



**10.2** **ST KILDA MARINA - SUBMISSION FOR LANDLORD APPROVAL - REVIEW AND APPROVAL OF CHANGES TO THE NEW LEASE REDEVELOPMENT CONCEPT DESIGN**

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**1. PURPOSE**

- 1.1 To seek Council consideration of the key changes proposed to the lease approved concept for the redevelopment under the new St Kilda Marina lease.

**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 AMDC made their initial submission for Landlord Approval in December 2021. Following initial feedback from Council, AMDC resubmitted their application in April 2022. Since this time Council officers have continued to work with AMDC to obtain information necessary for a comprehensive assessment and response. We have also sought feedback from councillors and provided this to the tenant.
- 2.3 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.
- 2.4 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.
- 2.5 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.



- 2.6 While the landlord approval process is a distinctly separate process to planning approval, Council officers have engaged with the planning team to identify and/or resolve as much as possible any compliance issues that would have a material impact on the design as approved by the landlord, and, as such, have a level of confidence that what is approved to be submitted for planning approval broadly complies.
- 2.7 Although the landlord approval process has been underway for six months there are still several issues that officers believe need to be resolved. Our approach has been to look for ways to provide conditional approval to provide clear guidance on resolution of issues to enable the project to progress. However, there are some items which in the current format should not receive Landlord approval.
- 2.8 In terms of the various design elements Council is asked to consider and approve, the issues and recommendations are summarised in the following themes.

**Recommended for Approval, noting planning issues to be resolved**

- 2.9 **Dry stack and Centre for Boating modified design for external elevations and Roof Top Terrace** – While officers support design modifications to the elevation to allow the gantry system for boat launch and retrieval and the concept of the rooftop terrace there are concerns regarding the design aesthetic of the overall building and compliance issues associated with the height of the rooftop terrace. It is recommended that these concerns be resolved during the planning stage. Further assessment of compliance, and specifically with the design excellence criteria, will be undertaken during this stage with independent input from the Victorian Design Review Panel (VDRP) who, as part of their independent review of the concept, discussed a diminished architectural expression for this building from the original concept. Any redesign triggered by this work is to be submitted for landlord approval.

**Recommended for Conditional Approval**

- 2.10 **Net Lettable Area (NLA) Increase** - It is recommended that an increase in NLA from the lease approved concept of 3745m<sup>2</sup> up to 5000m<sup>2</sup> is approved to support the activation and long-term financial viability of the site. This increase is supported by the Site Brief, the lease, and the planning scheme. It will boost financial viability in response to economic conditions and has the potential for public benefit through increased activation of the site. It is also recommended that any discrepancies in the NLA calculations that are identified through the statutory planning process are deducted (or added if required) from the development that will replace the service station.
- 2.11 **Helipad** - To ensure that the public amenity and use (including quiet enjoyment) intended for the peninsula is maintained, it is recommended that approval is conditional upon a restriction of the number of flights (average of 4 per month including one land and one launch with seasonal peaks of up to 8 flights permitted), and that the infrastructure and operations do not preclude a future bridge over the harbour opening.
- 2.12 **Areas for Events and Impact on Open Space** - The evolution of the documents from the lease agreed concept demonstrates an increasing focus on the use of the peninsula as an events space. This raises concern in terms of an appropriate balance of this use against incorporation and maintenance of natural landscaping and opportunities and amenities for uses by the public outside events. While the intent of



the redevelopment was always to activate the site with events and officers support the use of various spaces in the Marina to do so, we are seeking to ensure that the mandatory criteria related to diverse public spaces and natural landscaping are achieved. It is recommended that approval of event spaces on the peninsula is conditional upon the events spaces being designed in a multi-functional way that is a secondary use to passive open space, that are better aligned to the mandatory criteria for habitat for flora and fauna, publicly accessible spaces, and water sensitive design.

- 2.13 Landlord approval for the revised designs for the events spaces will be considered when the Tenant requests permission to commence Public Realm Works, as is required in the Lease. This stage involves more detailed plans than are required for the planning process and provides Council with an opportunity to review and approve how these spaces will function in a comprehensive way, including such things as locations of public seating and services, landscaping, lighting, etc.
- 2.14 **Public Open Space** – With the introduction of the additional NLA and other elements such as the modified peninsula promenade design, the extent of public realm appears to have reduced from what was approved in the lease. The extent of the reduction, however, needs to be confirmed as part of the resolution of other issues detailed. It is recommended that conditional landlord approval is provided, subject to AMDC updating its calculation of public realm in accordance with the methodology used in the lease calculation and that there is no material variation to the percentage of open space achieved in the concept plan in the lease.
- 2.15 **Additional public pontoons** – public pontoons were required by the lease but not shown on the lease approved concept. They are currently shown as massing blocks on the landlord approval drawings without any details provided. Therefore, it is recommended this item is approved on the condition that AMDC demonstrates, as part of the submission for a planning permit, that the lease requirements will be met.
- 2.16 **Riva Building Modifications and extension of a tenure for the sub-tenant closer to the foreshore** – the lease approved concept was a renovation of the existing Riva building. A new structure is now being proposed. It is recommended that this design progress to the planning stage for assessment under the provisions that unencumbered access for the general public to the peninsula is maintained at all times, and any changes to the design that may result from a different sub-tenant being proposed for this site are submitted to the Landlord for approval

**Not recommended for Approval in its current form**

- 2.17 **Floating Venue** – in its current imposing form where non-compliance with the planning scheme has been raised as well as other urban design and over-commercialisation implications, Officers recommend this is not approved. 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, with evidence that demonstrates compliance with the NLA requirements for consideration by Council during the planning process.
- 2.18 **Option for additional retail** - A new building proposed in a prominent location immediately adjacent the foreshore on the public carpark is the one option that has been presented that would substantially accommodate the additional NLA requested.



