



City of
Whittlesea

MINUTES

OF ORDINARY COUNCIL MEETING

HELD ON

TUESDAY 26 APRIL 2016

AT 6:31PM

**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

MICHAEL WOOTTEN

CHIEF EXECUTIVE OFFICER

NEVILLE KURTH

ACTING DIRECTOR COMMUNITY SERVICES

STEVE O'BRIEN

DIRECTOR PLANNING AND MAJOR PROJECTS

NICK MANN

DIRECTOR CITY TRANSPORT & PRESENTATION

MICHAEL TONTA

ACTING DIRECTOR CORPORATE SERVICES

MARY AGOSTINO

ACTING DIRECTOR PARTNERSHIPS &
ENGAGEMENT

ANGELO MAMATIS

TEAM LEADER GOVERNANCE

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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 6:31PM.

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 PRESENT

Members:

Cr Stevan Kozmevski	Mayor (South West Ward)
Cr Kris Pavlidis	Councillor (South West Ward)
Cr Darryl Sinclair	Councillor (South West Ward)
Cr Norm Kelly	Deputy Mayor (South East Ward)
Cr Sam Alessi	Councillor (South East Ward)
Cr Mary Lalios	Councillor (South East Ward)
Cr Ricky Kirkham	Councillor (North Ward)
Cr Rex Griffin	Councillor (North Ward)
Cr Christine Stow	Councillor (North Ward)

Officers:

Mr Michael Wootten	Chief Executive Officer
Mr Steve O'Brien	Director Planning and Major Projects
Mr Neville Kurth	Acting Director Community Services
Mr Nick Mann	Director City Transport & Presentation
Mr Michael Tonta	Acting Director Corporate Services
Ms Mary Agostino	Acting Director Partnerships & Engagement
Mr Angelo Mamatis	Team Leader Governance

2. APOLOGIES

APOLOGY

Apologies were received on behalf of Cr Ken Harris and Cr Adrian Spinelli who requested that leave be granted for this meeting.

COUNCIL RESOLUTION

MOVED: *Cr Kelly*
SECONDED: *Cr Lalios*

THAT the Councillors' apologies be received and leave be granted.

CARRIED

3. DECLARATIONS OF INTEREST

THE FOLLOWING DECLARATIONS OF INTEREST WERE MADE TO THE CHIEF EXECUTIVE OFFICER PRIOR TO THE MEETING:

Cr Lalios declared an indirect financial interest in Item 6.1.9 Whittlesea Planning Scheme Amendment C175 – Rezoning Mernda Township.

4. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

COUNCIL RESOLUTION

MOVED: *Cr Lalios*

SECONDED: *Cr Kelly*

THAT the following Minutes of the preceding meetings as circulated, be confirmed:

Ordinary Meeting of Council held 5 April 2016; and

Adjourned Meeting of Council held 12 April 2016.

CARRIED

5. CONSIDERATION AND ACTION ON PETITIONS AND JOINT LETTERS

5.1 PETITIONS

5.1.1 PETITION - SPRING STREET HALL, THOMASTOWN

File No: PPR119424

Cr Pavlidis tabled a petition from 56 members of the Lalor Thomastown Combined Pensioners Assoc. Inc. requesting Council install a door to separate the general body of the hall from the new toilet area at the Spring Street Hall, Thomastown.

COUNCIL RESOLUTION

MOVED: Cr Pavlidis

SECONDED: Cr Sinclair

THAT Council resolve to receive the petition requesting Council install a door to separate the general body of the hall from the new toilet area at the Spring Street Hall, Thomastown and a report be prepared.

CARRIED

5.1.2 PETITION - OBJECTION TO THE PLENTY VALLEY TOWN CENTRE - DRAFT STRUCTURE PLAN PROPOSAL TO UPGRADE PEYTON DRIVE, MILL PARK FROM A LOCAL ROAD TO A COLLECTOR ROAD

File No: 193260

Cr Lalios tabled a petition from 46 residents and 1 non-resident objecting to the Plenty Valley Town Centre – Draft Structure Plan proposal to upgrade Peyton Drive, Mill Park from a Local Road to a Collector Road.

COUNCIL RESOLUTION

MOVED: Cr Lalios

SECONDED: Cr Kelly

THAT Council resolve to receive the petition objecting to the Plenty Valley Town Centre – Draft Structure Plan proposal to upgrade Peyton Drive, Mill Park from a Local Road to a Collector Road and that this petition be considered in the Council Report on the Plenty Valley Town Centre – Draft Structure Plan and a meeting be scheduled with petitioners.

CARRIED

5.1.3 PETITION - REQUEST TO INSTALL TRAFFIC INHIBITORS IN JORGENSEN AVENUE, DOREEN, BETWEEN TUCKER STREET AND WERTHER WAY

File No: 141889

Cr Griffin tabled a petition from 28 residents requesting Council install traffic inhibitors in Jorgensen Avenue, Doreen, between Tucker Street and Werther Way.

COUNCIL RESOLUTION

MOVED: *Cr Griffin*

SECONDED: *Cr Stow*

THAT Council resolve to receive the petition requesting Council install traffic inhibitors in Jorgensen Avenue, Doreen, between Tucker Street and Werther Way and a report be prepared.

CARRIED

5.2 JOINT LETTERS

NIL REPORTS

6. OFFICERS' REPORTS

COUNCIL RESOLUTION

MOVED: Cr Sinclair
SECONDED: Cr Kirkham

THAT Council resolve to adopt the Recommendations for items numbers 6.1.1, 6.1.2, 6.1.4, 6.1.5, 6.1.10, 6.3.2, 6.4.1, 6.4.2, 6.4.3 and 6.4.4 .

CARRIED

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 7 QUEEN STREET, LALOR - CONSTRUCTION OF THREE DWELLINGS**

File No:	715355
Attachments:	1 Locality Maps 2 Development Plans
Responsible Officer:	Director Planning & Major Projects
Author:	Planning Officer EAP
APPLICANT:	MS Designer Living Pty Ltd
COUNCIL POLICY:	Housing Diversity Strategy
ZONING:	General Residential Zone
OVERLAY:	Development Contributions Plan Overlay (Schedule 3)
REFERRAL:	Nil
OBJECTIONS:	Nil
RECOMMENDATION:	That Council refuse the application

REPORT

EXECUTIVE SUMMARY

The applicant proposes to demolish the existing dwelling and construct three double storey dwellings. Two new vehicle crossings are being proposed to facilitate the development. Although not clearly shown on the plans, Dwelling No. 1 will be serviced by a single crossing along the northern boundary and Dwelling Nos. 2 and 3 will be serviced by separate single crossings along the western boundary. The existing crossing located along the western boundary is to be reinstated to kerb and channel.

Advertising of the proposal resulted in no objections being received.

The proposal fails to meet many of the standards of Clause 55 of the Whittlesea Planning Scheme including neighbourhood character, residential policy, integration with the street, energy efficiency, landscaping, access, overlooking, private open space, front fences and site services.

The Housing Diversity Strategy (HDS) nominates this site as being within the Suburban Residential Change Area. The proposal does not meet the preferred density for this Change Area.

Council officers have provided the applicant with an option to reduce the number of dwellings from three to two. The applicant however has advised Council officers that they wish to proceed with the current application.

On the basis of the non-compliances with Clause 55 and the HDS, it is recommended that Council refuse the application.

SITE AND SURROUNDING AREA

The subject site is a residential property located on the southwest corner of Queen Street and Raimeno Street, approximately 390m west of Dalton Road, Lalor (see *Attachment 1*). The site is generally rectangular in form and provides a frontage to Queen Street of 14.5m, a length of 27.4m (Raimeno Street) and depth of 30.5m, giving a total site area of approximately 529m². The site is relatively flat and contains a detached single storey brick dwelling with a tiled hipped roof. There is no vegetation of significance contained within the site.

The surrounding area is generally characterised by single storey dwellings. The adjoining properties to the south and east are single storey and constructed in brick. Examples of medium density development located within the immediate vicinity are at 29 Edmondson Street, 1, 2, 17 and 25 Burton Street and 5 Queen Street.

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

- Bus route 559 - Thomastown via Darebin Drive, along Burton Street (95m north).
- Lalor Recreation Reserve (180m northwest).
- Lalor Primary school (220m south).
- Lalor Secondary College (350m southeast).
- Bus route 556 – Epping to Northland, along Dalton Road (390m east).
- Lalor Secondary College (650m south).
- Lalor Railway Station (880m west).
- Lalor Shops (980m southwest).

RESTRICTIONS AND EASEMENTS

The Certificate of Title for the property shows that the site is not affected by any encumbrances or restrictions. There is a 2.5m wide sewerage and drainage easement that runs along the property's western (rear) boundary. A garage is to be constructed over this easement. The Yarra Valley Water build over easement response indicates that the application as proposed does not comply with the build over conditions and cannot proceed unless the plans are amended or works undertaken to relocate or protect Yarra Valley Water assets.

PROPOSAL

It is proposed to construct three double storey dwellings (see *Attachment 2*).

Dwelling No. 1 will have street frontage to Queen Street and contains a porch, entry, open plan kitchen/meals/living area, a laundry and powder room at ground level. At first floor level, the dwelling contains two bedrooms and a bathroom.

Dwelling Nos. 2 and 3 will have street frontage to Raimeno Street and contain a similar floor layout. At ground level the dwellings will comprise a porch, an open study, open plan kitchen/meals/living area, laundry and a powder room and at first floor level, two bedrooms and a bathroom.

A single space garage is provided to each dwelling. Access to Dwelling No. 1 will be via a new single crossover along Queen Street. Dwelling Nos. 2 and 3 will be provided with vehicle access via two new separate single crossovers along Raimeno Street. The existing crossover along Raimeno Street is to be removed.

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	Double storey	2	7.6m north (front), 0m east (side), 3.7m west (side), 16m south (rear).	106m ² (including 31m ² secluded private open space)	Single garage (6.0 x 3.5m)	7.0m (overall)
Dwelling No. 2	Double storey	2	3.0m west (front), 14.2m north (side), 7.2m south (side), 3.4m east (rear).	49m ² (including 35m ² secluded private open space)	Single garage (6.0 x 3.5m)	7.1m (overall)
Dwelling No. 3	Double storey	2	3.0m west (front), 22.8m north (side), 0m south (side), 3.0m east (rear).	55m ² (including 31m ² secluded private open space)	Single garage (6.0 x 3.5m)	7.2m(over all)

PUBLIC NOTIFICATION

Advertising of the application has resulted in no objections being received.

