



# Council Meeting Minutes

31 May 2022

Council Chamber  
Hobsons Bay Civic Centre  
115 Civic Parade, Altona

**HOBSONS**  
BAY CITY  
COUNCIL



## OUR MISSION

We will listen, engage and work with our community to plan, deliver and advocate for Hobsons Bay to secure a happy, healthy, fair and sustainable future for all.

## OUR VALUES

Respectful

Community driven and focused

Trusted and reliable

Efficient and responsible

Bold and innovative

Accountable and transparent

Recognised

Council acknowledges the Bunurong People of the Kulin Nation as the Traditional Owners of these municipal lands and waterways, and pay our respects to Elders past and present.

### Chairperson:

Cr Peter Hemphill (Mayor)

Strand Ward

### Councillors:

Cr Diana Grima (Deputy Mayor)

Wetlands Ward

Cr Tony Briffa JP

Cherry Lake Ward

Cr Daria Kellander

Cherry Lake Ward

Cr Jonathon Marsden

Strand Ward

Cr Pamela Sutton-Legaud

Strand Ward

Cr Matt Tyler

Wetlands Ward

Andrew McLeod  
Acting Chief Executive Officer  
Hobsons Bay City Council

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## Minutes of the Council Meeting held on 31 May 2022 at 7.01pm.

### Present

#### Chairperson

Cr Peter Hemphill (Mayor) Strand Ward

#### Councillors

Cr Diana Grima (Deputy Mayor)	Wetlands Ward
Cr Tony Briffa JP	Cherry Lake Ward
Cr Daria Kellander	Cherry Lake Ward
Cr Jonathon Marsden	Strand Ward
Cr Pamela Sutton-Legaud	Strand Ward
Cr Matt Tyler	Wetlands Ward

#### Officers

Mr Andrew McLeod	Acting Chief Executive Officer
Mr Sanjay Manivasagasivam	Director Infrastructure and City Services
Ms Penelope Winslade	Director Sustainable Communities
Ms Julie Brne	Acting Manager Corporate Integrity
Ms Briony Davis	Governance Officer and Minute Secretary

## 1 Council Welcome and Acknowledgement

The Chairperson welcomed members of the public and acknowledged the Bunurong People of the Kulin Nation as the Traditional Owners of these municipal lands and waterways.

## 2 Apologies

The Chairperson called for apologies received from Councillors who are unable to attend this meeting.

Nil

## 3 Disclosure of Interest

In accordance with sections 127 and 128 of the *Local Government Act 2020* Councillors are required to disclose a general or material conflict of interest. A conflict of interest must be disclosed in accordance with rule 15.3 of the Hobsons Bay Governance Rules.

Disclosure must occur immediately before the matter is considered or discussed.

**Cr Peter Hemphill disclosed a material conflict of interest in Item 7.2 Presentation of Annual Budget Submissions 2022-23, as he is a sponsor of a player in the Williamstown CYMS Football Club, which made a submission to be heard during the Council Meeting. Cr Hemphill stated that he would leave the Council Chamber during discussion of this submission, with Deputy Mayor Cr Diana Grima to act as Chairperson in his stead.**

**Cr Peter Hemphill disclosed an interest in Item 8.1.1 The Substation Funding Agreement 2022-25 as he represents Council on The Substation's Committee of Management. Cr Hemphill stated that he did not consider this to be a material interest and would not leave the Council Chamber during debate on this item.**

## 4 Confirmation of Minutes

### 4.1 Confirmation of Minutes

Confirmation of the minutes of the Council Meeting of Hobsons Bay City Council held on 10 May 2022 (copy previously circulated).

#### **Motion**

**Moved Cr Jonathon Marsden, seconded Cr Pamela Sutton-Legaud:**

**That Council confirms the minutes of the Council Meeting of Hobsons Bay City Council held on 10 May 2022.**

**Carried unanimously**

## 5 Councillor Questions

**Cr Daria Kellander noted a future amendment to the 432 bus route that would redirect it through Precinct 16 and asked whether this would negate any advocacy for a bus route that enters Precinct 15 to transport the residents of Altona North directly to and from Spotswood Station.**

Ms Pene Winslade, Director Sustainable Communities, responded that the precinct planning scheme amendment incorporates a recommendation from the Minister's Planning Panel identifying Sutton Street as a potential bus route, reflecting that the signalisation of that intersection would enable the route to go that way, but added that it is still only one possibility and it would in no way impact public transport outcomes for Precinct 15.

Ms Winslade added that the comprehensive development plan for Precinct 15 developed by the Victorian Planning Authority has a bus route running through the middle of the precinct towards Spotswood, and that Council is advocating to and working with the Department of Transport to ensure that alignment meets the needs of the community going through to a public transport terminal.

Ms Winslade noted that the roads were not yet constructed and while there was every indication that the project would be delivered, if that were to change in two or three years once those roads were constructed, then Council would escalate its advocacy.

Ms Winslade noted that Council was also engaging in an active advocacy campaign regarding Melbourne Metro 2 and the reinstatement of train stations including the Altona North train station, with letters being written to ministers and local members over the course of the year.

**Cr Daria Kellander noted recent complaints regarding the roundabouts on Blyth Street, Altona and Mason Street, Altona North, and requested an update as to why they were being implemented, why they are designed the way they are, and who was funding them.**

Mr Sanjay Manivasagasivam, Director Infrastructure and City Services, responded that the roads had been predominantly designed for car access but that nowadays there were a number of other users of the roads, such as bicycles and pedestrians crossing, and that the roads, including the design of those roundabouts, were being changed in order to allow safe access for all modes of transport.

Mr Manivasagasivam stated that the works were fully funded by the Australian Government's Black Spot Program, and observed that the roads had qualified for the program on the basis of the significant number of crashes occurring on them.

**Cr Diana Grima asked who benefits from The Substation and how, and what the direction was with other local arts spaces, including the Woods Street Arts Space.**

Ms Pene Winslade, Director Sustainable Communities, responded that The Substation is a regional arts offering operating within an ecosystem of arts functions across the wards of Hobsons Bay, including the Woods Street Arts Space in Laverton which is more focused on community art and art prizes, and the independently owned but partially Council-funded Louis Joel Arts and Community Centre in Altona, which offers free and low-cost exhibitions for local artists along with a range of other facilities. Ms Winslade stated that The Substation, an independent organisation provided with grants by Council, is more of a regional contemporary arts facility that complements the set.

Ms Winslade stated that as a regional facility, all Hobsons Bay residents have access to The Substation, but that it also draws visitors from outside of the municipality who bring tourism and investment into Hobsons Bay. Ms Winslade added that as part of Council's current funding agreement, The Substation had established a community reference group, which has led to the organisation working more actively to deliver programs relevant to the local community, such as the laneway gallery exhibition shared between The Substation in Newport and Woods Street Arts Space in Laverton, bringing the exhibition right across the municipality, and that similar activities were planned for the future.

