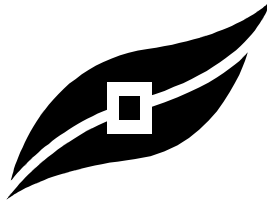


MINUTES



MANNINGHAM
BALANCE OF CITY AND COUNTRY

Ordinary Meeting of the Council

MEETING DETAILS:

MEETING NO: 1
MEETING DATE: 02 February 2016
TIME: 7:00 AM
LOCATION: Council Chamber
699 Doncaster Road, Doncaster

MINUTES

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MANNINGHAM CITY COUNCIL
MINUTES OF THE ORDINARY COUNCIL MEETING
HELD AT COUNCIL CHAMBER
ON
02 FEBRUARY 2016

The meeting commenced at 7:00 AM.

Present: Councillor Jennifer Yang (Mayor)
Councillor Dot Haynes (Deputy Mayor)
Councillor Meg Downie
Councillor Sophy Galbally
Councillor Geoff Gough
Councillor Jim Grivokostopoulos
Councillor Michelle Kleinert
Councillor Paul McLeish
Councillor Stephen O'Brien

Officers Present: Acting Chief Executive Officer, Mr Chris Potter
Director Assets & Engineering, Mr Leigh Harrison
Acting Director Community Programs, Mr Malcolm Foard
Director Planning & Environment, Ms Teresa Dominik
Director Shared Services, Mr Philip Lee
Acting Manager Strategic Governance – Ms Jill Colson

1. OPENING PRAYER & STATEMENTS OF ACKNOWLEDGMENT

The Mayor read the Opening Prayer & Statements of Acknowledgement.

2. APOLOGIES

There were no apologies for this meeting.

MOTION OF CONDOLENCE – MRS HELEN LARKIN

The Mayor advised Councillors that it was with deep regret and sadness that she had to inform Council of the recent passing of Helen Larkin, the widow of Freeman of the City, ex-Cr Bill Larkin and former Mayoress of the City of Doncaster & Templestowe and also the City of Manningham.

MOVED: HAYNES
SECONDED: GOUGH

That Standing Order 16.1 be suspended to enable a motion of condolence to be taken.

CARRIED

**MOVED: HAYNES
SECONDED: GOUGH**

That this Council:

- **Place on record its sorrow and regret at the recent passing of Helen Larkin;**
- **Record its appreciation of the contribution by Mrs Larkin to the local Manningham community; and**
- **Pass on to her family its sincere sympathy and deepest condolences at this very sad time.**

CARRIED by Councillors Standing in Silent Assent

**MOVED: HAYNES
SECONDED: GOUGH**

That Standing Orders be resumed.

CARRIED

3. PRIOR NOTIFICATION OF CONFLICTS OF INTEREST

The Chairman invited Councillors to disclose any conflict of interest in any item listed on the Council Agenda.

The CEO advised Council that he had received a written disclosure of a conflict of interest from Cr Michelle Kleinert for Item 10.1 concerning Templestowe Village Special Charge Scheme 2015-2020 – Further Consultation, the interest being an indirect interest because of close association.

4. CONFIRMATION OF MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD ON 15 DECEMBER 2015

**MOVED: DOWNIE
SECONDED: GRIVOKOSTOPOULOS**

That the Minutes of the Ordinary Meeting of Council held on 15 December 2015 be confirmed.

CARRIED

5. VERBAL QUESTIONS FROM THE PUBLIC

There were no public questions.

6. PRESENTATIONS

The Mayor acknowledged the following award recipients:-

6.1 Council's Citizen and Young Citizen of the Year Award

Geoff Kloot and Chandler Lancaster.

6.2 Menzies Community Australia Day Awards

Cr Dot Haynes

Ms Wendy Ross, Council's School Focused Youth Service Coordinator.

6.3 Manningham Australia Day Perpetual Trophy

Helen Jurcevic and the Women's Friendship Group.

6.4 Australia Day Honours

Manningham residents who received either the (Medal of the Order of Australia (OAM) or Member of the Order of Australia (AM) were:-

- Scott Didier OAM
- Howard Fearn-Wannan OAM
- Abdul Kazi AM
- Br Sean Keefe OAM
- Jock MacNeish OAM
- Tony Monley OAM
- Stephen Pascoe OAM
- Nicholas Tonti-Filippini AM

7. PETITIONS AND JOINT LETTERS

There were no petitions.

8. ADMISSION OF URGENT BUSINESS

There were no items of Urgent Business.

9. PLANNING PERMIT APPLICATIONS

There were no Planning Permit Application Reports.

10. PLANNING & ENVIRONMENT

10.1 Templestowe Village Special Charge Scheme 2015-2020 - Further Consultation

Responsible Director: Director Planning & Environment

File No. T16/6

The ultimate destination for this report is: COUNCIL AGENDA

Neither the responsible Director, Manager nor the Officer authoring this report has a conflict of interest in this matter.

SUMMARY

The purpose of this report is to consider whether Council should discontinue the Templestowe Village Special Charge Scheme pursuant to section 164(1) of the Local Government Act 1989.

On 25 August 2015 Council declared a special charge for the Templestowe Village Shopping Centre to support marketing and business development initiatives within the Centre. The Scheme would raise a total of \$270,000 over the next five years and would be based on an initial charge of \$700pa for primary benefit properties (74) and \$350pa for secondary benefit properties (7). The special charge has now been levied by Council on those persons who, under the Local Government Act 1989, are liable to pay the special charge.

A significant number of business owners have since applied to the Victorian Civil and Administrative Tribunal (VCAT) for a review of the special charge.

Having regard to the increased level of opposition to the Special Charge, as well as the significant cost for Council to contest the matter at VCAT, at its meeting of 24 November 2015, Council confirmed that it intended to consider a report at the 2 February 2016 meeting on whether or not it should discontinue the Special Charge Scheme. Council also supported requesting any person liable or required to pay the special charge to make a written submission on whether they support or object the proposed discontinuance of the Scheme. Any owner or occupier who chose not to make a submission was to be considered to support the proposed discontinuance.

A total of 162 property owners and occupiers were invited to make a submission by Friday 15 January, 2016. The final result of the further consultation is that 91.4% of business owners (34 submissions and 40 non-responses taking into account one vacancy) and 85.2% of property owners (26 submissions and 43 non-responses) have been deemed to support the discontinuance of the Scheme.

The proposed Special Charge Scheme was to be a positive local economic development initiative which would encourage and generate competitive commerce, retail, and professional activity and employment in the Templestowe Village Shopping Centre.

However, having regard to the confirmed lack of support for continuing the Scheme it is recommended that under the relevant provisions of the Local Government Act 1989 Council formally discontinue the Scheme.

1 BACKGROUND

- 1.1 On 25 August 2015 Council declared a Special Charge Scheme for the 81 properties making up the Templestowe Village Shopping Centre to support marketing and business development initiatives in the Centre from 1 July 2015 to 30 June 2020 (5 years).
- 1.2 The special charge has now been levied by Council on those persons who, under the *Local Government Act 1989* (the Act), are liable to Council to pay the special charge. In most cases, those persons are the rated owners of the properties, even though the occupiers of the properties (as business tenants) may be required to pay (or to reimburse property owners with) the respective special charges payable by them (under separate arrangements which exist under the leases between the property owner and the business tenant).
- 1.3 The decision of Council to declare the special charge followed extensive consultation with both the owners and occupiers of the properties in the Templestowe Village Shopping Centre and included evidence of 75% of the businesses supporting the Scheme.
- 1.4 In response to formal notification of its intention to declare the Special Charge Scheme, Council received 27 written submissions (10 in support and 17 objecting) from the owners and occupiers of the 81 properties affected by the Scheme. Accordingly, on the basis of what was considered to be minimal objection to the Scheme Council went on to formally declare the Scheme.
- 1.5 Utilising rights of appeal under the Act, a total of 37 business owners applied to the Victorian Civil and Administrative Tribunal (VCAT) for a review of the special charge.
- 1.6 Having regard to the increased level of opposition to the Special Charge, as well as the significant cost for Council to contest the matter at VCAT, at its meeting of 24 November 2015, Council confirmed that it intended to consider a report at the 2 February 2016 meeting on whether or not it should discontinue the Special Charge Scheme. Council also supported requesting any person liable or required to pay the special charge to make a written submission on whether they support or object the proposed discontinuance of the Scheme. Any owner or occupier who chose not to make a submission was to be considered to support the proposed discontinuance.
- 1.7 On 1 December 2015, business and property owners were provided with information about the process and were asked to return a proforma that indicated their support or objection to the discontinuance of the Scheme. If a submission was not received, it was considered that the business or property owner supported the discontinuance.

2 PROPOSAL/ISSUE

- 2.1 The further consultation that has taken place, in accordance with the resolution of Council at its meeting on 24 November 2015, now indicates that there is minimal support for the Scheme. With 91.4% of business owners and 85.2% of property owners supporting the discontinuance of the Scheme, this report proposes that Council resolve to discontinue the Templestowe Village Special Charge Scheme.
- 2.2 The consultation period closed on 15 January 2016 with 91.4% of business owners (34 submissions and 40 non-responses taking into account one

vacancy) and 85.2% of property owners (26 submissions and 43 non-responses) supporting the discontinuance of the Scheme.

Consultation result	Property occupier	Property owner
Supports discontinuing (submission)	34 (42%)	26 (32.1%)
Supports discontinuing (non-response)	40 (49.4%)	43 (53.1%)
Objects discontinuing (submission)	6 (7.4%)	12 (14.8%)
Vacancy	1 (1.2%)	NA
TOTAL	81	81

3 PRIORITY/TIMING

- 3.1 The Practice Day hearing relating to the VCAT request for review took place on Friday 27 November 2015 at which the Tribunal was informed of Council's resolution of 24 November in relation to the matter. On the basis of that information the Tribunal set a preliminary hearing date for beyond the 2 February 2016 Council meeting date, should the request for review proceed.
- 3.2 The period for the further consultation took place between 1 December 2015 and 15 January 2016. The resolution at the 24 November 2015 Council meeting was to consider a report at its 2 February 2016 meeting once the further period of consultation had been completed. Consideration of submissions as part of this process is to take place before a decision is made on whether or not to discontinue the Scheme.

4 POLICY/PRECEDENT IMPLICATIONS

- 4.1 Relevant to Council's consideration to discontinue the Scheme are the following strategic items:
- 4.1.1 Under theme of is Everything We Need Is Local the Council Plan states that:
Promotion of distinct villages and activity centres are valued and cultivated and we aim to support businesses and traders to build a resilient local economy.
- 4.1.2 A related goal in the Council Plan is that:
Our distinct villages and activity centre are vibrant places to meet and provide support to local businesses and traders.
- 4.1.3 In addition a strategic indicator in the Council Plan is participation in special rate and charge scheme and the measure is "*Number of activity centres participating in a Special Rate and Charge Scheme for marketing and promotion.*"
- 4.1.4 Under the Strategic Direction of Activating and Improving Activity Centres Council's Economic Development Strategy 2011-2030 includes an objective "*Provide Activity Centres and the Retail Sector with support structures and industry information*". Action

20 under that objective, “*Support the development and implementation of Special Rate and Charge Schemes for Business and Marketing Plans and activities*”, displays commitment to *Special Rate and Charge Schemes*.

5 BEST VALUE

- 5.1 The discontinuance of the Scheme will not offer any ongoing value for money cost savings other than through the administrative processes of introducing and renewing a Special Charge Scheme.
- 5.2 The discontinuance of the Scheme will provide significant and immediate cost savings through the negation of subsequent legal costs of engaging legal representation to continue the legal proceedings at VCAT.

6 CUSTOMER/COMMUNITY IMPACT

- 6.1 The discontinuance of the Scheme means property/business owners would no longer be required to make the annual contribution of \$700 or \$350 to the Scheme. This would also mean that the funding made available through a scheme to enable promotional activities to benefit the traders and the local community would no longer be available.
- 6.2 Without the Scheme there will no longer be financial support to implement the actions of the *Templestowe Village Business Plan 2015-20* which was written in consultation with business owners as part of the renewal process.
- 6.3 Without this financial support and combined promotional activity it is unclear what the economic ramifications for the activity centre will be into the future.

7 COUNCIL PLAN/ MEASURE OF ACHIEVEMENT OF ACTION

- 7.1 The renewal of the Special Charge Scheme at Templestowe Village Shopping Centre was in accordance with Council's overall vision and capacity to influence a vibrant, desirable retail and commercial hub within this activity centre.
- 7.2 The *Manningham Council Plan (2013-2017)* supports sustainable, cohesive and well resourced communities with relevant services and facilities. Council seeks to ensure all community members have access to vital services that meet their needs, and values our distinct local villages and activity centres, seeking to promote and support businesses and traders to build a resilient local economy. A key strategic indicator in the current Manningham Council Plan is measured by participation in Special Rate and Charge Schemes for the purposes of marketing and promotion.

8 FINANCIAL PLAN

- 8.1 The Templestowe Village Special Charge Scheme was to raise \$54,250 in the 2015/16 financial year. The Templestowe Village Traders Association also received funding through payment from businesses utilising advertising space on its entrance signage of approximately \$4,800 per annum.
- 8.2 At the time of declaring the special charge on 25 August 2015 Council also resolved that the Templestowe Village Traders Association be authorised to administer the proceeds of the Special Charge on condition of entering into a funding agreement (including specific reporting requirements) with Council for the period of the special charge, that the Manager Economic and

Environmental Planning be authorised to prepare such an agreement and that Council authorise the affixing of the common seal to such an agreement.

- 8.3 Whilst the agreement was prepared and signed by the Traders' Association it has not been signed on behalf of Council so there is no need to terminate any such agreement.

9 FINANCIAL RESOURCE IMPLICATIONS

- 9.1 The discontinuance of the Scheme will equate to approximately \$15,000 in administrative savings over the five year period of the Scheme. In addition, there will be savings to Council in legal costs of the VCAT hearing does not proceed.
- 9.2 For the 2015/16 year the forecasted \$54,250 income and expenditure will need to be adjusted.

10 SUSTAINABILITY

- 10.1 Discontinuance of the Special Charge Scheme could affect the economic sustainability of the Templestowe Village Shopping Centre given that promotion and marketing activities associated with the Centre have relied on the funds from the Special Charge Scheme since 2010 (and a previous infrastructure Scheme from 1997-2002).

11 REGIONAL/STRATEGIC IMPLICATIONS

- 11.1 A recent study from Mainstreet Australia and Essential Economics (The Economic Value of Main Street, May 2011) indicated that there are in excess of 70 Special Rate and/or Charge Schemes (for the purposes of marketing and promotion) operating throughout Victoria. The study highlighted that management and marketing programs funded by Special Rates and Charges are playing an increasingly important role in supporting the viability and health of main streets in Victoria. There are schemes in nearly one third of Victorian Councils and approximately \$7.6 million is generated directly by Special Rates and Charges. Adoption of a Special Rate and Charge Scheme is identified as the current best practice financial model to sustain a long term marketing and management framework for main street precincts, shopping and town centres.
- 11.2 Should the Templestowe Village Special Charge Scheme be discontinued, this will leave Tunstall Square and Warrandyte shopping precincts as the remaining activity centres in Manningham operating a Special Rate or Charge Scheme. The Warrandyte Traders' Association is currently preparing an application for the renewal of its scheme.

12 CONSULTATION

- 12.1 In accordance with its decision on 24 November 2015, further consultation was undertaken to determine the level of support or otherwise for discontinuing the Special Charge Scheme.
- 12.2 On 1 December 2015, 162 business and property owners were provided with information about the process and were asked to return a proforma that indicated their support or objection to the discontinuance of the Scheme. If a submission was not received, it was considered that the business or property owner supported the discontinuance.
- 12.3 The outcomes of the consultation are described in section 2.2 of this report.

13 CONCLUSION

- 13.1** The proposed Special Charge Scheme was to be a positive local economic development initiative which would encourage and generate competitive commerce, retail and professional activity and employment in the Templestowe Village Shopping Centre.
- 13.2** However, given the increased level of opposition to the Special Charge since it was first requested, as evidenced by both the number of parties involved in the joint application for review and the significant level of support to discontinue the Scheme in the further consultation, in addition to the significant cost for Council to contest the matter at VCAT, it is considered appropriate for Council to discontinue the Special Charge Scheme in accordance with section 164(1) of the *Local Government Act 1989*.

OFFICER'S RECOMMENDATION

That Council:

- (A) Notes the significant level of support (both direct and by lack of lodgement of a submission) for discontinuance of the Templestowe Village Special Charge Scheme.**
- (B) Discontinues the Templestowe Village Special Charge Scheme pursuant to section 164 (1) of the Local Government Act 1989.**
- (C) Informs the Victorian Civil and Administrative Tribunal of its decision to discontinue the Templestowe Village Special Charge Scheme.**
- (D) Notifies the Templestowe Village Traders' Association and all persons liable or required to pay the special charge of its decision to discontinue the Scheme.**
- (E) Refunds any monies which may have been received as payment of the Templestowe Village Special Charge Scheme (declared on 25 August 2015).**
- (F) Notes that adjustments will be made to reflect the financial position of the discontinuance.**

Conflict of Interest

Cr Kleinert stated: *Councillors, I wish to disclose that I have a conflict of interest in this item being an indirect interest of close association and I will be leaving the meeting room.*

MOVED: GRIVOKOSTOPOULOS
SECONDED: GOUGH

That the Recommendation be adopted.

CARRIED

Having disclosed her conflict of interest Cr Kleinert left the meeting room at 7.17pm and returned at 7.22pm after the matter had been finalized and took no part in the discussion and voting on this item.

* * * * *

10.2 Plan Melbourne Refresh - Council Submission

Responsible Director: Director Planning & Environment

File No. T15/293

The ultimate destination for this report is: COUNCIL AGENDA

Neither the responsible Director, Manager nor the Officer authoring this report has a conflict of interest in this matter.

SUMMARY

The purpose of this report is to provide a response to Plan Melbourne Refresh.

The Minister for Planning has announced a review of Melbourne's metropolitan planning strategy – Plan Melbourne.

The review of this Strategy is known as the Plan Melbourne Refresh, and the Department of Environment, Land, Water and Planning (DELWP), on behalf of the Minister for Planning, was seeking feedback on the Plan Melbourne Refresh Discussion Paper by 18 December 2015. It is anticipated that the revised Plan Melbourne will be released in mid-2016.

Council officers have responded to specific questions as recommended by DELWP (see Attachment 1), and have also prepared a submission summary which clearly articulates Manningham's priorities (see Attachment 2). These priorities include:

- Improving environmental sustainability for long term resilience;*
- Redesignating Doncaster Hill as a Metropolitan Activity Centre to attract and increase employment opportunities (as part of the broader role of middle ring suburbs to increase employment opportunities);*
- Improving public transport including extending the heavy rail line to Manningham;*
- Increasing the provision of affordable housing;*
- Providing for innovative health services solutions; and*
- Ensuring a partnership approach to implementation of Plan Melbourne that strongly recognises the role of local government.*

Due to timing constraints, a Council resolution to support the Council officer response was not achievable prior to 18 December 2015.

The draft Council officer response to the Plan Melbourne Refresh (which includes submission form template responses and a submission summary) was forwarded to DELWP on 18 December 2015.

Any changes to the Plan Melbourne Refresh Council officer response resulting from this Council meeting will be clearly detailed and forwarded to DELWP. This approach was supported by DELWP.

1 BACKGROUND

- 1.1 In 2013, the previous State Government announced that a new metropolitan strategy would be prepared to replace *Melbourne 2030* and *Melbourne @5 million*. The purpose of the new metropolitan strategy, *Plan Melbourne*, was to guide Melbourne's growth and development over the next 30-40 years.
- 1.2 At its meeting of 17 December 2013, Manningham City Council endorsed a response in relation to the draft *Plan Melbourne*.
- 1.3 *Plan Melbourne* was finalised in 2014.
- 1.4 The current State Government announced a review of *Plan Melbourne* in March 2015. The Minister for Planning reconvened the Ministerial Advisory Committee that was originally established to guide the preparation of *Plan Melbourne* in 2013-2014, to review the metropolitan strategy and recommend changes. The Ministerial Advisory Committee's recommended changes were used to prepare the *Plan Melbourne Refresh Discussion Paper*.
- 1.5 The *Plan Melbourne Refresh Discussion Paper* (the 'Discussion Paper') was released in mid-October 2015 for review and feedback.
- 1.6 The refresh is not intended to comprehensively revise *Plan Melbourne 2014*. It intends to build upon the previous work and consultation that was undertaken.
- 1.7 The refresh seeks to:
 - Strengthen the focus on climate change, energy efficiency and housing affordability;
 - Achieve an enduring strategy with a focus on longer-term rather than short-term actions;
 - Incorporate current transport commitments and priorities, including the Melbourne Metro Rail Project;
 - Reflect progress in implementation of *Plan Melbourne 2014* related policy reviews, such as transport initiatives, the implementation of the new residential zones, apartment standards, Open Space and Boulevards strategies and the Yarra River Strategy;
 - Better define how implementation and outcomes will be measured;
 - Update data and projections;
 - Reflect significant changes in the form of housing being developed which affects the associated projections in *Plan Melbourne 2014*; and
 - Improve clarity and usability.
- 1.8 A submission form template has been available by DELWP with specific questions to be answered, and councils have been encouraged to use this template.

2 PROPOSAL/ISSUE

- 2.1 Council officers have prepared responses to relevant questions in the submission form template (see Attachment 1). The responses to the questions include:

- Comments and concerns that were not addressed from our previous response in 2013 to the draft *Plan Melbourne*; and
 - Additional comments and feedback from a number of service units and teams, including: Environment, the Doncaster Hill Place Manager, Economic Development, Social and Community Services, Engineering and Technical Services (including Traffic and Transport), Emergency Management and Strategic Governance.
- 2.2 In addition to the above submission form template, a submission summary has been prepared (see Attachment 2) that more clearly articulates Council's advocacy priorities as they relate to *Plan Melbourne*.
- 2.3 The submission summary addresses the following areas:
- **Environmental Sustainability to ensure greater long-term resilience** – The overarching principle of Environmental Sustainability should be broadened and addressed upfront in *Plan Melbourne 2016*, and greater direction and certainty is required in relation to natural hazards, the protection and restoration of biodiversity, the facilitation of renewable and low-emission energy.
 - **Doncaster Hill Metropolitan Activity Centre and employment attraction** – Doncaster Hill needs to be redesignated as either an existing or future Metropolitan Activity Centre throughout *Plan Melbourne 2016* to unlock job creating opportunities. Doncaster Hill can relieve pressure from neighbouring Metropolitan Activity Centres, as public transport and road infrastructure are currently at capacity. By being identified as a Metropolitan Activity Centre, its real potential to take pressure off regional capacity constraints can be realised.
 - **Improving public transport including the heavy rail line extension to Manningham** – The provision of new public transport infrastructure must remain a high priority if increased employment opportunities are to be realised. Unlocking the spare capacity of existing infrastructure needs to be addressed in *Plan Melbourne*, together with better connections for pedestrians and cyclists using public transport.

Greater certainty and commitment for the delivery of the rail line to Doncaster Hill is required.
 - **Affordable Housing (including affordable housing for those with an intellectual or physical disability)** – The introduction of planning mechanisms (either regulatory or incentive based) to increase the provision of affordable housing is supported and needs to be addressed in *Plan Melbourne 2016*, and included in planning schemes.

Greater direction is also required about the upfront and ongoing management of affordable housing to ensure it remains affordable. In addition, social and affordable housing for those living with a disability needs to be addressed.
 - **Innovative health services solutions** – Manningham is geographically well suited to provide an innovative response to the provision of health services. Health services, such as a clustered

'Multi-Medical Specialist Service', are required within Manningham to assist with serving the needs of the municipality and the broader region. As such, the future provision of innovative health services solutions should be demonstrated in *Plan Melbourne 2016*.

- **Implementation** – It is important that a partnership approach to implementation be employed, particularly with local government. It is also important that a rolling implementation plan be developed with an allocated budget that is supported by the State Government budget cycle.

The allocation of short term priorities should also be equitable across Melbourne. More specifically, the allocation of budget to undertake short term priorities should be based on merit, need and the overall impact they will have on the functionality of Melbourne. It is also important that the budget allocation is transparent and that all municipalities receive infrastructure improvements as part of the short term priorities.

In order to ensure effective implementation, the role of the Metropolitan Planning Authority and sub-regional groups of councils needs to be better defined, and a monitoring framework needs to be prepared and updated regularly.

- 2.4 It is recommended that Attachments 1 and 2 be endorsed as Council's response to the Plan Melbourne Refresh.

3 PRIORITY/TIMING

- 3.1 Submissions on the *Plan Melbourne Refresh Discussion Paper* were due on 18 December 2015.
- 3.2 DELWP advised that if a Council resolution is not achievable prior to 18 December 2015; a draft Council officer submission can be lodged. DELWP has also advised that following the Council meeting, any resulting changes to Council's submission can be forwarded to DELWP.
- 3.3 Following the close of submissions, all feedback received through submissions, public comment and stakeholder engagement workshops will be considered by DELWP. The feedback will inform the preparation of *Plan Melbourne 2016*. The draft plan will be reviewed by the Ministerial Advisory Committee and following this it is expected that *Plan Melbourne 2016* will be finalised in mid-2016 and then introduced into planning schemes.

4 POLICY/PRECEDENT IMPLICATIONS

- 4.1 *Plan Melbourne 2014* is currently referenced throughout the State Planning Policy Framework (SPPF) within the Manningham Planning Scheme.
- 4.2 Council has been advised that upon finalisation of *Plan Melbourne 2016* (in mid-2016), Victorian planning schemes will be updated to reflect any revisions. This may result in further changes to the SPPF, or to other provisions that relate to climate change, energy efficiency and housing affordability.

5 CUSTOMER/COMMUNITY IMPACT

- 5.1 Revisions to *Plan Melbourne*, should they occur as a result of Council's submission, will result in positive community outcomes.

6 FINANCIAL RESOURCE IMPLICATIONS

- 6.1 The submission in relation to *Plan Melbourne* has been prepared using existing resources in the Economic and Environmental Planning Unit. It is not anticipated that *Plan Melbourne 2016*, when it is released in 2016, will result in additional staff resources.

7 SUSTAINABILITY

- 7.1 The refresh seeks to strengthen the focus on climate change and energy efficiency.
- 7.2 The submission endorses this focus, and further emphasises the importance of environmental sustainability as an overarching theme in *Plan Melbourne 2016*.

8 CONSULTATION

- 8.1 Information regarding the Plan Melbourne Refresh was placed:
- On the homepage of the Manningham website under the Latest News slider (since 10 November 2015); and
 - In the Manningham Leader half page advertisement on 23 November 2015.
- 8.2 Our community was encouraged to review the Plan Melbourne Refresh information, and lodge submissions directly to DELWP.

9 CONCLUSION

- 9.1 The options and potential changes identified in the Discussion Paper are generally considered positive, as they seek to strengthen the focus of climate change, energy efficiency, affordable housing and importantly, the implementation of the strategy.
- 9.2 However, there are a number of outstanding matters from Manningham's previous submission in December 2013 that were not addressed in *Plan Melbourne* and are still considered relevant. In addition, Council officers have identified other changes to *Plan Melbourne 2016* that would result in positive outcomes for our existing and future communities. These outstanding matters and recommended changes have been included in the DELWP submission form template (Attachment 1) and our own submission summary (Attachment 2).

OFFICER'S RECOMMENDATION**That Council:**

- (A) Notes that the draft Council officer response to the Plan Melbourne Refresh (Attachments 1 and 2) was forwarded to the Department of Environment, Land, Water and Planning on 18 December 2015.**

- (B) Endorses Attachment 1 (responses to the submission form template) and Attachment 2 (the submission summary that articulates our advocacy priorities) being reconfirmed as Manningham’s submission to the Department of Environment, Land, Water and Planning.**
- (C) Notes Attachments 1 & 2 will be resubmitted as Council’s endorsed submission.**

MOVED: GALBALLY
SECONDED: KLEINERT

That the Recommendation be adopted.

CARRIED

Attachment 1 – Submission Form responses
Attachment 2 – Submission Summary

* * * * *

ATTACHMENT 1

Manningham City Council

Plan Melbourne Refresh Submission Form

Chapter 2: Growth, challenges, fundamental principles and key concepts

1. The discussion paper includes the option (option 5, page 16) that Plan Melbourne better define the key opportunities and challenges for developing Melbourne and outlines some key points for considerations in Box 1. *Are there any other opportunities or challenges that we should be aware of?*

- Infrastructure tends to 'catch up' with population growth. It's important that essential **infrastructure be delivered prior to significant population growth**, and not, as noted in the Discussion Paper "as early as possible."
- Plan Melbourne 2014 refers to harmonising public transport services. Although this is supported, it should be revised to refer to **'harmonising and better integrating' public transport services**, to ensure that people can easily move through sustainable modes such as public transport, walking and cycling.
- Affordable housing will be critical into the future. Mechanisms/initiatives currently in place and those required to facilitate the **provision of affordable housing in the future** need to be explored further in Plan Melbourne 2016.
- Creating a socially inclusive city, with appropriate design styles, street layouts, scale of buildings, landmarks, meeting places, open spaces, community safety, is a challenge. The role of housing and site design in **enabling socially connected and healthy neighborhoods** and communities is important and guidance should be provided to improve this.
- Promoting community inclusion and harmony at a local, regional and State level is both an opportunity and challenge. It is important that **Councils are enabled to support local communities** to develop and foster their own identity, as well promote harmony across the city.
Higher density development and transient populations can make this even more challenging. The provision and funding of public art, community spaces, historical sites, and high quality attractive public spaces to enhance community pride and enjoyment etc., would all have a positive impact on community feel.
- **Planning for future service needs** of an ageing population in terms of accessibility, public safety and connectedness, is also a significant challenge that the State Government and local Councils will need to address.

2. The discussion paper includes the option (option 6, page 18) that the United Nations Sustainable Development Goals be included in Plan Melbourne 2016. *Do you agree with this idea? If so, how should the goals be incorporated into Plan Melbourne 2016? Choose one option:*

- Strongly Disagree
 Disagree
 Agree
 Strongly Agree

Please explain your response:

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- Although there are 17 goals, a number of them refer to social equity principles. Where they are useful is in the wider conceptualisation of environmental impact than that envisioned by Plan Melbourne. Environmental impact is much more than just climate change and biodiversity. The Sustainable Development Goals touch on environmental issues relating to fresh water, seas, sustainable agriculture and food security; however the goals do not adequately address waste. It is important that waste be appropriately addressed in Plan Melbourne even though it may not be in the Sustainable Development Goals. Melbourne has and will have a profound impact on all of the matters raised in the Sustainable Development goals. Its 'resource' hinterland is far bigger than just its built form. The Goals could either be addressed clearly in Plan Melbourne 2016, or form part of the Strategic Environmental Principles mentioned later in the Discussion Paper. Either way, it is important that the word '*sustainable*' *isn't tokenistic* or a catchphrase in Plan Melbourne 2016.

3. The discussion paper includes the option (option 7, page 18) to lock down the existing urban growth boundary and modify the action (i.e. the action under Initiative 6.1.1.1 in Plan Melbourne 2014) to reflect this. *Do you agree that there should be a permanent urban growth boundary based on the existing boundary? Choose one option:*

- Strongly Disagree
 Disagree
 Agree
 Strongly Agree

Please explain your response:

- Council supports the creation of a permanent boundary around Melbourne. The permanent boundary will assist in protecting the agricultural values of land, the broad range of environmental and lifestyle values of the green wedge within Manningham and for the whole of Melbourne. The community's effort to continue to reinforce these values is a major consideration for *maintaining Manningham's existing green wedge boundary*. The Strategy also needs to recognise the importance of areas such as the Low Density Residential Zone in forming a buffer between the green wedge and urban residential areas. (This was taken from page 4 from our initial Plan Melbourne submission).

4. The discussion paper includes the option (option 8, page 18) that Plan Melbourne 2016 should more clearly articulate the values of green wedge and peri-urban areas to be protected and safeguarded. *How can Plan Melbourne 2016 better articulate the values of green wedge and peri-urban areas?*

- Council encourages and supports implementation of measures that seeks to *protect high-quality agricultural land* in Melbourne.
- Plan Melbourne 2016 can better articulate the values of green wedge and peri-urban areas by making it clear that these themes are *central to Melbourne's identity*, sense of place and quality of life.
- From a local perspective, Council would also like to encourage the State Government to consider *revising the Rural Conservation Zone* to enable the sale of manufactured / processed foods grown on the land, which is an issue in Manningham for ensuring ancillary uses to assist

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farmers to stay on the land. (This was taken from page 14 from our initial Plan Melbourne submission).

- However, recent changes to the Rural Conservation Zone as part of the reformed zones has also opened up the green wedge to inappropriate development. The changes eroded the **underlying rationale of applying the zone** to green wedge land in order to protect environmental and landscape value. Plan Melbourne 2016 also needs to recognise the importance of the role areas such as the Low Density Residential Zone play in forming a buffer between the green wedge and urban residential areas. (This was taken from pages 15/16 from our initial Plan Melbourne submission).

5. The discussion paper includes the option (option 9, page 18) to remove the concept of an Integrated Economic Triangle and replace it with a high-level 2050 concept map for Melbourne (i.e. a map that shows the Expanded Central City, National Employment Clusters, Metropolitan Activity Centres, State-Significant Industrial Precincts, Transport Gateways, Health and Education Precincts and Urban Renewal Precincts). **What elements should be included in a 2050 concept map for Melbourne?**

- The elements identified in this question should be included in the 2050 concept map.
- **Doncaster Hill** needs to be identified as a **Metropolitan Activity Centre** (MAC) on the 2050 concept map for Melbourne to reflect its current and future role.
- The concept map should also **identify current and future rail and road connections**, which should include a rail line to Doncaster Hill, an extension of tram route 48 from the Doncaster Road/ Balwyn Road intersection through to Doncaster Hill (and possibly through to Tunstall Square), and the North East Link Freeway.

6. The discussion paper includes the option (option 10, page 18) that the concept of Melbourne as a polycentric city (i.e. a city with many centres) with 20-minute neighbourhoods (i.e. the ability to meet your everyday (non-work) needs locally, primarily within a 20-minute walk) be better defined. **Do the definitions adequately clarify the concepts? Choose one option:**

- Strongly Disagree
 Disagree
 Agree
 Strongly Agree

Please explain your response:

- The concept of a 20-minute city is consistent with established planning principles of urban consolidation, good design and sustainable living, and which emphasises the **clustering of services and facilities close to residential areas** which can be easily accessed by walking and cycling.
It is important that the definition of the **20-minute city concept be clarified** so that it refers to the local neighbourhood being accessible to meet everyday needs within a 20-minute walk.
- The concept of **creating a network of vibrant neighbourhood centres** is supported and encouraged by Council. Neighbourhood centres will continue to have an important role in the shaping of Melbourne, particularly for established suburbs. Activity centres will continue to be important in helping achieve a 20-minute city through the expansion of their role in providing for a diversity of uses, including higher density residential development. Planned

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infrastructure investment, particularly public transport, cycling and pedestrian infrastructure will be critical to making activity centres work. (This was taken from page 11 from our initial Plan Melbourne discussion).

- The daily needs (as quoted in 2.5 (10) on page 18) should be amended to include work needs. Further to this, Plan Melbourne 2016 should provide **direction on creating employment opportunities** locally as part of the 20-minute city concept.
- The 20-minute city should also draw a clear **link with community infrastructure** (other than just community centres), kindergartens, green space, and adequate transport options. The 20-minute city concept should be improved to articulate that:
 - a clear transport framework is needed;
 - there should be a focus on people movement (and not private vehicle movement);
 - there is a clear direction to improve the capacity, frequency and level of service of the current public transport system;
 - there will be Government commitment to financially invest in the required infrastructure;
 - prioritisation measures such as right-of-way to sustainable transport modes in terms of allocating time, space, facilities and funding are required;
 - shared road or path spaces don't always function well given user conflicts and a major financial investment is required to provide a feasible expansion of this transport mode;
 - reduced maximum car-parking rates for locations well-served by public transport are supported; and
 - an increase in the minimum parking requirements for bicycles in urban and built form are encouraged.

7. The discussion paper includes options (options 11-17, pages 23 to 27) that identify housing, climate change, people place and identity and partnerships with local government as key concepts that need to be incorporated into Plan Melbourne 2016. Do you support the inclusion of these as key concepts in Plan Melbourne 2016?

- Strongly Disagree
 Disagree
 Agree
 Strongly Agree

Please explain your response:

- These are important concepts that have not been addressed adequately in previous metropolitan strategies. Their inclusion in Plan Melbourne 2016 is supported, as climate change and access to affordable housing will be **key issues facing future generations**.
- The concept of '**placemaking**' has evolved significantly in recent years and will continue to develop as an effective people-centred approach to the planning, design and management of public spaces. The nexus between placemaking and planning as a way to create prosperous, liveable, healthy and green suburbs needs to be explored further in Plan Melbourne 2016.

8. Any other comments about chapter 2 (growth, challenges, fundamental principles and key concepts)?

- No comments provided.

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Chapter 3: Delivering jobs and investment

9. The discussion paper includes the option (option 20, page 30) to revise the Delivering Jobs and Investment chapter in Plan Melbourne 2014 to ensure the significance and roles of the National Employment Clusters as places of innovation and knowledge-based employment are clear. *How can Plan Melbourne 2016 better articulate the significance and roles of the National Employment Clusters as places of innovation and knowledge-based employment?*

- No comments provided.

10. The discussion paper includes two options (page 30) relating to National Employment Clusters, being:

Option 21A: Focus planning for National Employment Clusters on core institutions and businesses

Option 21B: Take a broader approach to planning for National Employment Clusters that looks beyond the core institutions and businesses

Which option do you prefer?

- Option 21A
 Option 21B

Please explain why you have chosen your preferred option:

- No comments provided.

11. The discussion paper includes the option (option 22, page 30) to broaden the East Werribee National Employment Cluster to call it the Werribee National Employment Cluster in order to encompass the full range of activities and employment activities that make up Werribee. This could include the Werribee Activity Centre and the Werribee Park Tourism Precinct. *Do you agree with broadening the East Werribee Cluster? Choose one option:*

- Strongly Disagree
 Disagree
 Agree
 Strongly Agree

Why?

- No comments provided.

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12. The discussion paper includes the option (option 23, page 30) to broaden the Dandenong South National Employment Cluster to call it the Dandenong National Employment Cluster in order to encompass the full range of activities and employment activities that make up Dandenong. This could include the Dandenong Metropolitan Activity Centre and Chisholm Institute of TAFE. **Do you agree with broadening the Dandenong South National Employment Cluster? Choose one option:**

- Strongly Disagree
 Disagree
 Agree
 Strongly Agree

Why?

- No comments provided.

13. The discussion paper includes options (options 24 to 30, pages 33 and 34) that consider the designation of activity centres and criteria for new activity centres. **Do you have any comments on the designation of activity centres or the criteria for new activity centres as outlined in the discussion paper?**

- **Doncaster Hill**, previously a Principal Activity Centre under Melbourne 2030, should be included as a Metropolitan Activity Centre (MAC) to **reflect its current and future role** in Melbourne. As Manningham does not have an identified MAC and is not included within a National Employment Cluster, identification of Doncaster Hill as a MAC provides greater opportunity/incentive to attract other government and/or private institutions to locate in Manningham to contribute towards job creation e.g. major health service, regional education facility, government departments. A key aspiration for Doncaster Hill is to enable its residents to age in place, and to do so it is important to have these key facilities available locally. (This was taken from the Executive Summary from our initial Plan Melbourne submission).
- Doncaster Hill is well positioned as a Metropolitan Activity Centre, especially with the potential public transport infrastructure investment identified in Plan Melbourne 2014. Further investment from private enterprise and the continued implementation of the Doncaster Hill Strategy for the area will create an opportunity to highlight this region as a **major centre of growth for Melbourne's north east**. (This was taken from Page 5 from our initial Plan Melbourne submission).
- **Doncaster Hill meets all seven of the Plan Melbourne objectives** and its development potential is now being realised, both on a local and international scale, with endorsed and pending planning permits, a new 385 apartment mixed use Bunnings project and the redevelopment of Westfield's national flagship site in Doncaster.
- In Doncaster Hill, over **8,000 new residents** will live in one of the 4000 apartments to be built by 2031. Fourteen developments comprising 845 apartments have already been completed and a further 825 apartments are under construction. An additional eight approved planning permits comprising an additional 1300 apartments are awaiting construction.
- Doncaster Hill is uniquely positioned in Melbourne's east in close proximity to major employment generators. It is **unlocking and complementing regional opportunities** for improved access to jobs, educational and health facilities and other community and social services.
- Within Doncaster Hill, there is a high level of public transport usage (16.8% compared to 10.9% for rest of Manningham), the **population is forecast to increase 8.74% annually**, there is a high

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level of professionals in the workforce (top 3 occupations include Professional, Managers and Clerical and Administrative Workers). Importantly, there is also low car ownership (85.5% compared to 92.4% for Manningham City).

- Doncaster Hill can relieve pressure from neighbouring Metropolitan Activity Centres, especially with respect to public transport and road infrastructure that is currently at capacity. However, its real potential to **take pressure off regional capacity constraints** can only be realised through being identified as a future MAC.
- To date, Doncaster Hill has **contributed \$1.175 billion investment** into the State's economy.
- As part of this, and with assistance from development contributions, Council has **delivered over \$30 million** of community and streetscape infrastructure in Doncaster Hill, to support its growth and development.
- It is anticipated that over the next 20 years, Doncaster Hill will contribute a **further \$2.5 billion investment** into the State's economy.
- It is important to note that in a forward thinking metropolitan strategy, activity centres should not just be designated on their current use, function or built form. Doncaster Hill will eventually be serviced by a heavy rail line, and coupled with the significant growth and expansion of commercial, retail and housing developments now and into the future, it should be redesignated as a Metropolitan Activity Centre to **reflect both its current and future role and function**.
- A **review of parking rates** should also be considered in activity centres in close proximity to public transport services.

14. The discussion paper includes the option (option 31, page 35) to evaluate the range of planning mechanisms available to protect strategic agricultural land. *What types of agricultural land and agricultural activities need to be protected and how could the planning system better protect them?*

- Food production land in close proximity to Melbourne should be protected. This can be achieved by ensuring that the permissible uses in current zoning of peri-urban and green wedge **land reflect the purpose of each zone**. Planning scheme controls should be revised and strengthened to ensure the impacts of a planning permit application on land that could be used for food production can be assessed.

15. The discussion paper includes the option (option 32, page 36) to implement the outcomes of the Extractive Industries Taskforce through the planning scheme, including Regional Growth Plans, to affirm that extractive industries resources are protected to provide an economic supply of materials for construction and road industries. *Do you have any comments in relation to extractive industries?*

- No comments provided.

16. Any other comments about chapter 3 (delivering jobs and investment)?

- There is currently a significant amount of economic development work being undertaken by the regions, i.e. Regional Development Australia and the Melbourne East Regional Economic Development Group. This **regional approach to jobs and investment** is important, and as such,

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these partnerships should be acknowledged in Plan Melbourne. Further to this, the formulation of further partnerships to enhance jobs and investment should be emphasised. An example of this is provided below.

- Council has recently signed a Memorandum of Understanding between seven eastern metropolitan councils and the State Government. The Memorandum covers economic development opportunities and follows on from the Regional Investment Attraction Strategy developed in collaboration with Melbourne East Regional Development Australia Committee. The Melbourne East Regional Economic Development Group (MEREDG) has been formed with representatives from the Economic Development teams of all seven councils, Department of Economic Development, Jobs, Transport and Resources and Melbourne East Regional Development Australia. Amongst the objectives of the MEREDG is the identification of **key regional infrastructure** priorities and targeted advocacy of these projects for the further development of the region. This platform provides Council with an unprecedented opportunity to work directly with State Government to develop projects to deliver the actions of the Regional Investment Attraction Strategy. Examples of these projects include, Box Hill Central and MAC, Monash NEC, Ringwood MAC, Bayswater Precinct, Doncaster Hill and Wantirna Health Precinct. MEREDG report directly to the East Melbourne CEO forum, and projects and initiatives will be advocated via MEREDG including actions within Plan Melbourne and any submissions from Council.
- Warrandyte, the Middle Yarra corridor and other locations in Manningham should be **identified as tourism locations** in Melbourne and marketed as a visitor destination. Protection of these tourism assets should be included in Plan Melbourne with suitable development being encouraged. It is important; however that reference is made to the appropriate scale of development in sensitive areas and potential impact on environmental and landscape values. There needs to be a balance between economic outcomes and environmental impacts. (This was taken from page 7 from our initial Plan Melbourne submission).
- Manningham's location also creates opportunity for professional service industries to provide support for the operations in the major industrial nodes. Virtual and physical links between Manningham business and surrounding industrial nodes are paramount to the success of these opportunities. It is proposed that these areas continue to provide opportunity for industrial activities to **encourage local employment opportunities**. (This was taken from page 5 from our initial Plan Melbourne submission).
- Mixed use development, including retail, office and residential accommodation will continue to be the clear focus for new development, allowing for **economic growth alongside residential development**. Local neighborhood centres also need to have sites identified and **public transport improvement**, which can accommodate similar suitable developments into the future. Encouraging mixed use development and activating local neighbourhood centres will **enhance the local economy**. They also are in accordance with the higher level economic initiatives of the Plan, which is crucial to ensuring the economic life of the City is felt at a local level. (This was taken from page 6 from our initial Plan Melbourne submission).

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Chapter 4: A more connected Melbourne

17. The discussion paper includes the option (option 34, page 42) to include the **Principal Public Transport Network** in Plan Melbourne 2016. Do you agree that the **Principal Public Transport Network** should inform land use choices and decisions? Choose one option:

- Strongly Disagree
 Disagree
 Agree
 Strongly Agree

Why?

- Council acknowledges that the Plan includes the long-term delivery of Doncaster Rail sometime between 2025 and 2050. However, Council seeks to ensure that public transport is improved including the **Doncaster Rail link being completed within the next 15 years (by 2029)**, consistent with the objective in Public Transport Victoria's (PTV) 'Network Development Plan - Metropolitan Rail'.
 Council is concerned that the Plan indicates that a rail link to Doncaster will only extend as far as the Doncaster Park & Ride, and not to Doncaster Hill. The population of Doncaster Hill is anticipated to increase by more than 8000 people over the next 20 years and the proposed **rail line needs to be extended to Doncaster Hill** to directly service this growing population. The Plan needs to be amended to reflect this very important factor. (This was taken from page 10 from our initial Plan Melbourne submission).
- More generally, the **Principal Public Transport Network**, which includes the Smartbus, should be used to inform land use choices. These other services provide a high level of frequency and connectivity. Significant urban renewal areas, such as Doncaster Hill, are a good example of where an intensification of land uses has been supported based on proximity to the Principal Public Transport Network and not just heavy rail.

18. The discussion paper includes the option (option 35, page 43) to incorporate references to **Active Transport Victoria** (which aims to increase participation and safety among cyclists and pedestrians) in Plan Melbourne 2016. How should walking and cycling networks influence and integrate with land use?

- Active travel options, (especially walking and cycling) help reinforce health and social objectives. In supporting the concept of the 20- minute city consideration needs to be given to **not just prioritising State cycling and pedestrian initiatives within 10 kilometres of the CBD**. (This was taken from the Executive Summary from our initial Plan Melbourne submission).
- Cycling and walking objectives should be included in Plan Melbourne by similarly referencing the Principal Pedestrian Network (PPN) and Principal Bicycle Network (PBN). Although the PBN requires a review, identification and funding of priority projects should be firstly aimed at **completing 'missing links' in the bicycle network**. These will help underpin the 20-minute city objective identified in the Strategy.
- Initiative 3.1.5 in Plan Melbourne needs to **cross reference the concept of the 20-minute city** and support walking and cycling in areas demonstrating commitment to the concept. (This was taken from Page 10 from our initial Plan Melbourne submission).
- In addition to **prioritising and funding the strategic cycling corridor network**, Initiative 3.4.2 of Plan Melbourne needs to specifically acknowledge the objective to complete the Principle Bicycle Network (PBN). (This was taken from page 11 from our initial Plan Melbourne

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submission).

19. Any other comments about chapter 4 (a more connected Melbourne)?

- Public transport is an essential element to servicing the needs of employment growth in the inner city and the middle and outer ring suburbs. Greater emphasis needs to be placed on its important role in shaping Melbourne and improving Melbourne's liveability into the future. In particular giving greater status/prominence in the Plan to the implementation of the **PTV Network Development Plan will provide greater certainty and confidence for private investment**. (This was taken from the Executive Summary from our initial Plan Melbourne submission).
- For Manningham, significant improvements to public transport infrastructure (through new infrastructure, such as Doncaster Rail, and the provision of more efficient bus services and associated infrastructure) are essential to the success of Doncaster Hill and the ongoing viability of Manningham's **activity centres which continue to be a focus of local job creation**. (This was taken from the Executive Summary from our initial Plan Melbourne submission).
- Increasing the employment potential for the inner city will require an equal investment in transport infrastructure to service existing and future residential nodes, particularly future growth areas such as Doncaster Hill. (This was taken from Page 6 from our initial Plan Melbourne submission).
- Transportation infrastructure must remain a high priority to support the increased employment opportunities. Unlocking the spare capacity of existing infrastructure should be a focus of the Strategy. (This was taken from Page 6 from our initial Plan Melbourne submission).
- Plan Melbourne 2014 makes reference under initiative 3.1.2 "to complete planning for a metro system, including ...Doncaster." This should be retained as a short term objective, and the desired delivery date of 2029 should be referenced in line with PTV's Network Development Plan. It should also be specifically referred to as a rail link to Doncaster Hill, and not just Doncaster.
- The Plan needs to include an action to ensure that the median strip of the Eastern Freeway and land to be developed for future stations and associated infrastructure along the proposed **Doncaster Rail line is suitably identified and reserved for this purpose**. (This was taken from the Executive Summary from our initial Plan Melbourne submission).
- The median strip should not be utilised as part of the any proposed widening of the Eastern Freeway. (This was taken from Page 10 from our initial Plan Melbourne submission).
- The 2030 SmartBus Network Map should also be included on the PPTN.
- Initiative 3.1.4 of Plan Melbourne needs to acknowledge that the completion of the **bus network should also occur in the middle and outer suburbs**, not just the inner city as is currently stated. Enhancement of the DART bus services should include consideration of the completion of bus lanes and priority treatments on Hoddle Street, and investigations of full grade separation of buses through Doncaster Hill (Williamsons/Doncaster Road). (This was taken from Page 10 from our initial Plan Melbourne submission).
- Initiative 3.1.3-1 of Plan Melbourne 2014 discusses the preparation of a Road Use Strategy aimed at ensuring buses and trams can operate efficiently alongside other vehicles. This needs to be expanded to ensure that the Road Use Strategy takes into consideration the Network Operating Plans designation of particular routes as **priority bus routes** and the need for adequate infrastructure (i.e. bus lanes) to implement an **efficient bus network** (particularly through Doncaster Hill).
- If reference to the **East West Link** is to be retained in Plan Melbourne, it should be clarified that it will form part of the **regional highway network/system** as a long-term objective that supports freight movement and passenger movement across Melbourne.