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 existing neighbourhood character is typified by land that is generally flat, with some gently sloping land. Street layout is disconnected with some examples of court bowls.</p> <p>Development is fairly uniform, with average size detached single storey double or triple fronted facade houses in either cream or brown brick style constructed in the 1960's to 1970's. Some medium density development exists within the surrounding road network along Burton Street and Edmondson Street. Front fences are typically low and the generous front setbacks provide a sense of openness and in most instances, meaningful landscaping.</p> <p>The current proposal to demolish the existing single storey dwelling and construct three double storey dwellings with minimal building separation is not considered complementary to the existing built form in the area. While double storey built form is generally acceptable in residential areas, the proposal will result in an anomaly within the immediate area.</p>
B2	Residential Policy	x	x	<p>The HDS nominates the subject site as located within the Suburban Residential Change Area. This Change Area encourages standard density with the preferred housing types comprising detached dwellings, duplexes and dual occupancies. Key design principles include low building heights to reflect the existing suburban scale and character, a front setback to allow for significance 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; increased areas of private open space to allow for significant landscaping, large canopy trees in the front setback and extra-large canopy trees in the rear setback.</p> <p>The proposed three dwelling development fails to accord with the preferred housing density or key design principles outlined in the HDS. The proposed built form of Dwelling Nos. 2 and 3 at ground level is continuous and given the lack of side setbacks and minimal rear setbacks throughout, the development provides for limited landscaping opportunities.</p>
B3	Dwelling Diversity	✓	✓	Only applicable to developments of ten (10) or more dwellings

	✓ - Compliance x - Non compliance	Objectives	Standards	Comments
B4	Infrastructure	✓	✓	
B5	Integration with the street	x	x	<p>The standard requires that high fencing in front of dwellings should be avoided if practicable. The current proposal provides for the construction of a 1.6m high timber paling fence along the western title boundary and within the front setback area of the secondary street frontage to Raimeno Street.</p> <p>Dwelling Nos. 2 and 3 have been provided with a 1.6m high timber paling fence and gate along their respective frontage to Raimeno Street. This fencing impacts on the acceptable integration of the layout of the development within the street.</p> <p>A reduction in the height of the fencing would impact on the provision of the secluded private open space area that must be provided for Dwelling No. 1.</p>
B6	Street setback	✓	✓	
B7	Building height	✓	✓	
B8	Site coverage	✓	✓	
B9	Permeability	✓	✓	
B10	Energy efficiency	x	x	<p>The standard requires that living areas and private open space should be located on the north side of the development if practicable.</p> <p>The living areas and private open space for Dwelling Nos. 2 and 3 are located on the east side of the property. While these dwellings have been provided with north facing habitable room windows to the living areas, the shadow diagrams provided with the application indicate that most of this area and the private open space is within shadow for the majority of the day.</p>
B11	Open space	✓	✓	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	A landscape plan has not been provided with the application. While this can be dealt with by a condition on any permit that is issued, it is considered that due to the minimal side and rear setbacks of the dwellings, the development does not lend itself to any meaningful landscaping.

	✓ - Compliance x - Non compliance	Objectives	Standards	Comments
B14	Access	x	x	<p>The objective of this clause is to ensure the number and design of vehicle crossovers respects the neighbourhood character. Before deciding on an application the responsible authority must consider the design response, the impact on the neighbourhood character, the reduction of on-street car parking spaces and the effect of any significant vegetation on the site and footpath.</p> <p>Dwelling No. 1 has not been provided with a vehicle crossover along Queen Street. The proposed vehicle crossovers for Dwelling Nos. 2 and 3 conflicts with existing service pits located within the naturestrip. While conditions can be included on any permit that is issued to address these concerns, the relocation of these assets will be financially burdensome to the developer.</p> <p>Additionally, while Clause 52.06 requires the provision of one car space for a dwelling with one or two bedrooms, the planning officer has concerns that residents may park their vehicles within the internal driveways of Dwelling Nos. 2 and 3 causing overhang and conflict with the footpath due to the minimum street setbacks proposed along Raimeno Street.</p>
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	✓	x	<p>While windows of the proposed dwellings appear to be designed to comply with this standard, the plans lack the necessary detail to clearly demonstrate that this standard is achieved.</p> <p>Should a permit be issued, conditions are needed for the plans to be amended to show compliance with this standard.</p>
B23	Internal views	✓	✓	

	✓ - Compliance x - Non compliance	Objectives	Standards	Comments
B24	Noise impacts	✓	✓	
B25	Accessibility	✓	✓	
B26	Dwelling entry	✓	✓	
B27	Daylight to new windows	✓	✓	
B28	Private open space	x	x	A dwelling or residential building should have private open space consisting of an area of 40m ² with one part of the private open space to consist of secluded private open space at the side or rear of the dwelling with a minimum area of 25m ² , a minimum dimension of 3.0m and convenient access from a living room. Dwelling Nos. 2 and 3 have not been provided with the required 40m ² of private open space and therefore do not comply with the standard.
B29	Solar access to open space	✓	✓	
B30	Storage	✓	✓	
B31	Design detail	✓	✓	
B32	Front fences	x	x	A front fence within 3m of a local street should not exceed 1.5m. The proposed 1.6m high timber paling fence/gate along the west property boundary does not comply with the standard.
B33	Common property	✓	✓	
B34	Site services	✓	x	Bin and recycling enclosures should be provided and located for convenient access by residents. These site services have not been provided. The proposal therefore does not comply with the standard.

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	Yes

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

Garages should be at least 6.0m long and 3.5m wide for a single space and 5.5m wide for a double space (measured inside the garage or carport). An open car space should be at least 4.9m long and 2.6m wide. The proposal complies with these requirements.

Pursuant to Clause 52.06-8 of the Scheme, accessways must have a corner splay or area at least 50% clear of visual obstructions extending at least 2m along the frontage road from the edge of an exit lane and 2.5m along the exit lane from the frontage, to provide a clear view of pedestrians on the footpath of the frontage road. The area clear of visual obstructions may include adjacent entry or exit lane where more than one lane is provided, or adjacent landscaped areas, provided the landscaping in those areas is less than 900mm in height. A revised plan must be submitted showing a visibility splay on either side of the accessway. Should a permit be issued, the plans must be revised to show the required visibility splays.

There is a 2.44m wide drainage and sewerage easement along the southern boundary of the property with a 150mm diameter Council drain within the easement. Yarra Valley Water have indicated that the proposal cannot proceed unless the plans are amended or works undertaken to relocate or protect Yarra Valley Water assets. Council officers have also indicated that no permanent structure is to be constructed over this easement as it contains Council assets.

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 areas. This requirement must be included as a condition on any planning permit that is issued.

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 Clauses 55 and 52.06. The proposal does not accord with the density or design requirements of Council's Housing Diversity Strategy for a development within a Suburban Residential Change Area. It is considered that the proposal will result in unreasonable impacts on the character of the neighbourhood and the amenity of surrounding residential properties.

Accordingly, refusal of the application is recommended.

RECOMMENDATION

THAT Council resolve to Refuse Planning Application No. 715355 and issue a Refusal to Grant a Planning Permit for the construction of three dwellings at 7 Queen Street, Lalor, on the following grounds:

- 1. The proposal does not represent an appropriate built form outcome having regard to the neighbourhood character, streetscape and the context of surrounding properties.**
- 2. The proposal does not comply with Clause 52.06-9 of the Whittlesea Planning Scheme.**
- 3. The proposal is inconsistent with Clause 21.09 of the Whittlesea Planning Scheme and the key design principles for the Suburban Residential Change Area of Council's Housing Diversity Strategy.**
- 4. The proposal does not comply with Clause 55. Specifically, the application does not achieve the following objectives:**
 - a. Neighbourhood Character (Standard B1).**
 - b. Residential Policy (Standard B2).**
 - c. Integration with the street (Standard B5).**
 - d. Energy efficiency (Standard B10).**
 - e. Landscaping (Standard B13).**
 - f. Access (Standard B14).**
 - g. Overlooking (Standard B22).**
 - h. Private open space (Standard B28).**
 - i. Front fences (Standard B32)**
 - j. Site services (Standard B34).**

COUNCIL RESOLUTION

MOVED: *Cr Sinclair*
SECONDED: *Cr Kirkham*

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

CARRIED

6.1.2 57 CUMBERLAND CRESCENT THOMASTOWN - CONSTRUCTION OF THREE DWELLINGS

File No:	715363
Attachments:	1 Locality Maps 2 Development Plans
Responsible Officer:	Director Planning & Major Projects
Author:	Senior Planner
APPLICANT:	MS Designer Living Pty Ltd
COUNCIL POLICY:	Housing Diversity Strategy
ZONING:	General Residential Zone
OVERLAY:	Development Contributions Plan Overlay – Schedule 3 Special Building Overlay
REFERRAL:	Melbourne Water
OBJECTIONS:	Two, including one petition with 101 signatories
RECOMMENDATION:	That Council refuse the application

REPORT**EXECUTIVE SUMMARY**

The applicant proposes to demolish the existing double storey dwelling and outbuilding and construct three new double storey dwellings. Dwelling No. 1 will front Cumberland Crescent, with vehicle access from a shared accessway along the southern side boundary. Dwelling Nos. 2 and 3 will front the shared accessway, with vehicle accessway along the southern side boundary.

Advertising of the proposal resulted in two objections, including one petition with 101 signatories being received. The grounds of objection relate to preferred dwelling density, visual bulk, overlooking, noise, additional traffic and loss of on-street car parking.

The proposal fails to meet many of the objectives and standards of Clause 55 of the Whittlesea Planning Scheme, including neighbourhood character, residential policy, landscaping and design detail.

The Housing Diversity Strategy (HDS) nominates the site as being within the Suburban Residential Change Area where only two dwellings are preferred. The proposal is contrary to both the preferred density and key design principles for this Change Area, evidenced by non-compliances with Clause 55 of the Whittlesea Planning Scheme.

