



City of Whitehorse

MINUTES

Council Meeting

Held in the
Council Chamber
Nunawading Civic Centre

379 Whitehorse Road Nunawading

on

Monday 28 June 2021

at 7:00pm

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

Mr Simon McMillan
Chief Executive Officer

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Attendance

Cr Barker left the Chambers at 8:42pm, returning at 8:46pm.

9.2.2 Healesville Freeway Reserve Update

ATTACHMENT

SUMMARY

This report considers the Victorian Government - Department Environment Land Water Planning (DELWP) proposal to Council for Council to auspice the committee of management responsibilities for the Healesville Freeway Reserve. The report examines Council's vision for the Healesville Freeway Reserve, as well considering other land management options for the site. The report also reviews opportunities for the development of the reserve particularly in relation to active sport opportunities to address local demand. Officers are seeking direction from Council by way of a response to Department Environment Land Water Planning (DELWP's) committee of management proposal.

COUNCIL RESOLUTION

Moved by Cr Lane, Seconded by Cr Carr

That Council:

- 1. Considers the Department Environment Land Water Planning (DELWP) proposal (dated 21 September 2020) to become Committee of Management of the Crown Land formerly known as the Healesville Freeway Reserve and determines not to accept the Department Environment Land Water Planning (DELWP) offer.**
- 2. Authorises the Chief Executive Officer to write to the Deputy Secretary Corporate Services at Department Environment Land Water Planning (DELWP) advising of Council's decision not to accept the Department Environment Land Water Planning (DELWP) Committee of Management offer.**
- 3. When writing to the Deputy Secretary of the Department Environment Land Water Planning (DELWP) present Council's counter offer which includes the following key points:**
 - That the Crown Land be converted to freehold land and transferred to Council for a nominal consideration.**
 - That the total funds currently held in trust by the Department of Transport be transferred to Council at the time the freehold title/s are transferred to Council.**
 - That Council is committed to establishing and maintaining the former Healesville Freeway Reserve, once the freehold land is transferred to Council, in accordance with the principles established by the current Crown Land Reservation; these being, "Conservation, Recreation and Leisure" purposes.**

CARRIED

9.2.2

(cont)

A Division was called.

Division

For

Cr Carr
Cr Cutts
Cr Lane
Cr Liu
Cr Massoud
Cr McNeill
Cr Munroe
Cr Skilbeck
Cr Stennett

Against

Cr Barker
Cr Davenport

On the results of the Division the motion was declared CARRIED

BACKGROUND

The Healesville Freeway Reserve is made up of 32 hectares of undeveloped VicRoads land running for 3.5 kilometres from Springvale Road in Forest Hill to Boronia Road in Vermont.

The land is reserved for "Conservation, recreation and leisure" purposes under the Crown Land Reserves Act 1978.

Department Environment Land Water Planning (DELWP) is currently managing the reserve with a focus on fire risk management including fuel break construction and mowing, tree risk management and weed management.

In late September 2020 DELWP contacted Council to gauge Council's interest in becoming Committee of Management and establishing the Healesville Freeway Reserve.

Council published a media release on 18 May 2021 updating the community that Council is considering a proposal to become the future land manager of the Healesville Freeway Reserve.

DISCUSSION

For many years Council has advocated and campaigned to the Victorian Government to establish the Healesville Freeway Reserve as publically accessible open space. This advocacy is underpinned by a number of Council resolutions on the matter. A brief summary of the most recent Council resolutions regarding the Healesville Freeway Reserve and its future use is provided below.

24 March 2014

Council resolved to:

1. Notes the role and purpose of Council's alternative vision as a response to VicRoads' concept plans and structure planning process, while acknowledging the ongoing relevance of Council's earlier resolution of 21 February 2011 to

"Request and lobby the Victorian State Government to provide all of the Healesville Freeway land as open space for the community in accordance with Council's preferred option..."

9.2.2

(cont)

2. Endorses the following changes recommended to the alternative vision for the Healesville Freeway Reservation, as noted in the following report and shown in Attachment 1, based on community feedback during consultation:
 - *Retention of the Nunawading Community Gardens entirely in their existing location;*
 - *Removal of the proposed full-sized soccer field, instead setting this land aside for other future recreational uses; and*
 - *Removal of the proposed low-rise apartment building.*
3. Provides VicRoads with the final version of the alternative vision and a summary of the community feedback received during consultation, and sends copies to all local State Members of Parliament and the Opposition.

