

ORDINARY MEETING OF COUNCIL

18 SEPTEMBER 2019



14.5

PROPOSED PROPERTY POLICY - ADOPTION

EXECUTIVE MEMBER: CHRIS CARROLL, GENERAL MANAGER, CUSTOMER AND CORPORATE SERVICES

PREPARED BY: EMMA MURDOCH, HEAD OF PROPERTY OPERATIONS

1. PURPOSE

- 1.1 To present the results of the second round of community engagement for the property policy.
- 1.2 To present the revised draft property policy to Council seeking adoption.

2. EXECUTIVE SUMMARY

- 2.1 Council has an extensive and varied property portfolio, consisting of Council owned land and Crown Land worth over \$2.1 billion that supports direct and in-direct service delivery.
- 2.2 Since Council's existing Leasing and Licencing Policy was adopted in 2009, significant changes have occurred in Port Phillip, including the impact of climate change, increasing population density, rates capping, legislative changes, Fisherman's Bend development and changing community needs and demographics.
- 2.3 Council priorities and objectives for the management of the property portfolio have also changed since 2009, reflecting changing community requirements, best practice, and the impacts of legislative change.
- 2.4 Continuing the current property management practices in the current rates capping environment will likely result in unsustainable portfolio management practices and significant impacts to the next generation.
- 2.5 Council is now developing a new Property Policy that responds to the changing needs of the community, plans for the future, and provides a transparent and consistent guide to ensure sustainable delivery of benefits and best value for the community.
- 2.6 The proposed Property Policy will provide a framework for decision making for the strategic management of the portfolio, for repurposing land and buildings, for land acquisitions and sales, and for leasing or licensing facilities to commercial operators and community based organisations.
- 2.7 Overall, the draft Property Policy has been written as a basis for best practice property management and has been designed to fit within, and compliment, other council policies.
- 2.8 Two phases of community and stakeholder engagement have been undertaken:
 - engagement on proposed policy changes – online survey
 - engagement on draft Property Policy - workshop
- 2.9 Both phases of engagement included a direct invitation to over 200 council tenants and key stakeholder groups.



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- 2.10 Feedback from the initial consultation informed the development of the draft property policy while the second consultation session was designed to inform stakeholders about proposed changes, allow them to express their views and concerns, and assess the level of support and potential impact of the proposed policy changes.
- 2.11 During the second round of consultation, feedback was focused around obtaining clarity on how the changes will work in practice with limited recommendations for changes within the draft policy.
- 2.12 Throughout this process it was noted that the value that community groups provide is hard to capture and needs careful consideration on a case by case basis. With this in mind, Council support has been considered holistically through the criteria set in the Community Funding Policy endorsed in April 2018.
- 2.13 Work is currently being undertaken on a Community Funding Implementation and will allow for the development of eligibility criteria for the Property Policy as part of the implementation plan.
- 2.14 It is envisioned that the funding assessment for tenancy agreements will be similar to and aligned with the current Community Facility Access and Allocation Policy which will see a consistent approach to the way groups are funded within council buildings.
- 2.15 The team have been setting up for the implementation for some time and have brought in a number of processes to help support the implementation. However, in order to move forward with the implementation and develop the required processes, clear guidelines must be agreed through a policy.
- 2.16 It is expected that the implementation of the policy will require significant work to assist in managing the impacts of change on affected community groups and Council will consider appropriate transition arrangements on a case by case basis.
- 2.17 It is proposed that Councillors adopt the proposed property policy to allow Officers to start planning implementation against a clear set of guidelines.



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3. RECOMMENDATION

That Council:

- 3.1 Notes and thanks the community members who have provided feedback and assisted in the development of the new property policy.
- 3.2 Approves the adoption of the proposed Property Policy on the basis that the policy will be brought back to Council for review after the first year of implementation.
- 3.3 Authorises Officers to begin implementation of the proposed Property Policy including continued community engagement and increased focus on the implementation of the Community Funding Policy.
- 3.4 Notes that the implementation of the policy will require significant work to assist in managing the impacts of change on affected community groups and appropriate transition arrangements are required to be entered on a case by case basis.
- 3.5 Delegates authority to the Chief Executive Officer to make amendments to the Policy to correct any minor drafting errors that do not materially alter the intent.

