
9.4 PROPERTY MATTERS – LEASE – DAREBIN INFORMATION VOLUNTEER & RESOURCE SERVICE – 285-287 HIGH STREET PRESTON

Author: Coordinator Property Services

Reviewed By: General Manager Infrastructure, Operations & Finance

EXECUTIVE SUMMARY

The purpose of this report is to for Council to consider its options in regards to support for the Darebin Information Volunteer & Resource Centre ('DIVRS') following notice of intent to sell by the landlord at the High St building Council leases for DIVRS use.

Council currently rents the space at 285-287 High Street Preston (month-to-month overholding), and has been advised that the owner has decided to place the property on the market with a sale date of 19 July 2024. At the time of writing this report, it is not yet known if the property will be sold nor whether the current owner/purchaser would be open to a new lease.

It is timely for Council to consider options and community benefit going forward. The previous lease of the building was already beyond the term for which Council established the lease. As such, this report outlines options for Council consideration and with Council's dual roles in mind:

- Provider of community services for community benefit, including via partnering with other organisations who deliver community services.
- Steward of Council property and resources for the benefit of community and how to achieve high community benefit from Council's properties.

Council supports a range of community services by providing access to buildings at fully or partly subsidised rent. In this case what is unusual is that Council has been renting a building owned by another party rather than providing a Council building for DIVRS to use, and over time the cost of rent has increased substantially.

Council has provided DIVRS a building for a long time, and DIVRS delivers valuable community services. Broadly, the benefits DIVRS provides are high and while Council's financial sustainability requires careful management, DIVRS would be expected to be recommended as a priority partner because of its effectiveness, community connections and the strong strategic alignment of the services delivered.

Council also has a range of obligations to ensure it is fairly, openly and responsibly managing and Council resources for community benefit.

Key considerations in weighing options:

- Community benefit provided by the services of DIVRS
- Equity and fairness in providing opportunities to access Council funds, subsidies and properties, including the principles of the Local Government Act.
- Given that Council has an unused building that it manages available, it is more cost effective for Council to provide a Council managed building for community use than it is to rent at commercial rental levels a third party's building for the community use.

- Opportunity cost of providing resources for this service rather than others (whether in the form of rental payments, grants or provision of buildings at subsidised rent).
- Opportunities to maximise utilisation of the any premises. Where there are opportunities to share premises for use by multiple organisations, either at different times of day or because they can share facilities, this is provides a higher community benefit.

This paper outlines options for Council consideration including 3 broad options for continuing to support DIVRS via accomodation in an available Council managed building, or by continuing to lease the High St building (subject to Owner agreement and owner willingness to complete works), or instead through a grant. Generally these three options are provided for within the 2024-25 budget. Council also has the option not to extend its support to DIVRS.

This paper outlines Council's obligations to run a fair and open process and recommends that Council do this for consideration of long term support. In the short run (up to 3 years), a transition approach is recommended to support DIVRS in order to minimise disruption to a valued, effective and strategically aligned community service.

It is recommended that:

- Council seek DIVRS feedback in regards to two options for support for up to 3 years:
 - The option to either use an equivalent part of 59A Roseberry St at peppercorn rent for up to 3 years to October 2027 (this site is unused and Council has a lease on from the State Government at peppercorn rent) OR
 - The option of provision of a grant for the same period as a more flexible mechanism to access support, AND
- During the 3 year period above, DIVRS would be alerted to published EOI processes for Council buildings and properties and/or grant opportunities. These processes would be used to help DIVRS consider if Council locations are suitable for it in the longer term, and it would allow Council to demonstrate high standards of probity, fairness and equity.

Although Council has done so in the past, it is not recommended that Council enter a new arrangement to lease a third party building at commercial rent – it is not as cost effective as offering an available Council building and nor does it offer advantages to Council over a grant as a mechanism.

