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# AGENDA

## HEARING OF SUBMISSIONS COMMITTEE MEETING

to be held wholly in person at the  
Preston City Hall, 284 Gower Street Preston,  
6:30pm Monday,  
11 December 2023

*At the time of preparing this Agenda, it is noted that the submission period is yet to close and therefore the report is subject to change up until submissions close at 5pm Thursday, 7 December 2023. The finalised agenda will be provided after the submissions close and no later than Friday 8 December 2023.*

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# Agenda

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## 1. MEMBERSHIP

Cr. Susanne Newton (Mayor) (Chairperson)

Cr. Tim Laurence (Deputy Mayor)

Cr. Lina Messina

Cr. Trent McCarthy

Cr. Emily Dimitriadis

Cr. Gaetano Greco

Cr. Tom Hannan

Cr. Julie Williams

Cr. Susan Rennie

## 2. APOLOGIES

## 3. DISCLOSURES OF CONFLICTS OF INTEREST

## 4. CONFIRMATION OF THE MINUTES OF THE PREVIOUS HEARING OF SUBMISSIONS COMMITTEE MEETING

|                       |
|-----------------------|
| <b>Recommendation</b> |
|-----------------------|

**That** the Minutes of the Hearing of Submissions Committee Meeting held on 13 June 2023 be confirmed as a correct record of business transacted.

## 5. CONSIDERATION OF REPORTS

### 5.1 PROPERTY MATTERS - LEASING OF KINDERGARTENS & CHILDCARE CENTRES

**Author:** Coordinator Property Services

**Reviewed By:** General Manager Operations and Capital

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#### EXECUTIVE SUMMARY

The purpose of this report is to seek the Hearing of Submissions Committee's consideration of the submissions made on the proposed leases with each of the 18 Early Years Services Associations (Service Providers).

At its meeting on 23 October 2023, Council resolved to undertake a community engagement program in accordance with *Section 115 of the Local Government Act 2020* ("the Act") of its intention to enter into a 5-year (2 years plus the option for 3 years) lease with each of the 18 (not-for-profit) Early Years Services Associations for the provision of Kindergarten and Childcare services at the various Council-owned premises. The terms and conditions of these Leases include a full rental subsidy to each of these providers at the value of the annual market rent (as shown in **Appendix A** column headed NAV) with a \$104 annual fee plus GST. Terms and conditions relating to outgoings, utilities and maintenance would remain the same as the current lease arrangements expiring on 31 December 2023.

Public notice was given of Council's intention to lease on Council's website on 30 October 2023 (30 day period), in addition to flyers, posters and brochures being distributed to each of the 18 Early Years Service centres and 41 additional community-based facilities. The public notice period was originally scheduled to finish on Tuesday 28 November 2023 (5pm), however, this was extended by Council (at its meeting held 27 November 2023) to Thursday 7 December 2023.

Council has received 34 submissions who wish to speak at the Hearing of Submissions Committee meeting, whilst a further 67 have nominated a speaker to talk on their behalf. Overall, a total of 209 submissions have been received with ten of the 209 submitters taking up the option to provide additional attachments to their submissions. Of the submissions received by Council, 145 were valid and 64 were deemed invalid. The invalid submissions were deemed invalid due to being incomplete or being a duplicate.

**At the time of preparing this report, it was noted that the submission period is yet to close and therefore the report remains in draft form (and subject to potential change up until submissions close at 5pm Thursday, 7 December 2023).**

It is noted that the role of the Hearing of Submissions Committee is only to 'hear' and receive submissions. There are no options for consideration, or analysis of submissions included in this report.

Following the Hearing of Submissions Committee meeting, a further report in relation to the proposed leases will be provided to Council on 18 December 2023 seeking a final resolution on the same matter.