**Cr Diana Grima asked what the direction was for Woods Street Arts Space, specifically what changes had been made or planned.**

Ms Pene Winslade, Director Sustainable Communities, responded that the Woods Street Arts Space is a rented facility staffed by Council officers that is opened at specific times for particular purposes, and that Council was looking to expand the activation of the space for the purpose of the arts and the activation of that part of Laverton. Ms Winslade stated that Council was hoping to increase the opening times and the accessibility of Woods Street Arts Space over the course of the year.

## **6 Petitions and Joint Letters**

### **6.1 Petitions and Joint Letters Received**

**Nil**

## 7 Variation of Business

### 7.1 Variation of Business

In accordance with rule 6.1.5 of the Hobsons Bay Governance Rules, the Acting Chief Executive Officer has varied the normal order of business in order to allow members of the public who requested to be heard on their submissions on the Annual Budget 2022-23 to do so ahead of other Council business.

### 7.2 Presentation of Annual Budget Submissions 2022-23

**Directorate:** Corporate Services

**Responsible Officer:** Chief Financial Officer

**Reviewer:** Director Corporate Services

**Attachments:** 1. Budget Submissions 2022-23 [7.2.1 - 97 pages]

Mayor Cr Peter Hemphill disclosed a material conflict of interest in Item 7.2 Presentation of Annual Budget Submissions 2022-23, as he is a sponsor of a player in the Williamstown CYMS Football Club, which made a submission to be heard during the Council Meeting.

Cr Hemphill left the Council Chamber during discussion of this submission and Deputy Mayor Cr Diana Grima acted as Chairperson while the Mayor was absent from the meeting. Cr Hemphill left the meeting at 7.56pm and returned to the meeting at 8.03pm.

Cr Diana Grima left the meeting at 8.12pm and returned at 8.14pm.

Cr Daria Kellander left the meeting at 8.14pm and returned at 8.15pm.

Cr Tony Briffa left the meeting at 8.55pm and did not return.

### Purpose

To present the submissions received by Council in relation to the Proposed Annual Budget 2022-23 and to hear from submitters requesting to be heard in support of their submission because of the public exhibition process.

#### Motion

Moved Cr Jonathon Marsden, seconded Cr Diana Grima:

That Council:

1. Receives and notes the submissions following the public exhibition period for the Proposed Annual Budget 2022-23.
2. Hears from those submitters requesting to be heard by Council in support of their submission.



3. Responds to submitters as part of the final budget deliberations at the Council Meeting on 28 June 2022.

Carried unanimously

### **Motion**

Moved Cr Diana Grima, seconded Cr Matt Tyler:

That Council suspends standing orders in order to hear submissions to the Proposed Annual Budget 2022-23.

Carried unanimously

The following submitters, having so requested, were heard by Council:

- Doreen Keane and Brian Moulang representing the Laverton Bowling Club on behalf of Michael O'Connor
- David Jamieson representing the Williamstown Athletic Club
- Creina Lister representing the Williamstown Tennis Club
- Fin Adamson and Tess Beagley representing the Williamstown CYMS Football Club
- Lindsay Morton representing the Williamstown Newport Anglers Club and Fish Protection Society
- Adam Longshaw representing Altona Magic Soccer Club
- Brett Bobridge representing the Melbourne Disc Golf Club
- Nathan Letson representing the Altona Little Athletics Centre
- Adam Plunkett
- Zara Newton representing the Love Laverton community focus group

### **Motion**

Moved Cr Jonathon Marsden, seconded Cr Pamela Sutton-Legaud:

That Council resumes standing orders.

Carried unanimously

### **Recommendation**

That Council:

1. Receives and notes the submissions following the public exhibition period for the Proposed Annual Budget 2022-23.
2. Hears from those submitters requesting to be heard by Council in support of their submission.

### 3. Responds to submitters as part of the final budget deliberations at the Council Meeting on 28 June 2022.

## Summary

The Proposed Annual Budget 2022-23 was placed on public exhibition following formal consideration at the Council Meeting held on 12 April 2022.

Council received 43 responses at the close of the public exhibition period. A copy of each submission is attached to this report. Twelve of the parties that provided feedback have requested to be heard at the Council Meeting.

## Background

The annual budget process commenced in late 2021 when Council undertook its 2022-23 pre-budget consultation, providing an opportunity for community members to submit their ideas.

There have been nine budget briefings in relation to developing the Proposed Annual Budget 2022-23. These briefings were used to develop and bring together all the elements that have influenced the budget's development, including:

- Capital Works Program
- Financial Plan outlook
- fees and charges
- Valuation and Rating Discussion Paper, including rate modelling
- community consultation process
- operational budget

The Proposed Annual Budget 2022-23 was presented at the Council Meeting on 12 April 2022. In accordance with the requirements of the *Local Government Act 2020*, the Proposed Annual Budget 2022-23 was placed on public exhibition and comments invited from interested members of the community. The exhibition period was for 28 days and closed on 15 May 2022.

Interested parties who have provided comment could request to present to Council at the Council Meeting on 31 May 2022. Twelve requests have been made to address Council at the meeting.

## Discussion

A schedule of the submissions on the budget is attached to this report. The following interested parties have requested to be heard in support of their submission:

- Doreen Keane and Brian Moulang representing the Laverton Bowling Club on behalf of Michael O'Connor, who is requesting an upgrade to the club's facilities, amenities and resources.
- David Jamieson representing the Williamstown Athletic Club is requesting that the funds proposed for the replacement of the front straight shelters be made available for more immediate needs including an approved standard throwing cage, seating and storage space.

- 
- Creina Lister representing the Williamstown Tennis Club is requesting the lights to be replaced at the club.
  - Fin Adamson and Tess Beagley representing the Williamstown CYMS Football Club is requesting capital works improvements at Loft and Fearon reserves.
  - Lindsay Morton representing the Williamstown Newport Anglers Club and Fish Protection Society is requesting a contribution towards construction of the Williamstown Beach jetty facilities.
  - Adam Longshaw representing Altona Magic Soccer Club is requesting steps in front of the canteen at Paisley Park.
  - Brett Bobridge and Kim Michell representing the Melbourne Disc Golf Club is requesting a disc golf course at Cherry Lake.
  - Nathan Letson representing the Altona Little Athletics Centre is requesting redevelopment of the high jump area at the George Nevitt Athletics Track.
  - Adam Plunkett is requesting pedestrian and traffic management improvements around Fearon Reserve.
  - Zac Lewis representing Western Chances is requesting support to renew the funding allocation towards their Scholarship Program.
  - Zara Newton is requesting further funding towards McCormack Park.

Following the meeting, Council will consider all submissions and presentations in final preparation of the Annual Budget 2022-23, which will then be presented to Council for adoption at the Council Meeting on 28 June 2022.

