



10.1 ST KILDA MARINA - SUBMISSION FOR LANDLORD APPROVAL - CONSIDERATION OF THE REVISED CHANGES TO THE LEASE CONCEPT DESIGN

EXECUTIVE MEMBER: CLAIRE STEVENS, GENERAL MANAGER, GOVERNANCE AND ORGANISATIONAL CAPABILITY

PREPARED BY: MICHELLE RYSANEK, SENIOR PROJECT MANAGER – STRATEGIC PROJECTS

1. PURPOSE

- 1.1 To seek approval of key changes proposed to the lease concept design for the redevelopment under the new St Kilda Marina lease that have been revised since the last Council Meeting on 20 July 2022 when they were not approved by the Landlord.

2. EXECUTIVE SUMMARY

- 2.1 The new lease that commenced on 1 May 2022 includes a Landlord Approval Condition that requires the tenant, Australian Marina Development Corporation (AMDC) to obtain the Landlord's written approval of the proposed design drawings for each stage intended to be submitted for planning approval.
- 2.2 The approved concept for the redevelopment of the site, agreed as part of the new lease, followed an extensive consultation and negotiation process. It had strong councillor, community, and stakeholder support delivering the right the right mix of commercial and community benefits and appealing design outcomes.
- 2.3 The concept design has evolved during the detailed design process based on detailed investigations (including market sounding, site, and operational assessments, building and other regulation reviews, statutory planning reviews), feasibility assessments, and extensive design work. With material increases in site contamination costs, construction costs, and interest rates and decline in overall economic conditions there has understandably been a focus on ensuring a commercially feasible design.
- 2.4 Changes are a normal outcome of a design evolution process. However, it is important that such changes not only align with the site brief and the planning scheme, but that they also maintain the integrity of the lease approved concept in terms of the overall mix of commercial, community, and design outcomes. At the same time, as Landlord we must ensure we act reasonably.
- 2.5 AMDC made their initial submission for Landlord Approval in December 2021. Following initial feedback from Council, AMDC resubmitted their application in April 2022.
- 2.6 A detailed clarifications process and a considerable number of discussions and design workshops between Council officers and AMDC followed, and a landlord approval pack was updated by AMDC and presented to Council at a public meeting on 20 July 2022 supported by various recommendations. The corresponding Council resolution is detailed further in this report.



- 2.7 Council was asked to consider material departures from the lease approved concept. Of the 11 design changes presented, three were not approved. This is the focus of this Council Report.
- 2.8 The three design elements have since been revised by AMDC following consideration of the feedback and further workshops with Council officers and consultation with Fire Rescue Victoria (FRV) noting that the design for one particular element on the peninsula is contingent on FRV approval.
- 2.9 The revised designs shown in Attachment 1 as a comparison to the lease concept and previous iterations better align with the objectives and design criteria for the Marina and provide considered balance between interests of the wider community and the boating community, Council, the tenant and other bodies the tenant has consulted regarding the design (FRV particularly), and, therefore, are recommended for conditional approval. The design elements or areas, their current design status and officer recommendations are summarised as follows.
- 2.10 **Peninsula Promenade and Turning Circle** – The updated design is essentially a hybrid incorporating some elements of the lease concept with paths separated by generous landscaped features for part of promenade, while other parts show the road and pedestrian path adjacent in manner that accommodates FRV requirements. The turning circle remains; however, the extent of paving is reduced. This solution is a considerable improvement from the previous scheme offering a balance of the public benefits of the lease concept as identified in the site brief, the needs of FRV, and safer conditions for all users – pedestrians, cyclists, drivers of cars and larger vehicles such as fuel trucks. While FRV are yet to provide formal approval for this design as they require an overall design package with the finer design details resolved than what the current stage of design development can provide, the preliminary discussions have suggested that this variation to the peninsula promenade would be acceptable. As such it is recommended that the design presented in Attachment 1 is approved conditional upon AMDC confirming approval from FRV prior to the conclusion of the planning stage.
- 2.11 **New foreshore building and second storey addition to the northern building of the Marine Parade retail strip.** AMDC responded to the feedback provided with an alternative option to accommodate the approved increase in NLA comprising of a smaller foreshore building with a more refined design, and an additional storey on the northern end of the Marine Parade retail precinct. The revised design for the foreshore building is a significant improvement to the previous variation. Its new location and reduced size allow for generosity of movement, improves the relationship with the waterfront and enhances key views. The design approach has been refined to curate views to the bay, better harmonise with the other buildings on the peninsula, sit more comfortably in the foreshore context, and to reflect the heritage of the site. With these improvements, the building is a beneficial replacement to what is otherwise a foreshore carpark.
- 2.12 The second storey addition to the northern most building on Marine Parade is a relatively modest addition to this retail precinct that sits well within the height



constraints, 'book-ends' the Marine Parade buildings and creates a stronger sense of entry while offering an attractive upper-level dining experience.

