

# RESPONSES TO QUESTIONS TAKEN ON NOTICE

## COUNCIL MEETING 1 MAY 2024



### Public Question Time

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**Questions from Justin Halliday:** Drawing your attention to the recent Port Phillip coastal hazard report which included upward bounds of a sea level rise of 1.4 metres and as we've seen recently, sea level rise is constantly being revised upwards as we hurdle past all of our Climate change goals. In this context, in relation to the St Kilda Marina Project, we have just learnt that the soil remediation project costs have increased to a current maximum, before they start, of \$15 million. Council removed its cost contribution cap on the remediation of these soils which was originally at \$750,000. Over the course of this project Council will only see rental revenue from that site of \$60 million over 50 years, yet we are incurring upfront up to \$15 million.

1. What was the basis of which the \$750,000 cap on Council's contribution to soil remediation removed?
2. What is Council's estimate for the highest costs of soil remediation on the site?
3. What other costs will Council incur during the redevelopment and during its ongoing operations of this site?
4. What level of sea level rise was used in the planning application and planning approvals for this site?
5. What is Council's exposure to future liability due to sea level rise, storm surge, and coastal inundation on this site?
6. At the completion of the lease, who is responsible for further subsequent remediation of the site?
7. If Council estimates total rent payments of \$60m over the course of the 50-year lease, what are Council's total subsidies for the project at present value?

#### Responses:

1. *The lease includes a process to address costs of contamination if they exceed \$1M. For costs up to \$1M, 75% is attributable to Council (this is the \$750k you refer to), 25% to the tenant. The process outlined considers redesign to minimise costs, and sourcing additional funding.*

*The lease also includes a process to review jointly with the tenant the extent of contamination that would need to be remediated or managed. Any remediation or management approach would be required if the soil is disturbed so an approach would need to be adopted based on an agreed design for the site. The design was agreed when the lease was approved. Therefore, a joint approach to assess contamination and contamination management was a necessary inclusion in the lease, to be dealt with following execution.*

*It is from this that we better understood that costs to remediate would exceed the \$1M provision in the lease.*

*As such, a cap on the \$750k has not been removed as you suggest in your question.*

*We are now following the process in the lease to resolve the best approach to manage soil contamination, which involves design work that facilitates a construction methodology that minimises disturbance and off-site disposal combined with some remediation where soil disturbance and disposal can't be avoided.*

*We are working with the tenant to finalise this process and resolve Council's financial contribution. The costs would result from both direct soil remediation and disposal and*

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- any other 'indirect costs' associated with mechanisms to manage contaminated soil to avoid disturbance.*
- 2. As noted above, we are working with the tenant to confirm the likely costs through a combination of soil removal and construction methodology.*
  - 3. The tenant is responsible for all redevelopment costs with the exception of most of those relating to managing contaminated soil, as noted above. The tenant is responsible for all costs associated with ongoing operations. Council costs on an ongoing basis relate to administering the lease.*
  - 4. The design for the Marina redevelopment that has been submitted for planning review has been prepared based on 0.8m sea level rise, which is in accordance with current state policy. There has not been a planning approval granted to date that pertains to the redevelopment under the new lease.*
  - 5. The tenant is required to design a development to accommodate future predictions for sea level rise, storm surge and inundation. The landlord (Council) effects and maintains insurance to cover damage and destruction from these and other events. However, the tenant is required to reimburse the landlord the cost of the insurance premium for the landlord and tenant improvements on the site for the course of the lease.*
  - 6. The EPA sets out the requirement for the polluter to pay. Contamination caused by the tenant (or subtenants) e.g. the service station is required to be remediated by the tenant/sub-tenant. The landlord would be responsible for remediation outside what has been agreed in the lease, or conditions existing prior to the tenant/s occupation (for example, contamination resultant from the landfill used to create the harbour).*
  - 7. There is a provision in the lease where the tenant is paying a reduced rental (\$134k) for the first 4 years (beyond that the agreed rent is \$750k). This was agreed to facilitate the cashflow required to support a redevelopment by the tenant. There are no other subsidies (only costs associated with administering the lease and soil contamination management).*

### Councillor Question Time

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**Question from Councillor Clark:** Can Council officers please confirm when the street cleaning of Ormand Road and Elwood Village was last undertaken? What is the rotation of the cleaning for Elwood village. What, if anything, can be done about dog urine on the footpath on Ormond Road?

**Response:** Cleaning is undertaken via a street sweeper and manual labours during our night shift trade operations program, this location is cleaned 5 nights a week including all public holidays. Pressure washdowns are completed once a fortnight this is also undertaken during the night service operations. Manual litter pickers provide their services during the afternoon 3 times a week.

Unfortunately, nothing can be done regarding dog urine, Council has reached out to some traders to provide support. The rapid response team will often be requested to clean dog urine in Elwood village.

The night pressure washdown team will also wash dog urine during their cleaning operations fortnightly.