4. KEY POINTS/ISSUES

Council's Property Portfolio

- 4.1 Council has an extensive and varied property portfolio, consisting of Council owned land and Crown Land worth over \$2.1 billion. There are currently 166 leases and licences for 152 tenants across Council's 200+ building portfolio. Annual rental return is \$3.6 million and Council spends around \$7.2 million annually on the maintenance and renewal of the building portfolio.
- 4.2 The portfolio directly supports delivery of many Council services, such as libraries, transport, waste collection, street and beach cleaning, maternal child health services, passive recreation opportunities and staff accommodation.
- 4.3 It also indirectly supports service delivery by generating income from commercial properties to fund service provision and subsidised accommodation for community groups to deliver services aligned with Council priorities. This includes the funding of child care centres, neighbourhood houses, sports clubs, dog club, arts, community gardens, the Eco Centre, Linden Gallery and Gasworks Arts.

Changing context

- 4.4 As a dynamic asset that delivers services to the community, Council property must be managed in way that responds to the changing needs of Port Phillip, while also providing consistency and certainty in service delivery.
- 4.5 Since Council's existing property policy was adopted in 2009, significant changes in the operating environment have occurred, including the impact of climate change, increasing population density, rates capping, legislative changes, Fisherman's Bend development and changing community needs and demographics.
- 4.6 Council priorities and objectives for the management of the property portfolio have also changed since 2009, reflecting changing community requirements, best practice, and the impacts of legislative change.



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The Case for Change

- 4.7 Changes to the way Council currently manages its property portfolio is required to support Council's ability to sustainably manage, improve and grow its building assets in a condition that satisfies the community, minimises risk, encourages environmental sustainability and demonstrates best value.

Efficiency

- 4.8 The current policy lacks guidance and requires updating to ensure that it is fit for purpose and able to provide the Property Management team, community and tenants with clear direction by identifying the parameters for the management of the property portfolio.
- 4.9 The development of a strong and considered policy position will be essential to the success of Council's management of its property portfolio to help deliver the Council Plan priorities while clear guidance will allow for the introduction of systems and processes to help meet statutory obligations and increase transparency in decision making.

Clarity

- 4.10 In the future, there will be competing demands for Public Land with increasing pressure on assets to deliver more services within existing land and building envelopes.
- 4.11 The strength of the private property market within Port Phillip will place significant financial pressures upon Council if freehold land acquisitions are needed. Therefore, the need to leverage assets to deliver more services either from the micro asset or at a macro holistic level will underpin the strategic direction for the Portfolio. The sharing of assets by community groups and the more regimented maintenance of buildings will all lead to an agile and flexible property environment able to respond to demand changes with clarity and timeliness.

Transparency

- 4.12 In the past, many tenants, particularly community and not for profit based organisations, have had their leases renewed with minor changes. There is a lack of clear guidance regarding the assessment of different service needs across the organisation for the use of council assets, particularly when the different services are competing for space. The proposed policy supports a more consistent and transparent approach to the allocation of Council support to community groups including their access to buildings.
- 4.13 A strategic approach to the management of the portfolio over time, guided by clear priorities, policy and process, is essential to ensure that Council's property portfolio can continue to support direct and indirect service delivery, deliver best value for current and future generations and ensure accessibility and transparency.

Financial sustainability

- 4.14 Council has an ageing portfolio of buildings with heritage significance that will need major work over the next 5-10 years. A significant proportion of these buildings are provided to not for profit community organisations and groups with fully or significantly discounted rent, which is foregone in return for the delivery of benefits by these groups



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to the community. In many cases Council also pays the building maintenance and other operating costs in addition to the lifecycle renewal costs.

- 4.15 Continuing the current property management practices with the associated cost to Council, with an aging portfolio of buildings, a significant outstanding maintenance liability, new accessibility compliance standards and the current rates capping environment, will likely result in unsustainable portfolio management practices and significant impacts to the next generation.
- 4.16 Council's goal is to sustainably manage, improve and grow its land and building assets in a condition that satisfies the community, in a way that minimises risk and impact on the environment, and that demonstrates best value.
- 4.17 In order to achieve this goal, a change to the way that Council manages the property portfolio is required that responds to the changing context and addresses the legacy challenges of the portfolio.

New Property Policy

- 4.18 Council is developing a new Property Policy that responds to the changing needs of the community, plans for the future, and provides a transparent and consistent guide to ensure sustainable delivery of benefits and best value for the community. This policy will replace the existing Property Policy October 2009.