**Officer Recommendation**

**That Council:**

- (1) Receives the written and verbal submissions.
- (2) Thanks all submitters and presenters for addressing the Committee in support of their written responses.
- (3) Receives a report at the 18 December 2023 Council Meeting as part of Council's deliberations in considering the proposed leases with each of the 18 Early Years Services Associations (Service Providers) to ensure the ongoing delivery of early childhood services from the Council-owned facilities from 1 January 2024, for a period of two years and an option for further three year period. All current lease agreements are due to expire on 31 December 2023.

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**BACKGROUND / KEY INFORMATION****Previous lease agreement**

In January 2013 Council entered into 5-year leases (with the option of a further term of 5-years) with Early Years Services Associations across 18 separate Council owned premises. These leases are due to expire on 31 December 2023. Each Service Provider has been advised of the upcoming lease expiry and each has registered its non-binding interest in taking up a new lease subject to the terms and conditions endorsed by Council (following community engagement).

**Service delivery**

All leases are required for the effective service delivery of the current Early Years Services and education services. Each centre is at capacity to accommodate 3 and 4 year old kindergarten services. Each Early Years Service provider has also signed a new Service Agreement which will run concurrently with the proposed lease term.

This proposal is for the Early Years Learning centres located at:

- 34 Separation Street, Fairfield (Alfred Nuttall Memorial Kindergarten)
- 2 Oldis Avenue, Northcote and 11 Bastings Street, Northcote (Annie Dennis Children's Centre)
- 79 Elm Street, Northcote (Batman Park Kindergarten)
- 55 Clifton Street, Northcote (Clifton Street Children's Centre)
- 64 Clyde Street, Thornbury and 70 Clyde Street, Thornbury (Clyde Street Kindergarten)
- 260 Gower Street, Preston (Darebin Childcare and Kindergarten – Preston)
- 6-8 Kenilworth Street, Reservoir (Darebin Childcare and Kindergarten – Reservoir)
- 91-95 North Road, Reservoir and 12 Acheron Avenue, Reservoir (Oakhill Children's Centre)
- 1-5 Dole Avenue, Reservoir (Keon Park Children's Hub Kindergarten)
- 146 Gower Street, Preston (Gower Street Kindergarten)
- 524 Gilbert Road, Reservoir and 25 Sheffield Street, Preston (J.S. Grey Kindergarten)

- 26 Gellibrand Crescent, Reservoir (Gellibrand Crescent Kindergarten)
- 109 Blake Street, Reservoir (Blake Street Kindergarten)
- 14-16 Maryborough Avenue, Kingsbury (Maryborough Avenue Kindergarten)
- 127-129 Perry Street, Fairfield (Perry Street Childcare and Elizabeth Gorman Kindergarten)
- 28 Raleigh Street, Thornbury (Raleigh Street Community Children's Centre)
- 313 St Georges Road, Thornbury (Merri Community Childcare Centre & Kindergarten)
- 8 Newcastle Street, Thornbury (Thornbury Kindergarten)

The proposed leases would be on the following terms and conditions:

#### **Term**

The term was amended to reflect a period of two-years with one further term of three years.

The Early Learning Leases have been operating on a five-year lease further term after exercising their option on their original 5-year lease. The proposal is that the new leases would be developed in consultation of a holistic Leasing and Licensing Policy for all its community facilities. It is expected that the draft Leasing and Licensing Policy be presented back to Council on 18 December 2023. This would coincide with the timing for the formal endorsement of the Early Years Service leases.

#### **Rent**

The proposed leases are on the basis that Council provides the tenants a near-full rental subsidy to each these providers at the value of the annual market rent. This significant contribution recognises the benefit that these not-for-profit Early Years Services provide to the community.

A \$104+GST annual fee has been proposed. This is a nominal increase from the current set rate of \$52+GST.

#### **Outgoings / Utilities / Maintenance**

It is proposed that each Tenant will be responsible for the same occupancy costs it is presently accountable under its current lease.

#### **Legal Costs**

Each party is responsible for their legal costs with Council being responsible for drafting and engrossing the Lease.