23 April 2018

Council resolved to

- *“Authorise the Chief Executive Officer to draft a formal response for the Mayor, which is to be addressed to the Minister for Energy, Environment and Climate Change; Minister for Suburban Development...with a copy addressed to the Secretary of the Department of Environment, Land Water and Planning...; advising that the proposed First Right of Refusal process dated 26 February 2018 contravenes the 2014 election commitment given to Whitehorse residents, that Whitehorse residents have been waiting since the 2014 State Election for the Healesville Freeway Reserve to become genuine public open space...”.*

18 March 2019

Council resolved to:

- *Request that “VicRoads and the Department of Environment, Land, Water and Planning appropriately zone the Healesville Freeway corridor for its future use as open space and address the residential zoning of residual parcels as outlined in this report”.*

Respective Agency Visions for the Healesville Freeway Reserve

Independent of each other both Council and the Victorian Government have prepared guiding documents that capture their respective vision for the future use of the Healesville Freeway Reserve. These documents are the Whitehorse City Council – Healesville Freeway Reserve Vision (2014) and DELWP - Healesville Freeway Reserve – Concept Plan (2018). A copy of the Council Vision and DELWP Concept Plan can be found attached.

Both visioning documents express some similar open space planning themes and outcomes however there are notable distinctions.

Broadly speaking the collective vision is that the Healesville Freeway Reserve provides an active transport corridor, nature trails, community gathering spaces, activity spaces and dedicated conservation areas.

The DELWP – Healesville Freeway Reserve – Concept Plan (2018) outlines that four key themes emerged from analysis of the community feedback, namely: access and trails; nature and biodiversity; activity and active spaces; and community and gathering.

The key distinction between the two visions is that Councils vision speaks specifically to creating a sporting precinct within the reserve at Davy Lane. Officers propose that this precinct feature a sporting oval, sports field lighting and associated built infrastructure (pavilion and car park). Council officers will present desk top concepts of how a sporting precinct could be configured within the freeway site during the officer presentation.

9.2.2

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DELWP Committee of Management Proposal

With regards to Council considering this proposal to become committee of management for the Healesville Freeway Reserve officers provide the following commentary.

In late September 2020 DELWP made contact to gauge Council's interest in becoming Committee of Management and establishing the Healesville Freeway Reserve. DELWP advises that Parks Victoria has expressed that establishing and maintaining the Healesville Freeway Reserve does not align strategically with their core role.

It is worth noting that since the development of the DELWP - Healesville Freeway Reserve – Concept Plan (2018) all communication published by the Victorian Government has identified that the future land manager for the Healesville Freeway Reserve would be an agency of the Victorian Government.

Most recently in May 2021 the Victorian Government released the Open Space for Everyone Strategy which they propose will guide all levels of government in the planning, management and delivery of a quality open space network over the next 30 years. The Open Space for Everyone Strategy features the below action which again identifies a Victorian Government agency delivering the Healesville Freeway Reserve:

Initiative	Description	Directions	Lead
Healesville Freeway Reserve linear park	Finish creating a new park in Vermont that uses the Healesville Freeway road reserve.	- Optimise - Grow	DELWP

Healesville Freeway Reserve Establishment Cost

DELWP have been advised by the Department of Transport (DoT) (Nb. DoT are the Victorian Government agency tasked with the sale of the land) that \$10,585,327 is set aside in trust to fund park planning, establishment and initial maintenance. DELWP also advise that they anticipate that a further \$1 million will be added to the trust through future land sales.

An early order of probable development cost for a linear path (including bridge over Bellbird Dell and drainage works), one play space, one public toilet and two traffic light road crossings is \$10.8 million. This early order of probable development cost is based off a desktop assessment.

Ongoing maintenance for the Healesville Freeway Reserve could be in the order of \$250,000 per year and is a combination of additional staff/equipment and contract works. City Services and Parks and Natural Environment would be responsible for this service.

Please note that the above early order of probable development cost and ongoing maintenance charge does not include the establishment or maintenance of active sporting precinct/s.

There may be an opportunity to draw financial resources from the Open Space Reserve to complement the DELWP capital investment funding. The additional funding would enable Council to deliver the full scope rather than stage the delivery over multiple years.