## 8 Business

### 8.1 Sustainable Communities

#### 8.1.1 The Substation Funding Agreement 2022-25

**Directorate:** Sustainable Communities  
**Responsible Officer:** Manager Arts Culture and Community  
**Reviewer:** Director Sustainable Communities  
**Attachments:** Nil

In accordance with rule 6.6.7 of the Hobsons Bay Governance Rules, Cr Peter Hemphill adjourned the meeting for a short break at 9.09pm, returning to the meeting at 9.17pm.

Cr Peter Hemphill disclosed an interest in Item 8.1.1 The Substation Funding Agreement 2022-25 as he represents Council on The Substation's Committee of Management. Cr Hemphill stated that he did not consider this to be a material interest and would not leave the Council Chamber during debate on this item.

#### Purpose

To consider the next triennial funding agreement with The Substation for the period 1 July 2022 to 30 June 2025 and note the proposed funding which represents a reduction in line with Council's requirement to step down funding over its next term.

#### Motion

Moved Cr Jonathon Marsden, seconded Cr Diana Grima:

That Council extends the meeting to 10pm.

Carried

#### Motion

Moved Cr Jonathon Marsden, seconded Cr Pamela Sutton-Legaud:

That Council:

1. Agrees to enter into a triennial funding agreement with The Substation for the period 1 July 2022 to 30 June 2025 with an allocation of:
  - a. \$300,000 (three hundred thousand dollars) excluding GST in Year 1 (included in the draft Council budget for the financial year 2022-23)
  - b. \$275,000 (two hundred and seventy-five thousand dollars) excluding GST in Year 2 (financial year 2023-24)

**c. \$250,000 (two hundred and fifty thousand dollars) excluding GST in Year 3 (financial year 2024-25)**

- 2. Notes that the funding agreement will include terms and conditions consistent with the current Agreement, which requires the achievement of key performance indicators (KPIs) and a range of governance and community involvement measures.**

**Carried**

## **Recommendation**

**That Council:**

- 1. Agrees to enter into a triennial funding agreement with The Substation for the period 1 July 2022 to 30 June 2025 with an allocation of:**
  - a. \$300,000 (three hundred thousand dollars) excluding GST in Year 1 (included in the draft Council budget for the financial year 2022-23)**
  - b. \$275,000 (two hundred and seventy-five thousand dollars) excluding GST in Year 2 (financial year 2023-24)**
  - c. \$250,000 (two hundred and fifty thousand dollars) excluding GST in Year 3 (financial year 2024-25)**
- 2. Notes that the funding agreement will include terms and conditions consistent with the current Agreement, which requires the achievement of key performance indicators (KPIs) and a range of governance and community involvement measures.**

## **Summary**

The Substation has made a significant positive contribution to the arts sector and to Hobsons Bay and the western region over many years. It represents the regional element of Council's Creative City strategy, and is complemented by a range of other investments in smaller and grassroots facilities such as the Woods Street Arts Space in Laverton.

Despite the major impact of COVID-19 on the sector, The Substation has continued to grow and increase its reach and impact. The arts plays a particularly critical role in social and economic recovery and reconnection through the pandemic recovery period.

Council's triennial funding commitments have been critical to The Substation to secure significant investment, including to help it achieve a more sustainable financial footing and continue to grow and deliver a regionally renowned arts facility in Hobsons Bay. The current triennial funding agreement for the period 2019-22 provides three years of annual funding of \$350,000, the same level of funding as the previous agreement. The proposed agreement for the period 2022-25 will reflect Council's intention to gradually step down its funding levels as The Substation achieves more sustainable funding from other tiers of government. The total value of the new agreement is \$825,000 over three years.

The new funding agreement will include similar reporting conditions to the current agreement. These include key performance indicators (KPIs) that demonstrate growth and commitment to local engagement, a Council role on the Board, and the requirement for the ongoing operation of a Community Reference Group.

The overall positive performance of The Substation, the impact of COVID-19, the role of the arts in social and economic recovery and reconnection and the context of Council's arts expenditure are considerations in this report and recommendations.

## Background

The Substation is a contemporary arts space in a large historic building adapted for creative use, located adjacent to Newport Train Station at 1 Market Street, Newport. VicTrack is the owner of the property and provides the building to The Substation at little cost, with The Substation responsible for the building's maintenance and operations.

The Substation commenced operations with Council support in 2009-10 and since 2013-14 Council has provided support through a series of triennial funding agreements. The current agreement runs from 1 July 2019 to 30 June 2022 with an annual allocation of \$350,000 over each of the three years. These substantial commitments were made to support The Substation to become established and secure other revenue sources.

Council's Creative City Strategy 2018-22 seeks to support The Substation as a key regional contemporary arts destination.

Council worked with The Substation in the development of the 2019-22 agreement, including introducing significant new terms and conditions that recognised the role of The Substation as a leading contributor to the creative sector and the importance for it to continue to strengthen its community connections and ensure opportunities for community participation.

The Substation is required to report on conditions in the agreement annually and report on its KPIs every six months.

At commencement of the 2019-22 agreement, prior to the COVID-19 pandemic, Council flagged the need for The Substation to build greater financial independence and reduce its reliance on Council funding. Despite the impacts of COVID-19 on its earned income and audience numbers for extended periods during 2020 and 2021, The Substation has continued to grow its financial base and sustainability, including securing more than \$1.7 million in direct investment from the Victorian and Australian governments in new four-year funding agreements and an additional \$318,000 in a one-off recovery and resilience payment from the Victorian Government.

These substantial commitments from other tiers of government recognise The Substation's regional contribution. It enables Council to gradually step down from being The Substation's largest single funder to be a more stable contributor with other tiers of government. However, a triennial commitment from Council continues to be critical for The Substation to be able to plan effectively and secure investment to enable its operations.

## Discussion

The Substation is a highly regarded contemporary arts space that creates opportunities for the local community and can attract visitors from across Melbourne. Conditions in Council's funding agreement seek to maximise these benefits for the local community. The Substation

is required to report on KPIs every six months and provide an annual report on governance, finances and planning.

