

AGENDA ITEM NO.: 19.12

TO: Council on 25 September 2017

DIRECTOR: Cate Hart, Chief Executive Officer

REPORT AUTHOR: Alex Cortes, Manager Infrastructure, Assets and Environment

SUBJECT: Rose Street Public Realm Upgrade

1. EXECUTIVE SUMMARY

Council established the Developer Partnership Grant Pilot Program (the Program) in July 2017, this proceeded budget deliberations and adoption of the 2017/2018 Annual Business Plan and Budget.

The Maras Group lodged a successful application in accordance with the Program guidelines for the Rose Street Public Realm upgrade project, having met Council's strategic objectives.

The Maras Group has not yet signed the Partnership Agreement and has raised concerns regarding the funding platform of the project and is seeking clarity around the People for Places funding application prior to signing the Agreement.

2. RECOMMENDATION

- (1) Council having considered Item 19.12 Rose Street Public Realm Upgrade receive and note the report.
 - (2) Council commits to finalising the Partnership Agreement with the Maras Group based on a funding model of 1/3rd equal funding by Council, the State Government and the Maras Group.
 - (3) Council notes the amendment to the footpath design for the Prospect Road frontage.
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3. RELEVANCE TO CORE STRATEGIES / POLICY

Strategic Plan to 2020 Theme 2 – Place “Loved heritage, leafy streets, fabulous places”

Strategy 2.1 Respect the past, create our future	The new cinema complex and upgrade of the Rose Street public realm supports establishing a
Strategy 2.2 Loved parks and places	

Strategy 2.3 An accessible City	new destination on Prospect Road. And provides improved amenity for people and creates place.
Strategy 2.4 A greener future	

Strategic Plan to 2020 Theme 4 – Services “Leaders of the sector providing efficient, responsive, accessible services”

Strategy 4.1 Excellence in Infrastructure	Council has established a funding mechanism to upgrade the public realm in the 2017/2018 Annual Business Plan.
Strategy 4.2 Sound Financial Management	
Strategy 4.3 Responsible Waste Management	
Strategy 4.4 Accountable and people-focused services	

Intelligent Community Indicators

Nil

4. REGIONAL IMPACT

Nil

5. COMMUNITY INVOLVEMENT

Community engagement occurred as part of the design for the upgrade to the Rose Street public realm. Many of the elements identified by the community have been incorporated into the upgrade.

6. DISCUSSION

As Council is aware, the development of the Cinema Complex on Prospect Road has been pursued for some time and is nearing completion. As part of the development, the Maras Group approached Council staff regarding upgrading the public realm around Rose Street and work was undertaken in partnership with them in respect to the design. This resulted in a design to extend the footpath area to accommodate outdoor dining, new landscaping, pavers, opportunity for lighting, public seating and art, along with a new intersection treatment.

Based on this plan, the Maras Group marketed a number of retail outlets and particular activities relying on the footpath dining options, which will support Council’s strategic management plan to increase economic activity and footfall in the Village Heart.

In February 2017, a grant application was lodged by Council staff seeking a contribution from People for Places funding for the upgrade of the Rose Street Public Realm, based on the original design for the area. This was successful and advice was provided to Council in July 2017 that 1/3rd of the funding of the project would be contributed by the State Government.

The grant application identified that the project was being funded by both the Maras Group and Council, following negotiations undertaken by the then Director Infrastructure Assets and Environment in respect to the project. It has now been identified that the Maras Group was not formally notified of the funding application and the funding model proposed by Council staff. Nor was it notified of the success of the application.

In a Council Workshop held on 4 July 2017, Council provided further feedback to staff in respect to the design of the public realm, particularly seeking to retain car parking in Rose Street. This was then used for the basis of a limited tender process.

As Council will recall, a budget titled Developer Partnership Grant Pilot Program has been included in the 2017/2018 Annual Business Plan as a program to provide funding for public realm upgrades, particularly in situations where the public realm was not scheduled for upgrade. In July, Council further endorsed an application process/guidelines to facilitate property owners and businesses to access Developer Partnership Grant Pilot Program funding on a 50/50 funding basis **Attachments 1-2** (it is important to note that this is contrary to the grant application which identified funding contributions of 1/3rd from Council, State Government and the Maras Group for the Rose Street Public Realm upgrade).

The Maras Group lodged an application for funds in July, to upgrade the Rose Street Public Realm Project through this budget allocation, noting that they were prepared to fund up to \$150,000 (ie 50% in line with the guidelines) for the work based on a Council tender process which identified a project budget of approximately \$300,000.

Council considered this at its July 2017 Council meeting and adopted the following motion:

1. Council having considered Item 19.4 Establishing Developer Partnership Grant Pilot Program receives and notes the report.
2. Council endorses the design for public realm upgrades for the intersection of Prospect Road and Rose Street as per Attachment 1.
3. Council approves the Maras Group application for funding as assessed in accordance with the Developer Partnership Grant Pilot Program Funding Guidelines.