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- In relation to the Ministerial Advisory Committee recommendations:
 - Recommendation 41 – Council supports this, however objective 3.1.4-5 should remain to ensure bus services provide for cross-town travel.
 - Proposed action 3.1.4-3 (Enhance Doncaster **DART** bus services in Melbourne) should become a **short-term objective** (currently identified as a medium-term objective in Plan Melbourne 2014), and some DART services should be upgraded to a Bus Rapid Transit (BRT) standard.
 - Recommendation 42 – Council supports these recommendations. However, proposed action 3.2.2-1 does not highlight that the Manningham area (middle north-east) is identified for a **transformation of its local bus network**. This area should be identified as a **priority** area to be considered in the short-term.
 - Recommendation 43 – This is supported.
 - Recommendation 45 – Council recommends that specific reference is made to reserving the rail reservation along the Eastern Freeway for a future Doncaster Rail Link, as similar reference has been made to other areas around Melbourne.

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Chapter 5: Housing

20. The discussion paper includes the option (option 36A, page 46) to establish a 70/30 target where established areas provide 70 per cent of Melbourne's new housing supply and greenfield growth areas provide 30 per cent. Do you agree with establishing a 70/30 target for housing supply? Choose one option:

- Strongly Disagree
 Disagree
 Agree
 Strongly Agree

Why?

- The underlying principle of directing a higher proportion of housing supply and growth into established suburbs is understood, as these are locations that typically have better access to public transport, schools and services.
- Although the rationale behind a 70/30 target is understood, there are implications with this approach. Manningham City Council has undertaken significant strategic work to guide its housing supply and growth, and our planning scheme has been updated to facilitate this direction and growth. An aspirational target is supported, as is the need to **review each municipality's housing supply** in a regional and metropolitan context. However, a 70/30 target which would result in each Council being advised of a mandatory supply of housing is not supported.
- If the 70/30 target was implemented, Manningham and other middle ring suburbs may be forced to revise their Residential Strategies and **accommodate additional residential development** without having specific regard to local conditions.
- It is important that councils can **continue to direct and influence housing supply and growth**, with assistance from the state government.

21. What, if any, planning reforms are necessary to achieve a 70/30 target?

- It is important that there is a greater understanding of current and forecast population growth at the state, regional and municipal level, in order to **consistently guide targets** across Melbourne.
- In order to achieve targets, the state government should gain **commitment from councils** in relation to the forecast population growth, and then work together to discuss opportunities for supply.
- It is important that councils and the state government agree to a **housing supply figure**, and that it not be imposed.
- The **State Planning Policy Framework** could be updated to reference housing supply targets that have been agreed to.
- It is anticipated that the existing allocation/distribution of the **Neighbourhood Residential Zone will need to be revisited** if housing targets are going to be equitably applied across metropolitan Melbourne.
- If targets are to be introduced, councils will **require financial support** to either update, or prepare for the first time, a residential strategy.

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22. The discussion paper includes the option (option 36B, page 46) to investigate a mechanism to manage the sequence and density of the remaining Precinct Structure Plans based on land supply needs. Do you agree with this idea? Choose one option:

- Strongly Disagree
 Disagree
 Agree
 Strongly Agree

Why?

- No comments provided.

23. The discussion paper includes the option (option 36C, page 46) to focus metropolitan planning on unlocking housing supply in established areas, particularly within areas specifically targeted for growth and intensification. Do you agree with this idea? Choose one option:

- Strongly Disagree
 Disagree
 Agree
 Strongly Agree

Why?

- Council agrees that additional housing supply in areas targeted for growth and intensification is beneficial. However as noted above, each council should be able to guide the areas for growth and intensification, to **ensure that local conditions are considered** (such as areas of environmental sensitivity and neighbourhood character).
- The Plan would appear to promote and address increasing housing choice within walkable distances of railway stations. However, public transport comprises various modes other than train, including trams and buses, and these forms of **public transport need to be recognised** as areas where growth and intensification could occur.
Manningham is currently serviced by a bus network; however the introduction of the SmartBus routes and the introduction of the DART service have improved public transport frequency and infrastructure, i.e. signage, bus design, which has resulted in improved patronage.
Council is keen to work with DELWP to investigate mechanisms to facilitate a greater diversity of housing, including innovative and adaptive built form, to provide a range of opportunities for people, including those with limited mobility, to work from home and 'age in place'.
Manningham Council is also interested in working with the government to look at possible mechanisms to encourage lot consolidation, which is a key aspect of Manningham's Residential Strategy. (This was taken from Page 8 from our initial Plan Melbourne submission).
- Council endorses and encourages a range of housing options, including ongoing development of brownfield sites within the existing urban boundaries, and greyfield development within established inner and outer suburban areas; however it is important that **design guidelines be modernized**.
- An ad hoc approach to unlocking housing supply is not supported. As previously noted, Manningham Council has undertaken significant strategic work to guide future residential development and growth. It is important that this direction is not **compromised by a State wide push to unlock housing supply**.

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24. The discussion paper includes options (option 37, page 50) to better define and communicate Melbourne's housing needs by either:

Option 37A: Setting housing targets for metropolitan Melbourne and each sub-region relating to housing diversity, supply and affordability.

Option 37B: Developing a metropolitan Housing Strategy that includes a Housing Plan.

Which option do you prefer? Choose one option:

- Option 37A
 Option 37B
 Other

Why?

- Whilst the development of housing strategies is supported and encouraged at a municipal level, it is also considered important that such work should have regard to **housing needs at a sub-regional level**. In 2005/2006 significant work was undertaken by Council's across Melbourne to develop regional housing statements. The Eastern Regional Housing Statement (2006) helped inform the development of planning controls to direct residential growth within Manningham. Council supports a regional approach and considers that such work should be undertaken as a priority and should inform future planning decisions. (Page 8 from initial submission).
- Setting housing targets at a sub-regional level for housing diversity and affordable housing is supported; however **mandatory housing supply targets are not supported**.
- Developing a metropolitan Housing Strategy that includes a **Housing Plan would enable a more collaborate and regional approach** to housing supply and development.
- Further to this, **LGAs should be better supported** in their preparation of local housing and residential strategies to ensure it meets the needs of the local community as well as meeting State wide objectives.

25. The discussion paper includes the option (option 38, page 52) to introduce a policy statement in Plan Melbourne 2016 to support population and housing growth in defined locations and acknowledge that some areas within defined locations will require planning protection based on their valued character. How could Plan Melbourne 2016 clarify those locations in which higher scales of change are supported?

- Plan Melbourne should make it clear that the residential zones can be used by Councils to **clarify where different levels of change are supported**. To this end, it should be made clear that zones such as the Residential Growth Zone and Activity Centre Zone are there to encourage higher scales of change. It should also be made clear that the Neighbourhood Residential Zone is there to discourage higher levels of change, based on character or environmental factors, but more importantly because it may be an area that can't accommodate higher levels of change due to poor proximity to public transport and services etc.
- Plan Melbourne 2016 could further emphasise that **higher scales of change will be supported** in MACs, activity centres and urban renewal areas, where a strategy or structure plan has been prepared and endorsed by councils.

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26. The discussion paper includes the option (option 39, page 52) to clarify the direction to 'protect the suburbs'. How could Plan Melbourne 2016 clarify the direction to protect Melbourne and its suburbs from inappropriate development?

- Plan Melbourne could **reinforce that Councils can use the available zones** to protect Melbourne and its suburbs from inappropriate development.
- In addition to the Neighbourhood Residential Zone, the Low Density Residential Zone also ensures that the **scale of development is appropriate** having regard to its surroundings.
- The Low Density Residential Zone forms an important buffer at the interface with the green wedge. Plan Melbourne 2016 should **encourage its application** adjacent to the green wedge to protect the neighbourhood character of these areas, to protect the areas from inappropriate scales of development, and to appropriately transition the scale of development from suburban to rural.

27. The discussion paper includes the option (option 40, page 56) to clarify the action to apply the Neighbourhood Residential Zone to at least 50 per cent of residential land by:

Option 40A: Deleting the action and replacing it with a direction that clarifies how the residential zones should be applied to respect valued character and deliver housing diversity.

Option 40B: Retain at least 50 per cent as a guide but expand the criteria to enable variations between municipalities.

Which option do you prefer? Choose one option:

- Option 40A
 Option 40B
 Other

Why?

- Retaining at least 50 per cent of residential land in a Neighbourhood Residential Zone is difficult, as the suitability of its application will vary from council to council. If the requirement for 50 per cent is removed, it is critical that **other elements are also included as considerations** in the application of the Neighbourhood Residential Zone. For example, in addition to respecting valued character and delivering housing diversity, the poor proximity to public transport and service is another factor for the introduction of the Neighbourhood Residential Zone.

28. The discussion paper includes the option (option 42, page 58) to include an action in Plan Melbourne 2016 to investigate how the building and planning system can facilitate housing that readily adapts to the changing needs of households over the life of a dwelling. In what other ways can Plan Melbourne 2016 support greater housing diversity?

- Council supports the proposed action to investigate how the building and planning system can facilitate **housing that readily adapts to the changing needs of households** over the life of a dwelling. This is particularly important with regard to designing new dwellings so that they can readily accommodate or be easily adapted, should the need arise, to facilitate the needs of a mobility impaired person, including but not limited to the use of a wheelchair.

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- Providing a **diversity of housing in identified locations** that caters for different households which are located in proximity to public transport and other services and facilities, is central to the success of many of the key aspects of Plan Melbourne. There is an opportunity to look at building and planning reforms to provide more accessible housing both for ageing communities and people with a disability. Council is keen to work with DELWP to investigate mechanisms to facilitate a greater diversity of housing, including innovative and adaptive built form, to provide a range of opportunities for people, including those with limited mobility, to work from home and 'age in place'. (This was taken from the Executive Summary from our initial Plan Melbourne submission).
- Council supports initiatives that **achieve and promote design excellence**, as this leads to varied design outcomes and more diverse styles of housing. (This was taken from page 14 from our initial Plan Melbourne submission).
- Plan Melbourne 2016 could further support greater housing diversity by **addressing the housing needs of other segments** of the population, including those with intellectual or physical disabilities that require (differing degrees of) innovative supported housing options – in accessible locations, close to established support networks, that is affordable and of appropriate design.

29. A number of options are outlined in the discussion paper (page 58) to improve housing affordability, including:

Option 45A: Consider introducing planning tools that mandate or facilitate or provide incentives to increase social and affordable housing supply.

Option 45B: Evaluate the affordable housing initiative pilot for land sold by government to determine whether to extend this to other suitable land sold by government.

Option 45C: Identify planning scheme requirements that could be waived or reduced without compromising the amenity of social and affordable housing or neighbouring properties.

What other ideas do you have for how Plan Melbourne 2016 can improve housing affordability?

- Manningham supports housing affordability, affordable living options and social housing as they provide **housing choice and diversity**. Council supports **amending the Victoria Planning Provisions** to include a definition for social housing and affordable housing. The role of environmental sustainable design and servicing infrastructure is also promoted, as this can reduce the running costs of a home. (This was taken from page 9 from our initial Plan Melbourne submission).
- Manningham has an endorsed Housing Affordability Policy 2010-2020 which sets affordable housing provision targets of 10% by 2020 in Doncaster Hill and 5% in the remainder of the municipality. Council would strongly support the **development of mechanisms and incentives** to facilitate the achievement of these targets. (This was taken from page 9 from our initial Plan Melbourne submission).
- It is important to note that given Manningham's desirable location and its current level of land supply, encouraging **new housing to be 'affordable' will be a challenge** at a municipal level, even that which is of medium or higher density.
- To increase the level of affordable housing, a **state-wide planning scheme control** (potentially a Particular Provision) that requires the provision of affordable housing as part of new residential development would be beneficial. Alternatively local government areas, with support from the State Government, could prepare local planning policies to guide the future provision of affordable housing.

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- Incentive mechanisms such as plot ratio bonuses, density bonuses, height bonuses and inclusionary zoning have in principle support, however it is important that the quality of the design and the strategic direction for a **local area is not compromised by these incentives**. To this end, if incentive based mechanisms were made available, it is important that Council continues to have the decision making ability to holistically assess the implications of the residential development that incorporates affordable housing.
- With financial support from the Federal Government, a residential development at 98 Tram Road, Doncaster, has contributed to 25 per cent of Doncaster Hill's commitment towards affordable housing, but the precinct **still requires 302 apartments to realise its ambition** of a ten per cent goal to support housing affordability.
- State Government assistance is required to **provide clear planning instruments** to both regulate and incentivise private sector contribution to affordable housing targets.
- The **ongoing management and certainty of affordable housing** is a significant challenge. It is also important that Council has the tools to ensure that affordable housing, whether it is in private ownership or the rental market, be maintained on an ongoing basis.
- **Increasing social and affordable housing** for rental supply, and the mechanisms to achieve this, is also encouraged.
- However, setting local affordable (rental) housing targets is a difficult aspiration. Federal and State financial incentives available for the construction of affordable rental housing have been reduced, and as a result it is difficult for LGAs to encourage developers to incorporate such housing into their developments. Therefore to increase the supply of affordable (rental) housing, a consistent approach that includes **financial incentives is required across all LGAs**.
- There is also a need for suitable and affordable housing options to allow people with an **intellectual disability to live independently**, i.e. group housing, supported accommodation or a number of apartments in a single building that are supported by a dedicated carer. (This was taken from page 8 from our initial Plan Melbourne submission).
- Manningham supports extending the Vic Smart system to multi-unit development, and other initiatives to **accelerate investment in affordable housing**. Attention should be given to ensure that affordable housing incorporates high design standards and servicing equipment to ensure reasonable ongoing running costs. (This was taken from page 9 from our initial Plan Melbourne submission).

30. Any other comments about chapter 5 (housing)?

- Higher density housing is supported in appropriate locations, however with this type of housing it difficult to ensure the necessary **provision of adequate green space**, as well as the greening of buildings and streetscapes.
- While the Guidelines for Higher Density Residential Development provide some direction for open space and 'greening' residential developments, it is recommended that greater direction be provided under Initiative 2.1.4 for the **provision of communal green space** to assist with improving the quality and amenity of residential apartments.
- It is important to note that an **increase in dwellings in established areas is supported**; however this will reduce, and not eliminate, any environmental impacts.

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Chapter 6: A more resilient and environmentally sustainable Melbourne

31. The discussion paper includes the option (option 46, page 69) to introduce Strategic Environmental Principles in Plan Melbourne 2016 to guide implementation of environment, climate change and water initiatives. *Do you agree with the inclusion of Strategic Environmental Principles in Plan Melbourne 2016? Choose one option:*

- Strongly Disagree
 Disagree
 Agree
 Strongly Agree

Why?

- The inclusion of these principles is supported, however questions are raised as to **how they will be used to impact on change**. How will they be incorporated? Will they actually challenge the growth/consumption paradigm and affect appropriate change and/ or protection?
- The **Council Alliance for a Sustainable Built Environment (CASBE) vision** for Melbourne is supported, and should be considered for inclusion as the vision in Plan Melbourne 2016.

Melbourne is:

Self-sufficient, within its boundaries, for water and energy, grows a substantial proportion of its food requirements from urban agriculture, produces almost no 'waste' and has begun to restore the ecological value of its bioregion.

32. The discussion paper includes the option (option 47, page 72) to review policy and hazard management planning tools (such as overlays) to ensure the planning system responds to climate change challenges. *Do you agree with this idea? Choose one option:*

- Strongly Disagree
 Disagree
 Agree
 Strongly Agree

Why?

- With regard to planning for non-urban and peri-urban areas, Council would like to encourage the State Government to finalise the mapping and planning provisions for areas of bushfire risk to assist local governments to **implement appropriate fire prevention measures**. (This was taken from page 14 from our initial Plan Melbourne submission).
- Manningham Council is also in the process of undertaking overland flood mapping at a local level. Councils should be encouraged and supported in undertaking **further work to identify and plan for natural hazards** such as flooding and landslip where this has not yet been undertaken. (This was taken from page 14 from our initial Plan Melbourne submission).

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33. The discussion paper includes options (options 48 and 49, page72) to update hazard mapping to promote resilience and avoid unacceptable risk, and update periodically the planning system and supporting legislative and policy frameworks to reflect best available climate change science and data. *Do you have any comments on these options?*

- Updating hazard mapping to promote resilience and avoid unacceptable risk is supported.

34. The discussion paper includes the option (option 50, page 73) to incorporate natural hazard management criteria into Victorian planning schemes to improve planning in areas exposed to climate change and environmental risks. *Do you agree with this idea? Choose one option:*

- Strongly Disagree
 Disagree
 Agree
 Strongly Agree

Why?

- It is important to be *proactive* rather than endlessly – and expensively – reactive.

35. The discussion paper includes the option (option 51, page 75) to investigate consideration of climate change risks in infrastructure planning in the land use planning system, including consideration of an 'infrastructure resilience test'. *Do you agree that a more structured approach to consideration of climate change risks in infrastructure planning has merit? Choose one option:*

- Strongly Disagree
 Disagree
 Agree
 Strongly Agree

Why?

- The consideration of climate change risks in infrastructure planning has merit and is supported by Council. It is important that *climate change be considered early on in the project planning process*, and more specifically it should be addressed in risk assessments. Considering climate change early on will ensure that outcomes can be achieved that are more cost and time efficient.
- It is also important that the procurement process for *infrastructure delivery addresses environmentally sustainable goals*, including how the project will address climate change.

36. The discussion paper includes the option (option 52, page 76) to strengthen high-priority habitat corridors throughout Melbourne and its peri-urban areas to improve long-term health of key flora and fauna habitat. *Do you agree with this idea? Choose one option:*

- Strongly Disagree
 Disagree
 Agree
 Strongly Agree

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Why?

- The **protection and restoration of biodiversity** is important, especially with new buildings and infrastructure being constructed, population growth and reduced regulatory protection (e.g. the revised Native Vegetation Framework).

37. The discussion paper includes options (options 53 and 54, pages 78 and 79) to introduce strategies to cool our city including: increasing tree canopy, vegetated ground cover and permeable surfaces; use of Water Sensitive Urban Design and irrigation; and encouraging the uptake of green roofs, facades and walls, as appropriate materials used for pavements and buildings with low heat-absorption properties. **What other strategies could be beneficial for cooling our built environment?**

- Density increases ultimately result in substantial increases in paved and covered surfaces. 'Greening' policies are largely a band-aid in response to this, and therefore their **implementation is pivotal**. The strategies proposed in this question are supported.

38. The discussion paper includes the option (option 56A, page 80) to investigate opportunities in the land use planning system, such as strong supporting planning policy, to facilitate the increased uptake of renewable and low-emission energy in Melbourne and its peri-urban areas. **Do you agree that stronger land use planning policies are needed to facilitate the uptake of renewable and low-emission energy? Choose one option:**

- Strongly Disagree
 Disagree
 Agree
 Strongly Agree

Why?

- It is essential that renewable and low-emission energy is facilitated. Previously, Council has had to spend a significant amount of time and energy negotiating renewable and low-emission energy outcomes with Doncaster Hill. Although stronger land use policies would have assisted us in this process, the **uptake of renewable and low-emission energy needs to be addressed** at a State level. The example of Doncaster Hill is described below.
- Doncaster Hill is a leading example of best practice sustainable utilities with the implementation of 21st century, localised energy and water infrastructure. One of the most innovative sustainability projects recently undertaken was the installation of a tri-generation system within the \$38 million MC² Community Hub facility.
 All development sites are also required to **demonstrate best practice sustainability initiatives**. Doncaster Hill is the first Activities Area in Melbourne to introduce an innovative sustainability solution for apartments by mandating the installation of a third pipe for recycling water. The Doncaster Hill District Energy Services Project is based on decentralised energy systems to produce low and zero carbon energy and distribute this energy to locally connected customers. International services provider, GDF Suez is prepared to invest \$27 million to fund the thermal infrastructure associated with this project.
 State Government assistance is required with providing incentives to developers and utility agencies as well as removing regulatory barriers.

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39. The discussion paper includes options (options 56B and 56C, page 80) to strengthen the structure planning process to facilitate future renewable and low-emission energy generation technologies in greenfield and urban renewal precincts and require consideration of the costs and benefits of renewable or low-emission energy options across a precinct. *Do you agree that the structure planning process should facilitate the uptake of renewable and low-emission technologies in greenfield and urban renewal precincts? Choose one option:*

- Strongly Disagree
 Disagree
 Agree
 Strongly Agree

Why?

- This is largely an economic based discussion, however the **State should be guiding** where the uptake of renewable and low-emission technologies should be included in greenfield and urban renewal precincts.

40. The discussion paper includes the option (option 57, page 81) to take an integrated approach to planning and building to strengthen Environmentally Sustainable Design, including consideration of costs and benefits. *Do you agree that an integrated planning and building approach would strengthen Environmentally Sustainable Design? Choose one option:*

- Strongly Disagree
 Disagree
 Agree
 Strongly Agree

Why?

- The State Government needs to take a leading role in encouraging more sustainable housing / built form and design outcomes including **revising the State Planning Policy Framework (SPPF)** to provide greater commitment to sustainability and provide direction on sustainability outcomes. Changes to SPPF and the Building Regulations are required to ensure **improved ecological sustainable design outcomes**. (This was taken from page 14 from our initial Plan Melbourne submission).
- Council has recently prepared an Environmentally Sustainable Design policy, and will commence a planning scheme amendment to introduce it into the Manningham Planning Scheme. It is recommended that requirements for **Environmentally Sustainable Design be applied consistently in all planning schemes**.

41. *Any other comments about chapter 6 (a more resilient and environmentally sustainable Melbourne)?*

- Significant work has been undertaken on the '100 Resilient Cities' project. The objectives and direction of this project should be reflected in Plan Melbourne 2016. It is also important that once finalised, Melbourne's first **Resilience Strategy should closely align with Plan Melbourne 2016**.
- Although **climate change is important**, it should not be used as a surrogate for 'the

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environment'; as it is far broader than that.

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Chapter 7: New planning tools

42. The discussion paper includes options (options 58A and 58B, page 84) to evaluate whether new or existing planning tools (zones and overlays) could be applied to National Employment Clusters and urban renewal areas. *Do you have any comments on the planning tools (zones and overlays) needed for National Employment Clusters and urban renewal areas?*

- *Existing tools that can be tailored*, such as the Special Use Zone, the Comprehensive Development Zone and the Activity Centre Zone, can be used for National Employment Clusters and urban renewal areas, and additional planning tools are not considered necessary. Further, the Commercial 1 Zone has quite relaxed uses, and this can be utilised for employment areas.

43. The discussion paper includes options (options 59A and 59B, page 84) to evaluate the merits of code assessment for multi-unit development, taking into account the findings from the 'Better Apartments' process, to either replace ResCode with a codified process for multi-unit development or identify ResCode standards that can be codified. *Do you have any comments on the merits of code assessment for multi-unit development?*

- No comments provided.

44. Any other comments about chapter 7 (new planning tools)?

- No comments provided.

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Chapter 8: Implementation

45. The discussion paper includes the option (options 1 and 61, pages 14 and 90) of Plan Melbourne being an enduring strategy with a long-term focus supported by a 'rolling' implementation plan. *Do you agree that separating the long-term strategy from a shorter-term supporting implementation plan is a good idea?*

- Council recommends that the **role of the Metropolitan Planning Authority be clarified**. Participation in this body by Local Government representatives at a regional level is highly recommended. Implementation of such an ambitious work program is fundamental to the success of Plan Melbourne. Many of the actions are supported, including the creation of sub-regional groups of councils. Funding and resourcing of the actions, including a body such as the Metropolitan Planning Authority to oversee implementation and key infrastructure projects, will need to look towards innovative solutions. Its ability to direct and work in partnership with private investment efforts will also be crucial. (This was taken from page 16 from our initial Plan Melbourne submission).
- Therefore separating the long-term strategy from a shorter-term implementation plan is supported.

46. *If a separate implementation plan is developed for Plan Melbourne 2016 what will make it effective?*

- Council agrees with the Ministerial Advisory Committee (as referenced on page 15) that the plan should be freed from the budgetary priorities and constraints of the government of the day. However, there needs to be a **stronger emphasis on the obligation to build key infrastructure projects**, i.e. Doncaster Rail, which are identified in the plan.
- A rolling implementation plan is supported, particularly for short term priorities. However, budget for the **short term priorities is essential** and the short term priorities should correlate and be supported by the State Government budget cycle.
- It is also important that the **rolling implementation plan is managed**, and not disrupted, through changes in government.
- The allocation of **short term priorities should also be equitable** across Melbourne. More specifically, the allocation of budget to undertake short term priorities should be based on merit and need. The short term priorities should be based on the overall impact they will have on the functionality of Melbourne; however it is also important that the budget allocation is transparent and that all municipalities receive infrastructure improvements as part of the short term priorities.

47. *Any other comments about chapter 8 (implementation)?*

- Clearer direction is needed on **who will develop and monitor the implementation plan** and how it will be evaluated and reported to stakeholders. Opportunities should be provided for local government input.
- When Melbourne 2030 was released, **Councils were provided with a grant** to progress a project or piece of infrastructure that accorded with the metropolitan strategy. The grant that the City of Manningham received enabled us to undertake strategic background research for

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Doncaster Hill, and ultimately led to the preparation and approval of the Activity Centre Zone for this significant area. A similar funding opportunity should be introduced with Plan Melbourne 2016.



Executive Summary

Manningham City Council (Council) welcomes the opportunity to provide this submission to the Plan Melbourne Refresh.

This document focuses on the main elements that need to be addressed in Plan Melbourne 2016 to ensure that our municipality grows, develops and is enhanced in a way that accords with the overall objectives and principles of our metropolitan strategy. In addition to this document, Council has completed the Submission Form with specific comments/ information responding to the questions in the Discussion Paper.

A number of elements and issues that were identified in Council's submission to Plan Melbourne in 2013 have been included in the Plan Melbourne Refresh Discussion Paper. Some of the issues that we previously identified included:

- Improving references to necessary future public transport infrastructure
- Better addressing environmental climate change and affordable housing
- Better clarification on how Plan Melbourne will be implemented.

We commend the State Government for the Plan Melbourne Refresh, and in particular, for reviewing and including these initiatives. We understand that many councils similarly supported greater direction for these initiatives, and we believe that the revised Plan Melbourne 2016 will be more robust with their inclusion.

Challenges and Opportunities for Manningham

The Plan Melbourne Refresh *At a Glance* document identifies the challenges and opportunities for Melbourne. Manningham is facing similar challenges and opportunities.

People

- +20,000 over the next 20 years (.id forecast)
- By 2036, over 37% of Manningham residents will be 60 years or older (.id forecast)

Homes

- In 2036, +10,000 additional homes (.id forecast) - this trend would see an additional 20,000 by 2051
- In 2036, decrease in household size – 2.79 to 2.65 per house (.id forecast)

Jobs

- 57,000 employed residents – 53% of Manningham's population (.id profile)
- 6.04% unemployment – slightly lower than Greater Melbourne, Victoria and Australia (.id profile)
- 30,203 jobs located in the City of Manningham in the year ending June 2014 (.id profile)
- Between 2006 and 2011, the health care sector and the professional services sector had the highest increase in employment numbers. As of 2011, retail and health care are the biggest employment generators (.id profile)

Travel

- Manningham is the only municipality in Metropolitan Melbourne that does not have a train or tram service
- In 2011, 10.8% of (employed) Manningham residents travelled to work using public transport - this is an increase of 2.4% (or 1,300 people) from 2006
- In 2011, 19% of Doncaster Hill residents travelled to work using public transport (this includes by train from other areas)
- In 2011, 7.5% of residents travelled to work by bus (compared to 1.5% in Greater Melbourne)
- Between 2006 and 2011, travel to work by bus increased by 68% in Manningham
- Doncaster Area Rapid Transit (DART) Route 907 to Mitcham is the most patronised bus route from the CBD to the outer suburbs. Patronage on this route increased 57% between 2010/11 and 2011/12 and carried approximately 23,000 a week
- Currently, the four DART bus routes between the CBD and Manningham collectively transport 12,000 daily trips (on weekdays)

Weather extremes

- Transport contributed 30% of total greenhouse gas emissions in Manningham in 2006/07 (equal to 350,000 tonnes) (Source: Making Manningham Mobile)

Environmental Sustainability

- Although climate change is important, it should not be used as a surrogate for 'the environment', as it is far broader than that. To this end, greater emphasis should be placed on environmental sustainability.
- While delivering jobs and investment, providing housing choice and affordability, ensuring a more connected Melbourne and creating liveable communities and neighbourhoods are essential, these all relate to the broader environment. It is therefore recommended that Environmental Sustainability be addressed upfront in Plan Melbourne 2016.
- Melbourne's green wedges are a significant and valuable part of its identity. Similarly, Manningham's green wedge land contributes to our identity, and provides significant environmental, economic and lifestyle values and opportunities.
- A permanent Urban Growth Boundary will ensure that environmental, agricultural and lifestyle values in Manningham's green wedge can be retained.
- 31 Melbourne metropolitan municipalities, including Manningham are part of the '100 Resilient Cities' project. The objectives and direction of this project must be reflected in Plan Melbourne 2016, to ensure that the Resilience Strategy for Melbourne aligns with Melbourne's metropolitan strategy.
- In light of climate change, Plan Melbourne 2016 should better recognise the increasing risks associated with natural hazards, and greater direction and support should be provided to councils to better understand, plan and manage to mitigate these risks. In addition, Plan Melbourne should align with all planning and mitigation strategies that have been developed at the state and regional level for flood, bushfire, storm events, heatwaves etc.
- With the expected population growth and intensification of development across Melbourne, the protection and restoration of biodiversity becomes paramount. Plan Melbourne 2016 should provide overarching support for the protection and restoration of biodiversity, and regulatory protection should be increased.
- While Doncaster Hill is a leading example of how an activity centre can incorporate sustainability initiatives (with localised recycled water infrastructure), greater direction and incentives are needed to facilitate the uptake of renewable and low-emission energy.
- Council has recently resolved to prepare and exhibit a planning scheme amendment to introduce an Environmentally Sustainable Design Policy as part of the second round of Melbourne councils. While Manningham Council commends the Minister for Planning for approving the Environmentally Sustainable Design Policy for the first round of Melbourne councils, a consistent state-wide approach on this matter would be beneficial.

<p>What should change?</p>	<p>General Plan Melbourne comments:</p> <ul style="list-style-type: none"> • Environmental Sustainability should be addressed upfront in Plan Melbourne 2016. • Acknowledgement of the value and protection of Melbourne’s green wedges should be increased. • Greater overarching support for the protection and restoration of biodiversity is required. • Melbourne’s Resilience Strategy should align with Plan Melbourne 2016. <p>Specific Plan Melbourne Refresh comments:</p> <ul style="list-style-type: none"> • A permanent Urban Growth Boundary should be reinforced. • Greater direction and support is required in relation to natural hazards. • The facilitation of renewable and low-emission energy outcomes is strongly encouraged. • A state-wide approach to Environmentally Sustainable Design is recommended.
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Doncaster Hill – Metropolitan Activity Centre

- Doncaster Hill was previously (and appropriately) identified as a Principal Activity Centre under *Melbourne 2030*.
- Doncaster Hill is uniquely positioned in Melbourne's middle-ring east in close proximity to major employment generators. It is unlocking and complementing regional opportunities for improved access to jobs, educational and health facilities and other community and social services.
- Doncaster Hill can relieve pressure from neighbouring MACs, as public transport and road infrastructure are currently at capacity. However, its real potential will be to take pressure off regional capacity constraints that can only be realised through identification as a MAC.
- Doncaster Hill was a trailblazer with respect to activity centre planning. Council was the first to develop a strategy that proposed such a substantial change and renewal.
- Doncaster Hill meets all seven of the Plan Melbourne objectives and its development potential is now being realised, both on a local and international scale, with endorsed and pending planning permits, a new 385 apartment mixed use Bunnings project and the redevelopment and expansion of Westfield's National flagship site in Doncaster.
- More than 8,000 new residents will live in one of the 4000 apartments to be built by 2031. At present, 14 developments, comprising 845 apartments, have been completed and a further 825 apartments are under construction. An additional eight approved planning permits, comprising an additional 1300 apartments, are in the pipeline. In the coming years, Council will review the Doncaster Hill Strategy to maximise and enhance the role and function of Doncaster Hill as a Metropolitan Activity Centre in (MAC) Melbourne's east.
- Council has delivered over \$30 million of development contribution funding for community and streetscape infrastructure in Doncaster Hill to support its growth and development, including the \$38 million MC² community hub, which was completed in 2012.
- It is important to note that in a forward thinking metropolitan strategy, activity centres should not just be designated on their current use, function or built form. Doncaster Hill will eventually be serviced by improved public transport (including a heavy rail line), and will be coupled with the significant growth and expansion of commercial, retail and housing developments now and into the future. It should be redesignated as a MAC to reflect both its current, and future role and function.
- Identification of Doncaster Hill as a MAC provides greater opportunity/incentive to attract other government and/or private institutions to locate in Manningham to contribute towards job creation e.g. major health service, regional education facility, government departments. A key aspiration for Doncaster Hill is to enable its residents to age in place, and to do so it is important to have these key facilities available locally. In essence, Doncaster Hill demonstrates the 20-minute city concept and is a role model for improving liveability.
- Doncaster Hill is well positioned as a MAC, especially with the potential public transport infrastructure investment identified in Plan Melbourne 2014. Further investment from private enterprise and the continued implementation of the Doncaster Hill Strategy for the area will create an opportunity to highlight this region as a major centre of growth for Melbourne's north east.

- Within Doncaster Hill:
 - there is a high level of public transport usage (19% compared to 10.8% for rest of Manningham)
 - the population is forecast to increase 8.74% annually
 - there is a high level of professionals in the workforce (the top three occupations include Professional, Managers and Clerical and Administrative Workers)
 - there is also low car ownership (85.5% compared to 92.4% for Manningham).

What should change?	<ul style="list-style-type: none"> • Reassessing the hierarchy of activity centres is required, especially in the middle ring suburbs, to ensure their designation can support and complement unlocking opportunities for job creation. This will ultimately assist by taking pressure off surrounding areas of congestion. As such, it is recommended that an additional level of activity centre status be introduced that accords with Plan Melbourne Refresh principles and objectives. • Doncaster Hill should be redesignated as a Metropolitan Activity Centre to reflect its current and future role. <p>Specific changes:</p> <p>Pages 12 & 13 – Maps 3 and 4 are to be updated reflect Doncaster Hill as a Metropolitan Activity Centre.</p> <p>Page 24 – Map 8 to be updated reflect Doncaster Hill as a Metropolitan Activity Centre.</p> <p>Page 27 – Table 1 to be updated to reflect Doncaster Hill as a Metropolitan Activity Centre.</p> <p>Page 37 – As a short term objective, ensure that Doncaster Hill is also identified in the State Planning Policy Framework for its role as a Metropolitan Activity Centre.</p> <p>Page 43 - Map 12 to be updated reflect Doncaster Hill as a Metropolitan Activity Centre.</p> <p>Page 158 – Map 33 to be updated reflect Doncaster Hill as a Metropolitan Activity Centre.</p> <p>Page 159 – Doncaster Hill Metropolitan Activity Centre to be listed as a place of State significance, and also noted as an area where future growth will be consolidated and targeted.</p>
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Improving public transport including a heavy rail line extension to Manningham

- Public transport plays an important role in shaping and improving Melbourne's liveability into the future.
- An essential element to servicing the needs of employment growth in the inner city and other activity areas is an integrated public transport network in the middle and outer ring suburbs.
- The majority of Manningham's workforce travel out of Manningham to work. Latest figures from REMPLAN (August 2015) indicate up to 79% commute each day, and public transport only accounts for 12.3% of all travel to work.
- Direction 3.2 of Plan Melbourne seeks to strengthen transport networks in existing suburbs.
- The provision of new public transport infrastructure must remain a high priority if increased employment opportunities are to be realised. Unlocking the spare capacity of existing infrastructure needs to be addressed in Plan Melbourne.
- In a local context, significant improvements to public transport infrastructure are essential for the success of Doncaster Hill and the ongoing viability of Manningham's activity centres which continue to be a focus of local job creation.
- Planning for the metro system in the short term, and in particular the rail link to Doncaster Hill, is supported. Council acknowledges that Plan Melbourne includes the long-term delivery of Doncaster Rail sometime between 2025 and 2050. However, Council seeks to ensure that the Doncaster Rail link is completed within the next 15 years (by 2028), consistent with the objective in Public Transport Victoria's 'Network Development Plan - Metropolitan Rail'.
- Council is concerned that the Plan indicates that a rail link to Doncaster will only extend as far as the Doncaster Park & Ride, and not to Doncaster Hill. The population of Doncaster Hill is anticipated to increase by more than 8000 people over the next 20 years and the proposed rail line needs to be extended to Doncaster Hill (and potentially beyond) to directly service this growing population.
- The Plan needs to acknowledge the original purpose of the median strip of the Eastern Freeway as a preferred rail reservation, and include a direction to ensure the land is still reserved for the purpose of rail, and not utilised as part of the any proposed future widening of the Eastern Freeway.

<p>What should change?</p>	<ul style="list-style-type: none">• Plan Melbourne 2016 should more clearly articulate the importance of providing new public transport infrastructure to support increased employment opportunities. Unlocking the spare capacity of existing infrastructure also needs to be addressed in Plan Melbourne.• Clarification and commitment is required throughout Plan Melbourne 2016 to ensure that Doncaster Rail extension is completed.• As a minimum, the Plan needs to refer to the Doncaster Rail extension as a 'future rail extension' and not a 'potential rail extension', and the reserve along the freeway needs to be retained in perpetuity.• The land required for the entire Doncaster Rail extension (past the freeway) needs to be reserved. <p>Specific changes:</p> <p>Page 42 – The rail initiative (Planned & Potential) along the Eastern Freeway as shown on the Map 12 needs to extend beyond the existing Park and Ride to Doncaster Hill.</p> <p>Page 43 – The legend for Map 12 needs to be revised as follows: Rail Initiative (Planned & Potential) to become Rail Infrastructure (Future).</p> <p>Page 71 – The future Doncaster Rail link is to be included as a Solution.</p> <p>Page 77 – The legend for Map 20 needs to be revised from 'Potential Doncaster Rail Link' to 'Future Doncaster Rail Link'.</p> <p>Page 79 - Initiative 3.1.4 – Needs to be revised to acknowledge that the completion of the bus network should also occur in the middle and outer suburbs, not just the inner city as is currently stated. Enhancement of the DART bus services should include consideration of the completion of bus lanes and priority treatments on Hoddle Street, and investigations of full grade separation of buses through Doncaster Hill (Williamsons/Doncaster Road).</p>
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Affordable housing (including for those with a physical or intellectual disability)

- Melbourne is increasingly becoming more expensive to live, because of continual increases in mortgage or rental payments. The provision and management of affordable housing is critical in ensuring that Melbourne continues to be recognised as one of the world's most liveable cities.
- Council has an endorsed Housing Affordability Policy (2010-2020) which sets affordable housing provision targets of 10% by 2020 for Doncaster Hill and 5% for the remainder of the municipality. However, these are aspirational targets and there is no mechanism to assist Council with achieving these targets.
- Council supports the introduction of planning mechanisms (either regulatory or incentive based), to increase the provision of affordable housing. In addition, Federal and State financial incentives would also assist with the provision of affordable housing.
- To increase the level of affordable housing, a state-wide planning scheme control (potentially a Particular Provision) that requires the provision of affordable housing as part of new residential development would be beneficial. Alternatively local government areas, with support from the State Government, could prepare local planning policies to guide the future provision of affordable housing.
- Incentive mechanisms such as plot ratio bonuses, density bonuses, height bonuses and inclusionary zoning have in principle support, however it is important that the quality of the design and the strategic direction for a local area is not compromised by these incentives. To this end, if incentive based mechanisms were made available, it is important that Council continues to have the decision making ability to holistically assess the implications of the residential development that incorporates affordable housing.
- Council supports and recommends amending the Victoria Planning Provisions to include a definition for social housing and affordable housing.
- The ongoing management of affordable housing is a challenge that needs to be addressed. Greater direction is therefore needed on management models to ensure that affordable housing, whether it be privately owned or rented, remains affordable.
- It is important that suitable affordable housing options are encouraged and provided to allow people with an intellectual or physical disability to live independently. As such, Plan Melbourne 2016 should be amended to provide direction on the provision of affordable housing for those living with a disability.
- Funding sources, such as the National Disability Insurance Scheme Funding, should be implemented to encourage innovative housing solutions for those living with a disability.

What should change?	<ul style="list-style-type: none">• Under initiative 2.4.3, it is noted that planning provision and mechanisms to deliver more affordable housing will be delivered. This should be amended to reflect that regulatory and incentive based mechanisms will be implemented.• The affordable housing section needs to reflect the challenges associated with affordable housing management models, and accordingly provide appropriate direction.• This chapter also needs to be revised to ensure that social and affordable housing for those living with a disability is addressed.
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Innovative Health Services Solutions

- Plan Melbourne 2014, at Initiative 4.4.1, proposes to create health precincts to meet the needs of residents across Melbourne. However, the associated actions appear to focus on outer suburban growth areas and identified urban renewal areas. Greater emphasis is required in Plan Melbourne 2016 for the provision of health precincts in established suburbs to reflect the anticipated population growth.
- Approximately 24,000 (20%) of Manningham residents are aged 65 years or older.
- The largest cohort of population growth within Manningham over the next 20 years will be in persons aged over 70 years.
- There are no acute hospitals situated in Manningham and as a consequence, there is minimal tertiary medical specialist presence within the municipality.
- Our residents are required to journey many kilometres beyond the municipality in order to obtain consultancy services at a tertiary level health hub across Melbourne.
- Additional health services would reduce travel distances and pressure on existing overloaded health hubs, and free up valuable infrastructure capacity.
- The existing health hubs are already overcrowded and heavily utilised with constant demand loads.
- Innovative health services solutions, and more specifically a clustered 'Multi-Medical Specialist Service' precinct is required within Manningham to assist with serving the needs of the municipality and the broader region.

What should change?	<ul style="list-style-type: none">• Greater emphasis is required in Plan Melbourne 2016 for the provision of health precincts in established suburbs to reflect the anticipated population growth.• Innovative health services solutions, and more specifically a 'Multi-Medical Specialist Service', should be identified in Plan Melbourne 2016 within Doncaster Hill, or in close proximity to Doncaster Hill.
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Implementation

- Implementation of such an ambitious work program is fundamental to the success of Plan Melbourne. Funding and resourcing of the actions, including a body such as the Metropolitan Planning Authority to oversee implementation and key infrastructure projects, will need to look towards innovative solutions and private investment partnerships.
- Council recommends that the role of the Metropolitan Planning Authority be clarified. Participation in this body by Local Government representatives at a regional level is highly recommended.
- Separating the long-term strategy from a shorter-term implementation plan (as part of a rolling implementation plan) is supported.
- Council agrees with the Ministerial Advisory Committee that the plan should be freed from the budgetary priorities and constraints of the government of the day.
- There needs to be a stronger commitment to build key infrastructure projects which are identified in the plan (i.e. Doncaster Rail).
- The allocation of short term priorities should be equitable across Melbourne. More specifically, the allocation of budget to undertake short term priorities should be based on merit, need and the overall impact they will have on the functionality of Melbourne. It is also important that the budget allocation is transparent and that all municipalities receive infrastructure improvements as part of the short term priorities.
- Clearer direction is needed on who will develop and monitor the implementation plan and how it will be evaluated and reported on to stakeholders. Local government input in this process is also recommended.
- When Melbourne 2030 was released, councils were provided with a grant to progress a project or piece of infrastructure that accorded with the metropolitan strategy. Council received a grant enabled us to undertake strategic background research for Doncaster Hill, and ultimately led to the preparation and approval of the Activity Centre Zone for this significant area. A similar funding opportunity should be introduced with Plan Melbourne 2016.

<p>What should change?</p>	<ul style="list-style-type: none">• The implementation of Plan Melbourne 2016 should be strengthened, and a partnership approach should be employed, particularly with local government.• The Plan Melbourne Implementation Plan should be developed with an allocated budget that is supported by the State Government budget cycle.• The allocation of short term priorities should also be equitable across Melbourne. More specifically, the allocation of budget to undertake short term priorities should be based on merit, need and the overall impact they will have on the functionality of Melbourne. It is also important that the budget allocation is transparent and that all municipalities receive infrastructure improvements as part of the short term priorities.• In order to ensure effective implementation, the role of the Metropolitan Planning Authority and sub-regional groups of councils needs to be better defined, and a monitoring framework needs to be prepared and updated regularly.
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11. ASSETS & ENGINEERING

11.1 Bolin Bolin Integrated Water Management Project

Responsible Director: Director Assets and Engineering

File No. T16/5

The ultimate destination for this report is: COUNCIL AGENDA

Neither the responsible director, manager nor the officer authoring this report has a conflict of interest in this matter.

SUMMARY

Action 2.2.1.5 of Council's Strategic Resource Plan for 2015/2016 requires the implementation of the Bolin Bolin Billabong Integrated Water Management project.

The Bolin Bolin Billabong Integrated Water Management project, which is predominately located on crown land on the western side of Bulleen Road, is a significant, integrated storm water management project, with multiple stakeholders that include Manningham City Council, Boroondara City Council, Carey Grammar, Melbourne Water, Parks Victoria and the Department of Environment, Land, Water and Planning.

It will supply a total of 35 megalitres (ML) of treated stormwater annually to the project partners, Manningham City Council, Boroondara City Council and Carey Grammar, minimizing reliance on potable water supplies, limiting extraction from the Yarra River, minimizing the risk of local flooding and providing significant improvements to the quality of storm water discharging to the Yarra River (reduction of 250kg of Nitrogen discharged per annum).

Responsibilities for the capital project funding are distributed across the project partners. Operation, maintenance and asset renewal costs have been determined for the assets, and a "Sinking Fund" is to be established whereby annual contributions will be required from the 3 project partners, to facilitate the routine and non routine maintenance of the facility and replacement of assets over the 21 initial year life of the project.

Manningham City Council has take a lead role in the development of the project, which is "shovel ready", subject to signing of the project agreement between the project partners, signing of a license agreement for the construction and maintenance of assets on crown land that form part of the project infrastructure and final resolution of the size of the proposed storage at the Freeway Golf Course.

Tenders have been invited for the works and tender interviews have been undertaken with the two lowest tenderers. An assessment of tenders and costs incurred to date indicate that the project is fully funded, subject to final execution of the funding agreement from Department of Environment Land Water and Planning (DELWP).

Council's current capital contribution, to the total project cost of \$2,816,647.36, is \$750,000.

It is recommended that, subject to final execution of the project partner agreement by both Boroondara City Council and Carey Grammar Council, Council delegate authority to the Chief Executive to sign the project agreement between the project partners.

It is further recommended that, in order to facilitate the project delivery, Council resolves to become the Committee of Management for that portion of Crown Land which contains the project assets, and sign the license agreement between Manningham and DELWP that provides access rights for the construction and maintenance of assets over portions of Crown Land that form part of the proposed project infrastructure.

It is also recommended that Manningham City Council act as the construction authority for the project on behalf of the project partners, and award a contract for the construction of the Bolin Bolin Integrated Water Management Project, with agreement from the other 2 partners.

It is recommended that Council accept the role of Operations Manager for the ongoing management of this asset on behalf of the project partners.

Finally, it is recommended that Council notes the delays in securing grant funding from DELWP and endorses the extension of time for the completion of Strategic Resource Plan Action 2.2.1.5 for the completion of project construction from 30 June to 31 December 2016.

1 BACKGROUND

- 1.1 The Bolin Bolin Billabong Integrated Water Management project is a “Whole-Of-Water-Cycle” integrated storm water management project located on the eastern banks of the Yarra River in Bulleen within the City of Manningham and within the “Freeway Golf Course” owned and managed by the City of Boroondara.
- 1.2 The project will provide fit-for-purpose water for use by local irrigators, dramatically reducing their reliance upon potable water supplies and extraction of water from the Yarra River under license from Melbourne Water.
- 1.3 The project will harvest stormwater from the existing outfall drain that serves a 35 hectare catchment in Bulleen, supplemented with water extracted from the Yarra River, appropriately treat the water and distribute it for reuse to three project partners including Manningham City Council, irrigating the “Freeway Golf Course” within the City of Boroondara, school sports grounds located at Bulleen Park and Carey Grammar, and adjacent public open space areas.
- 1.4 Attachment ‘A’ shows a locality plan of the project site
- 1.5 Over the last 10 years, Council has allocated capital funding to upgrade the Council drainage network within the Whites Way / Morris Williams Reserve catchment, to mitigate the flooding of houses within the catchment. The drainage outfall, through Crown land located at 194, 193 and 193A Bulleen Road, Bulleen, immediately to the north of the Veneto Club site, was the remaining section of drain to be upgraded. The care and management of this land is currently delegated to Parks Victoria.
- 1.6 The existing Council drain at this site is in a state of disrepair and is not functional. In local flash flooding events, this deficiency results in localised flooding of Bulleen Road and the Trinity Grammar site located to the east.

- 1.7 Some 6 years ago Council completed a wetland project within Trinity Grammar in lieu of a piped solution through their land which provided benefits to the school by way of providing water to irrigate their ovals. As a part of the negotiations with Trinity Grammar Wetland, Council signed a "Memorandum of Understanding" which includes a commitment to provide a drainage outfall and resolve flooding issues on their land as far as practicable.
- 1.8 Consultation with the former Department of Sustainability and Environment (DSE) and Parks Victoria (Manager of Crown land where the existing outfall drain emerges) was subsequently undertaken with the intent to resolving local flooding issues experienced by Trinity Grammar. These discussions resulted in the development of a proposal for a stormwater harvesting facility in addition to improved outfall drainage works.
- 1.9 Initially the project was to supply harvested storm water to the Bolin Bolin Billabong during the winter months to arrest the decline in the ecological values of the Billabong by replicating the original inundation regime.
- 1.10 The project was subsequently expanded to include a number of project partners namely Carey Grammar and the City of Boroondara, to supply water for the irrigation of nearby sports fields including Bulleen Park in Manningham, the Carey Grammar sports fields and the "Freeway Golf Course" under the care and management of the City of Boroondara. Irrigation supply would primarily be required during the summer months, complimenting the winter inundation demand for the Billabong.
- 1.11 The project was able to attract \$550,000 from the Federal Government, through the *National Urban Water and Desalination – Storm Water Harvesting and Reuse Program*. The purpose of this program was to fund initiatives that would contribute to the achievement of water security through storm water harvesting projects.
- 1.12 Following the completion of detail designs, there was a change in attitude to the project by the former DSE who indicated that the supply of water for the Billabong was no longer a high priority for rehabilitation. The authority also indicated that they were unable to contribute to the ongoing operating costs of the facility at that time. A significant contribution was required from the authority as the estimated water demand for the billabong site was significantly greater than that required by other parties.
- 1.13 At the same time Council officers had invited tenders for the original project which indicated there was a significant shortfall in funding for the project. Due to the budget constraint and lack of support from the former DSE, Council was unable to deliver the original project in a timely manner and subsequently a significant portion of the Federal Government funding was required to be surrendered to the government.
- 1.14 Consultation was subsequently undertaken with Melbourne Water to discuss a way forward and it was agreed to substantially redesign the project with the view of supplying water to serve the project partners facilities only.
- 1.15 Action 2.2.1.5 of Council's Strategic Resource Plan for 2015/2016 requires the implementation of the Bolin Bolin Billabong Integrated Water Management project, with construction to be completed by 30 June 2016, subject to receiving grant funding.