**COVID-19 Impacts**

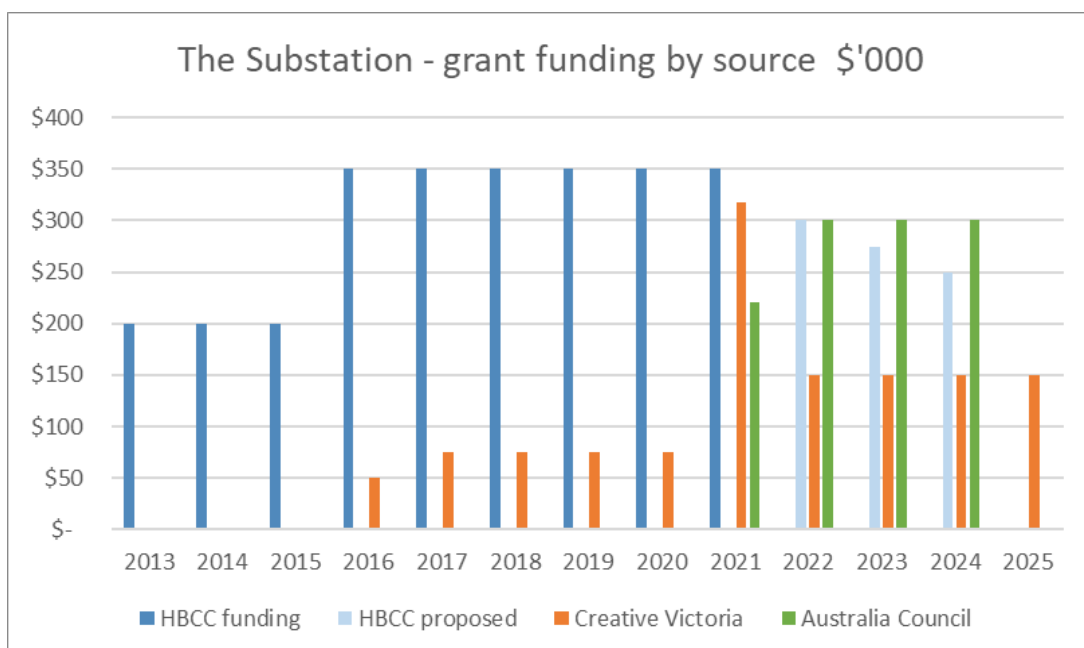
Like many organisations in the creative industries, the continued impacts of COVID-19 throughout 2020 and 2021 affected The Substation’s ability to achieve some of its KPIs as it was required to close for several months in line with state and federal restrictions. It is estimated the impact was measured in a loss of 70 per cent of lost time and opportunity in 2020 and 50 to 60 per cent of capacity during 2021.

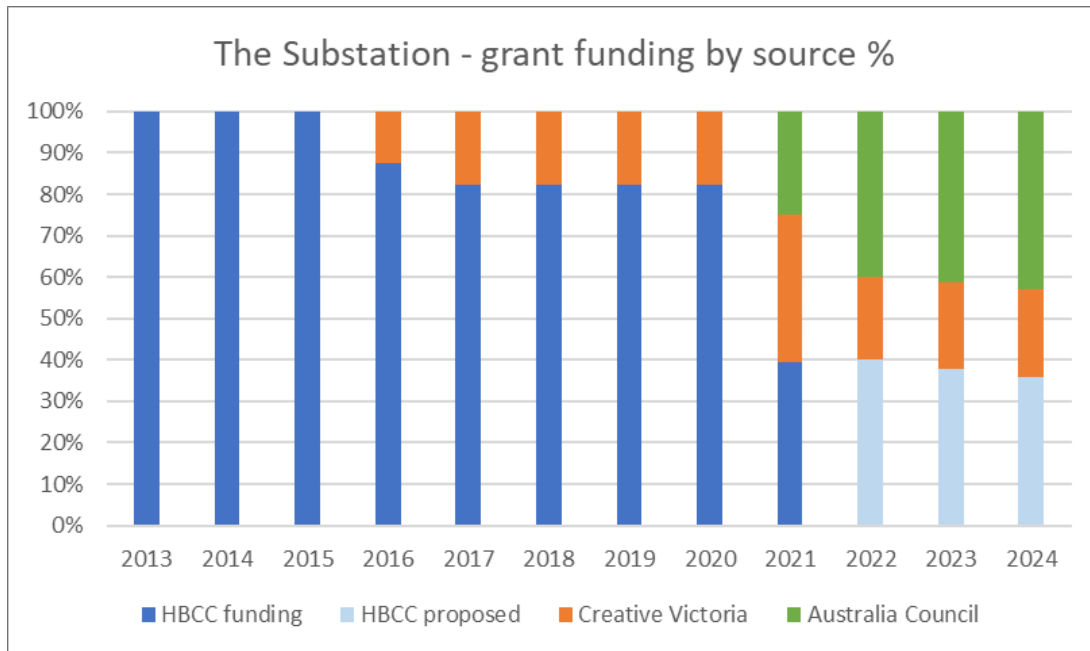
The Substation has continued over this period to deliver on and in some cases exceed KPIs in areas within its control, creating opportunities for artists and continuing to build its volunteer capacity. The Substation Community Reference Group (convened as a condition of Council funding) was established and is now in its second year, making a big contribution to The Substation’s connection with local community. Local economic and social value is created through retaining and securing local jobs, and new residencies and partnerships with cultural organisations can be leveraged for broad benefit in the city.

The Substation has become recognised as a valued regional contributor to the arts sector in Victoria, securing new multi-year funding from the Australian Government through the Australia Council for the Arts for the first time (\$1.12 million over four years) and from the Victorian Government through Creative Victoria (\$600,000 over four years). The Substation has increased its earned income and has developed strategic partnerships including in philanthropy to support its program.

**The Substation’s funding sources over time**

The two charts below illustrate The Substation’s funding over time. The first shows grant funding from all sources over time (in nominal dollars). The second chart shows grants received by source as a percentage of total funding received. Both charts demonstrate that while Council was initially The Substation’s primary funder, over time The Substation has achieved significant additional funding streams and Council is no longer the largest funder.





In 2016, Council's contribution made up about 80 per cent of The Substation's funded income. The next proposed triennial agreement will see Council contribute roughly one third of The Substation's funded income, with the Australia Council contributing over 40 per cent.

Unlike many other grants programs, Council's triennial agreements have funded a flat dollar value, not adjusted for inflation each year. As a result, the real dollar value of a \$350,000 per year grant over six years declines as CPI increases. In effect, in real dollars, Council's contribution to The Substation has been steadily declining since 2016.

**Proposed 2022-25 funding**

It is proposed to gradually reduce Council's funding over the new triennial term, while still supporting and recognising the important role The Substation and other arts organisations hold in the recovery of the creative industries and for the benefit of the city.

It is proposed that future funding to The Substation continue to be stepped down over time as set out in the table below.

Year 1 (included in draft 2022-23 budget)	2022-23	\$300,000
Year 2	2023-24	\$275,000
Year 3	2024-25	\$250,000

While the dollar value of funding to The Substation is a significant investment for Council, it is a critical element of Council's planned investment in the arts. The funding provided is the only support provided by Council to The Substation (there is no capital or maintenance contribution, as is the case for similar scale regional facilities owned by other councils, or sporting and community organisations occupying Council-owned buildings). Inclusive of its commitment to The Substation, Council's entire materials and services budget allocation for the arts in Hobsons Bay is less than 2 per cent of its materials and services operational expenditure (draft 2022-23 budget) and much less than 1 per cent of capital expenditure.