Officer Recommendation

That Council:

- 1) Notes the valuable community services that DIVRS provides for the Darebin community.
- 2) Notes that for many years Council has supported DIVRS with accommodation first in a Council building and more recently by leasing, at commercial rent, a building for DIVRS to use. This building has been put up for sale by the owner. The original lease term had expired and Council needs to consider options going forward.
- 3) Notes that Council has a range of obligations under the Local Government Act to ensure community benefit, including to ensure its processes for entering contracts are fair and open.
- 4) Seeks DIVRS feedback in regards to two options for transitional support for up to 3 years:

- a) The option to either use an equivalent part of 59A Roseberry St at peppercorn rent for up to 3 years to October 2027 (this site is unused and Council holds a lease from the State Government at peppercorn rent) OR
 - b) The option of provision of grant for the same period as a more flexible mechanism to access support
- 5) Offers available Council buildings for use by community partners via an Expression of Interest process within 18 months and that DIVRS would be alerted to these opportunities, as well as available Council grant opportunities or relevant service contract opportunities. These mechanisms will provide a mechanism for DIVRS to consider if Council locations are suitable for it in the longer term, and would allow Council to demonstrate high standards of probity, fairness and equity.
 - 6) Requests a report come to a future Council meeting providing feedback from DIVRS, and further technical advice arising from legal and building condition checks, in order for Council to make a decision.
 - 7) Seeks clarification from the Victorian Government as to their plans for the 59A Roseberry St property beyond 2027.

BACKGROUND / KEY INFORMATION

What happened?

On 27 May 2024 Council Officers were notified by the building owner's managing agent that the property at 285--287 High Street, Preston, which Council leases for use by its community partner DIVRS, would be offered for sale by auction. The auction is scheduled for 19 July 2024 ([285-287 High Street, Preston, VIC 3072 - Shop & Retail Property For Sale - realcommercial](#)). Officers notified DIVRS of this advice and subsequently met with DIVRS management to discuss the implications of this process and to help understand their needs and options.

The current owner has advised that the property is to be sold with the lease in place and any potential change would require Council receiving a minimum 3 month notice period. It is possible that a new owner may wish to offer a new lease term, however this is not currently known until the after the auction date. There is also a need for some building maintenance/upgrade works to be done by the owner to bring it to an appropriate standard for a potential future lease. If the owners or new owners are prepared to offer a new lease, and DIVRS's preference is to stay there, officers' advice would be that DIVRS should establish a direct arrangement with the Landlord. If Council wished to support DIVRS to stay, it would be recommended that this be done by a grant to DIVRS rather than by playing an intermediary role as the Leasee.

DIVRS

The Darebin Information, Volunteer and Resource Service (DIVRS) was developed from the Northcote Information and Support Service (NISS) through the work of a 3-year project commencing in December 2006, which was funded through the Volunteer Support Grants program of the Department of Planning and Community Development (DPCD).

DIVRS is valued partner of Council and work with people experience financial stress, systemic exclusion and disadvantages and who experience emotional, social, mental, physical issues. This includes providing:

- Resources and support to Darebin residents on no or low income or in financial stress including emergency food relief.

- Programs to reduce social isolation and barriers to accessing information- like ‘Bring Your Bills’ day.
- Programs and services that advance the education and skills development of Darebin residents, like the complex support program which builds people’s capability and confidence to engage with services and self-advocate and improve their health and wellbeing.
- A volunteer service that promotes social inclusion and strong networks creating opportunities for participation. Last year volunteers and students volunteered 27,575 hours equating to over \$1.1m and in a 4:1 volunteer return on investment.

To do this DIVRS works from its headquarters in Preston and across Darebin in partnership with Neighbourhood Houses and Council owned facilities such as East Preston Community Centre, Intercultural Centre and Reservoir Community Learning Centre. Below is an outline of DIVRS impact in 2022-2023 (impact infographic)



From DIVRS’s 2023 survey of community members they work with:

- 78% report reduced isolation through engaging with DIVRS.
- 82% report less stress about their financial situation because of DIVRS’s help.
- 66% can better manage their finances.
- 81% report they have access to nutritious food.
- 78% now feel more confident seeking help from other support services.

Council support for DIVRS with Accommodation

DIVRS has been supported by Council through provision of a commercially leased premises as well as funding to contribute to staff salaries and/or to run specific programs.