Project Details and Benefits

- 1.16 The modified project which is the subject of this report involves the construction of 1.5ML combined wetland and storage lake at the Billabong (Crown Land) site. A secondary 3.30ML storage is to be constructed within the "Freeway Golf Course" (47-49 Columba Street, Balwyn North), which is under the care and management of the City of Boroondara and two 214.7kl storage tanks will be constructed within Bulleen Park.
- 1.17 The two storage facilities and the tanks are all connected by a distribution pipe line which runs through the Crown Land site, Bulleen Park and the Freeway Golf Course.
- 1.18 Storm water will primarily be harvested from a 35 hectare catchment on the east side of Bulleen Road north/east of the crown land site. The water will be treated at the crown land site via a gross pollution system and wetland then distributed to the storage lake at the golf course and storage tanks at Bulleen Park.
- 1.19 The project also includes an upgrade of drainage outfall infrastructure within the crown land site. The works include the partial replacement of the existing outfall drain and inlet structure and the reconstruction of a vegetated bypass channel for major flows which will discharge to the existing Council outfall drain that discharges to the Yarra River. The works will also incorporate a detention and secondary storm water treatment facility.
- 1.20 The storage facilities can also be supplemented by extraction of water from the Yarra River from the existing pumping station within the golf course. A distribution pipeline from the Yarra River will be constructed to the Golf Course storage to enable the filling of this storage facility.
- 1.21 The project will harvest in the order of 35ML of stormwater per annum, relieving demand for potable water supplies and minimising Yarra River extraction demand, facilitating the irrigation of the sports fields on Bulleen Park for Manningham City Council, the sports fields for Carey Grammar and the Freeway Golf Course for Boroondara City Council. The proposed infrastructure will provide acceptable reliability, of 95.5% in an average year ensuring the commercial attractiveness of the project to the irrigators and the long term viability of the project.
- 1.22 This project aims to provide a more secure, appropriate source of water for the irrigation of sporting fields across the Bulleen flood plain.
- 1.23 Furthermore, the project aims to attenuate pollutant loads reaching the Yarra River from the local catchment, whilst at the same time enhancing flood mitigation in the lower reaches of the catchment.
- 1.24 In essence the project benefits and aims are to:-
- Achieve a "Whole of Water Cycle" management approach;
 - Reuse and recycling of storm water and reduction of potable water consumption, 95.5% water supply in an average year;
 - Improve the water quality to the Yarra River by reducing pollutant load;
 - Provide sustainable environmental flows to the Yarra River by reducing extraction demand;
 - Provide flood mitigation in the lower reaches of this catchment including Bulleen Road and Trinity Grammar in compliance with the Memorandum of Understanding with Trinity Grammar;

- Improved aesthetics of the crown land site;
 - Facilitate future augmentation of the system at a later date to supply water to the Bolin Bolin Billabong.
- 1.25 Extensive modelling of the system indicates that best practice targets of pollutant and nutrient reductions will be achieved for this catchment: Total Suspended Solids (TSS) will be reduced by 80%, Total Phosphorous will be reduced by 66% and Total Nitrogen by 48%.
- 1.26 The project together with the Trinity Grammar wetland will reduce the amount of Total Nitrogen entering the Yarra River, and Port Philip Bay by 124kg/annum.
- 1.27 A copy of the proposal is attached as Attachment “B” to this report.

Project Governance Arrangements

- 1.28 The implementation of this project has proven to be very complex, requiring the development of co-operative partnerships with multiple stakeholders. The complexity of the project also required careful negotiations with all relevant stakeholders to ensure their continued commitment to the implementation of this project.
- 1.29 One of the most complex issues associated with the implementation of this project is that the project infrastructure is to be installed across a number of parcels of land; (Freehold and Crown Land) each owned and managed by different authorities. In addition each stakeholder has different requirements in terms of water demand resulting in varying contributions to capital costs as well as the operational and maintenance costs.
- 1.30 Accordingly careful consideration needed to be given to the governance arrangements for the implementation of the project as well as the ongoing operational and maintenance arrangements.
- 1.31 The project partners involved in this project include:-
- Manningham City Council;
 - Carey Grammar;
 - Boroondara City Council;
 - Melbourne Water (Capital contribution to design and construction only)
- 1.32 Manningham Council has taken a lead role in the development of this project from inception, mainly due to the initial requirement to resolve the outfall drainage issues identified through the Trinity Wetland Project. This involved initial discussions and negotiations with Parks Victoria to secure the site for the installation of the major assets on crown land. It also included negotiations with Melbourne Water who funded the initial design and subsequent re-design and documentation of the project including a significant initial capital contribution of \$500,000 and a further contribution of \$400,000.
- 1.33 Manningham officers have also facilitated the necessary planning permits and approvals, negotiated land tenure arrangements, negotiated funding contributions with relevant parties including external agencies and facilitated the drafting of agreements between the project partners.
- 1.34 The major beneficiaries of the project will be Manningham City Council, Carey Grammar and Boroondara City Council. Melbourne Water will benefit with a reduction in pollution loads to the Yarra River.

- 1.35 In order to bind the major beneficiaries to the project, a “Project Agreement” has been drafted to facilitate the implementation of the project. The agreement outlines the obligations of each partner including the capital contributions to be made by each party to the project and the ongoing operational and maintenance arrangements for the project.
- 1.36 Melbourne Water is not party to this agreement as they have indicated that they will not have any operational role for the project once it has been completed and commissioned.
- 1.37 The “Project Agreement” details, the nature of the project, the roles and responsibilities of each party, the land tenure arrangements of the project, the water entitlements of each project partner, the amalgamation of existing licenses for the extraction of water from the Yarra River, the capital contribution by each project partner including the operational arrangements and funding contributions to be made by each partner during the operational phase of the project.
- 1.38 The “Project Agreement” will be binding on the project partners for a period of 21 years. At the expiry of 21 years, the agreement can be re-negotiated if all partners wish to continue with the operation of the facility.
- 1.39 A copy of the draft “Project Agreement” forms Attachment “C” to this report.
- 1.40 As Manningham Council has taken a lead role in the development of this project, it is proposed that Manningham City Council become the construction authority for the delivery of this asset on behalf of the project partners.
- 1.41 The financial obligations of the project partners are outlined in the financial resource implications section of this report.
- 1.42 It is also proposed that Manningham City Council be the responsible authority for the operation of the asset during the life of the agreement which will include the routine and non routine maintenance arrangements of the asset during the operational phase and replacement of assets once the assets have reached the end of their useful lives.
- 1.43 Consultants were engaged to develop the project operational, maintenance and capital renewal schedules for the assets, and to undertake a net present value (NPV) assessment. The schedule identifies the relevant maintenance activities, frequencies and the associated costs. The development of the schedule involved consultation with all project stakeholders, including Melbourne Water.
- 1.44 Operational costs associated with the assets include power supply to run the pumps and appropriate insurance. Required routine maintenance activities include grading of access tracks, general routine inspection to plant, equipment and assets, clearing of the gross pollutant trap and other activities. Renewal includes major works, including the de-silting the sedimentation basins and resetting of the wetland and replacement of pumps.
- 1.45 The project will require the establishment of a “Sinking Fund” whereby each party will be required to make an annual contribution for the operation costs of the project including routine and non routine maintenance and asset replacement.
- 1.46 The contribution to cover operational costs from each party will be apportioned on the basis of water demands of each party that benefits from the project

(Excluding Melbourne Water). Project partners with the greatest water demand will be required to contribute the highest amount for the operation of the asset. The schedule which details the contributions by each party is attached as an annexure to the "Project Agreement".

- 1.47 Details of the operational costs are outlined in the financial resource implications section of this report.
- 1.48 As Manningham will assume responsibility for the operational arrangements, invoices will be forwarded annually to the other project partners to recover the operational costs of the project.
- 1.49 A project control group was established with representatives' from all project partner organizations during the development phase of the project. The project control group have been involved in the project risk assessment, tender selection and will be involved in the commissioning and oversight of the project.
- 1.50 A management committee with representatives from all parties will be established prior to the commencement of the project operational phase to review the operation of the facility including the annual operational, maintenance and capital replacement costs during the life of the agreement.

Land Tenure and Access Arrangements

- 1.51 As indicated above the project is to be constructed over various parcels of land under different ownerships.
- 1.52 The storage basin, wetland, the vegetated bypass channel and part of the distribution pipe line are to be constructed on crown land currently managed by Parks Victoria on behalf of the Department of Environment, Land, Water and Planning (DELWP).
- 1.53 The storage tanks, part of the distribution pipeline to the wetland storage and golf course storage and the pipeline to the Carey Grammar are located within Bulleen Park owned by Manningham City Council.
- 1.54 The remaining components of infrastructure which includes the golf course storage and the remaining sections of distribution pipelines from the Yarra River, the pump at the Yarra River and the connecting storage facilities at Bulleen Park and the crown land site are contained on the Freeway Golf Course site which is owned and managed by the Boroondara City Council.

a. Crown Land

- 1.55 Parks Victoria indicated that a Committee of Management needs to be appointed to manage the parcel of Crown Land accommodating the proposed storm water assets, before any works commence on this land. The Committee of Management will act as the land manager for the parcel of crown land.
- 1.56 Crown Land is subject to the provisions of the Crown Land (Reserves) Act 1978. The Act requires land to be used for the purpose for which it is reserved. The Minister has the power to appoint Committees of Management in respect of Crown Land. Committees of Management have been involved in the management of Crown Land for over 150 years in Victoria. A Committee of Management is empowered under the provisions of the Act to:

- Manage, improve, maintain and control the land for the purposes for which it is reserved;
 - Undertake financial transactions, enter into contracts and report on its finances and other issues, as directed by DELWP;
 - Negotiate leasing and licensing arrangements for the reserve; and
 - Enforce relevant regulations.
- 1.57 Council is already designated as the Committee of Management in respect of several parcels of Crown Land across the municipality, including the Warrandyte River Reserve.
- 1.58 In-principle agreement was initially reached with Parks Victoria officers, to annex the section of the Crown Land that contains the project assets, for the purposes of establishing a Committee of Management.
- 1.59 A formal application was made on the 5th June 2014 to the former Department of Environment and Primary Industries and advice was received on the 31st of July 2015 that Council's application was successful.
- 1.60 The former Department of Environment and Primary Industries advised that the application for Council to become the Committee of Management of that portion of crown land containing the wetland storage and associated infrastructure was approved by the Minister under delegation on the 28th of July 2014 and forms Attachment " D" to this report.
- 1.61 As Council is the responsible drainage authority and is successfully meeting its Committee of Management responsibilities at other Crown Land sites within the municipality, it is considered appropriate that Council assumes responsibility for the relevant portion of Crown Land, for the construction and operation of the Bolin Bolin Billabong Integrated Water Management project.
- 1.62 The Department of Environment, Land, Water and Planning carries public liability insurance, which generally covers Committees of Management in respect of injury or loss to third parties although it is proposed to obtain separate public liability insurance to cover the project including the portion of Crown Land to be annexed under a "Committee of Management".
- 1.63 The distribution pipe line is also partly contained on the crown land and accordingly in order for Council to have access rights for the maintenance of this asset on the portions of Crown Land beyond the Committee of Management boundary, Council will need to enter into a license agreement with the Department of Environment, Land, Water and Planning.
- 1.64 The licence will also provide access rights to the existing drainage assets on this land which were previously contained within easements when the land was freehold land (the easements were removed when it became crown land). A copy of the license forms Attachment G to this report.
- 1.65 A copy of the plan showing the crown land area that Council will be responsible for as Committee of Management and the location of the land subject to the licence agreement forms Attachment "E" to this report.
- b. Bulleen Park**
- 1.66 Bulleen Park is under the care and management of Manningham City Council. As Manningham is the proposed construction and maintenance authority on

behalf of the project partners, access rights for construction and maintenance will be unrestricted.

- 1.67 However, the distribution pipeline to Carey Grammar will be the responsibility of Cary Grammar. These assets are located within an easement in favour of Carey Grammar, which is to be retained and accordingly Carey will have access rights to maintain their assets within Bulleen Park.
- 1.68 There are provisions in the "Project Agreement" to grant a licence to Carey Grammar to maintain Carey Grammar's assets on Manningham land.

c. Freeway Golf Course

- 1.69 The Freeway Golf Course is under the care and management of Boroondara City Council. As Manningham is proposed to be the construction and maintenance authority on behalf of the project partners, access rights will need to be granted to Manningham for the construction and maintenance of the facility on the Golf Course site.
- 1.70 There are provisions in the "Project Agreement" for the City of Boroondara to grant Manningham City Council access rights by way of a licence to enable Manningham Council to exercise the functions and obligations outlined in the agreement for the construction and maintenance of the project infrastructure at the Freeway Golf Course site.

Extraction Licenses

- 1.71 As part of the redesign works for the project which was funded by Melbourne Water, the authority required the project partners to surrender part of their Yarra River extraction water entitlements and amalgamate the three existing individual project partner licences into one licence.
- 1.72 The three project partners currently all have separate Yarra River extraction licences that total 222ML and comprise of:
- Manningham City Council – 12ML
 - Boroondara City Council – 138ML
 - Carey Grammar – 72ML
- 1.73 Agreement has been reached with the project partners to each surrender 30% of their extraction licences and to amalgamate all licences into a single licence under joint names to permit extraction of a total 155.4ML annually.
- 1.74 The "Project Agreement" binds the project partners to the surrender of part of their extraction entitlements and amalgamation of their licences into a single licence and also facilitates renewal of separate licences after 21 years, if the facility is to be discontinued.
- 1.75 Melbourne Water has confirmed these arrangements in a letter to Manningham dated the 19th December 2014 which is attached as attachment "F" to this report.
- 1.76 The amalgamation of the extraction licenses can be undertaken within 12 months of the project commissioning.

Project Risks and Risk Management Arrangements

- 1.77 There are a number of project risks that have been identified with the delivery of this project which are as follows together with the appropriate controls:-
- 1.77.1 There is a risk that there are insufficient funds to implement the project. Manningham officers previously identified a shortfall in the project funding which was reliant on additional funding from the former "Office of Living Victoria".
 - 1.77.2 DELWP has assumed the responsibilities of the former Office of Living Victoria and reviewed previous funding applications made by Manningham which were approved but not contracted and have offered a new funding contract to a maximum value of \$400,000.
 - 1.77.3 There are risks that in the event that the project is terminated due to unforeseen circumstances that all sunk costs incurred by Manningham are not recovered.
 - 1.77.4 There are provisions in the "Project Agreement" that any sunk costs incurred by Manningham are apportioned between the parties proportionally based on the funding contributions by each of the partners to the agreement.
 - 1.77.5 There is the risk that the design will not achieve the objectives outlined in the feasibility study including the supply of the quantum of water to the project partners.
 - 1.77.6 The "Project Agreement" provides no guarantees that Manningham will be able to supply the water demand to the project partners in the event there is of lack of rainfall or that extraction from the Yarra River is limited as required by the license. The feasibility study and design report prepared for the project indicate that the provision of 1.5ML storage at the crown land site and 3.3ML storage at the golf course site will provide 95.5% reliability of supply in an average year.
 - 1.77.7 There is a risk that the quality of water is unsuitable for reticulation or could become contaminated.
 - 1.77.8 The "Project Agreement" acknowledges that there are no obligations on Manningham City Council to guarantee the quality of water to be delivered to the project partners. Manningham will however undertake regular water testing in accordance with the operational plan for the project. There are also obligations in the "Project Agreement" on each project partner to undertake their own water quality tests to ensure that the water is safe to use for reticulation.
 - 1.77.9 There is a risk for Manningham in the event that project construction is significantly over budget.
 - 1.77.10 The "Project Agreement" requires the establishment of a project control group to oversee the tender selection. There is also an obligation for Manningham to provide progress updates of expenditure during construction. The agreement gives authority to Manningham to expend the project contingency but any additional costs beyond the contingency will need to be approved by the project control group. Any financial liability exceeding the construction costs including the contingency will be shared between the project partners excluding Melbourne Water.

- 1.77.11 There is a risk that the annual costs are insufficient to cover the operational costs of the infrastructure or one party may default on payments.
- 1.77.12 The operational and renewal costs have been estimated by an independent expert consultant recommended by Melbourne Water who has prepared the operational plan and operating costs for the project. There are provisions in the "Project Agreement" to annually review operational costs and adjust the operational plan and costs of operating the system as required.
- 1.77.13 The "Project Agreement" also provides default provisions during the development and operational phase for all parties to the agreement. No claims for compensation will apply to any party in default however there are obligations on each party to remedy the default.
- 1.77.14 There are exit provisions in the agreement only to the extent that it needs to be by mutual agreement between the parties.
- 1.77.15 There are dispute resolution provisions in the agreement in case of default or any disagreement that may arise during the operational phase of the project.
- 1.77.16 To ensure land tenure arrangements are secure the "Project Agreement" will be binding on any successor organisation and there are provisions in the agreement to protect any land tenure arrangements for the infrastructure proposed to be installed on other parties land.
- 1.78 In addition to the forgoing the "Project Agreement requires Manningham on behalf of the project partners to obtain public liability insurance and insurance for damage or destruction of project infrastructure. The insurance will be funded from proceeds recovered annually as part of the operational plan of the facility.
- 1.79 There are also "Force Majeure" provisions within the agreement in the event of amalgamation of Council's, insolvency, upstream pollution issues and/or unforeseen alterations to land tenure arrangements.
- 1.80 An independent risk assessment for the project has been prepared and is attached as an annexure to the draft "Project Agreement".
- 1.81 Several issues are yet to be resolved to facilitate the final implementation of this project, including the following.
- Signing of the "Project Agreement" by the project partners.
 - Signing of the funding contract with the Department of Environment Land Water and Planning.
 - Signing of the license agreement over the crown land.
 - Resolving issues associated with Boroondara's desire to expand the size of the additional storage at the golf course which includes amendments to the previous funding agreements with Melbourne Water, DELWP, amendments to existing permits and costs associated with the additional works which need to be contained within the income budget.

- 1.82 The project partners have been extensively consulted and the outstanding issues are not insurmountable and considered as formalities.

2 PROPOSAL/ISSUE

- 2.1 It is proposed that subject to the execution of the project agreement by Carey Grammar and Boroondara City Council, that Council confirm its acceptance of the role of the Committee of Management for the relevant portion of the Crown land described as Lot 1 PS406503L Vol 10443 Fol 959, Part Lot 2 LP98638 Vol 9391 Fol 492 and PC360481J Vol 10465 Fol 758, limited to the area shown in Appendix D containing the Bolin Bolin Billabong Integrated Water Management project assets.
- 2.2 It is proposed that Council delegate authority to the Chief Executive Officer to sign the project agreement between the project partners on behalf of Manningham City Council to ensure the obligations of each party are secured including each parties financial obligations to facilitate the construction and ongoing maintenance of the Bolin Bolin Wetland project.
- 2.3 It is proposed that Council Delegate authority to the Chief Executive Officer to sign the license agreement between Manningham City Council and the Department of Environment, Land, Water and Planning, to provide access rights over parts of the crown land as shown in Appendix E, for the construction and ongoing maintenance of those assets that are part of the project infrastructure.
- 2.4 It is proposed that Manningham City Council act as the construction authority for the project and Council delegate to the Chief Executive Officer the authority to award a contract for construction of the Bolin Bolin Integrated Water Management Project.
- 2.5 It is proposed that Manningham City Council become the operational manager of the asset on behalf of the project partners, for the ongoing management and operation of this facility, that will be funded from annual income from each of the partners through the establishment of a "Sinking Fund" and the operational management plan.
- 2.6 Council note the delays in securing grant funding from DELWP and endorse the extension of time for the completion of Strategic Resource Plan Action 2.2.1.5 for the completion of project construction from 30 June to 31 December 2016.

3 PRIORITY/TIMING

- 3.1 Action 2.2.1.5 of Council's Strategic Resource Plan for 2015/2016 requires the implementation of the Bolin Bolin Billabong Integrated Water Management project, with construction to be completed by 30 June 2016, subject to receiving grant funding. Due to the delays experienced in securing the final grant from DELWP, it is now not feasible to complete the construction of this project by 30 June 2016 as previously proposed. An extension of time to 31 December 2016 will be required to complete this action.
- 3.2 Tenders for the construction of this project, closed on the 23rd of September 2015. A tender selection panel was formed of all project partners and interviews have been conducted with the two lowest tenders and an evaluation of the tenders received has been completed.

- 3.3 Subject to the signing of the project agreement and licence, Council is in a position to award a contract for these works with the view of works commencing in March 2016.
- 3.4 Under the provisions of the funding agreement with DELWP, there is also a requirement that their funds be expended by 31 December 2016.
- 3.5 Works on the project also need to commence as soon as possible to minimise delays associated with potential wet weather conditions.

4 CUSTOMER/COMMUNITY IMPACT

- 4.1 The Bolin Bolin Billabong Integrated Water Management project is a significant and exemplar storm water management project, which will realise multiple benefits as set out under section 1.24 of this report. The site is currently significantly impacted with blackberries and the existing maintenance regime is minimal. The project will result in a significant improvement in the aesthetic values of the crown land site, as well as improved access to walking trails along the Yarra River for the community.
- 4.2 The project will also provide benefits to the Yarra River through a reduction in nitrogen, suspended solids and phosphorus levels of storm water discharging to the river, thereby improving water quality to receiving waters.
- 4.3 The project will limit the incidence of localized flash flooding of Bulleen Road and the upstream catchment in particular Trinity Grammar, and significantly benefit flood management during significant storm events. Manningham City Council is required to achieve these outcomes in accordance with the "Memorandum" of Understanding" with Trinity Grammar.
- 4.4 Requirements for extraction of water from the Yarra River will be minimized, facilitating maintenance of environmental flows for the river, through the harvesting of storm water from the local catchments.
- 4.5 Sports ground irrigation will be facilitated through this project with 95.5% reliability, which will maximize the availability of local sports fields for community use.

5 COUNCIL PLAN/ MEASURE OF ACHIEVEMENT OF ACTION

- 5.1 Action 2.2.1.5 of Council's Strategic Resource Plan for 2015/2016 requires the implementation of the Bolin Bolin Billabong Integrated Water Management project, with construction to be completed by 30 June 2016, subject to receiving grant funding.

6 FINANCIAL RESOURCE IMPLICATIONS

The financial implications of this project are as follows;-

Income

- 6.1 The current sources of income for the project are as follows:

Source of Income	Amount
Manningham City Council	\$ 750,000.00
Boroondara City Council	\$ 300,000.00
Carey Grammar	\$ 200,000.00
Melbourne Water	\$ 900,000.00

Melbourne Water – Reimbursement of Design Costs	\$ 59,975.00
Parks Victoria	\$ 7,000.00
Federal Government	\$ 195,974.00
Bolin Bolin Tourism Advisory Group	\$ 3,698.36
Department of Environment, Land, Water and Planning	\$ 400,000.00
Total	\$ 2,816,647.36

Expenditure

- 6.2 The projected project expenditure since inception of the project is as follows:

Project Component	Amount
Construction costs	\$ 1,868,649.00
Potential Expansion of Golf Course Storage	\$ 220,843.36
Other project costs	\$ 74,986.00
Consultant fees	\$ 353,961.00
Project management fees	\$ 111,343.00
Contingency	\$ 186,865.00
Total	\$ 2,816,647.36

- 6.3 As indicated in section 2.71 of this report, DELWP have reviewed Manningham Council's previous funding application made to the former "Office Of Living Victoria" which was not honoured due to the change in Government at the time.
- 6.4 Council is now in receipt of a new draft funding agreement from DELWP and a maximum of \$400,000 is available which is commensurate with the amount that was previously sought from the former "Office of Living Victoria".
- 6.5 The project partner capital contributions were based on the negotiations for the original scheme when Federal Funding was sought for the project. Manningham's funding contribution of \$750,000 is consistent with its original obligations to the initial project which included funding the high flow bypass and provision of a matching contribution to the Federal Government grant for the original storm water harvesting and reuse project. Whilst the cost of the high flow bypass may be less with the revised design it is considered appropriate in good faith to the other project partners and in particular Melbourne Water that Council maintain its \$750,000 capital contribution.
- 6.6 As Boroondara's water demand exceeds that of the other project partners, they will be required to fund the majority of the operational costs (in excess of \$1.4Mil) over the life of the project.
- 6.7 Council's funding commitment is available through Council's existing Capital Works allocations, as part of the Drainage Strategy program.

Operational Costs

- 6.8 In addition to these costs each of the project partners will need to fund the operational costs of this project as indicated in sections 1.42 to 1.47 inclusive of this report.
- 6.9 As indicated in sections 1.43 to 1.45 of this report a schedule of operating costs has been developed for the project and there will be obligations on each of the project partners to make annual contributions to a "Sinking Fund" to fund the ongoing routine and non routine maintenance aspects of the facility

and the replacement cost of assets once they reach the end of their useful lives.

- 6.10 The obligations will be legally binding on each of the partners through the signing of the "Project Agreement".
- 6.11 The estimated annual operational, maintenance and renewal costs for the project is \$90,586.00 in year 1 and increasing to \$113,303 in year 20 allowing for inflation.
- 6.12 The apportionment cost to each party is based on respective water demands for each party and is as follows:-

Project Partner	Water Demand	Apportioned Annual Operational and Capital Renewal Costs	
		Year 1	Year 20
Boroondara City Council	90 ML/annum	\$ 66,581.00	\$ 83,278.00
Carey Grammar School	18 ML/annum	\$ 13,316.00	\$ 16,656.00
Manningham City Council	14.4 ML/annum	\$ 10,689.00	\$ 13,370.00
	Total	\$ 90,586.00	\$ 113,304.00

- 6.13 It is proposed that Manningham Council become the management authority for the operation of the facility and accordingly annual invoices will be forwarded to the other project partners such that adequate funds are available to manage the facility over the life of the agreement.
- 6.14 The ongoing maintenance arrangements for Manningham City Council will be cost neutral.

7 SUSTAINABILITY

- 7.1 The project has significant environmental benefits in that the project will reduce the reliance on potable water consumption for the project partners and also improve the quality of water in the Yarra River by reducing pollutant load that would naturally discharge to the river from the storm water drain. In particular there will be a reduction in nitrogen, phosphorus and suspended solids as indicated in section 1.25 of this report.
- 7.2 The project will also provide sustainable environmental flows to the Yarra River by reducing water extraction demand from the river.
- 7.3 The project has the ability to provide social benefits to residents that use the walking trails within the crown land site with improvements to the amenity of the crown land site where the storm water harvesting facility is located.

8 REGIONAL/STRATEGIC IMPLICATIONS

- 8.1 Council's Strategic Resource Plan for 2015/2016 requires the implementation of the Bolin Bolin Billabong Integrated Water Management project, with construction to be completed by 30 June 2016, subject to receiving grant funding.
- 8.2 The project is an exemplar "Whole of Water Cycle Management" project that can be used as a model for other organisations to implement similar projects with a large degree of complexity.

- 8.3 The project involves a unique arrangement and partnerships between Federal and State Governments, several state government agencies, an adjoining municipality and educational intuition.
- 8.4 The project is a strategic fit with federal and state government water management strategies and directions.

9 CONSULTATION

- 9.1 Extensive consultation has been undertaken with all stakeholders throughout the project planning phase. Presentations were made to local environmental groups and to the Bolin Bolin Tourism Advisory Group regarding the proposal, prior to lodging the Planning Permit application.
- 9.2 Meetings have been conducted with neighbouring property owners and Wurundjeri Elders to present and discuss the project. Extensive consultation has been undertaken with Parks Victoria, Yarra Valley Water, DSE, the Office of Living Victoria and Melbourne Water regarding project delivery and ongoing operational issues.
- 9.3 Extensive discussions and negotiations have been undertaken between the project partners during the life of the project with regard to their continued commitment and support.
- 9.4 The Planning Permit application for the initial application was also advertised as was the amendment to the permit following a change in the scope of works. Several submissions were received in support of the proposal and one objection has subsequently received to the amendment of the permit. The Permit has been subsequently issued.

10 COMMUNICATIONS STRATEGY

- 10.1 Extensive consultation has been undertaken with the project partners in the development and finalization of the project, and project funding agreements with the project partners.
- 10.2 The project involved a number of stakeholders, funding partners, funding arrangements and different land tenure arrangements and displays the high level of complexity involved with the implementation of this project. The project demonstrates a major initiative for Manningham that can be presented at conferences on how such a project can be commissioned involving multiple stakeholders.
- 10.3 The project provides an opportunity to promote Manningham City Council as a leader in sustainable water management. This could involve media coverage and a launch for the project involving State and Local Government bodies as well as Carey Grammar.

11 CONCLUSION

- 11.1 This project demonstrates an exemplary example of "Whole of Water Cycle" integrated storm water management and reinforces Council's environmental credentials.
- 11.2 All partners have worked together in good faith over a long period of time to advance this project. The project is an excellent demonstration of how different agencies can come together in partnership and work cooperatively to deliver a project that will provide significant benefits to all partners that include

state agencies and the community which align with the States' strategic water management objectives.

- 11.3 This project has involved a number of scope changes over the last 6 years. Whilst a substantial portion of the Federal Government funding was required to be surrendered, Melbourne Water has demonstrated their high level of commitment to the project having separately funded the detail design of the original project, the subsequent re-design following a change in scope of works and the allocation of \$900,000 to the capital cost of the project.
- 11.4 In order to progress this project Council needs to accept Committee of Management responsibilities for that portion of the Crown Land shown in Attachment "D" to the agreement that will accommodate the majority of the assets associated with this project.
- 11.5 Council needs to also accept management responsibilities for the ongoing operation of this facility on behalf of the project partners that will be funded from annual income from each of the partners through the establishment of a "Sinking Fund" and the operational management plan.
- 11.6 Council needs to authorise the signing of the project agreement, signing of the licence agreement and awarding of the contract for the construction of this project.

OFFICER'S RECOMMENDATION

That, subject to the execution of the "Project Agreement" by both Boroondara City Council and Carey Grammar, Council resolve to:

- (A) Delegate authority to the Chief Executive Officer to sign the "Project Agreement" between the project partners on behalf of Manningham City Council, to ensure the obligations of each party are secured, including each party's financial obligations to facilitate the construction and ongoing maintenance of the Bolin Bolin Wetland project, attached as Attachment C to this report, subject to final minor amendments;**
- (B) Accept responsibility and become the Committee of Management for that relevant portion of the Crown Land described as Lot 1 PS406503L Vol 10443 Fol 959, Part Lot 2 LP98638 Vol 9391 Fol 492 and PC360481J Vol 10465 Fol 758, limited to the area shown in Attachment D, to the agreement facilitate the construction of the Bolin Bolin Integrated Water Management project;**
- (C) Delegate authority to the Chief Executive Officer to sign the license agreement between Manningham City Council and the Department of Environment, Land, Water and Planning to provide access rights over parts of the crown land as shown in Attachment G, for the construction and ongoing maintenance of those assets that are part of the project infrastructure;**
- (D) Act as the construction authority for the project on behalf of the project partners and award a contract for the construction of the Bolin Bolin Wetland Project, with agreement from the other two project partners;**
- (E) Accept management responsibilities for the ongoing operation of this facility on behalf of the project partners, which will be funded from annual income from each of the partners through the establishment of a "Sinking Fund", in**

accordance with the “Project Agreement” and the attached operational management plan; and

- (F) Note the delays in securing grant funding from DELWP, and endorse the extension of time for the completion of Strategic Resource Plan Action 2.2.1.5 for the completion of project construction from 30 June to 31 December 2016.

MOVED: McLEISH
SECONDED: GOUGH

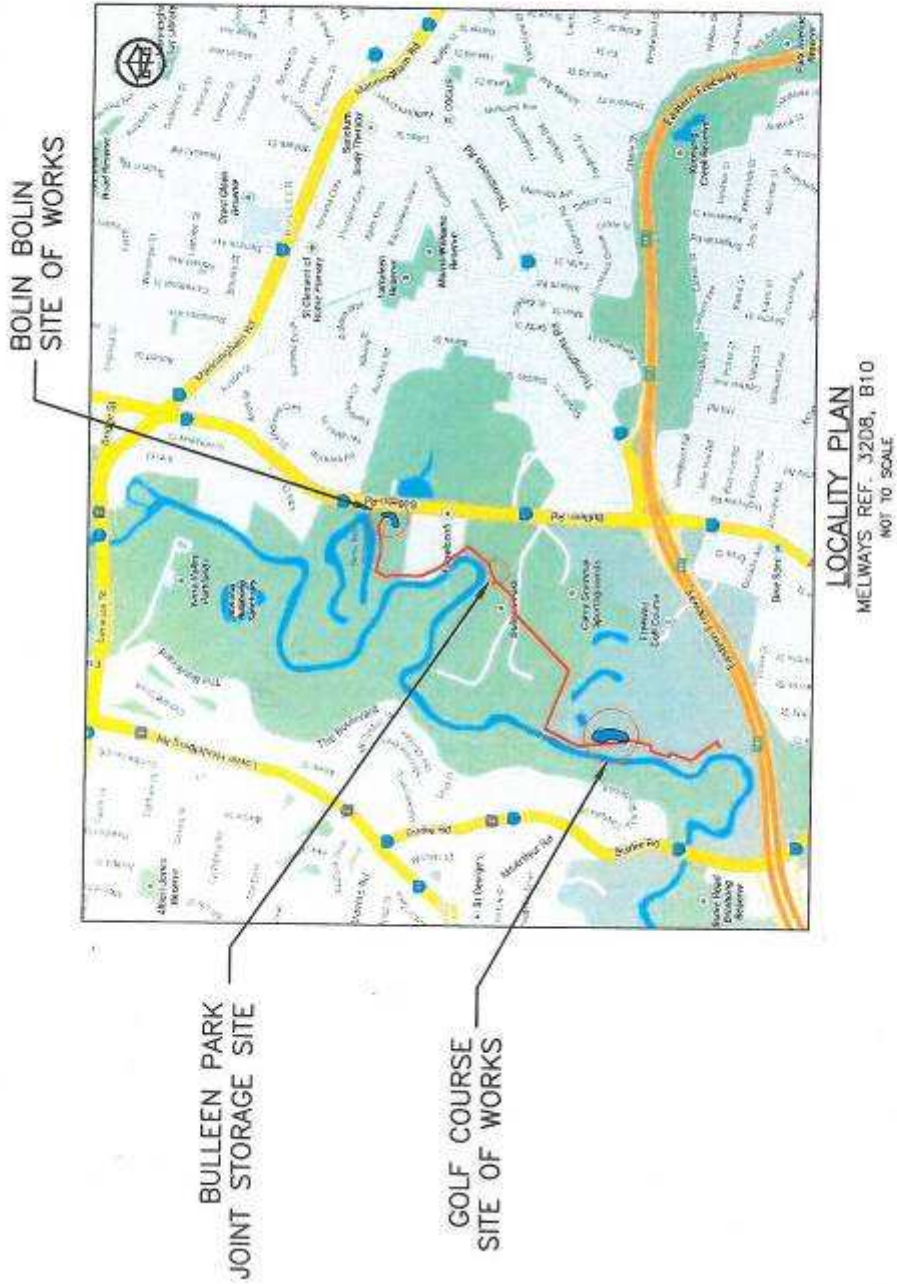
That the Recommendation be adopted.

CARRIED


“Refer Attachments”

* * * * *

Attachment A



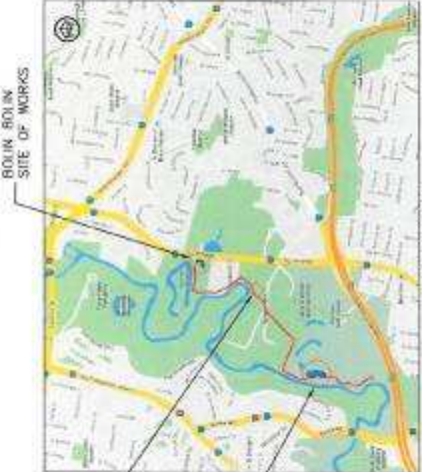
Attachment B



MANNINGHAM CITY COUNCIL
BALANCE OF CITY AND COUNTRY

BOLIN BOLIN BILLABONG WETLAND PROJECT
STORMWATER HARVESTING DESIGN
BULLEEN PARK, BULLEEN VIC

BULLEEN PARK
JOINT STORAGE SITE




BOLIN BOLIN
SITE OF WORKS

GOLF COURSE
SITE OF WORKS

SHEET & REVISION INDEX:

NO	DESCRIPTION	DATE
01	ISSUE FOR TENDERS	11/01/15
02	ISSUE FOR TENDERS	11/01/15
03	ISSUE FOR TENDERS	11/01/15
04	ISSUE FOR TENDERS	11/01/15
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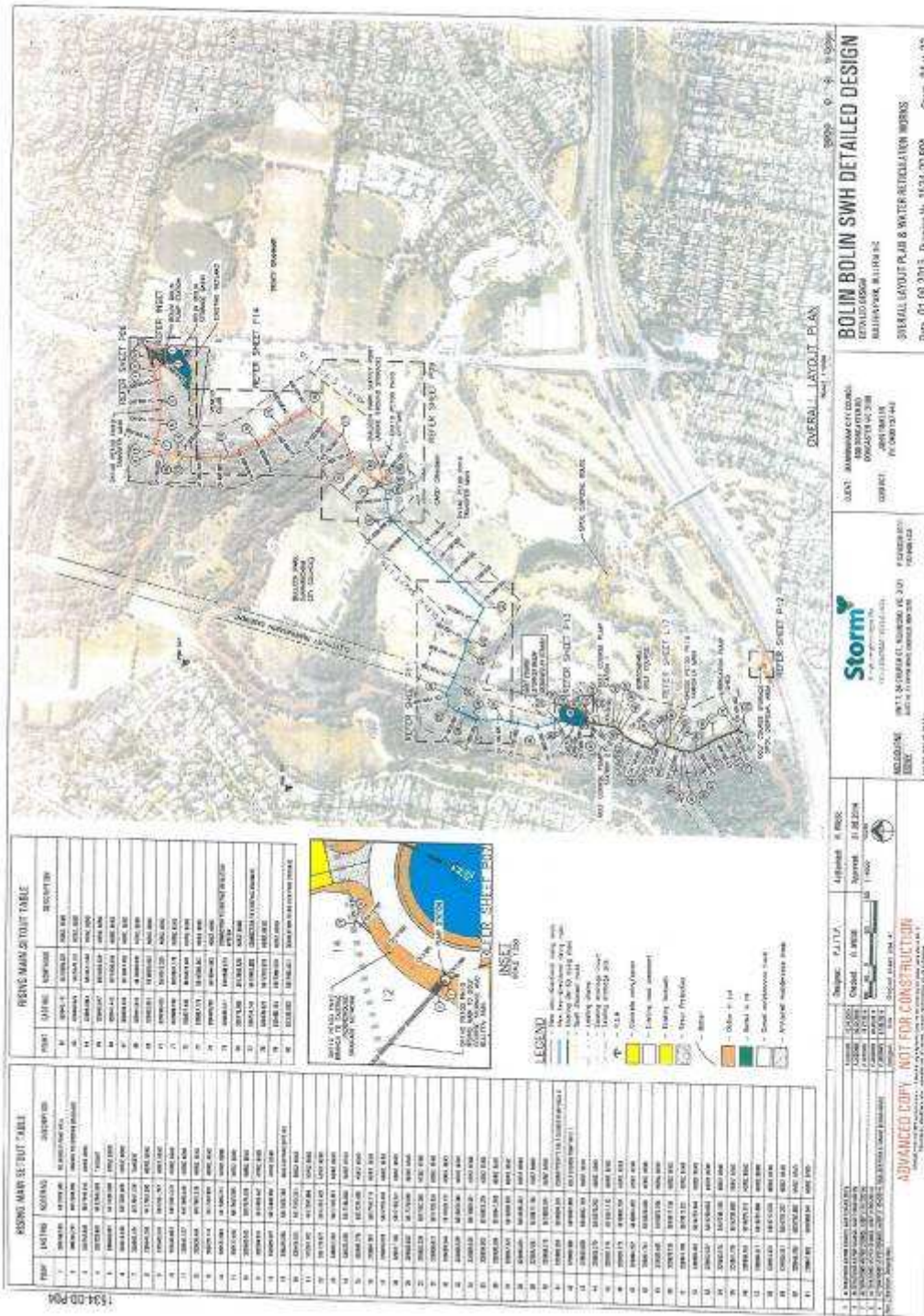


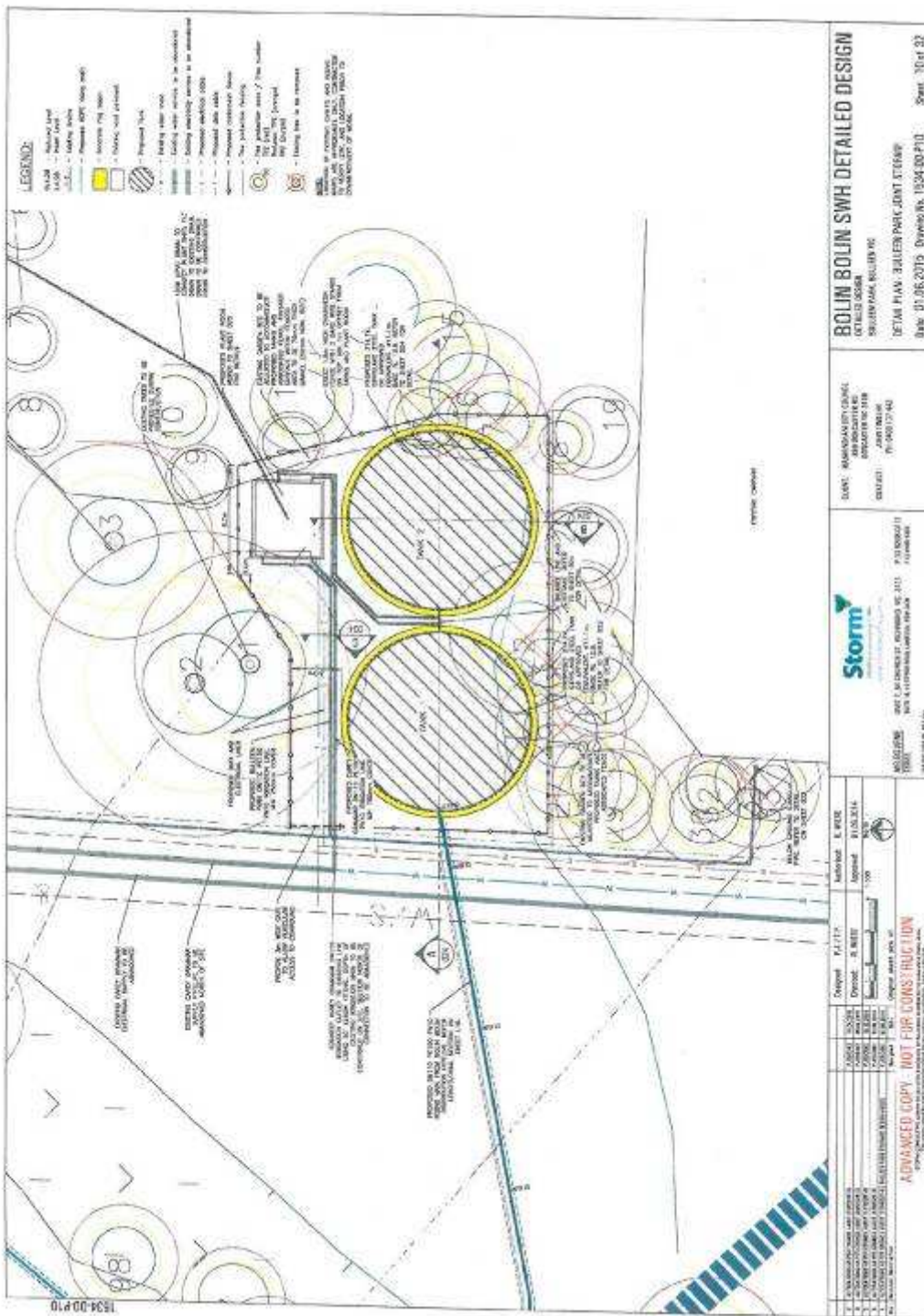
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PROJECT: BOLIN BOLIN BILLABONG WETLAND PROJECT
DESIGNER: STORM CONSULTANTS
DATE: 01/05/2015

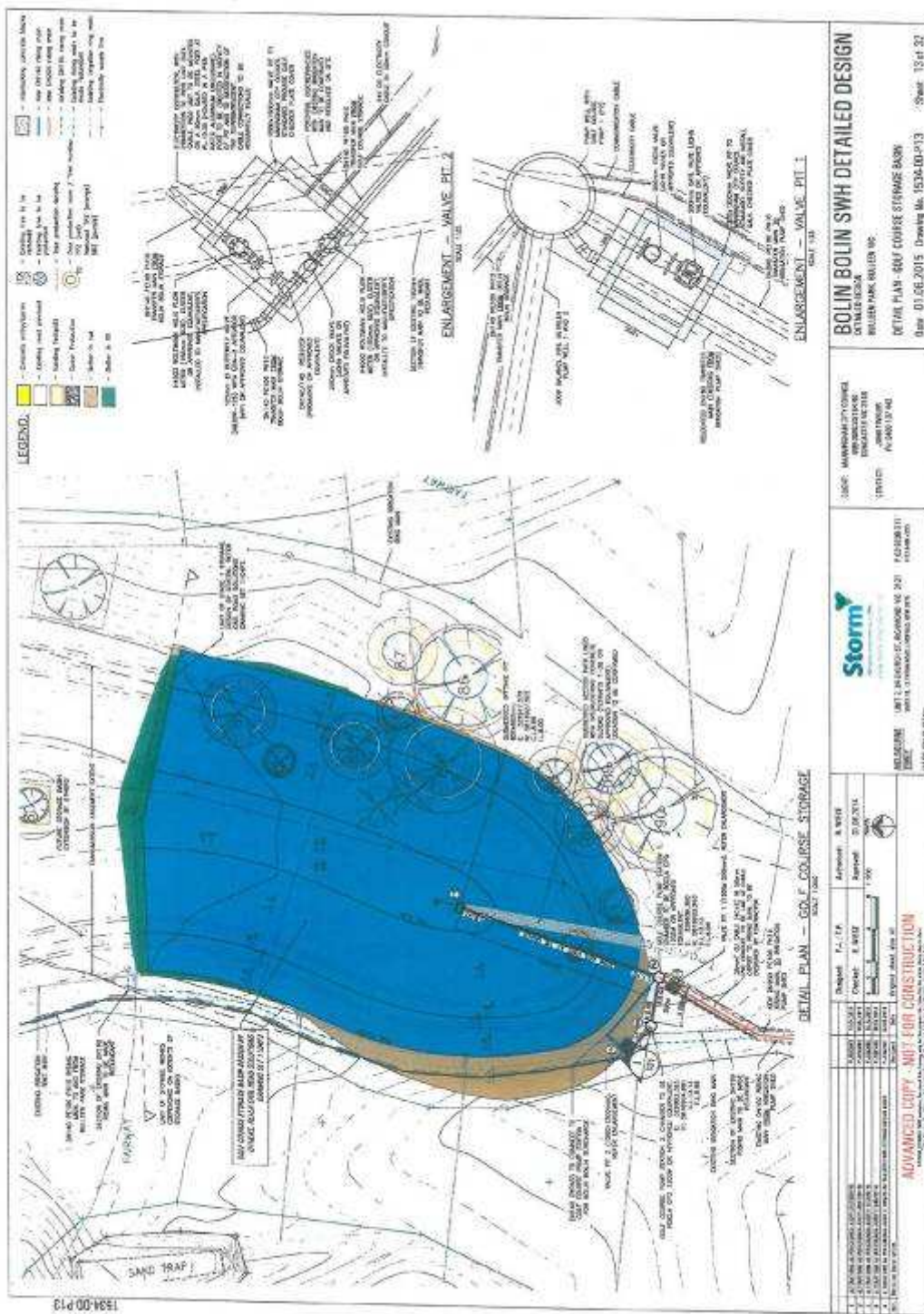
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DATE: 01/05/2015