- 2.13 On this basis, and in acknowledgement that approval has been provided for an increase in NLA from the lease concept to the maximum permissible by the Planning Scheme, it is recommended this design change is approved. This approval is conditional upon the NLA calculation as part of the statutory planning process, with any discrepancy being deducted from (or added to, if required) the development that will replace the service station in 10 years' time. It is also conditional upon a satisfactory resolution to the public carparking arrangements including numbers of regular parks and appropriate integration with the Moran Reserve interface.
- 2.14 **Floating Venue** - AMDC has proposed a less imposing structure shifted northward to a less conspicuous location. The structure is limited to one (enclosed) storey, but with a rooftop decking to allow for outdoor seating and umbrellas. Attachment 1 demonstrates the differences to the previous double storey option.
- 2.15 The planning implications in terms of this venue's classification as a building or temporary structure (and therefore impact on NLA calculations and built form envelopes) remain unresolved. However, in order to progress this issue and allow a planning submission to be made, and in consideration of the notable change in scale, location and advice about operation, it is recommended that the venue in its updated form and location is approved. Its compliance with the planning scheme will be assessed when a planning submission is made and, if not compliant, it will not be a feature on the site. Any substantive alternative proposal by AMDC for the venue following this assessment will need to be resubmitted to the landlord for approval.
- 2.16 Approval to progress is also conditional upon the floating venue not compromising or impeding the delivery of the key public benefits intended for the site, particularly the design and functionality of the open spaces, the operation of the public boat ramp and the location and operation of the public berths AMDC is committed to provide as part of the lease arrangement.
- 2.17 In addition to the key design changes noted above, Council officers, under delegation, did not approve the areas of circulation around the boat ramp, particularly at the conflict points between boats/cars, pedestrians and cyclists – the design presented issues of safety, quality of design and general functionality. A revised design has been proposed that considerably improves functionality and safety.
- 2.18 As a result of the design modifications to the foreshore building and the circulation to and at the boat ramp, there have been some modifications to the public carpark. While the boat trailer parking has remained at 80 spaces (as required by the Site Brief and planning scheme), the regular carparking has been adjusted to achieve an improved outcome. The revised layout has 65 dedicated regular car spaces plus 82 'double duty' spaces where car and trailer spaces may 'double' as used as regular spaces – this is in recognition that a significant amount of time the trailer parking is near empty. This compares with the lease



concept comprising of 50 regular dedicated spaces plus 30 “double duty” spaces. Subject to verification by a traffic and parking report as part of the planning process, Council officers intend to approve this design approach to support the improvements to circulation and the recommendations made for the new foreshore building.

- 2.19 An updated development plan incorporating the changes that have been recommended for approval can be found in Attachment 1. This demonstrates an effective integration of the key areas discussed above, particularly noting the important relationships between the circulation and movement areas leading to/from the boat ramp, the peninsula circulation and the new foreshore building with the adjacent foreshore trail and public carparking areas.

3. RECOMMENDATION

That Council:

- 3.1 Notes that there are two parts to the landlord approval process for the St Kilda Marina redevelopment:
- Items Council approves (key changes to the concept approved with the lease) to progress to the planning stage
 - Items that are approved by Officers under delegation (detailed review of the documentation and alignment to the St Kilda Marina Site Brief and Planning Scheme requirements) to progress to the planning stage
- 3.2 Notes that a landlord approval pack prepared by AMDC, the tenant and developer, was presented to Council at a public meeting on 20 July 2022 when Council was asked to consider material departures from the lease approved concept.
- 3.3 Notes that of the eleven design changes presented, three were not approved, and it is these elements plus the revised overall development plan that Council is asked to consider.
- 3.4 Conditionally approves the following material departures from the lease approved concept for the St Kilda Marina, with the requirement that all the identified issues and actions detailed within Section 4 of this report are resolved prior to completion of the planning approval process:
- 3.4.1 Peninsula Promenade modifications including the turning circle
- 3.4.2 New foreshore building and second storey addition to the northern building of the Marine Parade retail strip
- 3.4.3 The floating venue
- 3.5 Notes there is an element of the submission, circulation to and at the public boat ramp, that is approved by Council officers under delegation to progress to the planning stage, with conditions attached to resolve the design to the satisfaction of the Landlord.
- 3.6 Notes that the outcomes from this Council Meeting combined with the outcomes from the 20 July 2022 Council meeting complete that Landlord Approval response to the tenant until such time as a future landlord approval submission is made.



- 3.7 Notes that any substantial changes to the design approach that result from the tenant addressing the issues listed in the report or any issues raised through an authority approval process or at the tenant's instigation will require a re-submission to be made for Landlord Approval.
- 3.8 Notes that Officers will issue a formal response to the landlord approval submission by the tenant detailing the above.
- 3.9 Notes the staging for the redevelopment works as defined in Section 4 of this report.
- 3.10 Thanks the Australian Marina Development Corporation (AMDC) for the revised elements of the landlord approval submission and the work they are doing to deliver the significant community, environmental and financial benefits agreed within the lease between Council and AMDC, and wishes them well in their management of the site and endeavours to obtain planning approval.

4. KEY POINTS/ISSUES

New Long-Term Lease and Redevelopment Plan

- 4.1 The new lease for the St Kilda Marina, executed in December 2020, was a culmination of the following:
 - A procurement period of approximately one year extending from mid-2019 to mid-2020.
 - An approval by Council of a preferred lease (with AMDC) on 15 July 2020 to be issued to the public for review and the opportunity to make a submission in support or opposition of any key terms of the lease.
- 4.2 Following consideration of the public submissions, an approval by Council of the lease for issue to the Minister for approval which occurred on 1 December 2020.
- 4.3 The preferred lease included a redevelopment concept valued at approximately \$30M (\$25.3M for commercial and approximately \$5.4M for public realm for stage one works) to be constructed across several stages:
 - Stage 1a including the peninsula works, dry stack, Riva building refurbishment, carpark, Bay Trail Civic Heart – to be delivered in 12 to 24 months (noting that completion dates are set from the later of statutory approvals or contamination remediation)
 - Stage 1b including the new re-oriented wet berths, Marine Parade works, peninsula work and Marine Parade retail – to be delivered in 24 to 48 months (noting that completion dates are set from the later of statutory approvals or contamination remediation)
 - Stage 2 includes the expansion of the dry stack from 300 to 400 boats pending a successful business case made by the tenant.
 - Stage 3 covers the redevelopment of the petrol station site following the 10 year period where it can remain on the site.
- 4.4 The redevelopment concept agreed was the result of a comprehensive evaluation and negotiation process during the procurement period to ensure the



proposed outcome aligned with the St Kilda Marina Site Brief that formed the basis of a planning scheme amendment. The Site Brief is a key document that resulted from a feasibility and urban design exercise involving a community panel. It delivers the vision and objectives for the Marina set through the comprehensive community engagement process.