In 2012 Council negotiated with DIVRS to move them into the former Preston Courthouse at 59A Roseberry Avenue, Preston. This was seen at that time as an excellent fit by both parties, in terms of servicing the local community. Subsequently, Council resolved to approve its continuing support of DIVRS by hosting DIVRS in this building as from November 2013. This provision was made on the understanding that the Department of Justice intended to vacate the space it currently occupied in that building which would provide space to accommodate DIVRS. At that time however, the State Government restructured the Department of Justice and created a new department for Courts and Tribunals. Subsequently, the Council were informed that the intention by Government was to no longer vacate the premises but rather to reconsider returning to the Centre to run VCAT hearings.

As such, the relocation of DIVRS to the 59A Roseberry Avenue Preston building did not occur and they remained in occupation at 285-287 High Street, Preston.

Council Lease of 59A Roseberry Avenue, Preston

Council leases the property known as the former Preston Courthouse at 59A Roseberry Avenue, Preston from the Department of Justice on a peppercorn rent. This lease expires on 31 October 2027 (**see Appendix A – Floor Plan and Appendix B – Site Plan**).

A condition set out in the lease requires that Council is to sub-license a portion of the facility (approximately 30% of the total area) to the Department of Justice. This area includes space on the ground floor, one of the large rooms upstairs and two offices upstairs. It is our understanding that the Department of Justice do not intend to utilise this building for court services going forward and have mooted this building for disposal however there has been no formal notice of this.

Court Services Victoria currently undertake all essential service measure costs (for building compliance) whilst Council undertakes minimal maintenance whilst the property remains unoccupied. There will be some additional unknown maintenance/service costs should the premises now be made available for tenancy.

DIVRS Lease of 285-287 High Street, Preston

Council entered into a two-year lease of the ground floor of this property on 20 November 2001 to support the services operated by NISS.

Following the closure of Preston Community Advisory Bureau in 2009, DIVRS closed its former office in Northcote at Council's request and moved to 285-287 High Street, Preston. At that time the building was deemed too small to meet the requirements of DIVRS and on 20 November 2010, Council entered into a new lease which incorporated the first floor, which was previously a residence.

Following on from the decision by Department of Justice to reoccupy part of the Preston Courthouse and with the option to relocate DIVRS into that building being removed, Council continued to enter into a series of leases for DIVRS to remain in occupation at 285-287 High Street, Preston, with the last executed lease (dated 25 May 2020) being for a one-year period which expired on 19 November 2020.

Thereafter the landlord and Council failed to agree on terms of a new lease and the tenancy has continued on a three-monthly overholding basis on the conditions of the lease dated 25

May 2020. Officers have been working with DIVRS to develop options and identify potential properties within Council's portfolio suitable for relocation for some time.

Lease Cost – 285-287 High Street, Preston

The current cost to Council for this lease is \$61,283 per annum (excluding GST), consisting of rent of \$55,000 per annum and insurance and rates at \$6,283 per annum (excluding GST).

Cost	Sub-Total	GST	Total
Rent	55,000.00	5,500.00	60,500.00
Landlord's Insurance	3,918.02	353.98	4,272.00
Council Rates	340.05	34.01	374.01
Water Service Charges	878.92	87.89	966.81
Maintenance	866.00	NA	866.00
Landlord ESM	280.00	28.00	308.00
Total	61,282.99	6,003.88	67,286.87

Is 285-287 High Street, Preston still suitable if the new owner is open to a new lease? – 2024 Building Condition Report

Council recently engaged a consultant to undertake a compliance review of the leased property to understand whether it was fit for purpose to be leased by council and occupied by a council supported organisation.