The project commenced prior to having the Developer Partnership Agreement signed by both parties due to the timing of the cinema project opening date scheduled for mid-October 2017 and the lead time in ordering materials. Further, the Maras Group requested staff amend the design in one regard being the removal of the car parking space on Prospect Road (which had been reinstated through Council's comments) as the leasing arrangements for the adjacent premises had been finalised predicated on the original plan. The Maras Group advocated that the adopted design would significantly compromise the public realm activities and the success of this tenant when in fact the original design had accommodated footpath dining.

Initially the Maras Group intended to project manage the construction of the public realm works in order to manage the timing around the cinemas opening. For this reason Maras Group initially released their own select tender. A preferred tenderer was selected following the review by Maras Group.

The Maras Group then approached Council to engage the successful tenderer directly. Upon review of the tender documentation by Council, it was determined that the tenders received by Maras Group contained too much uncertainty in the schedule of works. Additionally, at this point it was decided to alter the project design to accommodate increased parking and other outcomes from feedback received during workshops and consultations.

For these reasons Council retendered the project as per the new design and Council's standard tendering process. Through this process, the resulting successful tender was approximately \$50,000 more than the tender received by the Maras Group. This can be attributed to the change in design and hence the scope of works. Additionally, the initial tender from Maras Group contained many unquantified components integral to the delivery of the project and may have potentially resulted in significant variations to the project.

Prior to signing the Partnership Agreement, the Maras Group identified that the grant application for 1/3rd of the project had been successful and that the Partnering Agreement did not reflect this funding. If it had reflected this then their contribution should be 1/3rd not 50%.

The Maras Group has determined not to sign the Partnership Agreement in its current form and Council is requested to consider resolution of this matter. There are a number of issues which need to be addressed:

1. Council's guidelines are based on a 50/50 funding model but the grant application was based on a 1/3rd funding model
2. Negotiations regarding the public realm upgrade and Council's subsequent endorsement of the project was based on the guidelines of 50/50 funding
3. The Partnership Agreement drafted for the Maras Group application was based on Council's adopted guidelines of 50/50 funding
4. The grant application was lodged without Council endorsement based on an original design and was also not endorsed by the Maras Group
5. The Partnering Agreement has not been successfully finalised placing at jeopardy the receipt of a contribution from the Maras Group for the project, despite its commencement (and near completion).

Further, the Maras Group is aggrieved by the process of non-disclosure of the successful grant, either through the announcement of the funds or the Partnership Agreement. The then Director Infrastructure Assets and Environment had the responsibility for this portfolio and through negotiations with the Maras Group should have ensured they were fully informed of the grant application.

In order to resolve the matter, the most appropriate course of action would be to apply the funding model used in the grant application, being 1/3rd from the Maras Group, Council and the State Government. Further it is considered the process associated with grant applications needs to be amended to ensure Council is aware of any applications being made, and that all parties being identified in the grant application are formally notified. The guidelines associated with the pilot program of Developer Partnership Grant Program also need to be reviewed to determine the best approach of managing the receipt of grant funds (as to whether they are identified as Council's contribution or a third party contribution) and to ensure work does not commence until such time the Agreement is signed.

Financial and Resource Implications

The 2017/2018 Annual Business Plan has funding of \$423,200 assigned to the Developer Partnership Grant Program, made up of \$211,650 of rate funding and \$211,650 of grant funding (being from State/ Federal funding programs and private developers).

The Rose Street Public Realm Upgrade project has a budget of approximately \$300,000. A 1/3rd funding model would result in a total of \$100,000 being utilised from this budget for the upgrade leaving \$111,650 of rate funding in the budget for a future project(s).

7. CONCLUDING STATEMENTS

It is considered the management of the grant application, and Council's lack of disclosure to the Maras Group in respect to either the lodgement or the success has been a significant oversight. This also then carried through to the drafting of the Partnering Agreement.

Further, management should have ensured the Partnering Agreement was finalised appropriately concluding with a legally binding document prior to work commencing.

In order to resolve the matter, the redrafting of the Partnership Agreement which clearly identifies a 1/3rd funding model should be undertaken as a matter of urgency, together with Council endorsing this model for this project only. A further report will be presented to review the adopted guidelines and to seek Council's direction in order for the community to be fully aware of the basis of accessing the funds for future work.

In respect to the minor amendment to the design, Council's traffic officer has advised that this will have limited impact on the overall management of car parking in the locality.

ATTACHMENTS

Attachments 1-2: City Of Prospect – Developer Partnership Grant Pilot Program Guidelines



CITY OF
PROSPECT

CITY OF PROSPECT – DEVELOPER PARTNERSHIP GRANT PILOT PROGRAM GUIDELINES

Outcomes

- To meet the City of Prospect Strategic Plan to 2020 in respect to People, Place and Prosperity.

Who is eligible to apply?

- Business Owner (Long Term Leaseholders);
- Business Property Owner;
- Only those properties situated in the Prospect Village Heart may apply (please see attached map).

What can be funded?

- Public Space / Community Land – footpaths (outdoor dining); carparks; vegetation;
- Public Street Art.

