



**ST KILDA MARINA - PROPOSED NEW LEASE AGREEMENT -
REVIEW OF SUBMISSIONS**

**EXECUTIVE MEMBER: CHRIS CARROLL, GENERAL MANAGER, CUSTOMER,
OPERATIONS AND INFRASTRUCTURE**

PREPARED BY: MICHELLE RYSANEK, SENIOR PROPERTY PROJECT MANAGER

1. PURPOSE

- 1.1 To present and hear submissions received from interested parties, as required under Section 223 of the Local Government Act 1989, regarding Council's intention to provide a 35 year lease with a further term of 15 years (conditional on meeting performance criteria) to Australian Marina Development Corporation (AMDC), the successful proponent from the new lease procurement process, for the St Kilda Marina.

2. EXECUTIVE SUMMARY

- 2.1 Council has been preparing for the procurement of a new lease for the St Kilda Marina since early 2017. In February 2018 Council approved the Project Approach, the Probity Plan and Community Stakeholder and Engagement Plan for the early stages of the project.
- 2.2 Following a comprehensive two stage evaluation process of proposals received in response to the RFP, on 15 July 2020 in a confidential Council Meeting, Council appointed Australian Marina Development Corporation Pty Ltd (AMDC) as the preferred tenant for a 35 year lease, with an option for a further 15 years, for the St Kilda Marina subject to Council complying with its obligations under sections 190 and 223 of the Local Government Act 1989, resolving to grant the lease and obtaining Governor in Council approval. This resolution was made based on a set of key lease terms detailed in the body of this report.
- 2.3 The key terms of the lease including the redevelopment concept plans and perspectives were made public on Friday 19 July 2020. This was supported by various forms of media (an updated web-site, a video explanation by the Mayor filmed at the Marina, a press release, an article in The Herald Sun and a key summary document, St Kilda Marina Project Update - New Long Term Lease) used to explain the outcome from the procurement process and how it aligns with the Site Vision and Objectives and the St Kilda Marina Site Brief.
- 2.4 A public notice inviting submissions about the proposed new lease was issued in The Age on Saturday 18 July 2020. The notice directed the public to the St Kilda Marina Project website that contains information relevant to the proposed new lease key terms, the redevelopment proposal and how Council arrived at its decision (while maintaining commercial confidentiality where required).
- 2.5 On 30 July 2020 a new lease question and answer session was held which provided the public with an opportunity to meet the preferred tenant, view the redevelopment proposal with information as presented by the architects, and ask questions about this



or any of the key terms of the lease. The purpose of the session was to assist the public to make informed submissions.

- 2.6 Submissions closed at mid night on Saturday 15 August 2020. Council received 52 written submissions 40 of these (around 77%) were associated with trailable yachts. Each person who made a submission received acknowledgment and was invited to speak to their submission at this meeting.
- 2.7 The key themes coming out of the submissions relate to:
- Concerns over reduced catering for trailable yachts (40 Submissions)
 - Concerns over the potential provision of a bridge (22 Submissions)
 - Concerns over community engagement (12 Submissions)
 - Concerns over the proposed wet berth design (11 Submissions)
 - Concerns over varied environmental issues (11 Submissions)
 - Concerns over the proposed purpose and use of the site (10 Submissions)
 - Concerns over focus on financial returns and future marina fees (6 Submissions)
 - Concerns over the design of the dry store building (4 Submissions)
 - Concerns over the adequacy of carparking provisions (4 Submissions)
- 2.8 A summary of each submission is presented in Attachment 1. Full submissions, with redactions to hide personal information, are presented in Attachment 2.
- 2.9 Council will, at this meeting, formally receive all written submissions and hear any presentations in support of the submissions.
- 2.10 Under the Local Government Act 1989, Council is required to consider all submissions prior to deciding to award the lease. To support this, Council will receive a report at the 16 September 2020 meeting for decision about whether to progress the new long-term lease for the St Kilda Marina to the Victorian Government approval process, being approval by Governor In Council, as required by the *St Kilda Land Act 1965*. Included in that report will be proposed responses to each submission for Councillor consideration.
- 2.11 Each individual or group who made a formal submission will receive a written response thanking them for their submission and advising them of Council's decision and the reasons for the decision following the council meeting on 16 September 2020.

