



- 11.1** PORT PHILLIP ECOCENTRE LEASE COMMUNITY ENGAGEMENT
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- PREPARED BY:** SIOBHAN BELMORE, MANAGER PROPERTY AND ASSETS
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1. PURPOSE

- 1.1 To propose that an environmental education centre in the St Kilda Botanical Gardens (“EcoCentre Facility”) be leased to Port Phillip EcoCentre Incorporated (“Port Phillip EcoCentre”) and to seek approval to call for public feedback on that proposal.



2. EXECUTIVE SUMMARY

- 2.1 Redevelopment of the EcoCentre Facility in the St Kilda Botanical Gardens is underway and due for completion in mid 2024.
- 2.2 Once completed, it is proposed that the EcoCentre Facility be occupied by Port Phillip EcoCentre, under a lease with the following key terms:-

Term	No greater than 15 years
Rent	Commencing at \$104+GST

- 2.3 Officers propose to seek community feedback on the proposed lease.



3. RECOMMENDATION

That Council:

- 3.1 Commences the statutory procedures under Section 115 of the *Local Government Act 2020* (“Act”) to enter into a lease with Port Phillip EcoCentre Incorporated for the occupation of the environmental education facility at 55A Blessington Street, St Kilda, on the following terms: total term of no greater than 15 years; commencing annual rent \$104 plus GST.
- 3.2 Authorises the Chief Executive Officer (or their delegate) to undertake the administrative procedures necessary to enable Council to carry out its functions under 115(4) of the Act in relation to the lease proposed, including giving public notice on its website and carrying out community engagement.
- 3.3 Following the consideration of any submissions, receives a further report at a future meeting of Council.

4. KEY POINTS/ISSUES

Background

- 4.1 At the southern end of the suburb of St Kilda is the St Kilda Botanical Gardens – a large, historic, public garden reserve.
- 4.2 For the past couple of decades an environmental hub has operated from the one corner of that reserve – in the former groundskeeper’s cottage.
- 4.3 The hub was established by Council, but later operated by an independent not-for-profit environmental organisation Port Phillip EcoCentre.
- 4.4 The cottage is currently being replaced with a new, larger facility intended for the delivery programmes/education in environmental sustainability. Construction is planned to be complete in mid 2024. The development is co-funded by City of Port Phillip and the Victorian Government.
- 4.5 Due to the construction, Port Phillip EcoCentre moved from the cottage, across the road to 38 Blessington Street, St Kilda – Council’s Cora Graves Community Centre.
- 4.6 It is anticipated that Port Phillip EcoCentre will occupy the EcoCentre Facility once its construction is complete. Through *Council Plan and Budget 2021-31 – Year 3*, Council foreshadowed a 10 year lease.
- 4.7 In response to feedback on the Draft 2023/24 Budget, Council decided at its Special Meeting on the on 20 June 2023 that:-

“With respect to the lease of the EcoCentre [Facility] notes submissions seeking a lease greater than 10 years and resolves to further consider the lease term as part of a separate lease development process, including community engagement, with the results to be brought back to Council for consideration”.

Port Phillip EcoCentre

- 4.8 Port Phillip EcoCentre is a registered charity.
- 4.9 It develops and delivers a range of environmental education programmes that align with the Council Plan, particularly direction “Sustainable Port Phillip”. It also functions



as a community sustainability hub providing visitor engagement, meeting space and community group administration and support.

4.10 Port Phillip EcoCentre's [Constitution](#) notes that it is:

“a not-for-profit “umbrella’ environment organisation that is a resource for groups, individuals and the business community in the City of Port Phillip and its wider region. It aims to protect and enhance biodiversity by promoting awareness and action for sustainable living through the following objectives:

- (a) providing a base, resources and support for community-based environment groups within the Port Phillip region by managing and developing a community resource centre;
- (b) the provision of information or education to the general public to promote sustainable living and reduce the adverse impact of human activities on the terrestrial and marine ecosystems;
- (c) facilitation of collaborative projects between community groups, educational institutions, government agencies, and the corporate sector to protect and enhance the natural environment;
- (d) to facilitate research and monitoring of air and water quality, and flora and fauna populations and their habitats;
- (e) promotion of ecologically sustainable development principles, including use of renewable energy, recycling and waste minimisation, chemical-free horticulture, and soil conservation;
- (f) to establish and maintain a Public Fund to be called the Port Phillip EcoCentre Public Fund for the specific purpose of supporting the environmental objects/purposes of Port Phillip EcoCentre Inc.”