## Previous Council Resolution

At its meeting held on 23 October 2023, Council resolved:

*That Council:*

- (1) *Notes that all current lease agreements are due to expire on 31 December 2023.*
- (2) *Endorses the proposal to undertake a community engagement program in accordance with Section 115 of the Local Government Act 2020 ("the Act") of its intention to enter into a 5-year (2 years plus the option for 3 years) lease with each of the 18 (not-for-profit) Early Years Services Associations for the provision of Kindergarten and Childcare services at the various Council-owned premises with terms and conditions that include a full rental subsidy to each of these providers at the value of the annual market rent (as shown in Appendix A column headed NAV) with a \$104 annual fee) set by crown and included in Council annual Fees and Charges Schedule) for the first two years. Terms and conditions relating to outgoings, utilities and maintenance would remain the same as the current lease arrangements expiring on 31 December 2023.*
- (3) *Notes that any submissions will be considered by Council's Hearing of Submissions Committee at a meeting to be held in the Council Chamber on Monday 11 December 2023 at 6:30pm.*
- (4) *Notes if no submissions are received, a further report be presented to Council to consider completion of the statutory procedures for the lease.*
- (5) *Reaffirms its commitment to supporting kindergarten and childcare services within the municipality and confirms that it has no plans to close any kindergarten or childcare centres.*
- (6) *Notes that this commitment is demonstrated through a significant, planned capital investment in expanding kindergarten and childcare places in the municipality discussed at agenda item 9.6 of tonight's agenda.*

## ALIGNMENT TO 2041 DAREBIN COMMUNITY VISION

Strategic Direction 1: Vibrant, Respectful and Connected

## ALIGNMENT TO 2021-25 COUNCIL PLAN

Strategic Direction 4 Responsible, Transparent and Responsive

Subject to the availability of resources, the Early Years Services Associations must give due and proper consideration to the Council policies, in particular the Early Years Infrastructure Planning Framework 2021-2041 or succeeding policies, plans and frameworks, in its implementation in the development of its Service program, enrolment policies and staffing policies.

Early Years Services Associations to consider other relevant Council policies including Darebin's Towards Equality Framework and Darebin's Disability Access and Inclusion Plan. The Service will be accessible to all families within the community regardless of nationality, language, religion or disability.

In performing the service program, the Early Years Services Associations must comply, and must ensure that its personnel comply with, any lawful and reasonable direction given by the Council.

## ALIGNMENT TO COUNCIL PLAN STRATEGIC OBJECTIVES

1.2 We will help to build an inclusive and empowered community, where social cohesion and community harmony are fostered

1.3 We will embrace diversity and ensure everyone is included in our society, and no one is left behind – by combating discrimination, and championing equity, inclusivity and diversity

2.1 We will deliver equitable and accessible infrastructure to provide opportunities for our community to live well

2.5 We will invest in services and the built environment to improve access for our residents and visitors

4.1 We will ensure balanced and responsible financial decision making that meets the needs of our community now and into the future

4.2 We will ensure our assets are optimised for the benefit of our community

4.3 We will transform our services and service delivery models to ensure they meet the current, emerging and future needs of our community

## DISCUSSION

In accordance with *Section 115 of the Local Government Act 2020*, Council is required to take into consideration all submissions received in relation to the proposed leases, and after it has made a decision, notify all persons who have made a submission of the decision and the reasons for the decision.

Council received **209** submissions (as of 1 December 2023 – **confidential Appendix A - Online Submissions**) in regard to the proposal with 145 being valid and 64 being deemed invalid.

There are currently 34 submitters requesting to be heard by Council in support of their respective submission. A further 67 submitters have requested that someone speak on their behalf with 12 individual speakers nominated.

### **209 surveys were received:**

- 145 Completed
- 64 Invalid - not included within Appendix A.

There were 10 written attachments (documents) included in the submitters survey (**confidential Appendix B – written submissions**).

The submissions have been broken into two tables (**contained within confidential Appendix C**) which identifies:

1. Submissions in which the Applicant wishes to speak to their submission.
2. Submissions in which the Applicant wishes to have someone speak to their submission.