Councillor officers consider that this imposing structure does not align with key criteria that ensures generous views and movement, and generally reduces the public benefit that was achieved in the lease approved concept. This is particularly exacerbated when weighed up against other concerns identified in this report pertaining to the impost on the public realm. As such it is recommended that it is not approved in its current form.

Should AMDC consider the feedback provided to date and present a more suitable structure or an alternative solution to achieving the NLA increase for review by the Landlord while resolving other public realm issues, this can be put forward to Council for approval at a public meeting shortly following this one.

- 2.19 **Peninsula promenade and turning circle** – The design differences from the lease approved concept are considered to erode public amenity and have implications for its safe use for pedestrians and cyclists. AMDC has advised that the primary reasoning for the changes is 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.
- 2.20 While Officers acknowledge that this outcome may be required, there is also the possibility of achieving a better outcome. AMDC has agreed to work further with Council and FRV to explore alternative options that might deliver a more balanced outcome. Unfortunately, Officers have not yet been able, despite best efforts, to meet directly with FRV. Given that engagement with FRV in the past has proven useful in achieving better outcomes, it is recommended that approval for this part of the plan be withheld until that work has been undertaken.

#### **Remaining Design Issues to be Resolved Under Delegation**

- 2.21 In addition to the issues outlined above, several issues remain outstanding that are being followed up under delegation. They are summarised below.
- 2.22 **Marine parade buildings (Approved noting issues to be resolved through the planning process)** - Officers have concerns that the design is not compliant with the built form envelopes in the planning scheme, and the roof form does not address a key planning scheme requirement regarding scale and rhythm. The tenant is currently in discussions with the Statutory Planning team to resolve this prior to the submission of their planning documentation. It is proposed that the response to the current Landlord Approval documentation will include a note that any significant changes from the proposed design will require landlord approval in order for an approval for the development plan to be granted.
- 2.23 **Movement and Circulation at Boat Ramp and in other areas of the site (Not Approved)** – the design modifications and lack of resolution remains an ongoing issue particularly in terms of safe and high-quality environments for pedestrians and general functionality.
- 2.24 Of note is the intersection between the boat launch and retrieval activities and pedestrian/cyclist thoroughfare at the public Boat Ramp. Officers are concerned about the fundamental safety issues at this location and have asked the Tenant to consider feedback and suggestions to improve the thoroughfare, so there is increased confidence that the key mandatory criteria are met. As part of the landlord response,



we will note that the resolution of these issues will need Landlord Approval under delegation.

#### **Other items for Council Consideration**

2.25 **Extended Beach** - AMDC has proposed the possibility of an extension of the existing beach for the length or part of the length of the peninsula noting that this is not part of their primary submission for landlord approval. However, considerable further work would be needed to be undertaken by AMDC to advance this idea. Council is asked to consider the public benefits the beach will provide for the site and confirm its interest in progressing the beach concept. If Council indicates support for the beach concept, the following is recommended:

- Significantly more work is undertaken by AMDC on the technical feasibility to ensure the beach and rock groyne does not impact other beaches along the foreshore, and an appropriate sea wall and beach arrangement that mitigates against storm surge is determined. The outcome of this should include a peer review and approval by Council.
- AMDC engages authorities such as DELWP, Parks Victoria and Melbourne Water about the idea from the beginning to resolve and gain approval for the various issues pertaining to them including but not limited to lease and other boundary issues, Native Title, marine and coastal consent, flood management and other issues pertaining to the bay.
- AMDC resolves and demonstrates how operational issues such as beach access, day to day use, cleaning and safety will be addressed for review and approval by technical experts from Council.
- Council makes no financial contribution to develop or maintain the beach.
- No more than 30% of the beach is utilised for private commercial operations.
- Following confirmation of all of the above, a submission for Landlord Approval (including Council approval) is to be made.

2.26 It is noted that much of the additional beach area sits outside the lease area within the water line and as such, any works will require a separate tenure arrangement with another body (likely Parks Victoria).

#### **Other Items that Will be Assessed and Resolved Through the Planning Process**

2.27 As part of the response to the tenant, Officers will set out items that require detailed consideration by AMDC, noting that any substantial changes to the design approach will require a re-submission to be made for Landlord Approval. These include but are not limited to the scope for the sea wall upgrade, heritage impact statement, wind report, arborist report, Sustainability Management Plan, water management plan and wave movement report.

#### **Independent Design Review**



- 2.28 An independent review of the design submission was undertaken by the Victorian Design Review Panel (VDRP) via the Office of Victorian Government Architect (OVGA). In brief, a considerable number of key points in the VDRP Report support the views of the Officers as presented. Of note is the peninsula promenade and the loss of “publicness”; the diminished architectural expression associated with the dry stack and centre for boating; having a more emphatic landscaping design to boost the coastal experience; the lack of clarity with respect to the additional retail options and the Marine Parade design; improving the circulation in various areas across the site for improved pedestrian and cyclist amenity and safety; and clarifying the approach to events to demonstrate the impacts of different scenarios of public and private function.

