



City of
Whittlesea

MINUTES

OF ORDINARY COUNCIL MEETING

HELD ON

TUESDAY 8 DECEMBER 2015

AT 6.30PM

**IN COUNCIL CHAMBER, 25 FERRES
BOULEVARD, SOUTH MORANG**

COUNCILLORS

STEVAN KOZMEVSKI MAYOR, SOUTH WEST WARD

KRIS PAVLIDIS SOUTH WEST WARD

DARRYL SINCLAIR SOUTH WEST WARD

ADRIAN SPINELLI SOUTH WEST WARD

NORM KELLY DEPUTY MAYOR, SOUTH EAST WARD

SAM ALESSI SOUTH EAST WARD

KEN HARRIS SOUTH EAST WARD

MARY LALIOS SOUTH EAST WARD

REX GRIFFIN NORTH WARD

RICKY KIRKHAM NORTH WARD

CHRISTINE STOW NORTH WARD

SENIOR OFFICERS

DAVID TURNBULL

CHIEF EXECUTIVE OFFICER

GINO MITRIONE

ACTING DIRECTOR FINANCE AND ORGANISATION
IMPROVEMENT

RUSSELL HOPKINS

DIRECTOR COMMUNITY SERVICES

STEVE O'BRIEN

DIRECTOR PLANNING AND MAJOR PROJECTS

NICK MANN

DIRECTOR INFRASTRUCTURE

MICHAEL TONTA

ACTING DIRECTOR GOVERNANCE AND
ECONOMIC DEVELOPMENT

GRIFF DAVIS

DIRECTOR ADVOCACY AND COMMUNICATIONS

ANGELO MAMATIS

ACTING MANAGER CIVIC ADMINISTRATION

ORDER OF BUSINESS

The Chief Executive Officer submits the following business:

1.	OPENING.....	9
	1.1 MEETING OPENING AND PRAYER.....	9
	1.2 MAYOR’S RECONCILIATION STATEMENT	9
	1.3 AWARD - 65TH ANNIVERSARY OF AUSTRALIAN CITIZENSHIP.....	9
	1.4 PRESENT.....	10
2.	APOLOGIES.....	10
3.	DECLARATIONS OF INTEREST.....	10
4.	CONFIRMATION OF MINUTES OF PREVIOUS MEETING.....	11
5.	CONSIDERATION AND ACTION ON PETITIONS AND JOINT LETTERS	13
	5.1 PETITIONS.....	13
	5.1.1 TRAFFIC MANAGEMENT IN BREADALBANE AVENUE MERNDA TO ASCERTAIN SAFETY OF PEDESTRIANS.....	13
	5.1.2 INSTALLATION OF PEDESTRIAN CROSSING ON BLACK FLAT ROAD WHITTLESA.....	13
	5.2 JOINT LETTERS.....	15
	NIL REPORTS.....	15
6.	OFFICERS’ REPORTS	16
	6.1 PLANNING AND MAJOR PROJECTS.....	17
	6.1.1 178 THE BOULEVARD, THOMASTOWN. CONSTRUCTION OF TWO DWELLINGS TO THE SIDE OF AN EXISTING DWELLING	17
	6.1.2 13 MEAGAN CLOSE, THOMASTOWN - CONSTRUCTION OF TWO SINGLE STOREY DWELLINGS TO THE REAR OF THE EXISTING DWELLING.....	31
	6.1.3 228 CHILDS ROAD, MILL PARK - USE & DEVELOPMENT OF THE LAND AS A CHILD CARE CENTRE AND DISPLAY OF BUSINESS IDENTIFICATION SIGNAGE	39
	6.1.4 8 JUPITER AVENUE, MERNDA - VARIATION OF RESTRICTIVE COVENANT PS 621193X TO ALLOW FOR THE CONSTRUCTION OF A SHED/GARAGE OUTSIDE THE DESIGNATED BUILDING ENVELOPE	47
	6.1.5 538-552 PLENTY ROAD MILL PARK - AMENDMENT OF PLANNING PERMIT NO. 715067 TO ALLOW FOR THE REMOVAL OF NATIVE VEGETATION (RIVER RED GUMS).....	53

6.1.6	45-135 AND 90 BRIDGE INN ROAD WOLLERT - WORKS ASSOCIATED WITH AN EXISTING EXTRACTIVE INDUSTRY INCLUDING VEGETATION REMOVAL (RIVER RED GUMS) AND PARTIAL DEMOLITION OF DRY STONE WALLS.....	57
6.1.7	460 COOPER STREET, EPPING - USE AND DEVELOPMENT OF A MATERIALS RECYCLING CENTRE, CARETAKERS DWELLING, REDUCTION IN THE STANDARD CAR PARKING REQUIREMENT TOGETHER WITH ASSOCIATED BUILDINGS AND WORKS	69
6.2	COMMUNITY SERVICES.....	87
6.2.1	COMMUNITY ACTIVITY CENTRES - 2015/2016 COMMUNITY REPRESENTATIVES.....	87
6.2.2	CITY OF WHITTLESEA ASYLUM SEEKER POLICY.....	91
6.3	FINANCE AND ORGANISATION IMPROVEMENT	95
6.3.1	COMMITTEE OF COUNCIL RECOMMENDATION - LEASE - CABRINI HEALTH - 30 BRAND DRIVE THOMASTOWN	95
6.3.2	COMMITTEE OF COUNCIL RECOMMENDATION - LEASE - VICTORIA POLICE - 785 HIGH STREET EPPING	99
6.4	INFRASTRUCTURE.....	103
6.4.1	DRAFT SUSTAINABILITY FUND PRIORITY STATEMENT.....	103
6.5	GOVERNANCE AND ECONOMIC DEVELOPMENT	109
6.5.1	ASSEMBLIES OF COUNCILLORS - 8 DECEMBER 2015.....	109
6.5.2	ADOPTION OF REVIEWED COUNCIL PLAN.....	113
6.6	ADVOCACY AND COMMUNICATION.....	115
	NIL REPORTS.....	115
6.7	EXECUTIVE SERVICES.....	115
	NIL REPORTS.....	115
7.	NOTICES OF MOTION	117
7.1	NOTICE OF MOTION 811 - NAMING OF PARK OR RESERVE IN SOUTH MORANG AFTER LINDSAY WILLIAMSON	117
8.	QUESTIONS TO OFFICERS	118
9.	URGENT BUSINESS	118
10.	REPORTS FROM DELEGATES APPOINTED TO COUNCIL BY OTHER BODIES	118
10.1	YARRA PLENTY REGIONAL LIBRARY BOARD MEETING.....	118
10.2	42 ND ANNUAL GENERAL MEETING OF WHITTLESEA COMMUNITY CONNECTIONS.....	118
11.	QUESTIONS TO COUNCILLORS	119

11.1	MERENDA RAIL.....	119
12.	CONFIDENTIAL BUSINESS.....	121
12.1	PLANNING AND MAJOR PROJECTS.....	121
12.1.1	PROVISION OF ARCHITECTURAL SERVICES FOR ALTERATIONS & ADDITIONS TO WHITTLESEA CAC CONTRACT CT070837 - CONTRACT FINALISATION REPORT	121
12.1.2	DESIGN AND CONSTRUCTION OF THE ANIMAL WELFARE FACILITY CONTRACT 2015-11 - TENDER EVALUATION REPORT.....	121
12.1.3	UPGRADE OF CIVIC CENTRE HEATING, VENTILLATION AND AIR CONDITIONING (HVAC) SYSTEM AND ASSOCIATED OFFICE REFURBISHMENT - BUSINESS CASE	121
12.2	COMMUNITY SERVICES.....	121
	NIL REPORTS.....	121
12.3	FINANCE AND ORGANISATION IMPROVEMENT	121
12.3.1	SERVICE PLANNING AND REVIEW PROJECT – BUILDING PERMITS SERVICE REVIEW	121
12.4	INFRASTRUCTURE.....	121
12.4.1	INSTALLATION OF PEDESTRIAN OPERATED SIGNALS - BRIDGE INN ROAD, MERENDA - CONTRACT NUMBER 2015- 90 - TENDER EVALUATION.....	121
12.4.2	PROVISION OF MAINTENANCE SERVICES TO AUTOMATIC GLASS DOORS - CONTRACT NO. CT091067 - CONTRACT FINALISATION.....	121
12.4.3	PROVISION OF FLOOR COVERING SERVICES - CONTRACT NO. SR091010B - CONTRACT FINALISATION	121
12.5	GOVERNANCE AND ECONOMIC DEVELOPMENT	121
12.5.1	CONTRACT CT101183 - PROVISION OF ANIMAL COLLECTION SERVICE - FINALISATION REPORT	121
12.5.2	ANIMAL WELFARE FACILITY - ENDORSEMENT OF SHARED SERVICES	121
12.6	ADVOCACY AND COMMUNICATION.....	121
	NIL REPORTS.....	121
12.7	EXECUTIVE SERVICES.....	121
12.7.1	MEETINGS OF THE CHIEF EXECUTIVE OFFICER - 9 NOVEMBER TO 27 NOVEMBER 2015.....	121
13.	CLOSURE.....	123

Note:

In these Minutes, Resolutions adopted by Council are indicated in bold text.

1. OPENING**1.1 MEETING OPENING AND PRAYER**

The Chief Executive Officer opened the meeting with a prayer at 6.33pm.

1.2 MAYOR'S RECONCILIATION STATEMENT

On behalf of the City of Whittlesea the Mayor recognised the rich Aboriginal heritage of this country and acknowledge the Wurundjeri Willum Clan as the traditional owners of this place.

1.3 AWARD - 65TH ANNIVERSARY OF AUSTRALIAN CITIZENSHIP

2014 marked the 65th anniversary of Australian citizenship. On 26 January 1949 the Nationality and Citizenship Act 1948 came into effect creating the new status of Australian citizen. Prior to this, most people living in Australia were known as British subjects.

To commemorate 65 years of Australia Citizenship, Council has been presented with a plaque from the Department of Immigration and Border Protection in appreciation of our ongoing support of Australian Citizenship.

The City of Whittlesea has been conducting citizenship ceremonies since the 1980s.

In 2015, Council held 13 ceremonies with more than 1,500 local residents becoming new citizens.

1.4 PRESENT

Members:

Cr Stevan Kozmevski	Mayor (South West Ward)
Cr Darryl Sinclair	Councillor (South West Ward)
Cr Adrian Spinelli	Councillor (South West Ward)
Cr Sam Alessi	Councillor (South East Ward)
Cr Ken Harris	Councillor (South East Ward)
Cr Mary Lalios	Councillor (South East Ward)
Cr Christine Stow	Councillor (North Ward)

Officers:

Mr David Turnbull	Chief Executive Officer
Mr Steve O'Brien	Director Planning and Major Projects
Mr Russell Hopkins	Director Community Services
Mr Gino Mitrione	Acting Director Finance and Organisation Improvement
Mr Nick Mann	Director Infrastructure
Mr Michael Tonta	Acting Director Governance & Economic Development
Mr Griff Davis	Director Advocacy and Communications
Mr Angelo Mamatis	Acting Manager Civic Administration

2. APOLOGIES

An apology was received on behalf of Cr Rex Griffin, Cr Ricky Kirkham, Cr Kris Pavlidis and Cr Norm Kelly who requested that leave be granted for this meeting.

COUNCIL RESOLUTION

MOVED: *Cr Lalios*
SECONDED: *Cr Sinclair*

That the Councillor's apology be received and leave be granted.

CARRIED

3. DECLARATIONS OF INTEREST

NIL

4. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

COUNCIL RESOLUTION

MOVED: *Cr Laios*
SECONDED: *Cr Sinclair*

That the following Minutes of the preceding meeting as circulated, be confirmed:

Ordinary Meeting of Council held 17 November 2015

CARRIED

5. CONSIDERATION AND ACTION ON PETITIONS AND JOINT LETTERS**5.1 PETITIONS****5.1.1 TRAFFIC MANAGEMENT IN BREADALBANE AVENUE MERNDA TO ASCERTAIN SAFETY OF PEDESTRIANS****File No: 176207**

Petition from 36 residents requesting Council carry out a traffic management investigation in Breadalbane Avenue Mernda, to ascertain the safety of pedestrians.

COUNCIL RESOLUTION

MOVED: *Cr Stow*
SECONDED: *Cr Lalios*

THAT Council resolve to receive the petition requesting Council carry out a traffic management investigations in Breadalbane Avenue Mernda to ascertain the safety of pedestrians and a report be prepared.

CARRIED**5.1.2 INSTALLATION OF PEDESTRIAN CROSSING ON BLACK FLAT ROAD WHITTLESEA****File No: 105396**

Petition from 63 residents and 3 non-residents requesting Council install a safe pedestrian crossing on Black Flat Road Whittlesea between Wallan Road and Church Street to allow residents a safe crossing point to schools and facilities.

COUNCIL RESOLUTION

MOVED: *Cr Stow*
SECONDED: *Cr Sinclair*

THAT Council resolve to receive the petition requesting Council install a safe pedestrian crossing on Black Flat Road Whittlesea between Wallan Road and Church Street to allow residents a safe crossing point to schools and facilities and a report be prepared.

CARRIED

5.2 JOINT LETTERS

NIL REPORTS

6. OFFICERS' REPORTS

RECOMMENDATION

THAT Council resolve to adopt the Recommendations for items numbers 6.1.2, 6.1.3, 6.1.4, 6.1.5, 6.1.6, 6.1.7, 6.2.1, 6.3.1, 6.3.2, 6.5.1, 6.5.2 .

Group Adoption of Items En Bloc

Councillors may choose not to consider reports on the Notice Paper individually and to resolve to adopt, in one resolution, the recommendations listed on the Notice Paper for a number of reports. Such a resolution will have the effect of adopting the Officer's recommendation for each of the reports identified in the Council resolution. The remaining items of business are considered and voted on separately.

6.1 PLANNING AND MAJOR PROJECTS**6.1.1 178 THE BOULEVARD, THOMASTOWN. CONSTRUCTION OF TWO DWELLINGS TO THE SIDE OF AN EXISTING DWELLING**

File No: 715191

Attachments: 1 Locality Maps
2 Development Plans

Responsible Officer: Director Planning & Major Projects

Author: Planning Officer Established Areas Planning

APPLICANT: Mr. F Pavic

COUNCIL POLICY: Nil

ZONING: General Residential

OVERLAY: Development Contributions Plan (Schedule 3)

REFERRAL: Nil

OBJECTIONS: One

RECOMMENDATION: That Council refuse the application

REPORT**EXECUTIVE SUMMARY**

The current application was reported to Council for determination at its meeting of 6 October 2015, with a recommendation of refusal. Council, at this meeting resolved to defer consideration of this item to allow the permit applicant the opportunity to address the grounds of refusal and negotiate changes with Council Officers.

Prior to the October Council meeting, Council officers had raised concerns with the applicant and met to discuss these on a number of occasions. Following the October meeting, Council met with the applicant and client on three separate occasions, with concept plans submitted on the third occasion. While the concept plans include the provision of an appropriately dimensioned car space, significant outstanding issues raised by Council officers have not been resolved. No plans have been lodged as a formal amendment to the application and this report provides comment on the proposal that was advertised.

The applicant proposes to construct two new double storey dwellings to the side of an existing double storey dwelling. The two existing vehicle crossovers on the site are integrated into the design response with an additional third crossover proposed for Dwelling No. 2.

Advertising of the proposal resulted in one objection being received. The grounds of objection relate to overlooking and loss of privacy, car parking problems, and construction disturbances associated with the proposal.

The proposal fails to meet many of the standards of Clause 55 of the Whittlesea Planning Scheme including neighbourhood character, integration with the street, street setback, landscaping, design detail and front fencing.

The Housing Diversity Strategy (HDS) nominates this site as being within the Suburban Residential Change Area. The proposal does not comply with the preferred density or provide an appropriate response to the key design principles of this Change Area.

On the basis of the assessment against Clause 55 and 52.06 and the proposal's non-compliance with the proposed HDS, it is recommended that Council refuse the application.

SITE AND SURROUNDING AREA

The subject site is flat and triangular in shape, with a frontage to The Boulevard of 40.8m and a rear boundary to Scott Street of 48.6m, comprising a total area of 607m². There is no vegetation of significance on the site.

The site currently contains a double storey brick veneer dwelling with an attached double garage. The dwelling is located on the western side of the site with the remainder of the site to the east containing unfenced open space. Access to the site is via two single crossovers, one of which is located centrally along the southern boundary of the site and the other located on the southwest corner.

Surrounding land is characterised by single and double storey detached dwellings featuring brick veneer construction and hipped tiled roofs. Garages or carports are commonly attached to one side of the dwelling and are constructed alongside boundaries. Outbuildings within rear yards are also common.

Front setbacks are varied and contain established trees and moderate landscaping in the form of garden beds. Front fences are prevalent and are generally low in height and constructed from brick.

Immediately to the west of the site at No. 176 The Boulevard is a single storey rendered dwelling with a hipped tiled roof. Bordering the subject site to the north is Scott Street which comprises an unmade road reserve. To the northeast is a sealed car park that is accessed via The Boulevard and is associated with the Dalton Road Preschool (which is located further northeast of the subject site).

Within the immediate vicinity of the site there are medium density housing developments located at No. 151 Messmate Street, No. 2 Elm Street and Nos. 152, 154, 156 and 167 The Boulevard.

The subject site is located within proximity to the following range of services:

- Bus Route 570 - Thomastown to RMIT Bundoora (10m south).
- Bus Route 556 – Epping Plaza SC – Northland (127m northeast)
- Lalor East Primary School (350m northeast).
- Lalor Secondary College (370m north).
- Lalor Plaza Shopping Centre (370m northeast).
- Nick Ascenzo Park and Community Centre (400m south).
- Thomastown East Primary School (480m southwest).

RESTRICTIONS AND EASEMENTS

The site is legally described as Lot 3 on Plan of Subdivision 53219. Covenant 2448748 applies to the land and relates to the removal of gravel or sand from the land for purposes other than building. There are no restrictions on title that preclude Council from determining the application.

BACKGROUND

Planning Permit 711505 was approved on the site for the construction of three dwellings (comprising two dwellings to the side of the existing dwelling) on 13 May 2010. Condition 19 of this permit specified that the permit will expire if the development is not completed within four years after the issue of the permit. As the development was not completed within the four years the permit expired on 13 May 2014.

Prior to the first permit expiring, Planning Application No. 713307 was lodged for the construction of a different proposal, including a three storey dwelling and a two storey dwelling on the western portion of the land. On 8 February 2012 (after the application had been advertised), Council received notification from the Victorian Civil and Administrative Tribunal (VCAT) that the applicant had lodged an application for review against Council's failure to grant a planning permit within the prescribed time. Six objections were received (including a petition with 88 signatories). A recommendation for refusal was adopted by Council on 29 May 2012. VCAT supported Council's resolution and issued a refusal to grant a Planning Permit on 7 November 2012.

On 20 February 2015 a new application for the construction of three dwellings (comprising two dwellings to the side of the existing dwelling) was lodged which was similar to the first application, Planning Permit 711505.

Since Planning Permit 711505 expired, the Housing Diversity Strategy (HDS) has been adopted by Council and incorporated into the Whittlesea Planning Scheme as a Reference Document, and there have been changes made to Clause 52.06 Car Parking Provisions of the Whittlesea Planning Scheme.

The HDS nominates this site as within a *Suburban Residential Change Area* which imposes a standard density of two dwellings per site and includes the following key design principles:

- Low building heights to reflect the existing suburban scale and character.
- Front setback to allow for significant landscaping and large canopy trees to create a sense of openness to the street.
- Increased side and rear setbacks to provide for building separation and landscaping.
- Low site coverage to facilitate landscape opportunities.
- An increased area of private open space to allow for significant landscaping.
- Large canopy tree in the front setback.
- Extra-large canopy tree in the rear setback.

The car parking provisions (Clause 52.06) have also been modified in relation to the minimum requirements for tandem car spaces and Dwelling No. 2 now requires a minimum dimension of 5.4m clear (from the garage roller door) for the tandem car space.

There are also multiple non-compliances with Clause 55 in relation to neighbourhood character, residential policy, integration with the street, street setback, landscaping and front fences.

PROPOSAL

It is proposed to construct two double storey dwellings to the side of the existing double storey dwelling. Vehicular access to the dwellings will be via three separate crossovers from The Boulevard.

Dwelling No. 1 (existing dwelling) has a kitchen, meals area, family/living room, study and laundry at ground floor level and three bedrooms, a bathroom and a toilet at first floor level. The dwelling will be serviced by the existing crossover to a new single carport with a tandem car space.

Dwelling No. 2 will have an open plan meals/kitchen, and living area at ground floor level, and three bedrooms, a bathroom and separate toilet at first floor level. A single garage with tandem car space is provided and accessed via a new crossover.

Dwelling No. 3 will have a family, kitchen, meals area and laundry at ground floor level, with two bedrooms and a bathroom at the first floor level. A single garage with tandem car space is provided and accessed by one of the existing crossovers.

The proposed dwellings will be finished in face brickwork with a rendered finish and roof tiles at a 20 degree pitch.

Details of the proposed development are outlined in the following table:

	Height/ Scale	No. of Bedrooms	Setbacks	Private Open Space	Car Parking	Maximum Height
Dwelling No. 1 (existing)	Double Storey	3 + Study	7.8m front (south), 2.7m rear (north), 3.3m side (west), 1.0m side (east).	54m ² (including 40m ² secluded private open space)	Single carport (4.5m x 6m) and tandem car space (2.6m x 4.9m)	7.4m (overall)
Dwelling No. 2	Double Storey	3	3.0m front (south), 1.7m rear (north), 0m side (west), 0m side (east).	48m ² (including 32m ² secluded private open space)	Single garage (3.5m x 6m) and tandem car space (2.6m x 4.9m)	7.0m (overall)
Dwelling No. 3	Double Storey	2	3.0m front (south), 1.7m rear (north), 0m side (west), 7.7m east (corner).	50m ² (including 36m ² secluded private open space)	Single garage (3.5m x 6m) and tandem car space (2.6m x 4.9m)	6.8m (overall)

PUBLIC NOTIFICATION

Advertising of the application has resulted in one objection being received. The grounds of objection can be summarised as overlooking and loss of privacy, car parking issues and construction disturbance

HOUSING DIVERSITY STRATEGY

The Housing Diversity Strategy (HDS) was introduced into the Whittlesea Planning Scheme (WPS) via Planning Scheme Amendment C181, gazetted on 22 October 2015. The Strategy provides a strategic framework for future residential development in the established areas of the municipality for the next 20 years. It aims to guide the future location and diversity of housing stock and identifies areas of housing growth and change, including areas where future housing growth will not be supported. In general, it aims to encourage higher

residential densities and a diversity of housing types and sizes into areas within convenient walking distance to public transport and activity centres.

The HDS is now a reference document in the WPS and an assessment against it is provided under Standard B2 of the Clause 55 assessment.

ASSESSMENT AGAINST CLAUSE 55 OF THE WHITTLESEA PLANNING SCHEME

The following table provides details on whether the proposal complies with the requirements of Clause 55 of the Whittlesea Planning Scheme. Under these provisions a development:

- Must meet all of the objectives
- Should meet all of the standards

If Council is satisfied that an application for an alternative design solution meets the objective, the alternative design solution may be considered.

