

# Statutory and Discretionary Reserves Policy

A3815141

## 1. Policy Statement

**Financial Reserves** are funds that have been set aside from operating and capital incomes for future funding of capital projects and operating commitments. Council has a number of financial reserves which hold a significant amount of funds. It is appropriate that Council has guidelines in place to provide oversight in relation to the management of these funds.

## 2. Reason for Policy

The purpose of Council's Statutory and Discretionary Reserves Policy is to:

- (a) ensure that the Council has established Reserve Funds that account for income that has been received from specific sources for a future application and are not designed to assist in general operations of Council; and
- (b) establish requirements around the creation of Reserves, transfer to reserves and subsequent expenditure of funds from these reserves;

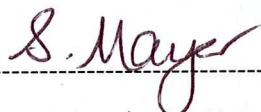
## 3. Scope

This Policy are applicable to both discretionary and statutory financial reserves; and include creation of reserves, transfers of funds to reserves, and subsequent usage of funds from reserves.

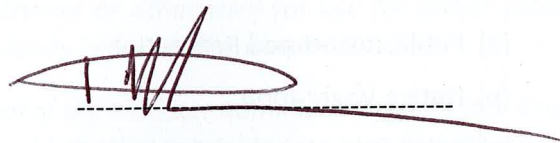
This Policy excludes the Asset Revaluation Reserve that arises under the Australian Accounting Standards, because it relates to change in the asset values rather than the collection of funds.

## 4. Authorisation

This Policy is managed by the **Financial & Corporate Planning Department**, and is approved by Frankston City's Mayor and Council's Chief Executive Officer (CEO):



Mayor, Frankston City



CEO, Frankston City Council

in accordance with Frankston City Council resolution at its Ordinary Council meeting of 16 December 2019.

## 5. Revision date

This Policy is to be reviewed once each Council term by the Manager Financial & Corporate Planning and the Executive Management Team (EMT) from the date of the commencement of this Policy.

## 6. Principles

Councils have traditionally operated with Reserves that are amounts of money set aside for specific purposes in later years. In general these funds do not have bank accounts of their own, but are a theoretical split up of the cash surplus that Council has on-hand. The following sections provide a picture of what Reserve Funds Council holds, and their purpose.

### 6.1 Statutory reserves – nature and purpose

Frankston City Council's statutory reserves have been established to record revenues received from developers which are to be applied specifically to undertake future capital works for car parking, public open space and recreation, native vegetation, subdivision roadwork and community infrastructure.

The use of funds from Statutory Reserves is governed by legislation (or other legal requirements) and records Council's future expenditure commitments. These are separately accounted for to ensure sound financial management of future operations.

Where statutory funds are collected to fund future infrastructure there are legal requirements that govern how the funds must be spent. This may include expending the funds in accordance with the terms and conditions of the funding, or on projects in the vicinity of the developments that the funds were collected in respect of.

**Creation of Statutory Reserves** - Statutory reserves are a legislative requirement and will be created when the relevant legislation comes into effect. The use of these reserves will be identified and approved by Council through the annual budget process.

The following summary outlines the purpose of each current statutory reserve and its typical inflows and outflows:

- (a) Public Resort and Recreation
- (b) Native Vegetation
- (c) Subdivision Roadworks
- (d) Infrastructure Assets
- (e) Car Parking

#### **Public Resort and Recreation Reserve**

**Purpose:** The public resort and recreation reserve is established to hold funds contributed by developers for works associated with developing improved open

space and recreational facilities within Frankston City Council. Funds are contributed in accordance with Section 18 of the Subdivision Act 1988:

*(1) A Council acting as a responsible authority or a referral authority under the Planning and Environment Act 1987 may require the applicant who proposes to create any additional separately disposable parcel of land by a plan of subdivision to—*

*(a) set aside on the plan, for public open space, in a location satisfactory to the Council, a percentage of all of the land in the subdivision intended to be used for residential, industrial or commercial purposes, being a percentage set by the Council not exceeding 5 per cent; or*

*(b) pay or agree to pay to the Council a percentage of the site value of all of the land in the subdivision intended to be used for residential, industrial or commercial purposes, being a percentage set by the Council not exceeding 5 per cent; or*

*(c) do a combination of (a) and (b) so that the total of the percentages required under (a) and (b) does not exceed 5 per cent of the site value of all the land in the subdivision.*

Transfers are restricted to the purpose of creating open space in accordance with Section 18 of the Subdivision Act 1988 such as parks, playgrounds, pavilions and other such items where it is deemed that these works should occur at a later point than the initial development.