Council Officers have advised the applicant to reduce the proposed number of dwellings in an endeavour to address the non-compliances, however the applicant has requested the application be progressed to Council for determination.

On the basis of the non-compliances with Clause 55 and the HDS, it is recommended that Council refuse the application.

SITE AND SURROUNDING AREA

The subject site is a residential property located on the eastern side of Cumberland Crescent Thomastown, approximately 90m northeast of Parklands Drive (*see Attachment 1*).

The subject site is irregular in shape with a frontage to Cumberland Crescent of 11.6m, an average depth of 39.6m and a total site area of 686m². The subject site has a gradual fall of 0.6m from the northeast rear boundary corner to the southwest front boundary corner.

The subject site currently contains a double storey dwelling and detached outbuilding. The subject site does not contain any significant vegetation.

Directly to the north and south of the subject site are single dwelling developments fronting Cumberland Crescent. Directly to the east of the subject site is the Yan Yean Pipe Track and directly to the west of the subject site is Cumberland Crescent and single dwelling developments.

The surrounding area is characterised by a combination of single and double storey dwellings predominately constructed from brick with tiled roofs. Examples of medium density development within the immediate vicinity are located at 17 Rochester Drive, 2 and 15 Salisbury Street, 18 and 19 Loddon Court and 6 Cambridge Court.

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

- Thomastown East Reserve (500m northeast).
- Route 559 – Thomastown via Darebin Drive Bus Service (500m north).
- Route 556 – Epping Plaza Shopping Centre to Northland Shopping Centre via Keon Park (500m west).
- Nick Ascenzo Reserve (700m northwest).
- Lalor Plaza Shopping Centre (1km north).

CERTIFICATE OF TITLE PARTICULARS

The subject site is legally described as Lot 200 on Plan of Subdivision 098101. There are no restrictions on title that preclude Council from determining the application. A 3.0m wide drainage and sewerage easement extends along the eastern boundary of the site.

PROPOSAL

It is proposed to demolish the existing dwelling and construct three double storey dwellings on the site (*see Attachment 2*).

Dwelling No. 1 will contain a porch, entry, powder room, laundry and open plan kitchen, meals and living areas on the ground floor and three bedrooms and two bathrooms on the first floor. This dwelling will be provided with a double garage accessed from the existing crossover along the southern side boundary.

Dwelling No. 2 will contain a porch, entry, powder room, laundry and open plan kitchen, meals and living areas on the ground floor and three bedrooms and a bathroom on the first floor. This dwelling will be provided with a double garage accessed from the existing crossover along the southern side boundary.

Dwelling No. 3 will contain a porch, entry, powder room, laundry and open plan kitchen, meals and living areas on the ground floor and three bedrooms and a bathroom on the first floor. This dwelling will be provided with a single carport and tandem car parking space accessed from the existing crossover along the southern side boundary.

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	Double Storey	3	8.4m front (west), 0m side (north), 3.7m side (south) and 1.2m rear (east)	92m ² (including 33m ² of secluded private open space)	Double Garage (6.0m x 5.5m)	7.2m (overall)
Dwelling No. 2	Double Storey	3	1.2m front (west), 1.2m side (north), 1.2m side (south) and 4.0m rear (east)	58m ² (all secluded private open space)	Double Garage (6.0m x 5.5m)	7.3m (overall)
Dwelling No. 3	Double Storey	3	5.7m front (west), 1.2m side (north), 0m side (south) and 3.1m rear (east)	47m ² (all secluded private open space)	Single Garage (6.0m x 3.5m) and Tandem Car Parking Space (4.9m x 2.6m)	7.2m (overall)

PUBLIC NOTIFICATION

Notification of the application resulted in two objections, including one petition with 101 signatories being received. The grounds of objection can be summarised as follows:-

1. Preferred dwelling density.
2. Visual bulk.
3. Overlooking.
4. Noise.
5. Additional traffic.
6. Loss of on-street car parking.

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 HDS 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 following 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; and

- 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	The dwellings will be constructed with brick on the ground floors, render and horizontal boards on the first floors and tiled roofs, which is consistent with existing housing stock. However, it is considered the token 1.2m separation between the ground floor dwelling footprints, the lack of meaningful opportunities for the planting of canopy trees throughout the subject site and the excessive first floor dwelling footprints are contrary to both the existing and preferred neighbourhood character for the area.
B2	Residential Policy	x	x	<p>The site is located within a Suburban Residential Change Area within Council's Housing Diversity Strategy.</p> <p>Preferred housing types include detached dwellings, duplexes and dual occupancies. The proposal includes the construction of three double storey dwellings, which is contrary to the preferred dwelling density for the area.</p> <p>While it is considered the provision of three double storey dwellings is not uncharacteristic for the area, it is considered the extent of the first floor dwelling footprints is excessive and not responsive to the opportunities and constraints of the site.</p> <p>It is considered the 8.3m street setback proposed provides openness of the streetscape and suitable space for the provision of a large canopy tree.</p> <p>It is considered the side and rear setbacks proposed do not provide for meaningful building separation or the provision of extra-large canopy trees in the associated secluded private open spaces due to the building walls enclosing the secluded private open space of Dwelling No. 1 and the existing easement within the secluded private open spaces of Dwelling Nos. 2 and 3.</p>
B3	Dwelling Diversity	N/A	N/A	Only applicable to developments of ten (10) or more dwellings.
B4	Infrastructure	✓	✓	

	✓ - Compliance x - Non compliance	Objectives	Standards	Comments
B5	Integration with the Street	✓	✓	
B6	Street Setback	✓	✓	
B7	Building Height	✓	✓	
B8	Site Coverage	✓	✓	
B9	Permeability	✓	✓	
B10	Energy Efficiency	x	x	Bedroom 2 of Dwelling Nos. 1 and 2 should be provided with a north-facing window to improve the energy efficiency of the development.
B11	Open Space	✓	✓	
B12	Safety	✓	✓	
B13	Landscaping	x	x	It is considered inadequate opportunities have been provided for the provision of a canopy tree within the secluded private open spaces of the dwellings. The secluded private open space for Dwelling No. 1 is constrained by site services such as the external storage shed, clothesline and waste bins as well as walls on three of its four sides. The secluded private open spaces for Dwelling Nos. 2 and 3 are also constrained by a 3.0m wide drainage and sewerage easement.
B14	Access	✓	✓	
B15	Parking Location	x	x	While the living and meals area windows of Dwelling No.3 have been setback 1.0m from the shared accessway, the sill height of these windows must also be 1.4m above the finished surface level of the shared accessway. A detailed elevation was not provided to confirm this requirement.
B17	Side and Rear Setbacks	✓	✓	
B18	Walls on Boundaries	✓	✓	
B19	Daylight to Existing Windows	✓	✓	
B20	North-facing Windows	✓	✓	
B21	Overshadowing Open Space	✓	✓	

	✓ - Compliance x - Non compliance	Objectives	Standards	Comments
B22	Overlooking	x	x	No overlooking is present from the ground floor habitable room windows, however it is considered first floor habitable room windows should be clearly screened in accordance with Clause 55 of the Whittlesea Planning Scheme.
B23	Internal Views	x	x	As detailed in the Overlooking section of this report.
B24	Noise Impacts	✓	✓	
B25	Accessibility	✓	✓	
B26	Dwelling Entry	✓	✓	
B27	Daylight to New Windows	✓	✓	
B28	Private Open Space	✓	✓	
B29	Solar Access to Open Space	N/A	N/A	
B30	Storage	✓	✓	
B31	Design Detail	x	x	<p>It is considered the extent of the first floor dwelling footprints as well as the siting of sections of the first floors are not responsive to the opportunities and constraints of the site.</p> <p>More specifically, it is considered the lack of meaningful recession along part of the northern elevation and all of the southern elevation of Dwelling No. 1 is unacceptable, especially as these areas have minimal opportunities for the provision of canopy trees to soften the visual bulk of the dwelling.</p> <p>Furthermore, it is considered the extent of the first floor dwelling footprint along the southern elevation of Dwelling No. 3 is disproportionate to the remainder of the dwelling with sheer double storey walls and a cantilevered portion near the active secluded private open space of the dwelling to the south.</p>
B32	Front Fences	N/A	N/A	
B33	Common Property	✓	✓	
B34	Site Services	✓	✓	

CAR PARKING

Clause 52.06 – Car Parking 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	2	2	Yes
2	3	2	2	Yes
3	3	2	2	Yes

Garages must be at least 6.0m long and 3.5m wide for a single space and 5.5m wide for a double space (measured inside the garage or carport). An open car space should be at least 4.9m long and 2.6m wide. The proposal satisfies these requirements.

The proposal does not include a sight triangle along the southern side boundary (tapering of the existing fence) in accordance with Design Standard 1 – Accessways of Clause 52.06 – Car Parking of the Whittlesea Planning Scheme.

DEVELOPMENT CONTRIBUTIONS PLAN OVERLAY - SCHEDULE 3

The subject 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.

SPECIAL BUILDING OVERLAY

The application was referred to Melbourne Water who offered no objection to the proposal subject to the inclusion of nine conditions and two footnotes on any permit issued.

COMMENTS ON GROUNDS OF OBJECTION**1. Preferred dwelling density.**

The subject site is located within the Suburban Residential Change Area pursuant to Council's Housing Diversity Strategy. The proposal is contrary to the preferred housing density identified within this Change Area. Accordingly, this ground of objection can be substantiated.

2. Visual bulk.

It is considered the 1.2 metre setbacks provided between the dwellings is tokenistic and will result in the ground floor footprint presenting as one continuous building mass. It is also considered the enclosed nature of the secluded private open space for Dwelling No. 1 and the existing 3.0m wide drainage and sewerage easement along the eastern boundary of the site further limits the ability to provide landscaping to soften and break up the built form. Accordingly, this ground of objection can be substantiated.

3. Overlooking.

Overlooking will occur from the first floor habitable room windows, which must be screened in accordance with Clause 55 of the Whittlesea Planning Scheme. Accordingly, this ground of objection can be substantiated.

4. Noise.

It is considered the noise that will be generated by an additional two dwellings is an acceptable outcome for General Residential zoned land. Accordingly, this ground of objection cannot be substantiated.