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**Question from Councillor Pearl:** Could officers please provide a detailed update on the current lease arrangements for South Port Residential Care Facility near Gasworks Park in Albert Park? Additionally, could you outline the process and timeline for evaluating future steps as the lease period concludes, including the consultation process regarding the future use of the site?

**Response:**

*Currently, the lease runs to April 2030. Consistent with the timeline in the Property Portfolio Roadmap, officers will reignite discussions with the operators, Claremont & South Port Aged Care (CaSPA Care) in the second half of 2024.*

*If the operators seek an early release, officers will propose a plan during FY25 to facilitate an early exit from the lease. In the event of this occurring, officers will keep Councillors informed. Late in FY25, officers expect to bring a plan for future usage of the site to Council for consideration and discussions, before going to the community for engagement.*

**Question from Mayor Cunsolo:** Have officers received an update yet on the Barak Beacon Housing development yet to know if Housing Victoria has taken on board resolution of Council at the 6 March 2024 Council meeting?

**Response:**

*Barak Beacon Estate, Port Melbourne has been identified by Homes Victoria as a priority project and an opportunity to achieve additional and higher quality social housing and broad public benefit as part of Victoria's Big Housing Build. The Minister for Planning, rather than Council, will assess and approve planning proposals under the Big Housing Build. Planning requirements are confined to matters such as external amenity impacts, internal residential amenity, and car parking. The process has a simplified consultation process allowing community and council feedback but does not allow any appeals of a decision. More information about the process is at this link: [Big Housing Build | Homes Victoria](#)*

*Council received the public engagement documentation for Barak Beacon and considered its response and community feedback at its meeting on 6 March 2024. Relevant documents can be accessed from:*

- *Planning Committee Meeting Agenda and Minutes: [Agenda of Meeting of the Port Phillip City Council - Wednesday, 6 March 2024 \(infocouncil.biz\)](#)*
- *Summary: [Council meeting catchup - 6 March 2024 - City of Port Phillip](#)*

*Council's resolved position was that it did not support certain aspects of the proposal, including some building setbacks from Barak and Beacon Roads, the dwelling diversity, the lack of replacement canopy tree planting, lack of integration of paths to Beach Street, provision of car parking, and location of vehicle crossings.*

*Since the Council meeting Council officers have continued to liaise with the applicant and has reiterated the concerns and sought that they be included as part of the proposal that will be submitted to the Minister for Planning for approval.*

**Current state**

Site Remediation / Early Works

- *Icon / Building Communities advised they have received approval from the Minister of Planning c/o Department of Transport and Planning to commence Site Remediation Works ahead of the main planning review and approval process. These are the works to prepare the land to be developed.*

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- *Icon / Building Communities have submitted applications to Council to support preliminary works including site hoarding, construction and traffic management and street tree protection plans. Council has informed Icon that no construction related permits will be issued until they obtain a Regulation 116 (Protection of the public) under the Building Regulations, as well as approval from the Minister for Planning for the broader development.*

### Planning

- *Building Communities advised since receiving Council's feedback as part of the consultation process that they have continued to engage with the Department of Transport and Planning, the Office of the Victoria Government Architect and Homes Victoria and other parties on aligning the final submission for a planning permit to the Minister for Planning.*
- *It is unclear whether Council's concerns will be addressed. It is expected that some minor changes will be made to the plans but nothing that substantially addresses Council's identified concerns.*
- *Council has been informed that an application was lodged with the Minister for Planning on Friday, 24 May 2024 and a final decision will take approximately 6-8 weeks. Officers have requested a set of the plans to understand if any changes have been made that reflect the Council resolution.*
- *Council has also requested that a Tree Protection Management Plan for both on-site and street trees is implemented if Minister for Planning approves the development. It will be at the discretion of the Minister if this requirement is included.*

### Separate matters

- *Separate approval will be required from Council to remove street trees. This is administered through the City Permits Department. 18 street trees are identified on the development plans as needing to be removed and while Council raised concern about replacement canopy tree planting in our response to the public engagement, Council did not expressly raise concerns about street tree removal.*
- *The process to authorise removal of street trees is guided by Council's adopted strategy 'Greening Port Phillip: An Urban Forest Approach 2010'. Requests are assessed, reviewed by the Tree Removal Investigation Panel, and if supported would then be subject to consultation and if submissions are received would be decided by the Manager Parks and Open Space. Trees that are approved for removal would be subject to the payment of an amenity value as defined in the strategy.*
- *There is a presumption that if street tree removal is necessary to enable an approved development, that it is factor that weighs in favour of authorising their removal.*
- *At this stage, no application has been made to Council to remove street trees.*
- *When an application to remove street trees has been made, Councillors could request the application be 'called in' and for a decision to be made at a Council Meeting.*

### **Next steps**

*Council will continue to meet monthly with Building Communities to ensure parties are across any activities onsite and raise any known issues, should they arise. Council will continue to play a role in advocating to State Government to ensure this project achieves a range of neighbourhood character and social benefits for future residents and our existing community, in line with Council's resolved position.*

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