Lease Requirements for Landlord Approval

- 4.5 The new lease that commenced on 1 May 2022 includes a Landlord Approval Condition that requires the tenant, Australian Marina Development Corporation (AMDC) to obtain the Landlord's written approval (in its capacity as landlord and not as a responsible planning authority) in respect of the proposed design drawings for each redevelopment stage intended to be submitted for planning approval.
- 4.6 The purpose behind this provision is to enable the Landlord to review the evolved design (from that agreed upon lease execution) to ensure it complies with the lease and, therefore, demonstrates design excellence, a suitable urban design outcome and delivers the variety of intended benefits to Council and the community. For any significant deviations from the lease approved concept, the landlord approval process provides Council with the opportunity to consider those changes prior to the documentation being submitted for planning approval (a completely independent process to the landlord approval process).
- 4.7 The Landlord is required by the lease to not unreasonably withhold or delay consent to the Tenant's application for approval and must respond in writing to the tenant within 15 business days of the receipt of the submission.
- 4.8 The landlord response may be one of the following:
 - Approval of the application with or without conditions
 - Rejection of the application including the rationale for the rejection
 - Acting reasonably, seek further information to assist the Landlord to respond to the application. Once this information is received, this then triggers the timeframes and processes set out above.

Landlord Approval Process

- 4.9 There are two parts to the landlord approval process:
 - Items Council approves (key changes to the concept approved with the lease)
 - Items that are approved by Officers under delegation (detailed documentation, review of alignment to Site Brief and Planning Scheme requirements).
- 4.10 A multi-disciplinary process has been established to support landlord approval which has arrived at the outcomes at the various stages of the landlord approval process, including the outcome proposed in this report. Council officers from various areas have consistently provided input:



- City Design (urban planning, architectural, open space, and landscape review)
 - Strategic Planning (review of general alignment to planning scheme)
 - Sustainability (coastal engineering, ESD, and flood management review)
 - Heritage (heritage impact review)
 - Foreshore Planning (review of coastal engineering and approach to foreshore)
 - Urban Forest Planning (landscape review)
 - Property (review of alignment to lease and community benefits)
- 4.11 AMDC first submitted their documentation for Landlord Approval on 17 December 2021.
- 4.12 Council Officers responded to the Landlord Approval Submission in line with the lease requirement (within 15 business days of the receipt of the submission) on 12 January 2022.
- 4.13 While the landlord approval submission was comprehensive, there were a considerable number of inconsistencies requiring resolution or areas where further information was required. The response to the Tenant aligned with the lease provision for the Landlord to act reasonably in seeking further information to assist the Landlord to respond to the application.
- 4.14 The outcome of this was AMDC's commitment to submit revised documentation for Landlord Approval.
- 4.15 AMDC submitted their revised documentation for Landlord Approval on 19 April 2021.
- 4.16 Following a detailed clarifications process and considerable number of discussions and design workshops between Council officers and AMDC, a landlord approval pack was presented supported by various recommendations to Council at a public meeting on 20 July 22.
- 4.17 At this meeting Council resolved the following in relation to the key changes to the lease approved concept:
- 4.17.1 Approval of the Dry stack and Centre for Boating modified external elevations design, including the Centre for Boating Roof Top Terrace noting issues to resolve through the planning
 - 4.17.2 Conditional approval of the following material departures from the lease approved concept for the St Kilda Marina, with the requirement that all the identified issues and actions detailed within the previous report are resolved prior to completion of the planning approval process:
 - Increase in Net Lettable Area (NLA) from the lease approved concept 3745m² up to 5000m² (the maximum permissible by the St Kilda Site Brief and Planning Scheme)
 - Inclusion of a helipad on the peninsula near the Beacon



- Areas for Events and impacts on open space
- Anticipated departures to the extent of public open space from the lease approved concept
- Additional pontoons for public use
- Riva Building Modifications and extension of a tenure for the sub-tenant closer to the foreshore

4.17.3 The following material departures from the lease approved concept were NOT approved:

- The floating venue in its current form.
- The option for additional retail – the new foreshore building – in its current form
- Peninsula Promenade modifications including the turning circle

4.17.4 Approval to progress further planning and investigation for the extended beach idea as per the conditions specified in Item 5 of the report.