The report outlined some compliance shortfalls and building condition issues. However, the main takeaways are as follows:

- Lack of maintenance by the building owner has resulted in some evident building issues – water ingress, difficulty opening windows etc.
- Termite damage to internal door frame – checks should be made to ensure this has not extended into the structure.
- Emergency lighting should be installed over the internal stair.
- Some other compliance issues – stair incorporates winders (not permitted in commercial stairs), non-fire-rated cupboard beneath egress stair, door hardware non-compliant throughout, localised reduced width and height in egress paths.
- Low level of compliance for people with disabilities, resulting in an increased risk of claims under the Disability Discrimination Act.
- The truss bottom chord was sagging in the rear garage being used as storage with the note that this should be reviewed by an engineer.

In the consultant's opinion, considering its age, the building could be considered to be fit for purpose, subject to an accessibility management plan being put in place and an increased level of maintenance by the building owner, particularly with the roof and stormwater systems.

23/24 Council funding to DIVRS

As a valued partner, Council works with DIVRS across many programs, and in 2023/24 provided the funding to several programs including a complex case worker (delayed COVID

recovery funding), operational and programming funding similar to neighborhood houses; funding to deliver programs including community gardens, grants for urban food program and emergency food relief support. DIVRS was also successful in a competitive tender to deliver four years of support to newly arrived and CALD community members in East Preston and East Reservoir.

Previous Council Resolution

At its meeting held on 3 March 2014, Council resolved:

'That Council continues to pay for the lease at 285-287 High Street, Preston to accommodate the Darebin Information, Volunteer and Resource Service until an alternative option becomes viable.'

ALIGNMENT TO 2041 DAREBIN COMMUNITY VISION

Strategic Direction 2: Prosperous, Liveable and Flourishing

ALIGNMENT TO 2021-25 COUNCIL PLAN

Strategic Direction 4 Responsible, Transparent and Responsive

ALIGNMENT TO COUNCIL PLAN STRATEGIC OBJECTIVES

2.7 We will work in partnership to address place-based socio-economic disadvantage and health inequity in East Preston and East Reservoir

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

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

DISCUSSION

Balancing community benefit and obligations to ensure fair and open process

DIVRS is an impactful community partner organisation that delivers services for community with a high alignment with Council's strategic goals. In this case, there is a tension in considering this matter between a desire to support this specific organisation and its work, and Council's obligations to ensure a fair and open process.

It is recommended that to balance both these elements Council provide medium term support for the organisation for up to 3 years, and a pathway for the longer term that asks DIVRS to apply to Council for long term support via a fair and open process such as an Expression of Interest process to lease a property and/or a grant process to seek funding.

Having considered options, officers recommend:

- Offering DIVRS a choice of two options:
 - EITHER use a Council building at peppercorn rent for 3 years to October 2027. Formal consultation on the proposal to lease a site would need to be undertaken to meet the obligations of Section 115 of the Local Government Act.
 - OR a grant for the same period.
- During the 3 year period above, DIVRS would be alerted to published EOI processes for Council buildings and properties and encouraged to consider applying. This

process would be used to help DIVRS consider if Council locations are suitable for it in the longer term, and it would allow Council to demonstrate high standards of probity, fairness and equity.

Is there community benefit in supporting DIVRS into the future?

Given the long history of support for DIVRS by providing accommodation on a peppercorn basis, it would be disruptive and would impact community services if this were to abruptly change. DIVRS are an impactful community partner and would be recommended as a priority partner, even considering Council's overall financial sustainability challenges.

Overall, officers recommend providing transitional support to DIVRS for a period of up to 3 years so that they can consider and make arrangements to secure longer term accommodation, whether via Council or otherwise.

Note that Council does not have any formal enduring agreement or commitment to provide accommodation on an ongoing basis and therefore it does have the option to conclude support.

What obligations are there relating to good governance and probity?

Generally, to meet good governance and probity standards, Council tenants being offered sites or buildings come through a fair and open process such as an EOI process.

To balance both the need for good governance, and the benefits of helping a high impact service provider navigate unexpected disruption, officers advise that Council could reasonably:

- Put in place a temporary arrangement (up to 3 years) that allows time for the service provider to consider, apply for and secure longer term accommodation.
- During that time use EOI processes and/or competitive grant processes to consider any long term application using a fair and open process.

Therefore this report has distinct recommendations for the period up to three years and then the longer term.