	✓ - Compliance x - Non compliance	Objectives	Standards	Comments
B1	Neighbourhood Character	x	x	<p>The surrounding area is characterised by a mixture of single and multi-dwelling developments of both double and single storey scale.</p> <p>Developments in the area range in style from 1950s and 1960s single storey brick and weatherboard to recent infill development usually incorporating both brick and render elements.</p> <p>The proposed dwellings are not considered to be of a scale and form that respects the established character of the area, nor the preferred future character envisaged by the Housing Diversity Strategy.</p> <p>The Housing Diversity Strategy (HDS) nominates this site as being within the Suburban Residential Change Area. The proposal does not provide for a satisfactory response to the preferred density and design principles of this Change Area and is considered unacceptable in this context.</p> <p>The site is constrained by its triangular shape, tapering significantly to the east. The cumulative impact of the significant reduction in the street setback, the visually bulky upper floors of both of the proposed dwellings does not result in a favourable development outcome.</p>
B2	Residential Policy	x	x	<p>The HDS nominates the subject site as located within the Suburban Residential Change Area (Clause 21.09-4 of the WPS). This Change Area encourages standard density with the preferred housing types comprising single dwellings and dual occupancies including duplexes. Key design principles include building heights that reflect</p>

	✓ - Compliance x - Non compliance	Objectives	Standards	Comments
				<p>the existing suburban scale and character, front setback to allow for significant landscaping and large canopy trees, low site coverage, increase in private open space and the provision of a large canopy tree in the rear setback.</p> <p>The proposed development is not consistent with the preferred density and key design principles outlined in the HDS, including:</p> <ul style="list-style-type: none"> • Insufficient side and rear setbacks to provide for separation between dwellings. • Insufficient spaces to accommodate extra larger canopy trees to the rear of the development site. • Insufficient space provided for significant landscaping within the front setback. • Insufficient provision of private open space for each dwelling.
B3	Dwelling Diversity	N/A	N/A	Only applicable to developments of ten (10) or more dwellings
B4	Infrastructure	✓	✓	
B5	Integration with the street	x	x	The proposed high fencing in front of Dwelling No. 3 (to enclose the secluded private open space) is considered unacceptable and does not respond to or complement the reserve and playground to the northeast of the site. Given the prominent location of this site near the intersection of Dalton Road, high fencing fronting this intersection is considered to be a poor design response.
B6	Street setback	x	x	<p>A setback of 6.5m is required (the same distance as the setback of the existing building on the abutting allotment).</p> <p>It is considered that the street setback of 3.0m for both proposed dwellings is unacceptable, and fails to have regard to the predominant street setbacks in the surrounding area.</p> <p>Development opportunities for the site are limited due to the triangular shape of the site and the way it tapers to the east. While some reduction in the street setback may be considered acceptable due to these constraints, it is considered that such a significant reduction from 6.5m to 3.0m is not justified, especially when considering the construction of two additional dwellings.</p>

	✓ - Compliance x - Non compliance	Objectives	Standards	Comments
B7	Building height	√	√	
B8	Site coverage	√	√	
B9	Permeability	√	√	
B10	Energy efficiency	√	√	
B11	Open space	N/A	N/A	Only applicable if public or communal open space is to be provided on site or adjacent to the development
B12	Safety	√	√	
B13	Landscaping	x	x	No landscape plan has been provided. While this can be addressed via a condition on any permit that is issued, the minimal amount of area provided for landscaping opportunities does not meet the objective of this Clause. The reduced front setbacks of both Dwelling Nos. 2 and 3 are not suitable for achieving the preferred landscaping (particularly as identified within the key design outcomes of the HDS).
B14	Access	√	√	
B15	Parking location	√	√	
B17	Side and rear setbacks	√	√	
B18	Walls on boundaries	√	√	
B19	Daylight to existing windows	√	√	
B20	North-facing windows	√	√	
B21	Overshadowing open space	√	√	
B22	Overlooking	√	√	
B23	Internal views	√	√	
B24	Noise impacts	√	√	
B25	Accessibility	√	√	
B26	Dwelling entry	√	√	
B27	Daylight to new windows	√	√	
B28	Private open space	√	√	

	✓ - Compliance x - Non compliance	Objectives	Standards	Comments
B29	Solar access to open space	√	√	
B30	Storage	√	√	
B31	Design detail	x	x	<p>The development does not encourage design detail that respects the existing or preferred neighbourhood character. The design response will result in a visually bulky development which is not considered acceptable within the existing or preferred neighbourhood setting.</p> <p>The reduced front setbacks and continuous built form of Dwelling Nos. 2 and 3 result in a visually dominant and bulky appearance within the streetscape. The minimal articulation at the front façade and side setbacks results in an overbearing development in the context of the site and surrounds.</p>
B32	Front fences	x	x	<p>This standard requires any front fence within 3.0m of a street to be 1.5m or less. The fence enclosing the private open space to Dwelling No. 3 will have height of 1.9m, with a setback of 0.6m from the street. Due to the triangular configuration of the site, a 3.0m front setback cannot be achieved for the secluded private open space of Dwelling No. 3. Further, the site is relying on the front setback encroachment to allow development of the land for an additional two dwellings. It is considered that in this context that the front fence is unacceptable.</p>
B33	Common property	√	√	
B34	Site services	√	√	

CAR PARKING

Clause 52.06 of the Whittlesea Planning Scheme prescribes the rate and design standards for car parking spaces required on site. Pursuant to this clause the following car spaces are required:

Dwelling No.	No. of bedrooms	Car spaces required	Car spaces provided	Complies
1	3 + study	2	2	Y
2	3	2	1*	N
3	2	1	1	Y

The tandem car space proposed for Dwelling No. 2 does not meet the minimum length dimensions of Clause 52.06 (required setback of 5.4m in accordance with Design Standard 2 for the full width of the car space).

It is noted that the concept plans lodged by the applicant on 11 November 2015 include provision of an appropriately dimensioned car parking space for Dwelling No. 2. While this plan illustrates how this particular non-compliance can be rectified, there are still significant design issues that have not been addressed.

Garages should be at least 6.0m long and 3.5m wide for a single space (measured inside the garage or carport). The proposal complies with these requirements.

DEVELOPMENT CONTRIBUTIONS PLAN OVERLAY (SCHEDULE 3)

The site is affected by the Development Contributions Plan Overlay. Pursuant to Clause 45.06 of the Whittlesea Planning Scheme, the Development Contributions Plan Overlay enables the levying of contributions for the provision of works, services and facilities prior to development commencing. Schedule 3 to the overlay requires contributions for drainage infrastructure for medium density residential development at a current rate of \$2.19 per square metre of the total site area. This requirement must be included as a condition on any planning permit that is issued.

COMMENTS ON GROUNDS OF OBJECTION

1. Overlooking and loss of privacy

The north-facing windows of proposed Dwelling Nos. 2 and 3 are screened in accordance with Clause 55.04-6 of the Whittlesea Planning Scheme. Accordingly, this ground of objection cannot be substantiated.

2. Car parking issues

The tandem car space proposed for Dwelling No. 2 does not meet the minimum length dimensions of Clause 52.06 (required setback of 5.4m). It is noted that the provision of an adequate length could be included as a condition of any approval granted; however, given the multiple other non-compliances of the development (with regard to Clause 55 and the HDS), it is considered that the non-compliance of the tandem car space highlights that the proposal is an overdevelopment of the site. Accordingly, this ground of objection can be substantiated.

3. Construction disturbance

The responsibilities of developers, builders, sub-contractors and tradespeople working on building sites are enforced under the Building Site Code of Practice and will be addressed as part of any building permit subsequently issued for the proposal. Accordingly, this ground of objection cannot be substantiated.

DECLARATIONS OF CONFLICTS OF INTEREST

Under section 80C of the Local Government Act 1989 officers providing advice to Council must disclose any interests, including the type of interest.

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

CONCLUSION

The application does not provide a satisfactory response to the requirements of the Whittlesea Planning Scheme and in particular Clause 52.06 and Clause 55. The proposal

does not meet the preferred density or key design principles of the Suburban Residential Change Area of the Housing Diversity Strategy. It is considered that the proposal will result in unreasonable impacts on the character of the neighbourhood and surrounding residential properties.

Accordingly, refusal of the application is recommended.

RECOMMENDATION

THAT Council resolve to Refuse Planning Application No. 715191 and issue a Refusal to Grant a Planning Permit for construction of two dwellings to the side of an existing dwelling at 178 The Boulevard, Thomastown, on the following grounds:

1. The proposal does not comply with Clause 52.06 of the Whittlesea Planning Scheme.
2. The proposed development does not satisfactorily respond to the following objectives and standards of the Whittlesea Planning Scheme:
 - a) Clause 55.02-1 (Neighbourhood Character)
 - b) Clause 55.02-2 (Residential Policy)
 - c) Clause 55.02-5 (Integration with the Street)
 - d) Clause 55.03-1 (Street Setback)
 - e) Clause 55.03-8 (Landscaping)
 - f) Clause 55.06-1 (Design Detail)
 - g) Clause 55.06-1 (Front Fences)
3. The proposal does not accord with the preferred density and key design principles of the Suburban Residential Change Area of the Housing Diversity Strategy.

COUNCIL RESOLUTION

MOVED: *Cr Lajos*
SECONDED: *Cr Sinclair*

THAT Council resolve to approve Planning Application No. 715191 and issue a Notice of Decision to Grant a Permit for Construction of two dwellings to the side of the existing dwelling at 178 The Boulevard, Thomastown in accordance with the endorsed plans and subject to the following conditions:

1. Prior to the endorsement of the plans, the permit holder must pay to Council a contribution for drainage pursuant to Clause 45.06 of the Whittlesea Planning Scheme. The drainage contribution will be subject to the Consumer Price Index (CPI) applicable at the time of payment.
2. Prior to the endorsement of the plans required under Condition No. 3, or at such later date as the Responsible Authority may approve in writing, there shall be lodged with the Responsible Authority an amount of \$3,000 as security deposit for the satisfactory completion and maintenance of the landscaping works hereby permitted. Upon completion of the landscaping works to the satisfaction of the Responsible Authority, the Responsible Authority will refund the security deposit to the then owner of the subject land.

3. Before the development starts, three copies of a revised plan must be submitted to and approved by the Responsible Authority, showing:
 - (a) Tandem car parking spaces for Dwelling Nos. 2 and 3 to comply with the minimum dimensions of Clause 52.06 of the Whittlesea Planning Scheme;
 - (b) A detailed schedule of colours and materials (including printed samples) of all external materials and colours for all walls, roofs, and doors including hard surface areas to be used for the construction of the proposed dwellings/buildings, including accessways. Any proposed accessway must be constructed from exposed aggregate and/or coloured concrete, bricks, pavers and not from plain concrete.
4. Before development commences, a detailed landscape plan prepared by a person suitably qualified or experienced in landscape design must be submitted to and approved by the Responsible Authority. The plans must be drawn to scale with dimensions and show all proposed landscaping, including details of any existing vegetation to be removed or retained, the location of all new planting, a schedule of plant species and height at maturity, and a maintenance schedule. Species selection is to be to the satisfaction of the Responsible Authority. Any proposed trees must be at an advanced stage of growth when planted.
5. The development allowed by this permit and shown on the plans and/or schedules endorsed to accompany this permit shall not be amended for any reason without the consent of the Responsible Authority.
6. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.
7. Prior to the occupation of the dwellings hereby approved, landscaping works shown on the endorsed plan must be completed and then maintained to the satisfaction of the Responsible Authority.
8. Prior to the occupation of the dwellings hereby approved, the car parking areas and access ways must be drained, fully sealed and constructed with asphalt, interlocking paving bricks, coloured concrete or other similar materials to the satisfaction of the Responsible Authority.
9. In areas set aside for car parking, measures must be taken to the satisfaction of the Responsible Authority to prevent damage to fences or landscaped areas.
10. Vehicular access to the site must be by way of a vehicle crossing constructed in accordance with Council's Vehicle Crossing Specifications to suit the proposed driveway(s) and the vehicles that will be using the crossing(s). The location, design and construction of the vehicle crossing(s) must be approved by the Responsible Authority. Any existing unused or redundant crossing(s) must be removed and replaced with concrete kerb, channel and naturestrip to the satisfaction of the Responsible Authority. All vehicle crossing works are to be carried out with Council supervision under a Road Opening Permit.
11. Before starting any buildings or works, engineering plans showing a properly prepared design (with computations) for the internal drainage and method of disposal of stormwater from all roofed and sealed areas, including the use of an on-site detention system (if required), must be submitted to Council for approval. These internal drainage works must be completed to Council's satisfaction prior to using or occupying any building on the site.
12. Prior to the occupation of the dwellings hereby approved, the permit holder is required to construct at no cost to Council, drainage works between the subject site and the Council nominated point of discharge. Such drainage works must be designed by a qualified engineer and submitted to and approved by Council.

Computations will also be required to demonstrate that the drainage system will not be overloaded by the new development. Construction of the drainage system must be carried out in accordance with Council specifications and under Council supervision.

13. Prior to the occupation of the dwellings hereby approved, reticulated (water, sewerage, gas and electricity) services must be constructed and available to the satisfaction of the Responsible Authority.
14. The permit holder shall be responsible to meet all costs associated with reinstatement and/or alterations to Council or other Public Authority assets deemed necessary by such Authorities as a result of the development. The permit holder shall be responsible for obtaining prior specific written approval for any works involving the alteration of Council or other Public Authority assets.
15. Prior to occupation of any dwelling on the subject site, a letter box and house number to the satisfaction of the Responsible Authority shall be provided for each dwelling.
16. At all times during the construction phase of the development, the permit holder shall take measures to ensure that pedestrians are able to use with safety any footpath along the boundaries of the site.
17. Upon completion of all buildings and works authorised by this permit the permit holder must notify the Responsible Authority of the satisfactory completion of the development and compliance with all relevant conditions.
18. Any litter generated by building activities on the site shall be collected and stored in an appropriate enclosure which complies with Council's Code of Practice for building/development sites. The enclosures shall be regularly emptied and maintained such that no litter overflows onto adjoining land. Prior to occupation and/or use of the building, all litter shall be completely removed from the site.
19. During the construction phase, any mud or other materials deposited on roadways as a result of construction works on the site must be cleaned to the satisfaction of the Responsible Authority within two hours of it being deposited.
20. In accordance with the Planning and Environment Act 1987 a permit for the development expires:
 - (a) the approved development does not start within 2 years of the date of this permit; or
 - (b) the approved development is not completed within 4 years of the date of this permit.

The responsible authority may extend the periods referred to above if a request is made in writing. This request must be made before or within 6 months after the permit expiry date where the development has not yet started and within 12 months after the permit expiry date where the development allowed by the permit has lawfully started before the permit expires.

NOTES

Advanced Trees

An advanced tree under this permit shall generally constitute the following:

- Evergreen – minimum container size 45 litre spring ring, calliper at ground level 50mm.
- Deciduous – minimum calliper at ground level 65mm, minimum height 2 metres.

Easements

No structure may be built over an easement on the subject site without the consent of the relevant Responsible Authority.

Property Numbering

Property Numbers will be allocated by the City of Whittlesea in accordance with Council's Street Numbering Policy. Please do not give potential buyers any interim numbering as this often leads to confusion and problems once the correct number is issued. Please check with Council's Subdivision Department or GIS Department to verify all street numberings before commencement of any advertising for sale or lease.

CARRIED

6.1.2 13 MEAGAN CLOSE, THOMASTOWN - CONSTRUCTION OF TWO SINGLE STOREY DWELLINGS TO THE REAR OF THE EXISTING DWELLING

File No:	715418
Attachments:	1 Locality Maps 2 Development Plans
Responsible Officer:	Director Planning & Major Projects
Author:	Planning Officer Established Areas Planning
APPLICANT:	Professional Planning Pty Ltd
COUNCIL POLICY:	Housing Diversity Strategy
ZONING:	General Residential
OVERLAY:	Development Contributions Plan (Schedule 3)
REFERRAL:	Nil
OBJECTIONS:	Four
RECOMMENDATION:	That Council refuse the application.

REPORT**EXECUTIVE SUMMARY**

The applicant proposes to retain the existing single storey dwelling and construct two new single storey dwellings to the rear. The existing vehicle crossing is integrated into the design response and will provide access to all dwellings.

Advertising of the proposal resulted in four objections being received. The grounds of objection relate to overshadowing, privacy concerns, inadequate car parking provision in the court, devaluation and that the proposal will result in an overdevelopment of the site.

The proposal fails to meet many of the standards of Clause 55 of the Whittlesea Planning Scheme including neighbourhood character, residential policy, landscaping, side and rear setbacks, dwelling entry, storage, design detail and site services.

The Housing Diversity Strategy (HDS) nominates this site as being within the Suburban Residential Change Area. The proposal for a total of three dwellings exceeds the preferred density for this Change Area and fails to meet several of the key design outcomes including the provision of increased side and rear setbacks to provide for building separation and landscaping, and the provision of an increased area of private open space to allow for significant landscaping.

On the basis of the assessment against Clause 55 and the proposal's non-compliance with the proposed HDS, it is recommended that Council refuse the application.

SITE AND SURROUNDING AREA

The subject site is a residential property located on the northern side of Meagan Close, Thomastown, approximately 120m south of Brookland Grove (*see Attachment 1*). The subject site is relatively flat and irregular in shape with a frontage to Meagan Close of 12.5m and a maximum depth of 47.0m, giving a total site area of approximately 726m². The site

currently contains a detached single storey dwelling and a garage/outbuilding along the western boundary. There is no vegetation of significance on the site.

The surrounding area is generally characterised by similar sized allotments comprising predominantly single storey detached dwellings.

Examples of medium density development within the vicinity of the site are located at No. 7 and 8 Senna Court and No. 207 Edgars Road.

The subject site is located in proximity to the following sites, services and infrastructure:

- Bus Route 575 – Epping North - Thomastown via Epping (along Edgars Road, 250m west).
- Thomastown West Primary School and Secondary School (850m south).
- Local shopping strip (corner Main Street, Edgars Road) (850m southwest).
- Main Street Recreation Reserve (890m southeast).

RESTRICTIONS AND EASEMENTS

The site is legally described as Lot 91 on Plan of Subdivision 110005.

There are no restrictions on title that preclude Council from determining this application.

PROPOSAL

It is proposed to construct two new single storey dwellings to the rear of the existing single storey dwelling (see *Attachment 2*). Dwelling No. 1 (existing) will retain its street frontage to Meagan Close and Dwelling Nos. 2 and 3 will be located to the rear of Dwelling No. 1 (in tandem).

Dwelling No. 1 (existing) contains an open plan living/meals/kitchen area, a bathroom, toilet and laundry and two bedrooms. There are no proposed modifications to the plans.

Dwelling Nos. 2 and 3 will contain an open plan kitchen/meals/living area, a bathroom, laundry and two bedrooms.

Access to all dwellings will be provided via the existing crossover along the western property boundary.

Each of the dwellings will be provided with a single, uncovered car space.

Details of the proposed development are outlined in the following table:

	Height /Scale	Number of Bedrooms	Setbacks	Private Open Space	Car Parking	Maximum Height
Dwelling No. 1 (existing)	Single Storey	2	8.6m front (south), 1.0m side (east), 3.4m side (west), and 25.6m rear (north).	106m ² (including 36m ² secluded private open space)	Single car space (2.75m x 4.9m)	4.8m (overall)
Dwelling No. 2	Single Storey	2	31.0m front (south), 0.9m side (west) and 4.0m rear (north).	41m ² (all secluded private open space)	Single car space (2.6m x 4.9m)	5.0m (overall)
Dwelling No. 3	Single Storey	2	31.4m front (south), and 4.0m rear (north).	44m ² (30m ² secluded private open space)	Single car space (2.75m x 4.9m)	4.9m (overall)

PUBLIC NOTIFICATION

Advertising of the application has resulted in four objections being received. The grounds of objection relate to the following:

1. Overshadowing
2. Privacy concerns
3. Inadequate car parking provision in the court
4. Devaluation
5. Overdevelopment of the site

HOUSING DIVERSITY STRATEGY

The Housing Diversity Strategy (HDS) was introduced into the Whittlesea Planning Scheme (WPS) via Planning Scheme Amendment C181, gazetted on 22 October 2015. The Strategy provides a strategic framework for future residential development in the established areas of the municipality for the next 20 years. It aims to guide the future location and diversity of housing stock and identifies areas of housing growth and change, including areas where future housing growth will not be supported. In general, it aims to encourage higher residential densities and a diversity of housing types and sizes into areas within convenient walking distance to public transport and activity centres.

The HDS is now a reference document in the WPS and an assessment against it is provided under Standard B2 of the Clause 55 assessment.

ASSESSMENT AGAINST CLAUSE 55 OF THE WHITTLESEA PLANNING SCHEME

The following table provides details on whether the proposal complies with the requirements of Clause 55 of the Whittlesea Planning Scheme. Under these provisions a development:

- Must meet all of the objectives
- Should meet all of the standards

If Council is satisfied that an application for an alternative design solution meets the objective, the alternative design solution may be considered.

	✓ - Compliance x - Non compliance	Objectives	Standards	Comments
--	--------------------------------------	------------	-----------	----------

	✓ - Compliance x - Non compliance	Objectives	Standards	Comments
B1	Neighbourhood Character	x	x	<p>The surrounding area is characterised by a mixture of predominantly single dwelling developments of both double and single storey scale.</p> <p>Developments in the area range in style from 1950s and 1960s single storey brick and weatherboard to some examples of recent infill development usually incorporating both brick and render elements.</p> <p>The proposed development is constrained by the retention of the existing dwelling, and by being located in a court bowl – significantly removed from facilities and services.</p> <p>It is considered that a total of three dwellings on the lot does not align with the existing or preferred neighbourhood character of the area and is not supported.</p>
B2	Residential Policy	x	x	<p>The Housing Diversity Strategy (HDS) nominates the site as being within the Suburban Residential Change Area. The current proposal resulting in three dwellings does not accord with the preferred density for this Change Area (a maximum of two dwellings) or the design principles for this Change Area.</p>
B3	Dwelling Diversity	N/A	N/A	<p>Only applicable to developments of ten or more dwellings.</p>
B4	Infrastructure	✓	✓	
B5	Integration with the street	✓	✓	
B6	Street setback	✓	✓	
B7	Building height	✓	✓	
B8	Site coverage	✓	✓	
B9	Permeability	✓	✓	
B10	Energy efficiency	✓	✓	
B11	Open space	N/A	N/A	<p>Only applicable if public or communal open space is to be provided on the subject site or adjacent to the development.</p>
B12	Safety	✓	✓	
B13	Landscaping	x	x	<p>The reduced side setback of Dwelling No. 2 is not suitable to achieve the preferred landscaping outcome as identified within the key design outcomes of the HDS.</p>

	✓ - Compliance x - Non compliance	Objectives	Standards	Comments
B14	Access	✓	✓	
B15	Parking location	✓	✓	
B17	Side and rear setbacks	x	x	The setback of the north-western corner of Dwelling No. 2 is less than the required 1.0m (0.85m proposed) and highlights the overdevelopment of the site.
B18	Walls on boundaries	✓	✓	
B19	Daylight to existing windows	✓	✓	
B20	North-facing windows	✓	✓	
B21	Overshadowing open space	✓	✓	
B22	Overlooking	✓	✓	
B23	Internal views	✓	✓	
B24	Noise impacts	✓	✓	
B25	Accessibility	✓	✓	
B26	Dwelling entry	x	x	The entry to Dwelling No. 2 (and somewhat for Dwelling No. 3) is obscured. It is considered that conditions of permit cannot remedy this non-compliance and a redesign would need to be considered.
B27	Daylight to new windows	✓	✓	
B28	Private open space	✓	✓	
B29	Solar access to open space	✓	✓	
B30	Storage	✓	x	The existing dwelling does not provide for any storage. Therefore, a condition of any approval granted could require the provision of 6m ³ of externally accessible storage, to the satisfaction of the Responsible Authority.

	✓ - Compliance x - Non compliance	Objectives	Standards	Comments
B31	Design detail	x	x	The 2.0m high timber paling fence proposed to enclose the open car parking spaces of the existing dwelling and Dwelling No. 3 is considered a poor design outcome which is not visually compatible with the development and the existing and preferred neighbourhood character. The reduced side setback of Dwelling No. 2 and the continuous built form of Dwelling Nos. 2 and 3 result in a visually dominant and bulky appearance, and highlight the overdevelopment of the site.
B32	Front fences	N/A	N/A	
B33	Common property	✓	✓	
B34	Site services	✓	x	The proposed letter box height is higher than the permissible 900mm (1.15m proposed). Therefore, a condition of any approval granted could require the reconfiguration of the letter box, to ensure that it does not impede into visibility splays for vehicles existing the site.