Landlord Approval – Current Status

- 4.18 At the meeting on 20 July, Council noted that a re-submission may be made by AMDC for landlord approval in relation to items not approved at the 20 July Council meeting when the Landlord Approval submission was considered.
- 4.19 This is the purpose of this report; it focuses only on the items that were not approved. AMDC has revised and presented the design on 31 August 2022 for the elements that were not approved including a masterplan for the site updated to incorporate the revised elements.
- 4.20 AMDC engaged in a detailed feedback process with Council's officers, particularly the city design, transport and property teams, in developing these design elements to better align with the design criteria for the site and feedback previously provided by officer. AMDC is now asking for Council's (as Landlord) approval for these elements.
- 4.21 Without this approval AMDC has stated that they cannot progress to the planning approval stage where they will be requiring a statutory approval for the development plan and subsequently a planning permit for the various stages of the redevelopment.
- 4.22 Council officers have reviewed the revised design proposals and the comments and recommendations are presented below. We are also presenting the overall masterplan (or development plan) for the site which demonstrates the revised proposals for the design elements in the context of the overall development.

Revised Design Changes to Lease Concept Previously Not Approved by Council

- 4.23 This section focuses on the part of the Landlord Approval process where Council is asked to approve material departures from the lease approved concept. These elements were previously presented to Council at the meeting on 20 July but were not approved. They have since been revised and all are recommended for



conditional approval. The design elements or areas, and their current design status are summarised as follows.

- 4.24 Attachment 1 includes images that show the design evolution of these elements from the lease approved concept to the design not approved to the current proposal including summary of the points made below. Please refer to this document while reviewing each of the items.
- 4.25 **Peninsula Promenade and Turning Circle** - the lease approved an arrangement where the pedestrian path followed the coastline, the vehicle path was adjacent to the building and the two were separated by a landscape zone including bunding as secondary protection to storm surge. The modified design presented on 20 July 22 proposed a 7.6m wide paved peninsula promenade (4.0 m shared pedestrian/bike path adjoining 3.6m vehicle road plus additional width for passing bays). It also proposed a large turning circle for vehicles, and a bund against the building. Officers considered that the changes eroded the public benefit of this space as intended by the Site Brief and as presented in the lease approved concept, with key issues a reduction in pedestrian and cyclist safety and general amenity. This was largely due to the expansive paving (and therefore reduced landscaping), lack of variation, reduced 'publicness', and the road immediately adjoining the pedestrian and cyclist path for the length of the peninsula.
- 4.26 AMDC advised that the primary reasoning for the changes was to 1) Accommodate input from Fire Rescue Victoria (FRV) who has advised that a 6m wide unobstructed roadway is required for their emergency vehicles and 2) The turning circle accommodates larger vehicles such as fuel trucks without requiring them to reverse.
- 4.27 Council officers acknowledged the advice from FRV and servicing requirements, however, officers' view was that these could be accommodated within an improved design.
- 4.28 Since 20 July 2022, AMDC and officers engaged with FRV and have continued to work together to determine the solution presented in Attachment 1.
- 4.29 The updated design is essentially a hybrid incorporating some elements of the lease concept with separated paths for part of promenade, while other parts show the road and pedestrian path adjacent to each other. The proposal is for a 3.5m wide 'slow road' (for vehicles and cyclists) plus passing bays and a 3m wide pedestrian footpath, separated by landscaping elements. This turning circle has less paving from that previously presented. A pedestrian and cyclist path then continues to the tip of the peninsula. Differing paving treatments will clearly distinguish the pedestrian path from the roadway all the way along peninsula. Vehicle access to the peninsula will be limited to service vehicles and members accessing car parking, with access control by boom gates, operable bollards, or similar (details to be resolved). A dedicated pedestrian path separate to a slow speed shared roadway for vehicles and bicycles is considered the safest configuration for access to the peninsula. An increase in proposed amount of coastal planting will improve the public amenity of the peninsula.



- 4.30 The benefits of this solution are a reduction in paving, increased landscaping and improved public amenity. A clearer designation between users and improved separation between vehicles and pedestrians/cyclists improves safety as does the overall design which encourages slower vehicle speeds (noting that this area will not be an area of high vehicular traffic). The design considers the requirements for vehicles including fire trucks, while balancing the amenity and safety needs of the various user groups while also improving the overall 'publicness' of the space.
- 4.31 FRV are yet to provide formal approval for this design as they require an overall design package with more design details (e.g. resolution of essential services designs etc) than what the current stage of design development can provide. However, the preliminary discussions have suggested that this variation to the peninsula promenade would be acceptable. Any changes to this resulting from an approval process down the track will require approval by the landlord and, if material, will be presented to Council.
- 4.32 The current solution for the peninsula promenade is a considerable improvement from the previous scheme presented. It offers an outcome that balances the public benefits of the lease concept as identified in the site brief, the needs of FRV, and safer conditions for all users – pedestrians, cyclists, drivers of cars and larger vehicles such as fuel trucks. As such it is recommended that the design presented in Attachment 1 is approved conditional upon AMDC confirming approval from FRV prior to the conclusion of the planning stage.
- 4.33 **Option to accommodate the approved additional retail – new foreshore building and second storey addition to the northern building of the Marine Parade retail strip.** At the 20 July 22 meeting, Council approved an increase in Net Lettable Area (NLA) from the lease approved concept of 3745m² up to 5000m² (the maximum permissible by the St Kilda Site Brief and Planning Scheme) conditional upon any discrepancies in the NLA calculation picked up as part of the statutory planning process being deducted from (or added to, if required) the development that will replace the service station in 10 years' time. The approved increase supports the market demand for additional retail spaces while supporting the financial and economic sustainability of the site.
- 4.34 The solution presented by AMDC at the 20 July Council meeting to accommodate this additional NLA was a new building proposed immediately adjacent to the foreshore. Council officers did not support the foreshore building in the form presented at that time for the following reasons:
- The imposing structure worked in opposition to key criteria that ensures generous views and easy movement are achieved for this site, particularly at this prominent foreshore location.
 - It created constraints to movement around the building and particularly a pinch point at the Bay Trail.
 - Given the prominence of this building, there was a concern with the level of design resolution and quality.