Key Areas for Change

- 4.19 A review of the current policies and property management practices has led to the identification of a number of key areas of change that need to be considered in order to achieve Council's goal of sustainable management of the portfolio over the long term.
- 4.20 While some changes are straightforward, and are expected to have a minor impact on existing tenants, others may have a more significant impact on tenants.
- 4.21 Straightforward changes being contemplated include:
 - The strategic direction of property management – i.e. need for a strategic property plan reviewed annually.
 - The process and principles governing acquisitions and disposals of Council land – i.e. due diligence standards for acquisitions and disposals; and considerations for level of council contribution to joint acquisitions.
 - Commercial lease management – i.e. specific guidance for the management of commercial tenancies.
 - Benefits definition and tenant reporting – i.e. guidance on the approach for applying benefits assessment criteria and method for monitoring and reporting on delivery of benefits.
- 4.22 The more significant changes include consideration of:
 - The amount that tenants contribute to outgoings – i.e. What are the circumstances where Council should contribute to or completely cover the cost of outgoings for tenants?



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- The amount that tenants contribute to maintenance costs – i.e. What proportion of the cost of maintaining a building should be paid by the tenant (user) versus the broader community?
- The length of leases and licences – i.e. When should Council award a longer versus shorter lease or licence term?
- The multi-use of Council property – i.e. When is exclusive use of a facility required or justified versus a shared use arrangement?
- The process at lease renegotiation – i.e. When should Council undertake a competitive process for awarding a lease or licence versus direct negotiation with an existing tenant.
- The amount of rent paid by tenants – i.e. What are the criteria for Council determining the appropriate level of contribution through applying a discount to the market rental value?
- The method of Council support – i.e. What is the best method for Council to provide support to community organisations (grants process, other).

5. THE POLICY DEVELOPMENT APPROACH

- 5.1 A comprehensive approach is being undertaken for the development of a new Property Policy, including a two-stage community consultation approach. This is in recognition of the potential for any changes to the way Council manages the property portfolio to have significant impacts on both the benefits that Council generates from the portfolio on behalf of the community through service delivery and the distribution of the costs associated with the management of the portfolio over time between Council and tenants.

Phase 1 Consultation - Online Survey

- 5.2 An online survey was undertaken through a “Have your Say” survey to test trends in sentiment regarding the proposed policy changes to get a better understanding of the scale of any emerging issues within the wider community.
- 5.3 It provided the opportunity to test ideas and directions with the community, and start a conversation about possible solutions.
- 5.4 The approach taken was aimed at obtaining broad community feedback and included:
- 5.4.1 A direct invitation to over 200 council tenants and key stakeholder groups; and
 - 5.4.2 An intercept survey conducted over 4 days throughout pockets of the municipality.
- 5.5 The survey produced 159 responses with the participant profile representing a balanced view of the municipality. The largest number of respondents were Port Phillip residents between the ages of 25 and 59.
- 5.6 The feedback provided through this first phase of community consultation helped inform and shape the draft property policy with key themes from this consultation including:
- Support for the guiding principles and recommended changes.



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- Support for tenants to contribute towards the building running costs with Council to continue provide subsidies to community organisations in need.
- Recommendations for assessment criteria for tenant contribution, length of tenancy and multi-use venues.

Phase 2 Consultation - Workshop

- 5.7 On 21 July 2019, KJA facilitated a stakeholder engagement workshop for the City of Port Phillip.
- 5.8 This workshop delivered the second round of consultation and was designed to inform stakeholders about proposed changes, allow stakeholders to express their views and concerns, and assess the level of support and potential impact of the proposed policy changes.
- 5.9 The same list of over 200 stakeholders from the first round were invited to register their interest in attending the workshop with 40 of the identified stakeholders responding and subsequently invited to attend the workshop.
- 5.10 The final mix of attendees included representatives of Council building tenants, community groups, child care services and schools, sporting clubs, commercial tenants as well as other special interest groups.
- 5.11 A further invite for written submissions was sent out to groups who advised they were unable to attend. This feedback has been considered as part of this review.
- 5.12 The workshop produced valuable information about stakeholders' priorities and concerns. Participants generally appreciated the opportunity to learn about the proposed policy changes and share their views. A handful of participants, however advised that they had not participated in the first round of consultation and felt that they should have been more involved in the development of the draft property policy.
- 5.13 Relating to specific policy details, the main feedback was focused around obtaining clarity on how the changes will work in practice with limited recommendations for changes within the draft policy. Key themes included:
 - The process of how 'community benefit' will be assessed and implemented.
 - Understanding the relationship between the Property Policy and other policies including the Community Funding Policy and the Child Care Policy that is currently under review.
 - Perception that the policy has an overly commercial view of the property portfolio and should be split into two separate policies.
 - The request for further engagement regarding the implementation of the policy.
- 5.14 For the full list of questions, engagement overview and Council responses please refer to Attachment 1.