CAR PARKING

Clause 52.06 of the Whittlesea Planning Scheme prescribes the rate and design standards for car parking spaces required on site. Pursuant to this clause the following car spaces are required:

Dwelling No.	No. of bedrooms	Car spaces required	Car spaces provided	Complies
1	2	1	1	Y
2	2	1	1	Y
3	2	1	1	Y

An open car space should be at least 4.9m long and 2.6m wide. The proposal complies with these requirements.

DEVELOPMENT CONTRIBUTIONS PLAN OVERLAY (SCHEDULE 3)

The site is affected by the Development Contributions Plan Overlay. Pursuant to Clause 45.06 of the Whittlesea Planning Scheme, the Development Contributions Plan Overlay enables the levying of contributions for the provision of works, services and facilities prior to development commencing. Schedule 3 to the overlay requires contributions for drainage infrastructure for medium density residential development at a current rate of \$2.19 per square metre of the total site area. This requirement must be included as a condition on any planning permit that is issued.

COMMENTS ON GROUNDS OF OBJECTION

1. Overshadowing

Objectors have expressed concern that the proposal will result in overshadowing of adjoining properties and impact on the efficiency neighbouring vegetable gardens.

The shadow diagrams provided in respect to the proposal indicate that the shadows cast are well within the requirements of Clause 55.

Accordingly, this ground of objection cannot be substantiated.

2. Privacy concerns

The provision of a 2.0m high colorbond fence along the northern, eastern and western property boundaries screens all overlooking from the proposed dwellings. Accordingly, this ground of objection cannot be substantiated.

3. Inadequate car parking provision in the court

Each dwelling is provided with a 2.6m x 4.9m single car space which meets the requirements of Clause 52.06. Accordingly, this ground of objection cannot be substantiated.

4. Devaluation

It has been consistently upheld by the Victorian Civil and Administrative Tribunal (VCAT) that property devaluation is not a relevant planning consideration. Accordingly, this objection cannot be substantiated.

5. Overdevelopment of the site

The proposed development resulting in three dwellings on the site does not accord with the key design principles outlined in the Housing Diversity Strategy, nor the maximum density of two dwellings per lot. Accordingly, this ground of objection can be substantiated.

DECLARATIONS OF CONFLICTS OF INTEREST

Under section 80C of the Local Government Act 1989 officers providing advice to Council must disclose any interests, including the type of interest.

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

CONCLUSION

The application does not provide a satisfactory response to the requirements of the Whittlesea Planning Scheme and in particular Clause 55. The proposal does not meet the preferred density or key design principles of the Suburban Residential Change Area of the Housing Diversity Strategy. It is considered that the proposal will result in unreasonable impacts on the character of the neighbourhood and surrounding residential properties.

Accordingly, refusal of the application is recommended.

RECOMMENDATION

THAT Council resolve to Refuse Planning Application No. 715418 and issue a Refusal to Grant a Permit for Construction of two dwellings to the rear of the existing dwelling at 13 Meagan Close, Thomastown, on the following grounds:

- 1. The proposed development does not satisfactorily respond to the following objectives and standards of the Whittlesea Planning Scheme:**

- a) Clause 55.02-1 (Neighbourhood Character)
 - b) Clause 55.02-2 (Residential Policy)
 - c) Clause 55.03-8 (Landscaping)
 - d) Clause 55.04-1 (Side and Rear Setbacks)
 - e) Clause 55.05-2 (Dwelling Entry)
 - f) Clause 55.05-6 (Storage)
 - g) Clause 55.06-1 (Design Detail)
2. The proposal does not accord with the preferred density and key design principles of the Suburban Residential Change Area of the Housing Diversity Strategy.

COUNCIL RESOLUTION

MOVED: Cr Sinclair
SECONDED: Cr Lalios

The above Recommendation was adopted unchanged as part of an en bloc Resolution Moved by Cr Sinclair, Seconded by Cr Lalios. See Section 6 - Officers' Reports for further information on items adopted en bloc.

CARRIED

6.1.3 228 CHILDS ROAD, MILL PARK - USE & DEVELOPMENT OF THE LAND AS A CHILD CARE CENTRE AND DISPLAY OF BUSINESS IDENTIFICATION SIGNAGE

File No:	715222
Attachments:	1 Locality Maps 2 Development Plans
Responsible Officer:	Director Planning & Major Projects
Author:	Planning Officer EAP
APPLICANT:	H & Associates Pty Ltd
COUNCIL POLICY:	22.05 Child Care Centre Policy
ZONING:	General Residential Zone
OVERLAY:	Development Contributions Plan Overlay
REFERRAL:	VicRoads
OBJECTIONS:	One
RECOMMENDATION:	That Council refuse the application

REPORT**EXECUTIVE SUMMARY**

The applicant proposes to modify the existing dwelling to provide a child care centre, caring for up to 18 children. The centre will operate between the hours of 7.00am to 6.00pm, Monday to Friday. Four on site car parking spaces will be provided and the existing vehicle accessway widened to allow easier access into the site. A maximum of six staff will be on site at any one time. Business identification signage is proposed adjacent to Childs Road.

Advertising of the proposal resulted in one objection being received. The grounds of objection relate to neighbourhood character, amenity, safety, and property devaluation.

The proposal does not demonstrate a satisfactory level of compliance with the provisions of Councils child care centre policy, Clause 52.05 (Advertising), or Clause 52.06 (Car Parking) of the Whittlesea Planning Scheme. Accordingly, it is recommended that Council refuse the application.

SITE AND SURROUNDING AREA

The subject site is a residential property located on the northern side of Childs Road, Mill Park, approximately 420m west of Morang Drive (*see Attachment 1*). The site is flat and rectangular in shape with a frontage to Childs Road of 16.8m and a depth of 36.0m, giving a total site area of approximately 612m².

The site currently contains a detached single storey dwelling constructed out of brick with a concrete tiled hipped roof. There is no vegetation of significance contained within the site. The surrounding area is generally characterised by a mixture of double and single storey dwellings. The adjoining properties immediately to the north and east of the site are both single storey dwellings constructed of brick. Immediately to the west of the site is a Council reserve.

The subject site is located in proximity to the following sites, services and infrastructure:

- Bus Route 566 – Lalor to Northland (15m west)
- Findon Recreation Reserve (400m southwest)
- Mill Park Baptist Church (420m northwest)
- Findon Primary School (500m south)
- Mill Park Heights Primary School (500m north)
- Mill Park Leisure Centre / Mill Park Reserve (670m northwest)
- St. Francis of Assisi Primary School (900m southeast)
- The Stables Shopping Centre (1km southeast)

RESTRICTIONS AND EASEMENTS

The Certificate of Title for the property shows that the site is not affected by any encumbrances or restrictions.

A 2.0m wide drainage and sewerage easement traverses the rear (north) boundary of the property. No buildings or works are proposed over this easement.

PROPOSAL

The applicant proposes to use and develop the land for the purposes of a child care centre and display business identification signage (*see Attachment 2*).

The existing dwelling is proposed to be modified to cater for the needs of the child care centre. This comprises an office, three children play areas, a cot area, a bathroom, a staffroom, a kitchen, and a change area. Outdoor modifications include two sand pits, two shade sails, a cubbyhouse, tables and chairs, water play facilities and further landscaping.

It is proposed that the child care centre will operate between the hours of 7:00am to 6:00pm, Monday to Friday. There will be a maximum of 18 children and a maximum of 6 staff at any given time.

PLANNING ASSESSMENT

The application has been assessed against the following State and Local Planning Policies.

Clause 22.05 – Child Care Centre Policy

The objective of this policy is:

To ensure appropriately located and well-designed child care centres which have a minimal impact on the amenity of the area and serve the needs of the community.

An assessment of the proposal under the requirements of the policy is detailed below;

- *Encourage child care centres to locate adjacent to or in proximity to other community support facilities such as schools, pre-schools, open space, medical centres, and recreational facilities.*

The subject site is located in proximity to a variety of schools, recreational facilities, open space and shops.

- *Encourage child care centres to locate in proximity to public transport routes.*

A bus stop for Bus Route 566 (Lalor-Northland) is located 15m west of the subject site.

- *Minimise impacts on residential amenity and enhance access. Corner sites are preferred locations for child care centres. Establishment of child care centres within cul-de-sacs and on main roads is discouraged.*

The subject site is not a corner site and is located on a main (Category 1) road.

- *Ensure that the scale and appearance of purpose built child care centres is consistent with surrounding land use, site characteristics, and site location. In residential areas child care centres should have a residential scale, height and building form, which is sympathetic to the character of adjoining dwellings and the streetscape.*

No alterations to the façade of the existing dwelling are proposed. However, there is minimal landscaping available along the accessway and within the front setback.

- *Ensure that access to and from the site is to be designed in such a way as to allow for the safe and efficient movement of vehicle and pedestrian traffic, including safe set down areas.*

The proposal fails to achieve an outcome that complies with this provision. The parking arrangement and proposed set down area does not allow for safe and efficient vehicle movements and pedestrian traffic into or through the site.

- *Ensure proposals fulfil a demonstrated need.*

Council's Family, Children and Young People Department have commented that the proposed centre is likely to contribute towards sustainable living practices, as it will provide working families an opportunity for their child to attend a child care that is close to home without the need to travel long distances.

Clause 32.08 – General Residential Zone

Pursuant to Clause 32.08-1 of the Whittlesea Planning Scheme, a permit is required to use the land for the purposes of a child care centre.

Clause 32.08 highlights that one of the purposes of the General Residential Zone is "To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations". It is considered that the proposal is in keeping with this purpose as it will provide families with a convenient service that will fulfil a community need.

An assessment under the decision guidelines for non-residential uses within the General Residential Zone is provided below:

- *Whether the use or development is compatible with residential use.*

The proposed hours of operation (7.00am to 6.00pm, Monday to Friday) are considered acceptable for a child care centre.

- *Whether the use generally serves local community needs.*

The proposed centre is likely to contribute towards sustainable living practices, providing working families an opportunity for their child to attend child care close to home.

- *The scale and intensity of the use and development.*

The applicant proposes to have a maximum of 18 children on site at any given time. This number of children together with a maximum of 6 staff at any given time is considered incompatible with the parking and set down arrangement proposed. Accordingly, the proposal does not comply with this outcome.

- *The design, height, setback and appearance of the proposed buildings and works.*

The buildings and works proposed are minor. The applicant proposes to extend the house by 28m² to allow for additional amenities/facilities. The proposed extensions will be built of the same materials to suit the existing dwelling. The façade of the house is not changing and the building will remain single storey in design.

- *The proposed landscaping.*

The applicant has submitted a proposed site plan that shows landscaping throughout. There is, however, a lack of landscaping opportunity within the front setback area and along the accessway.

- *The provision of car and bicycle parking and associated accessways.*

While the proposal meets the required car parking rate prescribed under Clause 52.06 of the Whittlesea Planning Scheme, it is considered that proposal does not allow for safe vehicular and pedestrian movements. The set down-drop off area is within the turning/manoeuvring area of the accessway and will compromise the ability of vehicles to exit the site in a forward motion should all spaces be occupied.

- *Any proposed loading and refuse collection facilities.*

A condition on permit requiring the applicant to have a waste management plan approved by Council prior to the use commencing, will be placed on any permit issued.

- *The safety, efficiency and amenity effects of traffic to be generated by the proposal*

The proposed child care centre is located on a main road (contrary to Council's Child Care Centre Policy). The set down-drop off area is within the turning/manoeuvring area of the accessway and will compromise the ability of vehicles to exit the site in a forward motion should all spaces be occupied. VicRoads have indicated that there is to be no parking adjacent to the front of the site. Clients would likely seek another drop-off point and may resort to parking in surrounding neighbourhood streets or risk parking in Childs Road. This is considered to be a poor planning outcome that fails to address this policy.

Clause 45.06 – Development Contributions Plan (Schedule 3)

The site is affected by the Development Contributions Plan Overlay. Pursuant to Clause 45.06 of the Whittlesea Planning Scheme, the Development Contributions Plan Overlay enables the levying of contributions for the provision of works, services and facilities prior to development commencing. Schedule 3 to the overlay requires contributions for drainage infrastructure for non-residential at a current rate of \$4.02 per square metre of additional impervious floor area. As the proposal provides for an additional 28m², a contribution of \$112.56 would be applicable should any permit be issued.

Clause 52.05 – Advertising Signs

The subject site is within Category 3 for the signage provisions under Clause 52.05. The applicant proposes to display a vinyl banner sign that will advertise the child care centre. Under the Category 3 provisions, a permit is required for business identification signage.

The sign is proposed to be 3.0m in width and 1.0m in height, providing a total area of 3.0m². The sign will be located along the front fence, facing Childs Road.

The proposed sign is considered to be excessive in size given the residential location of the site. Furthermore, vinyl banners age and weather poorly over time, and therefore become unsightly. Signage along fences is also discouraged, with stand-alone pylon signage preferred. As such, the signage proposed is not supported by officers.

CAR PARKING

Clause 52.06 of the Whittlesea Planning Scheme prescribes the rate and design standards for car parking spaces required on site.

Pursuant to this clause the following car spaces are required:

Car parking rate	Car spaces required	Car spaces provided	Complies
0.22 to each child	4	4	Yes

The purpose of Clause 52.06 requires that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use. The proposal does not comply with this requirement. A maximum of six staff and 18 children at proposed to be on the site any one time. There are only four parking spaces provided on-site, and while this may comply with the number of spaces required (as detailed above), the design and location of these spaces does not facilitate a safe environment for users or enable easy and efficient use. The set down area is within the reversing/manoeuvring area of the accessway and should all the car spaces be occupied, cars would be required to reverse back out onto a main road. There is also no separate pedestrian pathway provided from the parking spaces to the main entry of the centre.

PUBLIC NOTIFICATION

Advertising of the application has resulted in one objection being received. The grounds of objection can be summarised as follows:

1. Neighbourhood Character
2. Amenity
3. Safety
4. Property devaluation

REFERRAL COMMENTS

VicRoads

As the applicant proposes to alter access onto Childs Road (Category 1 Road), the application was referred to VicRoads pursuant to Section 55 of the *Planning and Environment Act 1987*. VicRoads did not object to the proposal, subject to conditions and notes being placed on any permits issued. One of these conditions included signage to Childs Road adjacent to the site to prohibit parking in front of the site.

COMMENTS ON GROUNDS OF OBJECTION

1. Neighbourhood Character

The proposed buildings and works are minor and conserve the existing façade of the building. The building materials used will be consistent with what exists on site.

Accordingly, this objection cannot be substantiated.

2. Amenity

The objector had the following amenity concerns:

- *Non-residential use in the General Residential Zone*

The General Residential Zone allows for non-residential uses to serve local community needs in appropriate locations. It is common for child care centres to be located within a residential area.

Accordingly, this objection cannot be substantiated.

- *Business sign*

As discussed above, the proposed sign is considered excessive in size, of poor quality and inappropriately located.

Accordingly, this objection can be substantiated.

- *Hours of operation*

The proposed hours of operation (7.00am to 6.00pm, Monday to Friday) are considered acceptable for the proposed use.

Accordingly, this objection cannot be substantiated.

- *Noise*

The site is located along Childs Road, a busy main road with a level of traffic noise higher than that found within a local street network. The centre will provide care to children aged from 0-6 years and while extensive quiet times (sleeping/rest) are believed to be part of the care, the play areas are located to the rear of the property, adjacent to the rear open space areas of adjoining properties. While the noise of children playing within the rear play areas may be generated throughout the day, this is considered compatible with the expected noise levels within a residential area.

Accordingly, this objection cannot be substantiated.

- *Risk of uncleanness and unsightliness of an unkempt property*

The applicant will be required to have a waste management plan approved by Council. Conditions of permit and regulatory compliance with the requirements of Australian Children's Education and Care Quality Authority will ensure that the site is maintained in an acceptable condition.

Accordingly, this objection cannot be substantiated.

3. Safety (traffic)

As discussed earlier in this report, the proposed parking arrangement is not considered to be efficient or safe.

Accordingly, this objection can be substantiated.

4. Property devaluation

It has been consistently upheld by the Victorian Civil and Administrative Tribunal (VCAT) that property devaluation is not a relevant planning consideration.

Accordingly, this ground of objection cannot be substantiated.

DECLARATIONS OF CONFLICTS OF INTEREST

Under section 80C of the Local Government Act 1989 officers providing advice to Council must disclose any interests, including the type of interest.

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

CONCLUSION

The application has been assessed against the Whittlesea Planning Scheme and does not demonstrate a satisfactory level of compliance with Council’s Child Care Policy (Clause 22.05), the guidelines for non-residential development in the General Residential Zone or meet the requirement of Clause 52.05 (Advertising) and 52.06 (Car Parking).

Accordingly, refusal of the application is recommended.

RECOMMENDATION

THAT Council resolve to Refuse Planning Application No. 715222 and issue a Refusal to Grant a Planning Permit for the use & development of the land as a child care centre and the display of business identification signage at 228 Childs Road, Mill Park, on the following grounds:

1. **The proposal does not comply with Clause 22.05 (Child Care Centre Policy) of the Whittlesea Planning Scheme.**
2. **The proposal does not comply with Clause 32.08 (General Residential Zone) of the Whittlesea Planning Scheme.**
3. **The proposal does not comply with Clause 52.05 (Advertising) of the Whittlesea Planning Scheme.**
4. **The proposal does not comply with Clause 52.06 (Car Parking) of the Whittlesea Planning Scheme.**

COUNCIL RESOLUTION

MOVED: *Cr Sinclair*
SECONDED: *Cr Lalios*

The above Recommendation was adopted unchanged as part of an en bloc Resolution Moved by Cr Sinclair, Seconded by Cr Lalios. See Section 6 - Officers' Reports for further information on items adopted en bloc.

CARRIED

6.1.4 8 JUPITER AVENUE, MERNDA - VARIATION OF RESTRICTIVE COVENANT PS 621193X TO ALLOW FOR THE CONSTRUCTION OF A SHED/GARAGE OUTSIDE THE DESIGNATED BUILDING ENVELOPE

File No: 715579

Attachments: 1 Locality Maps
2 Development Plans

Responsible Officer: Director Planning & Major Projects

Author: Planning Officer EAP

APPLICANT: Mr T Marchetti

COUNCIL POLICY: Nil

ZONING: General Residential Zone

OVERLAY: Development Contributions Plan Overlay (Schedule 7)
Development Plan Overlay (Schedule 5)
Incorporated Plan Overlay (Schedule 1)
Vegetation Protection Overlay (Schedule 1)

REFERRAL: Nil

OBJECTIONS: One

RECOMMENDATION: That Council refuse the application.

REPORT**EXECUTIVE SUMMARY**

It is proposed to vary Restrictive Covenant PS61193X to allow the construction of a shed/garage outside the designated building envelope on the land.

The application was advertised to all beneficiaries to the covenant in accordance with Section 52 of the *Planning and Environment Act 1987*. At the completion of the advertising period, one objection was received from a beneficiary to the covenant. In summary, the grounds for objection relate to concerns regarding financial loss, loss of amenity and the inappropriate siting of the shed/garage.

Restrictive Covenants created after 25 June 1991 are governed by Section 60(2) of the Act. This provides that the Responsible Authority must not grant a permit which allows the removal of a restriction unless it is satisfied that the owner of any land benefited by the restriction will be unlikely to suffer –

- (a) *Financial loss; or*
- (b) *Loss of amenity; or*
- (c) *Loss arising from change to the character of the neighbourhood; or*
- (d) *Any other material detriment –*

as a consequence of the removal of the restriction.

Existing and future landowners who seek to purchase land in this estate do so with the expectation that the siting requirements detailed in the restrictive covenant will create a certain level of amenity and neighbourhood character.

As such, Council officers contend that the objector, who benefits from the covenant is likely to suffer detriment and therefore, cannot support the variation of the covenant.

The proposal is recommended for refusal given the issues raised in the beneficiary's objection and non-compliance with Clause 52.02 of the Whittlesea Planning Scheme which requires that Council consider the interests of affected people.

BACKGROUND

The shed/garage has been constructed without a building permit. On the 17th September 2010, Council served a Building Notice on the owner and a subsequent Building Order was issued by Council on the 30th September 2010.

It is noted that the developer of the Mernda Villages Estate (Stockland Development Pty Ltd) has granted conditional consent to the siting of the shed/garage. These conditions include:

- The provision of screen planting at a mature height of 4m to 6m along the first 7.5m of the east boundary.
- The construction of a pergola structure with climber to screen the front of the shed/garage. The pergola is to be constructed with a setback of 1.0m from the shed/garage.

SITE AND SURROUNDING AREA

The subject site (*refer to Attachment 1*) is a corner residential allotment located on the south side of Jupiter Avenue, Mernda.

The site has an area of 733m² and is irregular in shape with a frontage of 16.3m along the east property boundary and 28.5m along the north property boundary. The site contains a single storey brick dwelling with attached double garage, the subject shed/garage within the rear setback and a 10,000 litre water tank. The site is currently serviced by two existing concrete crossings. One crossing is located along the southwest boundary and provides vehicle access to the existing attached double garage. The other crossing is located along the northeast property boundary and currently provides vehicle access to the subject shed/garage.

The surrounding area is characterised by recent residential development, generally constructed in the last seven years and consists predominantly of single dwellings with the usual outbuildings in a combination of contemporary building materials.

RESTRICTIONS AND EASEMENTS

The subject site is legally described as Lot 1252 on Plan of Subdivision 621193X and is encumbered by a number of restrictions registered on title on 17 April 2009. The relevant part of the covenant reads:

Restriction A

*The registered proprietor or proprietors...**shall not build or permit to be built or remain on the lot any building** other than a building which has been constructed in accordance with endorsed memorandum of common provisions registered in dealing no. AA1092...*

The memorandum of common provisions prescribes a building envelope for the land with a minimum rear setback of 2m from the east property boundary.

PROPOSAL

The proposal seeks to vary Restrictive Covenant PS621193X to legitimise the construction of a shed/garage within the prescribed 2.0m rear setback (*refer to Attachment 2*).

The shed/garage has been constructed approximately 200mm from the eastern property boundary and has a wall height of 2.7m above natural ground level. The building is setback 720mm from the eastern external wall of the existing dwelling on the land and approximately 1.2m from the dwelling on the adjoining property to the east.

The shed has been constructed in all colorbond materials with dimensions of 3.9m x 12.3m yielding a total floor area of 48m².

PUBLIC NOTIFICATION

Advertising of the application has resulted in one objection being received. The grounds of objection can be summarised as follows:

1. Loss of amenity
2. Financial loss and devaluation of property
3. Inappropriate siting of the shed/garage

PLANNING ASSESSMENT

The following provisions of the Whittlesea Planning Scheme are relevant to this application.

Clause 32.08 – General Residential Zone

The purpose of the General Residential Zone is to provide residential development at a range of densities that respect neighbourhood character. The application includes buildings and works that are considered to be works normal to a dwelling therefore the proposal does not trigger a permit requirement under this Clause.

Clause 45.06 – Development Contributions Plan Overlay (DCPO7)

The purpose of this overlay is to identify areas which require the preparation of a development contributions plan for the purpose of levying contributions for the provision of works, services and facilities before development can commence. The subject site is within the Mernda Precinct 3 Development Contributions Plan area.

Clause 43.04: Development Plan Overlay (DPO5)

The purpose of this overlay is to identify the requirements for the Mernda Development Plan Area. Any permit granted must be generally in accordance with the development plan. It is considered that the proposal is generally in accordance with the development plan and therefore a permit may be granted subject to appropriate conditions.