4.11 Port Phillip EcoCentre's Financial Statements for the year ended 30 June 2022 can be viewed [here](#).

4.12 Its performance and activities are outlined in its [Annual Report](#).

4.13 Council Plan includes a commitment that “We will partner with the EcoCentre, the Victorian Government and other key stakeholders, to deliver programs that support an environmentally aware community and to redevelop the EcoCentre building”.

4.14 Since its establishment in 1999, EcoCentre has been financially supported by Council by way of Funding Agreement and subsidised lease.

Duration of potential lease

4.15 Under Council's *Property Policy* leases are typically up to 5 years.

4.16 However, the Property Policy notes that the lease term needs to be appropriate to the premises and the proposed use. It guides that Council may negotiate a non-standard term for a lease or licence in circumstances where:

- the use of the premises is unable to be changed, the use is linked to a specific tenant and the tenant has a history of delivering good outcomes for the community;
- the level of capital investment (made or planned) requires amortisation over an extended period of time; or
- there is a licence agreement that needs to be aligned with the tenant's current lease agreement.



- 4.17 Council’s Property Policy allows for exemptions, acknowledging that “*from time to time, circumstances may arise in which prudent management of the property portfolio requires a departure from the guidance provided in this policy*”.
- 4.18 Officers consider that a lease longer than five years is appropriate in this instance and propose a lease term of up to 15 years.
- 4.19 In considering the duration of the potential lease, Officers have taken into account several factors, including the following:-

← -	5 years	+ →
A competitive market process has not been undertaken (nor is one proposed).		The prospective tenant's advocacy helped secure co-funding for the facility from the State.
The tenant has occupied the site for 22 years. In that time, no re-testing of the market appears to have been undertaken.		The State's co-funding is clearly for a particular use <u>and</u> tenant.
The rent proposed is peppercorn, despite the prospective tenant having significant net assets and the ability to generate significant income.		The tenant has a long history of providing valued environmental programmes in the community, and partly saves the <u>City</u> from having to carry out such programmes itself.
A lease would be linked to a Funding Agreement. Our funding agreements are typically 5 years (or less), noting though that Linden New Art Inc and Gasworks Art Inc are for ten years.		The prospective tenant is to contribute to the cost of the asset (though in kind).
		The State has indicated comfort with a longer lease, adhering to its <i>Leasing Policy for Victorian Crown Land 2023</i> .

Rent under a potential lease

- 4.20 Under Council’s Property Policy, community organisations may be charged discounted rent, though no less than “peppercorn rent”. Under Council’s Schedule of Fees and Charges, this minimum rental is \$104 yearly. This is Port Phillip Eco-Centre’s current rent.
- 4.21 City of Port Phillip’s Property Policy defines “peppercorn rent” as:
 “the minimum rental rate set for Council properties that are used by community groups delivering:
- community services aligned with Council’s goals and priorities;
 - significant community benefit to the City of Port Phillip; and
 - have no capacity to generate income”.



4.22 It further defines “Community organisations” as:

an organisation ...that has, as its primary objective, the promotion of social, recreational, environmental, cultural or economic opportunities and benefits for the Port Phillip community. The organisation must not exist for the purpose of generating profit or personal gain for particular people.

4.23 The EcoCentre is a “community organisation” that generates “income” through, for example, donations, government grants, by charging fees for programs etc.

4.24 The Property Policy allows for exemptions, acknowledging that Council recognises that “from time to time, circumstances may arise in which prudent management of the property portfolio requires a departure from the guidance provided in this policy”.

4.25 Where a community organisation is not eligible for the minimum rental, it may nonetheless be eligible for discounted rent.

4.26 Under the Property Policy, the following minimum considerations are to be taken into account in determining the degree of discount:-

- Alignment with Council’s vision, objectives and Council Plan.
- Delivery of core services on behalf of Council.
- Extent of external funding.
- Service and program fees.
- Level of capital and financial contribution to the asset infrastructure.
- Extent of sustainability initiatives.

4.27 Overall, Port Phillip EcoCentre could be regarded as scoring highly on the criteria.

4.28 It is proposed that the rent for the potential lease commence at \$104+gst annually.

Statutory consultation

4.29 Should Council adopt the recommendation, Officers intend to initiate and undertake the community engagement process outlined in Section 5 below.

4.30 The objective of the engagement is to present the community with the proposed key terms of the lease, and to receive written submission from any person concerning that proposed lease.

4.31 The fundamental questions of the engagement are: “Are there any reasons why the lease should or should not proceed?”, and “Are there any reasons the lease duration should be shorter or longer?”.

5. CONSULTATION AND STAKEHOLDERS

5.1 In accordance with *Council’s Community Engagement Policy 2021* Officers propose to undertake consultative engagement, to seek community feedback on Council’s intention to lease the subject site.