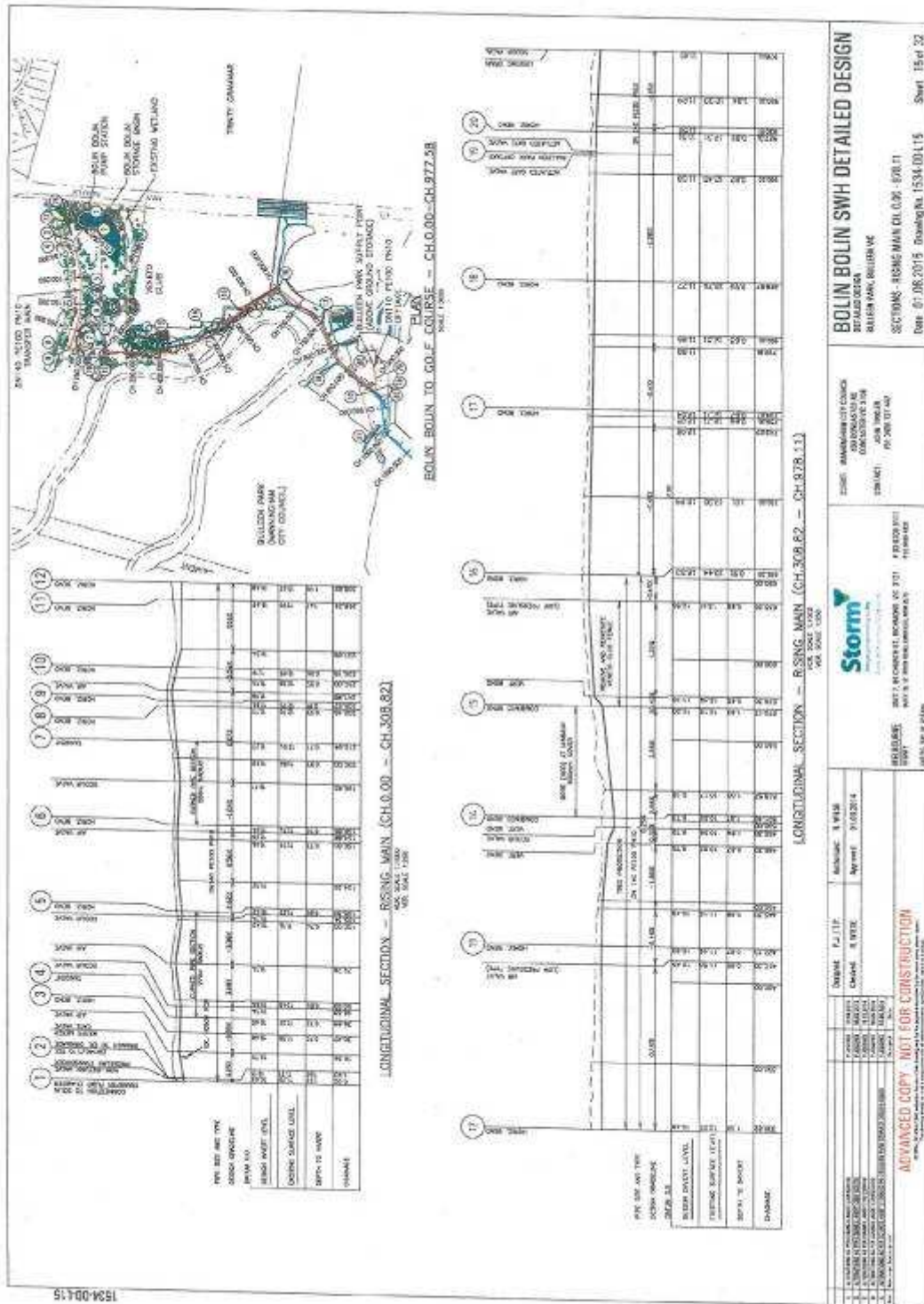
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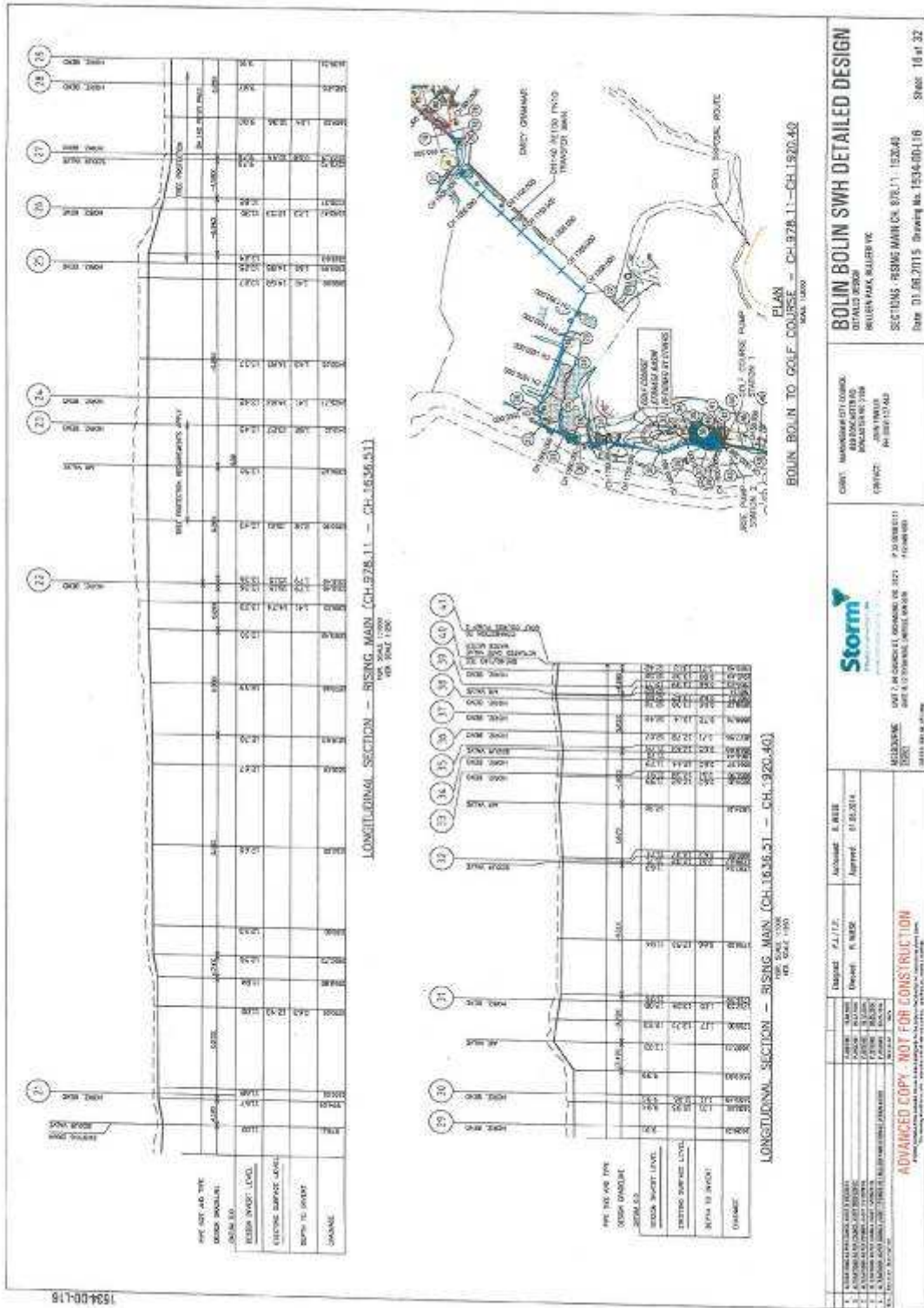
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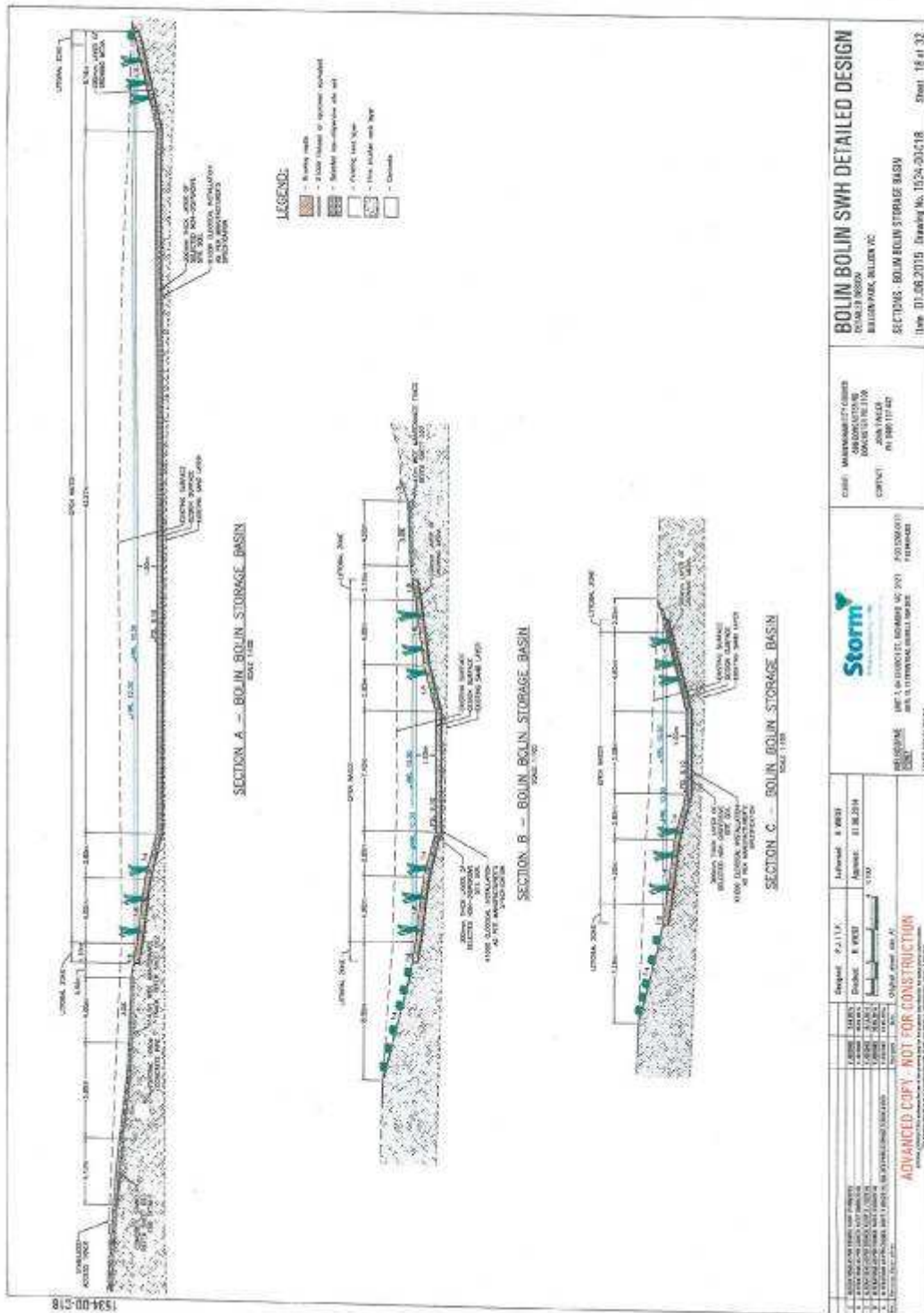


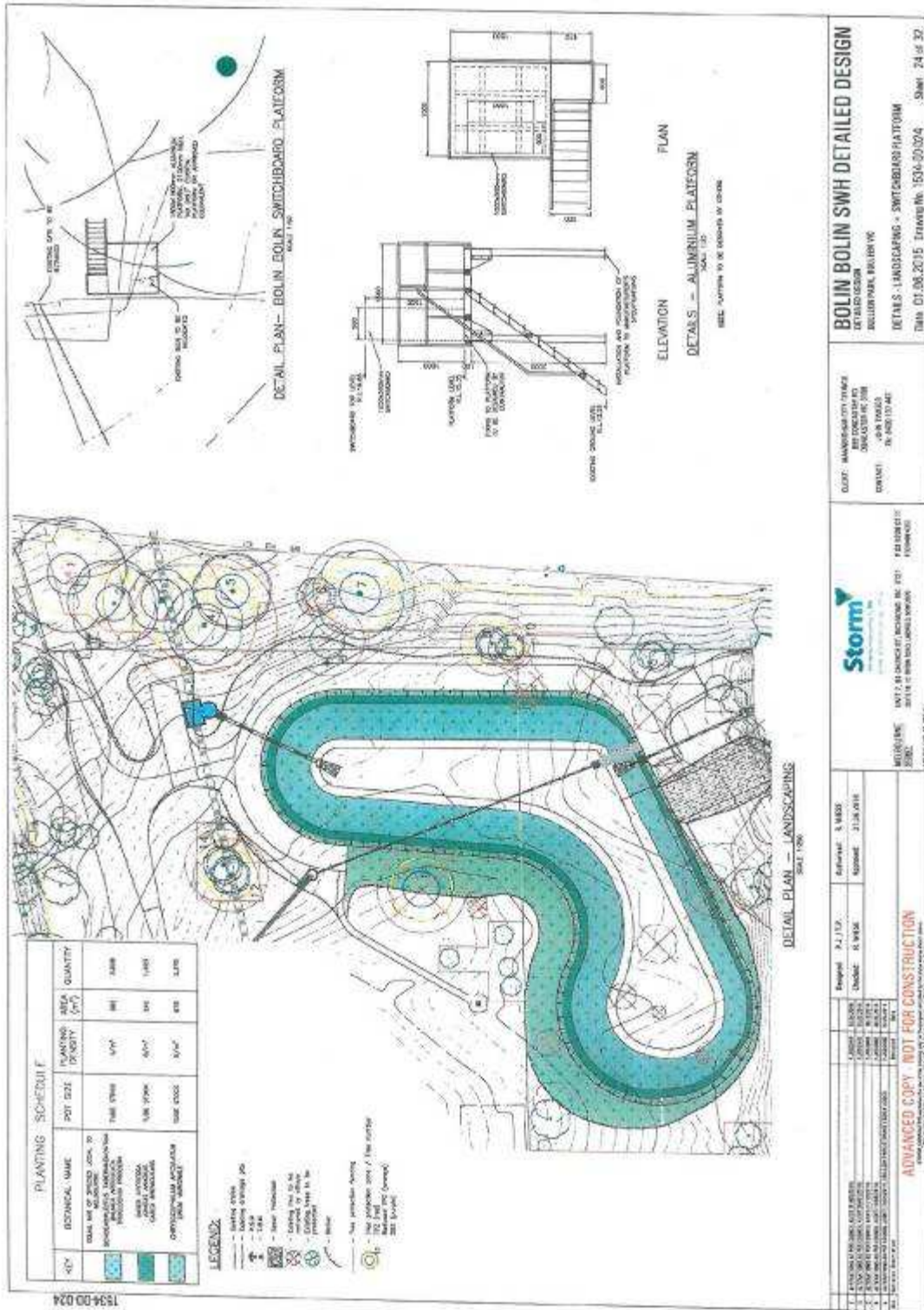












Attachment C

Maddocks

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info@maddocks.com.au
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DX 259 Melbourne

Project Agreement

Water infrastructure at Bolin Bolin Billabong Wetlands

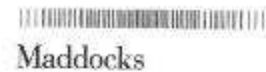
Manningham City Council
and

Boroondara City Council
and

Carey Baptist Grammar School Limited
ACN 051 576 062

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Interstate offices:
Canberra, Sydney
Alliated offices around the world through the
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The Parties Agree

1. Definitions

In this Agreement:

Boroondara Land means the land described as such in Schedule 1.

Business Day means a day other than a Saturday, Sunday or public holiday in Victoria.

CLRA means the *Crown Land (Reserves) Act 1978 (Vic)*.

End Date means the date determined under clause 6.3.

Infrastructure Works means the improvements to be constructed on the Project Land generally in accordance with the plans and specifications contained in Schedule 3. The majority of these items will be Project Infrastructure, however some items are intended to benefit one Party only, and will not form part of the Project Infrastructure. Clause 9 sets out how the items constructed as part of the Infrastructure Works will be classified.

Manningham Land means the land described as such in Schedule 1.

Minister means the Minister responsible for administering the CLRA from time to time.

MWC means Melbourne Water Corporation, a body corporate created under section 85 of the Water Act.

OMR Schedule means the schedule for the operation and maintenance of the Project Infrastructure contained in Schedule 4.

Operating Costs means all costs and expenses incurred by Manningham arising out of or in connection with the Project Infrastructure and any activities undertaken by Manningham in connection with this Agreement, including without limitation:

- costs of operating, repairing, managing, maintaining, replacing upgrading and insuring the Project Infrastructure; and
- costs of prosecuting or defending any claims relating to the Project Infrastructure.

Party means a party to this Agreement and includes the Party's successors and permitted assigns.

PCG has the meaning given to that term in clause 12.4.

Project means the design and construction of the Infrastructure Works and the operation and maintenance of the Project Infrastructure pursuant to this Agreement.

Project Infrastructure means, together:

- the water infrastructure and other improvements constructed by Manningham on the Project Land as part of the Infrastructure Works (with the exception of any items which are expressly stated in this Agreement as being for the sole benefit of one Party, and therefore not forming part of the Project Infrastructure); and
- any existing water infrastructure or other items owned by any Party on the Project Land which, under this Agreement, are to be made available to Manningham to



form part of the water system to be operated and maintained by Manningham pursuant to this Agreement.

- ##Description of these items may need to be developed further

Project Land means, together, the Manningham Land and the Boroondara Land.

Project Term means the period commencing on the date of this Agreement and ending on the End Date.

Respective Proportions means, unless the context provides otherwise, the proportions outlined in clause 5.

Secretary means the Secretary to the Department of Environment, Land, Water and Planning.

Water Act means the *Water Act 1989* (Vic).

2. Conditions precedent

2.1 Statement of conditions precedent

This Agreement is conditional upon:

- 2.1.1 Manningham and Boroondara (as the case may be) obtaining all necessary planning permits (or amendments to existing planning permits) to enable Manningham to develop and use the Project Land in accordance with this Agreement; and
- 2.1.2 Manningham appointing a construction contractor and entering into a construction contract for the Infrastructure Works on terms satisfactory to Manningham,

by ##insert date (the Conditions Precedent Date).

2.2 Manningham's statutory obligations

The parties acknowledge that Manningham's capacity to enter into a construction contract for the Infrastructure Works is subject to and conditional upon Council complying with its statutory obligations under the *Local Government Act 1989* (Vic).

2.3 Termination of Agreement

If any of the conditions precedent specified in clause 2.1 have not been satisfied by the Conditions Precedent Date, then at any time prior to satisfaction of the remaining conditions precedent, any Party may terminate this Agreement by notice to the other Parties. Upon such a termination:

- 2.3.1 subject to clause 2.3.2, each Party releases the other Parties from any claims for costs, damages, losses, compensation or expenses whatsoever in connection with this Agreement; and
- 2.3.2 Boroondara and Carey shall each reimburse Manningham on demand, without deduction or right of set off, for a proportion of the total costs and expenses incurred by Manningham up to and including the date of termination in respect of the design and other preliminary arrangements in relation to the Infrastructure Works (**Costs**). Manningham will provide Boroondara and Carey with details of the costs incurred (**Costs Notice**) and the Costs will be payable by Boroondara and



Carey within 10 Business Days after receipt of the Costs Notice borne by the Parties in the same proportions as their respective funding contributions set out in clause 13.

3. Roles of the parties

3.1 Purpose of clause

This clause summarises the Parties' respective roles in respect of the Project in broad terms. The Parties' obligations are set out in greater detail in the remainder of this Agreement.

3.2 Development phase

The following is a summary of the Parties' roles in developing the Project:

- 3.2.1 Manningham is to act as Project manager and construction authority for the Project. Manningham is responsible for managing the scoping, planning permit and approvals, acquisition, design, documentation, funding applications and agreement preparation during the development phase of the Project.
- 3.2.2 During construction, Manningham is responsible for the procurement, construction supervision, contract administration and implementation of the Project.
- 3.2.3 The financial arrangements for any expenditure in excess of the Project contingency are to be agreed between the Parties, prior to any expansion of the scope of the Project.
- 3.2.4 Manningham shall present regular updates to the other Parties.
- 3.2.5 Manningham shall establish a Project control group to oversee the development of the Project.
- 3.2.6 Boroondara and Carey shall provide assistance to Manningham in sourcing information, advocacy, negotiating of licence agreements etc during the development of the Project.
- 3.2.7 Each Party shall make financial contributions towards the construction of the Infrastructure Works in accordance with this Agreement.

3.3 Operational phase

The following is a summary of the Parties' roles in the operation and maintenance of the Project Infrastructure following completion of the Infrastructure Works:

- 3.3.1 The Parties shall partially surrender their existing Yarra River extraction licences to MWC, which will issue an amalgamated extraction licence to be held by Manningham, Boroondara and Carey jointly - to occur 12 months after construction.
- 3.3.2 Manningham shall act as asset manager for the Project Infrastructure for the term of the Project (ending on the End Date).
- 3.3.3 Each Party shall contribute funds, which Manningham shall hold and manage on behalf of the Parties, to ensure that the Project Infrastructure is operated and maintained in accordance with the OMR Schedule.



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- 3.3.4 Manningham may operate and maintain the Project Infrastructure directly, or may engage contractors and/or another party to this Agreement to do so.
- 3.3.5 Manningham shall establish a committee to oversee the operation and maintenance of the Project Infrastructure, and shall provide annual reports to the committee. The committee shall meet periodically to review the operational, maintenance and capital replacement related costs, and to consider the need for adjustments to the total budgeted cost and/or the Parties' respective contributions.

4. Appointment and indemnity

4.1 Appointment

With effect from the date of this Agreement, Boroondara and Carey appoint Manningham, and Manningham accepts the appointment, to:

- 4.1.1 procure the construction of the Infrastructure Works on the Project Land;
- 4.1.2 hold the Project Infrastructure; and
- 4.1.3 operate and maintain the Project Infrastructure,

on behalf of all of the Parties in accordance with the terms of this Agreement.

4.2 Indemnity

Boroondara and Carey agree to severally indemnify Manningham in their Respective Proportions against all costs, claims, charges, liabilities or expenses incurred by Manningham on behalf of the Parties in accordance with this Agreement.

5. Respective Proportions

5.1 The Parties' Respective Proportions

The Parties agree that, subject to clause 5.2, their Respective Proportions shall be as follows:

- 5.1.1 Boroondara – 73.5% (based on 90ML/annum);
- 5.1.2 Carey – 14.7% (based on 18ML/annum); and
- 5.1.3 Manningham – 11.8% (based on 14.4ML/annum).

The above proportions and annual water amounts reflect the water demand (rather than water usage) of the Parties.

5.2 Alteration of Respective Proportions

The Respective Proportions in clause 5.1 may only be altered by the written agreement of all Parties.

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6. Crown Licence Area

6.1 Application of clause

This clause 6 applies in relation to that part of the Manningham Land which, as at the date of this Agreement, is Crown land occupied by Manningham as licensee under a licence granted by the Secretary (**Crown Licence Area**).

6.2 Acknowledgment

The Parties acknowledge and agree as follows:

6.2.1 as at the date of this Agreement, the licence under which Manningham occupies the Crown Licence Area is for a term of 3 years commencing on ##insert date and expiring on ##insert date (**3 Year Licence**);

6.2.2 it is intended that:

- (a) Manningham will procure the construction of the Infrastructure Works on the Crown Licence Area at the start of the 3 Year Licence; and
- (b) upon completion of the Infrastructure Works on the Crown Licence Area, Manningham will operate and maintain the Project Infrastructure on that land for the remainder of the term of the 3 Year Licence;

6.2.3 it is further intended that, following expiry of the 3 Year Licence, Manningham will continue to occupy the Crown Licence Area for a further 21 years under a lease granted by the Minister under the CLRA.

6.3 Crown Licence Area

6.3.1 Manningham will use its reasonable endeavours to secure a 21 year lease from the Minister under the CLRA in accordance with clause 6.2.3 or an extension of the 3 Year Licence if the Minister does not grant the 21 year lease, and Boroondara and Carey will provide any assistance reasonably requested by Manningham to enable Manningham to secure the 21 year lease or an extension to the 3 Year Licence (as the case may be).

6.3.2 Manningham has no liability to any other Party if it is unable to secure a 21 year lease or an extension of the 3 Year Licence from the Minister under the CLRA.

6.4 End Date

For the purpose of this Agreement, the **End Date** will be determined as follows:

6.4.1 if Manningham is able to secure a 21 year lease as referred to in clause 6.2.3, the End Date will be the expiry date of that 21 year lease; or

6.4.2 if Manningham is unable to secure a 21 year lease as referred to in clause 6.2.3, the End Date will be the later of:

- (a) the expiry date of the 3 Year Licence; or
- (b) the expiry date of any subsequent licence under which Manningham continues to be entitled to occupy the Crown Licence Area following the expiry of the 3 Year Licence; or

6.4.3 such other date as the Parties agree in writing to be the End Date.

7. Land to be made available

7.1 Manningham Land

Manningham agrees to make the Manningham Land available for the purpose of enabling Manningham to carry out Manningham's functions and obligations pursuant to this Agreement.

7.2 Boroondara licence to Manningham

Commencing on the date of this Agreement, Boroondara hereby grants Manningham a non-exclusive licence at no cost in respect of the Boroondara Land, for the purpose of enabling Manningham to carry out Manningham's functions and obligations pursuant to this Agreement, including shared use of the electrical supply across the Boroondara Land to the Project Infrastructure.

[## Note: is there a requirement for any additional licence terms and conditions to be included?]

7.3 Manningham licence to Carey

Upon the construction of the new shared storage tanks on the Manningham Land as part of the Infrastructure Works, Manningham grants Carey a non-exclusive licence to enable Carey to build, operate and maintain new pumps, irrigation lines and associated infrastructure next to the storage tanks, to enable Carey to draw water from the new storage tanks. The pumps, irrigation lines and associated infrastructure constructed by Carey pursuant to this clause will not form part of the Project Infrastructure.

7.4 Duration of licences

The licences granted under clauses 7.2 and 7.3 shall continue until the End Date.

7.5 Existing Easement

The Parties acknowledge that as at the date of this Agreement Carey holds an existing easement (registered no ##insert details) in respect of part of the Manningham Land, which Carey uses to draw water from the Yarra River (**Existing Easement**). Nothing in this Agreement affects or limits any of Carey's rights under the Existing Easement, which will remain in place during the Term. Carey acknowledges that part of the Project Infrastructure, being the electrical supply to the plant shed, will be located within the area affected by the Existing Easement.

8. Other existing infrastructure items to be made available

8.1 Boroondara and Carey to make existing items available

Boroondara and Carey agree to make various items of existing infrastructure available to Manningham for the Project as follows:

8.1.1 Boroondara shall hand over the following existing infrastructure:

- (a) the Yarra River extraction pump station;
- (b) part of the electrical supply to the Boroondara Land which runs underneath the Eastern Freeway;

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- (c) part of Boroondara's existing irrigation distribution network (transfer line);
##Clarify – which part?
 - (d) ##Are there any other relevant items?
- 8.1.2 Carey shall hand over its existing electrical conduit running under the access road in Bulleen Park (part of the Manningham Land), which will be used to run a new electrical supply to the shared storage tank site powering both Bulleen Park and Carey's pumps.

8.2 Existing items to form part of Project Infrastructure

The items referred to in clause 8.1 shall be transferred to Manningham as soon as practical following the date of this Agreement at no cost, and will form part of the Project Infrastructure.

9. Classification of items constructed as part of Infrastructure Works

9.1 Items benefiting one Party

The Parties acknowledge that some of the items to be constructed as part of the Infrastructure Works will benefit only one Party. These items, and the Party to benefit from each item, are as follows:

Item	Party benefiting from item
##	##
##	##
##	##

In relation to each of the above items, the Parties agree that:

- 9.1.1 the item will not form part of the Project Infrastructure; and
- 9.1.2 the Party listed as benefiting from the item will be solely responsible at its own cost for operating, maintaining, repairing and insuring the item.

9.2 Items benefiting all Parties

The remaining items to be constructed as part of the Infrastructure Works (other than the items listed in clause 9.1) will benefit all 3 Parties. These items:

- 9.2.1 will be Project Infrastructure; and
- 9.2.2 will be held, operated and maintained by Manningham for the benefit of all Parties pursuant to this Agreement.

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10. Summary of Project Infrastructure

10.1 Purpose of clause

This clause contains a summary of the Project Infrastructure on each part of the Project Land. Following completion of the Infrastructure Works, Manningham shall arrange for a comprehensive list of the Project Infrastructure to be prepared and distributed to the Parties.

10.2 Manningham Land - freehold land (Bulleen Park shared storage site)

The Project Infrastructure on this Land will comprise:

- Storage tanks;
- Flush out drains;
- Fencing;
- Pump sheds;
- Water distribution pipelines, valves etc upstream of/and inclusive of the isolation valves downstream of the storage tanks; and
- Electrical infrastructure grid side of the parties' pump (Bulleen Park and Carey) starting infrastructure.

and excludes:

- Irrigating party control or telemetry infrastructure, irrigating party pump and control systems and pipelines downstream from irrigating parties' pumps.

10.3 Manningham Land - Crown land (billabong site)

The Project Infrastructure on this Land will comprise:

- Open water storage;
- Inlet drainage pipes;
- Weirs and outlet pipes;
- Landscaping;
- Fencing and gates;
- Gross pollutant trap;
- Access paths and hardstand areas;
- Switchboards and platforms;
- Electrical and communication infrastructure;
- Bolin Bolin pump station and all associated control and telemetry infrastructure;
- Water distribution pipeline, valves etc; and



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- Ground water level monitoring infrastructure,

and excludes:

- Existing drainage pipeline, drainage outlet works, drainage pits and realigned existing wetland overflow pit.

10.4 **Boroondara Land (Freeway Golf Course / remote storage site)**

The Project Infrastructure on this Land will comprise:

- Storage lake;
- Golf course pump stations 1 & 2 (adjacent to the golf course storage lake);
- Golf course river extraction pump (this is an existing infrastructure item to be made available by Boroondara);
- Water distribution pipelines, pits, valves etc that draw water from the Yarra River and/or supply water from the golf course storage lake (some of these are existing infrastructure items to be made available by Boroondara); and
- Electrical infrastructure that provides power to the shared valves, pumps etc, including the proposed golf course switchboard. (The mains power supply to the golf course is existing and will be used for the joint purpose of powering golf course assets and the Project Infrastructure – it is not Project Infrastructure itself. Boroondara will grant Manningham a licence to access and utilise this mains power supply in common with Boroondara in accordance with clause 7.2),

and excludes:

- Golf course irrigation pumps, pipelines, valves, filters, electrical supply/telemetry/control infrastructure related to the operation of the golf course irrigation system.

11. **Ownership of Project Infrastructure**

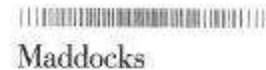
11.1 **During Project Term**

During the Project Term, Manningham shall own and manage all Project Infrastructure on behalf of the Parties.

11.2 **At end of Project Term**

The Parties agree that at the end of the Project Term (or any agreed further term/s):

- 11.2.1 the Parties shall surrender the amalgamated extraction licence referred to in clause 16.1.4 to MWC, and in accordance with clause 16.5, MWC shall re-issue individual extraction licences to each of the Parties;
- 11.2.2 Manningham shall decommission (or if mutually agreed between the Parties, augment) the Project Infrastructure (the cost of which shall form part of Operating Costs);
- 11.2.3 all Project Infrastructure located on freehold land owned by Manningham shall revert to Manningham;



- 11.2.4 all Project Infrastructure located on the Boroondara Land shall revert to Boroondara;
- 11.2.5 all Project Infrastructure located on Crown land managed by Manningham as committee of management shall revert to the Crown, unless otherwise agreed between Manningham and the Minister; and
- 11.2.6 all Project Infrastructure (other than drainage infrastructure) located on Crown land occupied by Manningham under lease or licence shall to revert to the Crown, or be removed or retained, depending on the requirements of the relevant lease or licence governing occupation of that Land by Manningham (with the cost to form part of Operating Costs). Any drainage infrastructure shall revert to Manningham.

12. Development phase

12.1 Design of the works

The Parties acknowledge that:

- 12.1.1 the design of the Infrastructure Works was completed prior to the date of this Agreement, and is reflected in the plans and specifications contained in Schedule 3; and
- 12.1.2 the design process was managed by Manningham in consultation with Boroondara and Carey, and was funded by MWC.

12.2 Procurement of Infrastructure Works

Manningham shall be responsible for procurement of the Infrastructure Works. Prior to appointing a construction contractor for the Infrastructure Works, Manningham shall conduct an open tender process in accordance with Manningham's procurement policy, and shall allow Boroondara and Carey to each appoint one representative to sit on the tender evaluation panel.

12.3 Responsibility for administration and enforcement of construction contract

When a construction contractor has been appointed in accordance with clause 12.2, Manningham shall be responsible for:

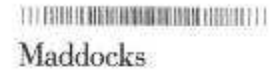
- 12.3.1 entering into the construction contract with the appointed contractor; and
- 12.3.2 administering and enforcing the construction contract,

on behalf of the Parties as principal under the construction contract, and as superintendent.

12.4 Establishment of PCG

As soon as practical following the date of this Agreement, Manningham shall establish a project control group (PCG) to oversee the construction of the Infrastructure Works. The PCG shall comprise:

- 12.4.1 1 representative of Manningham, who shall be the chairperson of the PCG;
- 12.4.2 1 representative of Boroondara;
- 12.4.3 1 representative of Carey;



##OLV	\$400,000 (plus GST);
Total	\$2,050,000 (plus GST); and

13.1.2 prior to the date of this Agreement, Manningham has put arrangements in place with MWC, the Federal Government and ##OLV in relation to their respective funding contributions as set out above.

##Arrangements to be confirmed: OLV was abolished in December 2014.

13.2 Sunk costs, forecast costs and balance

The parties acknowledge that as at the date of this Agreement:

13.2.1 Manningham has incurred sunk costs of \$400,000 (plus GST), and forecast a further \$50,000 (plus GST), in relation to the design of the Infrastructure Works; and

13.2.2 the balance of the total cost of the Infrastructure Works is \$1,600,000 (plus GST).

14. Payment of funding contributions

14.1 Boroondara's funding contribution

Boroondara's funding contribution of \$300,000 (plus GST) is to be paid to Manningham in instalments as follows:

14.1.1 \$75,000 (plus GST) upon Manningham entering into a construction contract for the Infrastructure Works;

14.1.2 \$125,000 (plus GST) upon the Infrastructure Works being 50% constructed; and

14.1.3 \$75,000 (plus GST) upon the Infrastructure Works being practically complete.

14.2 Carey's funding contribution

Carey's funding contribution of \$200,000 (plus GST) is to be paid to Manningham in instalments as follows:

14.2.1 \$50,000 (plus GST) upon Manningham entering into a construction contract for the Infrastructure Works;

14.2.2 \$100,000 (plus GST) upon the Infrastructure Works being 50% constructed; and

14.2.3 \$50,000 (plus GST) upon the Infrastructure Works being practically complete.

14.3 Completion of Infrastructure Works

For the purpose of clauses 14.1 and 14.2:

14.3.1 the Infrastructure Works shall be deemed to be 50% constructed upon certification to that effect by Manningham's quantity surveyor; and

14.3.2 the Infrastructure Works shall be deemed to be practically complete upon Manningham certifying as superintendent under the construction contract entered into for the Infrastructure Works that the Infrastructure Works are complete with the

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exception of minor items which can be fully completed without material interference to the use of the Project Infrastructure pursuant to this Agreement.

14.4 Payment of contributions

14.4.1 Manningham must give notice in writing to Boroondara and Carey when the event triggering payment of the funding contribution in accordance with clauses 14.1 and 14.2 has occurred.

14.4.2 Boroondara and Carey must pay the funding contributions to Manningham in accordance with clauses 14.1 and 14.2 (as applicable) on the date being 10 Business Days following receipt in writing from Manningham of notification that the event triggering payment of the funding contributions has occurred.

14.5 Funding contributions to be held on trust

All funding contributions paid to Manningham in accordance with this clause 14 are to be held on trust by Manningham on behalf of the Parties. Manningham may draw on such funding as and when required to meet the cost of the Infrastructure Works.

15. Increases in cost of Infrastructure Works

15.1 Sharing of increases in cost

If the cost of the Infrastructure Works (including variations to the construction contract) exceeds the secured funding described in clause 13, then the excess costs shall be shared between the Parties in the same proportions as their respective contributions set out in that clause.

15.2 Costs of Infrastructure Works

Manningham must provide Boroondara and Carey with details of any excess costs incurred including a description of the nature of the work performed and the additional costs incurred.

16. Water extraction licences

16.1 Initial Extraction Licences

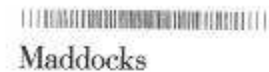
The Parties acknowledge that as at the date of this Agreement:

16.1.1 Manningham, Boroondara and Carey each hold individual extraction licences issued by MWC (**Initial Extraction Licences**);

16.1.2 the Existing Extraction Licences allow for the extraction of water from separate locations along the Yarra River;

16.1.3 the MWC reference numbers for the Initial Extraction Licences, and the water allocations under those licences, are as follows:

- (a) Manningham holds licence no. BEE019620 (12ML/annum);
- (b) Boroondara holds licence no. 464/500/0035 (138ML/annum); and
- (c) Carey holds licence no. BEE019591 (72ML/annum); and



16.1.4 the total of the water allocations under the Initial Extraction Licences is 222ML/annum.

16.2 Initial arrangements

From the date of this Agreement until the Project Infrastructure has been constructed and has been operational for 12 months, each Party shall continue to utilise its Initial Extraction Licence.

16.3 Surrender of Initial Extraction Licences and issue of Amalgamated Extraction Licence

To facilitate the better utilisation of the Project Infrastructure pursuant to this Agreement, when the Project Infrastructure has reached practical completion and has been operational for 12 months the Parties shall request MWC to issue a new amalgamated extraction licence in accordance with this clause 16.3. Subject to MWC agreeing to issue a new amalgamated extraction licence in accordance with clause 16.3.2:

16.3.1 each Party shall promptly surrender its Initial Extraction Licence to MWC; and

16.3.2 upon the surrender of the Initial Extraction Licences, MWC shall issue a new amalgamated extraction licence for a water allocation of 155.4ML/annum in the joint names of Manningham, Boroondara and Carey, with Manningham to be noted as the primary contact (**Amalgamated Extraction Licence**). The Amalgamated Extraction Licence shall adopt the extraction point under Boroondara's Initial Extraction Licence as the sole extraction point.

The Parties acknowledge that the water allocation under the Amalgamated Extraction Licence represents a 30% reduction when compared with the total of the former water allocations under the Initial Extraction Licences.

16.4 Sources of water to be supplied by Project Infrastructure

The Parties acknowledge that the water to be supplied from the Project Infrastructure includes:

16.4.1 harvested stormwater; and

16.4.2 extractions from the Yarra River.

16.5 Arrangements at end of Agreement

At the expiry or earlier termination of this Agreement the Parties will request MWC to cancel the Amalgamated Extraction Licence and re-issue individual extraction licences in accordance with this clause 16.5. Subject to MWC agreeing to re-issue individual extraction licences in accordance with clause 16.5.2, at the expiry or earlier termination of this Agreement:

16.5.1 the Amalgamated Extraction Licence shall be surrendered to MWC; and

16.5.2 MWC will re-issue individual extraction licences to each of the Parties in accordance with the provisions of the Water Act for water allocations as follows (**End-Date Extraction Licences**):

(a) Manningham: 8.4ML/annum;

(b) Boroondara: 96.6ML/annum; and

(c) Carey: 50.4ML/annum.

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The Parties acknowledge that the total of the water allocations under the End-Date Extraction Licences is equivalent to the water allocation under the Amalgamated Extraction Licence, and in each case represents a 30% reduction when compared with the respective water allocations under the Initial Extraction Licences.

16.6 Provision if no re-issue of individual extraction licences

If MWC fails or refuses to agree to re-issue individual extraction licences to each of the Parties in accordance with clause 16.5.2, the Parties will maintain the Amalgamated Extraction Licence and will continue to be entitled to extract water in accordance with the Amalgamated Extraction Licence with the entitlements of each Party as set out in clause 16.5.2.

16.7 Extraction points

Any Party wishing to establish one or more new extraction points to apply under the End-Date Extraction Licences will need to make its own arrangements with MWC.

##Other end date obligations?

17. Operational phase

17.1 Operation and maintenance of Project Infrastructure

On completion of the Infrastructure Works, Manningham will operate and maintain the Project Infrastructure in accordance with the OMR Schedule for the remainder of the Project Term.

17.2 Renewal of Agreement

The Parties may agree to extend the operation of the Project Infrastructure beyond the End Date, however no Party is obliged to do so. If agreement is reached, then the Parties will enter into a new agreement to record the agreed arrangements for the continued operation of the Project Infrastructure.

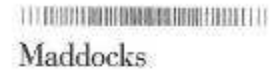
18. Sinking Fund

18.1 Manningham will establish and administer a sinking fund (**Sinking Fund**) in order to fund the anticipated cost of carrying out major repairs and works in relation to the Project Infrastructure (including carrying out of capital repairs and replacement of items of a capital nature) as required from time to time.

18.2 The Sinking Fund shall be held in a special purpose bank account established by Manningham on behalf of the Parties. Manningham may draw down from the Sinking Fund, any amounts necessary to pay for major items of repair, maintenance and replacement of the Project Infrastructure.

18.3 Prior to making any draw down from the Sinking Fund in accordance with clause 18.2, Manningham will provide notice in writing to Boroondara and Carey of the works to be carried out and the amount to be drawn down.

18.4 The Parties shall make financial contributions to the Sinking Fund in their Respective Proportions as part of the Operating Costs.



- 18.5 At the expiry or earlier termination of this Agreement, any surplus funds remaining in the Sinking Fund shall be redistributed between the Parties in accordance with their Respective Proportions.

19. Annual Report

- 19.1 As soon as practicable following the end of each financial year, Manningham will engage a suitably qualified independent consultant to prepare a report (**Annual Report**) detailing:
- 19.1.1 the condition of the Project Infrastructure;
 - 19.1.2 the performance of the Project Infrastructure during that financial year, including water quality, water usage, operation costs and scheduled maintenance costs;
 - 19.1.3 the consultant's recommendation as to the total amount to be contributed in respect of anticipated Operating Costs (including contributions to the Sinking Fund) for the following financial year, having regard to the condition of the Project Infrastructure, to ensure that sufficient funds will be available to meet the anticipated cost of carrying out:
 - (a) routine repairs and maintenance; and
 - (b) major repairs and works,
 as and when they become necessary;
 - 19.1.4 expenditure on routine repairs and maintenance during the preceding financial year; and
 - 19.1.5 the amounts (if any) drawn down from the Sinking Fund during the preceding financial year, and the major repairs or works paid for out of those moneys.
- 19.2 Manningham will give a copy of the Annual Report to Boroondara and Carey.
- 19.3 The cost of obtaining the Annual Report shall form part of the Operating Costs for the following financial year.

20. Changes in circumstances

If a Party becomes aware of the occurrence (or likely occurrence) of any event or change in circumstances which may impact on the operation or performance of the Project Infrastructure (including, without limitation, changes in water demand or changes or damage to private infrastructure on any Project Land or any adjoining land), then they must promptly give notice to each other Party providing reasonable details of the relevant event or change in circumstances.

21. Unexpected liabilities

In addition to paying the annual contributions towards the Operating Costs, the Parties agree to contribute in their Respective Proportions to any unexpected liabilities which may arise in operating the Project Infrastructure. Examples include sewer emergency relief structure activation clean-up, major oil spill clean-up, etc. Boroondara and Carey must pay any such amounts to Manningham upon demand, without deduction or right of set off.


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22. Committee

- 22.1 A committee shall be established to make recommendations to Manningham on matters affecting the operation and maintenance of the Project Infrastructure, such as waste management, scheduled maintenance and capital works requirements (**Committee**).
- 22.2 The Committee shall comprise:
- 22.2.1 2 representatives of Manningham;
 - 22.2.2 2 representatives of Boroondara; and
 - 22.2.3 2 representatives of Carey.
- 22.3 Manningham will manage the Committee and will provide the necessary administrative and other support required to operate the Committee.
- 22.4 The Committee shall meet on an annual basis, or at such other intervals as Manningham may prescribe from time to time, to review the Annual Report and make recommendations to Manningham in relation to:
- 22.4.1 the arrangements for the on-going repair and maintenance of the Project Infrastructure;
 - 22.4.2 the total amount to be contributed by the Parties in respect of anticipated Operating Costs (including contributions to the Sinking Fund) for the following financial year; and
 - 22.4.3 the administration and management of the Sinking Fund, and the expenditure of the Sinking Fund by Manningham from time to time.
- The Parties acknowledge and agree that notwithstanding the recommendations of the Committee, Manningham is ultimately responsible for making decisions in relation to these matters from time to time.
- 22.5 Each Party must ensure that its nominated representatives attend meetings of the Committee.

23. Sub-contracting**23.1 Manningham may elect**

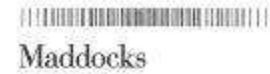
Manningham may in its absolute discretion:

- 23.1.1 operate and maintain the Project Infrastructure itself; or
- 23.1.2 engage one or more sub-contractors, and/or another party to this Agreement, to operate and maintain the Project Infrastructure.

23.2 Maintenance contracts

If Manningham elects to engage a sub-contractor to operate and maintain the Project Infrastructure, then Manningham will be solely responsible for:

- 23.2.1 entering into the maintenance contract with the sub-contractor; and



- 23.2.2 administration and enforcement of the maintenance contract,
in accordance with relevant Manningham procurement policies.

24. Storage, delivery and use of water

24.1 Manningham's role

Manningham will operate and maintain the Project Infrastructure to extract, harvest, store, treat and reticulate water for use for irrigation by the Parties, subject to:

- 24.1.1 the availability of stormwater and Yarra River extraction flows; and
24.1.2 the conditions of any applicable extraction licences.

24.2 Roles of other Parties

Each Party shall properly manage and maintain any water infrastructure of its own which is designed to receive water from the Project Infrastructure.

25. Limits on entitlements to water

25.1 Design of Project Infrastructure

The Parties acknowledge and agree that the Project Infrastructure has been designed to meet the following demands:

- 25.1.1 Boroondara – 90ML/annum;
25.1.2 Carey – 18ML/annum;
25.1.3 Manningham – 14.4ML/annum; and
25.1.4 increased extraction from the Yarra River to account for occasional demand increases (eg. re-sowing of fields).

No Party is entitled to take water from the system in excess of their above entitlement during any period, if any other Party is unable to take their full entitlement during that period as a result of there being insufficient water in the system.

If there is insufficient water in the system during any period to enable each Party to take their full entitlement as set out in this clause 25.1, the allocation of each Party will be reduced pro rata to their respective entitlements in clause 25.1 consistent with the total volume of water available in the system.

25.2 Excess water

If there is excess water in the system, then unless the Parties agree otherwise, the excess water shall be allocated between the Parties pro rata to their respective entitlements set out in clause 25.1.

25.3 Method of receiving water

The Parties acknowledge that:

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- 25.3.1 Manningham and Carey receive water by drawing from shared storage tanks in Bulleen Park; and
- 25.3.2 the Boroondara system is different in that the water is pumped (by a Project pump) direct to the inlet of the existing pumps at the Freeway Golf Course. The Boroondara system has been designed to provide water at a rate up to 35 litres per second, to match the existing golf course irrigation pump rate as at the date of this Agreement.
- 25.4 Water availability**
- The Parties acknowledge that the water available to the Parties from the system is dependent on prevailing rainfall levels. If due to low rainfalls there are no stormwater inflows to be harvested, and/or no access to water extracted from the Yarra River (eg because the river levels are below those required for extraction), then there shall be no obligation on Manningham as the manager of the Project Infrastructure to provide water to the Parties from other sources. In this event, each Party will need to rely on potable water consumption.
- 25.5 Ban days**
- Automatic 'Ban Day' shut-down of extraction pump. ##Council to clarify what is intended here

26. Operating Costs

26.1 Contribution to Operating Costs

The Parties will contribute to the Operating Costs in their Respective Proportions for each financial year.

26.2 Estimate of Operating Costs

Prior to the commencement of each financial year, Manningham will give Boroondara and Carey a reasonable estimate of their Respective Proportions of the Operating Costs for the coming financial year (**Estimate**) taking into account any recommendations contained in the Annual Report prepared in accordance with clause 19.

26.3 Payment of estimated Operating Costs

Within 14 days after receiving the Estimate, Boroondara and Carey must each pay to Manningham, without deduction or right of set off, the estimated amounts of their Respective Proportions of Operating Costs for the coming financial year as set out in the Estimate (and pro-rata for any period less than 1 year).

26.4 Statement of actual Operating Costs

- 26.4.1 As soon as practical following the end of each financial year, Manningham will give Boroondara and Carey a statement detailing the actual Operating Costs for that financial year.
- 26.4.2 Manningham must keep proper books of account and all other financial records in relation to the Operating Costs.
- 26.4.3 Manningham must allow Boroondara and Carey to examine, audit and inspect all records relating to the Operating Costs and must promptly respond to any queries raised by Boroondara or Carey in relation to the Operating Costs.

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26.5 Adjustments

Where the actual amount of Operating Costs for any financial year exceeds the estimated amount, Boroondara and Carey must each pay to Manningham, their Respective Proportions of any such increase within 14 days after Manningham providing the statement of the actual Operating Costs. If the actual amount of Operating Costs is less than the estimated amount, then Manningham will promptly credit or refund the relevant overpaid amount as soon as practical.

27. Water quality and usage

27.1 Water quality

The Parties acknowledge that:

- 27.1.1 the Project Infrastructure is not designed to provide harvested water at any particular defined quality (eg 'class AA'); and
- 27.1.2 the system is designed so that water is filtered to reduce wear and tear on Project Infrastructure (pumps, valves etc) and passed through a vegetated pond to reduce nutrient load.

27.2 Manningham's obligations

Nothing in this Agreement requires Manningham to provide water at a defined quality. Manningham's obligations are limited to:

- 27.2.1 using reasonable endeavours to ensure that the filter mechanisms in the system operate according to their design specification; and
- 27.2.2 undertaking regular water quality testing and making the data obtained from such testing available to the other Parties.

The Parties acknowledge that the above testing by Manningham will not be sufficient to enable the Parties to make informed decisions on the use of the water. The Parties will need to undertake their own further water quality testing, and implement management strategies of their own, to ensure that water is used safely.

27.3 Usage of water

In using water from the system, the Parties will comply with relevant legislation, guidelines and industry best practice.

28. Default

28.1 Events of Default

For the purpose of this clause, a Party commits an **Event of Default** if:

- 28.1.1 the Party fails to pay any money on time as required under this Agreement; or
- 28.1.2 the Party fails to perform any of its obligations in accordance with this Agreement.

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28.2 No termination

If a Party commits an Event of Default, then:

- 28.2.1 no Party shall be entitled to terminate this Agreement based on the Event of Default, it being the intention of the Parties that this Agreement will continue notwithstanding any Events of Default; and
- 28.2.2 at the request of any Party, the Parties will consult in good faith in relation to the establishment and implementation of a plan to remedy the default.

28.3 Non-payment

Where the Event of Default relates to the non-payment of money to Manningham pursuant to this Agreement, Manningham may in its discretion do any one or more of the following:

- 28.3.1 charge penalty interest on the outstanding amount at the rate prescribed under the *Penalty Interest Rates Act 1983 (Vic)*;
- 28.3.2 recover the outstanding moneys as a debt due; or
- 28.3.3 cease supplying the defaulting Party with water from the system while the outstanding amount remains unpaid.

28.4 Events of Default by Manningham

Where the Event of Default relates to a failure by Manningham to perform any obligation in relation to the construction, operation or maintenance of the Project Infrastructure:

- 28.4.1 the other Parties' rights will be limited to taking the action referred to in clause 28.2.2; and
- 28.4.2 no Party will be entitled to recover damages from Manningham (whether in contract, tort or otherwise) for any losses suffered by them arising out of or in connection with the Event of Default, and the other Parties hereby release Manningham from all such claims.

29. Risk allocation

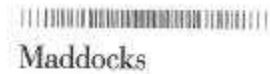
29.1 Risk Assessment Document

The Parties acknowledge that prior to the date of this Agreement, they undertook a risk assessment in respect of the key risks affecting the Project, and developed a risk assessment document, a copy of which is contained in Schedule 5 (**Risk Assessment Document**).

29.2 Identification and allocation of risks

The Parties agree that the Risk Assessment Document:

- 29.2.1 identifies a number of the key risks affecting the Project, including:
- (a) upfront risks (planning, design etc);
 - (b) risks during the development phase of the Project; and
 - (c) risks during the operational phase of the Project; and



29.2.2 sets out, for each risk identified;

- (a) how it is intended that the risk is to be allocated between the Parties; and
- (b) the actions to be taken by the Parties to mitigate the risk.

The Risk Assessment Document is binding on the Parties and each Party will bear the risk of, and will not have any claim against any other Party in respect of, any risk allocated to that Party under the Risk Assessment Document. The Parties must take all actions set out in the Risk Assessment Document for which that Party is responsible as necessary to mitigate the risk identified in the Risk Assessment Document.

30. Exit provisions

30.1 Parties' intention

The Parties acknowledge that as at the date of this Agreement, it is intended that this Agreement will continue to apply as between all of the Parties for the entire Project Term.

30.2 No release

If any Party wishes to be released as a party to this Agreement during the Project Term, then this is subject to the mutual agreement of all Parties. No Party is obliged to agree to any such release.

31. Assignment / novation of rights and obligations

31.1 Definition

In this clause 31, **Land** means any Project Land, or any adjacent land which receives water from the system.

31.2 Agreement binding on successors

Any party wishing to transfer its Land (referred to in this clause as a **Transferor**) must:

- 31.2.1 obtain the prior written consent of the other Parties, which will not be unreasonably withheld where the Transferor establishes that the proposed transferee has the financial resources and expertise to meet the transferring party's obligations under this Agreement; and
- 31.2.2 procure the transferee to enter into an accession deed, to ensure that this Agreement continues to be enforceable as between the transferee and the other Parties to this Agreement.

31.3 Dealing with land

Each Party covenants not to deal with its Land (including subdivision, sale, lease or usage of the Land), or its rights under this Agreement, in a manner which is inconsistent with the continued operation of this Agreement during the Project Term.

31.4 Manningham Land

Manningham must not transfer its Land unless arrangements acceptable to the other Parties are put in place, for the continued operation and management of the Project Infrastructure.



32. Force majeure

32.1 Definition

In this clause **Event of Force Majeure** means any one or more of the following events or causes:

- 32.1.1 changes in the law or the amalgamation of councils;
- 32.1.2 pollution or other 'upstream' events or circumstances affecting the Yarra River outside the system of Project Infrastructure;
- 32.1.3 acts of God, specifically storms, hurricanes, cyclones, earthquakes, landslides, mudslides and natural disasters;
- 32.1.4 civil riots, rebellions, revolutions, terrorism, insurrections, acts of sabotage, acts of a public enemy and war;
- 32.1.5 any other event which prevents Manningham from constructing the Infrastructure Works, or operating or maintaining the Project Infrastructure, pursuant to this Agreement.

