment 2 - S18 Instrument of Delegation under EPA 2017

## 11.4 Records of Informal Meetings of Councillors

### RECOMMENDATION

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

Councillor Informal Briefing 26.04.22 6.30pm-6.55pm		
Matter/s Discussed	Councillors Present	Officers Present
<ul style="list-style-type: none"><li>Public Submissions</li><li>Public Questions</li><li>11.2 Garden Organics to become Food and Garden Organics Bin Fees for 2022-23</li><li>11.3 Proposed Budget 2022/2023</li><li>11.4 39-41 Holland Road, Blackburn South (Lot 1 LP 67902) – Construction of three, two storey dwellings, removal of trees and buildings and works within 4 metres of trees.</li><li>11.5 32 Laburnum Street, Blackburn (Lot 48 LP 6632) Tree Removal in the Significant Landscape Overlay</li><li>11.6 Vegetation Removal Associated with a 'Minor Utility Installation' (Water main Upgrade) in Mitcham, Nunawading, Forest Hill and Burwood East</li></ul>	<p>Cr Liu (Mayor &amp; Chair) Cr Massoud (Deputy Mayor) Cr Barker Cr Carr Cr Cutts Cr Davenport Cr Lane Cr McNeill Cr Skilbeck Cr Stennett</p>	<p>S McMillan J Green L Letic S Cann S White S Sullivan C Altan V Ferlaino P Moore J Samy C Clarke C Bolitho</p>
Disclosures of Conflict of Interest	Cr Skilbeck declared a conflict of interest regarding Item 11.4 39-41 Holland Road, Blackburn South (Lot 1 LP 67902) Construction of three, two storey dwellings, removal of trees and buildings and works within 4 metres of trees.	
Councillor /Officer attendance following disclosure	Cr Skilbeck left the meeting at 6:31pm, returning at 6:32pm	

**11.4**  
(cont)

<b>Councillor Briefing 02.05.22 6.30pm-9.35pm</b>		
<b>Matter/s Discussed</b>	<b>Councillors Present</b>	<b>Officers Present</b>
<ul style="list-style-type: none"> <li>Sexual Harassment Training</li> <li>Councillor Workshop - Development of Sustainability Strategy 2030</li> <li>Draft Council Agenda 9 May 2022</li> </ul>	Cr Liu (Mayor & Chair) Cr Massoud (Deputy Mayor) Cr Barker Cr Carr Cr Cutts Cr Davenport Cr Lane Cr McNeill Cr Skilbeck Cr Stennett	S McMillan J Green L Letic S Cann S White S Sullivan V Ferlaine S Kinsey M Kagawa
<b>Disclosures of Conflict of Interest</b>	None Disclosed	
<b>Councillor /Officer attendance following disclosure</b>		

## **12 Councillor Delegate and Conference / Seminar Reports**

### **12.1 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.

### **12.2 Reports on Conferences/Seminars Attendance**

#### **RECOMMENDATION**

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

## **13 CONFIDENTIAL REPORTS**

Nil

## **14 Close Meeting**