5. Additional traffic.

The application was referred to Council's Transportation Engineers, who offered no objection to the additional vehicle trips associated with an additional two dwellings on the subject site. Accordingly, this ground of objection cannot be substantiated.

6. Loss of on-street car parking.

The application proposes to retain the existing crossover, which will maintain available on-street car parking. 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 55. It is considered the proposed three dwellings do not appropriately respond to the opportunities and constraints of the site.

RECOMMENDATION

THAT Council resolve to refuse Planning Permit Application No. 715363 and issue a Refusal to Grant a Planning Permit for the construction of three dwellings at 57 Cumberland Crescent, Thomastown on the following grounds:-

- 1. The proposed development does not satisfactorily respond to its context and surrounding development and does not respect the existing or preferred character of the neighbourhood.**
- 2. The proposal does not comply with Clause 52.06 of the Whittlesea Planning Scheme (provision of a sight triangle).**
- 3. 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 55.03-5 (Energy Efficiency);**
 - d) Clause 55.03-8 (Landscaping);**
 - e) Clause 55.03-10 (Parking Location);**
 - f) Clause 55.04-6 (Overlooking);**
 - g) Clause 55.04-7 (Internal Views); and**
 - h) Clause 55.06-1 (Design Detail).**

COUNCIL RESOLUTION

MOVED: *Cr Sinclair*
SECONDED: *Cr Kirkham*

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

CARRIED

6.1.3 210 HOLT PARADE, THOMASTOWN - USE AND DEVELOPMENT OF THE LAND FOR A RETAIL PREMISES (BIN HIRE BUSINESS)

File No: 715216

Attachments: 1 Locality Maps
2 Development Plans

Responsible Officer: Director Planning & Major Projects

Author: Planning Officer Established Areas Planning

APPLICANT: Ikonomidis Reid

ZONING: Industrial 1 Zone

OVERLAY: Development Contributions Plan (Schedule 3)

REFERRAL: Yes

OBJECTIONS: One

RECOMMENDATION: That Council approve the application.

REPORT**EXECUTIVE SUMMARY**

The applicant proposes to use and develop the land for a retail premises (bin hire business). The bins will be available to hire and will be empty upon collection from the site and returned to the site empty (all waste is proposed to be disposed of off-site).

Advertising of the proposal resulted in one objection being received. The grounds of objection relate to the current use of the site for a transfer station for rubbish to be sorted and transferred into different bins, current fencing arrangement, environmental pollution/emissions from the site, asbestos stored on site and impacts on the local road network by way of residue from trucks entering/exiting the site.

The land is encumbered by a high voltage power line easement. The application was referred to AusNet Services (AusNet Transmission Group) and it has no objection to the proposal subject to the inclusion of several conditions on any permit issued.

The proposal demonstrates a satisfactory level of compliance with the Industrial Development Policy (Clause 22.09), Industrial 1 Zone (Clause 33.01), Car Parking (Clause 52.06) and Loading and Unloading of Vehicles (Clause 52.07) of the Whittlesea Planning Scheme subject to minor modifications.

On the basis of the assessment against relevant provisions of the Whittlesea Planning Scheme, it is recommended that Council approve the application.

The subject land has more recently been unlawfully used for the purpose of a waste transfer station and for materials recycling (without a permit). These uses have resulted in the contamination of the land (including asbestos). Any permit issued will require that the land be fully rehabilitated and reinstated before any new use commences.

SITE AND SURROUNDING AREA

The subject site (*Attachment 1*) is located on the northwest corner of Holt Parade and Hanrahan Street, Thomastown. The frontage to Holt Parade is approximately 87.6m in length, the side boundary to Hanrahan Street is approximately 12.0m and a splay at the southeast corner of the site is approximately 7.5m.

The subject site is irregular in shape, generally flat, vacant, and has an area of approximately 2,486m².

High voltage power transmission lines cross the site in an east-west direction and the related easement(s) affect the site.

Vegetation on site is limited to grass and a few shrubs. A fence exists around the perimeter of the site to a height of approximately 2.0m and at the time that the site was inspected, machinery and vehicles were being stored on site.

The surrounding area has been developed for industrial and other related uses.

RESTRICTIONS AND EASEMENTS

The site is legally described as Lot 4 on Plan of Subdivision 526974X. The subject site is affected by two easements (E-2 and E-3) both for the purpose of electricity transmission.

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

BACKGROUND

Planning application 713502 was refused under delegation on 3 May 2012 for the development of three industrial warehouses. The warehouses were proposed to be constructed to a height of approximately 8.2m, directly underneath the high voltage transmission lines. The applicant appealed this decision to the Victorian Civil and Administrative Tribunal (VCAT) and Council's decision was affirmed.

Planning application 714664 was refused under delegation on 20 August 2014 for the development of two warehouses (and ancillary offices). The warehouses were also proposed directly underneath the high voltage transmission lines within the easements. The applicant appealed this decision to VCAT however this appeal was subsequently withdrawn. Therefore, no permit was granted.

On 12 June 2015 Council officers issued a Planning Infringement Notice (PIN) to the owner and occupier for the unauthorised use and development of the land for the purpose of a transfer station and materials recycling without a permit. Inspections by Council officers at the time confirmed that the land contained asbestos uncovered in skips and further evidence of the material mixed within unauthorised imported fill.

The PIN required that the owner and occupier submit to Council a report by a qualified consultant documenting the nature, volume and extent of filling and/or contamination of the land, measures to remove fill placed on the land since 2013, a schedule of works to remediate contamination and a plan for reinstatement.

The tenant sought a review of the PIN which was refused due to the seriousness of the contravention. Subsequently, the tenant elected to expiate the Notice by payment of the penalty amount of \$1,476.

The landowner who is also complicit in the contravention (and also previous contraventions affecting the land) was served with a Demand for Payment relating to the PIN (\$1,566.50). Council officers have advised solicitors for the landowner of the provisions of the *Planning and Environment Act 1987* that state that an owner of land is guilty of an offence if land is used or development in contravention of a planning scheme or permit. Council officers are

satisfied that in this instance the land owner was aware, or should have been aware, of the unauthorised use (particularly given previous contraventions) and that, in any case, the landowner has responsibility for rectifying the contravention and bringing the land into compliance with the planning scheme.

The contravention has now been referred to Council's solicitors and prosecution proceedings against the land owner has commenced. These proceedings will be pursued independently to the application considered in this report.

On 6 April 2016, Council received a copy of a 'Clearance Certificate' issued to comply with the Occupational Health and Safety Regulations 2007 confirming that bins and piles containing asbestos material have now been removed from the land and there is no visible asbestos residue remaining (at surface level) as a result of the removal work. This Certificate is based on a cursory visual inspection and does not deal with the issue of subsurface deposits resulting from previous unauthorised filling of the land with undocumented fill, rubble and likely asbestos. It is the view of officers that this material must also be removed and the land reinstated prior to any further use of the land. It should not be built over. This report recommends that the site be appropriately assessed and rehabilitated to relevant standards before any use or development commences.

PROPOSAL

The application is for the use and development of the land for a retail premises (bin hire business).

The bin hire business is proposed to operate between the following hours:

- 7am to 4pm Monday to Friday
- 9am to 4pm Saturday

The use is proposed to operate on the western portion of the site and utilise the existing two crossovers for vehicle access.

The bins will be available to hire and will be empty upon collection and returned to the site empty (all waste is proposed to be disposed of off-site).

Seven car parking spaces are proposed in the front setback to Holt Parade (behind a 4.6m landscape buffer).

A total of 28 bins (each 6m³) for hire are proposed to be organised in a semi-circular arrangement on the site, with overnight bin truck parking proposed to be contained within the semi-circle.

Portable toilets are proposed on-site, however no formal building/office is proposed (i.e. for staff).

A new 2.0m high black cyclone wire fence is proposed (with barbed wire) with a 2.1m high corrugated iron component along the frontage to Holt Parade, and along the eastern boundary of the area to be utilised for the bin hire business. The existing fencing along the western and northern boundary is to be retained.

PUBLIC NOTIFICATION

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

1. Unauthorised use of the site as a transfer station with rubbish to be sorted and transferred into different bins, presence of asbestos on the site and environmental pollution/emissions from the site
2. Current fencing arrangement of the site are inadequate

3. Impacts on the local road network by way of residue from trucks entering/exiting the site

REFERRALS

External

This application was referred to AusNet Services (AusNet Transmission Group) pursuant to Section 55 of the Planning and Environment Act 1987 due to the proposal being located within high voltage power line easements. AusNet Services did not object to the application subject to the inclusion of conditions on any approval granted. The conditions are as follows:

1. *Skip bins stored on AusNet Transmission Group's Easement must not contain waste, and if stacked, must not exceed 3 metres in height.*
2. *The storage of flammable materials is not permitted on the easement.*
3. *Vehicles and equipment exceeding 3 metres operating height are not permitted on the easement without prior written approval from AusNet Transmission Group. Details of trucks to be used on site, including length, height and lift height (with bin) must be provided to AusNet Transmission Group prior to the commencement of operations on site. Any safety precautions deemed necessary will be conveyed at this time.*
4. *All future works within the easement must be submitted to AusNet Transmission Group and approved in writing prior to the commencement of work on site.*

PLANNING ASSESSMENT

The following State Planning Policies, Local Planning Policies and particular provisions of the Whittlesea Planning Scheme (the Scheme) are considered relevant to this application.

State Planning Policies

Use of contaminated and potentially contaminated land (Clause 13.03-1)

Clause 13.03-1 seeks to ensure that potentially contaminated land is suitable for its intended future use and development, and that contaminated land is used safely.

A condition of any permit issued will require that the contamination status of the land be addressed before the commencement of a use and development.

Design of Industrial Development (Clause 17.02-2)

The objective of this Clause is to facilitate the sustainable development and operation of industry and research and development activity.

It is considered that the proposed land use for a retail premises (bin hire business) is a reasonable outcome for the restricted industrial site (given that electricity easements cover the site).

Local Planning Policies

Industrial Development Policy (Clause 22.09)

The objective of Council's Industrial Development Policy is to achieve well designed, quality industrial developments that are suitably located so as to meet stated economic development objectives.