3. RECOMMENDATION

That Council:

- 3.1 Notes that public notice has been issued under Section 190 of the Local Government Act 1989 (Act) inviting submissions from interested parties regarding the proposed long-term lease for the St Kilda Marina.



- 3.2 Notes the submissions received by the closing date of 15 August 2020 as required under Section 223 of the Local Government Act 2019 (detailed in Attachments 1 and 2).
- 3.3 Hears from interested parties who have requested to speak in support of their submission at this meeting.
- 3.4 Thanks submitters for their interest in the new long-term lease for St Kilda Marina.
- 3.5 Directs Officers to bring back to Council a report at the Council Meeting on 16 September 2020 for decision, that includes a response to the submissions received from interested parties regarding Council's intention to provide a 35 year lease with a further term of 15 years (conditional on meeting performance criteria) to Australian Marina Development Corporation (AMDC), the successful proponent from the new lease procurement process, for the St Kilda Marina.

4. KEY POINTS/ISSUES

- 4.1 Council has been preparing for the procurement of a new lease for the St Kilda Marina since early 2017. On 15 July 2020, Council appointed Australian Marina Development Corporation Pty Ltd (AMDC) as the preferred tenant for a 35 year lease, with an option for a further 15 years, for the St Kilda Marina subject to Council complying with its obligations under sections 190 and 223 of the Local Government Act 1989, resolving to grant the lease and obtaining Governor in Council approval.
- 4.2 The key terms of the lease including the redevelopment concept plans and perspectives were made public on Friday 19 July 2020. This was supported by various forms of media (an updated web-site, a video explanation by the Mayor filmed at the Marina, a press release, an article in The Herald Sun and a key summary document, St Kilda Marina Project Update - New Long Term Lease) used to explain the outcome from the procurement process and how it aligns with the Site Vision and Objectives and the St Kilda Marina Site Brief.
- 4.3 A public notice inviting submissions about the proposed new lease was issued in The Age on Saturday 18 July 2020. The notice directed the public to the St Kilda Marina Project website that contains information relevant to the proposed new lease key terms, the redevelopment proposal and how Council arrived at its decision (while maintaining commercial confidentiality where required).
- 4.4 On 30 July 2020 a new lease question and answer session was held which provided the public with an opportunity to meet the preferred tenant, view the redevelopment proposal with information as presented by the architects, and ask questions about this or any of the key terms of the lease. The purpose of the session was to assist the public to make informed submissions.
- 4.5 Submissions closed at mid night on Saturday 15 August 2020. 52 written submissions were received in total. A summary of each submission is presented in Attachment 1. Full submissions, with redactions to hide personal information, are presented in Attachment 2.
- 4.6 The main themes to come out of the submissions were:
 - 4.6.1 **Concerns over reduced catering for trailable yachts** (40 submissions):
Submitters who participate in trailable yacht sailing or organisations who support



the activity raised concerns about the club being displaced and requested that the club be supported through the provision of suitable infrastructure to continue to use the site for sailing and club activities. Submitters expressed concerns regarding the removal of hardstand storage from the peninsula and requested retention of 20 hardstand storage positions to reflect the current number of trailable yachts stored on site, noting that the Melbourne Trailable Yacht Club has a membership of approximately 140. Some submitters who currently store their yachts on the site or support those that cannot store boats at home (or elsewhere) noted that alternative storage on site such as use of the dry store building or the wet berths would be inconvenient and/or too expensive. In addition to the issue of storage, a considerable number of submitters (particularly those who would transport their yachts to the site) raised concerns about access to the site at the entry and the use of the public boat ramp for launching causing congestion and raised the need for provision of adequate space adjacent to the boat ramp for rigging and facilities in the water to support launch and retrieval. The submissions that discussed the issues with the boat ramp also raised the issue of the conflict between pedestrian and cycle path and boat ramp remaining unresolved.