Clause 43.03 – Incorporated Plan Overlay (IPO1)

The purpose of this overlay is to identify areas which require the form and conditions of future use and development to be shown on an incorporated plan before a permit can be granted to use or develop the land. Schedule 1 to the overlay sets out the broad strategic framework for the development of the Mernda Strategy Plan (MSP). The MSP supports the implementation of this framework by requiring a development plan be prepared and approved before development commences.

Clause 42.02 – Vegetation Protection Overlay (VPO1)

The purpose of this overlay is to *'preserve and maintain significant vegetation and the character of the area'*. The application does not propose to remove any native vegetation; therefore the proposal does not trigger a permit requirement under this Clause.

Clause 52.02 – Easements, Restrictions and Reserves

The purpose of Clause 52.02 sets out the planning requirements for the removal and variation of easements and restrictions to allow for an application to be lodged for a use or development that complies with the planning scheme. The provisions require the interests of affected people to be considered.

Pursuant to Clause 52.02, a permit is required to create, vary or remove an easement or restriction under Section 23 of the *Subdivision Act 1988*.

The *Planning and Environment Act 1987* requires that restrictive covenants be considered in planning decisions about how land is used or developed. A permit cannot be granted (or amended) if anything authorised by the permit would result in a breach of a restrictive covenant (unless the permit also allows the removal or variation of the covenant). A permit can be granted to remove or vary a covenant.

Section 60(5) of the Act states that the Responsible Authority must not grant a permit which allows the removal or variation of a covenant unless it is satisfied that:

- (a) *the owner of any land benefited by the restriction (other than an owner who, before or after the making of the application for the permit but not more than three months before its making, has consented in writing to the grant of the permit) will be unlikely to suffer any detriment of any kind (including any perceived detriment) as a consequence of the removal or variation of the restriction.*
- (b) *if that owner has objected to the grant of the permit, the objection is vexatious or not made in good faith.*

Restrictive Covenants created after 25 June 1991 are governed by Section 60(2) of the Act. This provides that the Responsible Authority must not grant a permit which allows the removal of a restriction unless it is satisfied that the owner of any land benefited by the restriction will be unlikely to suffer –

- (e) *Financial loss; or*
- (f) *Loss of amenity; or*
- (g) *Loss arising from change to the character of the neighbourhood; or*
- (h) *Any other material detriment –*

as a consequence of the removal of the restriction.

Restrictive Covenant PS621193X (registered on title on 17 April, 2009) is subject to Section 60(2) as outlined above.

The covenant (memorandum of common provisions) requires the setback from a rear boundary of any point on a Building that is at a height of 3.6m or less above the finished surface level must be not less than 2.0m. The shed/garage has been constructed with a 200mm setback along this boundary and therefore is in breach of these requirements.

Existing and future landowners who seek to purchase land in this estate do so with the expectation that the siting requirements detailed in the memorandum of common provisions and the prescribed building envelopes will create a certain level of amenity and neighbourhood character.

As such, Council officers contend that the objector, who benefits from the covenant is likely to suffer detriment and therefore, cannot support the variation of the covenant.

COMMENTS ON GROUNDS OF OBJECTION

1. Loss of amenity

Loss of amenity is a specific consideration as listed in Section 60(2) of the Act. The applicant has not provided evidence to the contrary and therefore, this objection is relevant under Section 60(2) of the Act.

2. Financial loss and property devaluation

Financial loss is a specific consideration as listed in Section 60(2) of the Act. The applicant has not provided evidence to the contrary and therefore, this objection is relevant under Section 60(2) of the Act.

3. Loss arising from change to the character of the neighbourhood

Loss arising from change to the character of the neighbourhood is a specific consideration as listed in Section 60(2) of the Act. The applicant has not provided evidence to the contrary and in particular, how the siting of the shed/garage is consistent with the Restrictive Covenant which was prepared by the developer to regulate the siting and via the registered memorandum of common provisions, preferred neighbourhood character within the surrounds and therefore, this objection is relevant under Section 60(2) of the Act.

DECLARATIONS OF CONFLICTS OF INTEREST

Under section 80C of the Local Government Act 1989 officers providing advice to Council must disclose any interests, including the type of interest.

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

CONCLUSION

The proposal seeks to vary Restrictive Covenant PS621193X to legitimise the construction of a shed/garage outside the designated building envelope. One objection has been received from a beneficiary to the covenant. The objection relates to loss of amenity, financial loss and loss arising from change to the preferred neighbourhood character of the surrounds. As the beneficiary is likely to suffer loss and detriment as a result of the variation, it is recommended that Council refuse the application.

RECOMMENDATION

THAT Council resolve to Refuse Planning Application No. 715579 and issue a Refusal to Grant a Planning Permit for the variation of Restrictive Covenant PS621193X to allow the construction of a shed/garage outside the designated building envelope at 8 Jupiter Avenue, Mernda on the following grounds:

- 1. The variation of Restrictive Covenant PS621193X would result in persons benefiting from the covenant (restriction) to suffer amenity loss, financial loss and loss arising from change to the preferred character of the neighbourhood**

having regard to Section 60(2) of the *Planning and Environment Act 1987*.

2. The removal of Restrictive Covenant PS621193X will adversely impact upon a beneficiary to the covenant and is contrary to the decision guidelines of Clause 52.02 of the Whittlesea Planning Scheme.

COUNCIL RESOLUTION

MOVED: *Cr Sinclair*
SECONDED: *Cr Lalios*

The above Recommendation was adopted unchanged as part of an en bloc Resolution Moved by Cr Sinclair, Seconded by Cr Lalios. See Section 6 - Officers' Reports for further information on items adopted en bloc.

CARRIED

6.1.5 538-552 PLENTY ROAD MILL PARK - AMENDMENT OF PLANNING PERMIT NO. 715067 TO ALLOW FOR THE REMOVAL OF NATIVE VEGETATION (RIVER RED GUMS)

File No:	715067/2
Attachments:	1 Locality Maps 2 Advertised Development Plans 3 Trees for removal 4 Photographs
Responsible Officer:	Director Planning & Major Projects
Author:	Senior Planner
Applicant:	Avalon Securities Pty Ltd
Council Policy:	Clause 22.10 - River Red Gum Protection Policy
Zoning:	Commercial 1 Zone and Public Use Zone 1 – Service and Utility
Overlays:	Development Contributions Plan Overlay (Schedule 3) Vegetation Protection Overlay (Schedule 1)
Referrals:	Nil
Objections:	Nil
Recommendation:	That Council approve the application to amend Planning Permit No. 715067

REPORT**EXECUTIVE SUMMARY**

The Applicant proposes to delete Condition No. 3(a) of Planning Permit No. 715067 to allow for the removal of three River Red Gum trees. The Applicant also proposes to amend Condition No. 3(d) of the Planning Permit to allow for buildings and works within the tree protection zones of two Spotted Gum trees to be retained.

The proposal demonstrates a satisfactory level of compliance with the objectives of the State and Local Planning Policy Framework and the Vegetation Protection Overlay – Schedule 1 of the Whittlesea Planning Scheme. The trees are not remnant and have poor to fair health and structure and a safe, useful life expectancy of less than ten years. Furthermore, the trees will be replaced with suitable native species as part of the redevelopment of the site. The removal of the three river red gum trees is supported by Council's Parks and Open Space Officers. As such, it is recommended that Council approve the amendment to Planning Permit No. 715067.

SITE AND SURROUNDING AREA

The site is located on the eastern corner of Plenty Road and Development Boulevard in Mill Park (see *Attachment 1*).

The site is currently occupied by the River Gum Village shopping centre. The shopping centre includes a supermarket, shops, a petrol station, 271 car parking spaces, vehicle

access from both Plenty Road and Development Boulevard and a loading bay accessed from Heaths Court. The site also includes a strip of Melbourne Water owned land for car parking, which is accessed from Heaths Court.

The northern, southern and western corners of Plenty Road and Development Boulevard are currently occupied by other commercial developments. Directly to the north and south-east of the site are aged care facilities, while directly to the east of the site is an industrial development.

BACKGROUND

A permit for the removal of native vegetation, the use and development of a child care centre, buildings and works associated with a medical centre, the use and development of associated car parking on adjoining land and the erection and display of internally illuminated business identification signs was issued under delegation on 29 October 2015 (see *Attachment 2 for the advertised plans*).

RESTRICTIONS AND EASEMENTS

The Certificate of Titles associated with the site contain several Section 173 Agreements and easements. It is considered the proposal will not breach any of the aforementioned restrictions.

PROPOSAL

The Applicant proposes to amend the existing Planning Permit by deleting Condition No. 3(a) and modifying Condition No. 3(d)(i) to allow the removal of three River Red Gum trees and buildings and works within the tree protection zones of two Spotted Gum trees to be retained (see *Attachment 3*). Details of the trees are as follows:-

Tree No.	Species	Height	Canopy Spread	Age	Health	Structure
3	River Red Gum	4.0m	3.0m	Semi-mature	Below Average	Poor
6	Spotted Gum	15.0m	6.0m	Mature	Fair	Fair
7	Spotted Gum	12.0m	7.0m	Mature	Fair	Fair
9	River Red Gum	11.0m	10.0m	Mature	Fair	Poor
10	River Red Gum	12.0m	10.0m	Mature	Fair	Poor

PUBLIC NOTIFICATION

The original application for permit was advertised in August 2015 proposed the removal of the three river red gum trees. No objections to the proposal were received. As such, it was not considered necessary to undertake additional public notification of the amendment.

PLANNING ASSESSMENT

It is considered the proposed amendment is generally in accordance with State and Local Planning Policy Frameworks, including Clause 22.10 – River Red Gum Protection Policy, as well as the objectives of the Vegetation Protection Overlay – Schedule 1.

It is noted that native vegetation offsets are not required in this case as the subject trees are not remnant and were originally planted for aesthetic and amenity purposes, therefore being exempt from Clause 52.17 – Native Vegetation of the Whittlesea Planning Scheme.

The Applicant's Arborist as well as Council's Parks and Open Space department has recommended the removal of the three River Red Gum trees. The trees are not remnant and have poor to fair health and structure and a safe, useful life expectancy of less than ten years. Furthermore, the trees will be replaced with suitable native species as part of the redevelopment of the site. Taking into consideration the above, it is considered reasonable to support the removal of the three River Red Gum trees.

It is also noted that the other recommendations made by Council's Parks and Open Space department relating to the retention of trees and the provision of additional trees have previously been included as conditions on the permit issued for the further development of the site.

The Applicant also seeks to allow buildings and works within the tree protection zones of the two Spotted Gum trees to be retained. An existing car parking area (approved as part of the initial shopping centre development) currently encroaches into the subject tree protection zones and the proposed revised development will not encroach any further into the aforementioned tree protection zones. It is considered reasonable to allow any additional buildings and works to encroach within the existing car parking area footprint.

DECLARATIONS OF CONFLICTS OF INTEREST

Under Section 80C of the *Local Government Act 1989* Officers providing advice to Council must disclose any interests, including the type of interest.

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

CONCLUSION

The proposal is generally in accordance with the objectives of the Whittlesea Planning Scheme. It is considered that the removal of three River Red Gum trees and allowing for buildings and works within the tree protection zones of the two Spotted Gum trees to be retained will not further impact the amenity of the surrounding area and therefore approval of the application is recommended.

RECOMMENDATION

THAT Council resolve to approve the amendment to Planning Permit No. 715067 to allow for the removal of three River Red Gum trees and buildings and works within the tree protection zones of the two Spotted Red Gum trees to be retained at 538-552 Plenty Road Mill Park as follows:-

1. Delete Condition No. 3(a);
2. Amend Condition No. 3(d)(i) to delete the words ‘...and no encroachment into the tree protection zones of Tree Nos. 6 and 7, Spotted Gum trees, to be retained’

COUNCIL RESOLUTION

MOVED: *Cr Sinclair*
SECONDED: *Cr Lalios*

The above Recommendation was adopted unchanged as part of an en bloc Resolution Moved by Cr Sinclair, Seconded by Cr Lalios. See Section 6 - Officers' Reports for further information on items adopted en bloc.

CARRIED

6.1.6 45-135 AND 90 BRIDGE INN ROAD WOLLERT - WORKS ASSOCIATED WITH AN EXISTING EXTRACTIVE INDUSTRY INCLUDING VEGETATION REMOVAL (RIVER RED GUMS) AND PARTIAL DEMOLITION OF DRY STONE WALLS.

File No:	715252
Attachments:	1 Locality Maps 2 Development Plans
Responsible Officer:	Director Planning & Major Projects
Author:	Senior Planner
APPLICANT:	Meinhardt
COUNCIL POLICY:	River Red Gum Protection Policy
ZONING:	Green Wedge Road Zone Category 2
OVERLAY:	Public Acquisition (PAO6) Significant Landscape (Schedules 1 and 5)
REFERRAL:	VicRoads Department of Environment, Land, Water & Planning
OBJECTIONS:	Nil
RECOMMENDATION:	That Council approve the application

REPORT**EXECUTIVE SUMMARY**

The applicant proposes to construct an underpass to allow vehicles associated with the quarrying of the land to cross between 45-135 and 90 Bridge Inn Road Wollert. The underpass will enable trucks to cross Bridge Inn Road without intersecting with or obstructing vehicles travelling along Bridge Inn Road.

The works require the creation of a temporary road to enable construction of the underpass. The construction of the temporary road and underpass will result in the removal of vegetation, including eight River Red Gum trees.

Of the vegetation to be removed, seven River Red Gums are located on the northern side of the road within a Public Acquisition Overlay (in favour of VicRoads) which exists to facilitate the widening of Bridge Inn Road. The remaining River Red Gum is located to the south of Bridge Inn Road.

The proposed works and vegetation removal provides for a safe and convenient means of vehicles traveling between the two quarry sites. The alignment of the road has been designed to minimise the removal of vegetation and to reduce the extent of demolition required to the dry stone walls located on the southern side of Bridge Inn Road. According, it is recommended that Council approve the application.

SITE AND SURROUNDING AREA

The subject land is located on Bridge Inn Road Wollert approximately 880m east of Epping Road. The proposed development area consists of the road reserve and the land immediately abutting the road reserve to the north and south (see Attachment 1).

The development site is generally flat and large trees are present on both sides of the roadway. Some portions of dry stone walls are present within proximity of the proposed works.

The land to the north of Bridge Inn Road, abutting the road reserve, is located within a Public Acquisition Overlay, the purpose of which is to facilitate the further widening of Bridge Inn Road.

The land to the north is currently used for extractive industries and the land to the south is designed for future quarrying.

RESTRICTIONS AND EASEMENTS

The proposed works affect two lots; Lot 1 of Title Plan 127847S (north of Bridge Inn Road) and Plan of Consolidation 352089E. Plan of Consolidation 352089E includes an agreement (AK755414B) made pursuant to Section 173 of the *Planning and Environment Act 1987* regarding the maintenance and subsequent procurement of the land affected by the Public Acquisition Overlay along Bridge Inn Road.

There are no restrictions on title that preclude Council from determining the application.

PROPOSAL

The applicant proposes to construct an underpass from 45-135 to 90 Bridge Inn Road. The underpass will allow for vehicles associated with extractive industry activities on both lots to cross Bridge Inn Road without the need to obstruct or intersect with traffic travelling along Bridge Inn Road.

To facilitate the creation of the private road and underpass, a temporary road to the north of Bridge Inn Road to divert traffic is required to be constructed (see Attachment 2).

Once the underpass is complete, the temporary road will be closed and the land reinstated.

The construction of the private road, underpass and temporary road requires the removal of vegetation including eight River Red Gum trees (see Attachment 3). It is noted that seven of the River Red Gums are located within the Public Acquisition Overlay designated for the widening of the Bridge Inn Road. The remaining River Red Gum (tree #123) is located to the south of Bridge Inn Road.

The following table provides information about the trees that require a planning permit to be removed:

Tree No.	Species	DBH (cm)	Height x Width (m)	Age	Health	Structure
2	River Red Gum <i>Eucalyptus camldulensis</i>	60	16 x 14	Maturing	Fair	Fair to poor
3	River Red Gum <i>Eucalyptus camldulensis</i>	58	16 x 15	Maturing	Fair	Fair
4	River Red Gum <i>Eucalyptus camldulensis</i>	96	12 x 17	Maturing	Fair to poor	Fair

Tree No.	Species	DBH (cm)	Height x Width (m)	Age	Health	Structure
5	River Red Gum <i>Eucalyptus camldulensis</i>	21	6 x 5	Semi-mature	Fair	Fair
20	River Red Gum <i>Eucalyptus camldulensis</i>	81	12 x 17	Maturing	Fair	Fair to poor
67	River Red Gum <i>Eucalyptus camldulensis</i>	193	17 x 19	Over mature	Fair	Poor
72	River Red Gum <i>Eucalyptus camldulensis</i>	119	10 x 11	Over mature	Fair	Poor
123	River Red Gum <i>Eucalyptus camldulensis</i>	124	11 x 8	Over mature	Dead	Very poor

PUBLIC NOTIFICATION

The proposed works and removal of vegetation will not adversely impact on nearby land owners or occupiers. Subsequently, public notice of the application was not undertaken.

ASSESSMENT AGAINST THE WHITTLESEA PLANNING SCHEME

River Red Gum Protection Policy

Clause 22.10 of the Whittlesea Planning Scheme seeks to ensure that the development of urban and rural areas takes into account the presence, retention, enhancement and long term viability of River Red Gums in urban areas.

Relevant to this proposal, it is policy to:

- *Recognise the intrinsic value of River Red Gums in establishing character and identity in urban and rural areas.*
- *Request a comprehensive site analysis and arborist’s report with any planning proposal for development on land which contains one or more remnant River Red Gums.*
- *Appropriately protect trees identified for retention during the construction phase, and thereafter ensure that their health is regularly monitored by an appropriate environmental consultant where located on public land.*

Green Wedge Zone

Relevant to this proposal, the purpose of the Green Wedge Zone is:

- *To recognise, protect and conserve green wedge land for its agricultural, environmental, historic, landscape, recreational and tourism opportunities, and mineral and stone resources.*

- *To protect, conserve and enhance the cultural heritage significance and the character of open rural and scenic non-urban landscapes.*
- *To protect and enhance the biodiversity of the area.*

A planning permit is needed for works associated with the use of the land for extractive industries.

Environmental Significance Overlay

The purpose of the Environmental Significance Overlay is:

- *To identify areas where the development of land may be affected by environmental constraints.*
- *To ensure that development is compatible with identified environmental values.*

The subject site is affected by Schedules 1 and 5 of the Environmental Significance Overlay. These schedules provide the following environmental significance objectives:

Schedule 1:

To provide for the long term preservation and regeneration of River Redgum Grassy Woodland and native habitat areas of significant environmental value. Management practices for the land aim to achieve the following:

- *Maintain the environmental and rural character.*
- *Minimise adverse effects on the use of adjacent land and habitat areas and links.*
- *Encourage development in harmony with the environmental landscape.*
- *Conserve and maintain existing patterns of vegetation, landscape quality and remaining natural ecosystems.*
- *Conserve soil resources.*
- *Conserve water quality and watercourse capacity.*
- *Minimise fire risk.*
- *Preserve sites of aboriginal and cultural heritage and scientific significance.*

Schedule 5:

- *To protect and improve the viability of habitats, ecological communities, flora and fauna and genetic diversity of key areas within the Urban Growth Boundary.*
- *To enhance the environmental and landscape values of the area.*
- *To encourage ecological restoration, regeneration and revegetation with indigenous species within the area.*
- *To maintain and enhance habitat connectivity for listed threatened species.*

- *To prevent a decline in the extent and quality of native vegetation and native fauna habitat.*
- *To ensure that the siting and design of any buildings and works maintains the environmental integrity of the area.*
- *To maintain and enhance the integrity of sites of environmental significance.*
- *To provide for the long term preservation of the flora and fauna and associated habitat of environmentally significant areas.*

A planning permit is required for the proposed works and removal of vegetation.

Public Acquisition Overlay

Relevant to this proposal, the purpose of the Public Acquisition Overlay is:

- *To identify land which is proposed to be acquired by a Minister, public authority or municipal council.*
- *To reserve land for a public purpose and to ensure that changes to the use or development of the land do not prejudice the purpose for which the land is to be acquired.*
- *To designate a Minister, public authority or municipal council as an acquiring authority for land reserved for a public purpose.*

A planning permit is required for the proposed works.

Native Vegetation

Relevant to this proposal, the purpose of Clause 52.17 (Native Vegetation) is:

- *To ensure permitted clearing of native vegetation results in no net loss in the contribution made by native vegetation to Victoria's biodiversity. This is achieved through the following approach:*
 - *Avoid the removal of native vegetation that makes a significant contribution to Victoria's biodiversity.*
 - *Minimise impacts on Victoria's biodiversity from the removal of native vegetation.*
 - *Where native vegetation is permitted to be removed, ensure that an offset is provided in a manner that makes a contribution to Victoria's biodiversity that is equivalent to the contribution made by the native vegetation to be removed.*
- *To manage native vegetation to minimise land and water degradation.*

A planning permit is required for the proposed removal of eight trees. Planning permit conditions have been included to address the offset requirements.

Alteration of access to Bridge Inn Road

Relevant to this proposal, the purpose of Clause 52.29 (Land adjacent to a Road Zone, Category 1, or a Public Acquisition Overlay for a Category 1 Road) is *to ensure appropriate access to identified roads*.

A planning permit is required for the proposed works.

Dry stone walls

The purpose of Clause 52.37 (Post Boxes and Dry Stone Walls) is *to conserve historic post boxes and dry stone walls*.

The plans submitted to Council indicate that the proposed works will likely require the partial demolition of dry stone walls located on the land to the south of Bridge Inn Road, for which a planning permit is required.

In this instance, detailed engineering plans need to be finalised to determine the extent to which this demolition may occur. It is therefore recommended that prior to the endorsement of plans, amended plans will be required to show the extent of dry stone walls (if any) that are to be removed. A condition requiring a dry stone wall management plan is also considered appropriate, which will be given effect in the event that a dry stone wall is demolished.

Proposed Works

The layout of the proposed works has been designed to minimise the impact on vegetation.

The proposed works are considered to be consistent with the Green Wedge Zone, Public Acquisition Overlay and the provisions of Clause 52.29. The application was referred to VicRoads, who have provided consent for the proposed development.

Removal of Vegetation

Of the vegetation that needs to be removed to enable the construction of the underpass, seven of the trees are located within the Public Acquisition Overlay, which designates this land for a significant upgrade to this section of Bridge Inn Road. It is therefore likely that these trees would inevitably need to be removed as part of future road widening. There is one tree that is not located with the Public Acquisition overlay (tree #123). The Arborist has identified that this tree is dead and has a structure that is rated very poor.

The applicant has demonstrated that the extent of vegetation removal has been minimised.

REFERRAL COMMENTS

The application was referred to both VicRoads and Department of Environment, Land, Water and Planning. Both authorities have provided consent to the proposed works and vegetation removal subject to the inclusion of specific permit conditions that have been included in the recommendation section of the report.

DECLARATIONS OF CONFLICTS OF INTEREST

Under section 80C of the Local Government Act 1989 officers providing advice to Council must disclose any interests, including the type of interest.

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

CONCLUSION

The application has been assessed against the Whittlesea Planning Scheme and in particular the objectives of the Environmental Significance Overlay and native vegetation provisions at Clause 52.17. The proposal demonstrates the proposed works have been designed to minimise the loss of vegetation. It is considered that the proposal will improve the safety of Bridge Inn Road and will not have a detrimental impact on the character of the surrounding area. Accordingly approval of the application is recommended.