- The lack of design resolution made it difficult to understand the full effect of this building and its relationship with its context and the other buildings on the site.
 - In summary, it was considered that the proposed building on balance reduced the public benefit that was achieved in the lease approved concept.
- 4.35 AMDC considered the feedback provided and have responded with an alternative option to accommodate the approved increase in NLA comprising of a smaller foreshore building with a more refined design, and an additional storey on the northern end of the Marine Parade retail precinct. Refer to Attachment 1 for the supporting design images.
- 4.36 The revised design for the foreshore building is a significant improvement to the previous variation:
- It is smaller in scale and volume (the footprint has reduced in area from approx. 675m² to approximately 540m² while the overall Net Lettable Area has reduced by 270m²) and has shifted east into the carpark away from the foreshore and Bay Trail. This allows for generosity of movement, improves the relationship with the waterfront and enhances key views.
 - While still a prominent structure despite the decrease in size, the design approach has been refined to better harmonise with the other buildings on the peninsula, sit more comfortably in the foreshore context, and to reflect the heritage of the site.
 - It offers improved transparency providing a sense of openness, and curates views to the Bay, and effectively activates frontages that respect the sensitive surrounds.
 - With the above improvements, the building is a beneficial replacement to what is otherwise a foreshore carpark, provides additional public amenity, supports the financial and economic sustainability of the Marina and complements the varied recreational possibilities within and adjacent to the site.
- 4.37 The second storey addition to the northern most building on Marine Parade is a relatively modest addition to this retail precinct that accommodates the remainder of the approved NLA. It sits well within the height constraints, while offering an attractive upper-level dining experience. The two-storey element 'book-ends' the Marine Parade buildings and creates a stronger sense of entry. This addition is accompanied by improvements to the various Marine Parade pedestrian and bike paths, entry points, accessibility, and landscaping.
- 4.38 On the basis of the above, and in acknowledgement that approval has been provided for an increase in NLA from the lease concept to the maximum permissible by the Planning Scheme, it is recommended this design change (new foreshore building + second storey to the Marine Parade north building) to accommodate this NLA is approved. This approval is conditional upon the statutory planning process confirming that the NLA calculation meets the maximum NLA permissible by the planning scheme (5000m²), with any



discrepancy being deducted from (or added to, if required) the development that will replace the service station in 10 years' time. As there has been some impact on the public carparking, this approval is also conditional upon a suitable resolution to the regular car park spaces, confirmed during the statutory planning process by a traffic and parking report, where any reductions can be accommodated through multi-purpose and seasonal use of the boat and trailer spaces, and subject to detailed vegetation assessment and approval of any impacts at the Moran Reserve interface. Refer to Item 4.49 re: carparking.

- 4.39 **Floating Venue** – the venue, previously proposed for the southeast corner of the harbour near the main Marina entry, was not approved in the form presented at the Council Meeting on 20 July 22. The design showed a two-storey structure that was considered imposing, impacting views of the Marina and Bay. There were also concerns raised with compliance with the planning scheme and the perception of over-commercialising the site. It was noted that AMDC may consider reapplying to Council for Landlord Approval for this item with a modified design that is less imposing and more temporary in nature.
- 4.40 Since then, AMDC has reviewed the floating venue and proposed a less imposing structure shifted northward to a less conspicuous location. The structure is limited to one (enclosed) storey, but with a rooftop decking to allow for outdoor seating and umbrellas. Attachment 1 demonstrates the differences.
- 4.41 In terms of operation, AMDC has advised that the operator proposed for the venue (not disclosed to officers) intends to operate the venue on site in the warmer months and move it to other locations during the cooler months, or during special events. While AMDC has stressed that it is a temporary installation, they have indicated that the venue could operate to a maximum of 9 months per year.
- 4.42 The planning implications remain unresolved i.e., taking into consideration its operation, scale, and the duration and manner it is moored, will it be considered a building and therefore non-compliant with the NLA and built form envelope parameters, or is it sufficiently transient and temporary in nature that it is not a building? Advice sought by Council officers to date conflicts with advice provided by AMDC.
- 4.43 In order to progress this issue and allow a planning submission to be made, and in consideration of the notable change in scale and advice about operation, it is recommended that the concept for the floating venue in this location and the maximum size is approved. Its compliance with the planning scheme will be assessed when a planning submission is made and, if not compliant, it will not be a feature on the site. Any material alternative proposal for the venue following this assessment will need to be resubmitted to the landlord for approval.
- 4.44 Approval to progress is also conditional upon the floating venue not compromising or impeding the delivery of the key public benefits intended for the site, particularly the design and functionality of the open spaces, the operation of the public boat ramp and the location and operation of the public berths AMDC is committed to provide as part of the lease arrangement.



- 4.45 The details behind its operation will be resolved when Council (as Landlord) reviews the tenure arrangements (should it not be refused through planning), with consideration made to including a review period with criteria designed to evaluate its operation (including length of time on site) and impact on the site.