It is considered that subject to the inclusion of conditions on any approval granted that the proposal is a reasonable outcome for the reasons set out above.

An assessment of the proposal against the requirements of this Clause is provided below:

It is policy to:

- *Ensure that the scale and appearance of all buildings and works is consistent with the purpose of the zone, site location, and surrounding land uses.*

The proposal is an allowable use within the Industrial 1 Zone, and is one of only a few allowable uses for sites located beneath high voltage transmission lines. Nevertheless, A good design outcome is expected which meets the objectives of this Policy. Therefore, a condition of any approval granted will require the submission of revised plans which show a number of changes in relation to landscaping, fencing and the sealing of surfaces (to prevent offsite amenity impacts). Further to this a condition of any approval granted will require that no waste be stored or sorted on the site at any time, to the satisfaction of the Responsible Authority.

- *Encourage appropriate landscape and building setbacks that enhance and / or improve the appearance of industrial areas.*

The proposed 4.6m wide setback to the frontage of Holt Parade is considered sufficient area to provide an appropriate landscape outcome to enhance and improve the appearance of the industrial site, particularly with the provision of cyclone 'transparent' fencing (as opposed to iron corrugated fencing). This will be included as a condition of any approval granted.

- *Ensure landscape plans are provided, showing:*
 - *an automatic sprinkler irrigation system;*
 - *simple landscaping which includes provision of lawn and high canopy trees especially along front setbacks;*
 - *provision of trees in carpark areas; and*
 - *preservation of existing trees on site.*

The application has indicated concept landscaping on the site. A condition of any approval granted will require the submission of a detailed landscape plan prepared by a suitably qualified person.

- *Consider the requirement for levying a landscape bond to ensure the provision and maintenance of all landscaping required.*

A condition of any approval granted will impose a requirement to levy a \$2000 landscape bond to ensure the provision and maintenance of all required landscaping.

- *Discourage fencing along the front boundary or in front of the building line.*

It is considered that the proposed fencing (a new 2.0m high black cyclone wire fence with barbed wire with a 2.1m high corrugated iron component along the frontage to Holt Parade, and along the eastern boundary of the area to be utilised for the bin hire business) does not present an attractive design solution for the site. Therefore, a condition of any approval granted will require the removal of the barbed wire and corrugated iron cladding from the fence, and to provide a consistent fencing style along the Holt Parade frontage (2.0m high black cyclone fencing). It is considered that the inclusion of this condition will result in an acceptable streetscape appearance for the surrounding industrial area.

- *Ensure all external storage of goods and materials, refuse collection areas and garbage skips is fully screened from view. Screening should be in materials consistent with buildings to be constructed on the site.*

The proposed bin hire area will not be fully screened from view. However, as the bins will be empty at all times on the site, there will be no storage of goods/materials/refuse on the site. In order to improve the streetscape outcome, it is considered necessary to impose a condition requiring the provision of landscaping within the 4.6m wide buffer to Holt Parade (as opposed to a 2.1m high iron corrugated fence).

Zoning and Overlay Provisions

Industrial 1 Zone (Clause 33.01)

The site is affected by the Industrial 1 Zone. The objectives of this zone include providing for manufacturing industry, the storage and distribution of goods and associated uses in a manner that does not affect the safety and amenity of local communities.

Subject to the inclusion of conditions on any approval granted, the proposal is considered to be generally in accordance with the purpose and objectives of this zone, and responds to the street character of the surrounding industrial area. It is acknowledged that the site is compromised by the transmission line easement, and use and development of the site is considerably restricted.

The development provides sufficient opportunities for landscaping (particularly within the 4.6m wide landscape buffer in the frontage to Holt Parade) subject to the submission of a detailed landscape plan prepared by a suitably qualified person. This plan must also respond to the limitations of the site in relation to the transmission line easement and propose appropriate varieties of plant species (particularly in relation to maximum height). This can be addressed through the inclusion of a condition as part of any approval granted.

The bin hire parking area is proposed to be a compacted porous material which has been assessed as inappropriate by Council's City Development Department. The unsealed area has the potential to result in off-site amenity impacts including impact to the local road network. Therefore, a condition of any approval granted would require the provision of a sealed surface for this area, to the satisfaction of the Responsible Authority.

No advertising signage is proposed as part of this application. It is noted that 8m² of business identification signage can be provided in accordance with Clause 52.05, without the need for a planning permit.

The plans currently include a notation identifying "permitted activities" in respect to the AusNet Services easement(s) and reference a "proposed nursery". The easements applicable to the site are also not accurately represented. Therefore, it is considered necessary to impose conditions on any approval granted requiring the submission of revised plans to rectify these issues.

The application is generally consistent with the zoning of the land and with the State and Local Planning Policy Frameworks.

Development Contributions Plan Overlay Schedule 3 (Clause 45.06)

The site is affected by the Development Contributions Plan Overlay (Schedule 3). The schedule to the overlay requires development contributions for drainage infrastructure for industrial/warehouse developments at a rate of \$3.50 per square metre of the total site area. This rate is subject to the Consumer Price Index at the time of payment. This requirement must be included as a condition on any planning permit that is issued.

Particular Provisions*Car Parking (Clause 52.06)*

Clause 52.06 of the Whittlesea Planning Scheme prescribes the rate and design standards for car parking spaces required on site. There is no definable car parking rate listed in this clause for a retail premises. Therefore, car parking is required to be provided to the satisfaction of the Responsible Authority.

Seven car parking spaces are proposed in the front setback of the site, set behind the 4.6m wide landscape setback. These seven spaces are considered satisfactory to meet the needs of the proposed use. The layout of the spaces meets the requirements of Clause 52.06 and provides appropriate turning areas to ensure manoeuvrability.

Council's City Development Department have expressed concern in relation to the unsealed nature of the area proposed to conduct the use, and car parking area. Given the high number of vehicle movements expected on the site in association with the use, it is considered appropriate to impose a condition on any approval granted requiring the provision of a sealed surface for the bin hire parking area, to the satisfaction of the Responsible Authority.

Loading and Unloading of Vehicles (Clause 52.07)

This clause sets out the requirements for the loading and unloading of commercial vehicles and aims to prevent loss of amenity and adverse effect on traffic flow and safety.

The nature of the business requires loading and unloading of the empty bins in a semi-circular arrangement (no designated loading area). It is considered that the proposed layout is satisfactory, subject to the inclusion of a condition to annotate that the nominated 'overnight truck parking' as also an area for the 'loading and unloading of vehicles'. This will be included as a condition of any approval granted.

COMMENTS ON GROUNDS OF OBJECTION**1. Unauthorised use of the site as a transfer station with rubbish to be sorted and transferred into different bins, presence of asbestos on the site and environmental pollution/emissions from the site**

Clause 13.03-1 of the Whittlesea Planning Scheme requires that issues relating to contamination (or potential contamination) be addressed when considering the use and development of land. Although the unauthorised use of the land has now ceased, assessments and rehabilitation remain outstanding. Therefore, it is considered appropriate to impose a condition that requires the submission of a Statement of Environmental Site Assessment prepared by a suitably qualified person, demonstrating that the land is suitable for the use and development proposed. Site remediation will be pursued through compliance action regardless of whether any permit is acted upon.

Therefore this ground of objection can be addressed through inclusion of condition of any approved granted and through separate legal proceedings.

2. Current fencing arrangement of the site are inadequate

It is considered that the proposed fencing does not present an attractive design solution for the site. Therefore, a condition of any approval granted will require the removal of the barbed wire and corrugated iron cladding from the fence, and to provide a consistent fencing style along the Holt Parade frontage (2.0m high black

cyclone fencing). It is considered that the inclusion of this condition will rectify this ground of objection.

3. Impacts on the local road network by way of residue from trucks entering/exiting the site

The current operation of the site is being investigated under a separate process. A condition of any approval granted will be included to require the appropriate treatment of any trucks entering/exiting the site to remove residue so as to not impact upon the local road network. This will require the provision of a sealed surface for the bin hire parking area, to the satisfaction of the Responsible Authority. It is also noted that the existing crossovers providing access to the site are sealed. It is considered that the inclusion of a condition requiring the provision of a sealed surface for the bin hire parking area will rectify the grounds of this objection.

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 and standards of Council's Industrial Development Policy (Clause 22.09), Industrial 1 Zone (Clause 33.01), Development Contributions Plan Overlay Schedule 3 (Clause 45.06), Car Parking (Clause 52.06) and Loading and Unloading of Vehicles (Clause 52.07). The proposal demonstrates a satisfactory level of compliance subject to minor modifications as outlined and subject to site remediation addressing issues of contamination prior to use and development commencing. It is considered that the proposal will not have a detrimental impact on the character of the area nor on existing surrounding industrial properties and accordingly, approval of the application is recommended.

RECOMMENDATION

THAT Council resolve to approve Planning Application No. 715216 and issue a Notice of Decision to Grant a Permit for use and development of the land for a retail premises (bin hire business) in accordance with the endorsed plans and subject to the following conditions:

- 1. Prior to the endorsement of the plans/reports required under Condition Nos. 2 and 3 of this permit, 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 commencement of buildings and works, three copies of a revised plan must be submitted to and approved by the Responsible Authority showing the following:**

- (a) Deletion of “permitted activities” notation in respect to AusNet easement;
 - (b) Deletion of reference to “proposed nursery;”
 - (c) Correctly identify the total area of easement(s) affecting the site;
 - (d) Annotate that the nominated “overnight truck parking” area is also an area for the “loading and unloading of vehicles” in accordance with Clause 52.07 of the Whittlesea Planning Scheme and to the satisfaction of the Responsible Authority;
 - (e) Provision of a sealed surface for the bin hire storage area and vehicle parking and turnaround area in accordance with Condition No. 11 and to the satisfaction of the Responsible Authority;
 - (f) Deletion of all barbed wire components and corrugated iron cladding from the fence(s) to be replaced with a 2.0m high black cyclone fence, to the satisfaction of the Responsible Authority.
3. Prior to the endorsement of the plans/reports required under Condition No. 2, three copies of a Statement of Environmental Site Assessment prepared by a suitably qualified person must be submitted to and approved by the Responsible Authority. The assessment must document the nature, volume and extent of filling and contamination on the land, measures to remove all fill imported on to the land since 2013, a schedule of works for remediation and a plan for reinstatement of the land.
4. Prior to the endorsement of the plans/reports required under Condition Nos. 2 and 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 \$2,000 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.
5. Prior to the commencement of buildings and works, 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 vegetation to be 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. The plan must include appropriate varieties of plant species which must not exceed 3.0m in height, to the satisfaction of the Responsible Authority.
6. The use and 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 use and 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. The use may operate only between the following hours:
 - Monday to Friday 7am to 4pm
 - Saturday 9am to 4pm

9. 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.
10. Noise levels associated with the use and/or development must at all times comply with the State Environment Protection Policy (Control of Noise from Industry, Commerce and Trade) No. N-1.
11. Before the use of the development starts, the car parking areas, access ways and bin storage area must be drained and fully sealed to the satisfaction of the Responsible Authority.
12. 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.
13. No waste may be stored or sorted on the site at any time, to the satisfaction of the Responsible Authority.
14. 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.
15. Prior to the operation of the use 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.
16. 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.
17. 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.
18. 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.
19. 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.