**Site Contamination**

- 2.29 A summary of the status of contamination management works has been provided including the next steps which involve an independent assessment of the proposed methodology and costs provided by the tenant.

**Next Steps**

- 2.30 Council officers will issue a formal response to AMDC’s landlord approval submission incorporating the decisions made by Council in relation to the key changes to the lease concept and continue to work with AMDC to refine the design to address issues highlighted in the body of the report.
- 2.31 It is anticipated that a submission for planning approval will be made later this year.



### 3. RECOMMENDATION

That Council:

- 3.1 Thanks the Australian Marina Development Corporation (AMDC) for their 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.
- 3.2 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
- 3.3 Approves the following material departures from the lease approved concept for the St Kilda Marina, noting issues to resolve through the planning stage as detailed in Item 4 of this report:
  - 3.3.1 Dry stack and Centre for Boating modified external elevations design, including the Centre for Boating Roof Top Terrace
- 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 Item 4 of this report are resolved prior to completion of the planning approval process:
  - 3.4.1 Increase in Net Lettable Area (NLA) from the lease approved concept 3745m<sup>2</sup> up to 5000m<sup>2</sup> (the maximum permissible by the St Kilda Site Brief and Planning Scheme)
  - 3.4.2 Inclusion of a helipad on the peninsula near the Beacon
  - 3.4.3 Areas for Events and impacts on open space
  - 3.4.4 Anticipated departures to the extent of public open space from the lease approved concept
  - 3.4.5 Additional public pontoons
  - 3.4.6 Riva Building Modifications and extension of a tenure for the sub-tenant closer to the foreshore
- 3.5 Does not approve the following material departures from the lease approved concept:
  - 3.5.1 The floating venue in its current form.



- 3.5.2 The option for additional retail – the new foreshore building – in its current form
- 3.5.3 Peninsula Promenade modifications including the turning circle
- 3.6 Notes that the Tenant has proposed an idea to extend the existing beach as part of the upgrade to the seawall and that the following options are available to Council:
  - 3.6.1 OPTION 1: Council approves progression of further planning and investigation for the extended beach idea as per the conditions specified in Item 5 of the report.
  - 3.6.2 (or)
  - 3.6.3 OPTION 2: Council acknowledges the potential amenity benefits that the extended beach could provide, however, given the uncertainty about future climate change impacts to all beaches from increased frequency and strength of storm events, and possible impacts on existing beaches of works required to construct the beach, does not support the concept of an extended beach.
- 3.7 Resolves to approve Option [insert option].
- 3.8 Notes that a re-submission may be made by AMDC for landlord approval in relation to items not approved.
- 3.9 Notes that the remainder of the submission is approved by Council officers under delegation to progress to the planning stage, with some items having conditions attached to resolve the design to the satisfaction of the Landlord. These include the Marine Parade Built Form arrangement, movement and circulation at the Boat Ramp and confirmation of the base case for the development.
- 3.10 Notes that any substantial changes to the design approach that result from the Tenant's addressing to the issues listed in the report will require a re-submission to be made for Landlord Approval.
- 3.11 Notes that Officers will issue a formal response to the landlord approval submission by the tenant detailing the above.
- 3.12 Notes that Officers continue to work with the tenant on a methodology to managing contamination in parallel with this landlord approval process and the forthcoming planning process.

#### 4. KEY POINTS/ISSUES

##### New Long-Term Lease and Redevelopment Plan





- 4.1 The new lease for the St Kilda Marina that was 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.
  - 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.
- 4.2 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.
  - Stage 1b including the new wet berths Marine Parade works, peninsula work and Marine Parade retail – to be delivered in 24 to 48 months
  - 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.
- 4.3 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 that involved a community panel and delivers the vision and objectives for the Marina set through the comprehensive community engagement process.

#### **Lease Requirements for Landlord Approval**

- 4.4 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.
- 4.5 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).



- 4.6 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. AMDC has been informed about the requirement for Council to approve any changes to the lease agreed concept and the Council meeting availability will most likely misalign with the provision to provide a 'landlord approval' response within 15 days of the submission and a process has been agreed with the tenant to work around this.
- 4.7 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.

### **Planning Scheme**

- 4.8 Planning Scheme Amendment C171Port to the Port Phillip Planning Scheme (for the St Kilda Marina) was approved by the Minister for Planning in November 2020.
- 4.9 To assist in understanding the nature and extent of the documentation submitted by the tenant for Landlord Approval, below is a summary of what this amendment does and how the planning process works.
- 4.10 Amendment C171 introduced new site-specific planning controls for the St Kilda Marina, including rezoning the site from PPRZ to the Special Use Zone with a new schedule 4 SUZ4 and applying the Development Plan Overlay with a new schedule 2 DPO2.
- 4.11 These new planning controls:
- Specify the uses allowed and the development outcomes required on the Marina site consistent with the St Kilda Marina Site Brief.
  - Ensure that the design and usage outcomes for the site are reflected in a Master Plan (also referred to as the Development Plan).
  - Require the preparation of a Heritage Impact Assessment.
  - Ensure on-going and improve community access to, and use of, the site with high quality public spaces.
  - Provide certainty to all stakeholders for those who invest in the redevelopment/renewal of the Marina precinct
- 4.12 As part of the planning process the developer (Tenant) is initially required to submit various design and technical documents detailed in the DPO2 and seek approval from Council for a Development Plan (essentially a master plan for the site).
- 4.13 As part of the planning approval process, Council has resolved to commit to undertake non-statutory consultation (see Minutes from the 17 June Council Meeting here). As part of this consultation, Council has committed to make the Development Plan publicly



available for a period, invite submissions from the community/stakeholders and prepare a summary of submissions together with an Officer response back to Council at a Council meeting for consideration, prior to any decision being made by Council on whether or not to approve a Development Plan.