### **Council's investment in key arts sites in Hobsons Bay**

The Substation is one of three key arts sites across Hobsons Bay which receive Council funding; the other two are the Louis Joel Arts and Community Centre in Altona and Woods Street Arts Space in Laverton. These are critical venues identified in Council's Creative City Strategy 2018-22.

Woods Street Arts Space is operated by Council. Council invests approximately \$150,000 each year to deliver this space. Artists and producers can use it at no cost provided there are creative outcomes for the community.

The Louis Joel Arts and Community Centre receives \$53,000 in annual funding from Council through its Community Development budget. The Centre includes the Joel Gallery which provides an opportunity for emerging and mid-level artists to exhibit in a professional exhibition space. The Centre applies to Council for grant funding for a range projects including community and arts projects.

Council's investment in The Substation has provided the foundation for significant investment in the arts in Hobsons Bay. Council's investment in The Substation remains important, enabling a peak arts organisation to continue to operate in Hobsons Bay in one of the sectors hardest hit by the pandemic, and positioning it to thrive in its next chapter.

## 8.1.2 Amendment C114 - Panel and Advisory Committee Recommendations and Adoption

<b>Directorate:</b>	Sustainable Communities
<b>Responsible Officer:</b>	Strategic Planning Coordinator
<b>Reviewer:</b>	Director Sustainable Communities
<b>Attachments:</b>	<ol style="list-style-type: none"><li>1. Panel and Advisory Committee Report Amendment C114 [8.1.2.1 - 103 pages]</li><li>2. Letter of authorisation from DELWP dated 25 June 2021 [8.1.2.2 - 2 pages]</li><li>3. CEO delegate report requesting Panel dated 10 October 2021 [8.1.2.3 - 53 pages]</li><li>4. Officer response to Panel and Advisory Committee recommendations [8.1.2.4 - 5 pages]</li><li>5. Amendment documents [8.1.2.5 - 62 pages]</li><li>6. Section 173 Agreements [8.1.2.6 - 68 pages]</li></ol>

### Purpose

To provide an update on Amendment C114 (Precinct 16 West) including the Panel and Advisory Committee report, and to recommend adoption of the Amendment and submission to the Minister for Planning for approval.

### Motion

Moved Cr Jonathon Marsden, seconded Cr Diana Grima:

That Council:

1. Considers the Amendment C114 Panel and Advisory Committee Report (Attachment 1) in accordance with Section 27(1) of the *Planning and Environment Act 1987*.
2. Considers the officer response to the Advisory Committee Report as outlined in Attachment 4.
3. Considers the signed Section 173 Agreements prepared to support the Amendment (Attachment 6) that will be registered on land titles.
4. In accordance with Section 29 of the *Planning and Environment Act 1987*, adopts Amendment C114 as recommended by the officer response to the Panel and Advisory Committee recommendations outlined in Attachment 4.
5. Submits the Amendment documentation (Attachment 5) together with prescribed information to the Minister for Planning for approval.
6. Notifies all submitters to Amendment C114 of Council's decision.

Carried

## Recommendation

### That Council:

1. **Considers the Amendment C114 Panel and Advisory Committee Report (Attachment 1) in accordance with Section 27(1) of the *Planning and Environment Act 1987*.**
2. **Considers the officer response to the Advisory Committee Report as outlined in Attachment 4.**
3. **Considers the signed Section 173 Agreements prepared to support the Amendment (Attachment 6) that will be registered on land titles.**
4. **In accordance with Section 29 of the *Planning and Environment Act 1987*, adopts Amendment C114 as recommended by the officer response to the Panel and Advisory Committee recommendations outlined in Attachment 4.**
5. **Submits the Amendment documentation (Attachment 5) together with prescribed information to the Minister for Planning for approval.**
6. **Notifies all submitters to Amendment C114 of Council's decision.**

## Summary

Amendment C114 (the Amendment) seeks to rezone 5.2 hectares of industrial land in South Kingsville known as 5-7 Sutton Street, 9-9A Sutton Street and 41-59 Stephenson Street, to a residential use consistent with the Hobsons Bay Industrial Land Management Strategy 2008 (ILMS). Two subdivision planning permits PA1943532 and PA1943533 are included with the Amendment. Additionally, two development plans have been considered for 9-9A Sutton Street and 41-59 Stephenson Street.

The Amendment overall is considered to deliver a net community benefit consistent with Section 4 of the *Planning and Environment Act 1987*. The Amendment has been supported by a joint Panel and the Advisory Committee as outlined in the report included at Attachment 1. Changes have been made to the Amendment that was publicly exhibited based on the feedback from the exhibition and panel process. The Amendment is recommended for adoption, supported by the signed Section 173 Agreements included at Attachment 6.

## Background

The subject site forms the western half of Precinct 16 (Precinct 16 West) identified within the ILMS as a Strategic Redevelopment Area with the potential for a residential outcome. The site includes properties at 5-7 Sutton Street, 9-9A Sutton Street and 41-59 Stephenson Street. The site is owned by three different landowners including an existing established industrial business at 5-7 Sutton Street (Able Industries/Brymart).

At the Council Meeting on 14 April 2020 Council resolved to seek authorisation from the Minister for Planning to exhibit the Amendment. During the six-week exhibition period 34 submissions were received and some changes were made to the Amendment based on the submissions prior to the Panel and Advisory Committee hearing.

A joint Planning Panel and Advisory Committee was appointed by the Minister to hear submissions on the Amendment and the two development plans. The Council will remain the Responsible Authority (the RA) for development plans once the Amendment is approved.

The discussion section outlines the process that the Amendment has followed since April 2020, including authorisation of the Amendment, public exhibition and review by an independent Planning Panel and Advisory Committee.

## Discussion

Following the Council Meeting on 14 April 2020, it was resolved that the amendment should be concurrently exhibited with two development plans if they are generally in accordance with draft provisions. The development plans were reviewed and Amendment C114 was submitted to the Minister for Planning for authorisation on 18 May 2021. The Amendment proposed the following changes to the planning scheme:

- rezone land from Industrial 3 Zone (IN3Z) and part General Residential Zone to General Residential Zone - Schedule 4 (GRZ4) and Residential Growth Zone - Schedule 2 (RGZ2)
- apply a Development Plan Overlay - Schedule 2 (DPO2)
- apply an Environmental Audit Overlay (EAO) to areas not already covered by an EAO
- remove Heritage Overlay HO274 from part of 41-59 Stephenson Street as a permit was granted for demolition of buildings in 2011 which have now been removed
- amend Clause 53.01 to introduce a 5 per cent public open space contribution to ensure that the requirement for open space is met by the development

Two planning permits for subdivision were also submitted with the amendment to align title boundaries with the future proposed residential boundaries.