20. 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.

AusNet conditions (21-24)

21. Skip bins stored on AusNet Transmission Group's Easement must not contain waste, and if stacked, must not exceed 3 metres in height.
22. The storage of flammable materials is not permitted on the easement.
23. Vehicles and equipment exceeding 3 metres operating height are not permitted on the easement without prior written approval from AusNet Transmission Group. Details of trucks to be used on site, including length, height and lift height (with bin) must be provided to AusNet Transmission Group prior to the commencement of operations on site. Any safety precautions deemed necessary will be conveyed at this time.
24. All future works within the easement must be submitted to AusNet Transmission Group and approved in writing prior to the commencement of work on site
25. This permit will expire if:
 - (a) the approved use or 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 ceases for a period of two years.

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.

COUNCIL RESOLUTION

MOVED: *Cr Kelly*
SECONDED: *Cr Sinclair*

THAT Council resolve to adopt the Recommendation.

CARRIED

6.1.4 3 ASCOT COURT THOMASTOWN - CONSTRUCTION OF FOUR DWELLINGS

File No:	715453
Attachments:	1 Locality Maps 2 Development Plans
Responsible Officer:	Director Planning & Major Projects
Author:	Senior Planner
APPLICANT:	MS Designer Living Pty Ltd
COUNCIL POLICY:	Housing Diversity Strategy
ZONING:	General Residential Zone
OVERLAY:	Development Contributions Plan Overlay – Schedule 3 Special Building Overlay
REFERRAL:	Nil (no buildings or works within the Special Building Overlay)
OBJECTIONS:	Nine, including one anonymous objector and one petition with 103 signatures
RECOMMENDATION:	That Council refuse the application

REPORT**EXECUTIVE SUMMARY**

The applicant proposes to demolish the existing single storey dwelling and outbuildings and construct three new double storey dwellings and one new single storey dwelling. Dwelling No. 1 will front Ascot Court, with a separate vehicle access along the western side boundary. Dwelling No. 2 will also front Ascot Court, with vehicle access from a shared accessway along the eastern side boundary. Dwelling Nos. 3 and 4 will front the shared accessway along the eastern side boundary.

Advertising of the proposal resulted in nine objections, including one anonymous objector and one petition with 103 signatories, being received. The grounds of objection relate to preferred dwelling density, neighbourhood character, visual bulk, landscaping, overlooking, overshadowing, noise, removal of vegetation, additional traffic, safety, drainage, the collection of waste bins and loss of amenity during construction.

The proposal fails to meet many of the objectives and standards of Clause 55 of the Whittlesea Planning Scheme, including neighbourhood character, residential policy and landscaping.

The Housing Diversity Strategy (HDS) nominates the site as being within the Suburban Residential Change Area where only two dwellings are preferred. The proposal is contrary to both the preferred density and key design principles for this Change Area, evidenced by non-compliances with Clause 55 of the Whittlesea Planning Scheme. While officers acknowledge that the site is larger than surrounding allotments and could therefore allow for consideration of more than two dwellings to be constructed, the current proposal for four dwelling is considered an overdevelopment of the site.

Council Officers have advised the applicant to reduce the proposed number of dwellings in an endeavour to address the non-compliances, however the applicant has requested the application be progressed to Council for determination.

On the basis of the non-compliances with Clause 55 and the HDS, it is recommended that Council refuse the application.

SITE AND SURROUNDING AREA

The subject site is a residential property located on the northern court bowl end of Ascot Court Thomastown, approximately 100m north of Parklands Drive (*see Attachment 1*).

The subject site is irregular in shape with a circular frontage to Ascot Court of 15.6m and a total site area of 1,123m². The subject site has gradual fall of 1.2m from the northeastern boundary corner to the northwestern boundary corner.

The subject site currently contains a single storey dwelling, habitable outbuilding and storage shed. The subject site also supports a significant Gum tree occupying a large portion of the western side of the site.

Directly to the north of the subject site are six single dwelling developments fronting Rochester Drive. Directly to the east of the subject site is a single dwelling development fronting Cumberland Crescent. Directly to the south of the subject site is Ascot Court. Directly to the west of the subject site is a single dwelling development fronting Ascot Court.

The surrounding area is characterised by a combination of single and double storey dwellings predominately constructed from brick with tiled roofs. Examples of medium density development within the immediate vicinity are located at 17 Rochester Drive, 2 and 15 Salisbury Street, 18 and 19 Loddon Court and 6 Cambridge Court.

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

- Thomastown East Reserve (500m northeast).
- Route 559 – Thomastown via Darebin Drive Bus Service (500m north).
- Route 556 – Epping Plaza Shopping Centre to Northland Shopping Centre via Keon Park (500m west).
- Nick Ascenzo Reserve (700m northwest).
- Lalor Plaza Shopping Centre (1km north).

CERTIFICATE OF TITLE PARTICULARS

The subject site is legally described as Lot 243 on Plan of Subdivision 098101. There are no restrictions on title that preclude Council from determining the application. A 2.4m wide drainage and sewerage easement extends along the northern and eastern boundaries of the site.

PROPOSAL

It is proposed to demolish the existing dwelling and construct three double storey dwellings and one single storey dwelling on the site (*see Attachment 2*).

Dwelling No. 1 will contain a porch, entry, powder room, master bedroom and en-suite, laundry and open plan kitchen, meals and living areas on the ground floor and two bedrooms and a bathroom on the first floor. This dwelling will be provided with a single garage and tandem car parking space accessed from the existing crossover along the western side boundary.

Dwelling No. 2 will contain a porch, entry, master bedroom, bathroom, laundry and open plan kitchen, meals and living areas on the ground floor and three bedrooms and a bathroom on

the first floor. This dwelling will be provided with a double garage accessed from the proposed crossover and shared accessway along the eastern side boundary.

Dwelling No. 3 will contain a porch, entry, powder room, laundry and open plan kitchen, meals and living areas on the ground floor and three bedrooms and a bathroom on the first floor. This dwelling will be provided with a double garage accessed from the proposed crossover and shared accessway along the eastern side boundary.

Dwelling No. 4 will contain a porch, entry, powder room, three bedrooms, bathroom, laundry and open plan kitchen, meals and living areas. This dwelling will be provided with a double carport accessed from the proposed crossover and shared accessway along the eastern side boundary.

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	Double Storey	3	5.8m front (south), 1.2m side (east), 0m side (west) and 3.0m rear (north)	86m ² (including 59m ² of secluded private open space)	Single Garage (6.0m x 3.5m) and Tandem Car Parking Space (4.9m x 2.6m)	7.5m (overall)
Dwelling No. 2	Double Storey	4	4.4m front (south), 1.2m side (east), 1.2m side (west) and 3.0m rear (north)	57m ² (including 51m ² of secluded private open space)	Double Garage (6.0m x 5.5m)	7.3m (overall)
Dwelling No. 3	Double Storey	3	5.5m front (south), 1.2m side (east), 1.2m side (west) and 3.7m rear (north)	69m ² (all secluded private open space)	Double Garage (6.0m x 5.5m)	7.4m (overall)
Dwelling No. 4	Single Storey	3	0m front (south), 6.5m side (east), 1.2m side (west) and 2.4m rear (north)	133m ² (including 72m ² of secluded private open space)	Double Carport (6.0m x 5.5m)	4.7m (overall)

PUBLIC NOTIFICATION

Notification of the application resulted in nine objections, including one anonymous objector and one petition with 103 signatories, being received. The grounds of objection can be summarised as follows:-

1. Preferred dwelling density.
2. Neighbourhood character.
3. Visual bulk.
4. Landscaping.
5. Overlooking.
6. Overshadowing.
7. Noise.
8. Removal of vegetation.

9. Additional traffic.
10. Safety.
11. Drainage.
12. The collection of waste bins.
13. Loss of amenity during construction.

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 HDS 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 following 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; and
- 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	The dwellings will be constructed with brick on the ground floors, render and horizontal boards on the first floors and tiled roofs, which is consistent with existing housing stock. However, it is considered the token 1.2m separation between the ground floor dwelling footprints and the minimal opportunities for meaningful landscaping, both within the street setback and secluded private open spaces of Dwelling Nos. 2 and 3, are inconsistent with the existing or preferred neighbourhood character for the area.