Design Issues to be Resolved Under Delegation

- 4.46 **Movement and Circulation at Boat Ramp** - In addition to the key design changes noted above, Council officers, under delegation, did not approve the areas of circulation around the boat ramp, particularly at the conflict points between boats/cars, pedestrians and cyclists – the design presented issues of safety, quality and general functionality.
- 4.47 The revised solution proposed in the drawings shown in Attachment 1 is the product of a collaborative effort between AMDC and their consultants, and the City Design and transport teams. The outcome is a safer environment for pedestrians and cyclists which also promotes a more efficient operation for boat ramp, achieved through a better separation of infrastructure that supports the differing functions.
- 4.48 Given the significant improvements that reduce conflict between the user groups, Council officers intend to approve this design on the conditions set out below regarding carparking.
- 4.49 **Public Carpark.** As a result of the design modifications to the foreshore building and the circulation to and at the boat ramp, there have been some modifications to the public carpark. While the boat trailer parking has remained at 80 spaces (as required by the Site Brief and planning scheme), the regular carparking has been adjusted to achieve an improved outcome. The revised layout has 65 dedicated regular car spaces plus 82 'double duty' spaces where car and trailer spaces may be used as regular spaces – this is in recognition that a significant amount of time the trailer parking is near empty. This compares with the lease concept comprising of 50 regular dedicated spaces plus 30 "double duty" spaces. It should be noted, however, that the design approach will need to be verified by a traffic and parking report to be reviewed as part of the planning process.
- 4.50 In order to maintain 80 boat trailer parking spaces, the carpark has shifted slightly towards Moran Reserve. The approvals for the new foreshore building and the circulation at the boat ramp are conditional on the outcomes of an assessment to ensure retention of valuable vegetation at the Moran Reserve interface. Otherwise, Council officers intend to approve this design approach to the public carparking to support the improvements to circulation and the recommendations made for the new foreshore building.

Overall Development Plan & Open Space

- 4.51 Attachment 1 provides an updated development plan incorporating the changes that have been recommended for approval above. It also shows the progression of the development plan from the lease concept through the key phases of the landlord approval process.



- 4.52 The current development plan demonstrates an effective integration of the key areas discussed above, particularly noting the important relationships between the circulation and movement areas leading to/from the boat ramp, the peninsula circulation and the new foreshore building with the adjacent foreshore trail and public carparking areas.
- 4.53 As the various areas of the design have evolved since the Council meeting, AMDC has reviewed the open space calculation in detail and has confirmed the following:
- The advice provided by the AMDC architect at the at the time of entering the lease was that the public open space area for the lease approved concept increased from the current amount on site of approx. 4% to 50%. The recent detailed reviews have confirmed a more accurate figure of 44% which is still significantly over the 20% minimum open space requirement in the Site Brief and planning scheme).
 - The public open space area based on the current proposal is now approx. 47% of the site. While the peninsula promenade design has had to be adjusted to accommodate FRV needs (albeit it is now more balanced in delivering public benefit than the previous iteration), the quality of public spaces has improved considerably through design development, particularly in terms of overall landscape master planning, safety, extent of planting, and diversity of experience. In summary, with the recent changes to certain key elements, the open space concept as depicted in the latest revision is now very comparable to the lease concept plan.

Authority Approvals and Possible Changes to the Design Approach

- 4.54 In addition to the statutory planning approvals discussed in this report, there are other approvals that AMDC will need to obtain from relevant authorities for the redevelopment plans. Of note is Marine and Coastal consent.
- 4.55 The landlord process approvals are subject to authority approvals and in no way pre-empt an outcome.
- 4.56 Any material changes to the design approach for the redevelopment that result from the tenant addressing the issues listed in the report or any issues raised through an authority approval process or at the tenant's instigation will require a re-submission to be made for Landlord Approval.

Works to Integrate Adjacent Spaces and Infrastructure

- 4.57 Council officers have commenced discussions with AMDC about a range of works (integration works) that are either necessary or beneficial for the integration of Marina development with the adjacent spaces and infrastructure.
- 4.58 This includes possible or required changes to the Bay Trail, Marine Parade footpaths, Moran Reserve and the new dog park connections, the main entry intersection on Marine Pde, and Marina Reserve interface.
- 4.59 Officers will report back to Council about these works at a future date.



5. CONSULTATION AND STAKEHOLDERS

- 5.1 Extensive consultation with the community has informed the development of the Site Vision and Objectives and the design criteria in the St Kilda Marina Site Brief. The design criteria were determined through a community panel process involving a panel of 23 community members working collaboratively with technical consultants and council officers from August to December 2018 to determine the mandatory and desirable attributes for the site. The Site Brief is a critical document informing respondents to the procurement process about the current conditions and the desired future state of the St Kilda Marina.
- 5.2 At a Council Meeting on 1 September 2021, Council made available the St Kilda Marina Project Stage Six Community Engagement Summary Report, which detailed the findings of a community engagement program undertaken in June and July 2021 to present in detail the concept plans for the development of the Marina (as agreed in the new lease) and seek community feedback to inform the detailed design development.
- 5.3 AMDC has advised that the feedback received through the consultation has and is being used by AMDC to inform elements of their detailed design for the redevelopment of the site. The design particularly addresses opportunities for displaying public art, increased seating and spaces for comfortable gathering, retaining existing trees to provide shade, ample spaces for events and programmed activities. We continue to work with AMDC on ensuring key view lines are protected, public open spaces meet community needs and desires and paths for pedestrians and cyclists are safe and provide effective amenity while moving through spaces.
- 5.4 AMDC has also met with specific interest groups who have been consistent in raising suggestions for the site and will further consider how they may be addressed or accommodated within the parameters of the agreed design intent for the site. Further opportunities may also be provided for in person meet and greets with the new tenant.
- 5.5 As part of keeping the community informed, key messages have been as part of the landlord approval process to explain the rationale behind and benefits associated with the design departures from the concept design. This is complementing the council report in the public meetings where Council is considering the key changes to be incorporated as part of the landlord approval process, noting that the design for the site will be subject to a planning process that will include public consultation.
- 5.6 The Victorian Government is a key stakeholder. Not only is the site on foreshore crown land but it has regional significance. Council officers meet regularly with Victorian Government representatives from DELWP to discuss project progress and specific issues that arise. They have been involved in the development of the Site Brief, the procurement documentation and the lease; and facilitated the approval of the lease by Governor in Council. Representatives from Parks Vic have also reviewed and had input to the Site Brief and are now involved in discussions with the new tenant. The marine and coastal area of DELWP have also provided their input and pre-planning meetings have occurred with the new



tenant to understand the requirements for Marine and Coastal consent for the development.