*(2) The Council must use any payment towards public open space it receives under this Act or has received under section 569B (8A) of the Local Government Act 1958 but has not applied under subsection (8C) of that section or the proceeds of any sale of public open space to—*

*(a) buy land for use for public recreation or public resort, as parklands or for similar purposes; or*

*(b) improve land already set aside, zoned or reserved (by the Council, the Crown, a planning scheme or otherwise) for use for public recreation or public resort, as parklands or for similar purposes; or*

*(c) with the approval of the Minister administering the Local Government Act 1989, improve land (whether set aside on a plan or not) used for public recreation or public resort, as parklands or for similar purposes.*

Separate categories have been established within this reserve to record revenues received from developers that are to be applied specifically to undertake future capital works within these locations.

**Typical sources of inflows:** Inflows are solely composed of contributions from developers in lieu of the 5 per cent Public Open Space requirement.

**Criteria to enable outflows:** In terms of outflows, Council's should consider the following position in terms of utilising these funds as stated below:

"That Council maintain an annual balance of \$300,000 in the Public Resort and Recreation Reserve and utilise the remaining funds in delivering capital works in accordance with the Reserve purpose."

Council has a large amount of undeveloped open space, therefore funds in this reserve should be utilised for the combined purpose of developing this land for passive recreation and for significant upgrade works within structured recreation.

## **Native Vegetation Reserve**

**Purpose:** In Victoria, landowners wishing to remove, lop or destroy native vegetation are required to obtain a planning permit.

*Permitted clearing of native vegetation – Biodiversity assessment guidelines* (the Guidelines) is an incorporated document in all planning schemes in Victoria. The Guidelines set out how biodiversity should be considered by responsible or referral authorities when assessing an application for a planning permit to remove native vegetation.

The objective of the native vegetation permitted clearing regulations is:

*No net loss in the contribution made by native vegetation to Victoria's biodiversity.*

When a permit is granted to remove native vegetation an offset is generally required. An offset is an undertaking to protect and manage native vegetation. These protection and management activities improve the condition of the native vegetation at the site. This improvement increases the contribution that the site makes to Victoria's biodiversity.

Rules that dictate the offset requirements when native vegetation removal is permitted are specified in the Guidelines. There are three components of these rules, known as offset requirements:

1. The type of offset that must be secured (specific or general)
2. The amount of gain required to offset the removal of native vegetation (measured in biodiversity equivalence units)
3. The required attributes of the native vegetation

The purpose of this reserve is to enable Council under the native vegetation framework to demonstrate that where there has been a loss of remnant vegetation, it has been off-set in a location that is sustainable and can be protected into the future. The income and expenditure will occur over different years.

**Typical sources of inflows:** Inflows will be typically from developments where due to site constraints the remnant vegetation cannot be protected on-site, and the state requires these to be offset and maintained over a 10 year period.

**Criteria to enable outflows:** Outflows from this reserve will be in the form of agreed expenditure over the life of this reserve.

### Subdivision Roadworks

**Purpose:** This reserve had been established to provide a source of funding for subdivisional roadworks.

**Typical sources of inflows:** Council had charged an infrastructure levy per subdivided lot until there was a VCAT ruling that the contributions were outside of the parameters written in the Frankston Planning Scheme. Collection of these levies have ceased.

**Criteria to enable outflows:** Outflows from this reserve will be transfers back to operations or specific projects as may be determined by Council. Some contributions have specific terms, e.g. funds to be spent on a particular intersection, others terms are more general.

### Infrastructure Reserve

**Purpose:** The purpose of this reserve is to set aside funding for roads and drains in growth areas.

**Typical sources of inflows:** Council had charged a development contribution and drainage levy per subdivided lot to facilitate future upgrades to infrastructure until there was a VCAT ruling that the contributions and levies were outside of the parameters written in the Frankston Planning Scheme. Collection of these levies have ceased.