Two draft development plans were also submitted for 41-59 Stephenson Street (northern sub-precinct) and 9-9A Sutton Street (central sub-precinct) to show the likely future development outcome.

## Changes to Amendment C114 to respond to authorisation conditions

On 25 June 2021, under delegation of the Minister for Planning, the Department of Environment, Land, Water and Planning (DELWP) granted authorisation to exhibit the Amendment subject to conditions and changes as follows:

- revisions to the DPO2 relating to guidelines, affordable housing clauses, site remediation strategy and removal of requirement for Section 173 agreement to be entered into for infrastructure and affordable housing
- refinements to wording in the explanatory report to distinguish between the formal notification of the amendment and the consideration of the two development plans by Council
- clarification on how the proposed Schedule 4 to Clause 32.08 General Residential Zone (GRZ4) considers Amendment C131hbay (new residential zones). Agreed that at the time of adoption, if C131 already gazetted, a new schedule number will be required to reflect additional schedules introduced by C131 (this is now proposed to be Schedule 10)
- minor revision of the objectives wording for GRZ4

- update explanatory report to respond to Melbourne Industrial and Commercial Land Use Plan (MICLUP) 2020
- clarification that amendment proposes to remove Heritage Overlay 274 only

Council officers made the required changes prior to public exhibition. The authorisation letter is attached to this report as Attachment 2.

### Public exhibition

The Amendment was publicly exhibited for six weeks from 28 July 2021 to 8 September 2021 and 34 submissions were received. The key issues raised are summarised below:

- proposed building heights both too high and too low
- impact of increased densities on traffic congestion, parking and existing infrastructure and community facilities
- lack of public transport options and active transport links to justify development
- signalisation of the intersection of Sutton Street and Blackshaws Road
- impact on the environment, biodiversity and contribution to the heat island effect
- requirements for Water Sensitive Urban Design and Environmentally Sustainable Design (ESD) outcomes
- infrastructure, open space and affordable housing contributions including the appropriateness of the Infrastructure Contribution Strategy
- amenity impacts from existing industry, the freight line and the Spotswood Maintenance Centre
- the draft DPO2 provisions that seek to mitigate noise and other amenity impacts considering the new *Environment Protection Act 2017*
- impacts on major pipeline infrastructure
- impact on the industrial use at 5-7 Sutton Street while still operating
- existing use rights relating to 5-7 Sutton Street

Council officers suggested changes to the Amendment in response to submissions. Changes were mainly to include new Environment Protection Authority (EPA) noise mitigation requirements and pipeline requirements sought by Mobil and APA submissions.

All submissions were referred by the Chief Executive Officer (CEO) under delegation to an independent Planning Panel for consideration. Refer to Attachment 3 for the full list of submissions and Council's response.

### Planning Panel and Advisory Committee recommendations

A Planning Panel was appointed by the Minister for Planning to hear submissions on the Amendment. It is the role of the Panel to consider submissions and make recommendations to Council that must be considered before an amendment is adopted and referred to the Minister for approval.

The Planning Panel was also appointed as an Advisory Committee to hear submissions relating to the two submitted development plans. Unlike an amendment, Council will remain the RA that approves the final development plans.

A nine-day Panel and Advisory Committee hearing was held in December 2021. The Panel and Advisory Committee Report was issued in February 2022 with recommendations to Council on how to proceed with the amendment and development plans. The report was then reissued by the Panel on 8 April 2022 with minor corrections.

The report (Attachment 1) recommended that the Amendment proceed, finding that it was strategically justified and well founded. Table 1 below summarises the key issues discussed at the Panel Hearing and the conclusion of the Panel as per its report.

**Table 1: Summary of key issues discussed at the hearing and the conclusions of the Panel / Advisory Committee**

Summary of key issues	Panel / Advisory Committee conclusion
<b>Traffic and movement</b>	
<ul style="list-style-type: none"> <li>• the need for the signalisation of Sutton Street and Blackshaws Road to support development</li> <li>• the timing for the upgrade of Sutton Street and signalisation of Blackshaws Road</li> <li>• whether vehicle crossings could be introduced on the main east-west access road</li> <li>• the appropriateness of the future pedestrian and vehicular connection between the southern sub-precinct and the remainder of the precinct</li> <li>• ongoing access arrangements and requirements for 5-7 Sutton Street (Able Industries)</li> </ul>	<ul style="list-style-type: none"> <li>• the traffic conclave agreed that traffic signals were required to ensure safe movements from the development onto Blackshaws Road</li> <li>• the Panel agrees the signalised scenario trigger should be prior to the issue of Statement of Compliance for 150th lot, with an overarching assessment process for signal installation timing to be reviewed (and potentially installed prior to the 150th lot) at the application stages.</li> <li>• the introduction of crossovers to east-west access road is an urban design matter (refer urban design comments below)</li> <li>• resolution of a future pedestrian or vehicle connection to the southern sub-precinct (Able Industries site) should occur in a timely fashion to ensure an optimal outcome can be realised, but the Panel notes that this can occur outside of the Amendment process</li> <li>• there are no traffic engineering grounds as to why Able Industries cannot continue to operate as residential development encroaches towards their site. The interim and pre-ultimate intersection configuration, site access modifications, and Able Industries providing traffic controllers to manage pedestrian and vehicle traffic when large vehicles are accessing their site should provide a safe environment for all road users.</li> </ul>

<b>Affordable housing</b>	
<ul style="list-style-type: none"> <li>the requirement for a 10 per cent affordable housing contribution</li> <li>both the northern and central landowners supported a 5 per cent at 25 per cent discount rate to the market value only</li> </ul>	<ul style="list-style-type: none"> <li>the provision of affordable housing should be a requirement of the DPO2</li> <li>the requirement of 10 per cent affordable housing lacks strategic justification and 5 per cent at a 25 per cent discount rate to the market value provision is consistent with other strategic redevelopment areas</li> </ul>
<b>Protection of existing industrial use rights</b>	
<ul style="list-style-type: none"> <li>whether the existing use rights for 5-7 Sutton Street (Able Industries/Brymart) are appropriately protected following the rezoning of their land to residential</li> <li>whether 5-7 Sutton Street should be allowed to accommodate additional height and intensity of residential development to cover any relocation costs incurred by Able Industries</li> </ul>	<ul style="list-style-type: none"> <li>the Panel accepts Brymart's submission that Able Industries do not intend to relocate or cease operations at the site in the foreseeable future and acknowledges that the cost of relocating is significant.</li> <li>the site has continuing use rights and additional provisions have been included in the DPO2 to protect Able Industries' ability to continue to use the site</li> <li>the cost of relocating Able Industries is not a relevant matter for the Panel</li> </ul>
<b>Planning controls, built form and heights</b>	
<ul style="list-style-type: none"> <li>is the proposed DPO2 an appropriate planning tool?</li> <li>should a Mixed Use zoning or Residential Growth Zone be considered for 5-7 Sutton Street instead of General Residential Zone (GRZ3) to allow building heights of six to eight storeys?</li> <li>would proposed heights of up to six storeys within the Residential Growth Zone be in keeping with neighbourhood character?</li> <li>minimum setbacks for the east-west access road</li> <li>retaining no crossovers along the northern side of the east-west access road and a requirement for indented car parking</li> </ul>	<ul style="list-style-type: none"> <li>the DPO2 is the appropriate tool to guide the future development of Precinct 16 West</li> <li>the General Residential Zone that limits heights to three storeys is the appropriate zone for the land at 5-7 Sutton Street given the surrounding context</li> <li>the DPO2 provisions of three-metre setbacks on the northern side of the east-west access road through the central sub-precinct are appropriate as it would allow for more significant planting to occur</li> <li>the Panel agreed with Council that no crossovers on the northern side of the east-west access road and provision of indented car parking would result in good urban design outcomes</li> </ul>