- 5.7 AMDC has been working extensively with the CoPP project team in planning for and now transitioning to the new lease. The tenant has proactively approached existing marina members to keep them informed about impacts on boat storage arrangements.

6. LEGAL AND RISK IMPLICATIONS

- 6.1 St Kilda Marina is foreshore Crown Land governed by site specific legislation, the St Kilda Land Act 1965.
- 6.2 The project approach was designed to achieve value for money, promote competition, manage risk, achieve high standards of probity and maintain competitive tension while enabling as much transparency as possible.
- 6.3 The key lease terms and broader lease document seek to appropriately mitigate risks to Council. This includes a prescriptive approach to the management of contamination, and a review and approval process of the developed designs as a predecessor to the statutory planning approval submission i.e. Landlord Approval (which is the subject of this report).
- 6.4 As this is a long-term lease (in excess of 15 years) the Retail Leases Act (2003) does not apply.
- 6.5 A lease for this land is required to be approved by State Government. The St Kilda Land Act 1965 stipulates that approval is to be granted by Governor in Council. Approval of the lease occurred on 1 December 2020. The lease was subsequently executed on 16 December 2020 and commenced on 1 May 2022.
- 6.6 The lease includes a Landlord Approval Condition that requires the tenant, Australian Marina Development Corporation (AMDC), to obtain the Landlord's written approval of the proposed design drawings for each stage intended to be submitted for planning approval.
- 6.7 The extensive community engagement program running from the early planning stages of the project to final stage intended to both inform the design for the site and subsequently invite feedback on the proposed design, is aimed at minimising risks in creating an underutilised facility that caters to distinct groups in the community.
- 6.8 Council is employing a robust and risk-based approach to minimising exposure to issues resulting from site contamination, including financial exposure while ensure the safety of the development and occupation of the site.

7. FINANCIAL IMPACT

- 7.1 The cumulative effect of the financial contribution by the proponent for the term of the lease is in order of \$160M.
- 7.2 The proposal for the lease is a base rent of \$750,000pa, subject to yearly indexation at the rate of the Consumer Price Index (CPI) and market rent reviews every 5 years (following the initial 10-year period). A rental discount applies to the first four years to facilitate accelerated development of stages 1a and 1b of the



site, being the new dry store building, the new wet berths re-oriented to the peninsula side, refurbishment of the RIVA building, Marine Parade works, peninsula works, landscaping across the site, the Bay Trail and carparking upgrades. The rent payable for the first four years will be \$134,000 which equates to the base rent of the existing lease at the time of negotiation.

- 7.3 In terms of the costs of development and the benefit provided by means other than the rent, the proposal as at the stage of lease agreement includes capital expenditure considerably exceeding the previously reported \$30.7M (given inflation and rising costs of construction) which includes all construction and professional costs and contingencies related to the commercial operations, public realm works (estimated to now exceed the previously reported \$5.4M), the Australian Volunteer Coast Guard facility and the sea wall rectification.
- 7.4 The project team continues to work with the tenant to determine an approach to managing contamination and a means to accurately estimate costs. AMDC has proposed a broad methodology that uses alternative construction techniques to minimise contaminated soil disturbance and off-site disposal. The outcome of this is a cost in the order of \$8M. Council's responsibility in line with the lease requirement of a contribution of 75% of costs is approximately \$6M. The draft budget allocates this amount to Marina contamination management.
- 7.5 The budget for this financial year is \$955k plus deferrals of approximately \$60k from last year. This is predominantly for works associated with contamination management.

8. ENVIRONMENTAL IMPACT

- 8.1 The new tenant, as part of their proposal, was required to submit a Sustainability Plan for assessment by the evaluation team that articulated the proposal's alignment to the environmental and coastal design criteria in the Site Brief, and the extent of ESD attributes in the proposal. This plan is being refined through the design development process, with the next key review being undertaken as part of the statutory planning submission.
- 8.2 The new tenant is committed under the new lease to deliver the following environmental sustainability features:
 - Highly accessible open space and landscaping to approximately 50% of the site (well in excess of the current extent of open space being approximately 4% and in excess of the Site Brief requirement for minimum of 20%). This includes improved access to highly valued foreshore areas of the site (particularly along the peninsula which is currently accessible) for pedestrians and cyclists.
 - Upgrades to the existing sea wall that protects from storm surge and is intended to provide natural habitats that encourage biodiversity.
 - A commitment to enhancing the Sustainability Plan for the development of the site to ensure Council's Sustainability targets are met as articulated in an AECOM report that aligns the targets to the site. The lease will include a requirement to meet Council's Act and Adapt Sustainable Environment Strategy 2018-2028. The features range from various coastal resilience



measures (protection and enhancement) to environmental design initiatives that benchmark against the Design and As-Built Green Star tool (which focusses predominantly on how the built environment is constructed and operated). Initiatives include but are not limited to waste management systems, low carbon, energy and water efficient building design and operations, bicycle facilities to exceed 5 Star Green Star, and Site predominantly powered by 100% electricity with the provision of on-site renewable energy supply and solar power to a minimum of 50% roof area.