- 4.6.2 **Concerns over the potential provision of a bridge** (24 – 22 objections, 2 in support): The majority of submissions opposing a bridge were from trailable yacht owners who either indicated that it would be detrimental to their use of the Marina due to the inability for mast boats to exit or access the harbour, or, if one was to be built, it would need to be sufficiently high. One of these stated concern about bridge design and the impact it would have on sight lines. Most of these submissions expressed concern about a bridge impeding the ability for the Marina to act as a 'safe harbour' in bouts of inclement weather. Two submissions expressed concern that boating generally would be impacted - mast up yachts and motorboats with tall fly-bridges.
- 4.6.3 **Concerns over community engagement** (12 submissions): A number of submissions received by trailable yacht owners and supporters raised concerns about the engagement process and provided feedback that trailable yacht enthusiasts (as a wider group) and specifically users of the Marina had not been provided with adequate engagement opportunities and/or kept informed, and that feedback had been ignored. A submitter unrelated to trailable yachts expressed their view that the community panel outcomes were disregarded. Another two submissions asked about future opportunities for engagement, one querying how the Planning Panel's recommendation for community engagement was being addressed.
- 4.6.4 **Concerns over the proposed wet berth design** (11 submissions): A number of submissions raised concerns associated with the proposed wet berth design reduced capacity and the proposed re-orientation to the peninsula side, with the latter raised mostly by trailable yacht owners. Issues related to the re-orientation included a more circuitous route for trailable and other boats towards the ramp and a confined area of water to launch into and retrieve, complicated by a right angle onto the ramp, making it more difficult to line the boat up and /or fend it off in a prevailing wind.



- 4.6.5 **Concerns over varied environmental issues** (11 submissions): A range of queries and issues were raised that pertain to environmental design (including use of solar panels to power the marina and provisions for electrical charge stations for cars and boats), and protection or enhancement of the marine environment (including suggestions for use of native landscaping, projects to reinstate shellfish reefs, queries regarding pollution or degradation of connected waterways such as Elwood Canal) . There was also some feedback on the level of detail in the design brief and Council’s role in ensuring operational management obligations are met.
- 4.6.6 **Concerns over the proposed purpose and use of the site** (10 submissions): A number of submissions raised concerns and queries around the shift in the originally intended purpose of the site as a Marina to wider non-marina uses with views expressed that the redevelopment will diminish the Marina’s contribution to the recreational boating in Victoria, referencing a reduced wet berth storage capacity as evidence of the shift, and suggesting that it is the responsibility of the Marina to cater for the wider boating community. Some raised a view that the foreshore open space and walking paths were in abundance across the municipality and the provision of these at the St Kilda Marina should not come at the expense of facilities for boating (including particularly hard stand storage). Of these submitters, a few argued that the shift in focus from purely a boating facility to other uses is not preserving the heritage of the Marina, and the impediments to yachts is threatening the SKM’s history of sailing dating back over 150 years. A few submissions raised concerns that the redevelopment is supporting an exclusive and elite precinct without the provision of affordable boating accommodation.
- 4.6.7 **Concerns over focus on financial returns and future marina fees** (6 submissions): Submissions from boat owners including trailable yacht owners queried the future fee structure for the leasing of boat storage, expressing concern that the fees would significantly increase with options limited to wet berth and the dry store building, and the modernised facility. A number of submissions raised concerns that the redevelopment’s sole focus is on the financial side and increasing rental (given the type and number of facilities for storing boats) and the significantly increased rent.
- 4.6.8 **Concerns over the design of the dry store building** (4 submissions): A number of submissions raised concerns that the dry store is too large and imposing particularly with the proposed future expansion (Stage 2) and will impact sight lines. One submitter raised concern that the proposed dry store is not consistent with the high/short dry store option, which was preferred by the panel, noting that the adjacent Riva Building and Chandlery add to the footprint and building mass.
- 4.6.9 **Concerns over the adequacy of carparking provisions** (4 submissions): Two submissions raised issues with the multi-use/flexible approach to carparking creating unpredictability in terms of availability for trailer parking and the detrimental impact it will have on boating when demand for its use increases for activities unrelated to boating. Other submissions queried the adequacy of



parking for both the car and trailer parks and the parking to support the growth in the dry store building (possible stage 2).