RECOMMENDATION

THAT Council resolve to approve Planning Application No. 712525 and issue a Planning Permit for works associated with an existing extractive industry (creation of an underpass) including vegetation removal and the partial demolition of a dry stone wall at 45-135 and 90 Bridge Inn Road Wollert, in accordance with the endorsed plans and subject to the following conditions:

- 1. Prior to the commencement of works, three copies of amended plans must be prepared and submitted to the Responsible Authority. The amended plans must be modified to the satisfaction of the Responsible Authority to show:**
 - a) The complete extent of works in accordance with the detailed constructions plans required by VicRoads (Conditions 10 to 13) and Council (Condition 2).**
 - b) The extent of dry stone wall to be demolished.**
- 2. Prior to the commencement of any works within Bridge Inn Road, detailed construction plans (engineering and landscaping plans) for the underpass and any related works must be prepared to the satisfaction of the Responsible Authority and submitted to and approved by the Responsible Authority. When approved, the construction plan will be endorsed and will then form part of the permit. The construction plan must be drawn to scale and acceptable drafting standards and three copies, including an electronic copy (PDF) must be provided. The construction plan must show:**
 - a) a fully dimensioned layout, including widths of street reservations;**
 - b) topography and existing features, including contours for the subject land and any affected adjacent land;**
 - c) typical cross-sections for each section of the road, dimensioning individual elements and services offsets;**
 - d) the proposed minor drainage network and any land required for maintenance access;**
 - e) the drainage strategy for the site, including the major drainage system;**
 - f) overland flow paths (100 year ARI) to indicate how excess runoff will safely be conveyed to its destination;**
 - g) drainage outfall system (both interim and ultimate), indicating legal point of discharge and any access requirements for construction and maintenance.**
- 3. Prior to the commencement of the defects liability period, the following must be**

submitted to the satisfaction of the Responsible Authority:

- a) a complete set of 'as constructed plans' of site works, in hard copy transparent film and digital file format AutoCAD (2000). The digital files must have a naming convention to enable identification of Council assets listed.
 - b) a list of asset quantities which include the following Council assets:
 - i. total length of Roads, Footpath, Kerb and Channel,
 - ii. total number of Bridges, WSUD features, Traffic calming devices,
 - iii. total length of pipe and number of pits for Drainage & Telecommunications,
 - iv. total number of streetlights.
 - c) asset information in digital format to include drainage data as per "D-Spec" (the Consultant /Developer Specifications for the delivery of drainage data to Local Governments).
4. The applicant must enter into an agreement under Section 173 of the Act with the Responsible Authority to provide for the following:
- a) All costs associated with the construction of the works approved by this permit to be the responsibility of the owner of the land at 45-135 and 90 Bridge Inn Road Wollert.
 - b) Maintenance, and costs associated with the maintenance, of the works hereby approved to be the responsibility of the owner(s) of the land at 45-135 and 90 Bridge Inn Road Wollert.
 - c) Maintenance plan and schedule for the works hereby approved must be undertaken to the satisfaction of the Responsible Authority.
 - d) Council must be advised in writing once the use of the underpass and haulage road has been discontinued.
 - e) Within two years of the underpass and haulage road being discontinued, underpass works/structure must be removed to the satisfaction of the Responsible Authority and at no cost to the Responsible Authority.
 - f) Construction plans for the removal of the underpass works/structure must be submitted to and approved by the Responsible Authority prior to the commencement of remedial works.
 - g) The agreement will no longer have effect once the remedial works have been completed to the satisfaction of the Responsible Authority.

All costs associated with the preparation and execution of the Agreement must be borne by the permit holder.

5. Prior to the endorsement of plans, a stone wall management plan must be submitted to and approved by the Responsible Authority. When approved, the stone wall management plan will be endorsed and will then form part of the permit. The stone wall management plan must:
- a) Show stone walls to be removed;
 - b) Show stone walls to be retained in situ;
 - c) Show stone walls to be retained, repaired, relocated or reconstructed (with, where relevant, the use of surplus stone from stone walls not to be retained);
 - d) Include a specification describing the process for protection, dismantling

and/ or reconstruction of the stone walls;

Any stone walls dismantled during construction must be reserved for reconstruction at a later date, in accordance with the stone wall management plan above.

Please note that should the construction plans demonstrate that no dry stone wall will be affected by the approved development, a stone wall management plan will not be required.

6. The development allowed by this permit and shown on the plans and/or schedules endorsed to accompany this permit shall not be amended for any reason without the consent of the Responsible Authority.
7. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority. Should the use not commence or the use ceases for a period of more than two years, all buildings and works shall be removed from the site at the written direction of the Responsible Authority.
8. Unless otherwise agreed in writing by the Responsible Authority, prior to the commencement of works on the site Tree Preservation Zones must be established around trees in accordance with the endorsed Arborist Report. Once installed and inspected the Tree Preservation Zones must be maintained to the satisfaction of the Responsible Authority, and meet the following requirements:
 - a) Tree Preservation Zones are to be provided to the extent of the canopy of the trees indicated as being retained on the endorsed plan.
 - b) Any weeds located within the Tree Preservation Zone are to be removed and the area mulched with 100mm of composted coarse grade woodchips
 - c) Vegetation Preservation fences with a minimum height of 1.2 to 1.5 metres and of chain mesh or like fence with 1.8 metre posts (e.g. treated pine) or like support every 3-4 metres and a top line of high visibility plastic hazard tape must be erected around the perimeter of the zone.
 - d) The posts must be strong enough to sustain knocks from on-site excavation equipment.
 - e) The fences must not be removed or relocated without the prior consent of the Responsible Authority.
 - f) Fixed signs are to be provided on all visible sides of the Tree Preservation Fencing, stating "Tree Preservation Zone – No entry without permission from the City of Whittlesea".
 - g) The area must be irrigated during the summer months with 1 litre of clean water for every 1 cm of trunk girth measured at the soil / trunk interface on a weekly basis.
 - h) No persons, vehicles or machinery are to enter the Vegetation Protection Zone except with the consent of the Responsible Authority;
 - i) No fuel, oil dumps or chemicals are allowed to be used or stored within the Vegetation Preservation Zone and the servicing and re-fuelling of equipment and vehicles must be carried out away from the root zones;
 - j) No storage of material, equipment or temporary building is to take place within the Vegetation Preservation Zone;
 - k) Nothing whatsoever, including temporary services wires, nails, screws or any other fixing device, is to be attached to any tree.

Department of Environment, Land, Water and Planning (Condition 9)

9. Prior to the commencement of works, the permit holder must provide a native vegetation offset to the tree shown as tree #123 on the endorsed plans in accordance with the Permitted Clearing of Vegetation – Biodiversity Assessment Guidelines to the satisfaction of the Responsible Authority.

VicRoads (Conditions 10 to 13)

10. Before the works start within the Public Acquisition Overlay or road reserve, amended plans must be submitted to and approved by VicRoads. When approved by VicRoads, the plans may be endorsed by the Responsible Authority and will then form part of the permit. The plans must be drawn to scale with dimensions and two copies must be provided. The plans must be generally in accordance with the plans dated 11 March 2015 (Drawing No. CG150158, Sheets T01-02 and T-02-02) and annotated as but modified to show:
- a) detailed design of the bridge structure in accordance
 - b) detailed design of the haulage road
 - c) detailed design of the temporary diversion road
 - d) a report that details the earth retaining structures or batters proposed to ensure the proposed works do not adversely affect the use of the land for the purpose for which it is to be acquired (future widening of Bridge Inn Road)
 - e) existing and proposed feature and level survey
 - f) a report from a suitably qualified geotechnical consultant outlining the design of and construction techniques to be utilised to ensure that the proposed excavation adjacent and under Bridge Inn Road will not have a detrimental impact
 - g) permanent public safety fencing of the excavated area
 - h) landscaping
 - i) provision of pedestrian and cycling facilities on the proposed Bridge Inn Road bridge
 - j) a report from a suitably qualified consultant to assess the impact of the Bridge Inn Road bridge structure and excavated underpass on the future widening of Bridge Inn Road
 - k) traffic management plans
11. The following roadworks on Bridge Inn Road must be completed at no cost to and to the satisfaction of the VicRoads:
- a) construction of the bridge structure and associated Bridge Inn Road pavement
 - b) construction of the haulage road
 - c) the temporary diversion road made redundant by the completion of the Bridge Inn Road bridge structure must be broken out and the disturbed area re-instated with landscaping to the satisfaction of VicRoads and the Responsible Authority.
12. No compensation is payable under part 5 of the Planning and Environment Act 1987 in respect of anything done under this permit.
13. Within six months of the completion of the works under this permit, the works completed on Bridge Inn Road reserve and adjoining land to the south, known as 90 Bridge Inn Road, must be included in the Hanson Quarry “Development Plan” and “Rehabilitation Plan” to the satisfaction of VicRoads and the Responsible

Authority. Note: the current proposed “Development Plan” and “Rehabilitation Plan” do not reflect these works (refer: Carol Frank-MAS & Associates, Drawing No. 2631/1, dated 3 October 2014 and Drawing No. 2625/1, dated 30 October 2014).

14. This permit will expire if:

- a) The approved development does not start within two years of the date of this permit; or
- b) The approved development is not completed within four years of the date of this permit.

Notes:

VicRoads

- A. Separate consent for works within the road reserve and the specifications of these works is required under the Road Management Act. Please contact VicRoads prior to commencing any works.

Department of Environment, Land, Water and Planning

- B. The works proposed requires removal of a number of trees. Tree removal constitutes works within the Bridge Inn Road reserve and separate approval under the Road Management Act for this activity is required.
- C. On 5 September 2013 an approval under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) was issued by the Commonwealth Minister for Environment, Heritage and Water. The approval applies to all actions associated with urban development in growth corridors in the expanded Melbourne 2010 *Urban Growth Boundary* as described in page 4 in the *Biodiversity Conservation Strategy for Melbourne's Growth Corridors* (Department of Environment and Primary Industries, 2013). The Commonwealth approval has effect until 31 December 2060. The approval is subject to conditions specified at Annexure 1 of the approval.

COUNCIL RESOLUTION

MOVED: Cr Sinclair
SECONDED: Cr Lalios

The above Recommendation was adopted unchanged as part of an en bloc Resolution Moved by Cr Sinclair, Seconded by Cr Lalios. See Section 6 - Officers' Reports for further information on items adopted en bloc.

CARRIED

6.1.7 460 COOPER STREET, EPPING - USE AND DEVELOPMENT OF A MATERIALS RECYCLING CENTRE, CARETAKERS DWELLING, REDUCTION IN THE STANDARD CAR PARKING REQUIREMENT TOGETHER WITH ASSOCIATED BUILDINGS AND WORKS

File No:	714470
Attachments:	1 Locality Maps 2 Development Plans
Responsible Officer:	Director Planning & Major Projects
Author:	Principal Planner
APPLICANT:	Emptage Family Trust T/As SJE Consulting
COUNCIL POLICY:	22.08 Material Recycling Centres Policy
ZONING:	Special Use (Schedule 4) Urban Floodway
OVERLAY:	Environmental Significance (Schedule 3) Land Subject to Inundation
REFERRAL:	Melbourne Water Merri Creek Management Committee VicRoads Department of State Development, Business and Innovation Environment Protection Authority CFA
OBJECTIONS:	Four
RECOMMENDATION:	That Council approve the application

REPORT**EXECUTIVE SUMMARY**

The applicant proposes to use and develop the site to provide for materials recycling, with extensive fill proposed on various parts of the site and the inclusion of a caretaker's house central to the site, and retail sales area located toward the Cooper Street frontage.

Advertising of the proposal resulted in four objections being received.

The application was amended to vary the proposal to address some of the objector concerns and to address Melbourne Water concerns in particular relating to works within the channel of the Central Creek running roughly north-south through the subject land. The application was re-advertised to objectors after the amendments to the application, with all four objections remaining.

The proposal demonstrates a satisfactory level of compliance with the relevant provisions of the Whittlesea Planning Scheme, subject to minor modifications (including the deletion of the caretaker's house) and appropriate conditions.

This application was reported to the previous Council Meeting held 17 November 2015, when it was resolved as follows:

That consideration of this item be deferred to the next Council Meeting and in the meantime, be referred for discussion at a Council Forum meeting by Councillors.

The application was presented to the Forum Meeting held on 24 November 2015 where permit conditions in relation earthworks and deletion of the caretaker's dwelling were explained.

Separate to the Forum, on 2 December 2015 Council officers conducted a meeting with the applicant to consider concerns about the recommended conditions. In response to the concerns Council officers are now recommending some changes, including:

- Three conditions in relation to earthworks have been deleted and combined in to one single condition (now condition 5). The single condition to require filling on site in accordance with the relevant Australian Standard is appropriate for a fill site of this scale. In addition, the geotechnical engineer supervision aspect of that condition (formerly condition number 7) has been modified from Level 1, "on-site" supervision to Level 2, "periodic" supervision. Periodic supervision is considered appropriate for the rate of the fill activity proposed on the site.
- Conditions in relation to odour management and dust management have been deleted, as they will be dealt with through the condition requiring a Site Management Plan.
- The condition requiring that there be no burning on the site (formerly Condition 32) has been modified to include the clause that this applies unless prior approval of Council is obtained and notice to the CFA is provided. This will provide for envisaged occasions where there may be materials such as termite infested timber received, which would call for burning rather than relocating. This condition is renumbered 29. Reference is also included in Condition 6 so that management of any burning is also part of the Fire Management Plan requirements. Note, condition 6 also includes relevant requirements for fire prevention and management, such as water supply and pressure, access for large vehicles and provision of fire breaks.
- The inclusion of a condition required by the Environment Protection Authority (EPA) requiring a further works approval from the EPA. This is at Condition 40 of the revised recommendation.
- Conditions in the recommendation have been renumbered accordingly.

In discussions with the applicant, the desire is to have a Caretaker's Dwelling as part of the overall proposal was again emphasised. This is proposed approximately central to the site with surveillance capability to both the northern and southern parts of the site. However, the recommendation to remove this element of the proposal is maintained (Condition 2 (a)) based on the fundamental conflict between any residential use and the proposed uses on the site and surrounding land uses. It is noted that this part of the proposal remains one of the reasons for objection by the Objectors.

SITE AND SURROUNDING AREA

The site is located on the northern side of Cooper Street, about 550m west of the Hume Freeway (see *Attachment 1*). It is a large and irregularly shaped parcel, with a frontage to Cooper Street of 170m and depth of 1137m, with a total site area of 55.9ha.

The site is irregularly shaped with two major portions, north and south parts connected by a narrower part of the site. The current proposal relates entirely to the southern portion, with no works proposed in the northern part.

Due to the previous quarrying activity on the land and placement of fill, the site has been significantly disturbed over many years. There is some remaining vegetation along the site boundaries and other stands of trees throughout the site.

The site also includes a central waterway (Central Creek), which runs in a north-south alignment.

There is a gravel road from the entry to the site at Cooper Street at a signalised intersection which provides access into the subject site, as well as being a shared access to the adjoining property at 480 Cooper Street (SITA property). The access road continues north along the western boundary of the site.

A former quarry pit is located in the southern section of the land, about 280m from the frontage. It is bounded by an existing bund wall on the south side and eastern side (creek side), as well as being fenced.

RESTRICTIONS AND EASEMENTS

The subject site is legally described as Lot 2 on Plan of Subdivision 504515.

There are no covenants or restrictions on title that preclude Council from determining the application.

PROPOSAL

The proposal is to develop and use the land for the following purposes (see *Attachment 2*):

- Materials recycling and sales (building materials and mushroom composting) together with associated sales office and amenities block.
- Roof, brick and concrete crushing plant in the former quarry pit.
- Placement of fill and drainage works in surrounding nominated areas.
- Caretaker's House and associated outbuilding.

Associated works include construction of internal road, car parking area and driveway, earthworks and placement of fill, and landscaping. It is stated that there is no vegetation removal proposed.

The first stage involves the construction of the caretaker's house, materials recycling and composting, earthworks and placement of fill.

The second stage is the rock, brick and concrete crushing; relocation of mushroom and soil composting.

The caretaker's house is proposed in a location north of the former quarry pit, approximately 800m north of Cooper Street and close to the western boundary of the site. It has a floor area of 280m², containing two bedrooms, study, living areas, garage and carport. It is stated that the caretaker's house is required to provide on-site supervision and security to the activities and buildings proposed.

The associated outbuilding measures 15m by 30m (450m²) and is to be situated to the south side of the caretaker's house.

There are areas of fill where the proposed uses are proposed to be conducted, as follows:

- Fill Area A (about 16.6ha) is located to the eastern side of the creek reserve and alongside the eastern side boundary in the southern portion of the land. A new access road from the existing access road on the western side of the property is proposed to provide access into the northern part of Area A. This utilises an existing creek crossing.
- Fill Area B (about 5.21ha) is located to the south of the former quarry pit, between that pit and the Cooper Street frontage. This area is proposed for the sale of recycled

products, with a circular access road proposed of the existing western access road (near the entry from Cooper Street).

- Fill Area C (about 1ha) is located south of Area A to the Cooper Street frontage and east of the creek. This area is proposed for future recycling.

PUBLIC NOTIFICATION

Advertising of the application has resulted in four objections being received. The grounds of objection can be summarised as follows:

1. Limited information provided with the application relating to matters such as the proposed caretaker's house, recycling activities, traffic impacts, road capacities and environmental impacts. Details regarding the proposed works to the central creek are inadequate.
2. The proposal is contrary to Clause 52.45 of the Planning Scheme.
3. The proposal is contrary to the purpose of the Special Use Zone 4.
4. A caretaker's house would be incompatible with the surrounding activities and would not meet separation requirements for a residential use and would be impacted by uses proposed on the site and by other uses in the broader area.
5. The application does not demonstrate that the proposal can be adequately managed in terms of potential impacts such as wastewater, spills, dust and noise emission.
6. The application does not include a site management plan.
7. The potential off-site impacts will affect the proposed subdivision and development along the south side of Cooper Street (Biodiversity Park).
8. The proposal would prejudice the possible future southerly extension of Vearings Road to Cooper Street.
9. Car Parking is inadequate and there has been no assessment of proposed truck movements into and out of the site.

AMENDMENT TO APPLICATION

By notice dated 21 August 2015, the application was amended to reflect the various changes made to address Melbourne Water concerns and the revised/additional information provided by the applicant to address objectors concerns. These changes included:

- Amend extent of works within the Urban Floodway Zone.
- Revised footprint of caretaker's house and outbuilding.
- Caretaker's house floor and elevation plans.
- Further detailing on siting of compound buildings in the materials recycling area.
- Car parking and access throughout the site.
- A revised town planning application report, amended to respond to issues raised by Council and discussions with Melbourne Water, including additional comments relating to the caretaker's house, car parking reduction and resource recovery.

Where an application is amended after previous notification, the *Planning and Environment Act 1987* requires that it be advertised to the extent considered necessary by Council. It also provides that all objections previously lodged continue to stand unless formally withdrawn.

In this instance, the amended application was re-advertised to the four objectors. None have elected to withdraw, so all objections are still applicable.

REFERRALS

Environmental Protection Authority (EPA)

The application was referred to the EPA under Section 55 of the *Planning and Environment Act 1987*. Following its request and receiving additional information from the Applicant, it advised that it had no objection to a permit being issued subject to the following condition being included:

The proponent must apply for and be issued with a Works Approval from the Environmental Protection Authority with respect to the construction of the composting facility.

Melbourne Water

Melbourne Water by letter dated 18 December 2013 required further information, including detailed hydraulic modelling, detail of a vegetated buffer zone from top of bank of Central Creek, detail of sedimentation ponds connecting to Central Creek and a stormwater management strategy.

The Applicant entered into lengthy negotiations with Melbourne Water, ultimately resulting in revisions to the proposal (revisions that were later included in the amended application to Council on 21 August 2015). Melbourne Water by letter dated 9 January 2015 advised Council (its formal referral response) that it does not object to the proposal subject to a number of conditions and footnotes being included in any permit issued. These are included in the Officer recommendation.

VicRoads

The application was referred to VicRoads under Section 52 of the *Planning and Environment Act 1987* (due to movements to and from the site onto Cooper Street which is in the Road Zone Category 1). VicRoads advised that it had no objection to a permit being issued.

Department of State Development, Business and Innovation (DSDBI)

DSDBI advised that it had no objection to a permit being issued.

CFA

The application was referred to the CFA under Section 52 of the *Planning and Environment Act 1987* for comment. The CFA highlighted the importance of fire safety on such sites, and that effective fire prevention is an important priority for the design and operation of the site.

It suggested a number of criteria accordingly, and these have been included as conditions in the recommendation for approval (Condition 8 requiring a Fire Management Plan).

Merri Creek Management Committee (MCMC)

The application was referred to the MCMC under Section 52 of the *Planning and Environment Act 1987* for comment. It noted that the proposed works did not affect any of the land within the Environmental Significance Overlay (ESO3), and on that basis did not object to the application.

PLANNING ASSESSMENT

The following Planning Scheme policies and controls are considered relevant to this proposal and are identified as follows:

State Planning Policy Framework (SPPF)

The relevant State planning policy framework supports such uses in locations such as this, given the site's industrial context and remoteness from more sensitive land uses.

The State Planning Policy Framework includes strategies for the provision of significant local employment opportunities (Clause 11.02-2) and availability of land for industry and the

strategy of identifying land for industrial development in urban growth areas and in other appropriate locations (Clause 17).

Clause 19.03-5 (Waste and resource recovery) has the objective to avoid, minimise and generate less waste to reduce damage to the environment caused by waste, pollution, land degradation and unsustainable waste practices. It is considered that the proposal is consistent with the strategies of this clause to contribute to an overall reduction in the amount of waste to landfill and supports resource recovery.

Local Planning Policy Framework (LPPF)

Clause 22.08 (Material Recycling Centres Policy)

This policy relates to the development of material recycling centres within the municipality, and has the objective to ensure that material recycling centres are situated in appropriate locations and do not affect the amenity of surrounding area. It has the following policy statements:

- *Encourage material recycling centres to locate in areas with an industrial zoning rather than in areas with a business or rural zoning.*
- *Encourage material recycling centres to locate away from main and secondary roads and minimise their visibility from major roads, in particular Cooper Street, High Street, Mahoneys Road, Dalton Road, and Settlement Road.*
- *Ensure material recycling centres do not adversely affect the amenity of the surrounding area with regard to noise, air, and traffic pollution, hours of operation and visual intrusion on the streetscape character.*
- *Ensure landscaping is provided to enhance the visual appearance of the site. In some instances landscaping will be required to provide a screen between the development and sensitive uses. A landscaping setback is to be provided to the frontage of the site and the storage and stacking of materials should not occur along the frontage of the site.*
- *Ensure the site is of sufficient size to provide adequate car parking, pedestrian access, and landscaping.*
- *Ensure material recycling centres maintain an adequate distance from residential and commercial areas.*
- *Discourage access to the site from residential streets.*
- *Ensure that the establishment of any material recycling centres in the Cooper Street area is consistent with and does not prejudice the objectives and intentions of the Cooper Street Precinct Strategy.*
- *Ensure that all processes on the site are conducted within buildings. Burning of waste materials must not occur on the site.*

The proposal/site is considered to be a satisfactory response to this policy, with the following being noted:

- The site is zoned Special Use Zone 4 (Earth and Energy Resources Industry) which is considered to be an appropriate Zone for the proposed activities.
- Although the site fronts Cooper Street, the area is one where similar such uses have been in place for many years and the proposed building material recycling is some 700m from the frontage with the retail element about 100m from the frontage. It is therefore considered to be an appropriate location, considering surrounding uses and the potential for landscaping along the frontage.
- The site is well separated from more sensitive land uses.
- Setbacks between storage areas and Cooper Street, combined with landscaping along Central Creek will assist in screening the works and activities.

- The site is adequate in size to accommodate the activities, car parking and access.
- Setbacks exceeding 1.7km exist between commercial and residential areas and there is no access to or from any residential streets.
- The Cooper Street Precinct Strategy is not applicable to land west of the Hume Freeway.
- The recycling activity is about 700m from the Cooper Street frontage. There is no proposal to burn waste. Given the above factors, together with the size of the land and surrounding uses, it is considered appropriate that processes are not all within buildings on the site.