- 4.14 Once the Development Plan is approved, the developer (tenant) may then apply for one or more planning permits in line with the requirements of the DPO2 for the entire redevelopment or components/stages of it. The documents seeking planning permit approval are assessed against the development plan to ensure compliance.

### **Landlord Approval Process**

- 4.15 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).

- 4.16 There has been an agreed multi-disciplinary process established to support landlord approval an arrive at the outcomes detailed in this report.

- 4.17 AMDC submitted their documentation for Landlord Approval on 17 December 2021.

- 4.18 Council officers from various areas, as follows, undertook a detailed of the submission:

- 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)

- 4.19 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.

- 4.20 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.

- 4.21 The outcome of this was AMDC's commitment to submit revised documentation for Landlord Approval.



### **Landlord Approval Re-submission**

- 4.22 AMDC had been working with their design team on further developing the design, considering the feedback provided earlier this year, with a view to obtaining Landlord Approval as soon as possible and making a planning submission in the months to follow.
- 4.23 AMDC submitted their revised documentation for Landlord Approval on 19 April 2021.
- 4.24 The submission was comprehensive, containing but not limited to the following:
- Urban Context Report
  - A Masterplan Report including the project vision, landscape typologies, heritage statement, site conditions, land use analysis, opportunities and activation analysis, open space provisions, access and movement corridors, project staging, views analysis, built form assessment and value add provisions (such as the beach, floating venue and helipad)
  - Architectural concept plans (including an overall masterplan for the site), elevations and perspectives
  - Landscape plans and perspectives
  - Tenancy plans and perspectives with more detailed provided for the Riva building, proposed floating venue and a connected Marine Parade tenancy
  - A general services summary and fire engineering report
  - A coastal engineering and flood management summary report
  - A traffic and waste management summary
  - A preliminary sustainability management plan
  - An updated bridge study (to that provided at tender time)
  - An updated wind assessment
  - Heritage Impact Statement
  - Preliminary Arborist Report
- 4.25 For consistency, the same Council Officers involved in the first submission reviewed the re-submission.

### **Landlord Approval Re-Submission – Review Outcomes and Response**

- 4.26 Council officers responded to the Landlord Approval re-submission in line with the lease requirement (within 15 business days of the receipt of the submission) on 13 May 2022.



- 4.27 While the landlord approval submission was more comprehensive than the first and addressed several issues raised by Council as part of the first submission, there remained inconsistencies requiring resolution, concerns regarding compliance with the planning scheme or mandatory design criteria, and areas requiring further information so an appropriate assessment can be made.
- 4.28 As a result, the response to the Tenant aligned with the lease provision for the Landlord to act reasonably in seeking further information (clarifications) to assist the Landlord to respond to the application. The response was split into the following areas:
- Clarifications Required
  - Provisional response – non approval of design elements
  - Key issues Identified for resolution as part of the Planning Submission
- 4.29 In addition, we specifically noted the areas that are departures from the lease approved concept that would require formal approval (or otherwise) by Council.
- 4.30 Councillors have been provided with opportunities to review the key design elements and departures from the lease and provide feedback which has been relayed to the tenant in the lead up to this report.

#### **Landlord Approval Re-Submission – Current Status**

- 4.31 Since that feedback was provided, Council Officers have continued to work with the Tenant progress towards Landlord Approval. At this stage, while several issues of substance for Landlord Approval are not fully resolved (for various reasons), to progress from the Landlord Approval stage (noting this process has been ongoing for a little over 6 months), we have made recommendations to Council that include any necessary actions for the relevant items as conditions of approval to progress to the planning stage.
- 4.32 We have summarised the key design elements and any issues or unresolved clarifications in the following sections, starting with the design changes that are being presented for Council approval.
- 4.33

#### **Design Changes from the Lease Agreed Concept for Council Consideration**

- 4.34 This section focuses on the part of the Landlord Approval process where Council is asked to approve key changes from the lease approved concept. The design elements or areas and their current design status are summarised as follows. Attachment 1 includes images comparing the lease approved concept to the current design and a summary of the points made below.

#### ***Recommended for Approval, Noting Issues to be Resolved Through Planning***

- 4.35 **Design Variations to the Dry Stack building and Centre for Boating** – the design approach to the elevations of the building differ considerably from that present in the lease approved concept. This is most effectively explained via the images shown in Attachment 2. The difference in expression of the internal structure and zig zag detail is considered to demonstrate a loss in design quality.