32.2 Notice

If Manningham becomes aware that an Event of Force Majeure has occurred, then Manningham will:

- 32.2.1 notify the other Parties as soon as practical that the Event of Force Majeure has occurred; and
- 32.2.2 provide reasonable details of the nature of the Event of Force Majeure and its effect on Manningham's ability to carry out its obligations under this Agreement;

32.3 Manningham's obligations to abate

Upon the occurrence of an Event of Force Majeure, Manningham's obligation to carry out any obligations under this Agreement which are affected by the Event of Force Majeure will abate while the Event of Force Majeure continues.

32.4 Consultation

The Parties will consult as often as reasonably necessary, to discuss the consequences of the Event of Force Majeure including:

- 32.4.1 the likely duration of the Event of Force Majeure and its impact on Manningham's obligations under this Agreement;
- 32.4.2 the steps to be taken to overcome or minimise effects of Event of Force Majeure; and
- 32.4.3 whether the Event of Force Majeure is covered by any insurance policy held by any Party.

32.5 Manningham not liable

Manningham is not liable to any other Party for any losses arising out of or in connection with an Event of Force Majeure.

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32.6 Termination

- 32.6.1 If an Event of Force Majeure persists for a continuing period of ## Business Days, and Manningham reasonably believes that the occurrence of the Event of Force Majeure will prevent Manningham from performing its obligations under this Agreement, then Manningham may at its election terminate this Agreement by giving written notice of termination to the other Parties.
- 32.6.2 Manningham must not terminate this Agreement in accordance with clause 32.6.1 unless the Parties have discussed the consequences of the Event of Force Majeure in accordance with clause 32.4.

##For discussion

33. Insurance

33.1 Manningham to insure

During the Project Term Manningham will take out the following insurance policies (Policies):

- 33.1.1 public liability insurance in respect of the Project Infrastructure;
- 33.1.2 insurance to cover the Project Infrastructure against damage and destruction;
- 33.1.3 such other insurances as may be determined by Manningham from time to time, acting reasonably, having regard to the risks associated with the Project Infrastructure and this Agreement.

33.2 Matters to be covered

The Policies will cover each of the Parties for their respective rights and interests, and will cover claims as between the Parties and claims by third parties.

33.3 Costs

The cost of the Policies will form part of the Operating Costs.

33.4 Ownership and application of insurance proceeds

The Parties agree that:

- 33.4.1 Manningham owns the proceeds of any payout under any Policies on behalf of all Parties; and
- 33.4.2 Manningham will determine how any such proceeds will be applied, following consultation with the other Parties, and having regard to the respective costs and expenses incurred by each Party as a consequence of the occurrence of the insurable event to which the payout relates.

33.5 Individually Owned Assets

Nothing in this Agreement requires Manningham to insure any of the following assets (Individually Owned Assets):

- 33.5.1 any items listed in clause 9.1; or



33.5.2 any other assets owned by any Party which do not form part of the Project Infrastructure.

The Party which owns the Individually Owned Asset is solely responsible at its own cost for insuring that asset. The costs of such insurance will not form part of the Operating Costs.

34. Legal liability

34.1 Liability to third parties

Costs incurred by Manningham in:

34.1.1 prosecuting claims against any person (other than a Party); or

34.1.2 defending claims by any person (other than a Party),

arising out of or in connection with the Project Infrastructure and/or this Agreement, will form part of the Operating Costs and will be allocated between the parties in accordance with their Respective Proportions.

34.2 Liability as between the Parties

A Party to this Agreement is only liable to any other Party (whether in contract, tort or otherwise) in respect of loss or damage arising out of or in connection with the Project Infrastructure and/or this Agreement, to the extent that the relevant liability is satisfied out of the proceeds of insurance taken out pursuant to clause 33.

35. Environmental matters

35.1 Definitions

In this clause:

35.1.1 **Contamination** includes any solid, liquid, gas, radiation or substance which makes or may make the condition of any land or groundwater beneath or part of the surrounding environment:

(a) unsafe, unfit or harmful for habitation by persons or animals; or

(b) unfit for any use permitted under any applicable planning scheme as amended from time to time,

or which is defined as such in any Environmental Protection Legislation; and

35.1.2 **Environmental Protection Legislation** means any statute, regulation, code, proclamation, ministerial directive, ordinance, by law, planning policy or subordinate legislation, past, present or future, relating to pollutants and contaminants, use of land, human health and safety or protection of the environment.

35.2 Report

As soon as practical following the date of this Agreement, Manningham will appoint a suitably qualified consultant to prepare a report establishing the current environmental condition of the Project Land.



35.3 Comply with Environmental Protection Legislation

The Parties must, in their use of:

35.3.1 the Project Land; and

35.3.2 any other land which receives water from the Project Infrastructure,

comply with all Environmental Protection Legislation and any permit, approval, authority or licence issued pursuant to any Environmental Protection Legislation.

35.4 Not permit Contamination

The Parties must not spill or deposit, or carry out any activities on any land which may cause any Contamination, or permit any Contamination to escape in any other way into or on or from the Project Land, drainage or surrounding environment.

35.5 Notify of and clean up Contamination

If a Party causes any Contamination in breach of clause 35.3 or 35.4 (or exacerbates any existing Contamination during the Project Term), which affects any Project Land or Project Infrastructure, that Party must at its own cost:

35.5.1 immediately notify the other Parties, the Environment Protection Authority and any other relevant authority, and provide reasonable details of the Contamination caused;

35.5.2 promptly clean up the Contamination and do everything necessary to minimise harm; and

35.5.3 promptly comply with any notice, order, direction or requirement of Manningham and any other authority in relation to any such Contamination.

36. No relationship

No Party to this Agreement has the power to obligate or bind any other Party. Nothing in this Agreement will be construed or deemed to constitute a partnership, joint venture or employee, employer or representative relationship between any of the Parties. Nothing in this Agreement will be deemed to authorise or empower any of the Parties to act as agent for or with any other Party.

37. Dispute resolution

37.1 Dispute

37.1.1 If a bona fide difference or dispute (together called a **Dispute**) between the Parties arises in connection with the subject matter of this Agreement, the Parties must, in good faith, attempt to resolve the Dispute.

37.1.2 If the Parties cannot resolve the Dispute, then any Party may give the other Parties a written notice of Dispute identifying and providing details of the Dispute and the attempts made to resolve the Dispute.

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37.1.3 Once a notice has been served under clause 37.1.2, the Chief Executive Officers, General Manager or Managing Director of each Party (or his or her delegate) must attempt to resolve the Dispute in good faith.

37.2 Mediation

37.2.1 Any Dispute between the Parties arising in connection with the subject matter of this Agreement which cannot be settled by negotiation between the Parties or their representatives within 21 days of giving the written notice of the Dispute under clause 37.1.2 will be submitted to mediation in accordance with The Institute of Arbitrators and Mediators, Australia Expert Determination Rules.

37.2.2 Except where the Parties otherwise agree in writing, each Party to the Dispute will bear its own costs and pay an equal proportion of the mediation costs.

37.3 No proceedings until dispute resolution process followed

A Party must not start any legal or other proceedings in respect of a Dispute unless the Dispute has been referred to mediation in accordance with clause 37.2 and the mediation has failed to resolve the Dispute.

37.4 Continued performance

Each Party must continue to perform its obligations under this Agreement despite the existence of a Dispute.

Note: Should there be an Expert determination/arbitration process if mediation does not resolve any Dispute?

38. Regulatory capacity

38.1 No liability

Manningham and Boroondara will not be liable under this Agreement:

38.1.1 to one another; or

38.1.2 to Carey.

for any acts or omissions undertaken by either of them in their capacity as a public body or authority including (without limitation) in exercising any powers under the *Local Government Act 1989* (Vic) or the *Planning and Environment Act 1987* (Vic).

38.2 No fettering

Nothing in this Agreement fetters Manningham or Boroondara in the exercise of any power or discretion under the *Local Government Act 1989* (Vic), the *Planning and Environment Act 1987* (Vic) or any other legislation.

**39. GST****39.1 Definitions**

In this clause:

- 39.1.1 words and expressions that are not defined in this Agreement but which have a defined meaning in the GST Law have the same meaning as in the GST Law; and
- 39.1.2 **GST Law** has the meaning given to that term in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

39.2 GST exclusive

Except as otherwise provided by this clause, all consideration payable under this Agreement in relation to any supply is exclusive of GST.

39.3 Increase in consideration

If GST is payable, or a GST equivalent is voluntarily resolved to be paid in accordance with section 5 of the *National Taxation Reform (Consequential Provisions) Act 2000* (Vic), in respect of any supply made by a supplier under this Agreement (**GST Amount**), the recipient will pay to the supplier an amount equal to the GST payable on the supply.

39.4 Payment of GST

Subject to clause 39.5 the recipient will pay the GST Amount at the same time and in the same manner as the consideration for the supply is to be provided under this Agreement.

39.5 Tax invoice

The supplier must provide a tax invoice to the recipient before the supplier will be entitled to payment of the GST Amount under clause 39.4.

39.6 Reimbursements

If this Agreement requires a party to reimburse an expense or outgoing of another party, the amount to be paid or reimbursed by the first party will be the sum of:

- 39.6.1 the amount of the expense or outgoing less any input tax credits in respect of the expense or outgoing to which the other party is entitled; and
- 39.6.2 if the payment or reimbursement is subject to GST, an amount equal to that GST.

39.7 Adjustment events

If an adjustment event occurs in relation to a taxable supply under this Agreement:

- 39.7.1 the supplier must provide an adjustment note to the recipient within 7 days of becoming aware of the adjustment; and
- 39.7.2 any payment necessary to give effect to the adjustment must be made within 7 days after the date of receipt of the adjustment note.

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40. Notices

40.1 Delivery of notice

40.1.1 A notice or other communication required or permitted to be given to a Party under this Agreement must be in writing and may be delivered:

- (a) personally to the Party;
- (b) by leaving it at the Party's address;
- (c) by posting it by prepaid post addressed to the Party at the Party's address;
or
- (d) by electronic mail to the Party's email address.

40.1.2 If the person to be served is a company, the notice or other communication may be served on it at the company's registered office.

40.2 Particulars for delivery

40.2.1 The address and email address of each Party are set out on page 1 of this Agreement under the heading 'Parties' (or as notified by a Party to the other Parties in accordance with this clause).

40.2.2 Any Party may change its address or email address by giving notice to the other Parties.


40.3 Time of service

A notice or other communication is deemed delivered:

- 40.3.1 if delivered personally or left at the person's address, upon delivery;
- 40.3.2 if posted within Australia to an Australian address, 2 Business Days after posting and in any other case, 5 Business Days after posting;
- 40.3.3 if delivered by electronic mail, subject to clauses 40.3.4 and 40.3.5, at the time the email containing the notice left the sender's email system, unless the sender receives notification that the email containing the notice was not received by the recipient;
- 40.3.4 if received after 5.00pm in the place it is received, at 9.00am on the next business day; and
- 40.3.5 if received on a day which is not a business day in the place it is received, at 9.00am on the next business day.

41. Governing law

This Agreement is governed by and is to be construed in accordance with the laws of Victoria. Each Party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Victoria and waives any right to object to proceedings being brought in those courts.


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42. Interpretation**42.1 Words and headings**

In this Agreement, unless expressed to the contrary:

- 42.1.1 words denoting the singular include the plural and vice versa;
- 42.1.2 the word 'includes' in any form is not a word of limitation;
- 42.1.3 where a word or phrase is defined, another part of speech or grammatical form of that word or phrase has a corresponding meaning;
- 42.1.4 headings and sub-headings are for ease of reference only and do not affect the interpretation of this Agreement; and
- 42.1.5 no rule of construction applies to the disadvantage of the Party preparing this Agreement on the basis that it prepared or put forward this Agreement or any part of it.

42.2 Specific references

In this Agreement, unless expressed to the contrary, a reference to:

- 42.2.1 a gender includes all other genders;
- 42.2.2 any legislation (including subordinate legislation) is to that legislation as amended, re-enacted or replaced and includes any subordinate legislation issued under it;
- 42.2.3 any document (such as a deed, agreement or other document) is to that document (or, if required by the context, to a part of it) as amended, novated, substituted or supplemented at any time;
- 42.2.4 writing includes writing in digital form;
- 42.2.5 'this Agreement' is to this Agreement as amended from time to time;
- 42.2.6 'A\$', '\$', 'AUD' or 'dollars' is a reference to Australian dollars;
- 42.2.7 a clause, schedule or attachment is a reference to a clause, schedule or attachment in or to this Agreement;
- 42.2.8 any property or assets of a person includes the legal and beneficial interest of that person of those assets or property, whether as owner, lessee or lessor, licensee or licensor, trustee or beneficiary or otherwise;
- 42.2.9 a person includes a firm, partnership, joint venture, association, corporation or other body corporate;
- 42.2.10 a person includes the legal personal representatives, successors and permitted assigns of that person, and in the case of a trustee, includes any substituted or additional trustee; and
- 42.2.11 any body (**Original Body**) which no longer exists or has been reconstituted, renamed, replaced or whose powers or functions have been removed or transferred to another body or agency, is a reference to the body which most closely serves the purposes or objects of the Original Body.

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43. General

43.1 Variation

This Agreement may only be varied by a document executed by the Parties.

43.2 Severability

43.2.1 Any provision of this Agreement that is held to be illegal, invalid, void, voidable or unenforceable must be read down to the extent necessary to ensure that it is not illegal, invalid, void, voidable or unenforceable.

43.2.2 If it is not possible to read down a provision as required by this clause, part or all of the clause of this Agreement that is unlawful or unenforceable will be severed from this Agreement and the remaining provisions continue in force.

43.3 Waiver

The failure of a Party at any time to insist on performance of any provision of this Agreement is not a waiver of the Party's right at any later time to insist on performance of that or any other provision of this Agreement.

43.4 Further assurance

Each Party must promptly execute and deliver all documents and take all other action necessary or desirable to effect, perfect or complete the transactions contemplated by this Agreement.

43.5 Survival and enforcement of indemnities

43.5.1 Each indemnity in this Agreement is a continuing obligation, separate and independent from the other obligations of the Parties and survives termination of this Agreement.

43.5.2 It is not necessary for a Party to incur expense or make payment before enforcing a right of indemnity conferred by this Agreement.

43.6 No merger

The warranties, undertakings, agreements and continuing obligations in this Agreement do not merge on completion of the transactions contemplated by this Agreement.

43.7 Business Day

If a payment or other act is required by this Agreement to be made or done on a day which is not a Business Day, the payment or act must be made or done on the next following Business Day.



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Schedule 1 Project Land - Particulars

1. Manningham Land

1.1 The Manningham Land comprises the following parcels of land as shown on the plan in Schedule 2:

- the ##whole/part of the land contained in certificates of title volume ## folio ## and volume ## folio ## as shown on the plan as 'Manningham Freehold Land – Bulleen Park';
- the area shown on the plan as 'Crown Land – Bolin Bolin Billabong', which is Crown land permanently/temporarily reserved for ## purposes by an Order in Council of ## (vide Victoria Government Gazette dated ## at page ##).

1.2 In relation to the Crown land referred to in clause 1.1 above, the Parties acknowledge that as at the date of this Agreement:

- Manningham manages part of the Crown land as committee of management appointed pursuant to the CLRA; and
- Manningham occupies the remainder of this Crown land as licensee under a licence dated ## granted by the Secretary pursuant to section ## of the CRLA.

2. Boroondara Land

The Boroondara Land comprises the ##whole/part of the land contained in certificates of title volume ## folio ## and volume ## folio ## as shown on the plan as 'Boroondara Freehold Land – Freeway Golf Course'.

##Details to be confirmed

|||||||||
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Schedule 2 Project Land - Plan

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|||||
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Schedule 3 Infrastructure Works

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|||||
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Schedule 4 OMR Schedule

DRAFT

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Signing Page

Executed by the Parties

The Common Seal of Manningham City Council was hereunto affixed in the presence of:

..... Mayor/Councillor
..... Chief Executive Officer

The Common Seal of the Boroondara City Council was hereunto affixed in the presence of:

..... Councillor
..... Chief Executive Officer

Executed by Carey Baptist Grammar School Limited ACN 051 576 062 in accordance with s 127(1) of the Corporations Act 2001

..... Signature of Director
..... Signature of Director (or Company Secretary)
..... Print full name
..... Print full name

Attachment D



**Department of
Environment & Primary Industries**

Port Phillip Region
Level 7, 8 Nicholson St, East Melbourne
VIC 31098
PO Box 599, East Melbourne, Victoria, 3002
e-mail: property.portphilip@dse.vic.gov.au
www.dse.vic.gov.au
ABN 90 719 052 204

31 July 2014

Chris Sfetkidis
PO Box 1
Doncaster
VIC 3108

Ref: 2011832

Dear Mr Sfetkidis

COMMITTEE OF MANAGEMENT OVER YARRA VALLEY PARKLANDS

I refer to your letter dated 5 June 2014 to Ms Sally Burgess, regarding Yarra Valley Parklands at 191 Bullen Road, Bulleen.

I am pleased to inform you that that your application has been successful and the Minister for Environment and Climate Change, the Hon Ryan Smith MP has, by delegation, appointed Manningham City Council as the Committee of Management over part of Yarra Valley Parklands.

A copy of the 'Certificate of Appointment' is attached for your information.

Should you require any further information about this matter please do not hesitate to contact me on 9637 9364 or email dejana.marjanovic@depi.vic.gov.au

Yours sincerely

Dejana Marjanovic
Senior Policy and Project Officer

Privacy Statement

Any personal information about you or a third party in your correspondence will be protected under the provisions of the Information Privacy Act 2000. It will only be used or disclosed to appropriate Ministerial, Statutory Authority, or Departmental Staff in regard to the purpose for which it was provided unless required or authorised by law. Enquiries about access to information about you held by the Department should be directed to the Manager Privacy, Department of Sustainability & Environment, PO Box 599, East Melbourne, 3002.





**Department of
Environment and Primary Industries**

COMMITTEE OF MANAGEMENT CERTIFICATE OF APPOINTMENT

MANNINGHAM CITY COUNCIL

PART YARRA VALLEY PARKLANDS

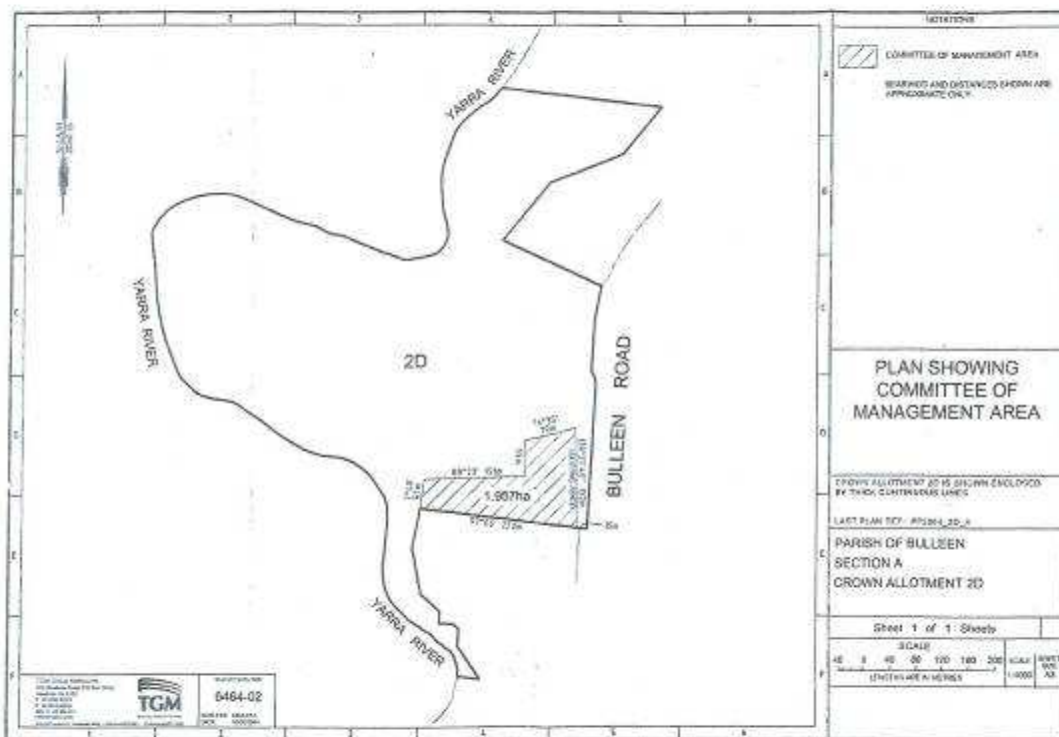
Under sections 14(2) and 14(3) of the *Crown Land (Reserves) Act 1978*, and pursuant to the delegation of 15 July 2013, I hereby appoint, on behalf of the Minister for Environment and Climate Change, Manningham City Council as the committee of management, over part of the land temporary reserved for conservation recreation leisure and tourism by Order in Council of 4 December 2001, published in the government gazette on 4 December 2001, page 02, being part of Crown land Allotment 2D Section A, Parish of Bulleen and hatched on the plan labelled *Plan Showing Committee of Management Area* attached.

This appointment is in lieu of all previous appointments and management agreements relating to the said land which are hereby revoked.

2011832

TRAVIS DOWLING
Regional Director, Port Phillip Region
(As delegate of the Minister for Environment and Climate Change)

Date: 28/07/14



Attachment F



19 December 2014

Mr Chris Sfetkidis
Technical Services Engineer
Manningham City Council
PO Box 1
DONCASTER VIC 3108

Dear Mr Sfetkidis,

RE: Bolin Bolin Billabong Wetland Project – Yarra River Extraction Licences

Thankyou for your letter of 1 December 2014 in respect to the above project and outlining the preferred management of associated water licences currently held by City of Boroondara, Carey Baptist Grammar School and Manningham City Council.

I am happy to confirm that Melbourne Water will support all of the proposed arrangements as further outlined below:

- Amalgamation of the three existing licences into a single licence, jointly held by all parties with Manningham City Council as nominated primary contact. This will simply require the transfer of the existing volumes into a single licence within the Victorian Water Register and attached to the relevant parties. To enact this component Melbourne Water will request confirmation from each party that they are happy to proceed along the lines put forward by Manningham. As further contribution we will waive the normal licensing application fees associated with this type of application.
- It is agreed that the full licence volume should be retained in the initial stages and that the 30% reduction will not be applied until the scheme has been operating for a full 12 month period.
- Future split of the licence back into its separate components is permitted under the Water Act and can be actioned upon application by the licence holders at any time.
- Rationalisation of works to single offtake point on the river is supported. A works operating licence will remain in place for the retained works and can again be held jointly if desired or singly by Manningham as the manager of the works. Your further advice in respect to works licence ownership would be appreciated in this regard.
- The exiting works that are no longer required will need to be decommissioned and potentially removed. Further advice from the works owners would be appreciated around what actions are planned in respect to decommissioning. Melbourne Water approval is required for decommissioning and removal of any works on the river bank.



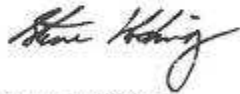
1

Melbourne Water 2464 945 266 952
950 La Trobe Street Docklands VIC 3008
PO Box 4342 Melbourne VIC 3001 Australia
T 131 722 F +61 3 9679 7099
melbournewater.com.au
Printed on 100% recycled paper

Subject to the advice requested above we would be happy to proceed with these proposals at any designated time frame to suit the project. I would suggest the best way to action these matters is for a joint application to be sent to Melbourne Water along with relevant supporting information / plans for the pumping works / decommissioning. I am happy to sit down with you to help formulate this if needed.

I hope this provides clarity for you. Should you have any queries on this matter please contact me on 9724 3118.

Yours sincerely



STEVE HOSKING
DIVERSIONS MANAGER

Attachment G Maddocks

Lawyers
140 William Street
Melbourne Victoria 3000 Australia
Telephone 61 3 9258 3555
Facsimile 61 3 9258 3666
info@maddocks.com.au
www.maddocks.com.au
DX 258 Melbourne

Date / /

Licence Section 17B(1) Crown Land (Reserves) Act 1978 (Vic) Licence Area: Part of Yarra Valley Parklands

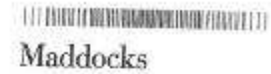
Secretary of The Department of Environment, Land, Planning and Water
and

Manningham City Council
ABN 61 498 471 081
and

Parks Victoria

{5712072; 11594111_1}

Interstate offices
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ARelisted offices around the world through the
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Licence

Dated / /

Parties

Name	Secretary of The Department of Environment, Land, Planning and Water
Address	8 Nicholson Street, East Melbourne
Short name	Licensor
Name	The person described in item 1 of Schedule 1 as the licensee
Short name	Licensee
Name	The person described in item 2 of Schedule 1 as the guarantor
Short name	Guarantor
Name	Parks Victoria
Address	Level 10, 535 Bourke Street, Melbourne, Vic, 3000
Short name	Manager

Background

- A. The Licence Area is located on land which is reserved under the *Crown Land (Reserves) Act 1978 (Vic) (CLRA)* by an order in council on the date and for the purpose specified in item 3 of Schedule 1.
- B. The Licensor has power to grant this Licence under the CLRA.
- C. Parks Victoria manages the Licence Area pursuant to a direction from the then Minister for Environment and Climate Change dated 6 August 2013 and an agreement between the then Secretary to the Department of Environment and Primary Industries and Parks Victoria dated 6 August 2013.
- D. The Licensor has agreed to grant to the Licensee a licence to use the Licence Area pursuant to section 17B(1) of the CLRA on the terms and conditions of this Licence.



Part 1 - Definitions and Interpretation

1. Definitions

In this Licence, unless the contrary intention appears:

API means the Australian Property Institute (Incorporated) - Victorian Division.

Authorised Officer in the case of a party means a person appointed by that party to act on its behalf under this Licence, and the initial Authorised Officer of each party is set out in item 14 of Schedule 1.

Commencement Date means the date set out in item 4 of Schedule 1.

Common Areas means those areas shown as common areas on the plan attached to this Licence and includes the outdoor seating areas, car and bicycle areas, gardens and the grass areas surrounding the Licence Area.

CPI means:

- (a) the Consumer Price Index All Groups Melbourne;
- (b) if that index is suspended or discontinued and another index is substituted by the Australian Statistician, that index; or
- (c) if there is no index under the preceding clause, the general inflation rate in Victoria as used by the Victorian Treasury for the relevant period.

Default Event has the meaning given to it in clause 37.

Environment has the meaning ascribed to that word in the *Environment Protection Act 1970* (Vic).

Environmental & Heritage Law means a Law concerning the Environment, persons or property (including, without limitation, a Law concerning land use, planning, heritage (pre- and post- European settlement), preservation of historical buildings and precincts, water catchments, pollution of air or water, noise, soil or ground water contamination, chemicals, waste, use of dangerous goods or substances, building regulations, public health and safety, noxious trades or any other aspect of protection of the Environment or person or property.

Essential Safety Measures has the meaning ascribed to it under part 12 of the *Building Regulations 2006*.

Expiry Date means the last day of the Term and is the date set out in item 5 of Schedule 1.

GST means the goods and services tax levied under the GST Act or any other goods and services tax, value added tax, consumption tax or tax of similar effect levied from time to time.

GST Act means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) (as amended).

Guarantor means the party (if any) named in Item 2 of Schedule 1.

Input Tax Credit in relation to a Taxable Supply, means a credit under the GST Act for the GST payable by the recipient in respect of the Taxable Supply.

||| P A R K S V I C T O R I A M A N A G E M E N T P L A N |||
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Law includes any act, regulation, ordinance or statutory instrument, present or future, and the conditions of any licence or permit or similar instrument issued under a Law.

Licence Area means the area described in item 8 of Schedule 1 and includes the Licensor's Property and subject to clause 17.3, excludes the Licensee's Improvements.

Licence Fee means the amount specified in item 9 of Schedule 1.

Licensee means the party named in item 1 of Schedule 1 and includes the Licensee's personal representatives, successors and permitted assigns.

Licensee's Business means the business which the Licensee operates from or at the Licence Area.

Licensee's Fittings means all equipment, furniture, chattels, fixtures and fittings and other property located on the Licence Area or on the Licensee's Improvements from time to time belonging to the Licensee.

Licensee's Improvements means all permanent buildings, structures, additions and other improvements which are during the term erected on the Licence Area by or on behalf of the Licensee at the Licensee's cost and includes alterations and modifications of any such buildings, structures, additions and improvements but excludes the Licensee's Fittings.

Licensee's Members and Agents means any one or more of the members, officers, employees, agents, contractors, subcontractors, guests and invitees of the Licensee and includes any spectators of events conducted at the Licence Area and patrons of facilities at the Licence Area.

Licensee's Operators means the persons named in item 12 of Schedule 1 as the persons who will operate the Licensee's Business for the duration of this Licence and any renewal of this Licence.

Licensee's Proportion means the proportion determined by the Licensor in such manner as the Licensor reasonably deems fit.

Licensor means the Secretary to the Department of Environment and Primary Industries and includes its successors and assigns.

Licensor's Property means all buildings, improvements, structures, plant and equipment (mechanical or otherwise), fittings, fixtures, furnishings from time to time comprising the Licence Area owned or supplied by the Licensor and includes those Services supplied by the Licensor.

Major Event means an event that is occurring in or about the Park which the Licensor, acting reasonably, determines is a major event.

Manager means Parks Victoria or such party as the Licensor may from time to time appoint as manager of the Park and the Licence Area.

Minister means the Minister of the Crown for the time being with responsibility for the CLRA or his or her authorised delegate and includes his or her successor in Law or such other Minister of the Crown or government authority to whom responsibility for this Licence may at any time be given.

Occupational Health and Safety Laws means all laws, requirements and regulations concerning the health, safety and welfare of people at work, including (without limitation):

- (a) *Occupational Health and Safety Act 2004 (Vic)*;



- (b) *Occupational Health and Safety Regulations 2007 (Vic);*
- (c) *Dangerous Goods Act 1985 (Vic);*
- (d) *Dangerous Goods (Storage and Handling) Interim Regulations 2011 (Vic);* and
- (e) *Work Health and Safety Act 2011 (Cth).*

Outgoings means:

all existing and future rates (including any special rates or levies), taxes, duties, charges, levies, assessments, impositions and outgoings (including land tax if applicable) whatsoever now or at any time imposed, charged or assessed on or against the Licence Area or the Licensee's Improvements or the Licensor or the Licensee or payable by the owner or occupier of the Licence Area.

unless this Licence provides for the Licensee to insure the Licence Area and the Licensee's Improvements, insurance premiums, and other charges in connection with insurance policies taken out by the Licensor against the risks and for the amounts which the Licensor reasonably thinks are appropriate in connection with the Licence Area, the Licensee's Improvements and this Licence including:

- (i) damage to and destruction of the Licence Area, the Licensor's Property and the Licensee's Improvements for their full replacement value;
 - (ii) removal of debris;
 - (iii) breakage of glass; and
 - (iv) loss of licence fee insurance;
- (f) the costs and expenses incurred by the Licensor for:
- (i) supplying, operating, maintaining, repairing and upgrading Services to or for the Licence Area and the Licensee's Improvements;
 - (ii) repairing the Licence Area and the Licensee's Improvements;
 - (iii) maintaining the Licence Area and the Licensee's Improvements at the request or as a result of the default of the Licensee; and
 - (iv) any other service, facility, or infrastructure the Licensor reasonably considers necessary or desirable for the benefit of occupiers of the Licence Area and the Licensee's Improvements either exclusively or in common with others.

Park means the park named in item 6 of Schedule 1.

Parks Victoria means the public authority established under Part 2 of the *Parks Victoria Act 1998 (Vic)* and includes, where the context so admits, its authorised officers.

Performance Criteria means the performance criteria set out in Schedule 4.

Permitted Use means the use described in item 7 of Schedule 1.

Personal Information means personal information as defined in the *Information Privacy Act 2000 (Vic)*.

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Principal means the Licensor, the Manager and the Minister and includes their respective officers, employees and agents.

Review Date means a date specified in item 10 of Schedule 1.

Review Period means the period following each Review Date until the next Review Date or until the end of this Licence.

Services includes electricity, gas, water, sewerage, drainage, telecommunication, air conditioning, security services, fire detection and prevention equipment and Essential Safety Measures, and the repair and maintenance of everything (such as plant and equipment) needed to supply them.

Taxable Supply means a taxable supply within the meaning of the GST Act.

Tax Invoice in relation to a Taxable Supply means an invoice for the Taxable Supply required by the GST Act to support a claim by the recipient for an Input Tax Credit for the GST on the Taxable Supply.

Term means the term of this Licence as set out in clause 5.

Valuer means a certified practising valuer who:

- (a) is a full member of not less than five years' standing of the Victorian Division of the API; and
- (b) is qualified as a valuer of premises similar to the Licence Area.

Works means any works to or at the Licence Area (including construction, fitout, demolition, alterations, additions, landscaping or earthworks and the installation of equipment) whether carried out before the Commencement Date or during the Term, including those works set out in item 13 of Schedule 1.

2. Interpretation

2.1 In this Licence, unless the contrary intention appears:

- 2.1.1 a reference to another instrument includes any variation or replacement of any of them;
- 2.1.2 a reference to a statute, ordinance, code or other law includes regulations and other instruments under that statute, ordinance, code or law and consolidations, amendments re-enactments or replacements of any of them occurring at any time before or after the date of this Licence;
- 2.1.3 a word or expression in the singular includes the plural and vice versa;
- 2.1.4 the word 'person' includes an individual and a corporation;
- 2.1.5 a reference to a person includes a reference to that person's executors, administrators, successors, substitutes (including persons taking by novation) and assigns;
- 2.1.6 an agreement, representation or warranty in favour of two or more persons is for the benefit of them jointly and severally;

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- 2.1.7 an agreement, representation, warranty or liability on the part of two or more persons binds them jointly and severally;
- 2.1.8 a reference to any thing (including an amount) is a reference to the whole and each part of it and a reference to a group of persons is a reference to all of them collectively, to any two or more of them collectively and to each of them individually; and
- 2.1.9 a reference to a clause or item is to a clause or item in this Licence.
- 2.2 If this Licence prohibits the Licensee from doing a thing, the Licensee must:
 - 2.2.1 ensure that the Licensee's Members and Agents do not do that thing; and
 - 2.2.2 not allow or cause any person to do that thing.
- 2.3 If this Licence requires the Licensee to do a thing, the Licensee must ensure that the Licensee's Members and Agents do that thing.
- 2.4 Headings are inserted for convenience and do not affect the interpretation of this Licence.
- 2.5 If there is an inconsistency between a special condition in item 15 of Schedule 1 and another provision of this Licence, the special condition prevails.

Part 2 - Acknowledgment

3. Acknowledgment

- 3.1 The parties acknowledge that the Licensor may, from time to time, appoint a party to act as manager of the Park and the Licence Area. The party so appointed as at the date of this Licence is Parks Victoria.
- 3.2 The Licensee covenants and agrees that:
 - 3.2.1 any right, power or authority vested in the Licensor under this Licence shall be treated by the Licensee as a right, power and authority of the Manager; and
 - 3.2.2 any lawful direction of the Manager must be complied with or otherwise treated as a direction of the Licensor.

Part 3 - Licence of Licence Area

4. Licence

The Licensor grants to the Licensee a licence to use the Licence Area subject to:

- 4.1 the terms contained in this Licence;
- 4.2 all encumbrances affecting the Licence Area;
- 4.3 any reservations in this Licence;

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- 4.4 the right of the Licensor to:
- 4.4.1 install, maintain, use, repair, alter and replace the water pipes, wires, tubes, conduits, sewers and cables leading through or around the Licence Area and the Licensee's Improvements;
 - 4.4.2 use, pass and run water, air, electricity, sewerage, drainage, gas and other substances through the Licence Area and the Licensee's Improvements;
 - 4.4.3 determine all areas of access to and egress from the Licence Area; and
 - 4.4.4 close access to the Licence Area and the Park in an emergency as may be necessary for the Licensor or the Manager to carry out its statutory functions. The Licensee shall not be entitled to any claim for compensation or damages for loss suffered as a result of any such closure;
- 4.5 the rights of the public in relation to the Park and areas adjacent to the Licence Area, including any water included in the areas adjacent to the Licence Area;
- 4.6 the condition precedent that the Licensee complies with the obligations under clauses 27.1 to 27.3 inclusive; and
- 4.7 the provisions of the CLRA.

5. Term

The Term of this Licence begins at zero hours on the Commencement Date and ends at 12 midnight on the Expiry Date.

6. Licence of parts of Park

The Licensor grants the Licensee the right to use in common with the Licensor and other persons from time to time permitted by the Licensor, those parts of the Park reasonably required by the Licensee:

- 6.1 for access to the Licence Area; and
- 6.2 to comply with its obligations under this Licence.

Part 4 - Payment of Licence Fee and Outgoings

7. Licence Fee

The Licensee must pay the Licence Fee without any deductions:

- 7.1 to the Licensor at the Licensor's address specified in this Licence, or as the Licensor may direct from time to time; and
- 7.2 by 12 equal monthly instalments in advance on or before the first day of each month. The first instalment must be paid on the Commencement Date. If the Commencement Date is not the first day of a month, the Licensee must pay proportional instalments in the first and last months of the Term.

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8. Outgoings and Services

8.1 The Licensee must pay:

8.1.1 all Outgoings, however imposed, charged or assessed, separately relating to the Licence Area or the Licensee's Improvements or both; and

8.1.2 the charges for any Services supplied directly to the Licence Area and the Licensee's Improvements;

before or when they are due.

8.2 If any Outgoing relates to or benefits other areas or lands of which the Licence Area and the Licensee's Improvements form part, the Licensee must pay or reimburse the Licensor on demand the Licensee's Proportion of such Outgoing.

8.3 If required by the Licensor, the Licensee must install and pay for a separate meter for recording or measuring any of the Services to the Licence Area or the Licensee's Improvements.

Part 5 - Review of Licence Fee

9. CPI Review

On each Review Date the Licence Fee for the next Review Period shall be calculated in accordance with the following formula:

$$A = B \times \frac{C}{D}$$

where: **A** is the Licence Fee for the next Review Period;

B is the annual Licence Fee paid by the Licensee just prior to the relevant Review Date;

C is the CPI published for the quarter immediately preceding the relevant Review Date; and

D is the CPI published for the quarter immediately preceding the last Review Date or, where there has not been a Review Date, the quarter immediately preceding the start of the Term.

Part 6 - Security Deposit or Bank Guarantee

10. Security Deposit

10.1 The Licensee must pay a security deposit (**deposit**) to the Licensor of the amount stated in item 11 of Schedule 1 and must maintain the deposit at that amount increased by the same percentage increase as any increase in the Licence Fee within 14 days of written request.



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- 10.2 The Licensor may use the deposit (including any accrued interest) to make good the cost of remedying breaches of the Licensee's obligations under this Licence or to recover any loss that the Licensor suffers from the Licensee's default.
- 10.3 If the deposit, or any part of it, is used by the Licensor under this clause then the Licensee must, within 14 days of written request, replace the deposit, or that portion of it used.
- 10.4 After this Licence has ended and the Licensee has vacated the Licence Area and complied with the Licensee's obligations under this Licence, the Licensor must refund the unused part of the deposit within 14 days of the Licensee's demand.

11. Bank Guarantee

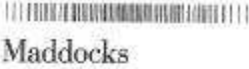
- 11.1 If the Licensor requires, the Licensee must give the Licensor an unconditional and irrevocable bank guarantee (**bank guarantee**) in place of the deposit for the amount stated in item 11 of Schedule 1. The bank guarantee must be issued by an authorised deposit taking institution as defined by the *Banking Act 1959 (Cth)* with no expiry date or an expiry date not less than 6 months after the end of the Term and must be on such terms as the Licensor may require.
- 11.2 If the Licence Fee is increased following a Review Date, the Licensee must provide a replacement bank guarantee and the amount guaranteed under the bank guarantee shall be increased by the same percentage increase.
- 11.3 The Licensor may call upon the bank guarantee to make good the cost of remedying breaches of the Licensee's obligations under this Licence or to recover any loss that the Licensor suffers from the Licensee's default.
- 11.4 If the bank guarantee, or any part of it, is called upon by the Licensor under this clause then the Licensee must, within 14 days of written request, replace that bank guarantee, or that portion of it called upon, with another bank guarantee complying with the requirements of clause 11.1.

Part 7 - Licence Personal

12. Licence Personal

The Licensee confirms and acknowledges that:

- 12.1 the Licensee is granted a mere licence to enter and use the Licence Area pursuant to the CLRA and that no interest in the Licence Area is granted to the Licensee; and
- 12.2 the Licensee cannot:
- 12.2.1 assign or deal with this Licence or the rights granted under this Licence in any way;
 - 12.2.2 part with or share possession, use or occupation of the Licence Area; or
 - 12.2.3 allow any person to take the place of any of the Licensee's Operators.



13. Change in shareholding/trust

If the Licensee is a corporation:

13.1 any change in the shareholding (other than shares listed on the Australian Stock Exchange) altering the:

- 13.1.1 effective control of the composition of the board of directors;
- 13.1.2 ability to cast more than one half of the maximum votes at a general meeting of; or
- 13.1.3 control of more than half of the issued capital in;

the Licensee or the ultimate holding company of the Licensee; or

13.2 any change altering the effective control of or the ultimate beneficial entitlement under any trust of which the Licensee is a trustee (other than a trust listed on the Australian Stock Exchange) including without limitation a change in the:

- 13.2.1 right to remove or appoint a new or additional trustee;
- 13.2.2 manner in which the trustee deals with the trust assets; or
- 13.2.3 right to alter the beneficiaries of the trust;

will be deemed to be an assignment of this Licence in breach of clause 12.2.1 unless the written consent of the Licensor has been obtained before the changes referred to in this clause 13.

Part 8 - Change in Licensee’s Operators

14. Licensee’s Operators named in Schedule 1

14.1 The Licensee acknowledges that the Licensor entered into this Licence on the basis that the Licensee’s Operators for the duration of this Licence (and any renewal thereof) will be the persons named in item 12 of Schedule 1.

14.2 As soon as the Licensee becomes aware that any one of the Licensee’s Operators as named in item 12 of Schedule 1 no longer operates or intends to continue operating the Licensee’s Business, the Licensee must immediately inform the Licensor in writing.

14.3 If the Licensor is reasonably of the opinion that the Licensee’s Business will be adversely affected by the departure of any of the Licensee’s Operators as approved by the Licensor, the Licensor shall be entitled to determine this Licence by one month’s written notice to the Licensee unless the Licensee procures a replacement Licensee’s Operator to the satisfaction of the Licensor during that time.



Part 9 - Licensee's Obligations concerning Use of Licence Area

15. Use of Licence Area

The Licensee must:

- 15.1 not use the Licence Area or the Licensee's Improvements other than for the Permitted Use without the Licensor's prior written consent;
- 15.2 not use the Licence Area or the Licensee's Improvements as a residence or allow anyone to sleep in the Licence Area without the Licensor's prior written consent;
- 15.3 not use the Licence Area or the Licensee's Improvements as a nightclub, discotheque or banquet or reception hall without the Licensor's prior written consent;
- 15.4 not install or operate vending or amusement machines in the Licence Area or the Licensee's Improvements without the Licensor's prior written consent;
- 15.5 not prepare or cook food in the Licence Area or the Licensee's Improvements other than in areas which have been provided or approved by the Licensor for that purpose without the Licensor's prior written consent;
- 15.6 unless the Licence Area has a liquor licence, not bring on to the Licence Area or the Licensee's Improvements any alcoholic or intoxicating beverage or liquor without the Licensor's prior written consent;
- 15.7 not allow gambling on the Licence Area or the Licensee's Improvements without the Licensor's prior written consent;
- 15.8 at its own expense comply on time with all Laws and legal requirements concerning the Licence Area and the Licensee's Improvements, and the use and occupation of the Licence Area and the Licensee's Improvements, including but not limited to Environmental and Heritage Law;
- 15.9 notify the Licensor as soon as the Licensee becomes aware of any defective Services or damage to the Licence Area and the Licensee's Improvements;
- 15.10 give immediate notice to the Licensor if the Licensee suffers, or anticipates that the Licensee may suffer, any damage or loss as a result of:
 - 15.10.1 an act or omission of the Licensor; or
 - 15.10.2 an anticipated act or omission of the Licensor;
- 15.11 at all times take all steps which are necessary to ensure that the floors of the Licence Area and the Licensee's Improvements or any walls, pillars or other parts of the construction of the Licence Area or the Licensee's Improvements shall not be broken, strained or damaged by overloading of floors or from any other cause; and
- 15.12 not do or permit to be done anything which shall or may be a nuisance or annoyance to the Licensor or other persons allowed by the Licensor to use any other part of the Park or areas adjacent to the Licence Area.



16. Licensee's acknowledgment

The Licensee acknowledges that it has no right or entitlement, other than its right to occupy the Licence Area on the terms set out in this Licence, to use any other part of the Park for any special purpose or to use the Park in any way except as a member of the public.

17. Works

- 17.1 The Licensee must not carry out any Works without the Licensor's prior written consent and if such consent is provided the Licensee must carry out all Works in the manner and to the standard prescribed by Schedule 3, including the Works set out in the plans and specifications submitted to the Licensor or which are annexed to this Licence.
- 17.2 The Licensee must also ensure that the Works are completed promptly, or if a time period is specified in item 13 of Schedule 1 within the time period so specified.
- 17.3 During the course of this Licence the Licensee owns all of the Licensee's Improvements. The Licensee must not remove the Licensee's Improvements before the expiration or earlier termination of this Licence unless directed to do so by the Licensor under clause 28.2.
- 17.4 Upon the Expiry Date or earlier termination of this Licence those Licensee's Improvements which have not vested in the Licensor by operation of any law (whether statute, regulation, common law, equity or otherwise) and are not required to be removed under clause 28.2 shall revert to and become the absolute property of the Licensor without any payment of compensation and must not be removed by the Licensee.

Part 10 - Licensee's Obligations concerning the Business

18. Operation of Business

The Licensee must:

- 18.1 keep the Licence Area fully stocked with the goods necessary for the Licensee's Business and operate the Licence Area during the Term with due diligence and efficiency and in a proper and businesslike manner;
- 18.2 conduct the Licensee's Business in the Licence Area and keep the same open for business at all times during the opening hours of the Park or such other lawful times as may be prescribed by the Licensor from time to time;
- 18.3 use to the best advantage all space available in the Licence Area for the Licensee's Business;
- 18.4 not without the consent in writing of the Licensor enter or permit any person to enter or arrange delivery of goods to the Licence Area at any time when the Park or the Licence Area is closed;
- 18.5 not conduct any auction, fire, bankruptcy, end of licence, closing down or similar sales in the Licence Area;



- 18.6 keep in force all licences and permits required for the carrying on of the Licensee's Business; and
- 18.7 not permit any vehicle while being used for delivery or pickup of the Licensee's goods to be driven, parked or stopped at any place or time within any part of the Park except at such places and at such times as the Licensor may specify from time to time.

19. Liquor and other Licences

- 19.1 The Licensee must obtain the prior written consent of the Licensor before applying for any licence, permit or consent (including liquor licences or BYO permits) for the Licence Area or the Licensee's Business.
- 19.2 If the Licensor consents to the Licensee's application for any licence, permit or consent under the *Liquor Control Reform Act 1998* (Vic), the Licensee must comply with all requirements of the Licensor including signing any future agreement containing additional covenants on the part of the Licensee to be performed and observed.

20. Cafe, Food Kiosk, Restaurant

If the Permitted Use is a cafe, food kiosk, restaurant or other food establishment, the Licensee must comply with all the Licensee's obligations in Schedule 5.

21. Business Name

The Licensee must not register or make an application to register a business name which includes any part of the name of the Licence Area or the Park without the Licensor's prior written consent. If the Licensor attaches conditions to the provision of its consent, the Licensee must comply with these conditions.

Part 11 - Licensee's Obligations concerning Maintenance

22. Maintenance of Licence Area, the Licensee's Improvements and Licensor's Property

The Licensee must:

- 22.1 not permit any water closets, lavatories, grease traps and other sanitary appliances in the Licence Area or the Licensee's Improvements to be used for any purpose other than that for which they were constructed;
- 22.2 not without the consent in writing of the Licensor store or use any toxic or inflammable substances in or upon the Licence Area or the Licensee's Improvements unless usage is reasonably in accordance with the Permitted Use;
- 22.3 maintain and repair all fire detection and prevention equipment (if any), including specifically smoke detectors and/or alarms in the Licence Area and the Licensee's Improvements;

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- 22.4 keep the Licence Area, the Common Areas, the Services, the Licensee's Improvements and the Licensee's Fittings in good and tenable repair, and replace or effect all repairs to the Licence Area, the Common Areas, the Services, the Licensee's Improvements and the Licensee's Fittings on the Licence Area (fair wear and tear excepted);
- 22.5 promptly repair any damage to the Licence Area, the Common Areas, the Licensee's Improvements or any other part of the Park caused or contributed to by the Licensee or any of the Licensee's Members and Agents;
- 22.6 promptly replace any broken glass in the Licence Area and the Licensee's Improvements with glass of the same thickness and quality;
- 22.7 carry out repairs within 14 days of being served with a written notice of any defect or lack of repair which the Licensee is obliged to make good under this Licence. If the Licensee does not comply with the notice, the Licensor may carry out the repairs and the Licensee must repay the cost to the Licensor on demand;
- 22.8 ensure that any repairs or maintenance carried out to the Licence Area, the Common Areas, or the Licensee's Improvements are carried out in a proper and workmanlike manner by qualified tradespersons;
- 22.9 properly maintain, cultivate and fertilise any garden, lawn or playing field which forms part of the Licence Area to a standard reasonably required by the Licensor;
- 22.10 promptly replace any lawn, trees or shrubs on the Licence Area which perish or are destroyed, damaged or removed; and
- 22.11 in addition to its obligations under clause 22.4 (it being acknowledged by the Licensee that the fair wear and tear exception referred to in clause 22.4 does not apply to the following matters set out in this clause 22.11):
- 22.11.1 promptly repair defective windows, lights, doors, locks and fastenings in the Licence Area and the Licensee's Improvements and replacement of missing light globes and fluorescent tubes, keys and keycards;
- 22.11.2 paint, polish, stain or otherwise treat painted, polished, stained or otherwise treated surfaces on the Licence Area and the Licensee's Improvements to the standard and at the times reasonably required by the Licensor;
- 22.11.3 replace floor coverings, window coverings or blinds in the Licence Area and the Licensee's Improvements which are in the reasonable opinion of the Licensor worn or damaged and in need of replacement; and
- 22.11.4 maintain in working order all plumbing, drainage, gas, electric, solar and sewage installations located on the Licence Area or the Licensee's Improvements.

23. Essential Safety Measures and cooling towers

- 23.1 The Licensee must provide to the Licensor:
- 23.1.1 all documentation required in order to establish and maintain records of maintenance checks, services and repair work for any Essential Safety Measures at the Licence Area and the Licensee's Improvements; and
- 23.1.2 records of repair, maintenance and testing work and risk management plans with respect to any cooling tower system (as required under the *Building Act 1993* (Vic)) at the Licence Area and the Licensee's Improvements.

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The Licensee must ensure that any such documentation and any other documentation required pursuant to any legislation or subordinate legislation including the *Building Act 1993 (Vic)* and *Building Regulations 2006 (Vic)* is kept at the Licence Area.