**Criteria to enable outflows:** Outflows from this Reserve will be in the form of agreed projects for roads and drains as may be determined by Council.

### Car Parking

**Purpose:** This reserve is established to hold funds contributed by developers. The financial contributions must be made before the use or development commences unless a permit condition allows payments by instalments under the *Section 173* agreement provisions of the *Planning and Environment Act 1987*. This agreement may provide for the payment of the contribution in instalments plus an interest component equivalent to the interest payable on unpaid rates and charges under the *Local Government Act 1989* and it must provide that all instalments and accrued interest are paid within 5 years of the first instalment.

The financial contribution cash-in-lieu rate per car space charged by Frankston City is less than the full cost of providing multi-storey car parking. This has been set as an

incentive to facilitate development. It recognises the inherent benefits to multiple users of consolidating car parking into large publically accessible facilities.

**Typical sources of inflows:** A financial contribution is required in lieu of each car parking space that is provided.

The financial contribution rate is \$19,500 (plus GST) for each car space. The amount of contribution for each space specified above requirements of Clause 52.06-5 will be adjusted by the responsible authority on 1 July each year, commencing from 1 July 2017, by applying the Building Price Index, Melbourne, in Rawlinsons Australian Construction Handbook. If that index is unavailable, an equivalent index will be applied by the responsible authority.

**Criteria to enable outflows:** Outflows from this reserve will be utilised on public parking projects within the Frankston Metropolitan Activity Centre or adjacent to the Frankston Metropolitan Activity City Centre in accordance with the Frankston Metropolitan Parking Precinct Plan, including (where appropriate) multi storey facilities.

## 6.2 Discretionary reserves – nature and purpose

Discretionary Reserves are funds held by Council and segregated from general revenues, based on Council directions, to finance future expenditures or to provide for a specific project so as to ensure funds are available as required. Discretionary Reserves may be varied from time to time where expenditure commitments may be created and retired.

Council may also create program specific Reserves where capital purchases occur across multiple financial years, funded by operational surpluses generated by these assets.

**Creation of Discretionary Reserves** - As a general rule, income and expenditure should be budgeted in the financial year in which it occurs, and should not be “set aside” in reserves for future use. However, Council does in some instances create financial reserves where:

- 1) Large expenditure needs to be funded over a period of time; and
- 2) Funds are collected specifically for funding of a particular capital works program.

Council approval is required for the creation of new discretionary financial reserves. If a new reserve is required a report will be prepared and submitted to Council for approval during the annual budget or mid-year budget review process. The report will include details of:

- Why the financial reserve is required (including any legislative requirements);
- Where the funds to be transferred to the reserve will come from;
- What the funds will be expended on;
- When the funds will be spent;
- The length of time the reserve will be required;

- The dollar value of expected Reserve balance and transfer in/to the Reserve.

The following summary outlines the purpose of each current discretionary reserve, and its typical inflows and outflows of the following reserves:

#### **Frankston City Council Discretionary Reserves:**

- Strategic Assets
- Loan Sinking Fund
- PARC Asset Management Plan
- Unexpended Grants
- Capital Projects
- Resource Efficiency

#### **Peninsula Leisure P/L Discretionary Reserves:**

- PARC Asset Management Plan
- PARC Strategic

### **Strategic Assets**

**Purpose:** The strategic projects reserve has been established by Council to fund works considered by Council to be of a strategic nature.

One of the key considerations for Council in the application of future loan borrowings is the premise that its annual operational and asset renewal needs can be met from annual funding sources. That is, Council does not have to access funding from non-renewable sources such as loans, asset sales or reserves to meet its annual expenditure needs.

#### **Typical sources of inflows:**

Proceeds from Sale of Council Land: Proceeds from sale of Council land will be transferred to the strategic reserve for either the purpose to fund new and upgrade major capital projects. Proceeds from sale of property are not to be utilised to fund operational expenditure.

Surplus cash funds: At the conclusion of each financial year, Council reviews the results and may transfer cash surplus funds into this reserve if Council achieves a surplus outcome.