Noise and acoustics	
<ul style="list-style-type: none"> <li>• should low frequency noise should be managed within the site?</li> <li>• does the noise assessment meet EPA guidelines under the new <i>EPA Act 2017</i> (the EPA Act)</li> <li>• should Section 173 agreements be registered on title to notify future owners of noise issues associated with existing and ongoing industrial operations</li> </ul>	<ul style="list-style-type: none"> <li>• not enough evidence to warrant specific investigation or set limits on low frequency noise through planning controls</li> <li>• industrial noise affecting residential use on the Amendment site should be able to be mitigated in residences to an acceptable level while ensuring existing industrial uses are protected</li> <li>• therefore, an agreement should not be required and would not remove any rights for new residents to take action under the EPA Act or Public Health and Wellbeing Act</li> </ul>

Key Panel and Advisory Committee recommendations are summarised in Table 2 below with more detail provided at Attachment 4 to the Council report.

**Table 2: Summary of Planning Panel and Advisory Committee Recommendations and Officer Response**

Panel recommendation	Council officer response
<p>Amend the Development Plan Overlay Schedule 2 (DPO2) to include:</p> <ul style="list-style-type: none"> <li>• Acoustic requirements as per expert conclave recommendations and the EPA</li> <li>• More detail relating to timing for upgrades to intersection including signalisation of Blackshaws Road and Sutton Street as outlined in the Infrastructure and Contribution Strategy prepared by Council</li> <li>• Updated pipeline requirements to address submissions raised by the pipeline operators</li> </ul>	<p><b>Agree.</b></p> <p>The updated DPO2 wording has been adopted as shown in Attachment 5.</p> <p>During the Panel hearing experts agreed that signalisation of Sutton Street and Blackshaws Road was needed to support the development however there was disagreement on the timing or trigger for works.</p> <p>The Panel recommendations support Council's position in relation to the timing for signalisation of Sutton Street and reflect our preferred wording that will ensure signalisation occurs early in the development.</p>
<p>The DPO2 to be amended to encourage a 5 per cent affordable housing contribution at a 25 per cent discount rate of the market value of the dwellings.</p>	<p><b>Agree.</b></p> <p>The updated DPO2 wording has been adopted as shown in Attachment 5.</p> <p>Provision is consistent with the rezoning of both Precinct 16 East and Precinct 15 strategic redevelopment areas. The landowners' (northern and central) original offer was lower at 5 per cent affordable housing at 15 per cent discount to market rate.</p>



<p>The Minister for Planning issue the planning permits PA1943532 and PA1943533 as exhibited, following the approval of Amendment C114hbay.</p>	<p><b>Disagree.</b></p> <p>Preference for Council to remain the RA for the planning permits. The matter was discussed with DELWP officers, and they also support Council remaining the RA.</p>
<b>Advisory Committee recommendations</b>	<b>Officer response</b>
<p>Consult the Department of Transport (DoT) to ascertain if the 432 Bus Route should be amended to utilise the east-west access road and Sutton Street to access Blackshaws Road using the proposed traffic signals. If the change is supported, the Development Plan Overlay Schedule 2 and development plans may need to be modified accordingly.</p>	<p><b>Agree.</b></p> <p>Council officers have met with DoT and the matter will be further investigated. The DoT needs to further investigate whether the bus route can be amended based on the proposed road width, parking and the roundabout. The development plans should be amended to include a potential bus route utilising the east-west access road and Sutton Street to align with the DPO2 framework plan changes.</p> <p>The DPO2 framework plan has been amended to include “potential bus route subject to further investigation” as shown in Attachment 5.</p>
<p>Treat uncontrolled cross intersections (excluding laneways) with traffic treatments and:</p> <ul style="list-style-type: none"> <li>• amend the development plan(s) to show intersections requiring traffic management</li> <li>• resolve this issue during detailed design</li> </ul>	<p><b>Agree.</b></p> <p>Development Plans will be updated and detailed traffic management outcomes will be considered at the planning permit application stage.</p>
<p>Remove the redundant footpath from the railway reserve between Stephenson Street and the pedestrian rail crossing from the northern sub-precinct development plan.</p>	<p><b>Partially Agree.</b></p> <p>The footpath should only be removed once the new footpath is fully constructed.</p>
<p>With respect to the land at 5-7 Sutton Street:</p> <ul style="list-style-type: none"> <li>• Amend the Framework Plan in the Development Plan Overlay Schedule as included the Panel report: <ul style="list-style-type: none"> <li>○ to include the land in the colour depicting the 2-3 storey areas</li> <li>○ to provide more detail about access to the land and the connection, if any, to the land to the north as part of the preparation of the southern sub-precinct development plan.</li> </ul> </li> </ul>	<p><b>Point 1: Agree.</b></p> <p>The framework plan in the DPO2 has been amended to include the land in the colour depicting the 2-3 storey areas as shown Attachment 5.</p> <p><b>Point 2: Disagree.</b></p> <p>Access arrangements to the southern sub-precinct can and should be further investigated at the development plan stage consistent with advice provided at p.50 of the Panel Report.</p>
<p>Modify the Northern Sub-precinct Development Plan to ensure the South Melbourne–Brooklyn High Pressure Gas Pipeline is referenced to be consistent with the Somerton–Altona Joint Venture pipeline.</p>	<p><b>Agree.</b></p> <p>The updated DPO2 wording has been adopted as shown in Attachment 5.</p>

## Developer contributions towards affordable housing and infrastructure

The Infrastructure and Contributions Strategy exhibited with the amendment outlines the key infrastructure items required to be funded and delivered to support the rezoning including the full upgrade of Sutton Street (including drainage), undergrounding of powerlines and signalisation of Sutton Street and Blackshaws Road.