Special Use Zone Schedule 4 (SUZ4)

A planning permit is required for Materials Recycling, and for buildings and works. The purpose of the Zone is:

To recognise or provide for the use and development of land for earth and energy resources industry.

To encourage interim use of the land compatible with the use and development of nearby land.

To encourage land management practice and rehabilitation that minimises adverse impact on the use and development of nearby land.

There is no exemption from notification (advertising) or appeal rights. Hence the application was required to be advertised.

Concerns were raised early in the process with the Applicant regarding the proposed caretaker's house. In the revised information submitted as part of the amended application, the Applicant has provided detail seeking to justify the caretaker's house, and provided floor plans, elevation and site location (not previously submitted).

The Applicant provides the following points:

- *This dwelling will be occupied by the site owner and site supervisor, it is not proposed as a separately leasable tenancy.*
- *The site owner will remain actively involved in all facets of the business, not merely a landlord.*
- *The caretaker's residence will be used in part as an office for the administration of the various land uses on the site with a room directly allocated for this purpose.*
- *The caretaker's residence is compact, reflective of the importance of providing a direct link between the land uses and not a means of creating a separate dwelling within an industrial precinct.*
- *The caretaker's residence will be capable of being relocated and removed from the site upon the cessation of use as a caretaker's residence.*
- *The siting of the caretaker's residence was carefully selected, taking into consideration the responsibilities and involvement of the site owner in the business and the importance of providing a location that fulfils the role and purpose of a caretaker's dwelling whilst concurrently offering an acceptable ambience for the caretaker as their principal place of residence.*

However, the main concern with a caretaker's house in this location is the underlying incompatibility of a residential use with the proposed uses on the site, and with the existing uses on adjoining sites, despite the residential use being associated with an approved use on the site.

While it is understood that a caretaker's house may be the preferred approach by the Applicant, there are other means to secure the site. It is noted that the other adjoining

properties (including similar uses) do not include caretaker's houses as part of those uses. Notably, the objections raise issues in relation to the presence of a dwelling within the area.

Urban Floodway Zone (UFZ)

The Urban Floodway Zone affects the Central Creek area, running approximately north-south through the site. A permit is required for buildings and works in the UFZ, and referral to the relevant floodplain management authority (Melbourne Water) is required.

While the Applicant had extensive consultation with Melbourne Water to secure consent, this resulted in most fill initially proposed in the creek area being removed to satisfy Melbourne Water. However, the proposal continues to seek approval for works in the UFZ (and LSIO), including some fill to assist in defining the flood path and the construction of a culvert/waterway crossing towards the southern end of the property and crossing Central Creek.

The proposed works within the UFZ remain consistent with the outcomes agreed with Melbourne Water and filling in and around the watercourse will proceed subject to Melbourne Water approval.

It is typically required that a 600mm freeboard be provided for any major overland flow path within a property, and this has been proposed as a condition in the Officer recommendation.

Land Subject Inundation Overlay (LSIO)

The LSIO follows the area of the UFZ and has a similar purpose and decision guidelines. Despite the introduction of fill onto the site, the proposed works and subsequent land use take account of the site constraints created by Central Creek and will not interfere with the overland flow path or alter flood patterns and levels downstream. The channel will be regraded and vegetated to either side as an exclusion zone to new development and use.

Environmental Significance Overlay Schedule 3 (ESO3)

This Overlay applies only to a corner part of the northern portion of the land, and does not affect any of the proposed development or uses proposed by the present application.

Particular Provisions

Clause 52.45 (Resource Recovery)

Clause 52.45 applies to all proposals for materials recycling (or a transfer station). The stated purpose of this Policy is

To facilitate the establishment and expansion of a Transfer station and/or a Materials recycling facility in appropriate locations with minimal impact on the environment and amenity of the area.

This Clause was not addressed in the initial application. However, it was addressed in detail in the documents forming the amended application. The Clause contains a number of requirements for any application, and includes a number of decision guidelines which are to be considered as applicable. These are set out below together with the Applicant's response:

- ***The contribution of the proposal to achieving resource recovery targets established by the Victorian Government.***

Applicant response: The materials recycling and concrete crushing will contribute to the sustainable reuse of building materials. The tonnage of materials to be recycled and resold per annum will be determined through market demands.

- ***The impact of the proposal on the amenity of the surrounding area.***

Applicant response: The site's location in isolation to sensitive land uses, generous buffers provided to adjoining land use activities and proposed

treatments including earth bund walls and landscaping will minimise any impact on surrounding land uses.

- ***The Towards Zero Waste Strategy (DSE, 2005) and the Metropolitan Waste and Resource Recovery Strategic Plan (Sustainability Victoria, 2009).***

Applicant response: The “Towards Zero Waste Strategy” contains a range of initiatives aimed at minimising the amount of waste generated, identifying opportunities to reuse materials.

The guiding principles of the document focus on avoid, reuse, recycle and recovery of materials.

The Strategy identifies that waste from the construction and demolition industries are one of the highest contributors to waste in Victoria.

This proposal addresses the waste generated through the construction industry by identifying opportunities to reuse, recycle and treat materials from the construction industry, recognising the life cycle of the product. The fundamental principles behind the application involve a broad range of recycling materials, be that the crushing of concrete, the reuse of timber from building demolition sites or the blending of mushroom compost with saw dust to produce a high quality top soil.

- ***Relevant guidelines applicable to the use including the Environmental Guidelines for Composting and Other Organic Recycling Facilities (EPA, 1996), the Guide to Best Practice for Organics Recovery (Sustainability Victoria, 2009) and the Guide to Best Practice at Resource Recovery Centres (Sustainability Victoria, 2009).***

Applicant response: The Guidelines to Best Practice for Organics Recovery provides similar tools for the establishment of Resource Recovery Centres. The proposed mushroom composting has gone through a similar assessment against the guidelines to determine appropriate siting and minimising impacts upon neighbouring land. The technology employed for the mushroom composting is an Open Turned Windrow. Best Practice Management techniques outlined in Table 3.2, page 24 of the Sustainability Victoria report provides the appropriate guidance to the operation and management of the site.

The Guidelines primary focus is on public waste recovery centres where there is greater community interaction. The facility proposed by this application involves a minimal retail component and public interaction ensuring that conflicts between industrial activities and vehicles movements are minimised.

Land use activities will take place in accordance with Sustainability Victoria’s Guide to Best Practice at Resource Recovery Centres. This includes consideration of the natural site condition including topography, hydrology and the site’s susceptibility to flooding through consultation with Melbourne Water and ecology (no remnant native vegetation removal required). Equally, odour, dust, noise and security are relevant and the application’s assessment has considered these potential impacts on local amenity.

Clause 52.06 (Car parking)

Clause 52.06 of the Whittlesea Planning Scheme prescribes the rate and design standards for car parking spaces required on site. Pursuant to this Clause the car parking is required to be provided at the rate of 10% of the site area.

While the site has a total area of over 55.9ha, the car parking calculation has been determined based on the approximate land area occupied by each land use activity. A total of 54 car spaces are shown, as follows:

- Materials Recycling & Recovery (incl. mushroom composting and sales) 30 spaces
- Concrete Crushing (Materials Recovery) 20 spaces
- Caretaker's House (2 to 3 bedroom) 4 spaces

While a detailed design of the car parking has not been completed, the Applicant has stated that:

- The number of defined parking spaces is considered adequate as the uses will have a low long term parking demand.
- Vehicles will typically stop in aisles to load / unload materials.
- There is ample area for overflow parking on the site.

Due to the expansive land area, the opportunity is available for parking, above and beyond the numbers specified in the column 'parking provided', which define only those spaces that will be delineated on ground.

The existing constructed gravel road that leads into the site from the Cooper Street entrance will continue to service the site and provide access through to the caretaker's residence, materials recycling and concrete crushing plant.

COMMENTS ON GROUNDS OF OBJECTION

- 1. Limited information provided with the application relating to matters such as the proposed caretaker's house, recycling activities, traffic impacts, road capacities and environmental impacts. Details regarding the proposed works to the central creek are inadequate.**

The amended application has removed the works proposed within the central creek area (Urban Floodway Zone) and thereby addresses the issue relating to works in the creek area.

Additional information has been provided in relation to the proposal. Accordingly, this ground can no longer be substantiated.

- 2. The proposal is contrary to Clause 52.45 of the Planning Scheme.**

This Clause relates to proposals for materials recycling and includes a range of application requirements and decision guidelines. While the initial application did not address this Clause, the amendment to the application now includes a detailed assessment of the requirements of this Clause.

Accordingly, this ground can no longer be substantiated.

- 3. The proposal is contrary to the purpose of the Special Use Zone 4.**

Under the Special Use Zone Schedule 4, Materials Recycling as a use that can be permitted. The Purpose of Schedule 4 is:

To recognise or provide for the use and development of land for earth and energy resources industry.

To encourage interim use of the land compatible with the use and development of nearby land.

To encourage land management practice and rehabilitation that minimises adverse impact on the use and development of nearby land.

Subject to appropriate land management practices and longer term rehabilitation, the proposal is consistent with the purpose of the Zone. Further considering the surrounding land uses, the proposal is generally compatible with uses/developments of nearby land. Accordingly, this ground can no longer be substantiated.

4. **A caretaker's house would be incompatible with the surrounding activities and would not meet separation requirements for a residential use and would be impacted by uses proposed on the site and by other uses in the broader area.**

Additional information provided by the Applicant sought to further justify the proposed caretaker's house as an integral part of the overall proposal to provide the owner capability to oversee the operation and provide security.

However, the principal issue relates to incompatibility of a residential use with both the activities on the subject site and with existing uses on adjoining sites. On that basis the proposed residential component is considered inappropriate and is not supported.

Proposed conditions in the Officer recommendation include a requirement that this element of the proposal be deleted.

It is considered that this ground of objection is justified, unless the caretaker's house is conditioned out.

5. **The application does not demonstrate that the proposal can be adequately managed in terms of potential impacts such as wastewater, spills, dust and noise emission.**

A requirement for an appropriate site management plan can be required by condition of permit.

6. **The application does not include a site management plan.**

A requirement for an appropriate site management plan can be required by condition of permit.

7. **The potential off-site impacts will affect the proposed subdivision and development along the south side of Cooper Street (Biodiversity Park).**

The proposed uses and works are well within the site, with the site broadening from a frontage of about 170m. There is the capacity to provide landscaping along the frontage. It therefore would not be expected to have a detrimental impact on the future development and uses within the Biodiversity Park estate, located on the south side of Cooper Street.

Accordingly, this ground can no longer be substantiated.

8. **The proposal would prejudice the possible future southerly extension of Vearings Road to Cooper Street.**

The proposed use is contained on the site, with the proposed Vearing Road alignment running alongside (and outside) the eastern side boundary. While there is a limited setback from that side boundary to the proposed works on site, the proposal would not affect the road reserve and the potential for the road to be constructed. Accordingly, this ground cannot be substantiated.

9. **Car Parking is inadequate and there has been no assessment of proposed truck movements into and out of the site.**

Car parking has been assessed by the applicant in the revised information and is considered to be adequate. However, given the large size of the site, the Officer recommendation includes a condition to show potential for overflow parking which can be required in the event that additional car parking on site becomes necessary.

There is not expected to be any issues in relation to truck movements within the site or in entering/exiting the site, however there is a proposed condition that required truck movement to be shown. Any modifications required in that regard would be minor.

Accordingly, this ground can no longer be substantiated.

DECLARATIONS OF CONFLICTS OF INTEREST

Under section 80C of the Local Government Act 1989 officers providing advice to Council must disclose any interests, including the type of interest.

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

CONCLUSION

The proposal has been assessed against the requirements of the Whittlesea Planning Scheme.

It demonstrates a satisfactory level of compliance with most requirements of the Planning Scheme, and subject to the deletion of the proposed caretaker's house and other minor modifications and appropriate conditions it represents an appropriate use of the land in this location. It is considered that the proposal will not have a detrimental impact on the existing character of the area nor on other properties adjoining and nearby. Accordingly approval of the application is recommended.

RECOMMENDATION

THAT Council resolve to approve Planning Application No. 714470 and issue a Notice of Decision to Grant a Permit for the use and development of a materials recycling centre, reduction in the standard car parking requirement together with associated buildings and works in accordance with the endorsed plans and subject to the following conditions:

1. **Prior to the endorsement of the plans required under Condition No. 2, or at such later date as the Responsible Authority may approve in writing, there shall be lodged with the Responsible Authority an amount of \$25,000 as security deposit for the satisfactory completion and maintenance of the landscaping works hereby permitted.**

Upon completion of the landscaping works to the satisfaction of the Responsible Authority, the Responsible Authority will refund the security deposit to the then owner of the subject land.

2. **Before the use and/or development starts, three (3) copies of a revised plan must be submitted to and approved by the Responsible Authority, showing:**
 - (a) **The deletion of the proposed caretaker's house.**
 - (b) **Detail of the 100 year overland flow paths outside the Central Creek area that may be affected by the proposed fill.**
 - (c) **A 600mm freeboard above the 100 year event.**
 - (d) **Details of the access to the compound, including access to and from the existing road network.**
 - (e) **Detailed layout plan of all car parking areas and access.**
 - (f) **Truck swept path diagrams for truck movements throughout the site, including site entries and exits.**
 - (g) **Location of existing vegetation including average heights and species.**

- (h) All existing and proposed earth bunds including heights.
 - (i) All existing and proposed structures including portable structures and whether they are proposed for retention or removal. Plan detail of all buildings proposed or to be retained.
 - (j) An area of the site to be used for overflow car parking or additional car parking to be used in the event that the approved car parking areas become inadequate.
3. Prior to commencement of the use on the site, a Site Management Plan must be submitted to and approved by the Responsible Authority for the area covered by the plan to be submitted under Condition No. 1 of this permit. The Site Management Plan must address the following matters:
- (a) Noise management procedures.
 - (b) Weed management plan.
 - (c) Dust management procedures.
 - (d) Means to prevent or mitigate the emission of any offensive odours beyond the site.
 - (e) Vehicle management including access arrangements, loading and unloading procedures and means to ensure there is no inadvertent transfer of material out of the development area.
 - (f) The items required by Melbourne Water under Condition Nos. 29 to 33 and 35.
4. The use and any development shall at all times comply with the approved Site Management Plan, unless prior written approval has been obtained from the Responsible Authority.
5. All filling on the site must be carried out, supervised, completed and recorded in accordance with Australian Standard AS3798 (Guidelines on earthworks for commercial and residential developments) and the endorsed plans to the satisfaction of the Responsible Authority. The works must be done under periodical Level 2 supervision by a qualified geotechnical engineer.
6. Before the use and/or development starts, a Fire Management Plan must be submitted to and approved by the responsible authority. This must address the following matters:
- (a) Provision of adequate water supply and pressure to be available in accordance with the Australian Standard for Fire Hydrant installation AS2419, with the site coming within the category of 'open yard storage' under that Standard.
 - (b) Demonstrate that the road design and layout provides for heavy fire appliances (minimum 15 tonnes capacity) to gain quick and effective access to all parts of the site.
 - (c) Ensure that combustible materials are adequately separated and accessible to fire appliances.

- (d) Use of fire breaks at or near the perimeter of the site.
 - (e) Management of materials to ensure maximum site efficiency and minimal likelihood of ignition.
 - (f) Management of occasional burning as may be permitted from time to time under Condition 28 of this permit.
7. Before the use and/or development starts, a Weed Management Plan must be submitted to and approved by the responsible authority. This must address the following matters:
- (a) Identification of all weed species present on the site.
 - (b) Details of the control measures proposed to eliminate weed species.
 - (c) Details of timing and weed control measures are to be undertaken.
 - (d) Identification of measures to be used to prevent weed dispersal and re-infestation, and in particular prevent infestation of the Central Creek channel.
 - (f) An outline of how the site will be managed and monitored into the future.
8. No native vegetation shall be destroyed, felled, lopped, ringbarked or uprooted without the consent of the Responsible Authority. All remnant vegetation must be protected by the installation of temporary fencing prior to the commencement of works to the satisfaction of the responsible authority.
9. Before the use and/or development starts, three copies of a detailed landscape plan prepared by a person suitable qualified and experienced in landscape design must be submitted to and approved by the responsible authority. The plans must be drawn to scale with dimensions and show all proposed landscaping including details of any vegetation to be retained, hard landscaping elements, location of all new planting, a plant schedule of plant species (including botanical name, mature height, mature spread, container size, quantities, densities and code) and a maintenance schedule. Species selection is to be to the satisfaction of the responsible authority.
10. The use and/or development allowed by this permit and shown on the plans and/or schedules endorsed to accompany this permit shall not be amended for any reason without the consent of the Responsible Authority.
11. Once the use and/or development has started it must be continued and completed to the satisfaction of the Responsible Authority. Should the use not commence or the use ceases for a period of more than two years, all plant shall be removed from the site at the written direction of the Responsible Authority.
12. Before starting any buildings or works, engineering plans showing a properly prepared design (with computations) for the internal drainage and method of disposal of stormwater from all roofed and sealed areas must be submitted to Council for approval. These internal drainage works must be completed to Council's satisfaction prior to using or occupying any building on the site.
13. All wastewater or contaminated stormwater generated at the premises must be properly managed. All proposed structures shall have free draining outlets for stormwater drainage.
14. Before the use and/or development starts, areas set aside for parked vehicles

and access lanes as shown on the endorsed plan must be:

- (a) Constructed to the satisfaction of the Responsible Authority.
- (b) Properly formed to such levels that they can be used in accordance with the plans.
- (c) Surfaced with crushed rock, gravel, or granitic sand to the satisfaction of the Responsible Authority.
- (d) Drained and maintained to the satisfaction of the Responsible Authority.

Parking areas and access lanes must be kept available for these purposes at all times.

15. Except with the prior written consent of the Responsible Authority, the use may operate only between the hours of:
- | | |
|-------------------|--|
| Monday – Saturday | 6:00am to 6.00pm (all uses). |
| Sunday | 7:00am to 1.00pm (concrete crushing only). |
16. The amenity of the area must not be detrimentally affected by the use or development through the:
- (a) Transport of materials, goods or commodities to and from the land.
 - (b) Appearance of any building, works or materials.
 - (c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.
 - (d) Presence of vermin.
17. A sign to the satisfaction of the Responsible Authority must be provided directing drivers to the area set aside for car parking and must be maintained to the satisfaction of the Responsible Authority. The sign must not exceed 0.3 square metres in area.
18. The loading and unloading of goods from vehicles must at all times be carried out in accordance with the Site Management Plan.
19. All existing vegetation shown on the endorsed plan must be suitably protected, and must not be removed, destroyed or lopped without the written consent of the Responsible Authority.
20. The height of all stockpiled material on the subject site shall not exceed 10m.
21. Adequate provision shall be made for the storage and collection of garbage and other solid wastes within the curtilage of the site. This area shall be properly graded and drained, and screened from public view to the satisfaction of the Responsible Authority.
22. The site shall at all times be kept in a neat and tidy condition to the satisfaction of the Responsible Authority. Any litter shall be immediately removed from the site and surrounding area at the written direction of the Responsible Authority.
23. The permit holder must promptly remove or obliterate any graffiti on the subject site which is visible to the public and keep the site free from graffiti at all times to the satisfaction of the Responsible Authority.

24. During the construction phase, a truck wheel washing facility or similar device must be installed and used to the satisfaction of the Responsible Authority so that vehicles leaving the site do not deposit mud or other materials on roadways. Any mud or other materials deposited on roadways as a result of construction works on the site must be cleaned to the satisfaction of the Responsible Authority within two hours of it being deposited.
25. Noise emitted from the premises must not exceed the noise objectives as set out in State Environment Protection Policy Control of Noise from Commerce, Industry and Trade No. N-1.
26. Prescribed Industrial Wastes (including asbestos) as defined by the Environment Protection (Industrial Waste Resource) Regulations 2009 must not be accepted on site.
27. The general amenity of the surrounding area must be protected from impacts of litter and appropriate control measures should be put in place to manage vermin.
28. No materials shall be burned on-site at any time except where there is prior written notification to the CFA and prior written approval has been obtained from the Responsible Authority.

Melbourne Water Conditions (Numbers 29 – 39)

29. Finished floor levels of any new dwellings or buildings must be constructed a minimum of 600mm above the applicable flood level.
30. Any proposed roads or vehicle parking areas must have finished surface levels no lower than 350mm below the applicable flood level.
31. Prior to any commencement of works, plans showing the locations of any new septic systems and any associated trenches must be approved by Melbourne Water.
32. All proposed batters are to be compacted, stable and grassed after topsoiling.
33. Prior to the commencement of works, a Site Environmental Management Plan (SEMP) must be approved by Melbourne Water. The SEMP must show the location and nature of environmental values identified through site environmental assessments, and include details of measures to protect or mitigate risk to those values. The SEMP must include a site map detailing the location and design of all measures in relation to significant site values including the following:
 - (a) Silt fencing.
 - (b) Access tracks.
 - (c) Spoil stockpiling.
 - (d) Trenching locations.
 - (e) Machinery/Plant locations.
 - (f) Exclusion fencing around native vegetation/habitat.
 - (g) Vehicle wash down bay (to prevent introduction of weeds).
 - (h) Areas subject to dust, noise and/or light control.

(i) Litter control measures.

34. Prior to completion of detail design of the proposed works, the proponent will need to formally apply to Melbourne Water's Asset Services Team to conduct any works on or near a Melbourne water asset (including waterways). Prior to undertaking any works, the proposal must be accepted by Melbourne Water and the contractor must be in receipt of a Melbourne Water Permit to Work. Please contact Melbourne Water's Asset Services Team on telephone 9679 6641 for more information.

A Permit to Work can only be issued subject to the contractor performing Melbourne water's recipient training. Please contact Melbourne Water's Asset Services Team on telephone 9679 6641 (with details of the contractor) to arrange training: providing at least 28 days' notice.

35. Prior to commencement of works, detailed engineering plans (including plans detailing the proposed access crossing) must be approved by Melbourne Water. All works within 20 metres of Central Creek (a designated waterway) will require approval under the Water Act with works to be constructed under Melbourne water surveillance.
36. Prior to the commencement of works separate application, direct to Melbourne water, must be made for any new or modified storm water connection to Melbourne Water's drains or watercourses.
37. Stormwater runoff from the subdivision must achieve State Environmental Protection Policy (Waters of Victoria) objectives for environmental management of stormwater as set out in the 'Urban Stormwater Best Practice Environmental Management Guidelines (CSIRO) 1999'.
38. Local drainage must be to the satisfaction of Council and must not impact on adjoining properties.
39. Pollution and sediment laden runoff shall not be discharged directly or indirectly into Melbourne Water's drains or waterways.

Environment Protection Authority Condition (Number 40)

40. The proponent must apply for and be issued with a Works Approval from the Environment Protection Authority with respect to the construction of the composting facility.
41. In accordance with the Planning and Environment Act 1987, a Permit for the development and use expires if:-
- (a) The approved development does not start within two years of the date of this permit; or
 - (b) The approved development is not completed within four years of the date of this permit; or
 - (c) the approved use is not commenced within two years of the completion of the development.

The Responsible Authority may extend the periods referred to above if a request is made in writing. This request must be made before or within six months after the permit expiry date where the development has not yet started and within 12 months after the permit expiry date where the development allowed by the permit has lawfully started before the permit expires.

Permit Notes:**Melbourne Water**

The property is subject to flooding from a storm event that has a probability of occurrence of 1% in any one year.

If further information is required in relation to Melbourne Water's permit conditions shown above, please contact Melbourne Water on telephone 9679 7517, quoting Melbourne Water's reference 230795.

COUNCIL RESOLUTION

MOVED: *Cr Sinclair*
SECONDED: *Cr Lalios*

The above Recommendation was adopted unchanged as part of an en bloc Resolution Moved by Cr Sinclair, Seconded by Cr Lalios. See Section 6 - Officers' Reports for further information on items adopted en bloc.