	✓ - Compliance x - Non compliance	Objectives	Standards	Comments
B2	Residential Policy	x	x	<p>The site is located within a Suburban Residential Change Area within Council's Housing Diversity Strategy.</p> <p>Preferred housing types include detached dwellings, duplexes and dual occupancies. The proposal includes the construction of three double storey dwellings and one single storey dwelling, which is contrary to the preferred dwelling density for the area.</p> <p>It is considered the 5.8m street setback proposed for Dwelling No. 1 and the 4.4m street setback proposed for Dwelling No. 2 are insufficient to accommodate large canopy trees due to the area also required for vehicle and pedestrian accessways.</p> <p>It is considered the side and rear setbacks proposed do not provide for building separation or the provision of extra-large canopy trees in the secluded private open spaces of Dwelling Nos. 2 and 3 due to the existing easement.</p>
B3	Dwelling Diversity	N/A	N/A	Only applicable to developments of ten (10) or more dwellings.
B4	Infrastructure	✓	✓	
B5	Integration with the Street	✓	✓	
B6	Street Setback	x	x	Dwelling Nos. 1 and 2 will be setback 5.8m and 4.4m respectively from Ascot Court, which is contrary to the Clause 55 requirement of 9.0 metres. While it is acknowledged that a 9.0 metre setback may not be feasible due to the depth of the subject site, it is considered that the setbacks proposed are still contrary to the existing and preferred neighbourhood character as they do not allow for the retention of the significant existing Gum tree or suitable replacement planting with the street setback.
B7	Building Height	✓	✓	
B8	Site Coverage	✓	✓	
B9	Permeability	✓	✓	
B10	Energy Efficiency	x	x	The kitchens of Dwelling Nos. 1 and 2 as well as the first floor bedrooms of Dwelling No. 3 should be provided with north-facing windows to improve the energy efficiency of the development.

	✓ - Compliance x - Non compliance	Objectives	Standards	Comments
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	The proposal shows no consideration for the retention of the Gum tree within the front setback, which is considered a predominant landscape feature of the Court. Furthermore, it is considered the proposal does not allow adequate opportunities for the planting of canopy trees to offset the removal of the Gum tree or to accord with the preferred character for the area.
B14	Access	✓	✓	
B15	Parking Location	✓	✓	
B17	Side and Rear Setbacks	✓	✓	
B18	Walls on Boundaries	✓	✓	
B19	Daylight to Existing Windows	✓	✓	
B20	North-facing Windows	N/A	N/A	
B21	Overshadowing Open Space	✓	✓	
B22	Overlooking	x	x	No overlooking is present from the ground floor habitable room windows or the first floor habitable room windows along the southern elevation, however it is considered first floor habitable room windows along the northern elevation must be screened in accordance with Clause 55 of the Whittlesea Planning Scheme.
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	N/A	N/A	
B30	Storage	✓	✓	
B31	Design Detail	✓	✓	
B32	Front Fences	N/A	N/A	
B33	Common Property	✓	✓	
B34	Site Services	✓	✓	

CAR PARKING

Clause 52.06 – Car Parking 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	2	2	Yes
2	4	2	2	Yes
3	3	2	2	Yes
4	3	2	2	Yes

Garages must be at least 6.0m long and 3.5m wide for a single space and 5.5m wide for a double space (measured inside the garage or carport). An open car space should be at least 4.9m long and 2.6m wide. The proposal satisfies these requirements.

The proposal also does not include sight triangles in accordance with Design Standard 1 – Accessways of Clause 52.06 – Car Parking of the Whittlesea Planning Scheme.

DEVELOPMENT CONTRIBUTIONS PLAN OVERLAY - SCHEDULE 3

The subject 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. Preferred dwelling density.

The site is located within the Suburban Residential Change Area pursuant to Council's Housing Diversity Strategy. The proposal is contrary to the preferred housing density

identified within this Change Area. Accordingly, this ground of objection can be substantiated.

2. Neighbourhood character.

It is considered the siting of the proposed dwellings together with the lack of opportunities for meaningful landscaping to soften the built form is contrary to both the existing and preferred neighbourhood character. Accordingly, this ground of objection can be substantiated.

3. Visual bulk.

It is considered the 1.2 metre setbacks provided between the dwellings is tokenistic and will result in the ground floor footprint presenting as one continuous building mass. It is also considered the existing 2.4m wide drainage and sewerage easement along the northern and eastern boundaries of the site further limits the ability to provide landscaping to soften and break up the built form. Accordingly, this ground of objection can be substantiated.

4. Landscaping.

It is considered the proposal does not provide adequate opportunities for landscaping, including the provision of canopy trees within the street setback and secluded private open spaces of Dwelling Nos. 2 and 3. Accordingly, this ground of objection can be substantiated.

5. Overlooking.

Overlooking will occur from the first floor habitable room windows along the northern elevation, which must be screened in accordance with Clause 55 of the Whittlesea Planning Scheme. Accordingly, this ground of objection can be substantiated.

6. Overshadowing.

The overshadowing diagrams provided indicate the proposal will maintain 40m² of secluded private open space free from shadows for each of the adjoining dwellings. Accordingly, this ground of objection cannot be substantiated.

7. Noise.

It is considered the noise that will be generated by three additional dwellings is an acceptable outcome for General Residential zoned land. Accordingly, this ground of objection cannot be substantiated.

8. Removal of vegetation.

The proposal shows no regard for the retention of the Gum tree within the front setback, which contributes to the landscape character of the area. Accordingly, this ground of objection can be substantiated.

9. Additional traffic and safety.

The application was referred to Council's Transportation Engineers, who offered no objection to the additional vehicle trips associated with an additional three dwellings on the subject site. Accordingly, this ground of objection cannot be substantiated.

10. Drainage.

The application was referred to Council's Development Engineers, who offered no objection to the proposed development, subject to the provision of appropriate drainage for the subject site. Accordingly, this ground of objection cannot be substantiated.

11. The collection of waste bins.

The application was referred to Council's Facilities Management Officer, who offered no objection to the proposed collection of waste from Ascot Court. Accordingly, this ground of objection cannot be substantiated.

12. Loss of amenity during construction.

The protection of adjoining residential amenity is a matter outside the scope of a planning assessment and is regulated through the Building Code of Australia. 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 55. It is considered the proposed four dwellings do not appropriately respond to the opportunities and constraints of the site.

RECOMMENDATION

THAT Council resolve to refuse Planning Permit Application No. 715453 and issue a Refusal to Grant a Planning Permit for the construction of four dwellings at 3 Ascot Court, Thomastown on the following grounds:-

- 1. The proposed development does not satisfactorily respond to its context and surrounding development and does not respect the existing or preferred character of the neighbourhood.**
- 2. The proposal does not comply with Clause 52.06 of the Whittlesea Planning Scheme (provision of sight triangles).**
- 3. 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 55.03-1 (Street Setback);**
 - d) Clause 55.03-5 (Energy Efficiency);**
 - e) Clause 55.03-8 (Landscaping); and**
 - f) Clause 55.04-6 (Overlooking).**

COUNCIL RESOLUTION

MOVED: *Cr Sinclair*
SECONDED: *Cr Kirkham*

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

CARRIED

6.1.5 30-34 SPENCER STREET, THOMASTOWN - AMENDMENT TO CONDITION 10 OF PLANNING PERMIT 711429 TO EXTEND THE TRADING HOURS TO 6AM - 2AM MONDAY - SUNDAY

File No: 711429

Attachments: 1 Locality Maps
2 Zoning Map

Responsible Officer: Director Planning & Major Projects

Author: Planning Officer Established Areas Planning

APPLICANT: Yum Restaurants International

ZONING: Industrial 1

OVERLAY: Development Contributions Plan (Schedule 3)

REFERRAL: Nil

OBJECTIONS: Two

RECOMMENDATION: That Council support an increase in trading hours to 6am to 11pm (Sunday to Thursday) and 6am to 12 midnight (Friday to Saturday).

REPORT**EXECUTIVE SUMMARY**

The applicant proposes to amend Planning Permit No. 711429 to allow the existing KFC convenience restaurant to trade 6am to 2am, seven days a week. Condition No. 10 of the planning permit currently restricts the convenience restaurant's trading hours to 6am to 10pm (Sunday to Thursday) and 6am to 11pm (Friday and Saturday).

Notification of the proposal resulted in two objections being received from residential properties directly abutting the site to the north. The grounds of objection relate to additional adverse amenity impacts on the surrounding area (such as noise, lighting and pollution) as a result of the extension of trading hours to 2am.

It is considered that the proposed operation of the convenience restaurant to 2am seven days a week is excessive, and will detrimentally affect the amenity of the surrounding residential area. However, a minor extension to the hours is considered acceptable. Therefore, a condition of any approval issued will restrict the hours of operation to 6am – 11pm (Sunday to Thursday) and 6am – 12midnight (Friday and Saturday). Recent VCAT decisions have imposed similar hours of operation for premises with similar site circumstances (adjoining residential properties).

It is recommended that Council support a minor increase to trading hours but not to the extent proposed by the applicant.

SITE AND SURROUNDING AREA

The site is located on the northern side of Spencer Street, on the corner of Dalton Road (east), approximately 200m north of the Dalton Road exit from the Metropolitan Ring Road (see Attachment 1).

The site is currently occupied by a KFC convenience restaurant, associated drive through lanes, car parking and landscaping. The site has direct access to Spencer Street and Dalton Road.

The site is located on the periphery of an Industrial 1 Zone area to the west and south. Land directly to the north (abutting the subject site) and across Dalton Road to the east is zoned General Residential (*see Attachment 2*).

BACKGROUND

Planning Permit No. 711429 allowing for the use and development of a food and drink premises (convenience restaurant), a reduction in car parking requirements, alteration to access to a Road Zone Category 1 and the display of business identification signage was approved under delegation on the 1 July 2009. The application was advertised and no objections were received.

An Application to Amend Permit No. 711429 to extend the hours of operation of the KFC was approved under delegation on 8 October 2015. The extension to the hours of operation allowed for a breakfast service from 6am (as opposed to 10am) as follows:

- 6.00am to 10.00pm: Sunday to Thursday
- 6.00am to 11.00pm: Friday to Saturday

The application was advertised and no objections were received.

RESTRICTIONS AND EASEMENTS

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

PROPOSAL

The applicant proposes to amend the existing planning permit by modifying Condition No. 10 of the permit to allow the KFC convenience restaurant to operate 6am to 2am, seven days a week.

PUBLIC NOTIFICATION

Notification of the application has resulted in two objections being received. The grounds of objection relate to additional adverse amenity impacts on the surrounding area (such as noise, lighting and pollution).

PLANNING ASSESSMENT

The following State Planning Policies, Local Planning Policies and particular provisions of the Whittlesea Planning Scheme are considered relevant to this application.

State and Local Planning Policy Frameworks

Economic Development (Clauses 17 and 21.10)

The objectives of these Clauses seek to encourage development which meets the communities' needs for retail, entertainment, office and other commercial services and provides net community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities.