- 4.36 The addition of an opening for a gantry (a design innovation that addresses floor level issues imposed by Melbourne Water and provides for safer and more efficient boat transferrals from store to water and back) should be noted. In terms of the Centre for Boating (a building connected to the Dry Stack that accommodates all services pertaining to the boating operations), a rooftop terrace has been incorporated. This would be available as part of the facilities for marina members or potential boating visitors, increases the attractiveness of the marina as a destination and key contributor to the Victorian boating network by providing first grade amenity. However, the fourth level roof structure (including the stair access and roof) does not appear to comply with the 15m mandatory height limit in the DPO.
- 4.37 Officers remain concerned about the overall reduction in design quality of the Dry Stack, particularly in relation to the requirement in the Site Brief and the planning scheme to achieve design excellence through the redevelopment. Also of concern is the likely compliance issue with the DPO for the Centre for Boating.
- 4.38 At this stage, without further information, Council officers recommend that the change in elevation to the building to accommodate the gantry system and concept of the roof top terrace is appropriate and would add value. The height compliance issue, however, will need to be resolved through the planning process. If the resolution of this issue requires redesign of an element or elements of the building, this will require resubmission for Landlord Approval.
- 4.39 In terms of the design aesthetic of the overall building, it is recommended that the concern should be noted in the response to the tenant, but that it be resolved through the planning process where further assessment of compliance with the design excellence criteria will be undertaken with independent input from the VDRP who, as part of their report, discussed a diminished architectural expression for the dry stack and centre for boating.

***Recommended for Conditional Approval***

- 4.40 **Net Lettable Area (NLA) Increase** - AMDC has relayed the market demand for additional retail spaces on the site from the lease agreed concept and expressed their requirement for this particularly given changing economic climate since the lease was agreed in December 2020, larger than anticipated costs for managing contamination on the site, and the rapidly escalating cost of construction. The approved concept included 3745m<sup>2</sup> of retail space which enabled room to grow and, with the appropriate design approach, the proposed increase in NLA to 5000m<sup>2</sup> would be a valuable addition to the site providing financial, economic, and social benefit. The planning scheme has a clear parameter regarding NLA which resulted from Council's comprehensive community engagement program. The NLA cannot exceed 5000m<sup>2</sup>. Council officers support an increase to the NLA to this maximum limit.
- 4.41 From information provided to date Officers are concerned that the way the Net Lettable Area has been calculated is not correct. Given the ambiguity and the need to progress, it is recommended that an increase from the lease approved concept up to 5000m<sup>2</sup> NLA is approved, and any discrepancies picked up as part of the statutory planning process are deducted from (or added to, if required) the development that will replace the service station in 10 years' time. This provides a level of confidence that what has



been submitted for the early stages of development for the retail space for Landlord Approval can progress broadly as documented.

- 4.42 **Inclusion of a helipad on the peninsula near the Beacon** - AMDC has proposed this feature to activate the peninsula, provide a transit hub to support superyacht users and 24/7 emergency access. Should Council be interested in progressing this for assessment during the planning phase (note: it is unclear at this point whether statutory planning approval can be provided), Council officers recommend that an approval is conditional, to ensure that the public amenity and use (including quiet enjoyment) intended for the peninsula is maintained. The proposed conditions are:
- An average of 4 flights (including one land and one launch per flight) per calendar month across the year excepting flights undertaken for emergency purposes, noting that there likely will be seasonal peaks. The peaks are not to exceed 8 flights per month. This approach is to be reviewed after the first year of helipad operation (should it be approved). AMDC will be required to monitor and formally report helipad activity to Council.
  - The helipad and associated infrastructure and operations does not impede the possibility of a future bridge/crossing from Marina Reserve to the peninsula.
- 4.43 **Areas for Events and Impact on Open Space** - The evolution of the documents from the lease agreed concept to the landlord approval submission in December 21 to the current submission demonstrates an increasing focus on the use of the peninsula (both adjacent Riva and near the tip) as an events space, including particularly the increase in area attributed to events. While activation of the peninsula is a desirable outcome, this raises concern in terms of an appropriate balance of this use against incorporation and maintenance of natural landscaping and opportunities and amenities for uses by the public outside events. While the intent of the redevelopment was always to activate the site with events and officers support the use of various spaces in the Marina to do so, we are seeking to ensure that the following mandatory criteria are achieved:
- Establish habitat for native flora and fauna across the site through planting native vegetation and create a continuous vegetation corridor along the breakwater.
  - Provide a diverse network of publicly accessible places to suit a variety of needs and user groups, including activity based (strolling), events (seasonal) and quiet public places throughout the Marina site.
  - Carpark must incorporate water sensitive urban design (WSUD) principles and landscape design to improve place amenity for temporary activation in off-season.
- 4.44 Where events areas are highlighted on the peninsula, this is also related to the issues regarding the peninsula promenade as outlined above, including the helipad.
- 4.45 As such we recommend approval of event spaces on the peninsula conditional upon the events spaces being designed in a multi-functional way that is a secondary use to passive open space, that are better aligned to the mandatory criteria for habitat for flora and fauna, publicly accessible spaces, and water sensitive design.
- 4.46 Landlord approval for the revised designs for the events spaces will be considered when the Tenant requests permission to commence Public Realm Works. The lease



specifies that prior to commencing the Public Realm Works, the Tenant must obtain the Landlord's written approval in respect of the Detailed Design Documents for those Works. This stage involves more detailed plans than are required for the planning process and provides Council with an opportunity to review and approve how these spaces will function in a comprehensive way, including such things as locations of public seating and services, landscaping, lighting, etc.