**CONSIDERATION OF LOCAL GOVERNMENT ACT (2020) PRINCIPLES****Financial Management**

This proposal provides minimal change to the existing financial situation for the Tenant.

**Community Engagement**

Public notice was given of Council's intention to lease on Councils website on 30 October 2023 (30 day period), in addition to flyers, posters and brochures being distributed to each of the 18 Early Years Service centres and additional 41 community-based facilities. The public notice period was originally scheduled to finish on Tuesday 28 November 2023 (5pm), however, this was extended by Council (at its meeting held 27 November 2023) to Thursday 7 December 2023.

Council has received 34 submissions who wish to speak at the Hearing of Submissions Committee meeting, whilst a further 67 have nominated a speaker to talk on their behalf. Overall, a total of 209 submissions has been received.

The statutory procedures require Council to give public notice of its intention to lease and invite submissions from affected parties.

Submitters may request to be heard by Council prior to a decision being made to proceed or otherwise with the proposal. In addition, all Early Years Service providers would be advised of the proposal in writing and informed of their right to make a submission. Following which, a report will be presented to Council for a decision on each of the matters.

**Other Principles for consideration****Overarching Governance Principles and Supporting Principles**

- (a) Council decisions are to be made and actions taken in accordance with the relevant law;
- (b) priority is to be given to achieving the best outcomes for the municipal community, including future generations;
- (g) the ongoing financial viability of the Council is to be ensured;
- (i) the transparency of Council decisions, actions and information is to be ensured.

**Public Transparency Principles**

- (a) Council decision making processes must be transparent except when the Council is dealing with information that is confidential by virtue of this Act or any other Act;

**Strategic Planning Principles**

- (a) an integrated approach to planning, monitoring and performance reporting is to be adopted;
- (d) strategic planning must identify and address the risks to effective implementation;

**Service Performance Principles**

- (a) services should be provided in an equitable manner and be responsive to the diverse needs of the municipal community;
- (b) services should be accessible to the members of the municipal community for whom the services are intended;
- (d) a Council should seek to continuously improve service delivery to the municipal community in response to performance monitoring;

**COUNCIL POLICY CONSIDERATIONS****Environmental Sustainability Considerations (including Climate Emergency)**

There are no particular environmental sustainability considerations on these agreements given the short tenure of the Leases. Sustainability considerations (including mitigation and adaptation) relating to all Council's buildings are managed through Council's Asset Management planning and long-term budgeting processes and Council is committed to addressing Climate Risk.

**Equity, Inclusion, Wellbeing and Human Rights Considerations:**

An Equity Impact Assessment has not been undertaken on the proposed Leases.

**Economic Development and Cultural Considerations**

There are no economic developments and cultural considerations in relation to the drafting and implementation of this Policy.

**Operational Impacts**

There are no operational impacts to Council as it will continue to undertake repair, maintenance and renewal activities as required under the current leases.

**Legal and Risk Implications**

Council will need to ensure that any maintenance undertaken by Council, its contractors or the Tenant or Licensee, is undertaken in compliance with Occupational Health and Safety regulations.

**IMPLEMENTATION ACTIONS**

1. Evaluation of Community Engagement responses – November/December 2023
2. Report to Council on the outcome of the Community Engagement – December 2023
3. Execute lease agreements – January/February 2024

**RELATED DOCUMENTS**

Nil

**Attachments**

- EYS Online Submissions (**Appendix A**) Confidential - enclosed under separate cover
- EYS Written Submissions (**Appendix B**) Confidential - enclosed under separate cover
- List of submitters to speak at the Hearing of Submissions Committee Meeting (**Appendix C**) Confidential - enclosed under separate cover

**DISCLOSURE OF INTEREST**

Section 130 of the *Local Government Act 2020* requires members of Council staff and persons engaged under contract to provide advice to Council to disclose any conflicts of interest in a matter to which the advice relates.

The Officer reviewing this report, having made enquiries with relevant members of staff, reports that no disclosable interests have been raised in relation to this report.

**6. CLOSE OF MEETING**