How to apply – the Funding Application

- Complete the funding application in full. Incomplete applications may be deemed ineligible.
- Include a site concept design plan, to scale at own cost.
- Submit the completed application.

Required documentation

- Proof of property ownership, or
- Proof of leasing arrangement;
- Site concept design plan.

How applications are assessed

- Applications will be assessed by the administration of Council and take into account the ability of the proposed project to meet the eligibility and funding criteria as stated in the guidelines.
- Following assessment, a recommendation will be made to Council to proceed with the Funding Agreement and to further endorse the project design.
- This may take 4 - 6 weeks.

Criteria for assessment

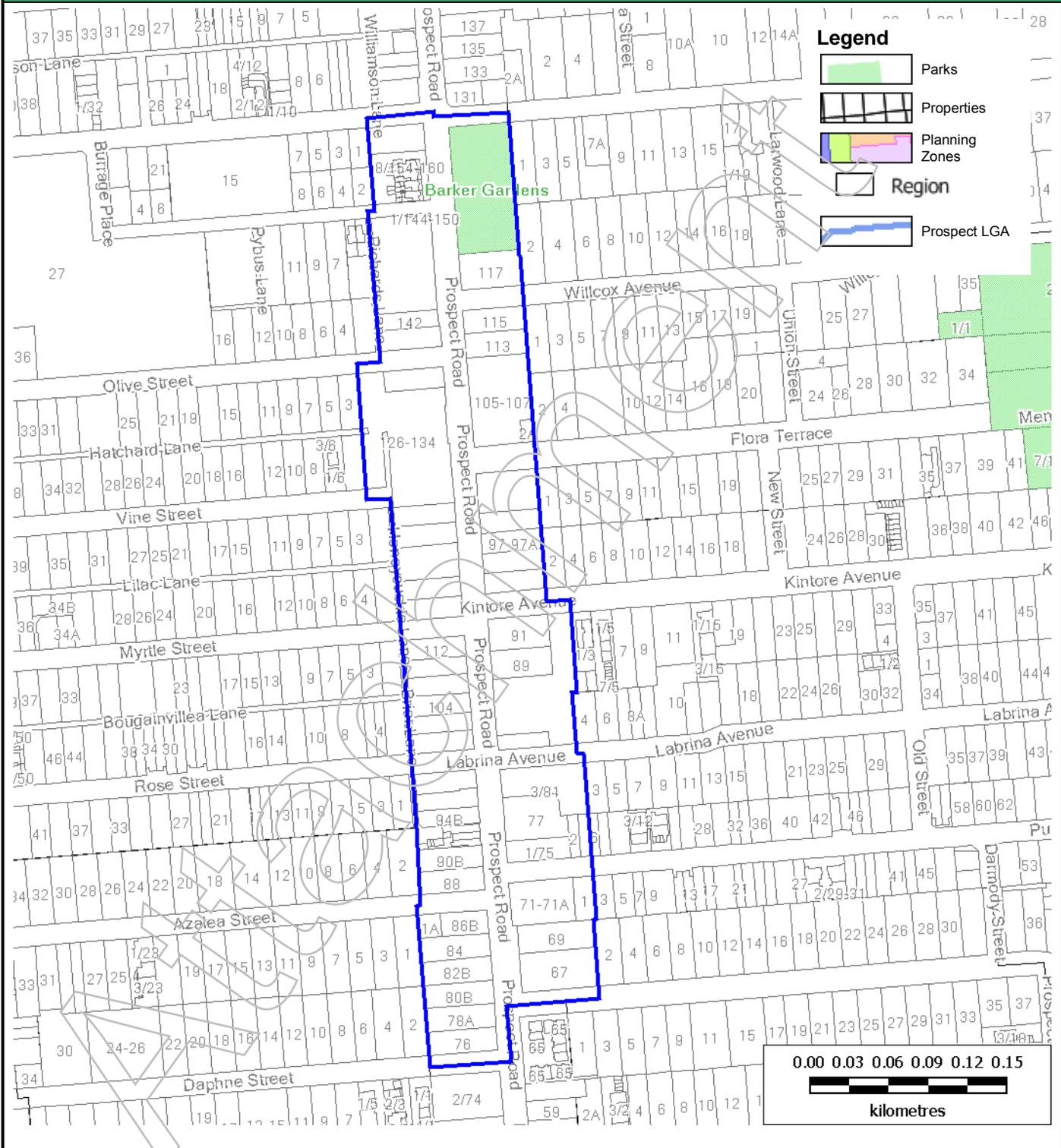
- Value of contribution (Council will only pay up to 50% of total project construction cost);
- Meeting of City of Prospect strategic objectives;
- Improvements to the public realm;
- Alignment with Council adopted Master Plans or Asset Management Plan;
- All required documentation is provided.





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Prospect Village Heart - Urban Corridor Zone High Street Policy Area



Notes	Disclaimer
	This map is a representation of the information currently held by the City of Prospect. While every effort has been made to ensure the accuracy of the product, Council accepts no responsibility for any errors or omissions. Any feedback on omissions or errors would be appreciated.