**Criteria to enable outflows:** During the development of the Council Plan, Council sets the forthcoming four (4) year strategic priorities. Strategic priorities usually include extremely significant projects that involve expenditure in the tens of millions. In order to deliver these strategic priorities, a financially sustainable Council must exist.

Council must provide for the ongoing capital development of the municipality across a broad range of major priorities. In the future, outflows from this reserve are to fund major capital works projects or when Council is required to source major funding where there is no option but to utilise cash reserves.

This reserve allows Councillors the opportunity to refer major projects for consideration based on an agreed criteria. The following criteria must be met in order for funds to be transferred from the Strategic Asset Reserve:

1. Funding is to have a direct link to the Council Plan Strategic Priorities
2. Other funding options have been considered including borrowing, Government funding and asset sales
3. To fund the delivery of a major project or acquisition with regional significance
4. A separate decision to be adopted by Council outside of the Annual Budget and Mid-Year Budget process.

### **Loan Sinking Fund**

**Purpose:** The purpose of this reserve is to provide for advance payment on loans (without penalty) and the principal repayments required on maturity of the interest-only Local Government Funding Vehicle (LGFV). If required, this reserve can be utilised to provide future funding for major infrastructure projects in lieu of borrowings.

**Typical sources of inflows:** Inflows will comprise savings derived from annual loan repayments, and interest savings compared to the original budget provision of these items. Inflows will also include 'transfers in' required to fund debt redemption commitments (interest expense and principal repayments).

**Criteria to enable outflows:** Outflows from this reserve are based on the adopted Annual Budget where a schedule of payments on loans are reviewed. The following criteria must be met in order for funds to be transferred from the Loan Sinking Fund Reserve:

1. Payment of loan borrowings at maturity without penalty including the LGFV.
2. A separate decision to be adopted by Council outside of the Annual Budget and Mid-Year Budget process to re-draw from this reserve for delivery of a major project or acquisition with regional significance with a direct link direct link to the Council Plan Strategic Priorities; **or**
3. A separate decision to be adopted by Council outside of the Annual Budget and Mid-Year Budget process to source funding where there is no option but to utilise cash reserves e.g. Defined Benefit Superannuation Liability.

### **PARC Asset Management Plan - Council**

**Purpose:** The PARC Asset Management Plan reserve has been established by Council and represents funding set aside to contribute to the upgrade and replacement of Peninsula Aquatic Recreation Centre (PARC).

Council has made a commitment to contribute to the upgrade and replacement of PARC based on the schedule within the PARC Asset Management Plan (AMP) over a



period of 40 years. It is prudent to make provision each year to this sinking fund to deliver on its commitment to provide fit for purpose facilities. This reserve is not to fund renewal or maintenance expenditure on Council facilities.

**Typical sources of inflows:** Inflow to this reserve will typically be when Council resolves to transfer cash surplus funds into this reserve if Council achieves a cash surplus outcome at the conclusion of financial years.

**Criteria to enable outflows:** Outflows from this reserve will be transfers back to upgrade or replace the PARC facilities as adopted by Council.

## Unexpended Grants

**Purpose:** The purpose of this reserve is to quarantine operating Federal and Victorian Government funding relating to a future financial year but received in a prior year.

**Typical sources of inflows:** Inflows are solely composed of significant operating grant funds received in one year, and are restricted for specific projects or expenditure for the following year.

**Criteria to enable outflows:** Outflows from this reserve will be transfers back to operations or specific capital projects as per unexpended grant listing.

## Capital Projects

**Purpose:** The capital projects reserve has been established by Council and represents funding allocated to capital projects that have not been delivered in a prior year.

**Typical sources of inflows:** Inflows are solely composed of significant capital grant funds received during a prior financial, and are restricted for specific projects delivered in the following year.

**Criteria to enable outflows:** Outflows from this reserve will be transfers back to specific projects as per end of year project listing.

## Resource Efficiency

**Purpose:** The purpose of this reserve is to provide Council with an opportunity to set aside funds, and highlight the benefit of energy conservation measures to save money and achieve Council's greenhouse reduction goals.