- 4.47 **Public Open Space** – Advice provided by AMDC at the time of entering the lease was that the public open realm area for the lease approved concept increased from the current amount on site of approx. 4% to 50%. With the introduction of the additional NLA and other elements such as the modified peninsula promenade design, the extent of public realm appears to have reduced from what was approved in the lease. The extent of the reduction, however, needs to be confirmed as part of the resolution of other issues detailed above.
- 4.48 It is recommended that landlord approval is provided, subject to AMDC updating its calculation of public realm in accordance with the methodology used in the lease calculation and that there is no material variation to the percentage of open space achieved in the concept plan in the lease. Examples of what would be considered a non-material change include: loss of public realm related Council's future consideration of an increased building footprint to accommodate the additional NLA and associated infrastructure; or, a reduction in public realm to accommodate issues arising from discussions with Fire Rescue Victoria.
- 4.49 **Public pontoons** – the lease includes a requirement for the tenant to accommodate public berths along the eastern and northern edges of the Marina (these are not shown in the lease approved concept). They are currently shown as massing blocks on the drawings without any details provided. It is recommended this is approved on the condition that AMDC demonstrate as part of the submission for a planning permit that lease requirements for the floating infrastructure on the Eastern and Southern edges, and the mooring points, bumpers and fixed access points along the eastern and northern edges are met.
- 4.50 **Riva Building Modifications and extension of a tenure for the sub-tenant closer to the foreshore** – the lease approved concept was a renovation of the existing Riva building. A new structure is now being proposed. The design itself, while being slightly larger, is not dissimilar with some key features retained including the zig zag motif, the general scale and outdoor 'beer garden'. It has some improvements in terms of permeability and opportunity for views to the bay. Accompanying this design is the concept that this commercial operation will utilise public space for outdoor dining, extending from the building to the foreshore under a license arrangement.
- 4.51 It should be noted that the design for this building has not been confirmed and may change once a sub-tenant has been confirmed.
- 4.52 To move forward it is recommended that this is approved on the condition that:
- Unencumbered access for the general public to the peninsula is maintained at all times.
  - Any changes to the design that may result from a different sub-tenant are submitted to the Landlord for approval.





- 4.53 It should also be noted that the sub-lease and any possible license arrangement for this space will need to be submitted to the Landlord for approval and the details, particularly pertaining to the use of the space between the building and the foreshore, can be reviewed in detail at that stage.

**Not recommended for Approval in its current form**

- 4.54 **Floating Venue** - While the idea has merit in terms of being an attractor and providing the non-boating public an opportunity to experience being on the water, Council officers do not recommend approving this change, in its current form. From the research undertaken to date by Council Officers, this venue floating at the south of the harbour will not comply with the planning scheme, in that the area will need to be added to the NLA calculation which, based on figures provided by AMDC, will tip the NLA well over the maximum allowed in the planning scheme. Furthermore, the pontoon fixing to land will likely render the structure a building, yet is it not located within the defined planning scheme building envelopes, and it will obstruct key views.
- 4.55 Aside from the statutory planning issues, Council Officers have concerns that the venue in its current form is imposing. It is in a very prominent location and large in scale, when compared to the Marine Parade buildings. This combined with a considerable and revolving patronage supported by staff presents quite a different use and activity than mooring a large private boat. Officers are also concerned that it may have the impact (or perceived impact) of over-commercialising the site given that it would be in addition to the 5000sqm NLA allowed for in the Site Brief, which was a reasonable amount for the site to support activation and financial viability without over commercialising it. 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, with evidence that demonstrates compliance with the NLA requirements for consideration by Council during the planning process.
- 4.56 **Option for additional retail** – one option has been presented that would substantially accommodate this additional NLA (in addition to tweaks to Marine Parade retail). A new building is proposed immediately adjacent the foreshore on the public carpark. Attachment 1 shows the location and design concept for this building. A previous submission included an additional option of a secondary storey to certain Marine Parade buildings, but this has since been withdrawn by AMDC. It is worth noting that, in an independent review of the options by the Victorian Design Review Panel (VDRP) the preference, without the having the appropriate level of design resolution for the options, was for the second storey addition to the North Marine Parade building.
- 4.57 Council Officers do not support the foreshore building in its current form:
- The imposing structure works in opposition to key criteria that ensures generous views and movement are achieved for this site, particularly on this prominent foreshore.
  - It creates constraints to movement around the building and particularly a pinch point at the Bay Trail and has the effect of “squeezing” the carpark. However, due to the lack of design resolution at this point, it is difficult to understand the full effect of this building in the proposed location.