4.7 There were a number of other queries or concerns raised in individual submissions or in limited numbers. These included such things as:

- Concerns about complementary uses where one submission suggested that the extent of commercial space exceeds the Site Brief requirements while another queried the viability of the commercial space given the reduced capacity of the Marina.
- Concerns from two submitters about the open space behind the dry store and associated buildings on the peninsula encouraging rough sleepers and campers.
- Concerns about the service station where one submission supports its ongoing retention and one objects to its retention for 10 years.
- Two queries about the provisions for dealing with contamination and who will pay.
- A query about who the current tenant is and where the funding is coming from.
- A query about council's contribution to new/upgraded infrastructure and end of lease provisions.
- A query about the performance criteria for the tenant over the duration of the lease and monitoring of performance.
- Queries from one submitter related to purchase of the existing wet berths.
- A query about how representative the concept plans are of how the Marina will look at the end of the lease.
- A query regarding the monitoring and use of rental currently received (including from parking)
- A query about Council's annual costs arising from the operation of the Marina including taxes, cleaning, administration, supervision etc, compared with the net annual revenue from the marina.
- A concern that Council is considering entering into a lease agreement while the Planning Scheme Amendment is not yet finalised.
- A concern about limited public transport to the area with a suggestion that a beachfront bus should be considered
- A concern with the impact on property pricing in the area, and suggestions for encouraging tourism through short term and affordable accommodation options in the area.
- A concern regarding safety of the area and suggestions for increasing policing and surveillance of the area due to anticipated increase in use.
- A suggestion that the BOM Weather Station provide full details about the weather rather than wind speed and direction.
- A query about procurement and what evaluation criteria was used.



5. CONSULTATION AND STAKEHOLDERS

- 5.1 The Section 190 process is a standard leasing notification process undertaken by Council as a requirement under the Local Government Act 1989. The process is not technically required here as the lease will be approved under the St Kilda Land Act 1965. However, Council has elected to undertake this notification process for consistency and maximum transparency.
- 5.2 The public notice period officially commenced with an advertisement in The Age on Saturday 18 July 2020, providing the local community and other interested parties with an opportunity to make a written submission on the key terms of the proposed lease.
- 5.3 The submissions period closed on 15 August 2020. However, a verbal submission can also be made at this Council meeting on 2 September 2020, when Council considers the submissions received. Council will consider any feedback received prior to making their final decision on the lease in a second public Council meeting on 16 September 2020.
- 5.4 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.
- 5.5 A Community and Stakeholder Engagement Plan that outlines the engagement process to accompany the project procurement and planning pathway, as well as delivery of the lease, was endorsed in a Council Meeting on 5 June 2019 and is a public document.
- 5.6 The Victorian Government is a key stakeholder. Not only is the site crown land but it has regional significance. Council officers have met regularly with Victorian Government representatives from DELWP to discuss project progress and specific issues that arise. Representatives from DELWP and Parks Vic were consulted on the development of Site Brief. DELWP informed the development of Request for Proposal document, the Draft lease and the final lease.
- 5.7 Due to confidentiality requirements associated with the procurement process, detailed information about the procurement process and outcomes could only be made public following Council's endorsement of the preferred proposal and tenant on 15 July 2020. The project [web-page](#) details the extent of information that was made public following a confidential procurement process, from the particulars of the successful proposal to the process, criteria and weightings undertaken to evaluate submissions. Certain information (specific details about proposals) continues to remain confidential to maintain the integrity of the process and commercial in confidence requirements.

6. LEGAL AND RISK IMPLICATIONS

- 6.1 Under the Local Government Act 1989, councils must use resources efficiently and effectively and provide services in accordance with best-value principles to meet the



needs of the local community and improve the quality of life in the local community. 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.

- 6.2 To ensure that effective probity practice (and principles of integrity, impartiality and confidentiality) underpins the procurement process, a Probity Plan was developed and endorsed by Council in February 2019. A Probity Advisor was involved in the project from late 2017 to assist the project to develop various tools to ensure probity is effectively managed.
- 6.3 A risk register has been reviewed and updated as required, supporting a risk based approach to the management of this project, including risks associated with the procurement process.
- 6.4 As this is a long-term lease (in excess of 15 years) the Retail Leases Act (2003) does not apply.
- 6.5 The lease will require Victoria Government approval as it is Crown Land. St Kilda Marina is governed by the St Kilda Land Act 1965 which stipulates that approval is required to be granted by Governor in Council.