23.2 The Licensee must:

- 23.2.1 display or allow to continue to be displayed at the Licence Area and the Licensee's Improvements all necessary notices or documents required to be displayed or fixed on the Licence Area under or pursuant to any legislation or subordinate legislation including the *Building Act 1993 (Vic)* and *Building Regulations 2006 (Vic)*, particularly in relation to Essential Safety Measures; and
- 23.2.2 pay any statutory fines or court penalties in relation to any Essential Safety Measures at the Licence Area or the Licensee's Improvements, which it is the responsibility of the Licensee to pay. The Licensor shall not in any way be deemed to be responsible for such fines or penalties.

24. Cleaning of Licence Area

The Licensee must:

- 24.1 take all proper precautions to keep the Licence Area and the Licensee's Improvements thoroughly clean and free of refuse, rodents and vermin and must, if required by the Licensor but at the Licensee's cost, employ pest exterminators for that purpose;
- 24.2 store refuse before removal so that it cannot be seen from outside the Licence Area;
- 24.3 comply with the Licensor's reasonable directions concerning cleaning and disposal of refuse including cleaning areas near the Licence Area and the Licensee's Improvements where the cleaning is made necessary as a result of the Licensee's use of the Licence Area and the Licensee's Improvements; and
- 24.4 not dispose of refuse in any bins provided in areas near the Licence Area for public use.

25. Annual report

The Licensee must deliver to the Licensor on or before 31 December in each year of the Term a written report in the form and setting out the information reasonably required by the Licensor. Unless otherwise specified in writing by the Licensor, the information that must be set out in the report includes:

- 25.1 a description of the Licensee's use of all facilities in the Park;
 - 25.2 the condition of all buildings and other improvements on the Licence Area; and
 - 25.3 the condition of any playing surfaces on the Licence Area (if applicable),
- for the 12 months ending 30 September of that year.

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Part 12 - Licensee's Obligations concerning Signage

26. Signage

The Licensee must not fix or place signs, notices or advertisements in any place in or near the Licence Area or the Licensee's Improvements without first obtaining the written approval of the Licensor, such approval not to be unreasonably withheld. The proposed sign, notice or advertisement must comply with the Manager's policy in relation to signage, applicable to the Park. If the Licensor grants such consent, the Licensee must comply with all the Licensor's requirements and specifications.

Part 13 - Licensee's Obligations concerning Insurance

27. Insurance

- 27.1 The Licensee must at its cost effect and maintain throughout the Term with an insurer approved by the Licensor, which approval shall not be unreasonably withheld provided the insurer is authorised by the Australian Prudential Regulation Authority to conduct new or renewal insurance business in Australia:
- 27.1.1 a public, and if relevant, products liability insurance policy for not less than \$10 million (or any greater amount required by the Licensor) in respect of any single claim arising out of the activities of the Licensee, covering all third party claims arising out of:
- (a) loss, including financial loss, destruction or damage to real or personal property and ensuing loss of use of that property; and
 - (b) death, injury to, or disease of persons;
- (Policy)
- 27.1.2 an employers' liability and workers' compensation policy which covers any damage, loss or liability suffered or incurred by any person engaged by the Licensee arising:
- (a) by virtue of any statute relating to workers' or accident compensation or employers' liability; or
 - (b) at common law.
- 27.2 The Licensee must effect and maintain the Policy noting the interests of the Principal.
- 27.3 The Licensee must provide the Licensor with:
- 27.3.1 a certificate of currency for the Policy which clearly confirms the requirements of clause 27.2:
- (a) prior to the Commencement Date;
 - (b) within 14 days of each anniversary of the renewal of the Policy throughout the Term; and

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- (c) at any other time upon request by the Licensor;
- 27.3.2 a copy of the Policy upon request by the Licensor; and
- 27.3.3 evidence of confirmation of registration with the Victorian WorkCover Authority prior to the Commencement Date and at any other time upon request by the Licensor.
- 27.4 The Licensee must promptly notify the Licensor if:
 - 27.4.1 an event occurs at the Licence Area or on the Licensee's Improvements which may give rise to a claim under or prejudice the Policy; or
 - 27.4.2 the Policy is cancelled.
- 27.5 The Licensee must not do anything or allow anything to be done which may:
 - 27.5.1 prejudice any insurance held in connection with the Licence Area or the Licensee's Improvements; or
 - 27.5.2 increase the premium payable for any insurance held in connection with the Licence Area or the Licensee's Improvements.
- 27.6 The Licensee must effect and maintain all other insurances in a manner and to such extent which is reasonable and customary for an organisation engaging in activities of the kind referred to and permitted by this Licence.
- 27.7 If there is any damage or destruction to any building or improvement on the Licence Area or the Licensee's Improvements the Licensee must pay on demand to the Licensor the costs reasonably incurred by the Licensor in rectifying any such damage or destruction to the extent such damage or destruction was caused or contributed to by the act, omission or default of the Licensee or the Licensee's Members and Agents.

Part 14 - Licensee's Obligations at End Of Agreement

28. Delivery of Licence Area

- 28.1 Subject to clause 28.2, upon the expiration or earlier termination of this Licence the Licensee must vacate the Licence Area and deliver possession of the Licence Area to the Licensor in the same condition as the Licence Area was in at the Commencement Date or such earlier date as the Licensee first commenced occupation of the Licence Area or in the case where Works have been carried out, the date of completion of the Works (fair wear and tear excepted).
- 28.2 Despite anything contained in this Licence, upon the expiration or earlier termination of this Licence the Licensor may require the Licensee to remove the Licensee's Improvements in whole or in part and if so required, the Licensee must to the satisfaction of the Licensor and in accordance with relevant statutory regulations:
 - 28.2.1 remove those Licensee's Improvements as required by the Licensor;
 - 28.2.2 make good any damage caused by the removal in a proper and workmanlike manner;
 - 28.2.3 cap any services; and

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- 28.2.4 level and clear the site using clean fill where necessary.
- 28.3 If the Licensee fails to remove the Licensee's Improvements in accordance with clause 28.2, those Licensee's Improvements not so removed shall be considered abandoned and shall become the absolute property of the Licensor but the Licensor may remove those Licensee's Improvements.
- 28.4 If the Licensor shall incur costs in order to carry out removal or reinstatement due to the failure of the Licensee to comply with the obligations under this clause 28 such costs are recoverable by the Licensor from the Licensee as a liquidated debt payable on demand.
- 28.5 The Licensee shall have no entitlement to compensation or damages for the Licensee's Improvements.

29. Removal of Licensee's Fittings

- 29.1 Upon the expiration or earlier termination of this Licence, the Licensee may remove all the Licensee's Fittings which the Licensee is entitled to remove but must remove the Licensee's Fittings from the Licence Area if so required by the Licensor.
- 29.2 In removing any of the Licensee's Fittings, the Licensee must make good any damage caused to the Licence Area.
- 29.3 Any Licensee's Fittings left on the Licence Area shall become the absolute property of the Licensor and may be dealt with or disposed of by the Licensor in any manner the Licensor deems appropriate with no entitlement to compensation for the Licensee and any damage that the Licensee does in removing the Licensee's Fittings which the Licensee does not make good may be made good by the Licensor in any manner the Licensor deems appropriate. If the Licensor shall incur costs in order to remove any of the Licensee's Fittings or to make good any damage, such costs shall be recoverable by the Licensor from the Licensee as a liquidated debt payable on demand.
- 29.4 The Licensee must continue to pay the Licence Fee until such time that the Licensee has complied with its obligations under clauses 28 and 29.

Part 15 - Other Covenants of Licensee

30. Other Covenants

The Licensee must:

- 30.1 observe the maximum floor loading weights for the Licence Area and the Licensee's Improvements;
- 30.2 securely lock all exterior doors and windows in the Licence Area and the Licensee's Improvements when the Licence Area and the Licensee's Improvements are not occupied;
- 30.3 not remove any of the Licensor's Property from the Licence Area;
- 30.4 not sell or dispose of any earth, clay, gravel or sand from the Licence Area and the Licensee's Improvements or the Park or make any excavation except as may be necessary for the Works without the written consent of the Licensor;

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- 30.5 If required by the Licensor, erect safety and security fencing around any Works which are carried out by the Licensee;
- 30.6 not erect any fence (other than safety or security fences required by the Licensor as a result of the Works) on or around the Licence Area and the Licensee's improvements; and
- 30.7 not park or allow vehicles to be parked on the Licence Area or the Licensee's Improvements or the Park other than those areas designated from time to time by the Licensor.

Part 16 - Licensor's Rights

31. Right to enter

After giving reasonable notice, the Licensor or any person authorised by the Licensor may enter the Licence Area or the Licensee's Improvements at reasonable times to:

- 31.1 inspect, maintain, repair or alter the Licence Area, or the Services or carry out any inspection or audit as required under any Law or authority;
- 31.2 show the Licence Area to prospective purchasers or licensees; and
- 31.3 carry out any repairs, maintenance or building works required by the Licensor or any relevant authority to be carried out.

If there is an emergency, the Licensor and any person authorised by the Licensor may enter the Licence Area at any time without notice.

32. Right to grant easements

The Licensor shall be entitled to grant easements or other rights over the Licence Area or the Licensee's Improvements to any person on any terms and for any purpose provided such grant does not materially adversely affect the Licensee's use of the Licence Area or the Licensee's Improvements.

33. Major Events

The Licensee:

- 33.1 acknowledges that the Park may from time to time be used for a Major Event;
- 33.2 agrees that the Licensor may, in connection with a Major Event, at the Licensor's sole discretion:
 - 33.2.1 restrict or prevent access to the Park or the Licence Area or the Licensee's Improvements for such time as the Licensor considers necessary; and
 - 33.2.2 conduct, or authorise any other person to conduct works in or about the Licence Area or the Licensee's Improvements, which may be of a temporary or permanent nature; and

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- 33.3 acknowledges and agrees that the Licensee shall not be entitled to any compensation (including an entitlement or reduction in Licence Fee) if the Licensor exercises its rights under clause 33.2.

Part 17 - Management of Licence Area

34. Rules and Regulations

- 34.1 The Licensor may prescribe rules relating to the operation, use and occupation of the Licence Area and vary them at any time. This Licence supersedes the rules if there is any inconsistency between them.
- 34.2 The Licensee must comply with a rule from the time that notice of that rule is given to the Licensee. The Licensee acknowledges that before it executed this Licence, it was given notice of the rules, if any, then applicable.
- 34.3 The Licensee must at all times comply with any legislation or statutory rules governing the Park or its use.

35. Licensor's Directions

The Licensee must comply with all reasonable requests or directions given by any Authorised Officer of the Licensor which that Authorised Officer considers necessary or desirable for the safety, care or cleanliness of the Licence Area or the Licensee's Improvements or areas near the Licence Area or the Licensee's Improvements.

36. Access to the Licence Area

- If to gain access to the Licence Area or the Licensee's Improvements the Licensee or the Licensee's Members and Agents must cross other land under the possession or control of the Licensor, then:
- 36.1 the Licensee must comply with the directions of the Licensor in relation to using that land; and
- 36.2 the Licensee must ensure there is no interference by the Licensee or the Licensee's Members and Agents with any other person using that land.

Part 18 - Default by Licensee

37. Default Event

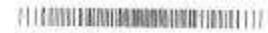
- 37.1 A Default Event occurs if:
- 37.1.1 the Licensee does not pay any money as required under this Licence whether or not demand has been made;
- 37.1.2 the Licensee does not comply with any other obligation under this Licence;

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- 37.1.3 a judgment or order for \$10,000.00 or more is enforced or becomes enforceable or can be rendered enforceable by the giving of notice, lapse of time or fulfilment of any condition, against the Licensee's interest in this Licence or the Licensee's Fittings or the Licensee's Improvements;
- 37.1.4 the Licensee or any Guarantor is a corporation and:
- (a) a resolution is passed, or taken to have been passed under the provisions of part 5.3A of the *Corporations Act 2001* (Cth), that the Licensee or Guarantor be wound up;
 - (b) proceedings are commenced for either the voluntary or compulsory winding up of the Licensee or Guarantor;
 - (c) a liquidator or provisional liquidator is appointed to the Licensee or Guarantor whether or not under an order;
 - (d) a controller within the meaning of section 9 of the *Corporations Act 2001* (Cth) is appointed over any property of the Licensee or Guarantor;
 - (e) an administrator is appointed in respect of the Licensee or Guarantor under part 5.3A of the *Corporations Act 2001* (Cth), or the directors of the Licensee or Guarantor pass a resolution or implement procedures to pass a resolution to appoint an administrator; or
 - (f) is deregistered with the Australian Securities and Investments Commission.
- 37.1.5 the Licensee or any Guarantor is an individual and:
- (a) proceedings are commenced either for the voluntary or compulsory bankruptcy of the Licensee or Guarantor; or
 - (b) the Licensee or Guarantor commits an act of bankruptcy as specified in section 40 of the *Bankruptcy Act 1966* (Cth);
- 37.1.6 the Licensee enters into a formal scheme of arrangement or composition with, or assignment for the benefit of any of the Licensee's creditors; or
- 37.1.7 the Licensee, without the Licensor's written consent:
- (a) discontinues the Licensee's Business; or
 - (b) leaves the Licence Area or the Licensee's Improvements unoccupied for seven consecutive days.
- 37.2 The Licensee must ensure that no Default Event occurs.

38. Licensor's right to end Licence

- 38.1 If a Default Event occurs, the Licensor may end this Licence by giving the Licensee a written notice stating the nature of the Default Event and requiring the Licensee to remedy the Default Event within 10 days from the date of service of the notice. If the Default Event is not remedied within the said period of 10 days, this Licence will come to an end without any further notice to the Licensee.
- 38.2 If this Licence is ended by the Licensor, the Licensor retains the right to sue the Licensee for all unpaid moneys or for damages for breaches of the Licensee's obligations under this



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Licence. For the purpose of assessing damages to the Licensor, the benefit of the Licensee's performance of this Licence to the Licensor must be calculated on the basis that this Licence continues in force until the Expiry Date.

Part 19 - Interest on Overdue Money

39. Interest

- 39.1 If the Licensee is late in paying the Licensor any money payable by it under this Licence, the Licensee must pay interest on that money from the due date for payment until the money is paid in full.
- 39.2 The interest shall be calculated on daily balances and the rate of interest to be charged on each daily balance shall be 2% higher than the rate for the time being fixed under section 2 of the *Penalty Interest Rates Act 1983 (Vic)*.
- 39.3 The Licensor's right to interest does not affect the Licensee's obligation to pay any money due to the Licensor on the date it becomes due for payment.

Part 20 - If Licence Area or Licensee's Improvements Damaged or Resumed

40. Damage to Licence Area or Licensee's Improvements

- 40.1 If the whole or any part of the Licence Area or the Licensee's Improvements is destroyed or damaged by fire or act of God so that the Licence Area or the Licensee's Improvements cannot be accessed or used for their Permitted Use, then the following provisions shall apply:
- 40.1.1 a fair portion of the Licence Fee and Outgoings is to be suspended until the Licence Area or the Licensee's Improvements (as the case may be) are again wholly fit and accessible for the Permitted Use and the suspended portion of the Licence Fee and Outgoings must be proportionate to the nature and extent of the damage or inaccessibility;
- 40.1.2 if the Licence Area or the Licensee's Improvements are damaged to the extent that in the Licensor's reasonable opinion it is impracticable or undesirable to repair and reinstate the Licence Area or the Licensee's Improvements, the Licensor may determine this Licence by giving not less than 30 days written notice to the Licensee;
- 40.1.3 if the Licensor does not serve notice under clause 40.1.2 it must reinstate the Licence Area and the Licensee's Improvements as soon as reasonably practicable;
- 40.1.4 if the reinstatement does not start within 6 months or is not likely to be completed within 12 months of the date of destruction or damage, the Licensor or the Licensee may end this Licence by giving the other written notice;
- 40.1.5 the Licensee will not be entitled to suspension of Licence Fee and Outgoings under clause 40.1.1 nor to end this Licence under clause 40.1.4 if payment of an insurance claim is properly refused in respect of the damage or destruction as a

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result of any act or omission by the Licensee or the Licensee's Members or Agents;
and

- 40.1.6 if there is a dispute under this clause, either party may request the President of the API or his or her nominee to appoint a Valuer to determine the dispute as an expert with each party to bear the Valuer's costs equally and the Valuer's decision shall be final and binding on the parties.
- 40.2 The Licensor shall not be liable to pay the Licensee any compensation if the Licence Area or the Licensee's Improvements or any part of the Licence Area or the Licensee's Improvements are destroyed or damaged, or if this Licence is ended pursuant to this clause.

41. Resumption of Licence Area

- 41.1 If the Licence Area or any part of the Licence Area is resumed by any competent authority and the Licence Area becomes unfit for the Licensee's use, then the Licensor or the Licensee may end this Licence by written notice to the other.
- 41.2 The Licensor shall not be liable to pay the Licensee any compensation if the Licence Area or any part of the Licence Area is resumed by any competent authority.

Part 21 - End of Agreement

42. Licensee may continue to use Licence Area

- If the Licensee continues to use the Licence Area without objection by the Licensor after the end of the Term:
- 42.1 the Licensee, without any need for written notice of any kind, may continue to use the Licence Area as a licensee on the conditions in this Licence, but on a month to month basis only;
- 42.2 either party may end the monthly licence arrangement by giving one month's written notice to the other expiring at any time;
- 42.3 the monthly licence fee starts at one twelfth of the annual Licence Fee which the Licensee was paying immediately before the Term ended increased by 5% unless a different licence fee has been agreed upon; and
- 42.4 the Licensor may increase the monthly licence fee at any time by giving the Licensee one month's written notice.

Part 22 - Release and Indemnity

43. Release

- 43.1 The Licensee agrees that it:
- 43.1.1 has not relied upon any representation by or on behalf of the Licensor concerning the Licence Area or its use;

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Part 23 - Performance Criteria

45. Performance Criteria and Business Plan

- 45.1 The Licensee acknowledges that the continuation of this Licence is subject to and conditional upon the Licensee complying with and meeting all of the Performance Criteria to the reasonable satisfaction of the Licensor and that the attainment of those objectives will be an ongoing obligation of the Licensee under this Licence.
- 45.2 Once determined, the Performance Criteria may be varied, but only with the agreement of both parties.
- 45.3 The Licensee must meet with the Licensor on a quarterly basis to review the performance of the Licensee and to agree on any action necessary to ensure that the Performance Criteria are met or to remedy any failure by the Licensee to meet any of them. The first such meeting must be held before the end of three months from the Commencement Date, and subsequent meetings at the end of each following three month period.
- 45.4 The Licensor may waive the Licensee's obligation in clause 45.3 in its sole unfettered discretion. Such waiver shall only extend to the next scheduled quarterly review unless otherwise specified by the Licensor.

46. Failure to meet Performance Criteria

If the Licensee fails on more than two occasions in the reasonable opinion of the Licensor to meet or attain any of the Performance Criteria (as amended from time to time), and that failure is, in the Licensor's reasonable opinion, not due to any circumstances which are directly caused or attributed to by any act or omission of the Licensor, then a Default Event under this Licence will be deemed to have occurred.

Part 24 - Guarantee and Indemnity

47. Guarantee and Indemnity

- 47.1 In consideration of the Licensor entering into this Licence with the Licensee at the Guarantor's request, the Guarantor:
- 47.1.1 guarantees that the Licensee will perform all its obligations under this Licence, any renewed licence, and during any period of overholding;
- 47.1.2 must pay the Licensor on demand any money owing to the Licensor by the Licensee; and
- 47.1.3 indemnifies the Licensor against all loss resulting from the Licensor having entered into this Licence, whether from the Licensee's breach of any provision of this Licence, or from this Licence being or becoming unenforceable against the Licensee.
- 47.2 The Guarantor's liability will not be affected by:
- 47.2.1 the Licensor granting the Licensee or any Guarantor any time or other indulgence;

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- 47.2.2 the Licensor agreeing not to sue the Licensee or any Guarantor;
 - 47.2.3 any assignment (whether by the Licensor or the Licensee), sub-licence or variation of this Licence;
 - 47.2.4 any provision of this Licence being or being found to be unenforceable;
 - 47.2.5 the renewal of this Licence;
 - 47.2.6 this Licence not being signed by any one Guarantor; and
 - 47.2.7 a liquidator or a trustee in bankruptcy disclaiming this Licence.
- 47.3 The Guarantor agrees:
- 47.3.1 not to seek to recover any money from the Licensee by way of reimbursement for payments made by the Guarantor to the Licensor until the Licensor has been paid in full;
 - 47.3.2 not to prove in the bankruptcy or winding up of the Licensee for any amount which the Licensor has demanded from the Guarantor until the Licensor has been paid in full; and
 - 47.3.3 to pay the Licensor any money which the Licensor is required to refund to the Licensee's liquidator or trustee in bankruptcy as preferential payments received from the Licensee.

Part 25 - Costs

48. Legal and other costs

- 48.1 The Licensee must pay or reimburse the Licensor on request all reasonable costs incurred or payable by the Licensor in connection with:
- 48.1.1 the preparation, negotiation, approval and execution of this Licence (including legal costs incurred by the Licensor);
 - 48.1.2 any stamp duty payable in relation to this Licence or any assignment, sub-licence or renewal of this Licence;
 - 48.1.3 any consent, approval, variation, or surrender concerning this Licence including costs payable to a person appointed to evaluate or supervise any matter; and
 - 48.1.4 the contemplated or actual enforcement or preservation of any rights under this Licence;
- 48.2 Anything the Licensee is required to do under this Licence must be done at the Licensee's cost.



Part 26 - Notices

49. Notices

49.1 Any notice, approval or consent required to be served or given under this Licence:

49.1.1 may be given by a party or its Authorised Officer;

49.1.2 must be in writing; and

49.1.3 must be given:

(a) by post;

(b) by facsimile; or

(c) by delivery

to the party at the last known address of that party or to that party's address or facsimile as shown in item 14 of Schedule 1. In the case of the Licensee, the notice may also be given to the Licensee at the Licence Area.

49.2 A letter or facsimile is taken to be received:

49.2.1 in the case of a posted letter, on the third day after posting; and

49.2.2 in the case of a facsimile, on production of a transmission report by the machine from which the facsimile was sent which indicates that the facsimile was sent in its entirety to the facsimile number of the recipient.

Part 27 – Minister's Consent

50. Minister's Consent

The Licensee confirms and acknowledges that:

50.1 the consent of the Minister to this Licence is required;

50.2 this Licence shall be conditional upon the consent of the Minister being obtained by the Licensor;

50.3 until the Minister's consent is obtained:

50.3.1 the Licensee is only entitled to access the Licence Area for the purpose of gathering information in relation to or setting up the Licence Area for the Licensee's Business and the Licensee is not entitled to occupy the Licence Area; and

50.3.2 the Licensor is under no obligation to grant this Licence to the Licensee; and

50.4 if the Minister's consent is not granted, the Licensor may at any time before the Minister's consent is granted, immediately terminate this Licence by notice to the Licensee. In that

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event, all monies paid by the Licensee must be refunded, save for any Licence Fee paid by the Licensee for the period from the Commencement Date to the date of such termination.

Part 28 - Miscellaneous

51. Certificate

A certificate signed by the Licensor or its Authorised Officer about a matter concerning this Licence is sufficient evidence of the matter stated in the certificate unless the matter is proved to be false.

52. Licensors exercise of rights

- 52.1 The Licensor may exercise a right, power or remedy at its discretion and separately or concurrently with another right, power or remedy.
- 52.2 A single or partial exercise of a right, power or remedy by the Licensor does not prevent a further exercise of that right or an exercise of any other right, power or remedy.
- 52.3 Failure by the Licensor to exercise or delay in exercising a right, power or remedy does not prevent the exercise of such right, power or remedy.

53. Waiver and variation

- 53.1 A provision of or a right created under this Licence may not be waived or varied except in writing signed by the party to be bound.
- 53.2 If the Licensor waives a provision of or a right created under or implied in this Licence, that waiver does not extend to:
- 53.2.1 a breach by the Licensee of the same or any other provision; or
 - 53.2.2 the future exercise by the Licensor of that right.
- 53.3 The acceptance of a payment under this Licence will not be taken to constitute a waiver of any provision of or a right created under or implied in this Licence, except the right to demand the payment of that amount of money.

54. Approvals and consent

Unless this Licence provides otherwise, any consent or approval to be given by the Licensor may be given by the Licensor conditionally or unconditionally or withheld at the Licensor's absolute discretion. If conditions are imposed by the Licensor, the Licensee must comply with each condition imposed by the Licensor as if it were a provision of this Licence.

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55. Remedies cumulative

The rights, powers and remedies provided in this Licence are cumulative with and not exclusive of the rights, powers or remedies provided by law independently of this Licence.

56. Indemnities

Each indemnity in this Licence is a continuing obligation, separate and independent from the other obligations of the Licensee and survives expiry or termination of this Licence.

57. Further assurances

If the Licensor requests, the Licensee must:

- 57.1 execute and cause its successors to execute documents and do everything else necessary or appropriate to bind the Licensee and its successors under this Licence; and
- 57.2 use its best endeavours to cause relevant third parties to do likewise to bind every person intended to be bound under this Licence.

58. Payments

- 58.1 The Licensee must make payments under this Licence punctually without set-off or counterclaim and free and clear of any withholding or deduction,
- 58.2 Unless this Licence provides otherwise, the Licensor need not make demand for any amount payable by the Licensee under this Licence.

59. Antecedent breaches and obligations

The expiry or termination of this Licence does not affect:

- 59.1 the Licensor's rights in respect of a breach of this Licence by the Licensee before the expiry or termination; or
- 59.2 the Licensee's obligation to make any payment under this Licence before the expiry or termination.

60. Governing Law

This Licence is governed by the laws of the State of Victoria.

61. Entire Agreement

The Licensee acknowledges that:

- 61.1 no information, representation or warranty by or on behalf of the Licensor was supplied or made concerning this transaction, whether in relation to the Licensee's taxation liability or

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any other matter, with the intention or knowledge that it would be relied upon by the Licensee;

- 61.2 no information, representation or warranty has been relied upon;
- 61.3 this Licence constitutes the entire agreement between the parties concerning the Licence Area and supersedes all previous negotiations and agreements concerning this transaction; and
- 61.4 no amendment, variation or other change to this Licence shall be permitted (whether by verbal or written representation) without the written consent of the duly authorised officer of the Licensor (as specified in the Licensor's delegation register from time to time).

62. Licensor's Property

The Licensor makes no representations or warranties:

- 62.1 as to the condition of the Licensor's Property, in particular, computer hardware and software; or
- 62.2 that the Licensor's Property, in particular, computer hardware and software, is suitable for the Licensee's Business or the Licensee's use of the Licence Area.

63. Privacy Legislation

- 63.1 The Licensee acknowledges that the Personal Information (if any) of the Licensee is:
 - 63.1.1 collected for the purposes of entering into and administering this Licence; and
 - 63.1.2 may be disclosed to the following:
 - (a) the Auditor-General if the Licensor is audited pursuant to any requirement of any Act of Parliament or regulation or authority;
 - (b) any local authority or other relevant authority in order to update their records as to occupation of the Licence Area;
 - (c) the Licensor's legal advisors, financial consultants or consultants in relation to reviewing the Licensee's performance under this Licence or providing advice in relation to this Licence;
 - (d) any third party as required by any Act of Parliament or regulation; and
 - (e) any other third party with the Licensee's consent.
- 63.2 The Licensor agrees that:
 - 63.2.1 the Personal Information will only be disclosed in the circumstances set out in clause 63.1.2;
 - 63.2.2 the Licensor will comply at all times with the *Information Privacy Act 2000* (Vic) in relation to Personal Information; and



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- 63.2.3 the Licensor must take all reasonable measures to ensure that the Personal Information is protected against loss and unauthorised access, use, modification and disclosure.
- 63.3 The Licensee must:
- 63.3.1 only use Personal Information (if any) obtained by or held by the Licensee in connection with this Licence for the Permitted Use;
- 63.3.2 comply at all times with the *Information Privacy Act 2000 (Vic)* and all other legislation in force at any time throughout the Term, relating to the privacy of Personal Information; and
- 63.3.3 take all reasonable measures to ensure that the Personal Information in the possession or control of the Licensee held in connection with the Permitted Use is protected against loss and unauthorised access, use, modification and disclosure.

64. Goods and Services Tax

- 64.1 The consideration payable by any party under this Licence is the GST exclusive amount of the Taxable Supply for which payment is to be made.
- 64.2 Subject to clause 64.4, if a party makes a Taxable Supply in connection with this Licence for a consideration, then the party liable to pay for the Taxable Supply must also pay, at the same time and in the same manner as the consideration is otherwise payable, the amount of any GST payable in respect of the Taxable Supply.
- 64.3 Where this Licence requires a party (**first party**) to pay, reimburse or contribute to an amount paid or payable by the other party (**other party**) in respect of an acquisition from, or a transaction with a third party for which the other party is entitled to claim an Input Tax Credit, the amount for payment, reimbursement or contribution will be the GST exclusive value of the acquisition by the other party plus any GST payable in respect of the other party's recovery from the first party.
- 64.4 A party's right to payment under clause 64.2 is subject to a Tax Invoice being delivered to the party liable to pay for the Taxable Supply.

65. Native Title Act 1993 (Cth)

- 65.1 If the Licensee proposes to carry out an act which is a 'future act' within the meaning of the *Native Title Act 1993 (Cth)* (NTA) then the Licensee must immediately notify the Licensor and shall not carry out any such action until those persons as are required to be notified under the NTA of the intention to carry out the future act have been notified and any response considered.
- 65.2 If the Licensee fails to comply with clause 65.1, the Licensor shall not in any way be deemed to have authorised such failure to comply and the Licensee shall indemnify the Licensor against any claim made against or compensation sought from the Licensor as a result of the Licensee's failure to comply.
- 65.3 In the event that those persons as are required to be notified under the NTA of the intention to carry out the future act have been notified, or a native title claim is made in relation to the Park or the Licence Area or any part thereof the Licensor shall not be liable for the consequences of the notification or subsequent processes nor to pay the Licensee any

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compensation if the Licensee's use of the Licence Area or any other right or interest of the Licensee under this Licence is affected or prejudiced as a result of that notification or claim.

66. *Aboriginal and Torres Strait Islander Heritage Protection Act 1984 (Cth)*

- 66.1 The Licensee must comply with any declaration, and any conditions made in or pursuant to such declaration, under the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984 (Cth) (ATSIHPA)* in relation to the Park or the Licence Area or any part thereof.
- 66.2 In the event that a declaration is made under the ATSIHPA, the Licensor shall not be liable to pay the Licensee any compensation if the Licensee's use of the Licence Area or any other right or interest of the Licensee under this Licence is affected or prejudiced as a result of that declaration.
- 66.3 If the Licensee fails to comply with any requirement under the ATSIHPA in relation to the Licence Area or the Park, the Licensor shall not in any way be deemed to have authorised such failure to comply and the Licensee shall indemnify the Licensor against any action taken or claim made against the Licensor as a result of the Licensee's failure to comply.

67. *Aboriginal Heritage Act 2006 (Vic)*

- 67.1 If the Park or the Licence Area or any part thereof is an Aboriginal place within the meaning of the *Aboriginal Heritage Act 2006 (Vic) (AHA)* the Licensee must not enter that Aboriginal place until the Licensee has obtained the necessary permit pursuant to section 40 of the AHA and provided a copy of the permit to the Licensor.
- 67.2 If the Licensee proposes to carry out any act which requires a cultural heritage permit or a cultural heritage management plan (as those terms are defined in the AHA), the Licensee must, prior to carrying out such act, contact the Licensor and must obtain the necessary cultural heritage permit or approved cultural heritage management plan. The Licensee must not carry out any such act until the necessary cultural heritage permit or approved cultural heritage management plan has been obtained.
- 67.3 If the Licensee identifies or discovers an Aboriginal object, an Aboriginal place or Aboriginal human remains (as those terms are defined in the AHA), the Licensee must report the discovery to the Licensor and to such persons as are required under sections 17 and 24 of the AHA as soon as the identification or discovery is made.

68. *Environment Protection and Biodiversity Conservation Act 1999 (Cth)*

- 68.1 If the Licensee proposes to take an action, which is an 'action' within the meaning of Part 3 of the *Environment Protection and Biodiversity Conservation Act 1999 (Cth) (EPBCA)*, then the Licensee must immediately notify the Licensor in writing and must not carry out any such action until any necessary approvals are obtained by the Licensee under Part 9 of the EPBCA, at the Licensee's expense.
- 68.2 The Licensee must comply with any requirements under the EPBCA in respect of the Licensee's use of the Licence Area at the Licensee's expense.
- 68.3 If the Licensee fails to comply with clauses 68.1 and 68.2, the Licensor shall not in any way be deemed to have authorised or assisted such failure to comply regardless of any action taken by the Licensor and the Licensee shall indemnify the Licensor against any claim made against or compensation sought from the Licensor as a result of the Licensee's failure to comply.

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- of the Licensee's use of the Licence Area or the Licensee's Improvements and any Works in, at, or about the Licence Area or the Licensee's Improvements;
- 70.2.4 ensure that a complete copy of the occupational health and safety plan referred to in clause 70.3 is available for inspection by every person to whom such plan is relevant; and
- 70.2.5 as soon as practicable notify the Licensor of any incident or dangerous occurrence at the Licence Area or the Licensee's Improvements which is notifiable to the Victorian WorkCover Authority pursuant to the provisions of any Occupational Health and Safety Laws, including without limitation, the *Occupational Health and Safety Act 2004 (Vic)* and the *Work Health and Safety Act 2011 (Cth)*.
- 70.3 Within one month after the Commencement Date, the Licensee must:
- 70.3.1 develop and implement an occupational health and safety plan and supply same to the Licensor upon request; and
- 70.3.2 in conjunction with the Licensor, develop and implement an emergency evacuation and management plan for the operation of the Licensee's Business.
- 70.4 The Licensee must ensure that at all times its occupational health and safety plan:
- 70.4.1 complies with Australian Standard AS/NZ 4804-2001 (or other similar substitute standard);
- 70.4.2 includes the Licensee's occupational health and safety policy;
- 70.4.3 identifies the obligations of the Licensee under the Occupational Health and Safety Laws;
- 70.4.4 describes the practices that will be employed to secure the health, safety and welfare of persons at work; and
- 70.4.5 identifies measures to eliminate risks to the health, safety and welfare of persons at work.
- 70.5 The Licensee acknowledges that referral of, and any subsequent approval by, the Licensor of the plans referred to in clause 70.3 does not amount to a warranty by the Licensor or the Manager of the suitability of the content of the plans and does not create any liability on behalf of the Licensor or the Manager or their respective officers, employees and agents for loss or damage incurred as a result of complying with those plans.
- 70.6 The Licensee acknowledges that it is bound to comply with the Licensor and the Manager's emergency plans for the Licence Area and the Park and that the Licensee's emergency evacuation and management plan and occupational health and safety plan cannot conflict with the Licensor's plan. The Licensee is required to comply with all directions of the Licensor in an emergency, even if such direction contradicts the Licensee's emergency evacuation and management plan.
- 70.7 To the extent permitted by the law, the Licensee indemnifies and agrees to keep indemnified the Licensor, the Manager and the Minister and their respective officers, employees and agents against all actions, claims, demands, losses, damages, costs and expenses which the Licensor, the Manager or the Minister or their respective officers, employees and agents may suffer or incur, arising out of or in connection with a breach by the Licensee or the Licensee's Members and Agents of any of the obligations under this clause 70.



Signing Page

Executed as an agreement.

Signed under delegation from the Secretary to The Department of Environment, Land, Planning and Water by the authorised officer of Parks Victoria in the presence of:

Signature of Witness

Signature of authorised officer

Name of Witness

Name of authorised officer

Date

Position of authorised officer

Signed for and on behalf of Parks Victoria by its authorised officer in the presence of:

Signature of Witness

Signature of authorised officer

Name of Witness

Name of authorised officer

Date

Position of authorised officer

Signed for and on behalf of Manningham City Council by its authorised officer in the presence of:

Signature of Witness

Signature of authorised officer

Name of Witness

Name of authorised officer

Date

Position of authorised officer



Schedule 1

1	Licensee	Manningham City Council ABN 61 498 471 081
2	Guarantor	Not applicable
3	Date of order in council and purpose of reservation (Background A)	Temporarily reserved as a site for conservation, recreation, leisure and tourism purposes by an order in council dated 4 December 2001.
4	Commencement Date (Clause 1)	tba
5	Expiry Date (Clause 1)	Tba (3 years from the Commencement Date)
6	Park (Clause 1)	Yarra Valley Parklands
7	Permitted Use (Clause 1)	Installation and ongoing maintenance of a pressure main and stormwater drainage.
8	Licence Area (Clause 1)	That park of the Park shown crossed hatched and shaded grey on the attached plan at Annexure A.
9	Licence Fee (Clause 1)	\$1 per annum (if demanded)
10	Review Date (Clause 1)	Not applicable
11	Security deposit (Clause 10)	Not applicable
12	Licensee's Operators (Clause 1)	Not applicable
13	Works (Clause 1)	Initial Works as set out in the plans and specifications attached to this Licence. To be completed by: tba



- 14 **Address and fax numbers of parties**
(Clause 49)
- Licensor's Authorised Officer**
c/- Parks Victoria, Manager Leases and Licences
- Licensor's address**
Level 10, 535 Bourke Street, Melbourne Vic 3000
- Licensor's telephone number**
13 1963
- Licensor's fax number**
(03) 9678 9552
- Licensee's Authorised Officer**
c/- Manningham City Council, Director of Engineering and Assets
- Licensee's address**
699 Doncaster Road, Doncaster Vic 3108
- Licensee's telephone number**
(03) 9840 9333
- Licensee's fax number**
(03) 9848 3110
- Manager's Authorised Officer**
c/- Parks Victoria, Manager Leases and Licences
- Manager's address**
Level 10, 535 Bourke Street, Melbourne Vic 3000
- Manager's telephone number**
13 1963
- Manager's facsimile number**
(03) 9678 9552
- 15 **Special conditions**
(Clause 2.5)
- The following special conditions will also bind the parties:
- See Schedule 2



Schedule 2

Special Conditions

1. The following clauses are deleted from this Licence:
 - 1.1 Clause 8 – Outgoings and Services;
 - 1.2 Clause 13 – Change in Shareholding/Trust;
 - 1.3 Clause 18 – Operation of Business;
 - 1.4 Clause 19 – Liquor and other Licences;
 - 1.5 Clause 20 – Café, Food Kiosk, Restaurant;
 - 1.6 Clause 21 – Business Name;
 - 1.7 Clauses 22.1, 22.3, 22.6, 22.9 and 22.11 – Maintenance of Licence Area, the Licensee's Improvements and Licensor's Property;
 - 1.8 Clause 23 – Essential Safety Measures and Cooling Towers;
 - 1.9 Clause 24.1 and 24.2 – Cleaning of Licence Area;
 - 1.10 Clause 25 – Annual Report;
 - 1.11 Clause 30.1, 30.2 and 30.3 – Other Covenants;
 - 1.12 Clauses 37.1.3 to 37.1.7 – Default Event;
 - 1.13 Clause 45 – Performance Criteria and Business Plan;
 - 1.14 Clause 46 – Failure to meet Performance Criteria
 - 1.15 Clauses 70.2.4, 70.3 and 70.5 – Compliance with Occupational Health and Safety Requirements.
2. Clause 27.1.1 is amended by deleting the words '\$10 million (or any greater amount required by the Licensor)' and replacing them with '\$20 million'.
3. The following conditions must be adhered to in relation to undertaking works within the Park;
 - 3.1 Prior to commencing the Works, the Licensee and the Licensee's Members and Agents must participate in an Occupational Health and Safety induction held by the Manager.
 - 3.2 The Works may only be carried out between 7.30am and 6pm Monday to Friday unless prior arrangement has been made with the Manager.
 - 3.3 No dogs or other animals belonging to or in the care of Licensee are permitted at the Licence Area.
 - 3.4 The discharging of firearms, hunting, disturbing, capturing or dislodging of native animals or birds within the park is prohibited.
 - 3.5 The Licensee must not light fires within the Park.



Schedule 3

Works

1. Licensor's Consent

The Licensee may not carry on or continue any Works or make any application to any relevant authority for consent to carry out the Works without the Licensor's prior written consent.

2. Licensor's Consultants

2.1 The Licensor shall be entitled to employ external consultants if the Licensor deems it necessary for the purpose of:

2.1.1 considering the proposed Works under this Schedule (even if the Licensor refuses to consent to the Works);

2.1.2 supervising the Works; and

2.1.3 if necessary, effecting, rectifying and completing the Works including all alterations or additions to any buildings on the Licence Area, the Services and the Licensor's Property.

2.2 The Licensee must cooperate with and allow the Licensor's consultants access to the Licence Area for the purposes set out in this clause.

3. Documents and other requirements of Licensor

Before granting the Licensee consent to carry out or continue with any Works, the Licensor shall be entitled to require the Licensee to:

3.1 deliver three copies of all drawings and specifications and a program of Works to the Licensor;

3.2 make all variations to the drawings, specifications and program of Works reasonably required by the Licensor and deliver further copies to the Licensor;

3.3 deliver a detailed quote for the cost of completing the Works (including the cost of all materials to be used) certified by a qualified consultant to be a bona fide estimate of the cost of completing the Works;

3.4 obtain all approvals and permits necessary for the Works;

3.5 deliver one copy of all approvals and permits required for the Works to the Licensor; and

3.6 give the Licensor the name of:

3.6.1 each contractor and tradesman the Licensee intends to employ to carry out the Works; and

3.6.2 the person who will supervise the Works,

and obtain the Licensor's approval to such contractor, tradesman or supervisor; and



- 3.7 reimburse the Licensor the cost of effecting and maintaining the appropriate insurances in respect of the Works unless the Licensor agrees for the Licensee to effect and maintain such insurance.

4. Licensee's Obligations

The Licensee acknowledges that it may not commence any Works until the Licensor has consented to the Works and if the Licensor has so consented the Licensee must:

- 4.1 carry out and complete all Works within the Licence Area promptly and in a proper and workmanlike manner:
- 4.1.1 in accordance with the drawings, specifications and program of Works approved by the Licensor;
 - 4.1.2 in compliance with any conditions imposed by the Licensor;
 - 4.1.3 using the contractors or tradesmen approved by the Licensor; and
 - 4.1.4 in compliance with all Laws and all requirements of authorities;
- 4.2 obey and cause its contractors and tradesmen to obey the Licensor's reasonable directions concerning the Works;
- 4.3 if the Works affect the air-conditioning, balance the air-conditioning to the correct air quantity and restore it to proper working order;
- 4.4 immediately give the Licensor a copy of any notice received from any party in relation to the Works;
- 4.5 not interfere and ensure that the Licensee's contractors and tradesmen do not interfere with other occupiers or users of the Park or areas adjacent to the Licence Area;
- 4.6 in the event the Park or the Licence Area or any part thereof is declared as a cultural heritage place for the purposes of the *Aboriginal Heritage Act 2006 (Vic) (AHA)*, or the Licensee requires a cultural heritage permit under Division 4 of Part 3 of the AHA to excavate such land, prior to commencing any excavation, obtain and provide the Licensor with a copy of the necessary cultural heritage permit;
- 4.7 if the Licensee undertakes Works which are not exempt from the requirement for the Licensee to obtain an approved cultural heritage management plan (as provided for in the *Aboriginal Heritage Regulations 2006 (Vic) (AHR)*, the Licensee must obtain that approved cultural heritage management plan in accordance with the AHA and AHR; and
- 4.8 if during any Works the Licensee discovers Aboriginal cultural heritage within the meaning of the AHA, the Licensee must report the discovery to the Licensor and any other person required by section 17 and 24 of the AHA immediately or otherwise comply with any approved cultural heritage management plan obtained for the Works.
- 5. Completion of Works**
- On completion of the Works, the Licensee must promptly:
- 5.1 remove from the Licence Area and the Park all unused building materials, equipment and debris as directed by the Licensor;
 - 5.2 if required, obtain an occupancy permit or certificate of compliance from the relevant authority for the Works and deliver a copy to the Licensor; and

||| ***** |||
Maddocks

5.3 In the case of alterations or additions, deliver to the Licensor a complete set of drawings and specifications showing the alterations or additions as built.

6. Costs

The Licensee must promptly pay when requested all reasonable costs incurred by:

- 6.1 the Licensee associated with carrying out and completing the Works; and
- 6.2 the Licensor in employing external consultants pursuant to clause 2 of this Schedule.

7. Licensee's Property

Subject to any provisions to the contrary in clauses 17.3 and 17.4 all improvements including fixtures and fittings, constructed by the Licensee at the Licensee's cost by virtue of the Works shall during the course of this Licence remain the property of the Licensee.

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MINISTER'S CONSENT

Under section 17B(1) of the *Crown Land (Reserves) Act 1978* (Vic)

I,

(full name)

as delegate of the Minister for Environment, Climate Change and Water hereby:

- consent to the grant of this Licence;
- approve the covenants, exceptions, reservations and conditions contained herein; and
- am satisfied that the purpose for which this Licence is being granted is not detrimental to the purpose for which the land is reserved.

(Title)

11.2 2015-2016 Capital Works Program - End of December Status Report

Responsible Director: Director Assets and Engineering

File No. T15/240

The ultimate destination for this report is: COUNCIL AGENDA

Neither the responsible Director, Manager nor the Officer authoring this report has a conflict of interest in this matter.

SUMMARY

This attached Capital Works Status Report, for the period ending 31 December 2015, is provided for review and consideration.

To the end of December, the majority of projects are progressing satisfactorily and are meeting the specified timelines. Nine (9) projects have been completed out of a total of 110 projects. Eighty-one (81) projects are currently in progress, of which thirty-one (31) projects are currently experiencing some minor delays, but are not considered beyond reasonable control and are anticipated to be completed. Ten (10) projects are yet to commence, but should be completed. Two other projects will not proceed and the unspent funds have been transferred to the Aquarena Master Plan project (Refer Table F in the attached Status Report). A further eight projects will not be completed or sufficiently advanced due to project planning, consultation and approval delays. As a result, it is proposed that the unspent funds be either transferred to other projects, to enable continued progress and effective utilisation of funds is made under the current program, or carried forward to be completed in 2016/17 (Refer Tables G and H in the Status Report).

The total value of the proposed carry forward amount is \$0.950 million. A number of other part funding transfers are also proposed on a few projects, and these will not impact on the overall delivery of the programmed works, but will enable these projects to be delivered more effectively to address contractual requirements and/or to meet asset or service needs.

The value of works completed at end of December is \$13.725 million, which is \$1.832 million (15.4%) above the YTD Budget of \$11.893 million and \$0.051 million (0.4%) above the YTD Forecast amount of \$13.674 million.

The variance against the YTD budget can be attributed to a number of ongoing projects that were incomplete as at 30 June 2015 and carried forward to the 2015/16 financial year, or further advanced than originally planned.

A separate report will be presented to Council as a part of the midyear budget review, regarding the adoption of a revised Capital Works Program, which will also consider details of accumulated surplus and additional income and grants that are available and can be expended.

Notwithstanding the known carry forward amount, it can be concluded that the end of December position, with respect to the 2015/2016 Capital Works Program, reveals that reasonable progress has been made in terms overall performance in the implementation of the Capital Works Program.

1 BACKGROUND

- 1.1 Reporting on the status of the 2015/2016 Capital Works Program is carried out on a quarterly basis to Council.
- 1.2 A financial chart of performance, with trend graphs and milestone program ('traffic light'), are presented as indicators of performance, which have been previously endorsed by Council as the agreed set of monitoring tools for status reporting. Commentary on performance is by exception and as appropriate.
- 1.3 Key Performance Indicators are also provided to assist in comparing our performance in terms of our budget position against the adopted budget and year end forecast, and in regard to measuring the scope and progress of key capital projects.
- 1.4 A year end expenditure of \$39.225 million is currently forecast against the adopted budget total of \$37.616 million. The increase in the projected capital expenditure arises from a higher level of carry forwards from 2014/15 of \$0.937 million, plus an increase of grant funded works of \$1.622 million for new works to be undertaken this financial year, less proposed carry forwards of \$950 million to the 2016/17 financial year.
- 1.5 The value of works completed at end of December is \$13.725 million, which is \$1.832 million (15.4%) above the YTD Budget of \$11.893 million and \$0.051 million (0.4%) above the YTD Forecast amount of \$13.674million.
- 1.6 Whilst in financial terms the completed works is shown as an unfavourable variance, this is largely due to work on those projects that were carried forward from 2014/15, or further advanced than originally planned. In terms of the delivery of the Capital Works Program, the YTD outcomes show a higher level of works being achieved when compared to the YTD budget and YTD forecast.
- 1.7 Of the \$13.725 million of works completed at the end of December, the value of budgeted works completed, excluding the carry forward projects and new post budget adoption projects, is \$10.573 million. The completed value of the carry forward projects that were delayed from 2014/15, including those in the 2015/16 adopted budget, is \$2.715 million. The net value of new post budget adoption projects is \$0.437 million.
- 1.8 Income received related to capital projects is ahead YTD budget income at the end of December, with a variance of 52.6%, which can be attributed to an increase in additional grants and income for works to be undertaken in 2015/16.

The 'traffic light' program of performance against key milestones is included with the attached Status Report (Attachment C). To the end of December the majority of projects are progressing satisfactorily and are meeting the specified timelines. Nine (9) projects have been completed out of a total of 110 projects. Eighty-one (81) projects are currently in progress, of which thirty-one (31) projects are currently experiencing some minor delays, but none of these are considered beyond reasonable control. Ten (10) projects are yet to commence, but should be completed.

- 1.9 The Leeds Street indented parking bays and Sheahans Reserve upgrade projects have been deferred to 2016/17, and the unspent funds have been

transferred to the Aquarena Master Plan project to enable continued progress and effective utilisation of funds is made under the current program.

- 1.10 The Civic Offices Draught Proofing project has been deferred and the Drainage Strategy Implementation (Bolin Bolin Wetlands), Energy Efficiencies, Colman Park Pavilion Upgrade, Park Avenue Reserve Synthetic Soccer Pitch, and AMS Buildings (Swanston Street Gym), and Contract Management System projects will not be sufficiently advanced due to project planning, consultation and approval delays, resulting in the need for the unspent funds to be either transferred to other projects, to enable continued progress and effective utilisation of funds is made under the current program, or carried forward to be completed in 2016/17.
- 1.11 It is proposed, that rather than carry forward all of the unspent funds, that the carry forward amount from Colman Park Pavilion, Swanston Street Gym and Park Avenue Reserve Soccer Pitch projects be transferred to the Mullum Mullum Highball facility in order to advance the project this financial year and meet contractual requirements, and that the transferred amounts be restored to these projects in 2015/16.
- 1.12 The total value of the proposed carry forward amount is \$0.950 million. A number of other part funding transfers are also proposed on a few projects, and these will not impact on the overall delivery of the programmed works, but will enable these projects to be delivered more effectively to address contractual requirements and/or to meet asset or service needs.
- 1.13 The following explanations are provided on the performance of some projects where specific issues have been identified, or where circumstances have changed since the last reporting period (In many cases projects have been flagged on the 'traffic light' program, and include comments - 'Marginal delay', and it is expected, that whilst these projects are currently experiencing delays, they will be completed):

Energy Efficiencies (Line 7) - In order to obtain maximum benefit and value with the replacement of street light fittings that will deliver a reduction in Council's operating costs, it is proposed that works be undertaken over a two year period resulting in the need to carry forward \$130K to complete the works in 2016/17.