Options for transition support to DIVRS

Option	Comments
Option One - Offer DIVRS accommodation in another Council managed building that is currently underutilised.	Council has currently underutilised space and has identified one generally suitable site at the former Preston Courthouse at 59A Roseberry Avenue. This would be more cost effective for Council and better use of community assets than either of the options below. Note that any lease beyond one year would need community consultation, and this is a State Government property and would require their approval although it is highly likely this would be provided. There would be some set up costs at this site and it may not be suitable for all DIVRS functions.
Option Two - Establish a three-year lease for the privately owned High St building and sub-lease to DIVRS.	Not cost effective for Council compared to offering a Council building that is currently available. This would be subject to the owner's agreement and if they are not open to a future lease this option would not be possible. The building is not in good condition and needs work. No particular advantage to Council as a mechanism to compared to a grant. Not recommended.
Option Three - Offer a three-year grant to DIVRS that they can use for accommodation or other purposes.	A lower risk mechanism than sub-leasing. If all other things are equal, this would be recommended above continuing a commercial sub-leasing arrangement.

Flexibility for expansion

DIVRS have previously identified that in the long run they are seeking larger premises.

Considering whether to support in the long term any proposal for expansion should be done via a fair and open process such as an EOI process or a grant application process.

However, in regards to the transition options above for the next three years,

- The Roseberry Avenue building could allow temporarily for growth as it is a larger premises than DIVRS currently has.
- The High St building does not allow any flexibility for growth.
- A grant could provide DIVRS flexibility to consider other accommodation options such as colocation with other organisations which may allow negotiation of better rental prices and therefore enable investment in other activities.

Longer term options

Beyond three years, DIVRS could access available Council buildings via applications to an EOI process. All available sites will be advertised publicly within 18 months and this provides DIVRS a process with which to consider and formally apply for any accommodation options that Council has. This also enables Council to consider via a fair and open process offering a lease for a longer term.

DIVRS also has options beyond Council sites and these will have various benefits, drawbacks and costs for DIVRS. DIVRS will need premises, but as its own separate legal entity to Council, it could consider a range of options such as:

- Co-locating with similar organisations

- Running some functions virtually
- Other non-Council premises

It is not clear if the 59A Roseberry Ave Site will or won't be available after three years. Officers understand that the State Government is interested in selling it, and because it is a strategic site for Council, it is a site that Council may wish to consider acquiring. It is not clear whether the State will be ready to dispose of it after three years or may offer Council an ongoing lease.

CONSIDERATION OF LOCAL GOVERNMENT ACT (2020) PRINCIPLES

Financial Management

Council's 2024-25 budget has provided for the cost of rental at the High Street building at \$61,000 per annum. Council's budget does not include any provision for:

- Any make good works at end of lease, although it is not yet known if this would be required.
- Any works to bring the High St building to a safe standard if a new lease at this building was sought (generally an Owner would be required to do this).

It would be more cost effective for Council to relocate DIVRS to an available underutilized Council managed building than to continue to pay commercial rent. There would be some maintenance and operating costs Council would incur, but as an indication, these can be estimated at 25% to 33% of the rental of a site. In this case an estimate of \$15,000 could be used.

Relevant extracts from the financial management principles:

(b) financial risks must be monitored and managed prudently having regard to economic circumstances;

(c) financial policies and strategic plans, including the Revenue and Rating Plan, must seek to provide stability and predictability in the financial impact on the municipal community.

Procurement

Local Government Act 2020 – section 108 and 109 – Relevant extract from the Procurement sections

(1) A Council must prepare and adopt a Procurement Policy which specifies the principles, processes and procedures applying in respect of the purchase of goods and services by the Council, including for the carrying out of works.

(2) A Procurement Policy must seek to promote open and fair competition and provide value for money.