Proposed Property Policy

- 5.15 The draft property policy has been informed by the feedback obtained from the initial engagement and finalised through feedback obtained from the consultation workshop.
- 5.16 The proposed property policy has been written as a basis for best practice property management and has been designed to fit within, and compliment, the following Council policies:
 - a) Asset Management Policy

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- b) Contracts and Procurement Guidelines & Procedures
 - c) Community Funding Policy
- 5.17 As the queries raised during the second round of consultation focused on obtaining clarity on how the changes will work in practice, Officers have made minor changes within the policy to align with other internal operations.
- 5.18 It is expected that procedures to ensure appropriate application of this policy will be written through the implementation stage of this project.
- 5.19 It is proposed that Councillors adopt the proposed property policy to allow Officers to start planning implementation against a clear set of guidelines.

6. IMPLEMENTATION OF THE POLICY

- 6.1 Many of the concerns raised throughout the consultation period were regarding the implementation of the policy. In order to move forward with the implementation and develop the required processes, clear guidelines must be agreed through a policy.

Method of Council Support (Community Funding Policy)

- 6.2 The value that community groups provide is hard to capture and needs careful consideration on a case by case basis. With this in mind, Council support has been considered holistically through the criteria set in the Community Funding Policy. Officers believe this will allow for:
- Increased transparency over the level of funding provided by Council.
 - Review of the funding within the Annual Budget.
 - Centralised funding arrangements within Council.
 - Alignment with Council priorities, through a guided and considered approach.
- 6.3 This is to be supported by a key piece of work within the Community Funding Policy Implementation Project which is seeking to implement the guidelines in the Community Funding Policy which was endorsed in April 2018.
- 6.4 Work is currently being undertaken on a Community Funding Implementation and will allow for the development of eligibility criteria for the Property Policy as part of the implementation plan.
- 6.5 It is envisioned that the funding assessment for tenancy agreements will be similar to and aligned with the current Community Facility Access and Allocation Policy and will run for the term of the lease agreement. This will see a consistent approach to the way groups are funded within council buildings. An example of how this assessment might work has been included in Attachment 3.

Transition period

- 6.6 A transition section has been added to the policy to allow for a stepped process when implementing changes that have a significant impact on tenants. We have taken on participant feedback and amended this section to allow up to 12 months' notice to affected groups.



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- 6.7 The team have been setting up for the implementation for some time and have brought in a number of processes in to help support the implementation and have already started raising the impacts with groups likely to be affected.
- 6.8 Due to the significant work that is still yet to be undertaken for implementation, it is recommended that the proposed property policy is reviewed after the first year to ensure it remains aligned to other emerging policies within Council.
- 6.9 It is expected that the implementation of the policy will require significant work to assist in managing the impacts of change on affected community groups and Council will consider appropriate transition arrangements for each group on a case by case basis.

7. CONSULTATION AND STAKEHOLDERS

- 7.1 The communications campaign commenced in March and has continued throughout the life of the policy development.
- 7.2 Two phases of community and stakeholder engagement have been undertaken:
 - engagement on proposed policy changes – online survey
 - engagement on draft Property Policy - workshop
- 7.3 Both phases of engagement included a direct invitation to over 200 council tenants and key stakeholder groups.
- 7.4 The survey produced 159 responses with the participant profile representing a balanced view of the municipality. The largest number of respondents were Port Phillip residents between the ages of 25 and 59.
- 7.5 The workshop included 40 of the identified stakeholders with the final mix of attendees included representatives of Council buildings tenants, community groups, child care services and schools, sporting clubs, commercial tenants as well as other special interest groups
- 7.6 Officers will be looking at engaging stakeholders on the implementation of the policy if endorsed.

8. LEGAL AND RISK IMPLICATIONS

- 8.1 The proposed Property Policy will ensure a transparent, equitable, consultative and consistent process for granting new leases or licences as well as for any acquisition or sale of land.
- 8.2 Clear guidance will allow for the introduction of systems and processes to help meet statutory requirements and mitigate risk.
- 8.3 Some of the changes within the proposed property policy may not be widely supported by existing tenants. A comprehensive communications and engagement plan has been undertaken to clearly and consistently communicate the need for this policy, as well as which elements are within the scope of the engagement, to assist in managing expectations around the extent of their influence on policy development.