Draught Proofing Civic Offices (Line 10) - The project has been deferred to enable a further review and evaluation of the benefits of carrying out draught proofing works following the recent replacement of external windows at the Civic Centre, and future relocation of the cooling towers, which are scheduled for 2016/17.

Drainage Strategy Implementation - Bolin Bolin Wetlands (Line 27) - Delays have been encountered in seeking resolution from the external funding partners regarding the current funding shortfall and negotiation of ongoing operational costs. As a result, the project will not be sufficiently advanced to enable the current allocation of funds to be spent this financial year resulting in the need to carry forward \$251K to complete the project in 2016/17.

Colman Park Pavilion Upgrade (Line 48) - As a result of a funding shortfall being identified to upgrade the pavilion and ongoing delays in reaching agreement with the club on the build option, the project will not be completed this financial year resulting in the need to carry forward \$0.345 million of unspent funds to 2016/17. It is proposed, that rather than carry forward all of

the unspent funds, that the carry forward amount be transferred to the Mullum Mullum Highball facility in order to address a cash flow issue to enable the project to advance this financial year, and that the transferred amount be restored to the Colman Park pavilion project in 2016/17.

Whilst discussions are continuing with the sporting clubs on the preferred build option, a funding shortfall of \$540K has been identified for the Council option, to construct new change rooms and storage space to the rear of the pavilion, and a further \$311K for the clubs option, which would include a redevelopment to the front of the pavilion, following recent tender submissions. The proposed pavilion redevelopment for the Council option is consistent with Council's Outdoor Sports Infrastructure Guidelines and the sporting clubs would be responsible to fund the cost difference if the clubs option is to proceed. The clubs are currently seeking external grants and other income sources to contribute towards the gap between alternative options, and the outcomes on the preferred build option, including details of the funding shortfall, will be considered as a part of the 2016/17 budget.

Mullum Mullum Highball Facility (Line 56) - Stage 1 car park and early works have been tendered and in order to undertake these works this financial year \$1.1 million of the total project budget needs to be brought forward to enable the works to be successfully completed. It is proposed, that in order to advance the project and meet contractual requirements, that funds from carry forward projects be transferred to the Mullum Mullum Highball project, and that the transferred amounts be restored to those carry forward projects in 2015/16 (Refer Table G in the attached Status Report).

A funding shortfall of some \$2.0 million remains however to successfully complete this project and a number of external grants/sponsorships are currently being explored to fund the shortfall, and the outcomes will be considered as a part of the 2016/17 budget.

Sheahans Road Highball Facility (Line 59) - The successful delivery of the project is dependent on a contribution of \$600K from the Bulleen Templestowe Basketball club, which will be required prior to the signing of the contract to commence works. The total project cost is estimated to be \$1.4 million. The State Government has committed \$500K towards the stadium redevelopment and Council has allocated a further \$300K. The project will not be completed this financial year resulting in the need to carry forward \$100K of Council funds to complete the works in 2016/17.

Park Avenue Reserve Synthetic Soccer Pitch (Line 57) - Project planning and consultation delays have been encountered with the club in finalising the scope of works, which will also need to be undertaken during the non sporting season when disruption to the club and sports ground users will be minimised. As a result, the project will not be sufficiently advanced to enable the majority of funds to be spent this financial year. It is proposed, that rather than carry forward the unspent funds, that the carry forward amount be transferred to the Mullum Mullum Highball facility, and that the transferred amount be restored to the Park Avenue Soccer Pitch project in 2016/17.

However, a funding shortfall of some \$359K has been identified to successfully deliver the project, and this will be considered as a part of the 2016/17 budget.

Contract and Project Management Solution (Line 77) - The project is presently focussed on improving and maturing project management disciplines and processes that will ultimately translate into a corporate wide technology solution. The project will not be sufficiently advanced due to project planning and resourcing delays resulting in the need to carry forward 200K to 2016/17.

AMS Buildings - Swanston Street Gym (Line 82) - A funding shortfall has been identified to refurbish the building that includes opportunities for a mixed use facility. A review of scoping requirements is to be undertaken and SRV funding is to be sought. As a result, the project will not be sufficiently advanced to enable the majority of funds to be spent this financial year resulting in the need to carry forward \$170K to 2016/17. It is proposed, that rather than carry forward the unspent funds, that the carry forward amount be transferred to the Mullum Mullum Highball facility, and that the transferred amount be restored to Swanston Street gym in 2016/17.

2 PROPOSAL/ISSUE

- 2.1 It is proposed that the attached Capital Works Program Status Report for the period ending 31 December 2015 be noted.

3 FINANCIAL RESOURCE IMPLICATIONS

- 3.1 It is proposed that \$1.1 million of the total carry forward amount for 2016/17 be transferred to the Mullum Mullum highball facility project, to address contractual requirements, and that the transferred amount be restored to the carry forward projects in 2016/17 by adjustments to other project budgets and cash flows.
- 3.2 A number of other part funding transfers are also proposed on a few projects, and these will not impact on the overall delivery of the programmed works, but will enable these projects to be delivered more effectively to address contractual requirements and/or to meet asset or service needs.
- 3.3 Funding shortfalls have been identified on the Colman Park Pavilion, Sheahans Road Highball Facility, Park Avenue Synthetic Soccer Pitch, and Mullum Mullum Highball Facility projects, and in order to successfully complete these projects, the funding shortfalls will be considered as a part of the 2016/17 Capital Works Program.
- 3.4 There are no other adverse or unfavourable financial resource implications identified in this report.

4 CONCLUSION

- 4.1 It can be concluded that the end of December position with respect to the 2015/16 Capital Works Program, reveals that reasonable progress has been made in terms of overall performance in the implementation of the Capital Works Program.

OFFICER'S RECOMMENDATION

That Council:

- (A) Receive and note the attached Capital Works Program Status Report for the period ending 31 December 2015.**
- (B) Note and approve the transfer of \$2.028 million, as indicated in the Status Report (Refer Table G), to enable additional progress and effective utilisation of capital funds is made under the program.**
- (C) Approve that the transfer of \$1.1 million from the Colman Park Pavilion, AMS Buildings, and Park Avenue Synthetic Soccer Pitch projects to the Mullum Mullum Highball Facility, are to be restored in 2016/17 by adjustments to other project budgets and cash flows, as indicated in the Status Report.**
- (D) Note the carry forward amount of \$0.950 million, which will be considered as part of the 2016/17 Capital Works Program (Refer Table H).**
- (E) Note the revised annual budget amount that will be achieved through identified savings and from a net increase in grants and income of \$1.622 million, plus additional carry forwards/budget adjustments of \$0.937 million that were not part of the 2015/16 adopted budget, less proposed carry forwards of \$0.950 million to the 2016/17 financial year, which will be considered as a part of a separate report to Council regarding the adoption of a revised Capital Works Program, at the 2015/16 Mid Year Budget Review.**

MOVED: DOWNIE
SECONDED: GRIVOKOSTOPOULOS

That the Recommendation be adopted.

CARRIED

"Refer Attachments"

- Capital Works Status Report (Council) - December 15
- Traffic Light Program - December 15

* * * * *



Aquarena Master Plan Implementation

**2015/2016 Capital Works Program
Status Report - End of December**

Capital Works Program 2015/2016 - Status Report Reporting Period - End of December

This Status report covers the period ending 31 December 2015. Variances are reported against the Adopted Budget and YTD Forecast Outcome. The value of works completed at end of December is \$13.725 million.

- × YTD Completed Works \$1.83 million unfavourable to the YTD Adopted Budget ¹
- × YTD Completed Works \$0.05 million unfavourable to the YTD Forecast ¹

Legend ✓ - Favourable against YTD Target, × - Unfavourable against YTD Target

¹ This represents the financial outcome after accruing for works completed.

Financial Performance

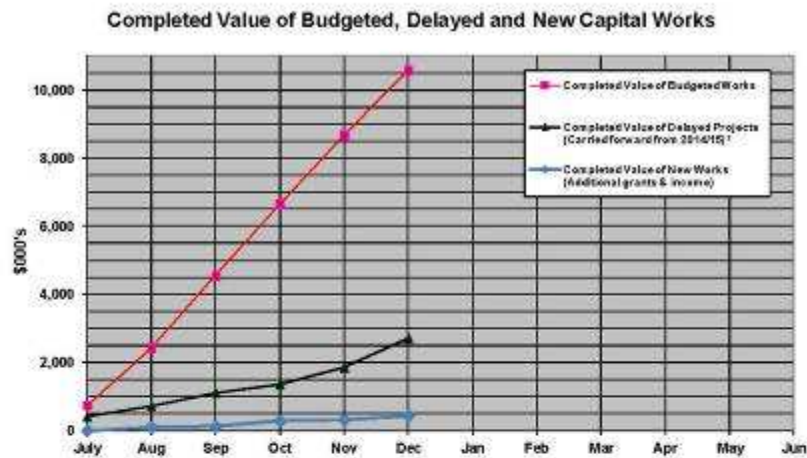
Attachment A and B to this summary report provides a chart of financial performance for both Capital Works Expenditure and Income to end of December. The following table provides a snapshot of the performance in regard to the implementation of the Capital Works Program.

	End of Year Forecast Budget (YTD)							
	Adopted Budget \$'000	EoY Forecast \$'000	YTD Budget \$'000	YTD Forecast \$'000	YTD Actual \$'000	YTD Variance \$'000	YTD Variance %	Fav / Unfav
A. Compared to Adopted Budget								
Budget YTD Outcome	37,618	39,225	11,993		13,725	(1,632)	-15.4%	U
B. Compared to Forecast outcome								
Budgeted works:	33,572	33,572	9,125	10,483	10,573	(90)		
Budgeted carry forwards	4,044	4,044	2,406	2,406	1,957	449		
Additional carry forwards from 2014/15		937	712	712	758	(46)		
New Works:								
Grants & Income received in advanced (Refer Table B)		171	-	96	91	4		
Additional grants and income (Refer Table C)		2,661	-	328	346	(18)		
Other Adjustments:								
Grants & Income removed from the budget (Refer Table D)		(1,210)	-	-	-	-		
Proposed carry forwards to 2015/16 (Table E)		(950)	(350)	(350)	-	(350)		
Forecast YTD Outcome	37,618	39,225	11,993	13,674	13,725	(51)	-0.4%	U
C. Income (Table A)								
Budget including plant sales	5,065	5,065	2,408	2,324	2,351	57		
Grants & Income received in advanced (Refer Table B)		171	-	171	171	(171)		
Additional grants and income (Refer Table C)		2,661	-	831	837	(837)		
Grants & Income removed from the budget (Refer Table D)		(1,210)	(600)	(600)	(600)	-		
Forecast YTD Outcome	5,065	6,707	1,908	2,726	2,759	(951)	-52.6%	F

At the end of December, 36.5% of the total adopted budget allocation has been delivered (on ground value). Compared to the EoY forecast, 35.0% of the total program allocation has been completed.

Of the \$13.725 million of works completed at the end of December, the value of budgeted works completed, excluding the carry forward projects and new post budget adoption projects is \$10.573 million. The completed value of the carry forward projects that were delayed from 2014/15, including those in the 2015/16 adopted budget, is \$2.715 million. The value of new post budget adoption projects is \$0.437 million.

The following provides a chart of the completed value of budgeted, delayed and new projects, at end of December.



² The value of completed carry forward projects that were delayed forms part of a combined carry forward amount of \$4.981 million. Of this combined amount, \$0.200 million will be carried forward to 2016/17 as a result of project planning and approval delays on a couple of projects, which are beyond Council's control.

Program Status and YTD Profile

A year end expenditure of \$39.225 million is currently forecast against the adopted budget total of \$37.616 million. The net difference being an increase in grants and income of \$1.622 million, plus additional carry forwards/adjustments of \$0.937 million that was not part of the 2015/16 Adopted Budget, less proposed carry forwards of \$950 million to the 2016/17 financial year.

The value of works completed at end of December is \$13.725 million, which is \$1.832 million (15.4%) above the YTD Budget of \$11.893 million and \$0.051 million (0.4%) above the YTD Forecast amount of \$13.674 million.

The variance of \$1.832 million against the YTD budget can be attributed to a number of ongoing projects that were incomplete as at 30 June 2015 and carried forward to the 2015/16 financial year, or further advanced than originally planned. These projects are currently committed under a formal procurement arrangement and some of the more significant projects include; Aquarena Master Plan Implementation, New Footpath Construction (Bowmore Ave and Springvale Road), Road Management Strategy Traffic and Road Use (Heads Road), Drainage Strategy (Delatite Court), and Asset Management Strategy (Road Resurfacing).

Trends

The value of completed works takes into account YTD cash payments and accruals to reflect the level of works in progress and is an informed estimate of actual on ground effort. The completed works exceeds the YTD budget and YTD forecast for the current program and can be largely attributed to a number of projects that were carried forward from 2014/15.

Whilst the value of completed works is shown as an unfavourable variance from a financial reporting perspective, the delivery of the Program shows a higher level of works being achieved from a project expenditure prospective when compared to the adopted budget.

Total expenditure plus commitments at end of December is \$18.0 million indicating that program planning is well advanced and a number of projects are currently operating at a high rate of construction/implementation.

Capital Income received is ahead of YTD budget income at end of December with a variance of 52.6%. This variance can be attributed to a number of grants and income being received in advance plus additional unbudgeted grants and income that was not identified as a part of the 2015/16 budget, for works to be undertaken this financial year.

It can be concluded that satisfactory progress has been made in regard to the implementation of the Capital Works Program in terms of overall performance.

Milestone Performance

The 'traffic light' program of performance against key milestones is included as **Attachment C**. To end of December, the majority of projects are progressing satisfactorily and are meeting the specified timelines. Some minor delays have been experienced on a few projects, but none of these are considered beyond reasonable control. The Leeds Street Indented Parking Bays and Sheahans Reserve Upgrade projects have been deferred to 2016/17, and the unspent funds have been transferred to the Aquarena Master Plan project to meet contractual requirements to enable continued progress and effective utilisation of funds is made under the current program (Refer Table F).

The Civic Offices Draught Proofing project has been deferred and the Drainage Strategy Implementation (Bolin Bolin Wetlands), Colman Park Pavilion Upgrade, Sheahans Road Highball Facility, Park Avenue Reserve Synthetic Soccer Pitch, AMS Buildings (Swanston Street Gym), and Project and Energy Efficiencies Project and Contract Management System projects will not be sufficiently advanced due to project planning, consultation and approval delays. As a result, it is proposed that the unspent funds be either transferred to other projects, to enable continued progress and effective utilisation of funds is made under the current program, or carried forward to be completed in 2016/17 (Refer Tables G and H).

It is proposed, that rather than carry forward all of the unspent funds, that the carry forward amount from Colman Park Pavilion, Swanston Street Gym and Park Avenue Reserve Soccer Pitch projects be transferred to the Mullum Mullum Highball Facility in order to advance the project this financial year and meet contractual requirements, and that the transferred amount be restored to these projects in 2016/17 (Refer Table G).

The total value of the proposed carry forward amount is \$0.950 million. A number of other part funding transfers are also proposed on several other projects, and these will not impact on the overall delivery of the programmed works, but will enable these projects to be delivered more effectively to address contractual requirements and/or to meet asset and service needs.

On the whole, progress against milestones is considered reasonable.

Performance Indicators - Major Capital Projects

Key Performance Indicators have been prepared to assist in measuring the scope and progress of major capital projects against cost/time variations. (Note: Key Projects are defined as those which are one off large strategic projects that have significant, local and possible regional impact).

The following is the list of major projects currently identified on the Capital Works Program:

Line No.	Project Description	Total 10 Yr Project Allocation \$000's	Total 10 Years Grants / Income \$000's	Adopted Annual Budget / Carry Forwards \$000's	ECY Current Forecast \$000's	YTD Forecast Including variations \$000's	YTD Actual \$000's	YTD Var \$000's	YTD Var %
5	New Footpath Construction (PPN)	14,550	0	1,101	1,157	609	-162	47	3%
6	Stintons Reserve Former Landfill Site (Leachate Management and Rehabilitation)	200	0	102	300	250	305	-55	-22%
12	Jumping Creek Road (Strategy Review Year 1)	17,925	0	20	20	20	10	10	50%
15	Road Management Strategy Upgrades Link Roads - Construction of Tindals Road Stage 1 (Mulrum Mulrum Creek to Stintons), Tindals Road Stage 2 (Stintons to Reynolds, Park Road (McIntyres to Heads - Street Lighting and Landscaping), and Stintons/Tindals Roundabout	48,317	5,669	2,802	2,338	1,111	1,050	61	5%
27	Drainage Strategy Implementation	31,902	400	3,103	2,679	210	100	22	10%
33	Neighbourhood Activity Centres (Jackson Court Stage 3)	8,108	15	670	784	270	250	20	7%
35	Mulrum Mulrum Creek Linear Park Stage 3 (Section 7 - Heads to Eastlink) and (Section 6 - Park Road to Heads)	2,065	650	1,381	1,381	163	150	13	8%
41	Aquasana - Master Plan Implementation Stages 4-6 (Therapy pool, increased dry fitness/exercise space, entry foyer and circulation area, cafe area, water play feature, increased disabled parking at the front, high level walkway access off the lower tier car park, and civil works)	6,733	573	5,163	6,733	4,928	4,950	-22	0%
48	Colman Park Pavilion Upgrade (Council option)	425		425	80	25	27	-2	-8%
56	Mulrum Mulrum Highball Facility	16,238	650	890	2,081	248	230	18	7%
57	Park Avenue Reserve Synthetic Soccer Pitch	954	200	954	90	10	10	0	0%
58	Sheahans Road Highball Facilities	1,400	1,100	1,400	100	25	27	-2	-8%
61	Sportsground Refurbishment Program (Stintons Reserve and Wonga Park Reserve)	1,440	127	303	438	333	340	-7	-2%
	Total			18,284	18,281	8,262	8,895	163	1.3%

Of the 13 key projects listed on the Capital Works Program, the majority are currently meeting the specified timelines and 2 projects are showing a variance in excess of 10% against the YTD forecast. Some minor delays have been experienced on a few projects, but are not considered beyond reasonable control. Overall, a variance of 1.3% for all key projects is stated against the YTD Actual and forecast amount.

Four projects will not be sufficiently advanced due to project planning, consultation and approval delays, and will not be completed. These include; Drainage Strategy Implementation (Bolin Bolin Wetlands), Colman Park Pavilion Upgrade, Sheahans Road Highball Facility, and Park Avenue Reserve Synthetic Soccer Pitch.

Delays have been encountered in seeking resolution from the external funding partners regarding the current funding shortfall and negotiation of ongoing operational costs for the Bolin Bolin Wetlands project. As a result, the project will not be sufficiently advanced to enable the current allocation of funds to be spent this financial year.

Given the current funding shortfall and ongoing delays in reaching agreement with the club on the build option for the Colman Park Pavilion upgrade, the project will not be completed this financial year resulting in the need to carry forward unspent funds. Discussions are ongoing with the sports clubs to reach agreement on the build option and the outcomes, including details of the funding shortfall, will need to be considered as a part of the 2016/17 Capital Works Program.

The successful delivery of the Sheahans Road Highball project is dependent on a contribution of \$600K from the Bulleen Templestowe Basketball club, which is required prior to the signing of the contract to commence works. The clubs contribution is currently under review causing delays in finalising the contract. As a result, the project will not be sufficiently advanced resulting in the need to carry forward unspent funds.

Project planning and consultation delays have been encountered with the club in finalising the scope of works for the Park Avenue Reserve Soccer Pitch, which will also need to be undertaken during the non sporting season (late autumn and winter) when disruption to the club and sports ground users will be minimised. As a result, the project will not be sufficiently advanced resulting in the need to carry forward the majority of funds to complete the project in 2016/17. A funding shortfall has also been identified to successfully deliver the project, and this will need to be considered as a part of the 2016/17 Capital Works Program.

Further details regarding milestone performance of major capital projects can be obtained from the 'traffic light' program, included as Attachment C.

Income

At end of December Capital income is ahead of YTD budget income. The following table provides a summary of income to be received in 2015/16, towards the implementation of the projects listed:

Table A - Capital Works Income										
	Added Asset Budget 2014	Asset Value 2015	Income Received to date 2015	Income adjustments 2015	YTD M/Y Budget 2015	YTD Actual 2015	YTD Var 2015	YTD % 2015	2015/16 Income per line 2015/16	Comments
	£000	£000	£000	£000	£000	£000	£000	%	£000	
Plant Replacement Program		600			416	361	-57	-12%	560	Plant Replacement Program - Ongoing in financial year.
Road Safety Improvements Council Link & Collector Roads - - Marnborough Close - Entrance to Car Park (Springvale Road) - Blackburn Road - Poles Shopping Centre	60		50		70	70	0	0%	15	2 Grants Commission - To be received in full in 2016/17. \$20K received in advance.
Road Management Strategy Upgrades Council Link Roads - • Tindale / Osborne Roundabout • King Street Device Alterations • Heald Rd / Wimburn Way - Roundabout • Heald Rd / Wimburn Way - Intersection Treatment • Tindale Road - Stage 2 (including street lighting)	643		60	669	76	76	0	0%	1400	The Greater Pines is a recurring income of \$7.2K. A further \$17.9K is due in March in 2016/17 from 2014/15. Additional \$21.8K is due in March in 2017/18 - introduction of fuel and gas, Greater Pines program. To be received in full in 2016/17. \$10K received in advance.
W/L to 2016/17 Implementation - • Park Road Shared Path (Pavlova Lane to Creek) • Seaport Rd / Trucanin Rd • Ruffey Lake Park - Asphalt Works • Stockbourn Road - (Anderson Creek Road and Zetula Reserve) • Church Road - Between Doncaster Road and 13th Street • George Street - Wimburn to Blackburn Road • Connect Street Shared Path	305		126		232	232	0	0%	15	2 Grants Commission - To be received in full in 2016/17. \$100K received in advance.
Traffic Control Device Link Roads - - Lawford Rd - Turning Area	25		24		44	42	-2	-5%	1	2 Grants Commission - To be received in full in 2016/17. \$20K received in advance.
Traffic Control Device Local Roads - - Blackburn Road & May Street - Michael Street and Heald Parade	35		14		24	34	0	0%	6	2 Grants Commission - To be received in full in 2016/17. \$10K received in advance.
Traffic Management LTM Implementation - - Deveney Street / Park Street - Roundabout - Dewley Street / Millan Street - Roundabout	117		56		65	66	0	0%	3	2 Grants Commission - To be received in full in 2016/17. \$20K received in advance.
Bus Bay Construction - Homestead Road - South of Jansing Creek Road	47		22		34	36	2	6%	1	2 Grants Commission - To be received in full in 2016/17. \$20K received in advance.
Emergency Strategy - Bolnisi Waterworks	492		316		316	316	0	100%	10	Made some tender income - \$110K received in advance.
Regeneration Activity Centre (Jackson Court Stages 1 & 2) (Tunali Square Stages 1 & 2)	0		15	20	15	35	0	100%	25	\$12K Grant of Justice grant received in 2014/15. \$20K State Government Grant - Prevention grant.
Wulumululum Creek Linear Park Stage 2	505				0	0	0	0%	505	2014/15 grant.
Background Infrastructure Program (Manga Park Reserve)	0			55	55	61	6	0%	45	2014/15 grant.
Application for 2016/17 Implementation Stage 4 - Children's Park (increased play space, amphitheatre and circulation area, cafe area, water play feature, increased disabled parking at the front, high level elderly access off the main car park, and oval works)	0			573	0	0	0	0%	573	Stage 4 of the grant in 2014/15. \$200K in 2011/12, \$200K in 2012/13 and a further \$171K in 2013/14. Remaining \$500K of the grant to be received in 2014/15. Remaining \$230K of the grant to be received in 2015/16.
Shoanso Road Upgrade Facility	1,100		-1,100	0	0	0	0	0%	0	\$600 0% grant to be received in 2014/15 and \$500 0% grant to be received in 2015/16.
Parkside Program	60				50	54	4	0%	0	2014/15 grant.

Table A - Capital Works Income (continued)

	Adopted Joint Budget \$'000	Asset Sales \$'000	Income Deferred in Advance \$'000	Income Adjustments \$'000	YTD Budget \$'000	YTD Actual \$'000	YTD Var \$'000	YTD Var %	Income yet to be received \$'000
Tennis Court Strategy Implementation (Upgrade and Refurbishment of Tennis Court Surfaces)	55				0	0	0	0%	55
ADS Equipment	0		52	52	0	52	52	100%	0
Flooding Park Upgrade of Floodlights	127				34	60	34	0%	53
Cleaner Yarra Lake Hotspots Program	96		16	16	0	72	72	100%	10
Street Furniture Throughout City	36		10	4	10	12	2	20%	28
Park Avenue Reserve Synthetic Soccer Pitch	200			-110	0	90	90	0%	0
City Precinct Identification Signage	4				0	0	0	0%	4
Mullum Mullum Highball Facility	0		28	91	0	91	91	100%	0
Melbourne Water Corridors of Green	0		28	28	0	28	28	100%	0
Zorbas Reserve Floodlighting	0			-40	0	0	0	0%	-40
Worrigal Park Tennis Club Pavilion	0			95	0	95	95	100%	0
Highton Parkles (Jurek St, Doncaster/Badminton, DSC, Park Doncasters Community Centre, Teranginowo Heights and Donkey Centre)	0			667	0	663	663	100%	224
Doncaster Baseball Club Upgrade of Floodlights	0		22	33	0	22	22	100%	0
Melbourne Early Education Centre Upgrade	0			60	0	60	60	0%	0
Manningham Community Health - State	0			63	0	63	63	0%	0
Yarra St - Pride of Place (Toilet Block)	0			-40	0	0	0	0%	-40
RMS Reserve & Open Space (Sporting Reserves - East Doncaster and Manningham Cricket Club Contributions)	0			16	0	16	16	100%	0
Total	4,105	950	977	1,622	1,908	2,759	-951	-22.6%	3,937

Land Purchases & Sales

A budget of \$300,000 has been provided for the development, upgrade and acquisition of public open space. The following is a summary of current Land Purchases:

Land Purchases	Adopted Budget \$'000	YTD Budget \$'000	YTD Actual \$'000	YTD Var \$'000	YTD Var %	Comments
Open Space						
<ul style="list-style-type: none"> Warrandyte Bakery (193 Yarra Street) Whiteflars College (Mullum Mullum Linear Trail) 	300	0	0	0	0%	Accommodated within budget.
Doncaster Hill Strategy						
Nil	0	0	0	0		
Forecast YTD Outcome	300	0	0	0	0%	

Year End Position 2015/16

It can be noted that an EoY forecast total of \$39.225 million is currently stated with the following variances and adjustments:

Summary of Variances	\$'000
Grants and Income Received in Advance (Table B)	171
Additional Grants and Income (Table C)	2,661
Grants and income removed from the budget (Table D)	(1,210)
Carry Forwards/Budget Adjustments from 2014/15 (Table E)	937
Savings (end of December)	Nil
Approved Deferrals/Transfers (Table F)	1,041
Proposed Deferrals/Transfers (Table G)	2,028
Proposed Carry Forwards to 2016/17 (Table H)	950

Grants and Income Received in Advance

The following is a list of grants and income received in advance in 2014/15 that was not carried forward and/or included in the 2015/16 Capital Budget, to be adjusted at the MYR:

Table B - Grants and Income in Advance	\$'000
• Melbourne Water Corridors of Green (Melbourne Water grant)	28
• Cleaner Yarra River Hotspots Program (Income received in advance for works to be undertaken in 2015/16)	16
• Mullum Mullum Highball Facility (SRV contribution received in advance for works to be undertaken in 2015/16)	38
• Neighbourhood Activity Centres (Dep't of Justice grant received in advance for works to be undertaken in 2015/16)	15
• ADS Equipment (DHS Grant)	52
• Deep Creek Reserve Floodlights (SRV grant)	22
Total	171

Additional Grants and Income

The following is a list of additional grants and income that was not included in the current program, for works to be undertaken in 2015/16, to be adjusted at the MYR:

Table C - Additional Grants and Income	\$'000
• Aquarena Master Plan Implementation ((\$500K SRV grant and \$73K Tax grant - Dep't of Transport)	573
• Zerbes Reserve Floodlighting ((\$40K club contribution)	40
• AMS Buildings - Wonga Park Tennis Club (Club contribution)	95
• Road Management Strategy Upgrades - Tindals Road Stage 2 (Roads to Recovery Income - claim from 2014/15)	371
• Sportsground Refurbishment Program - Wonga Park Reserve (Club income)	55
• Street Furniture Through City (Sustainability Victoria)	4

<ul style="list-style-type: none"> Highball Facilities ((\$877K Accumulated funding set aside for the refurbishment of indoor stadiums previously managed by the MRA, and \$10K contribution from Park Orchards Primary School towards the refurbishment of Park Orchards Community Centre). 	887
<ul style="list-style-type: none"> AMS Sportsground Refurbishment (Club contributions - East Doncaster and Manningham Cricket Clubs) 	18
<ul style="list-style-type: none"> Montessori Early Education Centre (Pre School contribution) 	88
<ul style="list-style-type: none"> Manningham Community Health - Stride (Manningham Community Health contribution) 	83
<ul style="list-style-type: none"> Neighbourhood Activity Centres - Jackson Court Stage 3 (State Government graffiti prevention grant) 	25
<ul style="list-style-type: none"> Yarra Street Pride of Place (Bakery contribution) 	40
<ul style="list-style-type: none"> Road Management Strategy Upgrades (Additional Roads to Recovery Income - Fuel Excise increase) 	318
<ul style="list-style-type: none"> Mullum Mullum Highball Facility (Melbourne Water grant) 	53
<ul style="list-style-type: none"> Deep Creek Reserve Floodlights (club contribution) 	11
Total	2,661

Grants and Income Removed From the Budget (2015/16 MYR)

The following is a list of grants and income that will not be received this financial year, to be adjusted at the 2015/16 MYR:

Table D - Grants & Income Removed From the Budget	\$'000
<ul style="list-style-type: none"> Park Avenue Reserve Synthetic Soccer Pitch ((\$10K SRV grant and \$100K club contribution to be received in 2016/17) 	(110)
<ul style="list-style-type: none"> Sheahans Road Highball Facility ((\$500K State Government grant to be claimed in 2016/17 and \$600K club contribution will not be received this financial year. 	(1,100)
Total	(\$1,210)

Carry Forwards / Budget Adjustments (2015/16 MYR)

The following is a list of carry forwards/adjustments from 2014/15 that were not included in the 2015/16 budget, and will be adjusted at the 2015/16 MYR:

Table E - Additional Carry Forwards/ Adjustments	\$'000
<ul style="list-style-type: none"> AMS Buildings - Wonga Park Tennis Club Refurbishment 	133
<ul style="list-style-type: none"> IT eLearning Software 	20
<ul style="list-style-type: none"> Doncaster Hill Open Space 	40
<ul style="list-style-type: none"> Yarra Street Pride of Place 	60
<ul style="list-style-type: none"> Neighbourhood Activity Centres - Jackson Court Stage 3 	74
<ul style="list-style-type: none"> Advanced Design Fees - Porter Street and Taroona Avenue 	27
<ul style="list-style-type: none"> New Footpath Construction (PPN) - Bowmore Ave, Springvale Road, Tresize Ave and Yarra Street 	56
<ul style="list-style-type: none"> Stintons Former Landfill Site (Rehabilitation) 	98
<ul style="list-style-type: none"> Energy Efficiencies 	70
<ul style="list-style-type: none"> Road Management Strategy Traffic & Road Use - Heads Road 	79
<ul style="list-style-type: none"> Traffic Management LATM Construction - Beverley Street 	20

• Bicycle Strategy - Park Road and Serpells/Tuckers Road	10
• Drainage Strategy - Delatite Court and Gregory Court	108
• AMS Public Art Conservation	22
• Ted Ajani Reserve Protective Netting	15
• Tom Kelly Athletics Track - Replacement of Hammer Throw and Discus Throwing Cage	43
• Zerbes Reserve Floodlighting	27
• ADS Equipment	35
Total	937

Approved Transfers

The following is a summary of approved transfer of capital funds to enable additional progress and effective utilisation of funds is made under the Capital Works Program is summarised below:

Table F - Approved Transfers	\$'000	Comments
• Aquarena Master Plan Implementation	997	Transfer of \$300K from Drainage Strategy (Line 27); \$200K from Road Management Strategy Upgrades (Line 18); \$300K from Leeds Street Indented Parking Bays (Line 11); \$97K from Donvale Reserve Pavilion (Line 49) and \$100K from Sheahans Road Reserve Upgrade (Line 60). Note: The transferred amounts are to be restored to these projects in 2016/17 or later years by adjustments to other project budgets and cash flows
• Implementation of Horse Riding Strategy	44	Transfer of \$44K from Doncaster Hill Streetscape infrastructure (Line 88) following the transfer of funds in 2014/15 from the Horse Riding Strategy for the installation of lighting at Doncaster Hill.
Total	1,041	

Proposed Transfers

The transfer of funds is required on a number of projects in order to address contractual requirements and/or to meet asset and service needs. Some of the more significant transfers include; Mullum Mullum Highball Facility, Advanced Design Fees, Stintons Reserve Former Landfill Site, Civic Centre/Depot Minor Upgrades, and Zerbes Reserve Floodlighting.

The Mullum Mullum Highball Facility stage 1 car park and early works have been tendered and in order to undertake these works this financial year \$1.2 million of the total project budget needs to be brought forward to enable the works to be completed. It is proposed, that in order to advance the project and meet contractual requirements, that funds from the proposed carry forward amount for Colman Park Pavilion, Park Avenue Reserve Synthetic Soccer Pitch, and AMS Buildings - Swanston Street Gym projects be transferred to the Mullum Mullum Highball project, and that the transferred amounts be restored to the carry forward projects in 2015/16.

Following a recent announcement from the Minister for Infrastructure and Regional Development that councils across Australia will receive extra funding over the next two years for the Roads to Recovery (R2R) Program following the reintroduction of the Consumer Price Index-linked fuel excise, Manningham will receive an additional \$318K this financial year and a further \$854K in 2016/17.

The R2R Program allows councils to directly fund local road projects based on local needs and Manningham has utilised its R2R funds for the widening and upgrade of the link road network identified in its Road Improvement Strategy. It is proposed, that as a result of the additional R2R funding, that some of the Council funds currently allocated in the Road Management Strategy Upgrades Program be transferred to other projects where funding shortfalls have been identified.

Further to this, \$435K of surplus funds has also been identified in the Road Management Strategy Upgrades Program due to delays in finalising the King Street/Reynolds Road swap with VicRoads. As a result, the proposed alteration of services in King Street will not be completed this financial year and are now scheduled to be undertaken in 2016/17, to be funded from next year's program allocation. The proposed transfer of funds from the Road Management Strategy Upgrades Program will not impact on the overall delivery of programmed works.

In order to progress the Advanced Design Fees project, additional funds are required to engage a temporary Project Engineer to assist with the forward design of various road and drainage projects. It is proposed that funds be transferred from Road Management Strategy Upgrades where surplus funds have been identified.

Additional funds are required to complete the Stintons Reserve Former landfill site works to meet contractual arrangements following variations (increases in cost) due to additional electrical and mechanical service works and unforecast latent soil conditions created by contaminated soil. It is proposed that funds be transferred from Road Management Strategy Upgrades.

Following a recent WorkSafe audit of the Depot, a number of actions were identified that required urgent works to be undertaken of the Depot yard. Urgent works were also carried out in the Executive area of the Civic Centre to address Electromagnetic Radiation (EMR) issues that had been identified. It is proposed that funds be transferred from the Civic Centre Draught Proofing project, which has been deferred to enable a further review and evaluation of the benefits of carrying out draught proofing works following the recent replacement of external windows at the Civic Centre, and future relocation of the cooling towers, which are scheduled for 2016/17.

In order to complete the Zerbes Reserve Floodlighting project and meet contractual requirements, additional funds are required to consolidate the land titles and upgrade the power supply to the reserve. It is proposed that funds be transferred from Road Management Strategy Upgrades.

The proposed transfers required to enable additional progress and effective utilisation of funds is made under the Capital Works Program is summarised below:

Table G - Proposed Transfers	\$'000	Comments
<ul style="list-style-type: none"> Mullum Mullum Highball Facility 	1,100	Transfer of \$345K from Colman Park Pavilion (Line 48), \$585K from Park Avenue Reserve Soccer Pitch (Line 57), and \$170K from AMS Buildings - Swanston Street Gym (Line 82). Note: The transferred amounts are to be restored to these projects in 2016/17 by adjustments to other project budgets and cash flows.
<ul style="list-style-type: none"> Advanced Design Fees 2016/17 	184	Transfer of \$184K from Road Management Strategy Upgrades (Line 16)

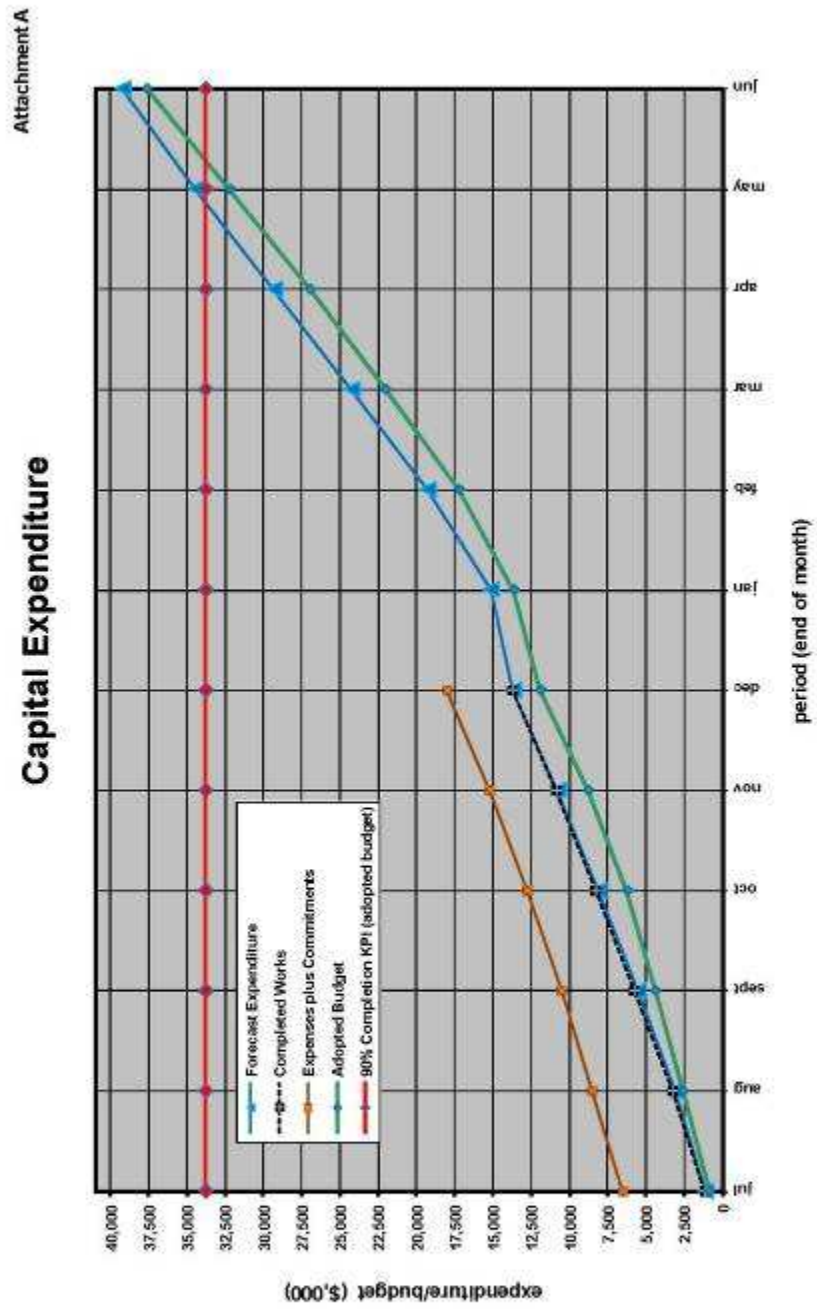
• Stintons Reserve Former Landfill Site (Rehabilitation)	190	Transfer of \$190K from Road Management Strategy Upgrades (Line 16)
• Road Safety Improvements - Local Roads	30	Transfer of \$30K from Road Management Strategy Upgrades (Line 16)
• Road Safety Improvements - Link and Collector Roads	29	Transfer of \$29K from Road Management Strategy Upgrades (Line 16)
• Road Management Strategy - Traffic and Road Use	21	Transfer of \$2K from Road Management Strategy Upgrades (Line 16) and \$19K from Drainage Strategy (Line 27)
• Road Traffic LATM Construction	21	Transfer of \$21K from Drainage Strategy (Line 27)
• Thompsons Road Retaining Wall	21	Transfer of \$21K from Drainage Strategy (Line 27)
• Civic Centre / Depot Minor Upgrades	94	Transfer of \$94K from Civic Centre Draught Proofing (Line 10).
• Doncaster Quarry	20	Transfer of \$20K from Civic Centre Draught Proofing (Line 10).
• Wonga Park Reserve (sewer backlog works)	36	Transfer of \$36K from Road Management Strategy Upgrades (Line 16).
• Zerbes Reserve Floodlighting	176	Transfer of \$176K from Road Management Strategy Upgrades (Line 16).
• Bulleen Park Canteen / Store	37	Transfer of \$37K from Road Management Strategy Upgrades (Line 16).
• Invoice Scanning	52	Transfer of \$52K from Road Management Strategy Upgrades (Line 16).
• AMS Project Management and Administration	17	Transfer of \$17K from Road Management Strategy Upgrades (Line 16).
Total	2,028	

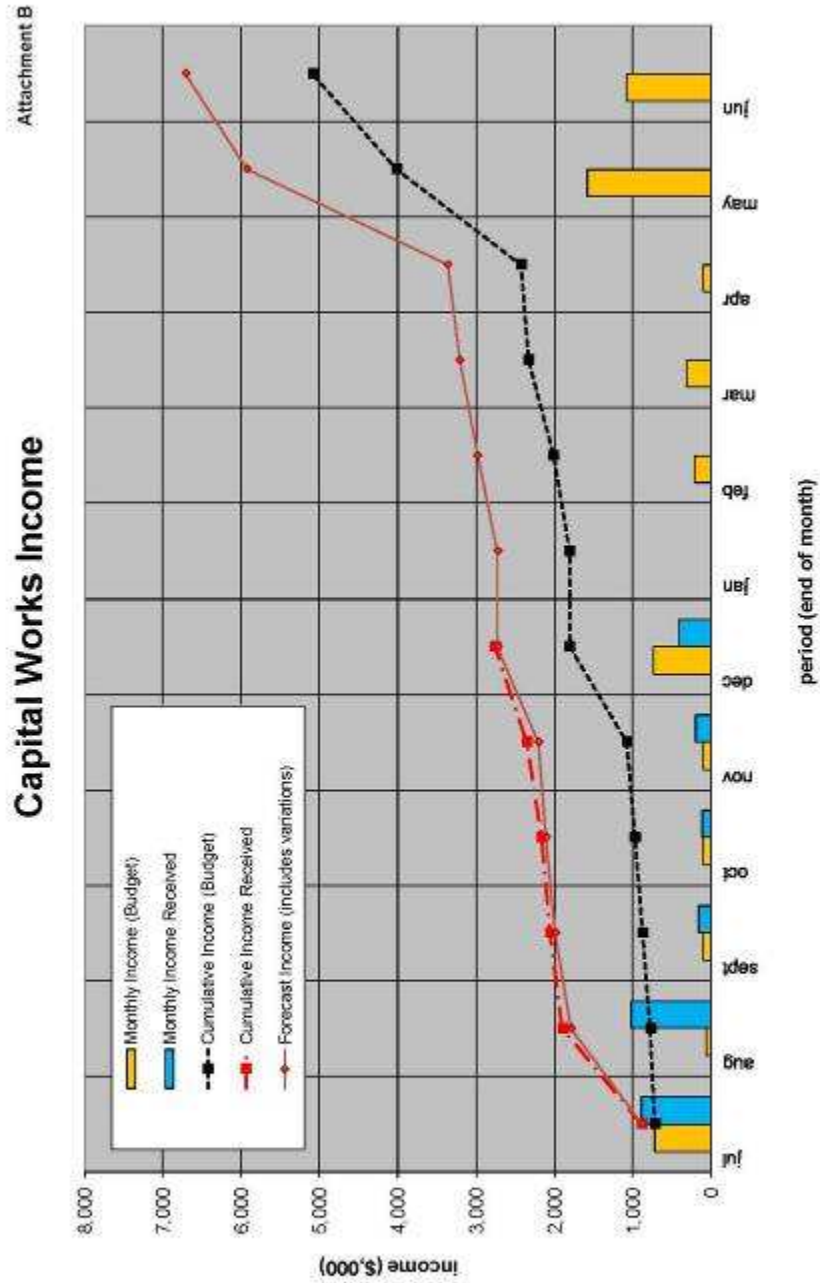
Proposed Carry Forwards (2016/17)

The following is a list of proposed carry forwards for 2016/17:

Table H - Proposed Carry Forwards	\$'000	Comments
• Energy Efficiencies	130	In order to obtain maximum benefit and value with the replacement of street light fittings that will result in a reduction in Council's operating costs, it is proposed that the works be undertaken over a two year period resulting in the need to carry forward funds to complete the project in 2016/17.

<ul style="list-style-type: none"> • Drainage Strategy Implementation (Bolin Bolin Wetlands) 	251	Negotiation delays have been encountered in seeking resolution from the external funding partners regarding the current funding shortfall and the ongoing operational costs. As a result, the project will not be sufficiently advanced to enable the current allocation of funds to be spent this financial year resulting in the need to carry forward \$251K to complete the project in 2016/17.
<ul style="list-style-type: none"> • Contract and Project Management System 	200	The project is presently focussed on improving and maturing project management disciplines and processes that will ultimately translate into a corporate wide technology solution. The project will not be sufficiently advanced due to project planning and internal resourcing issues to enable the entire allocation of funds to be spent this financial year.
<ul style="list-style-type: none"> • Park Avenue Reserve Synthetic Soccer Pitch 	169	Project planning and consultation delays have been encountered with the club in finalising the scope of works, which will also need to be undertaken during the non sporting season (late autumn and winter) when disruption to the club and sports ground users will be minimised. As a result, the project will not be sufficiently advanced to enable the majority of funds to be spent this financial year.
<ul style="list-style-type: none"> • Sheahans Road Highball Facility 	200	The successful delivery of the project is dependent on a contribution of \$800K from the Bulleen Templestowe Basketball club, which is required prior to the signing of the contract to commence works. The project will not be sufficiently advanced to enable the majority of funds to be spent this financial year.
Total	950	





12. COMMUNITY PROGRAMS

There are no Community Programs reports.

13. CORPORATE SERVICES

13.1 Financial Status Report - December 2015

Responsible Director: Director Shared Services

File No. .

The ultimate destination for this report is: COUNCIL AGENDA

Neither the responsible Director, Manager nor the Officer authoring this report has a conflict of interest in this matter.

SUMMARY

The attached Financial Status Report for the period ending 31 December 2015 is provided for review and consideration.

The December report details an overall positive performance and shows an improvement to the year to date operating results and financial positions adopted in the 2015/16 Annual Budget. Material variations to the adopted budget forecasts have been reflected in the Mid Year Review which is due to be tabled to Council at the 2 February 2016 meeting.

1 BACKGROUND

- 1.1 The attached Financial Status Report for the period ending 31 December 2015 reflects that Council's budgetary operating and financial position are sound and are performing better than year to date target. Commentary on performance is by exception and as appropriate.
- 1.2 Reporting on the performance of the Capital Works Program, Customer Feedback System, Council Plan Initiatives, Local Government Performance and Reporting Framework and Councillor expenditure is provided through alternate reporting mechanisms

2 PROPOSAL/ISSUE

- 2.1 It is proposed that the attached Financial Status Report for the period ending 31 December 2015 be noted.

3 FINANCIAL RESOURCE IMPLICATIONS

- 3.1 There are no adverse financial resource impacts arising from the review of Council's December 2015 financial results.

4 CONCLUSION

- 4.1 It can be concluded that satisfactory progress has been made in regard to the achievement of budget outcomes to the end of December 2015.

OFFICER'S RECOMMENDATION

That the attached Financial Status Report detailing the financial performance of Council to 31 December 2015 be noted.

MOVED: HAYNES
SECONDED: McLEISH

That the Recommendation be adopted.

CARRIED

"Refer Attachments"

* * * * *



Financial Status Report

December 2015

FINANCIAL STATUS REPORT - DECEMBER 2015

Overview

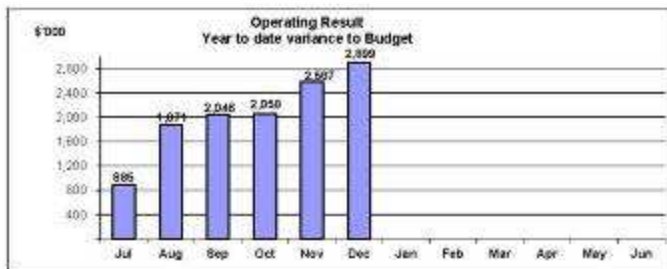
This Financial Status Report covers the period ending 31 December 2015. Variances are reported against the annual budget adopted by Council on 23 June 2015.

Operating Surplus

	Year to 31 December 2015			
	Adopted Budget \$'000	Actual \$'000	Variance \$'000	Variance %
Revenues	106,346	108,990	2,644	F 2.5%
Expenses	54,933	54,678	255	F 0.5%
Operating surplus	\$1,413	\$4,312	2,899	F 5.6%

Commentary

Council's financial position reflects an overall positive performance against the operating budget, particularly through the raising of additional revenues. The key revenue increases include \$921,000 in additional rate income, the receipt of \$1,078,000 of unbudgeted capital grants to December, a high level of favourable user charges of \$362,000 - including Statutory Planning fees \$201,000, favourable operating grants of \$183,000. On the expenses side, other expenses and depreciation are currently favourable by \$202,000 and \$117,000 respectively.

**Underlying Surplus**

The Underlying surplus is a measure of the actual surplus realised by the Council excluding non cash revenues and expenses, capital income, sale of assets and transfers to reserves. Council uses the underlying surplus, in addition to external grants, to fund the capital program.