CARRIED

6.2 COMMUNITY SERVICES

6.2.1 COMMUNITY ACTIVITY CENTRES - 2015/2016 COMMUNITY REPRESENTATIVES

File No: 177690

Responsible Officer: Director Community Services

Author: Community Development Coordinator

REPORT

SUMMARY

The Community Representatives for the City of Whittlesea Community Activity Centres and Meadowglen International Athletics Stadium, Committee of Management (CoM) have been nominated for 2015/2016. Under the terms of each CoM *Incorporated Association Rules* (the rules), the nominated Community Representatives require Council ratification.

BACKGROUND

As part of each CoM Annual General Meeting (AGM) and member election process, nominations for Community Representatives were advertised in the local paper and residents were invited to apply. Nominations are accepted and moved in a motion at each AGM.

The Community Representative plays a key role in providing a broader community voice to the Committee of Management.

PROPOSAL

That the Community Representatives listed in the table below be ratified by Council. Each CoM Rules include Community Representation clauses; however, the number of representatives across facility CoM's may vary.

Nominated Community Representative	Community Activity Centre	Background
Bev Scott	Riverside Community Activity Centre (RCAC)	Bev has been the RCAC Chairperson for fifteen years. She is a committed and active member of the committee and also involved in many other non-profit community organisations.
Graeme Scott	Riverside Community Activity Centre (RCAC)	Graeme has been a Committee member of the RCAC for fourteen years. He further participates and is involved as a long standing member with many non-profit organisations within the community.
Rhys Kay	Riverside Community Activity Centre (RCAC)	Rhys has been a member of the RCAC Committee previously through her connection with South Morang Playgroup, she would like to stay on the Committee as a Community Representative. She plays an active role on all committees she is involved in.

Carmel Mercovich	Riverside Community Activity Centre (RCAC)	Karen has previously been a member of the RCAC Committee and would like to continue on in her capacity as Community Representative. She is active in her Probus group involvement and in the Riverside CAC.
Peter French	Barry Road Community Activity Centre (BRCAC)	Peter is involved in many community organisations and has thirty years of experience in community volunteering. He has chaired the BRCAC Committee for six years.
Bruce White	Epping Community Activity Centre (ECAC)	Bruce has been a long standing and active Committee member of the ECAC as well as other boards within the community. He has held executive positions throughout these many years.
Pam McLeod	Epping Community Activity Centre (ECAC)	Pam has been a part of the ECAC Committee for many years. She has been an active Committee and Community member for the City of Whittlesea, involved with many different community organisations and initiatives.
Cheryl Duff	Meadowglen International Athletics Stadium (MIAS)	Cheryl has been involved with the MIAS CoM through her dedication and involvement with the athletics club over many years. She is taking on the responsibility of Community Representative for the MIAS CoM as well as the position of secretary.
Pam McLeod	Meadowglen International Athletics Stadium	Pam has served for many years on this CoM supporting and advocating for community sport and recreation opportunities.

CONSULTATION

No consultation was required for this process

FINANCIAL IMPLICATIONS

There are no financial implications

POLICY STRATEGY AND LEGISLATION

Under the Associations Incorporation Reform Act 2012, every incorporated association must have Incorporated Association Rules. The CoM Rules state that the Committee shall consist of City of Whittlesea resident(s) ratified by the Council who take on the position of Community Representatives. Therefore this report and Council’s resolution will address the requirements of such legislation.

LINKS TO THE COUNCIL PLAN

FUTURE DIRECTION	Places and spaces to connect people
Theme	Leisure & recreation
Strategic Objective	Our recreation facilities and open spaces are accessible and respond to local need

The Committee of Management governance structure was established for these centres to encourage community engagement and accessibility. The Community Representatives provide a broad community view for the benefit of each centre.

DECLARATIONS OF CONFLICTS OF INTEREST

Under section 80C of the Local Government Act 1989 officers providing advice to Council must disclose any interests, including the type of interest.

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

CONCLUSION

The Community Representatives for The City of Whittlesea Community Activity Centres and Meadowglen International Athletics Stadium Committee of Management (CoM) have been nominated for 2015/2016. Under the terms of each CoM Incorporated Association Rules (the rules), the nominated Community Representatives require Council ratification.

Many of the Community Representatives have been long standing and active members of the Committees of Management of each centre as well as other community organisations. The Community Representatives play a key role in providing a voice for the broader community relating to each centre, how they are run and operate.

RECOMMENDATION

THAT Council resolve to:

- 1. Ratify the nominated Community Representatives tabled as above for 2015/2016.**
- 2. Notify Community Representatives in writing that their nominations are ratified by Council.**
- 3. Notify the Committees of Management in writing that the nominations of Community Representatives are ratified by Council.**

COUNCIL RESOLUTION

MOVED: *Cr Sinclair*
SECONDED: *Cr Lalios*

The above Recommendation was adopted unchanged as part of an en bloc Resolution Moved by Cr Sinclair, Seconded by Cr Lalios. See Section 6 - Officers' Reports for further information on items adopted en bloc.

CARRIED

6.2.2 CITY OF WHITTLESEA ASYLUM SEEKER POLICY

File No:	193393
Attachments:	1 City of Whittlesea Asylum Seeker Policy
Responsible Officer:	Director Community Services
Author:	Team Leader Cultural Diversity

REPORT**SUMMARY**

This report seeks Council's consideration of action 1.9 listed in Council's Multicultural Action Plan (MAP), the development of a City of Whittlesea policy position regarding asylum seekers.

The Asylum Seeker Policy is consistent with Council's ongoing commitment to providing opportunities for inclusion, access to services, and freedom of expression, social harmony and cultural celebration for all residents. The Asylum Seeker Policy stipulates: *"The City of Whittlesea recognises the inherent dignity of asylum seekers and their right to participate in and contribute to the life of the community; and will assure they have fair and equitable access to Council services"*.

The City of Whittlesea Asylum Seeker working group will be responsible for actioning the policy through the implementation of five key objectives, these are to:

1. Provide accurate information to Council staff, local service providers and the community on the needs of asylum seekers, existing services or referral pathways
2. Ensure that asylum seekers have fair and equitable access to Council services
3. Develop and distribute positive, accurate communications and messaging that reflects Council's commitment to welcome and support asylum seekers
4. Facilitate connections between asylum seekers, the broader community and local services providers
5. Advocate to the Victorian and Commonwealth Government to generate positive outcomes for local asylum seekers.

BACKGROUND

Council has a long and proud history of supporting cultural diversity and has often affirmed its ongoing commitment to the multicultural community it serves. There are many examples of this commitment, from Council's 2001 Access and Equity Strategy to the most recent being Council's adoption of the Multicultural Action Plan 2014-2018, and *Building Respect*, Whittlesea's Anti-Racism Strategy 2015-2019 launched by the Mayor on 1 October 2015.

At its meeting of 5 August 2014, Council resolved to become a signatory to the Local Government Joint Statement in support of asylum seekers living in the community, formally acknowledging that asylum seekers are some of our most vulnerable and disadvantaged members, often going without the services they need, spending prolonged amounts of time in community detention, and facing an uncertain future.

The Joint Statement was supported by 13 Victorian Councils and reaffirms collective support for asylum seekers within the Victorian community as welcomed residents and pledges to continue serving them and treating them with respect, care and understanding.

The Joint Statement

- *As local Councils we respect and value the asylum seekers in our respective municipalities and their democratic right to participate in and contribute to the life of the community*
- *We recognise their human rights, struggle, resilience and determination to secure a safe and secure future for themselves and their families*
- *We commit to welcoming asylum seekers into our community and give them fair access to our services*
- *We strive to protect their health and wellbeing and advocate for their rights to be treated with respect and dignity*
- *We recognise and value their skills, life experiences and contributions to the development and diversity of our cities and communities.*

The exact number of asylum seekers residing in the City of Whittlesea is difficult to ascertain given the Federal Government's reluctance to release accurate data, however in 2014 it was estimated that there were approximately 930 asylum seekers living within the City of Whittlesea.

Council recognises that asylum seekers have been part of Whittlesea's diverse community for many years and are important contributors to Whittlesea's economic and social wellbeing. Council supports and works closely with local agencies that play an important role in providing services to asylum seekers in Whittlesea.

PROPOSAL

This report seeks Council's consideration of the City of Whittlesea Asylum Seeker Policy.

CONSULTATION

A range of community and stakeholder consultations were conducted throughout the development of the policy including groups such as the Whittlesea Multicultural Communities' Council, the asylum seeker community, Whittlesea Community Connections, the Whittlesea Multicultural Issues Network, Life without Barriers, other service providers and Council staff.

FINANCIAL IMPLICATIONS

The objectives outlined within the Policy can be achieved through integration with current Council activities.

POLICY STRATEGY AND LEGISLATION

All proposed documentation is closely linked to:

Shaping Our Future: Whittlesea 2030 Strategic Community Plan

The Community Plan details our community's vision for the City of Whittlesea to the year 2030. It provides direction for the provision of key projects and services which enable us to meet the needs of our community and deliver quality and culturally appropriate services and facilities. It identifies seven Future Directions to achieve this vision. The Asylum Seeker Policy directly supports Future Direction 1 – Inclusive and Engaged Community:

Our City is diverse and that is its strength. People from many countries with different languages, faiths, and customs have made it their home. There are also urban and rural communities. When we are together we learn and grow through

each other's experiences. We build skills and capacity so everyone can fully engage and participate in community life. All voices are heard and decision making takes account of all views. Our inclusive, engaged community is resilient and strong.

LINKS TO THE COUNCIL PLAN

FUTURE DIRECTION	Inclusive & Engaged Community
Theme	Diversity
Strategic Objective	We provide support to new and emerging communities

The documentation will assist Council to meet the objectives of the **Council Plan and Municipal Public Health and Wellbeing Plan 2013-2017:**

Council Goal 1.1 Council will work to build a stronger sense of community within neighbourhoods and across the municipality, and create new opportunities for social networks and civic engagement.

Multicultural Action Plan 2014-2018

Action 1.9 Develop a City of Whittlesea policy position and discussion paper regarding settlement, refugees and asylum seekers.

DECLARATIONS OF CONFLICTS OF INTEREST

Under section 80C of the Local Government Act 1989 officers providing advice to Council must disclose any interests, including the type of interest.

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

CONCLUSION

The Asylum Seeker Policy provides both an operational relevance and a symbolic significance, demonstrating that the City of Whittlesea continues its long history of supporting the multicultural community it serves.

RECOMMENDATION

THAT Council resolve to adopt the City of Whittlesea Asylum Seeker Policy.

COUNCIL RESOLUTION

MOVED: Cr Alessi
SECONDED: Cr Spinelli

THAT Council resolve to adopt the Recommendation.

CARRIED

6.3 FINANCE AND ORGANISATION IMPROVEMENT

6.3.1 COMMITTEE OF COUNCIL RECOMMENDATION - LEASE - CABRINI HEALTH - 30 BRAND DRIVE THOMASTOWN

File No: SU167290

Attachments: 1 Site Plan & Photo

Responsible Officer: Director Finance & Organisation Improvement

Author: Senior Property Officer

REPORT

SUMMARY

To report on the recommendations presented by the elected Committee of Council regarding the proposed lease with Cabrini Health (t/a Chemtronics Biomedical Engineering) for the exclusive use of Council's industrial warehouse located at 30 Brand Drive, Thomastown (see *Attachment 1 – Site Plan & Photo*). The land is located within Council's South East Ward.

The proposal seeks to extend the occupancy presently granted to Cabrini Health, a not for profit health care service, for the purposes of operating a storage, warehouse and distribution centre for healthcare, lifestyle management and biomedical equipment.

The current lease will expire on 31 January 2016.

BACKGROUND

Council, at its meeting held on 6 October 2015, formally resolved to invite public submissions in relation to the proposed lease with Cabrini Health for the exclusive use of Council's industrial warehouse located at 30 Brand Drive, Thomastown.

Cabrini Health has occupied the industrial warehouse under successive lease agreements (since 2011) and proposes that a new agreement be drawn to extend its current tenancy by a further two years and eight months (with two options of three years each). The lease will commence on 1 February 2016.

The site is occupied by Chemtronics, a single operating division of Cabrini Health that specialises in the development and delivery of medical service equipment to the private and public hospital sectors. In addition, health related services are also distributed to many emergency service providers (Ambulance Australia) and the Australian and New Zealand defence network.

PROPOSAL

To seek Council's approval on the proposed lease in consideration of the public submissions received (none) and findings of the Elected Committee of Council (no requirement to meet).

COMMITTEE OF COUNCIL

A Committee of Council, comprising of Cr Alessi, Cr Harris, Cr Kelly and Cr Lalios, was appointed to consider any written submissions received in response to Council's public notice advertised in the Whittlesea Leader newspaper on Tuesday 13 October 2015.

No submissions were received at the close of the advertising period (11 November 2015, 12 noon). A memo was sent to the Committee of Council on Wednesday 11 November 2015, advising that no public submissions were received and the Committee of Council hearing would not be required.

FINANCIAL IMPLICATIONS

Following discussions with Cabrini Health, Council’s Manager Property & Valuation Services has agreed that the annual rental of \$190,000 per annum (plus GST) be applied for the initial term secured under lease. The rent will be reviewed annually to CPI ‘All Melbourne Index’ and to ‘market’ at the commencement date of each of the further terms.

POLICY STRATEGY AND LEGISLATION

Council have sought public submissions on the proposed lease under Section 190 and 223 of the *Local Government Act 1989*. Submissions were invited for a period no less than 28 days and referred on to an appointed Committee of Council for consideration. The appointed Committee have been advised that no submissions were received and were not required to report any findings to Council for its final recommendation.

LINKS TO THE COUNCIL PLAN

FUTURE DIRECTION	Growing our economy
Theme	Economic development
Strategic Objective	Local businesses are supported

The proposal seeks to extend the tenancy granted to Cabrini and ensure that the provision of healthcare, lifestyle management and biomedical equipment is maintained without interruption.

DECLARATIONS OF CONFLICTS OF INTEREST

Under section 80C of the *Local Government Act 1989* officers providing advice to Council must disclose any interests, including the type of interest.

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

CONCLUSION

It is recommended that Council enter into a to lease with Cabrini Health (t/a Chemtronics Biomedical Engineering) for the exclusive use of Council’s industrial warehouse located at 30 Brand Drive, Thomastown. The lease will enable Cabrini to continue its operations as a storage warehouse and distribution centre for healthcare, lifestyle management and biomedical equipment, without interruption to services and will also provide a good return to Council on its investment.

RECOMMENDATION

THAT Council resolve to:

1. Note that public submissions on the proposed lease with Cabrini Health were invited in accordance with Section 223 of the *Local Government Act 1989* and that no submissions were received at the close of the public submission period.
2. Enter into a lease with Cabrini Health for the exclusive use of Council's industrial warehouse located at 30 Brand Drive Thomastown, under the following terms and conditions –
 - a) The Tenant is offered a lease for an initial period of two years and eight months, commencing 1 February 2016, with two further terms of three years each.
 - b) The Tenant pays a lease commencement date rental of \$190,000 per annum (plus GST).
 - c) The rental will be reviewed to CPI '*All Melbourne index*' on the anniversary of the lease commencement date\
 - d) Council will exercise a market review at the expiry of the initial terms and each of the further terms.
3. Authorise the Chief Executive Officer to negotiate all other terms and conditions.

COUNCIL RESOLUTION

MOVED: *Cr Sinclair*
SECONDED: *Cr Lalios*

The above Recommendation was adopted unchanged as part of an en bloc Resolution Moved by Cr Sinclair, Seconded by Cr Lalios. See Section 6 - Officers' Reports for further information on items adopted en bloc.

CARRIED

6.3.2 COMMITTEE OF COUNCIL RECOMMENDATION - LEASE - VICTORIA POLICE - 785 HIGH STREET EPPING

File No: SU167338

Attachments: 1 Site Plan & Photo

Responsible Officer: Director Finance & Organisation Improvement

Author: Senior Property Officer

REPORT**SUMMARY**

To report on the recommendations presented by the elected Committee of Council regarding the proposed lease with Victoria Police for use of the land known as 785 High Street, Epping (see *Attachment 1 – Site Plan & Photo*). The land is in the municipality's South West Ward.

The proposal seeks to extend the occupancy presently granted to the Victoria Police for the purposes of operating a 24 hour police facility.

BACKGROUND

Council, at its meeting held on 27 October 2015, formally resolved to invite public submissions in relation to the proposed lease with Victoria Police for the exclusive use of Council's land located at 785 High Street, Epping.

Victoria Police has occupied the former Council offices under successive lease agreements (since 1994) and proposes that a new agreement be drawn to extend its current tenancy by a further four years (with two options of one additional year each).

The request has been made to ensure that current business operations remain unaffected whilst negotiations are being held to undertake a full office refurbishment to accommodate existing and future staff office requirements.

PROPOSAL

To seek Council's approval on the proposed lease in consideration of the public submissions received (none) and findings of the Elected Committee of Council (no requirement to meet).

COMMITTEE OF COUNCIL

A Committee of Council, comprising of Cr Kozmevski, Cr Pavlidis, Cr Sinclair and Cr Spinelli, was appointed to consider any written submissions received in response to Council's public notice advertised in the Whittlesea Leader newspaper on Wednesday, 4 November 2015.

No submissions were received at the close of the advertising period (3 December 2015, 12 noon). A memo was sent to the Committee of Council on Thursday 3 December 2015, advising that no public submissions were received and the Committee of Council hearing would not be required.

FINANCIAL IMPLICATIONS

Following discussions with representatives of DTZ, Council's Manager Property & Valuation Services has proposed an annual rental of \$200,000 per annum (plus GST) during the first four years of the lease. The rent will be reviewed ('to market') at the commencement date of each of the two further terms.

POLICY STRATEGY AND LEGISLATION

Council must seek public submissions on the proposed lease under Section 190 of the *Local Government Act* 1989. Submissions will be invited for a period no less than 28 days and referred onto an elected Committee of Council for consideration. The appointed Committee will consider and report all findings to Council for its final recommendation at their next available meeting.

LINKS TO THE COUNCIL PLAN

FUTURE DIRECTION	Good Governance
Theme	Growth and change
Strategic Objective	Services and infrastructure keep pace with population growth

The proposal seeks to extend the tenancy of the Victoria Police and offer a greater provision of policing services to Council and the greater community within the Epping area.

DECLARATIONS OF CONFLICTS OF INTEREST

Under section 80C of the Local Government Act 1989 officers providing advice to Council must disclose any interests, including the type of interest.

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

CONCLUSION

It is recommended that Council enter into a to lease for the exclusive use of Council’s former offices located at 785 High Street, Epping, and extend the occupancy presently granted to the Victoria Police for the purposes of operating a 24 hour police facility.

RECOMMENDATION

THAT Council resolve to:

- 1. Note that public submissions on the proposed lease with Victoria Police were invited in accordance with Section 223 of the *Local Government Act* 1989 and that no submissions were received at the close of the public submission period.**
- 2. Enter into a lease with Victoria Police for the exclusive use of Council’s former offices located at 785 High Street, Epping, under the following terms and conditions –**
 - a) The Tenant will be offered a lease for an initial period of four years with two further terms of one year each.**
 - b) The Tenant will pay a lease rental of \$200,000 per annum (plus GST and outgoings) for the each of the first four years of the lease.**
 - c) Council will exercise a market review at the expiry of the initial terms and each of the further terms.**
- 3. All other terms and conditions will be negotiated by the Chief Executive Officer.**

COUNCIL RESOLUTION

MOVED: *Cr Sinclair*
SECONDED: *Cr Lalios*

The above Recommendation was adopted unchanged as part of an en bloc Resolution Moved by Cr Sinclair, Seconded by Cr Lalios. See Section 6 - Officers' Reports for further information on items adopted en bloc.

CARRIED

6.4 INFRASTRUCTURE

6.4.1 DRAFT SUSTAINABILITY FUND PRIORITY STATEMENT

File No: 172036
Responsible Officer: Director Infrastructure
Author: Manager Infrastructure

REPORT

SUMMARY

This report seeks to obtain endorsement of Council's advocacy position on the State Governments draft Sustainability Fund Priority Statement which was released for public consultation on 6 November 2015. The Statement guides the allocation of a portion of the funds collected under the Landfill Levy charged on the deposit of waste into landfills in Victoria.

In 2014/15 financial year Council paid a total of \$3.25 Million in landfill levies for the disposal of waste generated through municipal operations, inclusive of activities such as Council's kerbside collection service, manual litter, street sweeping, and public place litter bin clearance services.

The draft Priority Statement presented for consultation aligns, in broad terms, with the strategic objectives in existing Council strategies. On this basis it is recommended that Council support for the draft Statement while continuing to advocate for the funds received from the State Government's Landfill Levy to be directed into local waste management programs and services that provide a direct benefit to the residents of the City of Whittlesea.

INTRODUCTION

The Sustainability Fund is a perpetual fund that receives money collected from Victorian landfill levies. Its purpose as defined by the *Environmental Protection Act 1970* is to foster:

1. Environmentally sustainable uses of resources and best practices in waste management to advance the social and economic development of Victoria; and/or
2. Community action or innovation in relation to the reduction of greenhouse gas substance emissions or adaptation or adjustment to climate change in Victoria.

The fund is used to support the operation of the Environment Protection Authority, Sustainability Victoria and the seven Victorian Waste and Resource Recovery Groups. The fund is also used to support businesses, local governments and communities through a range of waste management, recycling, resource efficiency and climate change programs.

The State Government has recently released a new draft Sustainability Fund Priority Statement. The new Statement replaces the previous guidelines that were adopted in February 2012. The draft Priority Statement serves as the set of guiding principles that will be used by the government in determining and prioritising the funding of future programs. The State Government is now seeking submissions from interested stakeholders. The closing date for submissions is 20 December 2015.

BACKGROUND

Funding allocations from the Sustainability Fund are made by the Premier and Minister for Environment, Climate Change and Water, taking into account government policy and the investment priorities outlined in the Sustainability Fund Priority Statement.

The draft Priority Statement circulated for stakeholder feedback consists of a series of dot point priorities for each of the two priority area listed within the introduction section of this report.

In relation to issues relating to environmentally sustainable uses of resources and best practices in waste management (dot point 1 in the introduction) the draft Sustainability Fund Priority Statement states that investment will prioritise:

- Making alternatives to landfill more viable and cost competitive through the stimulation, creation and expansion of viable markets for recycled and recovered materials;
- Facilitating a network of best practice waste and resource recovery infrastructure which minimises public health and environmental impacts and maximises resource recovery opportunities;
- Providing equity in access to, and reducing impacts of, waste and resource recovery services on communities; and
- Modernising the management of legacy contamination or pollution.

In relation to issues associated with fostering community action or innovation in relation to the reduction of greenhouse gas (dot point 2) the draft Priority Statement states that investment will prioritise:

- Supporting individuals, communities and industry to transition to a low carbon economy;
- Supporting Victorians to adapt to the impacts of climate change, particularly those most vulnerable and least able to do so; and
- Assisting Victoria's ecosystems and native species to be more resilient to climate change and/or support mitigation outcomes.

The draft Statement also details that for both items investment will be guided by Victorian government policies, including the Victorian Climate Change Adaptation Plan, Energy Efficiency and Productivity Statement, Biodiversity Strategy and other relevant strategies.

PROPOSAL

The Municipal Waste Management & Resource Recovery Strategy 2012-2020 (MWM&RRS 2012-2020), which was formally adopted by Council on 4 September 2012, details Council's strategic direction for the management of waste materials generated within the City of Whittlesea.

The MWM&RRS 2012-2020 provided a set of actions to guide the management of waste based on an assessment of the local community's needs and wants, current environmental and technical trends in municipal waste management, and the economic and social impact of waste disposal and resource recovery practices. The actions and advocacy positions detailed within the strategy relating to the use of the landfill levy include:

- The position that all levy funds collected (both now and into the future) be directed back into local waste management programs for the purpose of improving resource recovery of valuable materials.
- That funds should be used to subsidize programs for the safe and environmentally responsible disposal of problematic hazardous wastes that pose a risk to public health. (e.g. Asbestos products and the like)
- That a specific program be funded to undertake a full feasibility study to be conducted on front end pre-sort resource recovery options at Hanson's Wollert landfill.]