Council officers will present early order probable development costs for active sporting precincts within the Healesville Freeway Reserve during the Council Briefing session.

9.2.2

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Land Management Options

Option 1: Council becomes Committee of Management (COM) of Crown Land (as proposed in the letter):

- Council will be the COM in accordance with the *Crown Land (Reserves) Act 1978*.
- Council will administer the land in accordance with the abovementioned act and any future use/s must comply with the “Conservation, Recreation, Leisure and Tourism” reservation set by DELWP.
- DELWP will continue to have an oversight role and ultimately a controlling interest. For example DELWP will approve any building permits under the *Building Act 1993*
- Council will have leasing restrictions which are not particularly onerous but they do relieve Council of the COM obligations if the lease term (including options) is greater than 21 years.
- Crown Land is heavily restricted land and the asset value attributable to Crown Land is less than 20% of the full land value. This is because DELWP retain the controlling interest.
- The COM is responsible for all infrastructure costs and ongoing maintenance costs.
- There are at least two vegetation off-set areas on the HFR land which relate to vegetation removal associated with Victorian Government Level Crossing Removal Projects. It is assumed that these off-sets will run with the land and that the COM would be responsible for the maintenance of the off-set areas; this may require some future legal advice.
- Typically Crown Land in Victoria is covered by the Crown’s public liability insurance, this means that Council won’t have a public liability insurance cost.

Open Space Planning and Utilisation Consideration of Option 1

- All infrastructure proposals need approval from DELWP. There are historical examples of DELWP and Council having conflicting ideals. Furthermore the approval process for infrastructure can be exhaustive and timely.

Option 2: Council becomes owner with the Crown Land transferred to Council

- Council may consider presenting a counter offer to DELWP and request that the land be transferred to Council as freehold.
- Freehold is highest form of land ownership.
- This would require a conversion from Crown Land to freehold land.
- The sale price to Council should be a “pepper-corn”.
- Owning the land would increase Council’s land asset base.
- DELWP will not have any interest in the land.
- Owning the land would remove the DELWP oversight role and remove the “Conservation, Recreation, Leisure and Tourism” reservation.
- As Council freehold land it would be on Council’s public liability insurance.
- Any additional capital investment from Council could also be used to incentivise Council’s negotiations with the DELWP with regards to requesting the land be gifted to Council. Rather than Council becoming Committee of Management.

Open Space Planning and Utilisation Consideration of Option 2

- Council will have the widest range of flexibility available to plan, deliver and manage the Healesville Freeway Reserve. This would allow Council to respond to community needs and adapt the infrastructure and uses of the reserve as they emerge over time. Officer’s assessment of this option is that this option is unlikely to be supported by the Victorian Government.

9.2.2

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Option 3: Council declines to be involved and the land remains managed by Victorian Government agency:

- Assuming Parks Victoria become the COM, Council would either: 1) negotiate Crown Land leases with Parks Victoria for the parcels of Crown Land that we currently occupy or 2) similar to the 18th tee land at Morack Golf Course, Council become the COM for those occupied parcels.
- Council needs to ensure that the title boundaries between Council owned land and the Crown Land are correctly aligned on their title boundary. NB: The Council owned land north of the 17th fairway at Morack Golf Course is encroached by the HFR land.
- Nb. Council was appointed the COM for the 18th tee Crown Land in September 2019.

Open Space Planning and Utilisation Consideration of Option 3

- Council will be limited in its influence with regards to the timing of the establishment of the reserve, the infrastructure provided within the reserve and the level of service provided when the reserve is established. Furthermore the opportunity to activate Davy Lane and Boronia Road for active sport may be limited.

Option 4: Hybrid approach

Hybrid approach that blends either options 1 and 2.

Council may choose to request that DELWP consider excising Davy Lane and other sites that we deem as high priority areas of interest. Council can then plan, develop, activate and maintain these sites with the typical level of service provided by Council.