Service Performance

Local Government Act 2020 – Section 106 - Relevant extracts service performance principles

(a) services should be provided in an equitable manner and be responsive to the diverse needs of the municipal community;

(b) services should be accessible to the members of the municipal community for whom the services are intended;

(c) *quality and costs standards for services set by the Council should provide good value to the municipal community;*

Property and Land

Local Government Act 2020 – section 115 – Relevant extracts relating to powers in relation to land:

A Council must include any proposal to lease land in a financial year in the budget, where the lease is—

- (a) *for one year or more and—*
 - (i) *the rent for any period of the lease is \$100 000 or more a year; or*
 - (ii) *the current market rental value of the land is \$100 000 or more a year; or*
- (b) *for 10 years or more.”*
- (4) *If a Council proposes to lease land that is subject to subsection (3) and that was not included as a proposal in the budget, the Council must undertake a community engagement process in accordance with the Council's community engagement policy in respect of the proposal before entering into the lease.*

Community Engagement

If Council were to proceed with offering a lease at the Roseberry Avenue site to any party, in accordance with Section 115 of the Act, Council would be required to seek community engagement for the approval of this lease as the current market rental was assessed at \$150,000 per annum for rating purposes. Whilst rent is not proposed to be charged to DIVRS in option 1 discussed in this report, Council is required to undertake community engagement given the significant value of the opportunity being offered.

- A public notice would be published on Council's website of the intention to lease the site in accordance with Council's Community Engagement Policy 2022. The submission process would commence after the conclusion of Council caretaker period (17 September 2024 – 25 October 2024).
- Following the conclusion of the community engagement process, any submissions will be considered by Council's Hearing of Submissions Committee at a meeting.
- A further report would be presented to Council in December 2024 to consider completion of the statutory procedures for the lease.

Other Principles for consideration

Overarching Governance Principles and Supporting Principles

- (a) Council decisions are to be made and actions taken in accordance with the relevant law;
- (i) the transparency of Council decisions, actions and information is to be ensured.

Public Transparency Principles

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

Strategic Planning Principles

- (d) strategic planning must identify and address the risks to effective implementation;

Service Performance Principles

- (a) services should be provided in an equitable manner and be responsive to the diverse needs of the municipal community;

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

DIVRS work with community members to address food security issues through their urban food program.

Equity, Inclusion, Wellbeing and Human Rights Considerations:

The Towards Equality Framework helps guide Council's work in reducing disadvantage, standing against discrimination and sharing resources equitably, in partnership with the community, local agencies and organisations. DIVRS is a valued partner who delivers front line services to many Darebin residents who experience financial stress, systemic exclusion and disadvantages and who experience emotional, social, mental, physical issues. An Equity Impact Assessment has not been specifically undertaken on the proposed lease.

Generally the requirements for Council to run fair and open processes for entering into Contracts is in place to ensure that there is fair and equal opportunity to access Council resources whether they are property leases or services contracts.

Economic Development and Cultural Considerations

There are no economic developments and cultural considerations in relation to the proposed lease.

Operational Impacts

DIVRS acknowledge that Council's proposal to provide it with a three-year sub-lease is restricted to Council being awarded a new lease or first right of purchase of the property. In the absence of either provision, a further relocation of services would be required.

Legal and Risk Implications

Council generally has obligations to run fair and open processes when considering entering contracts, including leases for use of land.

Council will also engage a solicitor to prepare the sub-lease document to ensure that any risk to Council, is mitigated or significantly reduced.

IMPLEMENTATION ACTIONS

Confirm Auction result – 19 July 2024

Write to and meet with DIVRS to seek feedback - July 2024

Report to Council including with DIVRS feedback – decision on preferred approach going forward

RELATED DOCUMENTS

Nil

Attachments

- Floor Plan (**Appendix A**)
- Site Plan (**Appendix B**)