5.2 Officers intend to publish a notice advising of Council’s intention to lease the subject property, inviting feedback on that intention, and advising that Council will consider all submissions before deciding whether to enter into a lease.

5.3 Officers intend to publish the notice on Council’s website.



- 5.4 This consultation is intended to include a community survey on a Have Your Say Page, with promotion of the engagement via Council's sustainability e-newsletter and social media.
- 5.5 The intended consultation period is 28 days.
- 5.6 Officers intend to offer submitters the opportunity to speak to their submission at a Council meeting.
- 5.7 Officers intend to report the submissions to an Ordinary Meeting of Council.
- 5.8 Officers intend to subsequently advise submitters of Council's decision and the reason(s) for that submission.

6. LEGAL AND RISK IMPLICATIONS

- 6.1 Prior to entering into a lease (exceeding a specified duration and/or rent threshold), Council must comply with the statutory provisions of section 115 the Act, which require it to include the proposal to lease the land in its annual budget, or where it is not included in the budget, undertake community engagement on the proposal in accordance with Council's community engagement policy in respect of the proposal.
- 6.2 The EcoCentre Facility is on Crown Land. The reserved purpose of the land is "public gardens". The Crown approves the granting of a lease, (and ultimately the lease itself). To do so, the relevant Minister must be satisfied that the purpose for which the lease is to be granted is not detrimental to the purpose for which the land is reserved. The intention to grant a lease must undergo a "Parliamentary Scrutiny" process, by which the Minister must:
 - make a determination of the Minister's intention to grant a lease;
 - publish that determination in the Victoria Government Gazette;
 - arrange to have the determination laid before each House of Parliament.

The signed determination can be rejected by either House.

7. FINANCIAL IMPACT

- 7.1 As already noted, Council provides Port Phillip EcoCentre with financial support by way of a subsidised lease.
- 7.2 The proposed annual rent of \$104+GST. This compares with market rent of approximately \$41k to \$55k (Charter Keck Cramer, 2021), (assuming that the tenant has the performance obligations of the associated Funding Agreement).
- 7.3 Council has a Funding Agreement for services delivered by the Port Phillip EcoCentre for 2019-24. The Funding Agreement is due for renewal at the end of the current financial year. Officers intend to progress development of the new Funding Agreement with the Port Phillip EcoCentre commencing 1 July 2024 via the 2024/25 Council Plan and Budget process.



7.4 Total Expenditure for EcoCentre services under the annual Funding Agreement 2019-24 is set out below. Stream one is the base funding level. Stream two is an equal amount of base funding plus CPI:

	2019-20	2020-21	2021-22	2022-23	2023-24
Stream 1 Total (CPI incl)	159,000	159,551.60	164,240.24	174,307.03	181,279.31
Stream 2	155,000	155,000	155,000	155,000	155,000
Total (ex GST)	314,000	314,551.60	319,240.24	329,307.03	336,279.31
Total (GST incl)	345,400	346,006.76	351,164.27	362,237.73	369,907.24

8. ENVIRONMENTAL IMPACT

8.1 The recommendation of this report is not considered to have a direct environmental impact. It is noted that the proposed lease is of a facility aiming to achieve a 6 Star Green Star rating (Design and as Built), and the proposed tenant delivers environmental programs and training to increase the ability of the community to reduce their own environmental impact, and creates awareness of about environmental impact on our bay, beaches, rivers and other environments.

9. COMMUNITY IMPACT

9.1 This proposed consultation initiative promotes transparent governance and an actively engaged community.

10. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

10.1 This report directly supports Council Plan Strategic Direction *Well Governed Port Phillip*.

11. IMPLEMENTATION STRATEGY

11.1 TIMELINE

11.1.1 Subject to adoption of the Officer recommendation, Officer intend to commence the community consultation in September 2023.

11.1.2 As noted in Section 5, the intended consultation period is 28 days.

11.1.3 Officers shall subsequently report the submissions received to an Ordinary Meeting of Council.

11.1.4 Separately, Officers will progress development of the potential new Funding Agreement with the Port Phillip EcoCentre commencing 1 July 2024 via the 2024/25 Council Plan and Budget process.

11.2 COMMUNICATION

11.2.1 Council looks forward to the occupation and activation of the new EcoCentre facility, and requests community feedback on its proposed lease to the Port Phillip Eco Centre Incorporated.

12. OFFICER DIRECT OR INDIRECT INTEREST

12.1 No officers involved in the preparation of this report have any material or general interest in the matter.

ATTACHMENTS

Nil