- Given the prominence of this building, there is also a concern that a level of design quality that is commensurate with this location may not be delivered nor the transparency required to facilitate views.
  - In summary, it is considered that the proposed building on balance reduces the public benefit that was achieved in the lease approved concept.
- 4.58 Should AMDC consider the feedback provided to date and present a revised proposal for achieving the NLA increase (e.g., a much smaller building of high design quality or a hybrid option combining this with an additional storey to a Marine Parade building) for review by the Landlord while resolving other public realm issues, this can be put forward for consideration by Council at a separate Council meeting shortly following this one.
- 4.59 **Peninsula Promenade and Turning Circle** – the lease approved an arrangement where the pedestrian path followed the coastline, the vehicle path aligned with the building and was separated by a landscape zone including bunding as secondary protection to storm surge. The current design proposes 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 proposes a large turning circle for vehicles, and the bund against the building. This is a considerable difference in terms of public safety and amenity. Officers are concerned that the modified design for the peninsula promenade demonstrates a loss of ‘publicness’.
- 4.60 AMDC has advised that the primary reasoning for the changes is 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.
- 4.61 While Council Officers acknowledge the advice from FRV and that it is desirable to have a path for large vehicles that doesn’t require them to reverse, and this may be the required outcome.
- 4.62 However, it is Officers view that this considerably erodes the public benefit of this space as intended by the Site Brief and as presented in the lease approved concept. It is a poor outcome for the community who participated in a comprehensive engagement process that resulted in significant value placed on the ‘publicness’ of the peninsula and its potential to be a key destination for the Marina.
- 4.63 Specific impacts include:
- Fundamentally reduces pedestrian and cyclist safety.
  - Prioritises vehicles over pedestrians.
  - Provides significantly less appeal and amenity through increased expanses of paving (and reduced natural landscaping).
  - Provision of a turning circle to avoid the need for fuel and other trucks to reverse seems to be excessive given the anticipated low frequency of use by fuel and other trucks.



- 4.64 Officers have provided this feedback to the Tenant. We have also advised that officers have tried to engage with FRV to test if a better outcome can be achieved, an approach that has been successful in the past.
- 4.65 In acknowledgement of the feedback and that there may be an opportunity to work with FRV to achieve a more balanced outcome, AMDC is willing to work with Officers, FRV and traffic engineers to determine a solution more closely aligned with the lease concept.
- 4.66 Until this work has been done, Officers recommend that this element of the plan not be approved.

**Remaining Design Issues to be Resolved Under Delegation**

- 4.67 In addition to the issues outlined above, while Council Officers have continued to work with the tenant to further clarify and resolve key design elements, several issues remain outstanding that are being followed up under delegation. They are summarised below.
- 4.68 **Marine parade buildings (Approved noting issues to be resolved through the planning process)** - Officers have concerns that the design is not compliant with the built form envelopes in the planning scheme, and the roof form does not address a key planning scheme requirement regarding scale and rhythm. The tenant is currently in discussions with the Statutory Planning team to resolve this prior to the submission of their planning documentation. It is proposed that the response to the current Landlord Approval documentation, will include a note that any significant changes from the proposed design will require landlord approval in order for an approval for the development plan to be granted.
- 4.69 It should be noted that the tenant has withdrawn the option of a second storey to these buildings to accommodate the additional NLA; however, has identified this as an option as part of the redevelopment of the service station in 10 or so years time. Council officers are not opposed to this idea provided that compliance with the planning scheme requirement of a maximum of 5000m<sup>2</sup> is achieved and the design for the proposed redevelopment of the service station is submitted to the landlord for approval.
- 4.70 **Movement and Circulation at Boat Ramp and in other areas of the site (Not Approved)** – the design modifications and lack of resolution remains an ongoing issue particularly in terms of safe and high-quality environments for pedestrians and general functionality.
- 4.71 Of note is the intersection between the boat launch and retrieval activities and pedestrian/cyclist thoroughfare at the public Boat Ramp. Officers are concerned about the fundamental safety issues at this location and have asked the Tenant to consider feedback and suggestions to improve the thoroughfare, so there is increased confidence that the key mandatory criteria are met. As part of the landlord response, we will note that the resolution of these issues will need Landlord Approval under delegation.

**Extended Beach Idea for Consideration**



- 4.72 The extension of the existing beach for the length or part of the length of the peninsula is linked to the function of the seawall (to mitigate against storm surge and flooding) as well as providing benefits for public realm activation and amenity, adding to the creation of a 'destination'. The repair of the seawall can be done without the beach, and AMDC have indicated that it would be significantly cheaper to provide a more traditional repair to the sea wall. However, by providing a beach for waves to break against, the seawall itself does not need to be as high. This is the most significant proposal for a change to the concept design for site and has considerable cost attached to it, both in the installation of it and then the maintenance and re-nourishment over time.
- 4.73 Considerable further work is needed to be undertaken by AMDC to advance this idea. Should Council be open to the public benefits this will provide for the site, the following is recommended:
- Significantly more work being undertaken by AMDC on the technical feasibility to ensure the beach and rock groyne does not impact other beaches along the foreshore, and an appropriate sea wall and beach arrangement that mitigates against storm surge is determined. The outcome of this should include a peer review and approval by Council.
  - AMDC engages with DELWP, Parks Victoria and Melbourne Water about the idea from the beginning. Lease and other boundary issues will need to be resolved with DELWP including possible issues with Native Title. Requirements for Marine and Coastal consent will also need to be resolved with DELWP. Parks Victoria as bay managers will need to be consulted in terms of the impact on Port Phillip Bay, and Melbourne Water will need to understand any impacts on terms of storm surge and flood levels.
  - AMDC resolves and demonstrates how operational issues such as beach access, day to day use, cleaning and safety will be addressed for review and approval by technical experts from Council.
  - Council makes no financial contribution to develop or maintain the beach.
  - The beach is commercialised to no more than 30% of its area i.e. any business attached to the Marina cannot occupy a beach area greater than 30% for private trade (food and beverage, hire of lounges, umbrellas etc)
  - Following confirmation of all of the above, a submission for Landlord Approval (including Council) is made.
- 4.74 It is noted that much of the additional beach area sits outside the lease area within the water line and as such, new beach works will require a separate tenure arrangement with another body (likely Parks Victoria).