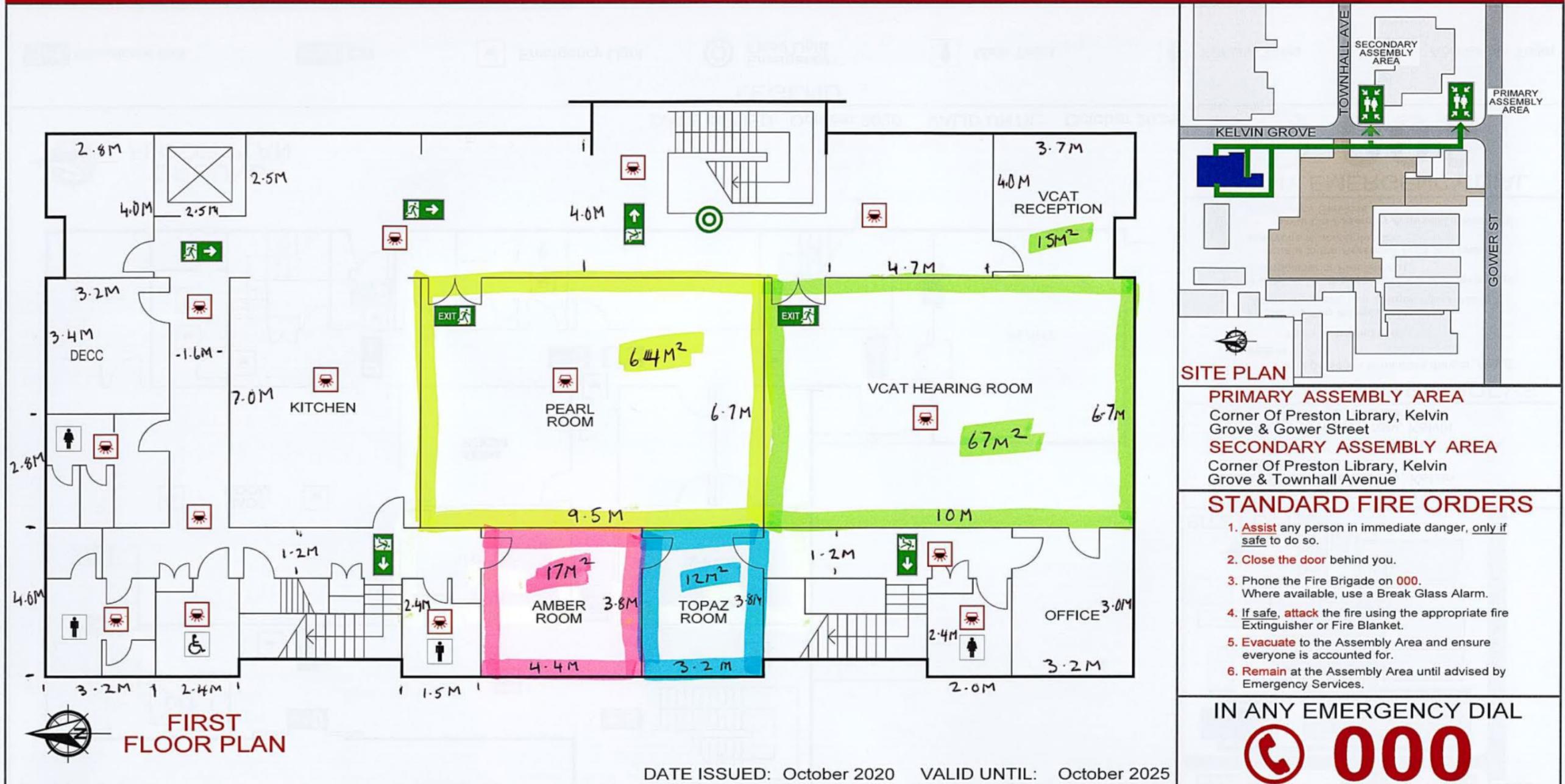
DISCLOSURE OF INTEREST

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

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

PREVIEW

EVACUATION DIAGRAM



LEGEND

- Directional Exit
- Exit
- Emergency Light
- Emergency Flood Light
- Male Toilet
- Female Toilet
- Accessible Toilet



Darebin Intercultural Centre - 59A Roseberry Avenue, Preston, VIC, 3072
 Nearest Cross St: Roseberry Avenue & Kelvin Grove
 Access St: Roseberry Avenue

Prepared by:

statcomsystems.com.au

Site Plan



Council owned properties (highlighted in green)

59A Roseberry Street Preston (subject land)