- A commitment to provide an Environment Management Plan that addresses coastal resilience measures and various environmental design elements prior to lease commencement that will be updated every five years.
- A commitment to achieve accreditation for ISO 14001 (Environmental Management System) within the first 12 months of the lease commencement.

9. COMMUNITY IMPACT

- 9.1 St Kilda Marina is a key foreshore site valued by not only the Port Phillip community but also the wider community, particularly boat owners and marine and foreshore enthusiasts.
- 9.2 The new lease for St Kilda Marina is an opportunity to improve the contribution of the site to the municipality and region. These aspirations are reflected in the Site Vision and Objectives, which identify broad environmental, social, cultural and economic benefits that the project is seeking to achieve to provide improved benefits for the broader community.
- 9.3 The St Kilda Marina Site Brief endorsed at a Council Meeting on 15 May 2019 articulates the mandatory and discretionary criteria that have guided respondents in the request for proposal process to achieve the Site Vision and Objectives which aims to achieve considerably improved benefits for the community.
- 9.4 Key community benefits of the new lease include:
- Highly accessible open space and landscaping to approximately 50% of the site (well in excess of the current extent of open space being approximately 4% and in excess of the Site Brief requirement for minimum of 20%). This includes improved access to highly valued foreshore areas of the site (particularly along the peninsula which is currently accessible) for pedestrians and cyclists.
 - Access for Council or a nominee of Council to activate or use an area or areas of open space on site for a minimum of 10 events/days at cost; 10 events/days at cost for the use by Council or a nominee of Council of the community facility (dates for both to be agreed 12 months in advance); and access to the community facility for a community use (as defined by Council) for a minimum 20 days/events per annum



- The development of a fit for purpose facility for the Australian Volunteer Coast Guard as part of the proposal, with a tenure based on peppercorn rent.
- Provision and maintenance of a public boat ramp and trailer parking.
- The possibility for the inclusion of a bridge from Marine Reserve to the Peninsula at a future date funded by others.
- A commitment to adopt the Victorian Social Procurement Framework to influence the Proponent's commercial dealings and sourcing of suppliers in the areas of design, construction and operations on site.
- A commitment to engage suppliers that employ Victorian Aboriginal people and Victorians with a disability
- A commitment to engage suppliers with gender equity policies.

10. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

- 10.1 The delivery of the new lease for and associated redevelopment of the St Kilda Marina aligns with the *Liveable Port Phillip* Strategic Direction - *A City that is a great place to live, where our community has access to high quality public spaces, development and growth are well-managed, and it is safer and easy to connect and travel within.*
- 10.2 The vision to create a special place and destination for everyone that encourages a diversity of uses through the provision of varied amenities across the site seeks to enhance Council's reputation as Melbourne's cultural and creative heart.
- 10.3 The opportunities created for enterprises (including the key Marina business and its role in the Victorian boating network) and activation of the site through all the seasons, together with the significant improvements to the asset and rental income, supports a flourishing local economy.
- 10.4 The income from the lease is also proposed to be expended improving the public realm on the Port Phillip foreshore, particularly as it relates to the Marina and its urban context for the benefit of the community.
- 10.5 It also aligns with other strategic directions including *Inclusive Port Phillip*, *Sustainable Port Phillip* and *Vibrant Port Phillip* by supporting the delivery of the following outcomes:
- Creating a special place for everyone (a key component of the Site Vision) through the provision of well managed and high quality public spaces and amenities with efficient connections to the broader City that encourage a wide patronage and a safe diversity of uses.
 - Protecting and enhancing the natural foreshore environment through considerable sustainability initiatives while providing a greener and cooler place that is adapting and resilient to climate change.



- 10.6 St Kilda Marina is a key strategic site within Council's property portfolio and presents a significant opportunity in terms of social, environmental, economic and cultural possibilities for the St Kilda foreshore, the municipality and the State.

11. IMPLEMENTATION STRATEGY

11.1 TIMELINE

11.1.1 Formal Response to AMDC regarding these remaining elements of AMDC's Landlord Approval Submission – 11 October 2022.

11.1.2 AMDC's Submission for Planning Approval – late 2022

11.2 COMMUNICATION

11.2.1 The tenant will be formally advised of Council's decision as part of a formal response addressing these outstanding elements of the Landlord Approval Submission.

11.2.2 The design presented for Landlord Approval is the culmination of detailed investigations (including market sounding, site and operational assessments building and other regulation reviews, statutory planning reviews) and extensive design work undertaken by the tenant since the approval of the lease concept and execution of the lease in December 2020. The design has evolved to respond to the extensive new and more detailed inputs. Changes are a frequent (if not standard) outcome of a design evolution process.

11.2.3 The concept design approved in the lease was negotiated as part of the procurement process and subject to a community notification and submissions program when a preferred lease arrangement was made public and subsequently approved by Council. It was informed by the best possible available information at that time, including a detailed Site Brief and newly approved planning scheme developed through a comprehensive community engagement process.

11.2.4 An opportunity will be made available for the community to provide feedback on the tenant's submission for planning approval as part of a non-statutory consultation process during the statutory planning assessment period.

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

- 1. SKM Images & Summary of Revised Changes to the Lease Concept**