9. FINANCIAL IMPACT

- 9.1 One of the approved guiding principles for the Property Policy relates to financial sustainability, which states that decisions and practices will ensure that Council has the funds to care for, improve and grow its building assets, combined with a market driven



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and equitable approach to financial sustainability, to allow for continued service delivery for current and future generations.

- 9.2 The proposed Property Policy will ensure the use, acquisition, disposal and redevelopment of Council property is strategically aligned with Council's Annual Plan, Long Term Plan and Policy Objectives.
- 9.3 There will be accountability for Council expenditure and subsidy decisions to assist in managing competing funding demands across a broad range of projects, programs and services.

10. ENVIRONMENTAL IMPACT

- 10.1 The proposed Property Policy will include reviewing the impacts of Climate Change on the management of the CoPP Property Portfolio.
- 10.2 One of the approved guiding principles for the Property Policy is Environmental Sustainability, which involves the Council identifying opportunities to build resilience to climate change for Council buildings, and embed best practice sustainability principles into all leases and licences.
- 10.3 Future planning the property portfolio considers both the impact on the environment and resiliency to the effects of climate change allowing actions to be taken to mitigate against potential risks.
- 10.4 The proposed Property Policy encourages consolidation and co-location of services and activities to provide for more sustainable use of Council assets.

11. COMMUNITY IMPACT

- 11.1 Building assets will deliver agreed levels of service to the organisation and the community, relative to the benefits received in terms of function (including safety and accessibility), condition and capacity, and will be recognised in the agreement between Council and user.
- 11.2 Use of Council assets and leverage of Council facilities will maximise defined community benefits where possible, with any associated discounted rent and other financial or in-kind support to be clearly linked to the benefits to be delivered to the local community and alignment with the Council Plan.
- 11.3 Community members have been able to provide input into various elements of policy development, and participate in broad and targeted consultation activities.
- 11.4 Some of the proposed policy changes are expected to have significant impact on tenants and the community, however, the policy does allow Council the flexibility to consider the needs of each community group on a case by case basis.
- 11.5 The review has included a two-stage engagement process to help deliver clear communication about what the policy will deliver and to further understand the views of all members of our community.

12. SOCIAL IMPACT

- 12.1 With Port Phillip's population expected to grow to more than a 52 per cent increase from the 2017 estimate, the new policy will allow Council to expand services and property assets to cater for our growing community.



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- 12.2 Council will be able to make better decisions regarding financial investment in infrastructure so that our property assets are of a suitable capacity to cater for growth.
- 12.3 Council will ensure equitable distribution of Council resources within sectors through consideration of allocation between users.

13. ECONOMIC IMPACT

- 13.1 Decisions and understanding of Council's intent and priorities regarding the management of its property portfolio will have an impact on economic and financial considerations of Council and wider community.
- 13.2 The proposed Property Policy will provide guidance that allows us to introduce systems and processes that ensure spending on existing property assets is optimised.

14. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

- 14.1 The proposal aligns to Strategic Direction 6 – Our Commitment to You in the Council Plan 2017 – 2027 through supporting:
 - 14.1.1 Transparent Governance and an actively engaged community.
 - 14.1.2 A financially sustainable, high performing, well-governed organisation that puts the community first.

15. IMPLEMENTATION STRATEGY

15.1 TIMELINE

- 15.1.1 Seek endorsement for adoption of the proposed Property Policy.
- 15.1.2 Work with the Community Funding Policy Implementation project team to develop a set of criteria in line with the guidelines included in the proposed property policy.
- 15.1.3 Undertake the implementation of the proposed property policy by continuing to further engage with tenants on the implementation and work directly with tenants as agreements come up.

15.2 COMMUNICATION

- 15.2.1 Community members will be able to provide input into various elements of the implementation which will include the ability to participate in broad and targeted consultation activities.

16. OFFICER DIRECT OR INDIRECT INTEREST

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

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ATTACHMENTS

- 1. Attachment 1: Property Policy Consultation Feedback 2019
- 2. Attachment 2: Proposed Property Policy
- 3. Attachment 3: Lease Renewal Assessment Example
- 4. Attachment 4: Formal Written Submissions