	Adopted Budget \$'000	Actual \$'000	Variance \$'000	Variance %
Operating surplus	51,413	54,312	2,899	5.6%
less(add) capital grants & contributions	446	1,524	1,078	242%
less(add) developer contributions	1,384	1,384		
less(add) net gain or loss on disposal of assets	196	181	(15)	(7.7%)
add(less) depreciation	10,229	10,113	116	1%
add(less) other adjustments	89	20	69	78%
Underlying surplus	59,705	61,356	1,651	2.8%

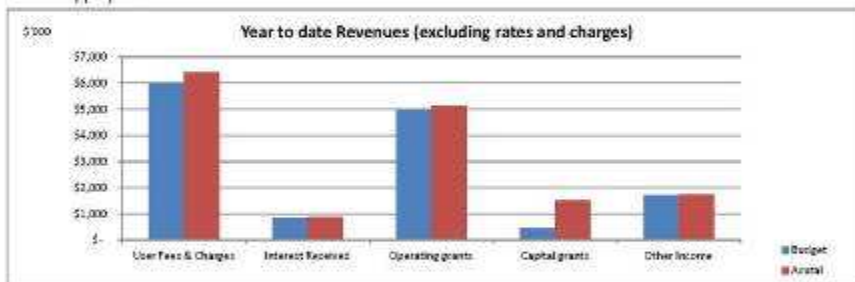
Other key indicators

Cash and investment balance	\$56.53 million
Unrestricted cash	\$25.27 million
Rates and charges debtors	\$48.54 million (55.43% of the \$93.022 m raised in 2015/16 have been collected)

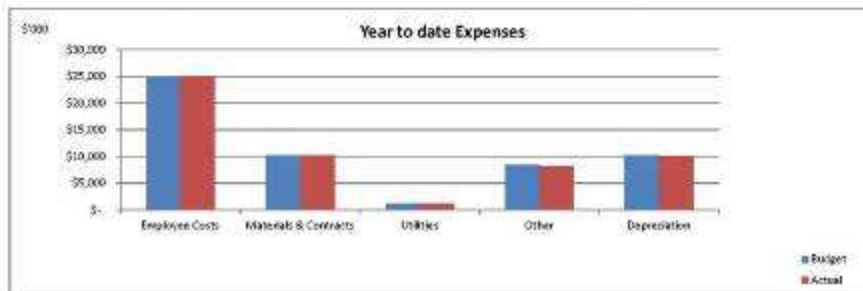
FINANCIAL STATUS REPORT - DECEMBER 2015

Income and Expenditure

This section details the year to date results against each major revenue and expenditure groupings. Explanations of key variances have been provided where the line item has a variance of greater than 10 per cent reporting threshold or where further explanation is deemed appropriate.



The 2015/16 annual Rates and charges totalling \$93,022 million were raised in July 2015. This revenue group is excluded from the graph above as the high value relative to other revenue categories would distort the graph.



Reason for year-to-date variances	Action required/taken
<p>1 Rates General \$921,000 Favourable</p> <ul style="list-style-type: none"> * Ten years worth of back rates were raised on the former Eastern Golf Club site following the sale and subsequent change in use of the property. This raised \$1.90 million in rate revenue compared to a budget of \$1.20 million. * The first supplementary rate run for 2015/16 raised an extra \$150,000 rates revenue above budget forecasts due to an increased number of properties being rated for the first time. * During August, the Thear/Boronia Grove special rates scheme was established which raised \$82,000. 	<p>The full revenue associated with the former Eastern Golf Club is not guaranteed, despite being paid in full, as the owner's lawyers have showed intention to object to the application of the Cultural and Recreational Lands Act 1963.</p>
<p>2 Capital Grants and Contributions \$1,076,000 Favourable</p> <p>Unbudgeted capital contributions have been received for following projects:</p> <ul style="list-style-type: none"> * Manningham Recreation Association for Highball Facilities \$663,000 * Wonga Park Tennis Club upgrade \$95,000 * Montessori Pre School upgrade and refurbishments \$88,000 * Stride Early learning Centre upgrade and refurbishments \$83,000 * Wonga Park Sportsground refurbishment (State Gov't grant) \$61,000 * Melbourne Water grant for Mullum Mullum Highball \$53,000 * Bus stop at Springvale Rd and Leslie St, Donvale \$15,000 * Centre wickets construction \$13,000 	<p>Unbudgeted revenue has been included in the capital works program and will be included in updated forecasts as part of the Mid Year Review. These new capital grants will be used for capital works in 2015/16 and 2016/17 financial years.</p>

Conclusion

The December 2015 financial results indicate that Council is performing better than year to date forecasts. Any material variation since the budget was adopted in June 2015 has been reflected in the Mid Year Review.

13.2 2015/2016 Mid Year Review

Responsible Director: Director Shared Services

File No. T15/308

The ultimate destination for this report is: COUNCIL AGENDA

Neither the responsible Director, Manager nor the Officer authoring this report has a conflict of interest in this matter.

SUMMARY

On 23 June 2015, Council adopted the 2015/16 Budget (the Adopted Budget) based on estimates prepared during the first quarter of 2015.

The 2015/16 Mid Year Review (MYR) is undertaken to critically review and reprioritise current year operational budgets where required, consider new initiatives and refine year-end forecasts in response to changing internal and external factors.

The outcome of the MYR is summarised in the table below and represents an overall improvement to the financial position (net assets) of Council when compared to the Adopted Budget.

Key Financial Indicators	Adopted Budget (June 2015) \$ million	MYR Adjustment (Dec 2015) \$ million	Reviewed Forecast \$ million
Operating surplus for the year	16.266	(0.251)	16.015
Underlying cash surplus	29.023	(1.022)	28.001
Capital Expenditure	37.616	1.609	39.225
Cash and Investments	44.470	2.703	47.173
Net Assets	1,690.800	157.997	1,848.797

The operating surplus for 2015/16 is forecast to decrease by \$0.25 million to \$16.01 million, though after taking into account \$1.23 million in cash grants received late in 2014/15 for the 2015/16 year, the result represents an improved position.

Key variances to income and expenditure include:

Income

- *General rate income is forecast to increase by \$1.142 million chiefly due to back rates from the former Eastern Golf Club land and an increase in the number of properties rated for the first time.*
- *Higher than budgeted capital grants of \$0.750 million for capital work projects*
- *Recovery of service delivery costs through the charges of fees to users of Council's services is expected to increase by \$0.571 million*
- *Timings of Financial Assistance Grants payment of \$1.231 million which was received in advance in late June 2015*

Expenses

- *\$1.104 million is allocated to improve the core IT systems as part of the IT Transformation project. The project expenses for 2015/16 are largely funded from favourable budget outcomes in prior years*

Attachment 1 to this report provides detailed explanations of key variances to the Adopted Budget and includes updated financial statements reflecting the forecast year end position as at 30 June 2016.

1 BACKGROUND

- 1.1 Council adopted the 2015/16 financial year budget on the basis of maintaining operational service levels including extended capacity to service growth in the municipality. The Budget also provides for the required renewal and enhancement of community assets throughout the municipality.
- 1.2 The MYR is prepared as at the end of December as one of the strategies used to monitor and track financial targets and achieve financial sustainability. Later in the financial year, a March update is also prepared to further refine year end forecasts.
- 1.3 During the MYR process, the Executive Management Team and Service unit Managers reviewed financial performance in the year to date and considered the impacts of changed circumstances and priorities.
- 1.4 The MYR provides an opportunity to Council to review and re-prioritise current year operational budget allocations to achieve best outcomes within established budget provisions.
- 1.5 The MYR outcomes are presented in the attached report in detail along with the explanations to the key variances and financial performance indicators set as part of the 2015/16 Budget.
- 1.6 The MYR represents an update to financial forecasts only, not a revised budget, and therefore the Adopted Budget will still form the basis for statutory reporting purposes for the 2015/16 year.

2 PROPOSAL/ISSUE

- 2.1 It is proposed that Council consider the attached 2015/16 Mid Year Report, noting the proposed reviewed financial forecast, factors contributing to the revision, and the impact of the Review on the Council's financial indicators.
- 2.2 The proposed MYR outcomes represent an update to the year-end forecast, not the adoption of a Revised Budget. As such, the 2015/16 Annual Report will compare financial outcomes against the budget adopted by Council on 23 June 2015.

3 PRIORITY/TIMING

- 3.1 It is proposed that the reviewed forecast will be used for financial reporting effective from the February 2016 Financial Status Report.

4 POLICY/PRECEDENT IMPLICATIONS

- 4.1 The forecast year end (30 June 2016) results will form the starting point for preparing the 2016/17 Budget, forecasts for the Strategic Resource Plan and associated Ten Year Financial Strategy.

5 BEST VALUE

The MYR aligns with the Best Value and continuous improvement principles of maintaining operational service levels including extended capacity to service growth in the municipality.

6 FINANCIAL PLAN

- 6.1 The key financial performance indicators are summarised below:

Financial Performance Indicators	Actual	Adopted Budget	Reviewed Forecast
	2014/15	2015/16	2015/16
Operating position			
Adjusted underlying result [Adjusted underlying surplus (deficit) / Adjusted underlying revenue] x 100	7.0%	7.6%	6.7%
Liquidity			
Working capital [Current assets / Current liabilities] x 100	206.1%	176.0%	189.9%
Unrestricted cash [Unrestricted cash / Current liabilities] x 100	60.4%	63.0%	59.3%
Obligations			
Loans and borrowings [Interest bearing loans and borrowings / Rate revenue] x 100	8.3%	7.9%	7.8%
Loans and borrowings [Interest and principal repayments / Rate revenue] x 100	0.3%	0.3%	0.3%
Indebtedness [Non-current liabilities / Own source revenue] x 100	8.0%	7.7%	7.4%
Asset renewal [Asset renewal expenses / Asset depreciation] x 100	71.3%	83.5%	87.1%
Stability			
Rates concentration [Rate revenue / Adjusted underlying revenue] x 100	76.5%	78.6%	79.0%
Rates effort [Rate revenue / Capital improved value of rateable properties in the municipality] x 100	0.2%	0.3%	0.3%

Financial Performance Indicators	Actual	Adopted Budget	Reviewed Forecast
	2014/15	2015/16	2015/16
Efficiency			
Expenditure level [Total expenses / Number of property assessment]	\$2,282	\$2,325	\$2,363
Revenue level [Residential rate revenue / Number of residential property assessments]	\$1,832	\$1,840	\$1,947
Workforce turnover Number of permanent staff resignations and terminations / Average number of permanent staff for the financial year] x 100	8.3%	9.5%	9.5%
Sustainability			
Own-source revenue [Own-source revenue / Municipal population]	\$860	\$883	\$898
Recurrent grants [Recurrent grants / Municipal population]	\$110	\$99	\$96
Total expenditure [Total expenses / Municipal population]	\$895	\$899	\$914
Infrastructure [Value of infrastructure / Municipal population]	\$5,944	\$6,112	\$6,012
Population density [Municipal population / Kilometres of local roads]	198	201	201

7 FINANCIAL RESOURCE IMPLICATIONS

- 7.1 The financial movements reported to Council are those of material nature and will therefore have an impact on the Operating Surplus for the year.

8 CONSULTATION

- 8.1 Service Unit Managers and Directors have critically reviewed and reprioritised current year operational budgets in response to changing internal and external factors.

9 CONCLUSION

- 9.1 With the commitment of management and staff, and continued focus on productivity improvements and expenditure restraint, the MYR is forecasting achievement of the Adopted Budget financial outcomes.

- 9.2 The MYR forecasts will be used for financial reporting effective from the February 2016 Financial Status Report.
- 9.3 The positive MYR forecasts will form a strong starting point for establishing the 2016/17 Budget.

OFFICER'S RECOMMENDATION

That Council note the updated year-end financial forecasts and Key Financial Performance Indicators for the 2015/16 year.

**MOVED: McLEISH
SECONDED: KLEINERT**

That the Recommendation be adopted.

CARRIED

"Refer Attachments"

* * * *

**Attachment 1
2015/16 Mid Year Review**



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**Attachment 1
2015/16 Mid Year Review**



1. Executive Summary

On 23 June 2015, Council adopted the 2015/16 financial year budget on the basis of maintaining operational service levels including extended capacity to service growth in the municipality. The Budget also provides for the required renewal and enhancement of community assets throughout the municipality.

To track performance against the adopted budget, regular monthly reviews are conducted as part of the Monthly Financial Status Report. The Mid Year Review (MYR) represents a more formal and comprehensive review to ensure that budget accountabilities and targets remain responsive, realistic and achievable.

The 2015/16 MYR has been completed and enabled Service Unit Managers, the Executive Management and Council to critically review and reprioritise current year operational budgets where required, consider new initiatives and refine year-end forecasts in response to changing internal and external factors.

The outcome of the MYR against the Budgeted key financial indicators is summarised below.

Key Financial Indicators	Section	Adopted Budget	MYR	Reviewed Forecast
		(June 2015)	Adjustment	
		\$ million	\$ million	\$ million
Operating surplus for the year	2	16,266	(0.251)	16,015
Underlying cash surplus	2	29,023	(1,022)	28,001
Capital Expenditure	3	37,616	1,609	39,225
Cash and Investments	4	44,470	2,703	47,173
Net Assets	5	1,690,800	157,997	1,848,797

Throughout this report variances in brackets indicate an unfavourable variance.

Management has critically reviewed all mid-year budgets and 'bids' for additional operational funding and recommends approval of items listed throughout this report.

The operating surplus for the year (accrual based) is forecast to decrease by \$0.251 million (or -1.5 per cent) to \$16.015 million against the Adopted Budget.

The underlying cash surplus, which is a measure of the actual surplus realised by the Council after adjusting the result for items received for specific purposes such as capital grants, developers contributions and non-cash items like depreciation and amortisation is also forecast to decrease by \$1.023 million (or -3.5 per cent) to \$28.001 million. After adjusting for grants received in June 2015 for 2015/16, the underlying cash surplus would have increased by \$0.311 million (or 1.1 per cent) to \$29.334 million.

Explanations for the income and expense variances are summarised in section 2 of this report.

Note: The proposed MYR outcomes represent an update to the year-end forecast, not the adoption of a Revised Budget. As such, the 2015/16 Annual Report will compare financial outcomes for 2015/16 against the budget adopted by Council on 23 June 2015.

It is proposed that the reviewed forecasts as detailed in this report be used for monthly financial reporting effective from the February 2016 Financial Status Report.

**Attachment 1
2015/16 Mid Year Review**



2. Net Operating Result

This section details key movements in revenue and expenditure by account group resulting from the MYR forecasts.

	Adopted Budget	MYR Adjustment	Reviewed Forecast	Reviewed Forecast (underlying)
	\$ million	\$ million	\$ million	\$ million
Revenue	124.664	1.490	126.154	117.662
Expenditure	108.398	(1.741)	110.139	89.661
Operating surplus for the year	16.266	(0.251)	16.015	28.001

Operating Income	Adopted Budget	MYR Adjustment	Reviewed Forecast	Reviewed Forecast (underlying)	Note
	\$ million	\$ million	\$ million	\$ million	
11 - Rates - general	92.191	1.142	93.333	93.333	2a
12 - Statutory charges, fees & fines	1.765	(0.037)	1.728	1.728	
13 - User charges	9.709	0.571	10.280	10.280	2b
14 - Interest revenue	1.598	-	1.598	1.598	
15 - Operating grants & subsidies	10.828	(1.007)	9.821	9.821	2c
16 - Capital grants & contributions	4.506	0.750	5.256	-	2d
17 - Other revenue	3.665	0.071	3.736	0.902	
18 & 28 - Net gain on disposal of assets	0.402	-	0.402	-	
Total Operating Income	124.664	1.490	126.154	117.662	

Notes

2a) Rates and waste charges is forecast to increase by \$1,142,000

The general rates and charges (including supplementary rates) is forecast to increase by \$1.142 million mainly due to ten years worth of back rates raised on the former Eastern Golf Club site following the sale and subsequent change in use of the property. This is projected to raise \$1.889 million in rate revenue, \$0.689 million higher than budget of \$1.200 million.

Supplementary rate income for 2015/16 is expected to be \$0.375 million above forecasts due to an increased number of properties being rated for the first time. In addition, the Thea/Boronia Grove Catchment Easement Drainage Scheme was introduced during the year which raised unbudgeted \$0.082 million.

**Attachment 1
2015/16 Mid Year Review**



2b) User charges are forecast to increase by \$571,000

User charges relate mainly to the recovery of service delivery costs through the charges of fees to users of Council's services. For the year, the user charges are forecast to increase by \$0.571 million mainly in the following services:

- Statutory Planning income to increase by \$0.280 million as a result of increased number of planning applications
- Eastern Golf Course and Mullum Mullum planning referral fees are expected to generate additional \$0.185 million in the Engineering and Technical Services.
- Court awarded fines, reimbursements and recovery of legal expenses in the Health and Local Laws totalling \$0.079 million

These increases are partly offset by reductions in the Manningham Centre Association rental income of \$0.071 million due to extended negotiations regarding a revised lease negotiation and bus shelter advertising revenue of \$0.042 million.

2c) Operating grants and subsidies are forecast to decrease by \$1,007,000

Operating grants are forecast to be \$1.007 million lower than adopted budget. This mainly represents Financial Assistance Grants payment of \$1.231 million which was received in advance in late June 2015.

To partly offset this reduction, Cultural Services received new \$0.120 million grant for Vic Health Plaza Park program and Aged and Disability Services additional HACC funding of \$0.085 million for domestic and personal care.

2d) Capital Grants and subsidies are forecast to increase by \$750,000

Capital grants are expected to increase by \$0.750 million mainly due to following projects:

Increase

- Manningham Recreation Association contribution of \$1.277 million for Highball facilities
- Sports Recreation Victoria grant of \$0.500 million for Aquarena Master Plan implementation
- Road to Recovery additional income of \$0.318 million resulting from reintroduction of the fuel excise
- Club contributions of \$0.095 million for Wonga Park Tennis Club refurbishment and pavilion upgrade
- Montessori Pre School upgrade and refurbishment contribution of \$0.088 million
- Stride Early Learning Centre upgrade and refurbishment contribution of \$0.083 million
- Taxi grant of \$0.073 million from Department of Justice
- Club contribution of \$0.061 million towards Wonga Park Reserve Oval # 1 floodlighting
- Melbourne Water grant of \$0.053 million for Mullum Mullum Highball facility
- Club contribution of \$0.040 million for Zerbes Reserve floodlighting
- Owner contribution of \$0.040 million for Yarra Street Pride of Place
- State Government grant of \$0.025 million for Neighbourhood Activity Centres (Jackson Court)
- Public Transport Victoria grant of \$0.015 million for Bus Stop at Springvale Rd & Leslie St, Donvale

Attachment 1
2015/16 Mid Year Review

Decrease

- Bulleen Templestowe Basketball contribution of \$0.600 million and State Government contribution of \$0.500 million for Sheahans Highball facility to be received in 2016/17
- Financial Assistance Grants of \$0.376 million received in advance in late June 2015
- Government grant of \$0.318 million for Bolin Bolin Wetland project received in late 2014/15 to be expensed in 2015/16
- Club contribution of \$0.100 million for Park Avenue Reserve Synthetic Pitch to be claimed in 2016/17

Expenditure

Operating Expenditure	Adopted Budget	MYR Adjustment	Reviewed Forecast	Reviewed Forecast (cash result)	Note
	\$ million	\$ million	\$ million	\$ million	
21 - Employee costs	47.915	(0.363)	48.278	48.278	2e
22 - Materials & contracts	22.273	0.027	22.246	22.214	
23 - Interest	0.309	-	0.309	0.309	
24 - Utilities	2.818	(0.014)	2.832	2.832	
26 - Other expenses	14.736	(1,391)	16.127	16.028	2f
27 - Depreciation	20.347	-	20.347	-	
Total operating expenditure	108.398	(1.741)	110.139	89.661	

2e) Employee costs are forecast to increase by \$363,000

Key changes in the employee cost forecasts chiefly relates to additional non permanent staffing costs in the areas of:

- Statutory Planning (\$0.374 million) and Engineering and Technical Services (\$0.144 million) to resource an increased planning application workload. This is largely funded by projected additional income of \$0.421 million in these areas
- costs associated with the new IT Transformation project (\$0.090 million in staffing plus additional costs in the other expenses line item) to upgrade Council's core IT systems – this project is primarily funded from favourable budget outcomes in prior years.

In addition, net savings of \$0.366 million in Workcover premium is largely offsetting the increase in other employee costs. This is achieved mainly due to active monitoring and managing of claims and 3.0% early payment discount.

2f) Other expenses are forecast to increase by \$1,391,000

The increase in other expenses chiefly relates to \$1.015 million new funding allocated to the IT Transformation project to upgrade Council's core IT systems. These funds were established from favourable budget outcomes in prior years. Also contributing to the variance is the provision for legal expenses to defend Council's decisions in the Animal Management and Property Valuations areas.

**Attachment 1
2015/16 Mid Year Review**



3. Capital Program

The capital program is forecast to increase by \$1.609 million from the adopted budget to \$39.225 million. The detailed 2015/16 Capital Works Program Status Report as at the end of December will be presented to Council at 2 February 2016 Council Meeting. A summary of the variations to the adopted budget is presented in the table below.

Summary of Variances	\$ million
Adopted Budget	37.616
Additional carry forwards from 2014/15	0.937
Grants and Income received in advance	0.171
Additional grant and income	2.661
Grants and income removed from the budget	(1.210)
Proposed Carry forwards to 2016/17	(0.950)
Total MYR Forecast	39.225

4. Cash Position

	Adopted Budget	MYR Adjustment	Reviewed Forecast
	\$ million	\$ million	\$ million
Cash and Investments	44.470	2.703	47.173

The Mid Year Review forecasts a cash and investment balance of \$47.173 million as at 30 June 2016. The increase of \$2.703 million is mainly the result of \$0.950 million in capital works proposed to be carried over into 2016/17 and higher than forecast reserve balances.

The cash forecast of \$47.173 million is supported by significant balances held in reserves (restricted cash balance) for the future Waste Bin Replacement \$15.015 million, Resort and Recreation Reserve \$4.863 million, trust funds \$7.034 million and \$0.950 million in carry forward capital works. The remaining unrestricted cash balance of \$17.66 million represents approximately seven weeks of cash outflows.

5. Net Assets

	Adopted Budget	MYR Adjustment	Reviewed Forecast
	\$ million	\$ million	\$ million
Net Assets	1,690.800	157.997	1,848.797

The MYR forecasts net assets of \$1,848.797 million at 30 June 2016. The increase of \$157.997 million chiefly relates to the valuation of Council assets mainly land in the prior year (2014/15) increasing more than budgeted reflecting strong property price movements within the municipality. The increased values are carried forward into 2015/16.

Attachment 1
2015/16 Mid Year Review



6. Financial Performance Indicators

The following table highlights the projected performance across a range of key financial performance indicators. These indicators provide a useful analysis of Council's financial position and performance for the year ending 30 June 2016.

Financial Performance Indicators	Actual 2014/15	Adopted Budget 2015/16	Reviewed Forecast 2015/16
Operating position			
Adjusted underlying result [Adjusted underlying surplus (deficit) / Adjusted underlying revenue] x 100	7.0%	7.6%	6.7%
Liquidity			
Working capital [Current assets / Current liabilities] x 100	206.1%	176.0%	189.9%
Unrestricted cash [Unrestricted cash / Current liabilities] x 100	60.4%	63.0%	59.3%
Obligations			
Loans and borrowings [Interest bearing loans and borrowings / Rate revenue] x 100	8.3%	7.9%	7.8%
Loans and borrowings [Interest and principal repayments / Rate revenue] x 100	0.3%	0.3%	0.3%
Indebtedness [Non-current liabilities / Own source revenue] x 100	8.0%	7.7%	7.4%
Asset renewal [Asset renewal expenses / Asset depreciation] x 100	71.3%	83.5%	87.1%
Stability			
Rates concentration [Rate revenue / Adjusted underlying revenue] x 100	76.5%	78.6%	79.0%
Rates effort [Rate revenue / Capital improved value of rateable properties in the municipality] x 100	0.2%	0.3%	0.3%
Efficiency			
Expenditure level [Total expenses / Number of property assessment]	\$2,282	\$2,325	\$2,363
Revenue level [Residential rate revenue / Number of residential property assessments]	\$1,832	\$1,840	\$1,947
Workforce turnover Number of permanent staff resignations and terminations / Average number of permanent staff for the financial year] x 100	8.3%	9.5%	9.5%

**Attachment 1
2015/16 Mid Year Review**



Financial Performance Indicators	Actual	Adopted Budget	Reviewed Forecast
	2014/15	2015/16	2015/16
Sustainability			
Own-source revenue [Own-source revenue / Municipal population]	\$860	\$883	\$898
Recurrent grants [Recurrent grants / Municipal population]	\$110	\$99	\$96
Total expenditure [Total expenses / Municipal population]	\$895	\$899	\$914
Infrastructure [Value of infrastructure / Municipal population]	\$5,944	\$6,112	\$6,012
Population density [Municipal population / Kilometres of local roads]	198	201	201

7. Financial Challenges

The introduction of the new rate capping framework from mid 2016 will have significant impact on Council's ability to raise revenue for service delivery and capital works program. The detailed impact analysis is currently underway which will be highly influenced by the Minister's decision of the capped rate to be used to limit the increase in rates paid by an average rate payer.

The initial analysis of the impact of rate capping indicates that the first year of the new framework is manageable due to cost containment efforts imposed by the current council and higher than forecast growth in developments. However, it is anticipated that financial impact of rate capping from year two onwards will start to influence the Council's ability to continue our current level of services and capital works program.

Currently, the Council is undertaking a Future Readiness Campaign to better prepare for the management of financial challenges arising from the introduction of the State Government rate capping framework.

**Attachment 1
2015/16 Mid Year Review**



8. Conclusion

	Adopted Budget	MYR Adjustment	Reviewed Forecast
Key Financial Indicators	\$ million	\$ million	\$ million
Operating surplus for the year	16.266	(0.251)	16.015
Underlying cash surplus	29.023	(1.022)	28.001
Capital Expenditure	37.616	1.609	39.225
Cash and Investments	44.470	2.703	47.173
Net Assets	1,690.800	157.997	1,848.797

The financial position forecast at 30 June 2016 forms a base for the 2016/17 Budget and 2016/17 to 2025/26 Financial Strategy.

It is recommended that the revised income and expenditure forecasts and explanations of major variations detailed in this report be noted by Council. It is further proposed that the Financial Status Report from February 2016 onwards will report on income and expenditure variances to the Mid Year Review forecasts noted in this report.

Continued productivity improvement and expenditure restraint will remain a critical focus for the second half year of the operations and beyond the current financial year to manage the financial challenges arising from the introduction of the rate capping framework.

Attachment 1
2015/16 Mid Year Review



9. Appendix 1. Mid Year Review Statements

Manningham City Council
Budgeted Comprehensive Income Statement
For the year ending 30 June 2016

	Actual 2014/15 \$'000	Budget 2015/16 \$'000	Forecast 2015/16 \$'000	Variance \$'000
Income				
Rates charges	75,142	80,211	81,307	1,096
Waste charges	12,149	11,980	12,026	46
Statutory fees and fines	1,665	1,765	1,728	(37)
User charges	10,272	9,709	10,280	571
Interest income	1,787	1,598	1,598	-
Operating grants (recurrent)	11,900	10,672	9,697	(975)
Operating grants (non-recurrent)	236	156	124	(32)
Capital grants and contributions (non-recurrent)	1,304	3,238	3,444	206
Capital grants and contributions (recurrent)	1,137	1,268	1,812	544
Operating contributions - Developer Contributions (cash)	2,094	2,351	2,351	-
Contributed Assets (non-cash)	1,618	464	464	-
Net gain/(loss) on disposal of property, infrastructure, plant and equipment	(2,330)	402	402	-
Other revenue	750	850	921	71
Total income	117,724	124,664	126,154	1,490
Expenses				
Employee costs	45,948	47,915	48,278	(363)
Materials, services and contracts	10,499	11,621	11,973	(352)
Waste contracts	9,452	10,652	10,273	379
Utilities	2,538	2,818	2,832	(14)
Community grants	5,137	5,329	5,256	73
Depreciation and amortisation	19,754	20,347	20,347	-
Share in profit/(loss) from investment in associate	(153)	-	-	-
Finance costs	294	309	309	-
Other expenses	10,093	9,407	10,871	(1,464)
Total expenses	103,562	108,398	110,139	(1,741)
Surplus (deficit) for the period	14,162	16,266	16,015	(251)
Other comprehensive income				
Net asset revaluation increment	180,582	32,695	32,695	-
Comprehensive result	194,744	48,961	48,710	(251)

**Attachment 1
2015/16 Mid Year Review**



**Manningham City Council
Budgeted Balance Sheet
For the year ending 30 June 2016**

	Actual 2014/15 \$'000	Budget 2015/16 \$'000	Forecast 2015/16 \$'000	Variance \$'000
Assets				
Current assets				
Cash and cash equivalents	48,821	44,470	47,173	2,703
Trade and other receivables	7,706	6,507	8,378	1,871
Accrued income	605	1,004	605	(399)
Prepayments	358	179	368	189
Total current assets	57,490	52,160	56,524	4,364
Non-Current Assets				
Investments (Regional Library)	1,992	1,839	1,992	153
Investments	169	163	169	6
Trade and other receivables	31	31	31	-
Property, plant & equipment	1,774,798	1,872,681	1,826,286	153,605
Intangibles	1,617	1,808	1,617	(191)
Total non-current assets	1,778,607	1,676,522	1,830,095	153,573
Total assets	1,836,097	1,728,682	1,886,619	157,937
Liabilities				
Current liabilities				
Payables	(9,702)	(12,631)	(10,273)	2,358
Trust funds	(6,103)	(5,173)	(7,033)	(1,860)
Provisions	(11,442)	(11,166)	(11,766)	(600)
Income received in advance	(643)	(673)	(693)	(20)
Total current liabilities	(27,890)	(29,643)	(29,765)	(122)
Non-current liabilities				
Provisions	(841)	(960)	(778)	182
Loan - non-current	(7,279)	(7,279)	(7,279)	-
Total non-current liabilities	(8,120)	(8,239)	(8,057)	182
Total liabilities	(36,010)	(37,882)	(37,822)	60
Net assets	1,800,087	1,690,800	1,848,797	157,997
Equity				
Accumulated surplus	(615,922)	(629,582)	(630,646)	(1,064)
Asset revaluation reserve	(1,180,397)	(1,056,222)	(1,213,092)	(156,870)
Other reserves	(3,768)	(4,996)	(5,059)	(63)
Total equity	(1,800,087)	(1,690,800)	(1,848,797)	(157,997)

Attachment 1
2015/16 Mid Year Review



Manningham City Council
Budgeted Statement of Cash Flows
For the year ending 30 June 2016

	Actual 2014/15 \$'000	Budget 2015/16 \$'000	Forecast 2015/16 \$'000	Variance \$'000
Cash flows from operating activities				
Receipts				
Rates	74,989	80,058	80,635	577
Waste charges	12,149	11,980	12,026	46
Fees, fines and user charges	11,379	11,524	12,059	535
Operating grants	12,136	10,828	9,821	(1,007)
Capital grants	2,174	4,506	5,256	750
Contributions	2,239	2,351	2,351	-
Interest	1,821	1,598	1,598	-
Other receivables	520	850	921	71
Total receipts	117,407	123,695	124,667	972
Payments				
Payments to suppliers	(37,003)	(39,508)	(40,925)	(1,417)
Payment to employees	(45,988)	(46,183)	(47,738)	(1,555)
Interest payments	(294)	(309)	(309)	-
Total payments	(83,285)	(86,000)	(86,972)	(2,972)
Net cash provided by operating activities	34,122	37,695	35,695	(2,000)
Cash flows from investing activities				
Property, plant & equipment	(29,181)	(37,616)	(39,225)	(1,609)
Proceeds from assets sold	439	952	952	-
Net cash used in investing activities	(28,742)	(36,664)	(38,273)	(1,609)
Cash flows from financing activities				
Proceeds from borrowings	-	-	-	-
Repayment of borrowings	-	-	-	-
Trust deposits	924	-	930	930
Net cash provided by financing activities	924	-	930	930
Net increase (decrease) in cash and investments	6,304	1,031	(1,648)	(2,679)
Cash and cash equivalents at beginning of year	42,517	43,438	48,821	5,383
Cash and cash equivalents at end of year	48,821	44,469	47,173	2,704

13.3 Appointment of Acting Chief Executive Officer - February 2016

Responsible Manager: Acting Manager Strategic Governance - Jill Colson

File No. .

The ultimate destination for this report is: COUNCIL AGENDA

Neither the responsible Manager nor the Officer authoring this report has a conflict of interest in this matter.

SUMMARY

Due to the resignation of Mr Joe Carbone as Chief Executive Officer, Council appointed Mr Chris Potter, Director Community Programs, as Acting Chief Executive Officer for the period from 18 January to 2 February 2016. As Mr Joe Carbone's resignation took effect from 29 January, it is necessary to appoint an Acting Chief Executive for a period after the 2 February 2016.

1 BACKGROUND

- 1.1 The Council at its meeting on 15 December 2015 appointed Mr Chris Potter, Director Community Programs, as Acting Chief Executive Officer for the period from 18 January to 2 February 2016, both dates inclusive. Mr Potter's appointment was made for the duration of Mr Carbone's absence on leave leading up to his resignation date. As Mr Potter's current appointment as Acting Chief Executive Officer is due to expire before the appointment of a new permanent Chief Executive Officer, Council therefore needs to appoint an Acting Chief Executive Officer for the period from 3 February 2016 until the formal commencement date (to be determined by Council) for the Council's new Chief Executive Officer.

OFFICER'S RECOMMENDATION

That –

1. **Mr Chris Potter, Director Community Programs, be appointed as Acting Chief Executive Officer for the period from 3 February 2016 until the formal commencement date for the Council's new Chief Executive Officer; and**
2. **the Acting Chief Executive Officer be authorised to exercise all powers and authorities reposed in the position of Chief Executive Officer for the period of the appointment**

MOVED: DOWNIE
SECONDED: O'BRIEN

That the Recommendation be adopted.

CARRIED

* * * * *

13.4 Appointment of Authorised Officers under the Planning and Environment Act 1987 – February 2016

Responsible Manager: Acting Manager Strategic Governance - Jill Colson

File No. .

The ultimate destination for this report is: COUNCIL AGENDA

Neither the responsible Manager nor the Officer authoring this report has a conflict of interest in this matter.

SUMMARY

In accordance with section 188(2)(c) of the Planning and Environment Act 1987, Council is required to authorise Officers for the purpose of enforcing the Planning and Environment Act. It is proposed to appoint a newly employed Statutory Planning Officer as an Authorised Officers under this Act. The Appointment is detailed on the attached sample Instrument of Appointment and Authorisation and will be recorded in the Authorised Officers Register kept pursuant to Section 224 of the Local Government Act 1989 and made available for public inspection.

1 BACKGROUND

- 1.1 Council, pursuant to Section 224 of the Local Government Act 1989, may appoint any person other than a Councillor to be an authorised officer for the purposes of the administration and enforcement of most Acts, regulations or local laws which relate to the functions and powers of the Council. This is normally done under the delegated authority of the Chief Executive Officer and allows the appointed Council Officers to carry out their functions under a variety of statutes.
- 1.2 The Planning and Environment Act 1987 regulates enforcement and is reliant on authorised officers acting on behalf of the Responsible Authority.
- 1.3 The Planning and Environment Act 1987, unlike the Local Government Act, in most cases does not permit appointments to be made by the Chief Executive Officer and therefore it is necessary for the Council to make these appointments by formal resolution.
- 1.4 In order to legally undertake the duties of their office the nominated Officers need to be appointed as an Authorised Officer pursuant to the Planning and Environment Act 1987. The attached Instrument of Appointment and Authorisation will come into force immediately upon its execution under the Seal of Council and signed by the Mayor and Chief Executive Officer.
- 1.5 The appointment also allows for the Officers to institute proceedings for offences against the Acts and regulations described in the Instrument of Appointment and Authorisation under section 232 of the Local Government Act 1989.

2 PROPOSAL/ISSUE

- 2.1 It is proposed to appoint the following Statutory Planning Officer as an Authorised Officer pursuant to Section 147(4) of the Planning and Environment Act 1987. The Officer is:-
- Michelle West – Student Planner, Statutory Planning Unit.
- 2.2 The appointment will remain in force until varied or revoked by Council or the Officer ceases employment with Council.

3 CONCLUSION

- 3.1 The Instrument of Appointment and Authorisation documents are in accord with the format recommended by Maddocks.
- 3.2 The Officer has already been appointed by the Chief Executive Officer as an Authorised Officer under the Local Government Act 1989.
- 3.3 Both appointment forms will be recorded in the Authorised Officers Register that is required to be kept by Council pursuant to Section 224 of the Local Government Act 1989 and is available for public inspection.

OFFICER'S RECOMMENDATION

That in the exercise of the powers conferred by Section 224 of the *Local Government Act 1989* and the other legislation referred to in the attached sample Instrument of Appointment and Authorisation (Attachment 1), Council resolves that:

- A. The member of Council staff referred to in the above report be appointed and authorised as set out in the Instrument;**
- B. The Instrument comes into force immediately the Common Seal of Council is affixed to the Instrument and remains in force until Council determines to vary or revoke it or the Officer ceases employment with Council; and**
- C. The Common Seal of the Council be affixed to an Instrument of Appointment for each of the Officers.**

**MOVED: HAYNES
SECONDED: O'BRIEN**

That the Recommendation be adopted.

CARRIED

"Refer Attachment"

* * * * *

ATTACHMENT 1

**Instrument of Appointment and Authorisation
(*Planning and Environment Act 1987*)**

In this instrument "**officer**" means -

Michael West, Student Planning Officer, Statutory Planning Unit

By this instrument of appointment and authorisation Manningham City Council

- 1. under section 147(4) of the *Planning and Environment Act 1987* - appoints the officer to be an authorised officer for the purposes of the *Planning and Environment Act 1987* and the regulations made under that Act.

It is declared that this instrument comes into force immediately upon its execution and remains in force until varied or revoked.

This instrument is authorised by a resolution of the Manningham City Council on 2 February 2016.

The Common Seal of)
Manningham City Council)
was hereunto affixed)
in the presence of:)

Mayor

Acting Chief Executive Officer

Date:

13.5 Record of Assembly of Councillors - February 2016 Reports

Responsible Manager: Acting Manager Strategic Governance - Jill Colson

File No. EF12/18153

The ultimate destination for this report is: COUNCIL AGENDA

Neither the responsible Manager nor the Officer authoring this report has a conflict of interest in this matter.

SUMMARY

Section 80A of the Local Government Act 1989 requires a record of each meeting that constitutes an Assembly of Councillors to be reported to the next ordinary meeting of Council and those records be incorporated into the minutes of the Council Meeting. The Assemblies to be reported to this Council Meeting took place between 7 December 2015 and 22 January 2016 (both dates inclusive). They are:-

- *Access and Equity Advisory Committee on 7 December*
- *Meeting to Discuss CEO Recruitment on 15 December*
- *Council Meeting Briefing Session on 15 December*
- *Strategic Briefing session on 8 December and 19 January*

1 BACKGROUND

- 1.1 An Assembly of Councillors is defined in the Local Government Act 1989 and means a meeting of an advisory committee of the Council, if at least one Councillor is present, or a planned or scheduled meeting of at least half of the Councillors and one member of Council staff which considers matters that are intended or likely to be:-
 - 1.1.1 the subject of a decision of the Council; or
 - 1.1.2 subject to the exercise of a function, duty or power of the Council that has been delegated to a person or committee but does not include a meeting of the Council, a special committee of the Council, an audit committee established under section 139, a club, association, peak body, political party or other organisation
- 1.2 An advisory committee can be any committee or group appointed by Council and does not necessarily have to have the term 'advisory' or 'advisory committee' in its title.
- 1.3 Written records of Assemblies of Councillors must be kept and that record presented to the next practicable ordinary meeting of Council. The record is to include the names of all Councillors and members of Council staff attending, a list of the matters considered, any conflict of interest disclosures made by a Councillor attending and whether a Councillor who has disclosed a conflict of interest leaves the assembly for the item in which he or she has an interest.

1.4 A Councillor who has a conflict of interest at an assembly of Councillors must disclose to the meeting that he or she has a conflict of interest, and leave the meeting while the matter is being discussed.

1.5 The details of each Assembly are shown in the Attachments to this report.

OFFICER'S RECOMMENDATION

That the records of the Assemblies of Councillors as listed in the summary to this report and shown attached be noted and incorporated in the minutes of this Council Meeting.

MOVED: GRIVOKOSTOPOULOS

SECONDED: DOWNIE

That the Recommendation be adopted.

CARRIED

"Refer Attachments"

* * * * *

Record of an Assembly of Councillors

Manningham City Council

ACCESS & EQUITY ADVISORY COMMITTEE

Meeting Date: Monday 7 December 2015
Venue: Function Room 3
Starting Time: 5.00pm

Attendance & Apologies**Councillors in Attendance**

Cr Michelle Kleinert

Other Committee Members in Attendance

Alphonse Benoit, Anna Chen, Annie Carnell, Varvara Ioannou, Helen Jurcevic, Rosa Miot, Chris Mountford, Sue Sharrock,

Officers in Attendance

Malcolm Foard, Jan Loughman, Kirsten Reedy, Jon Adams, Anissa Gracie

Apologies Received From

Sally Both, Carolyn Vimpani, Elizabeth Sidiropoulos, Keri Kennealy, Chris Potter, Yo Yo Tang, Elizabeth Ignys, Emily Ma, Huss Mustafa, Simone Pileus, Vasu Srinivasan, Nicole Harrop

Disclosure of any Conflict of Interest

No disclosures were made

Items Considered:

1. Workshop on Community Safety in Manningham
2. Inclusive volunteering: Local resident Warren O'Brien – story of volunteering with Victoria Police. New digital story – Going Above and Beyond
3. Review of Access and Equity Advisory Committee Terms of Reference (TOR)
4. Update on implementation of the *Access, Equity and Diversity Strategy* and the *Disability Access and Inclusion Plan*
5. Community Organisation and Agency updates

Finishing Time: 7.00pm

Completed By:-

Name: Jon Adams Title: Community Development Officer – Metro Access Date: 21 January 2016

Record of an Assembly of Councillors

Manningham City Council

Meeting to Discuss CEO Recruitment

Meeting Date: 15 December 2015.
Venue: Council Chamber, City Office, 699 Doncaster Rd, Doncaster.
Starting Time: 9.40pm.

1. Attendance
 - Councillors in Attendance
 - Councillor Jennifer Yang (Mayor)
 - Councillor Meg Downie
 - Councillor Sophy Galbally
 - Councillor Geoff Gough
 - Councillor Jim Grivokostopoulos
 - Councillor Dot Haynes (Deputy Mayor)
 - Councillor Michelle Kleinert
 - Councillor Paul McLeish

 - Executive Officers Present
 - Manager People, Culture & Risk, Jill Colson
2. Apologies – Cr Stephen O'Brien
3. Prior Notification of Conflicts of Interest
There were no disclosures of conflict of interest.
4. Recruitment of a Chief Executive Officer

The Meeting ended at 10.00pm

Record of an Assembly of Councillors

Manningham City Council

Council Meeting Briefing Session

Meeting Date: 15 December 2015.
Venue: Council Chamber, City Office, 699 Doncaster Rd, Doncaster.
Starting Time: 6.30pm.

1. Attendance

Councillors in Attendance

Councillor Jennifer Yang (Mayor)

Councillor Meg Downie

Councillor Sophy Galbally

Councillor Geoff Gough

Councillor Jim Grivokostopoulos

Councillor Dot Haynes (Deputy Mayor)

Councillor Michelle Kleinert

Councillor Paul McLeish

Councillor Stephen O'Brien

Executive Officers Present

Chief Executive Officer, Mr Joe Carbone

Director Assets & Engineering, Mr Leigh Harrison

Director Community Programs, Mr Chris Potter

Director Planning & Environment, Ms Teresa Dominik

Director Shared Services, Mr Philip Lee

Manager Strategic Governance, Ms Melissa Harris

2. Apologies

3. Prior Notification of Conflicts of Interest

There were no disclosures of conflict of interest.

4. Confirmation of Minutes of Meeting of Council Held on 24 November 2015

5. Planning Application PL15/025084 - 318-320 Springvale Road Donvale - Child Care Centre

6. Outdoor Advertising on Council Owned and Managed Property Policy - 2015 Minor Review

7. Green Gully Park - Purchase of Land at 3-7A Glenwill Court and Sale of Tatterson Reserve

8. Proposed Planning Scheme Amendment – Environmentally Sustainable Dev Policy

9. 51 Reserve Road, Wonga Park - Request to rezone and proposal to purchase

10. Tunstall Square Activity Centre - Closure of Beverley Street Entrance

11. Community Grant Guidelines 2016/17 Draft

12. Access, Equity and Diversity Strategy - Year 1 Progress Report

13. Risk Management Strategy and Policy Review 2015

14. Suburb Boundary – Minor Realignment at 90 and 92 StClems Road

15. Review of the Local Government Act 1989

16. Documents for Sealing - 15 December 2015

17. Record of Assembly of Councillors – December Reports

18. Appointment of an Acting Chief Executive Officer – January 2016

The Meeting ended at 8.35pm

Record of an Assembly of Councillors

Manningham City Council

Strategic Briefing Session

Meeting Date: 8 December 2015.
Venue: Council Chamber, City Office, 699 Doncaster Rd, Doncaster.
Starting Time: 6.45pm.

1. **Attendance & Apologies**
 - Councillors in Attendance**
Cr Jennifer Yang (Mayor), Cr Meg Downie, Cr Sophy Galbally, Cr Jim Grivokostopoulos (arrived at 7.35pm at item 7), Cr Dot Haynes (Deputy Mayor), Cr Michelle Kleinert, Cr Paul McLeish and Cr Stephen O'Brien.
 - Apologies from Councillors**
Cr Geoff Gough
 - Executive Officers Present**
Joe Carbone, Chief Executive Officer
Philip Lee, Director Shared Services
Teresa Dominik, Director Planning & Environment
Leigh Harrison, Director Assets & Engineering
Chris Potter, Director Community Programs
 - Other Officers in Attendance**
Nando Castauro, Manager Engineering Operations
Paul Goodison, Co-ordinator Landscape & Leisure
Anna Bunbury, Senior Open Space Planner
Kevin Ayre, Group Manager Financial Services
Melissa Harris, Manager Strategic Governance
Peter Thomson, Governance Co-ordinator, Strategic Governance Unit
2. **Conflict of Interest – Disclosure**
There were no disclosures of conflict of interest.
3. **Identification of Confidential & Sensitive Issues**
4. **Communications & Media Report**
5. **Forward Agenda**
6. **Waste Charges and Bin Reserve**
7. **Green Gully Linear Park – Purchase of Land at 3-7A Glenvill Court, Templestowe**
(Confidential)
8. **Review of the Local Government Act 1989**
9. **Initial 2016/17 Budget Discussions**
10. **Proposed I.T Transformation Team (Confidential)**
11. **Other Matters Not Listed**
12. **Flood Overlays**
13. **Pop Up Park**
14. **VCAT Hearings**
15. **CEO Announcement**

The meeting concluded at 10.30pm.

Record of an Assembly of Councillors

Manningham City Council

Strategic Briefing Session

Meeting Date: 19 January 2016.

Venue: Council Chamber, City Office, 699 Doncaster Rd, Doncaster.

Starting Time: 6.34pm.

1. Attendance & Apologies

Councillors in Attendance

Cr Jennifer Yang (Mayor), Cr Meg Downie, Cr Sophy Galbally, Cr Jim Grivokostopoulos, Cr Geoff Gough, Cr Dot Haynes (Deputy Mayor) and Cr Paul McLeish.

Apologies from Councillors

Cr Michelle Kleinert and Cr Stephen O'Brien.

Executive Officers Present

Chris Potter, Acting Chief Executive Officer
Philip Lee, Director Shared Services
Teresa Dominik, Director Planning & Environment
Leigh Harrison, Director Assets & Engineering
Malcolm Foard, Acting Director Community Programs

Other Officers in Attendance

Richard Bramham, Assets Co-ordinator
Nando Castauro, Manager Engineering Operations
Drago Lijovic, Waste Management Engineer
Chris Sfetkidis, Technical Services Engineer
Kevin Ayre, Group Manager Financial Services
Sheraz Akram, Coordinator Management Accounting
Jill Colson, Manager People, Culture and Risk
Peter Thomson, Governance Co-ordinator, Strategic Governance

2. Conflict of Interest – Disclosure

There were no disclosures of conflict of interest.

3. Identification of Confidential & Sensitive Issues

4. Communications & Media Report

5. Forward Agenda

6. Manningham Road Sealing and Rehabilitation Funding Requirements

7. Waste Service Charge and Bin Colour Report

8. Bolin Bolin Integrated Water Management Project

9. Morna Drainage & Sewerage Reserve (North) – Adverse Occupancies of Reserve

10. 2015-2016 Capital Works Program End of December Status Report

11. Financial Status Report - December 2015

12. 2015/16 Mid Year Budget

13. Rate Capping

14. Templestowe Village Special Charge Scheme 2015-2020 – Further Consultation

15. Plan Melbourne Refresh – Council Submission

16. Recruitment of Chief Executive Officer (Sensitive)

The meeting concluded at 9.10pm.

13.6 Documents for Sealing - 2 February 2016

Responsible Director: Strategic Governance

File No. .

The ultimate destination for this report is: COUNCIL AGENDA

Neither the responsible Director, Manager nor the Officer authoring this report has a conflict of interest in this matter.

SUMMARY

The following documents are submitted for signing and sealing by Council.

1 BACKGROUND

- 1.1 The Council's common seal must only be used on the authority of the Council or the Chief Executive Officer under delegation from the Council. An authorising Council resolution is required in relation to the documents listed in the Recommendation section of this report.

OFFICER'S RECOMMENDATION

That the following documents be signed and sealed:

**Consent Agreement to Build Over an Easement
Section 173 of the Planning and Environment Act 1987
Council and A Bonakdar
36 Roger Street, Doncaster East**

**Planning Agreement – Mullum Creek Guidelines
Section 173 of the Planning and Environment Act 1987
Council and Blackwood Banner Pty Ltd, D, S and S Mathews, Ultima Pty Ltd and
Mullum Pty Ltd
112-114 and 116-126 Old Warrandyte Road, Donvale**

**Deed of Renewal of Lease – Municipal Branch Library
Council, Ayrestein Nominees Pty Ltd and Ginevra Holdings Pty Ltd
Part Bulleen Plaza, 101 Manningham Road, Bulleen**

**Deed of Variation of Lease
Council and Burch Memorial Pre-School Inc
Part 9-13 Old Yarra Road, Wonga Park**

**Community Services Lease
Council and Twin Hills Preschool Inc
Part 39-41 Mayfair Avenue, Templestowe Lower**

MOVED: GALBALLY
SECONDED: DOWNIE

That the Recommendation be adopted with the addition of the following agreement:

**Consent Agreement to Build Over an Easement
Section 173 of the Planning and Environment Act 1987
Council and G P Go
125 High Street, Doncaster**

CARRIED

* * * * *

14. CHIEF EXECUTIVE OFFICER

There were no Chief Executive Officer reports.

15. URGENT BUSINESS REPORTS

There were no Urgent Business Reports.

16. QUESTIONS FROM THE PUBLIC

There were no questions from the public.

17. QUESTIONS WITHOUT NOTICE

17.1 Koonung Creek Linear Park – Fire

Cr Haynes asked if Council could request the State Government to take action to remove dead and dangerous trees, caused by a fire in November 2015, in the Koonung Creek Linear Park at the rear of Hampshire Road, Doncaster.

The Mayor advised that a letter would be sent to the appropriate State Government authority.

17.2 Amendment C109

Cr Gough asked if Officers could investigate an alternative option to the introduction of a Planning Scheme Amendment that would produce the same desired outcome without the implications of an Amendment.

The Mayor advised that the request would be considered.

17.3 Wonga Park – Cricket

Cr Downie commented on the Wonga Park Cricket Club's recent successes.

The Mayor thanked Cr Downie for the information.

17.4 Mr Murray Bouchier - 100 Acres Park Orchards

Cr Galbally asked the Mayor if she was aware of the recent passing of Mr Murray Bouchier who was an instigator of the establishment of the 100 acres in Park Orchards.

The Mayor thanked Cr Galbally for this information.

18. CONFIDENTIAL REPORTS

There were no Confidential Reports.

The meeting concluded at 7:40pm.

Chairman
CONFIRMED THIS 1 MARCH 2016

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