The draft Sustainability Fund Priority Statement circulated for consultation is consistent with these objectives. It details a more focused approach for the acquittal of the funds generated through the charging of the Landfill Levy when compared to its predecessor Statements which were more general in nature and allowed for the funds collected to be spent on any program or issue that had an environmental benefit. The revised statement prescribes the use of the funds on specific waste management related programs. This more focused approach has been advocated by The Metropolitan Local Governments' Waste Forum (the Forum), the local government representative group that was established under legislation to assist the operational function of the Metropolitan Waste and Resource Recovery Group. Council has been an active member of the Forum since its inception, and currently holds the Forum Chair position.

The argument forwarded by the Forum was based on the premise that funds contributed by local government communities through landfill levy charges should be allocated back to fund local environmental initiatives that provide a direct benefit to those communities. While the draft Sustainability Fund Priority Statement does not preclude this outcome, continued advocacy will be required to ensure that this equitable reallocation of funds occurs as part of future grant related programs and initiatives funded through the Sustainability Fund.

CONSULTATION

The Municipal Waste Management and Resource Recovery Strategy (MWM&RRS) was developed to align with the goals and priorities expressed by our community as part of Council's Environmental Sustainability Strategy consultation process.

CRITICAL DATES

The closing date for submissions in relation to the draft Sustainability Fund Priority Statement is 20 December 2015.

FINANCIAL IMPLICATIONS

In the 2014/15 financial year Council paid a total of \$3.25 Million in landfill levies as part of the disposal of waste generated through municipal operations, inclusive of activities such as Council's kerbside collection service, manual litter, street sweeping, and public place litter bin clearance services.

In 2014/15 Council was successful in receiving grant funding in the order of \$327,000 from the Sustainability Fund for the implementation of a variety of locally focused waste related programs. Prior to this Council was generally underrepresented in funding allocations under Sustainability Fund grant programs receiving amounts in the order of \$20,000 in any given funding year for the implementation of small scale waste related initiatives.

POLICY STRATEGY AND LEGISLATION

The MWM&RRS (2012-2020) has been developed within the context of relevant legislation, policies and strategies at a national, state, regional and local level. These include:

- The *Product Stewardship Act 2011* which came into effect on 8 August 2011. This legislation provides the framework to effectively manage the environmental, health and safety impacts of products, and in particular, those impacts associated with the disposal of products.
- The *Environment Protection Act 1970* is the primary legislation dealing with waste management within Victoria. The Act establishes and defines the powers, duties and functions of statutory authorities involved in municipal waste management and resource recovery.
- The *National Waste Policy: Less Waste, More Resources* which defines the national framework for resource recovery and waste management to 2020. The policy seeks to reduce the amount of waste for disposal to landfill and manage waste as a resource to deliver economic, environmental and social benefits.

LINKS TO THE COUNCIL PLAN

FUTURE DIRECTION	Living Sustainably
Theme	Environmental sustainability
Strategic Objective	We are an environmentally sustainable City

The State Governments new draft Sustainability Fund Priority Statement provides Council with an opportunity to obtain grant funding to facilitate the implementation of waste management and resource recovery programs and services. The programs and services provide community members increased opportunities to dispose of waste materials in an environmentally sustainable way.

DECLARATIONS OF CONFLICTS OF INTEREST

Under section 80C of the Local Government Act 1989 officers providing advice to Council must disclose any interests, including the type of interest.

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

CONCLUSION

The State Governments new draft Sustainability Fund Priority Statement aligns with Council’s adopted position on the use of landfill levy funds. Council contributed a total of \$3.25 Million to the fund in 2014/15 through landfill levy charges apportioned to the disposal of municipally generated waste. There is an equity argument to suggest that the funds contributed by Whittlesea’s community through landfill levy charges should be allocated back to local environmental initiatives that provide a direct benefit to community via Sustainability Fund grant program allocations. Continued advocacy to State Government and their associated agencies serves as a practical course of action to ensure that this equitable reallocation of funds occurs.

RECOMMENDATION

THAT Council resolve to:

1. Provide a written submission to the State Governments Sustainability Fund Priority Statement review process supporting the draft Statement circulated for stakeholder consultation;
2. Continue to advocate to the Premier, the Minister for Environment, Climate Change and Water and the relevant Stage Agencies for the allocation of funds collected under the State Governments Landfill Levy to be directed into local waste management programs and services that provide a direct benefit to the residents of the City of Whittlesea.

COUNCIL RESOLUTION

MOVED: *Cr Alessi*
SECONDED: *Cr Spinelli*

THAT Council resolve to:

1. Provide a written submission to the State Governments Sustainability Fund Priority Statement review process supporting the draft Statement circulated for stakeholder consultation;
2. Continue to advocate to the Premier, the Minister for Environment, Climate Change and Water and the relevant Stage Agencies for the allocation of funds collected under the State Governments Landfill Levy to be directed into local sustainable waste management programs and services that provide a direct benefit to the residents of the City of Whittlesea.

CARRIED

6.5 GOVERNANCE AND ECONOMIC DEVELOPMENT

6.5.1 ASSEMBLIES OF COUNCILLORS - 8 DECEMBER 2015

File No: 188199

Responsible Officer: Acting Director Governance & Economic Development

Author: Governance Officer

REPORT

SUMMARY

To report to Council the records of Assemblies of Councillors in accordance with Section 80A(2) of the Local Government Act.

BACKGROUND

The Local Government Act 1989 requires records of Assemblies of Councillors to be reported to an ordinary Council meeting and recorded in the minutes of that meeting.

A meeting is an assembly of Councillors if it considers matters that are likely to be the subject of a Council decision or the exercise of a Council delegation and the meeting is:

- A planned or scheduled meeting that includes at least half the Councillors and a member of Council staff; or
- An advisory committee of Council where one or more Councillors are present.

A record must be kept of an assembly of Councillors which lists the Councillors and members of Council staff attending, the matters discussed, disclosures of conflict of interest and whether a Councillor left the meeting after making a disclosure.

PROPOSAL

Assemblies of Councillors records not previously reported to Council are detailed in the following table:-

Assembly Details	Councillor attendees	Officer attendees	Matters discussed
Arts, Cultural and Sporting Grants Program for Young People Advisory Committee 22 October 2015	Cr Kelly (Deputy Mayor) Cr Kozmevski Cr Pavlidis Cr Sinclair Cr Spinelli	DGED-A	The Advisory Committee made a recommendation to the delegate regarding the following application via a virtual meeting: 1. Frank De Cata – Sporting Application – Interstate <i>Nil disclosures</i>
Council Forum 10 November 2015	Cr Kozmevski (Mayor) Cr Kelly (Deputy Mayor) Cr Alessi Cr Griffin Cr Harris Cr Lalios Cr Pavlidis Cr Sinclair Cr Stow	CEO DAC DCS DFOI-A DGED-A DI DPMP EAPC FEC MASP MCCD	1. Events Approval Project 2. Asylum Seeker Draft Policy 3. Service Planning and Review Project – Building Permits Service Review and Services List <i>Nil disclosures</i>

Assembly Details	Councillor attendees	Officer attendees	Matters discussed
		MOI MPC TLCD	
Arts, Cultural and Sporting Grants Program for Young People Advisory Committee 11 November 2015	Cr Kozmevski (Mayor) Cr Kelly (Deputy Mayor) Cr Pavlidis Cr Sinclair Cr Spinelli Cr Stow	DGED - A	The Advisory Committee made a recommendation to the delegate regarding the following application via a virtual meeting: 1. Zane Saavedra – Sporting Application – Interstate <i>Nil disclosures</i>

The table below represents an Index of Officer titles:

Initials	Title of Officer	Initials	Title of Officer
CEO	Chief Executive Officer – David Turnbull	FEC	Festivals and Events Coordinator – Julie McBride
DAC	Director Advocacy & Communications – Griff Davis	MASP	Multicultural Aboriginal Strategic Planner – Ross Barnett
DCS	Director Community Services – Russell Hopkins	TLCD	Team Leader Cultural Diversity – Benjamin Waterhouse
DFOI - A	Acting Director Finance & Organisation Improvement – Gino Mitrione	MCCD	Manager Community Cultural Development – Catherine Rinaudo
DGED – A	Acting Director Governance & Economic Development – Duncan Kelly	MOI	Manager Organisation Improvement – Brad Wynter
DGED – A	Acting Director Governance & Economic Development – Michael Tonta	MPC	Manager People & Culture – Sam Dureau
DI	Director Infrastructure– Nick Mann	EAPC	Events Approvals Project Coordinator – Kelly Shirreff
DPMP	Director Planning & Major Projects – Steve O'Brien		

CONSULTATION

Consultation has taken place with internal Council Officer representatives of each of the meetings and committees that qualify as an Assembly of Councillors.

FINANCIAL IMPLICATIONS

There are no financial implications as a result of this report.

POLICY STRATEGY AND LEGISLATION

Section 3C(2)(g) of the Local Government Act 1989 provides that one of Council’s facilitating objectives is to have regard to ensuring transparency and accountability in Council decision making.

Accordingly, section 80A of the Local Government Act 1989 requires that the Chief Executive Officer must ensure that the written record of an assembly of Councillors is, as soon as practicable:-

- (a) reported at an ordinary meeting of the Council; and
- (b) incorporated in the minutes of that Council meeting.

LINKS TO THE COUNCIL PLAN

Future Direction Good Governance

Theme Continuous improvement
Strategic Objective Best practice models of operation are adopted by Council
Council Goal Council adopts best practice models of operation

The provision of this report is in line with the Future Direction 7 – Good Governance of Council’s Community Plan by ensuring Council adopts best practice models of operation.

DECLARATIONS OF CONFLICTS OF INTEREST

Under section 80C of the Local Government Act 1989 officers providing advice to Council must disclose any interests, including the type of interest.

The Responsible 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.

CONCLUSION

That Council note the record of the Assemblies of Councillors meetings in the table set out in the report.

RECOMMENDATION

THAT Council note the record of the Assemblies of Councillors meetings in the table set out in the report.

COUNCIL RESOLUTION

MOVED: Cr Sinclair
SECONDED: Cr Laliou

The above Recommendation was adopted unchanged as part of an en bloc Resolution Moved by Cr Sinclair, Seconded by Cr Laliou. See Section 6 - Officers' Reports for further information on items adopted en bloc.

CARRIED

6.5.2 ADOPTION OF REVIEWED COUNCIL PLAN

File No:	192146
Attachments:	1 Reviewed Action Plan for Year 3 of the 2013-2017 Council Plan
Responsible Officer:	Acting Director Governance & Economic Development
Author:	Manager Economic Development and Organisation Planning

REPORT**SUMMARY**

The revised Action Plan for Year 3 of the 2013-2017 Council Plan has met the statutory requirements for exhibition and now requires Council endorsement before being submitted to the Minister for Local Government. This was amended from the previously adopted Action Plan after review of funding and resourcing and best practice planning

PROPOSAL

Further to Council resolution of 6 October 2015 to adopt a draft reviewed Action Plan for Year 3 of the 2013-2017 Council Plan(see Attachment 1)., this has proceeded to public exhibition and received no submissions so can now proceed for adoption and presentation to the Minister for Local Government.

In year three of the four year Council Plan, Council will deliver 35 actions across the seven future directions. For many of these, Council will directly undertake work to support a strategic objective. For others, Council will advocate for works on behalf of the community or act as a facilitator to support the work of others.

Priorities include development of a Community Building Strategy, Advocacy Strategy and an Economic Development Strategy; implementation of the Intelligent Cities Strategy and the ICT Strategy; design and construction of several capital works projects, and continuing improvements with financial sustainability and risk management.

CONSULTATION

This financial year all internal staff with delivery responsibilities for Council Plan actions have been involved in the performance reporting and action review. In conjunction with the statutory requirement for the public exhibition of these documents and through many consultation activities conducted over recent months on projects listed within the reviewed Plan, the community has had opportunities to provide feedback on the status of both the Council Plan and SRP.

Consultation has been conducted with Council and relevant Council departments as necessary during the formulation of the 2015-16 Budget.

No public submissions have been received in relation to the reviewed Action Plan for Year 3 of the 2013-2017 Council Plan or the Strategic Resource Plan 2015–2019.

CRITICAL DATES

The original review of the Council Plan was presented to the Minister for Local Government by 30 June 2015. This review must also be adopted by Council and then presented to the Minister.

FINANCIAL IMPLICATIONS

The financial implications for the substantive changes to the Council Plan have been taken into account in the review of the Council Plan, and the SRP adjusted accordingly.

POLICY STRATEGY AND LEGISLATION

Sections 125 and 126 of the Local Government Act, Section 49 of the Public Health and Wellbeing Act and the Local Government (Finance and Reporting) Regulations 2014.

LINKS TO THE COUNCIL PLAN

FUTURE DIRECTION	Good Governance
Theme	Resource Management
Strategic Objective	Council is financially sustainable for the long term

DECLARATIONS OF CONFLICTS OF INTEREST

Under section 80C of the Local Government Act 1989 officers providing advice to Council must disclose any interests, including the type of interest.

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

CONCLUSION

The reviewed action plan for Year 3 of the 2013-2017 Council Plan has been open for consultation, received no submissions and is now recommended to proceed to adoption and submission to the Minister.

RECOMMENDATION

THAT Council resolve to adopt the reviewed Action Plan for Year 3 actions of the 2013-2017 Council Plan, as an addendum to the Council Plan.

COUNCIL RESOLUTION

MOVED: *Cr Sinclair*
SECONDED: *Cr Laliou*

The above Recommendation was adopted unchanged as part of an en bloc Resolution Moved by Cr Sinclair, Seconded by Cr Laliou. See Section 6 - Officers' Reports for further information on items adopted en bloc.

CARRIED

6.6 ADVOCACY AND COMMUNICATION

NIL REPORTS

6.7 EXECUTIVE SERVICES

NIL REPORTS

7. NOTICES OF MOTION

7.1 NOTICE OF MOTION 811 - NAMING OF PARK OR RESERVE IN SOUTH MORANG AFTER LINDSAY WILLIAMSON

File No: 811

Author: Cr Christine Stow

To All Councillors

Please TAKE NOTICE that it is my intention to move at the Ordinary Meeting of Council to be held on Tuesday 8 December 2015 at 6.30pm:

RECOMMENDATION

THAT Council resolve to identify a park or reserve in the South Morang area to be named after the recently deceased Lindsay Williamson, a resident of South Morang and first Captain of South Morang Fire Brigade.

COUNCIL RESOLUTION

MOVED: Cr Stow
SECONDED: Cr Lalios

THAT Council resolve to identify a park or reserve in the South Morang area to be named after the recently deceased Lindsay Williamson, a resident of South Morang and first Captain of South Morang Fire Brigade in line with the upcoming policy of naming of reserves & parks to be presented at a future Council meeting.

CARRIED

8. QUESTIONS TO OFFICERS

NIL

9. URGENT BUSINESS

NIL

10. REPORTS FROM DELEGATES APPOINTED TO COUNCIL BY OTHER BODIES

10.1 YARRA PLENTY REGIONAL LIBRARY BOARD MEETING

Cr Sam Alessi provided an overview of the Yarra Plenty Regional Library Board Meeting and provided the following updates:

- Last Board meeting of current CEO (Christine Mackenzie)
- Update of apportionment of State Government allocation
- Statistics used by Government for allocation of funds
- Sub-committee for employment of CEO – shortlisted, decision on candidates for interview will be made tomorrow

COUNCIL RESOLUTION

MOVED: *Cr Spinelli*
SECONDED: *Cr Sinclair*

THAT Council resolve to note the Delegate's report.

CARRIED

10.2 42ND ANNUAL GENERAL MEETING OF WHITTLESEA COMMUNITY CONNECTIONS

Cr Sam Alessi provided an overview of a recent meeting of the 42ND Annual General Meeting of Whittlesea Community Connections and provided the following updates:

- Well attended meeting – many community organisations in attendance, from within the municipality and outside.
- Annual Report of Whittlesea Community Connections was provided – highlights the myriad of services this organisation provides for all residents of COW but more importantly the under privileged members of COW
- Guest speaker – Tony Nicholson – CEO of Brotherhood of St Laurence / Commissioner for Family Violence

COUNCIL RESOLUTION

MOVED: *Cr Sinclair*
SECONDED: *Cr Spinelli*

THAT Council resolve to note the Delegate's report.

CARRIED

11. QUESTIONS TO COUNCILLORS

The answers provided verbally by the Mayor at the meeting in response to questions asked by members of the public are preliminary answers provided on a without prejudice basis. A formal written response to each question is sent following the Council meeting which contains Council official position on the matter.

11.1 MERNDA RAIL**TREVOR CARROLL**

1. Does Council know that Public Transport Victoria does not intend to consult directly with the Whittlesea Disability Network over the design and accessibility features of the Mernda Rail station locations options proposed for Marymede and Hawkstowe and what steps will Council take to ensure that this direct consultation will take place?
2. What does Council intend to do to ensure that the design and construction of the proposed rail stations at Marymede and Hawkstowe as the Mernda Rail project include ramp access for people with disabilities to avoid the access problems prevalent at Epping and South Morang stations where there is no ramp access and the lifts suffer mechanical breakdown?
3. What does Council intend to do to ensure that a representative from the Whittlesea Disability Network will sit on the Consumer Reference Group for the Mernda Rail Extension chaired by MPs Lily D'Ambrosio and Danielle Green?

THE MAYOR CR STEVAN KOZMEVSKI

The Mernda Rail extension is a State Government project.

Council is aware that Public Transport Victoria has carried out a public consultation process seeking comments and feedback from the community on the Mernda Rail extension. This has included several public consultation sessions held at numerous locations throughout the municipality, as well as online surveys.

It is Council's understanding that further public consultation will be carried out in the first half of 2016 with respect to the design of the stations, including disability access requirements.

Regarding design and accessibility of the stations, PTV has indicated that these matters will be included as part of the project. Council has also adopted a set of design guidelines which outlines the importance of disability access and we will be advocating to the State Government accordingly.

Council has informed PTV of the difficulties encountered at the Epping and South Morang stations regarding access for people with disabilities and has requested that this be considered in the approach to DDA compliance

With regards to representation on the Mernda Rail Extension Community Reference Group, this is a Ministerial led group and Council has no say in its composition. However, Council as a member of the group will advocate on the importance of providing appropriate access for people with disabilities.

Council also recommends that a formal request from the WDN is forwarded to PTV for appropriate investigation and consideration.

And finally, Council values the important work that the Whittlesea Disability Network carries out across our municipality. A council officer will be in touch with Mr Carroll to establish a contact within State Government that WDN can directly talk to as this significant infrastructure project is carried out.

12. CONFIDENTIAL BUSINESS

12.1 PLANNING AND MAJOR PROJECTS

12.1.1 PROVISION OF ARCHITECTURAL SERVICES FOR ALTERATIONS & ADDITIONS TO WHITTLESEA CAC CONTRACT CT070837 - CONTRACT FINALISATION REPORT

12.1.2 DESIGN AND CONSTRUCTION OF THE ANIMAL WELFARE FACILITY CONTRACT 2015-11 - TENDER EVALUATION REPORT

12.1.3 UPGRADE OF CIVIC CENTRE HEATING, VENTILLATION AND AIR CONDITIONING (HVAC) SYSTEM AND ASSOCIATED OFFICE REFURBISHMENT - BUSINESS CASE

12.2 COMMUNITY SERVICES

NIL REPORTS

12.3 FINANCE AND ORGANISATION IMPROVEMENT

12.3.1 SERVICE PLANNING AND REVIEW PROJECT – BUILDING PERMITS SERVICE REVIEW

12.4 INFRASTRUCTURE

12.4.1 INSTALLATION OF PEDESTRIAN OPERATED SIGNALS - BRIDGE INN ROAD, MERNDA - CONTRACT NUMBER 2015- 90 - TENDER EVALUATION

12.4.2 PROVISION OF MAINTENANCE SERVICES TO AUTOMATIC GLASS DOORS - CONTRACT NO. CT091067 - CONTRACT FINALISATION

12.4.3 PROVISION OF FLOOR COVERING SERVICES - CONTRACT NO. SR091010B - CONTRACT FINALISATION

12.5 GOVERNANCE AND ECONOMIC DEVELOPMENT

12.5.1 CONTRACT CT101183 - PROVISION OF ANIMAL COLLECTION SERVICE - FINALISATION REPORT

12.5.2 ANIMAL WELFARE FACILITY - ENDORSEMENT OF SHARED SERVICES

12.6 ADVOCACY AND COMMUNICATION

NIL REPORTS

12.7 EXECUTIVE SERVICES

12.7.1 MEETINGS OF THE CHIEF EXECUTIVE OFFICER - 9 NOVEMBER TO 27 NOVEMBER 2015

RECOMMENDATION

THAT Council resolve to close the meeting to members of the public for the purpose of considering details relating to the confidential matters above in accordance with Section 89(2) of the Local Government Act 1989 as follows:

12.1.1 PROVISION OF ARCHITECTURAL SERVICES FOR ALTERATIONS & ADDITIONS TO WHITTLESEA CAC CONTRACT CT070837 - CONTRACT FINALISATION REPORT

Confidential in accordance with Section 89(2)(d) of the Local Government Act 1989.

12.1.2 DESIGN AND CONSTRUCTION OF THE ANIMAL WELFARE FACILITY CONTRACT 2015-11 - TENDER EVALUATION REPORT

Confidential in accordance with Section 89(2)(d) of the Local Government Act 1989.

12.1.3 UPGRADE OF CIVIC CENTRE HEATING, VENTILLATION AND AIR CONDITIONING (HVAC) SYSTEM AND ASSOCIATED OFFICE REFURBISHMENT - BUSINESS CASE

Confidential in accordance with Section 89(2)(d) of the Local Government Act 1989.

12.4.1 INSTALLATION OF PEDESTRIAN OPERATED SIGNALS - BRIDGE INN ROAD, MERNDA - CONTRACT NUMBER 2015- 90 - TENDER EVALUATION

Confidential in accordance with Section 89(2)(d) of the Local Government Act 1989.

12.4.2 PROVISION OF MAINTENANCE SERVICES TO AUTOMATIC GLASS DOORS - CONTRACT NO. CT091067 - CONTRACT FINALISATION

Confidential in accordance with Section 89(2)(d) of the Local Government Act 1989.

12.4.3 PROVISION OF FLOOR COVERING SERVICES - CONTRACT NO. SR091010B - CONTRACT FINALISATION

Confidential in accordance with Section 89(2)(d) of the Local Government Act 1989.

12.5.1 CONTRACT CT101183 - PROVISION OF ANIMAL COLLECTION SERVICE - FINALISATION REPORT

Confidential in accordance with Section 89(2)(d) of the Local Government Act 1989.

12.5.2 ANIMAL WELFARE FACILITY - ENDORSEMENT OF SHARED SERVICES

Confidential in accordance with Section 89(2)(e) of the Local Government Act 1989.

12.7.1 MEETINGS OF THE CHIEF EXECUTIVE OFFICER - 9 NOVEMBER TO 27 NOVEMBER 2015

Confidential in accordance with Section 89(2)(h) of the Local Government Act 1989.

ACCORDINGLY, THE MEETING WAS CLOSED TO THE PUBLIC AT 7.18PM.

THE MEETING WAS RE-OPENED TO THE PUBLIC AT 7.26PM.

13. CLOSURE

THERE BEING NO FURTHER BUSINESS THE MAYOR DECLARED THE MEETING CLOSED AT 7.26PM.

CONFIRMED THIS 2ND DAY OF FEBRUARY 2015.

CR STEVAN KOZMEVSKI
MAYOR