Section 173 agreements have been prepared and signed for the central and northern sub-precinct to ensure fair and orderly funding and provision of infrastructure and affordable housing as required to support the rezoning (refer Attachment 6). These agreements secure an affordable housing contribution of 5 per cent as recommended by the Planning Panel (as outlined in Table 2).

Given the ongoing industrial use at 5-7 Sutton Street it is proposed that Council fund part of the works required to deliver upgrades to Sutton Street and then seek contributions at a later stage from the southern landowner when they are ready to develop their site.

This would be funded by the Capital Works Road Rehabilitation budget and would ensure that key infrastructure required in the short term to address community issues within Spotswood, such as the signalisation and upgrade of Sutton Street, can happen in a timely manner. Without this approach, delivery of these critical infrastructure improvements could be delayed by five to ten years, creating safety concerns for cyclists, pedestrians and motorists seeking to use the intersection of Sutton Street and Blackshaws Road.

## Amendment adoption and next steps

The Panel found that the amendment was strategically justified as it will complete the transition of Precinct 16 from an industrial area to a residential neighbourhood as envisaged by the ILMS.

The Planning Panel found the existing land use conflicts and amenity issues such as traffic and noise, as well as the requirement to protect existing industrial operations at 5-7 Sutton Street, could be appropriately managed by the proposed planning controls in the DPO2.

The Amendment is proposed to be supported by a 5 per cent affordable housing contribution which is in line with the contribution provided for Precinct 16 East and Precinct 15 as well as a requirement to deliver the construction and upgrade of Sutton Street, including the undergrounding of powerlines and a new signalised intersection at Sutton Street and Blackshaws Road to support safe pedestrian, cyclist and vehicular movements.

For the reasons outlined above overall the Amendment is considered to deliver a net community benefit consistent with Section 4 of the *Planning and Environment Act 1987*.

Following the adoption of the Amendment by Council, it will be sent to the Minister for Planning for approval and the Section 173 Agreements attached to the Council report will be registered on relevant land titles.

## Development plans and permits

If the Amendment is adopted by Council and approved by the Minister for Planning, the two development plans submitted with the amendment will then be reviewed in line with the Advisory Committee and Panel recommendations. The Advisory Committee recommendations have been summarised above and in Attachment 4 to the Council report.

Council is the RA that approves the final development plans. Once development plans are approved, planning permits can be issued without the need for further notice if they are in general accordance with the approved development plan.

## **9 Urgent Business**

Nil

## **10 Close of Meeting**

There being no further business, the Chairperson declared the meeting closed at 9.48pm.

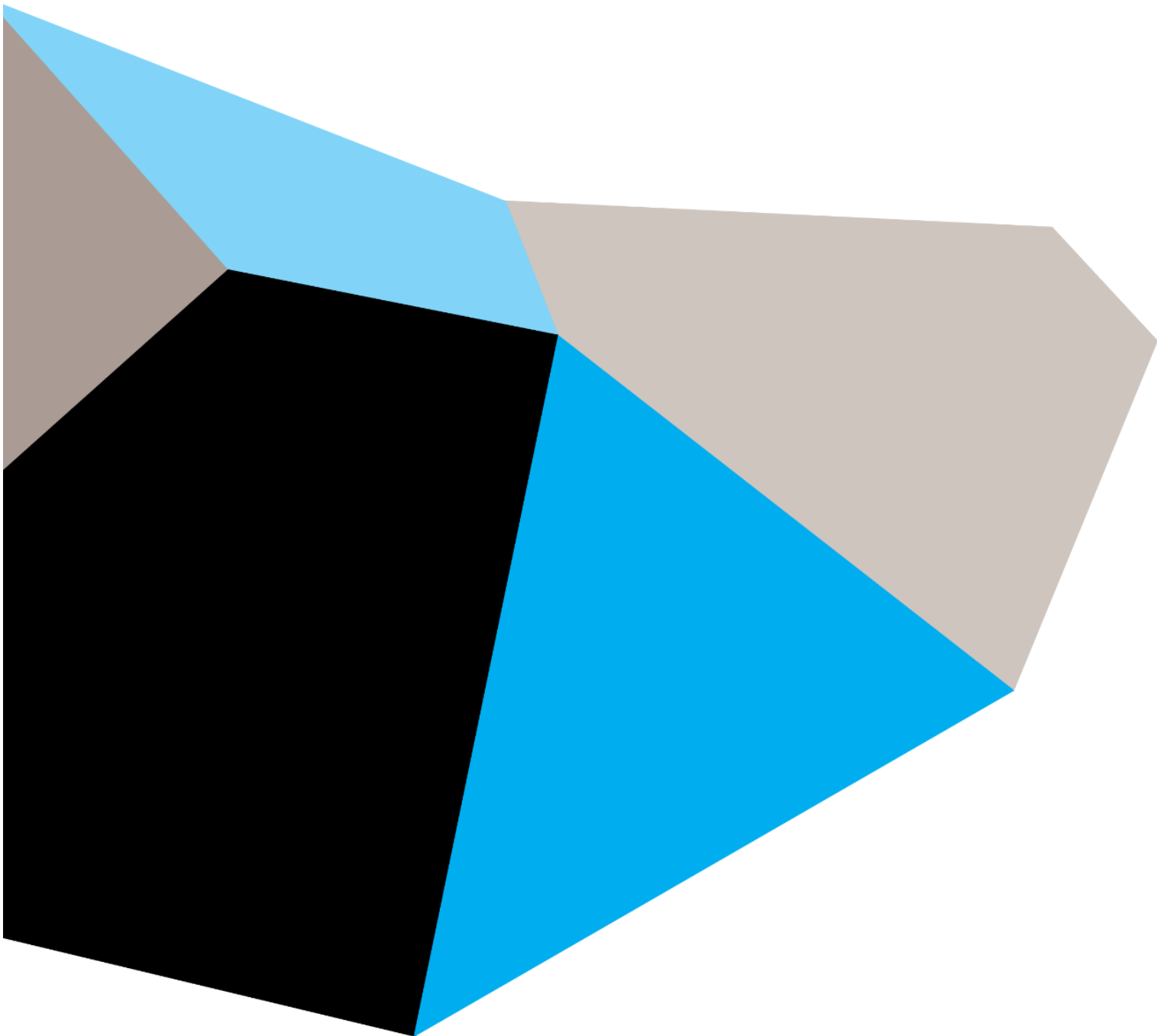
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Chairperson – Cr Peter Hemphill

Signed and certified as having been confirmed.

28 June 2022





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**HOBSONS BAY CITY COUNCIL**

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115 Civic Parade, Altona  
PO Box 21, Altona 3018  
Phone (03) 9932 1000  
Fax (03) 9932 1039  
NRS phone 133 677 and quote 03 9932 1000  
Email [customerservice@hobsonsbay.vic.gov.au](mailto:customerservice@hobsonsbay.vic.gov.au)

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