7. FINANCIAL IMPACT

- 7.1 The cumulative effect of the financial contribution by the proponent for the term of the lease is in the 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 is proposed at \$134,000.
- 7.3 This compares to the current rent received of \$134,000 per annum plus 7% of gross receipts associated with car parking, boat launching, rental of boat pens, parking of cars with trailers and dry storage rentals which currently equates to revenue in the order of \$110,000. In summary, for the first four years of the new lease commencing in 2022 Council will receive in the order of \$110,000 less rent compared with existing while the main redevelopment works takes place. However, from the fifth year onwards Council will receive approximately \$500,000 more rent (plus a redeveloped site).
- 7.4 In terms of the costs of development and the benefit provided by means other than the rent, the proposal includes capital expenditure totalling approximately \$30.7M which includes all construction and professional costs and contingencies related to the commercial operations, public realm works (estimated as approximately \$5.4M), the Australian Volunteer Coast Guard facility and the sea wall rectification.
- 7.5 The RFP process required Council Officer time; probity, legal, commercial and strategic procurement advice; and design and engineering consultancy services. \$460,000 was budgeted for in the 2019/20 budget, with a further \$75,000 budgeted for 2020/21 to



complete the project including completion of statutory approvals, lease execution and community engagement on identified appearance and amenity elements of the design.

8. ENVIRONMENTAL IMPACT

- 8.1 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.
- 8.2 The proposed new lease arrangement for St Kilda Marina is recognised as 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. 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 proposed new lease arrangement for St Kilda Marina is recognised as 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 Community benefits include, but are not limited to, significantly increasing and improving public realm and open space, year-round activation through the provision of facilities for the broader community, improving movement throughout the site, and improving marina functionality.

10. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

- 10.1 The RFP process for the St Kilda Marina new long-term lease aligns with Strategic Direction 4, "We are growing and keeping our character". It supports the delivery of the specifically identified Council Plan key outcome, "a city of diverse and distinctive neighbourhoods and places". The St Kilda Marina Lease is a specific priority in the Council Plan.
- 10.2 It also aligns with Strategic Directions 3 (We have smart solutions for a sustainable future) and 6 (Our commitment to you) by supporting delivery of the following outcomes:
 - A financially sustainable, high-performing and well-governed organisation that puts the community first.
 - A city that is adapting and resilient to client change.
 - A water sensitive city.



10.3 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

- 16 September 2020 – Council consideration of submissions and decision to approve the lease and progress it to the Victorian Government Approval process
- End September 2020 - Progress the lease to approval by the Victorian Government via Governor in Council, as required by the St Kilda Land Act 1965

11.2 COMMUNICATION

- A public notice was issued in The Age on 18 July 2020 inviting interested parties to make a submission. This and the key terms were communicated publicly via various forms of media including an updated web-site, a video explanation by the Mayor filmed at the Marina, a press release, an article in The Herald Sun, and a key summary document, St Kilda Marina Project Update - New Long Term Lease
- On 30 July 2020 a new lease question and answer session was held which provided the public with an opportunity to meet the preferred tenant, view the redevelopment proposal with information as presented by the architects, and ask questions about this or any of the key terms of the lease. The purpose of the session was to assist the public to make informed submissions.
- Interested parties have been advised of the possibility of making verbal submission at this Council Meeting.
- Each individual or group who made a formal submission will receive a written response thanking them for their submission and advising them of Council's decision and the reasons for the decision following the council meeting on 16 September 2020.
- The outcome of the meeting on 16 September 2020 where Council will make a decision about the lease will be communicated via various public forums including social media, the project website and the interested parties database.

12. OFFICER DIRECT OR INDIRECT INTEREST

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

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ATTACHMENTS

1. SKM New Lease Summary of Submissions
2. SKM New Lease Individual Submissions - Combined - Redacted