Open Space Planning and Utilisation Consideration of Option 4

- This option will allow Council to future proof key strategic open space sites (Davy Lane and Boronia Road). Officers consider these sites as critical to addressing the existing and emerging demand that the City of Whitehorse has for active sport. Similarly to Option 3 Council will be limited in its influence with regards to the timing of the establishment of the wider reserve, the infrastructure provided within the wider reserve and the level of service provided when the wider reserve is established. Similarly to Option 3, given that a Victorian Government agency will be managing the wider reserve, Council will be limited in its influence with regards to the timing of the planning, establishment and management of the wider reserve.

Conclusion on Land Management Options

From a Council planning, utilisation and management perspective having complete control over a site will ultimately lead to stronger community outcomes. The community will receive a higher level of service (amenity, presentation, asset provision, renewal and maintenance) from a Council managed site than a Victorian Government agency. A key consideration is whether the costs associated with this are disproportionate to the community outcomes.

Unresolved Matters

The DELWP Committee of Management proposal highlights a number of unresolved matters. These matters include the following items:

- A small number of private encroachments, these appear to involve an incorrect alignment of the rear boundary fence.
- The land is currently in disputed Reconciliation Action Plan (RAP) status. On initial approach to Bunurong and Boonwurrung were initially interested in participating, however Wurundjeri declined, based on the disputed status of the land.
- DELWP is aware that some areas of the reserve may be subject to stormwater inundation issues during heavy rains.
- DELWP is aware of additional areas which contain or may contain waste requiring removal. DELWP's intention that all the areas listed above will be cleared prior to a land manager being appointed.

9.2.2

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Officers identified that there is a discrepancy in the value of the reserve. Council records display that DoT have sold \$11.4 million of land within the Healesville Freeway Reserve. On clarification DELWP have advised that the value of the reserve is \$10,585,327, being net proceeds after costs.

Other Matters

Council officers have undertaken a preliminary review of the existing conditions of Council land abutting and adjacent to the HFR and have prepared a list of matters that should be considered by the agency tasked with the master planning and future management of the reserve.

Services

Sewer, gas, water, telecommunication, electrical and stormwater assets and services are located within the HFR servicing the abutting land.

Stormwater

There is a comprehensive network of Council and Melbourne Water managed stormwater drainage assets adjacent to and crossing the HFR land. An assessment of the capacity of the existing stormwater network is required to ensure that it has the appropriate capacity so that any development of the HFR land does not cause flooding problems in the network and overland flow paths are appropriately designed and constructed with a maintenance regime that is acceptable to Council. There may be potential opportunities to create waterways and retarding basins in the HFR as part of the management of the stormwater network.

Road Network

Council is the Road Authority for all roads abutting and traversing the HFR except for Springvale Road and Boronia Road where VicRoads is the Road Authority.

Construction of Moore Road and Stanley Road across the HFR requires investigation to determine the impact of the new road links on the vehicle trip patterns in the area and the operational characteristics of the existing road network by the creation of new intersections.

Environmental Land Management

Historical agricultural land uses have involved the application of chemicals including pesticides and herbicides and storage of chemicals on the HFR. A preliminary assessment of the environmental land conditions has been undertaken on all Council land abutting the HFR. This assessment did not identify any environmental conditions that require management at this time although more investigation will be required when civil works occur.

CONSULTATION

Extensive community consultation was undertaken as part of developing the Whitehorse City Council – Healesville Freeway Reserve Vision (2014) and DELWP – Healesville Freeway Reserve – Concept Plan (2018)

9.2.2

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Should Council become the land manager for the Healesville Freeway Reserve a comprehensive community engagement exercise would be hosted to help inform the Healesville Freeway Reserve Master Plan. The community engagement exercise would be guided by the 2021 City of Whitehorse Community Engagement Policy.

FINANCIAL IMPLICATIONS

Healesville Freeway Reserve Establishment Budget (No active sport precinct/s)




	Budget	Expenditure
Total Budget	10,585,327	
Reserve Establishment		10,800,000
First year maintenance		250,000
Master Planning		100,000
Community Engagement (1no. EFT officer – Band 7 including on-costs)		123,735
Sub Total Expenditure	10,585,327	11,273,735
Total Expenditure		(688,408)

POLICY IMPLICATIONS

City of Whitehorse Open Space Strategy

Whitehorse Recreation Strategy 2015-2024

ATTACHMENT

- 1 DELWP HFR Concept Plan 
- 2 DELWP HFR COM Proposal 
- 3 DELWP Renaming Submission 
- 4 Council 2014 HFR Vision 