**Typical sources of inflows:** Inflows to this reserve are the annual expected savings from energy reduction projects.

**Criteria to enable outflows:** Outflows from this reserve will be the reinvestment in future years for further works to minimise energy consumption.

## PARC Asset Management Plan – Peninsula Leisure P/L

**Purpose:** This reserve is managed by Peninsula Leisure P/L and is designated to meet their obligations for defined classes of capital as set out in the schedule within the PARC Asset Management Plan (AMP), notably, furniture fixtures and equipment, IT and audio visual equipment, and capital replacement. Peninsula Leisure P/L notes that Council similarly has obligations towards the provision of funds for defined classes of capital, notably all major items of capital replacement or upgrade as per the schedule within the AMP.

**Typical sources of inflows and outflows:** Inflow to this reserve will be when Peninsula Leisure P/L achieves a surplus outcome at the conclusion of financial years, and resolves to transfer surplus funds into this reserve.

**Criteria to enable outflows:** Outflows from this reserve will be to fund furniture fixtures and equipment, IT and audio visual equipment, and capital replacement for PARC as required.

## PARC Strategic – Peninsula Leisure P/L

**Purpose:** This reserve is managed by Peninsula Leisure P/L and is designated for capital investment expended over more than one financial year, that falls outside the requirements of the PARC Asset Management Plan (AMP).

**Typical sources of inflows:** Inflow to this reserve will be when Peninsula Leisure achieves a surplus outcome at the conclusion of financial years, and resolves to transfer surplus funds into this reserve.

**Criteria to enable outflows:** Outflows from this reserve will be to fund capital investment expended over more than one financial year, that falls outside the requirements of the PARC Asset Management Plan (AMP).

### 6.3 Compliance

Reserve Funds must be drawn down to fund expenditure that is consistent with the purpose of the reserve as noted in this Policy, and meets the criteria to enable transferring funds from each applicable reserve. For each existing or future reserves they must be cash-backed.

As a general rule, income and expenditure should be budgeted in the financial year in which it occurs, and should not be “set aside” in reserves for future use. However, Council does in some instances create financial reserves where:

- (a) Large expenditure needs to be funded over a period of time; and
- (b) Funds are collected specifically for funding of a particular capital works project.

Council approval is required for the creation of new discretionary financial reserves. If a new reserve is required a report will be prepared and submitted to Council for approval during the annual budget or mid-year budget review process. The report will include details of:

- (a) Why the financial reserve is required (including any legislative requirements);
- (b) Where the funds to be transferred to the reserve will come from;
- (c) What the funds will be expended on;
- (d) When the funds will be spent;
- (e) The length of time the reserve will be required;
- (f) The dollar-value of expected Reserve balance and transfer in/to the Reserve.

## 7. Roles and responsibilities

The Financial and Corporate Planning Department is responsible for ensuring that the reserve balances are accurately recorded, and that the transfer of funds in the finance system is in accordance with Section 6.

A report on the current balance and transfers to and from Council's financial reserves will be included in the Quarterly Financial Report.

Council approval is required for the creation of new discretionary financial reserves.

## 8. Policy non-compliance

Non-compliance with this Policy also has the potential to negatively impact on the reputation of individual Councillors, and of Council.

Privacy is to be managed in accordance with Council's Privacy Policy.

## 9. Related Documents

Local Government Act 1989

Subdivision Act Section 18

Privacy & Data Protection Act 2014

Frankston City Open Space Strategy

Records Management Policy (A1867625)

Long Term Financial Plan 2017-2021

Peninsula Aquatic Recreation Centre (PARC) 30 Year Strategic Service Asset Management Plan

Frankston Metropolitan Activity Centre Parking Precinct Plan

## 10. Implementation of the Policy

This Policy (in conjunction with other Related Documents) will be implemented immediately upon adoption by Council.

## 11. Definitions

**Discretionary Reserves:** are financial reserves established by Council to fund works over a period of time, there are no legislative or legal requirements governing the use of these funds.

**Statutory Reserves:** are financial reserves where the usage of the funds is governed by Legislation or other legal requirements, e.g. public open space contributions.