#### **Other Items That Will be Assessed and Resolved Through the Planning Process**

- 4.75 A number of reports were submitted by the Tenant in their landlord approval submission that are required for the planning process have had preliminary review by Officers but that will be assessed as part of the planning process. Feedback on these



items is provided for noting and may be of assistance to AMDC in preparation for the planning submission.

4.76 It should be noted that substantial changes to the design approach that result from further work in these areas by AMDC will require a re-submission to be made for Landlord Approval.

- **Sea wall upgrade** – Officers are concerned that the current proposal for a refit does not address the mandatory criteria, performance-based specifications provided to AMDC and regulatory criteria. It is also noted that while the submission sets out a budget amount allocated to the sea wall upgrade, AMDC is responsible for an upgrade that meets these requirements irrespective of the suggested allowance made. Key items to be addressed include but are not limited to strengthening resilience to climate change and sea level rise, protection and enhancement of the marine and coastal environment, sustainable use and development, accommodating impacts of natural marine and coastal processes and coastal hazards, and consideration of life cycle planning and management of the asset.
- **Heritage** - it is the view of Council's Heritage advisor that the Heritage Impact Statement (HIS) does not provide a sound basis for ensuring the heritage of the Marina is appropriately integrated into the new design. Various details were provided to guide AMDC on what needs to be addressed.
- **Wind** – an updated Wind Report that supports the current design is required.
- **Arborist Report and Landscaping Plans** – a key omission in the Arborist Report is the detail regarding which trees/vegetation will be retained and which will be removed, and coordinated landscaping and architecture plans
- **Sustainability Management Plan** – While there appears to be in principal commitment to the ESD targets, the approach in the SMP is non-committal. The SMP requires significant improvement for the planning submission particularly in terms of identifying specific targets and how they will be achieved in order to be assessed against the planning requirements.
- **Provisions for cyclists** – the specific provisions for cyclists are currently not detailed in the submission and will need to be clearly demonstrated as part of the planning submission.
- Other reports such as the Integrated Water Management Plan and Wave and Wave Movement report are generic and will require specific modelling, guidelines to be adhered to and a consistency with the design.

#### **Review by the Victorian Design Review Panel (VDRP)**

4.77 An independent review of the design submission was undertaken by the Victorian Design Review Panel (Panel) via the Office of Victorian Government Architect (OVGA). The intention of this review is to inform the Statutory Planning process where the various referral bodies will use the report to inform their assessment against the planning particularly in certain areas such as design excellence, movement and circulation, heritage and general urban and public realm design.



- 4.78 The review involved separate meetings with AMDC and Council to understand the objectives of the redevelopment, the background behind the design as presented in the lease approved concept, the evolution of the design and any concerns or desired outcomes. The design was presented to the Panel by AMDC. The Panel also inspected the site.
- 4.79 In brief, a considerable number of key points in the VDRP Report support the views of the Officers as presented below. Of note is the peninsula promenade and the loss of “publicness”; the diminished architectural expression associated with the dry stack and centre for boating; having a more emphatic landscaping design to boost the coastal experience; the lack of clarity with respect to the additional retail options and the Marine Parade design; improving the circulation in various areas across the site for improved pedestrian and cyclist amenity and safety; and clarifying the approach to events to demonstrate the impacts of different scenarios of public and private function.

### Site Contamination

- 4.80 Officers continue to work through the approach to managing contamination on the site with the tenant in parallel with the Landlord Approval submission review. This will also continue to progress alongside the planning process.
- 4.81 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 commitment in line with the lease requirement of a contribution of 75% of costs is approximately \$6M. The approved budget allocates this amount to Marina contamination management.
- 4.82 If construction at grade with low-cost construction methods that generate higher volumes of soil are applied, the remediation cost could be up to \$16M, as estimated by the environmental consultant.
- 4.83 While only ‘remediation’ costs were contemplated in the lease when setting out the responsibilities of the parties, Officers consider that it is reasonable to contribute to the indirect costs (alternative construction methodologies, related design fees and on-site superintendence) as well as direct ‘remediation’ costs, to ensure that the much lower direct cost achieved rather than the worst-case scenario of up to \$16M.
- 4.84 However, Council needs more information prior to committing to the approach and costs.
- 4.85 The next steps involve:
- An independent environmental consultant reviewing the AMDC proposed approach to ensure it is both effective in managing contamination and achieves as much cost minimisation as possible.
  - A review of the proposal (and future proposals) by a Council appointed quantity surveyor.
- 4.86 Both pieces of work will commence shortly.



## 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, 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, some key messages will be sent as part of the landlord approval process to explain the rationale behind and benefits associated with the design departures from the concept design. This will complement the council report in a public meeting where Council will endorse 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.
- 6.6 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.
- 6.7 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.
- 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 being awarded.

## 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's Landlord Approval Submission – 22 July 2022.

11.1.2 Ongoing work with AMDC to refine the design to address issues highlighted in the body of the report – July to September 2022

11.1.3 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 the landlord approval response.



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.

## **12. OFFICER DIRECT OR INDIRECT INTEREST**

- 12.1 An officer involved in this matter has previously declared a potential interest. This interest has been managed internally.
- 12.2 No other officers involved in the preparation of this briefing have any material or general interest in the matter.

## **ATTACHMENTS**

- 1. St Kilda Marina Summary of Key Changes from the Lease Approved Concept and Proposed Response**