It is considered that there is negligible social benefit as a result of the proposal. However, it is considered that a minor extension to the trading hours will ensure this commercial service is accessible to the ever-changing community, without compromising residential amenity. The extended trading hours may also create additional employment opportunities within the municipality.

Zoning and Overlay Provisions

Industrial 1 Zone (Clause 33.01)

The subject land is located within an Industrial 1 Zone. The purpose of this zone is to provide for manufacturing industry, the storage and distribution of goods and associated uses in a manner which does not affect the safety and amenity of local communities.

The existing convenience restaurant (KFC) is surrounded by industrial uses to the west and south; however a residential zone abuts the site to the north and east. Two objections have been received from residential properties which directly abut the site.

It is considered that the application has not provided sufficient evidence to support the extension of trading hours to 2am every night, particularly in relation to the likely effects on the neighbourhood, including:

- Noise levels.
- Air-borne emissions.
- Emissions to land or water.
- Traffic, including the hours of delivery and despatch.
- Light spill or glare.

The applicant recently submitted a basic Patron Management Plan. The plan nominates various techniques to encourage good outcomes on the site however does not impose any prescriptive or tangible measures to ensure compliance. A condition of any approval granted will require the formal submission of a revised Patron Management Plan that includes compliance measures to the satisfaction of the Responsible Authority.

The applicant has also submitted an Acoustic Report prepared by an acoustic engineer. The report has measured the existing noise environment during the night time period on Thursday 3 March and Friday 4 March. The night time period on a Saturday night was not measured. The noise levels were monitored at the north-eastern corner of the existing KFC building (the exit of the 'drive through').

The report states that the lowest 'background' noise levels captured during the night time period between 10pm and 2am was '44'. The maximum noise limit applicable to the industrial zoning of the site is nominated to be '47'. It is noted that the report only nominates the maximum noise level associated with an industrially-zoned site, and does not nominate or consider the maximum noise level applicable for a residential site (such as the north-adjointing properties).

It is considered that the acoustic report offers some predictions on the acoustics of the site but has not gone so far as to measure noise on the north-adjointing residential properties, throughout different areas of the drive-through convenience restaurant, or on a Saturday night (which is expected to be one of the busiest trading nights).

Therefore, it is considered that the amenity of the surrounding area may be detrimentally affected as a result of the extension in trading hours to 2am, as the objectors have provided information that there are existing amenity issues with the use of the site, particularly in relation to noise, pollution and lighting. The applicant has not incorporated any physical noise attenuation measures to address the extension in operation hours. Similarly, the existing layout of the convenience restaurant with the drive-through directly abutting northern residential properties gives amplified opportunity for detrimental amenity impacts.

Nevertheless, it is considered acceptable to approve a minor extension to the hours of operation to 11pm (Sunday to Thursday) and 12am midnight (Friday to Saturday) as these trading hours are in line with hours imposed by VCAT for convenience restaurants in similar

locations (adjoining residential properties). These hours offer a compromised solution to ensure the business can operate viably without significantly affecting residential amenity.

Convenience Restaurant and Take-Away Food Premises (Clause 52.20)

The application has not provided sufficient evidence to demonstrate that the social benefits derived from allowing the convenience restaurant to operate until 2am are sufficient to outweigh Council's concerns with the associated amenity impacts.

Applications for late night/24 hour trading for convenience restaurants are typically refused by the Victorian Civil and Administrative Tribunal (VCAT) where the site is within or abuts sensitive residential land, and/or where there are limited perceived social benefits. Council maintains this position and would therefore restrict the hours of operation to 6am to 11pm (Sunday to Thursday) and 6am to 12am midnight (Friday to Saturday). It is considered that this is a compromised solution to allow a minor extension to the hours without compromising on residential amenity.

COMMENTS ON GROUNDS OF OBJECTION

1. Additional adverse amenity impacts on the surrounding area (such as noise, lighting and pollution)

Objectors submit that customers utilising the site late at night may congregate at the site, creating noise and disturbing the peace of the residential area directly north of the site. It is considered that the ground of objection can be substantiated and therefore a condition of any approval issued will restrict the hours of operation as follows:

6.00am to 11pm: Sunday to Thursday

6.00am to 12 midnight: Friday to Saturday

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 do not support an increase in trading hours to 6am to 2am (Monday to Sunday). It is considered that the proposed operation of the convenience restaurant to 2am seven days a week is excessive, and will detrimentally affect the amenity of the surrounding residential area. However, a minor extension to the hours is considered acceptable. It is recommended that a condition of any approval granted be included to restrict the trading hours to 6am to 11pm (Sunday to Thursday) and 6am to 12am midnight (Friday and Saturday). It is considered that the reduced trading hours will demonstrate a satisfactory level of compliance with the requirements of the State and Local Planning Policy Framework, the Industrial 1 Zone (Clause 33.01) and Convenience Restaurant and Take-Away Food Premises (Clause 52.20) of the Whittlesea Planning Scheme.

RECOMMENDATION

THAT Council resolve to support an increase in trading hours and issue a Notice of Decision to Grant a Permit for Amendment to Planning Permit 711429 at 30-34 Spencer Street, Thomastown, to allow for an increase in the trading hours subject to the following conditions:

- 1. Amend Condition No. 10 (relating to hours of trading) to read the following:**
The use may operate only between the hours of Sunday to Thursday 6am to 11pm and Friday to Saturday 6am to 12am midnight.
- 2. Addition of a new Condition (No. 50) requiring the following:**
The submission of a revised Patron Management Plan for the premises, generally in accordance with the email dated 22 March 2015, but amended to include revised trading hours and compliance measures. This Plan will be endorsed and form part of this permit and must not be altered except with the prior written consent of the Responsible Authority.

COUNCIL RESOLUTION

MOVED: *Cr Sinclair*
SECONDED: *Cr Kirkham*

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

CARRIED

6.1.6 2-4 HELM COURT, EPPING - AMENDMENT TO PLANNING PERMIT 709272 TO ALLOW FOR EXTERNAL STORAGE OF GOODS WITHIN DESIGNATED CAR PARKING SPACES, CONSTRUCTION OF A SCREEN/FENCE AND TO REDUCE THE STANDARD CAR PARKING RATE

File No: 709272

Attachments: 1 Locality Maps
2 Development Plan
3 Site Photos

Responsible Officer: Director Planning & Major Projects

Author: Planning Officer Established Areas Planning

APPLICANT: Vlad Bogoevski

COUNCIL POLICY: 22.09 Industrial Development Policy

ZONING: Activity Centre Zone (Schedule 1) Precinct 8B

OVERLAY: Development Contributions Plan Overlay (Schedules 3 and 14)

REFERRAL: Nil

OBJECTIONS: Nil

RECOMMENDATION: That Council refuse the application to amend Permit 709272

REPORT

EXECUTIVE SUMMARY

The applicant proposes an amendment to Planning Permit 709272 to allow for the external storage of goods within designated car parking spaces, construction of a screen/fence and to reduce the standard car parking rate. It is proposed to impose a two year 'temporary' permit to allow for the proposal after which the car parking would be reinstated.

Numerous modifications to Planning Permit No. 709272 are also associated with the proposal including alteration of the permit preamble, the addition, deletion and modification of conditions of permit, and alterations to the endorsed plans.

Planning application 715448 sought similar approvals to those listed above. Council refused this application at its meeting on 6 October 2015. The applicant appealed Council's decision to the Victorian Civil and Administrative Tribunal (VCAT) in December 2015. VCAT determined that the correct mechanism to consider the application would be to amend the original Planning Permit for the site (Planning Permit No. 709272). Therefore, Council must now make a decision based on the current application to amend Planning Permit 709272.

Advertising of the proposal is exempt under the provisions of the Activity Centre Zone.

The proposal does not demonstrate a satisfactory outcome with regard to the State and Local Planning Policy Framework, the purpose of the Activity Centre Zone or Clause 52.06 (Car Parking) of the Whittlesea Planning Scheme.

Council has received a number of complaints from the local community in respect to the subject site, specifically in relation to the unlawful external storage of goods within designated on-site car spaces.

Providing a temporary two year permit for the site will result in an undesirable precedent to be set within Council's industrial areas. It is noted that there is extensive planning enforcement history on the site dating back to 2010. It is considered unacceptable to provide the applicant with additional time to conduct their undesirable use of the site, particularly given that they have had ample time to consider other options and/or consider relocating to a more appropriate location where their storage needs could be better accommodated.

The proposal will detrimentally affect the amenity of the local community/surrounding area, and will set an undesirable precedent for future external storage of goods, machinery and/or vehicles within the front setback (and within designated car parking spaces). Council has received a number of VCAT decisions in the past that have upheld Council's decision to refuse similar applications for the external storage of goods within designated car parking spaces.

Accordingly, it is recommended that Council refuse the application.

SITE AND SURROUNDING AREA

The subject site comprises two parcels of land and is located on the northern side of Helm Court, Epping and the corner of Yale Drive (east), approximately 180m north of Cooper Street (see *Attachment 1*). The site is irregular in shape with a street frontage of 40.8m (Lots 24B, 25A and 25B), a side setback to Yale Drive of 3.0m, and a depth of 29.0m.

Four attached industrial buildings (with ancillary offices) currently occupy the site however, the application only relates to three of the four buildings (Lots 24B, 25A and 25B). Each building has a total floor area (including mezzanine floor) of approximately 293m². Each building fronts Helm Court, and contains seven car spaces each (including one disabled car space). The on-site car spaces are positioned within the front setback to the building.

Vehicular access to each building is provided via three separate crossovers situated along the southern boundary of the land (Helm Court).

Low-level landscaping is located within the front and side setbacks to Helm Court and Yale Drive.

Surrounding land to the north, east, west and south is characterised by industrial buildings constructed predominantly of concrete panels, glass and cement masonry, with provision of onsite car parking typically within the front setbacks to the industrial buildings.

RESTRICTIVE COVENANT/EASEMENTS

The sites containing the three industrial buildings are legally described as Lots 24 and 25 on Plan of Subdivision 215793C.

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

HISTORY

Planning Permit No. 709272 was issued on 28 December 2005 for the development of four industrial buildings (at 2-4 Helm Court) in accordance with the endorsed plans. There were a number of conditions included on the permit which relate to the amenity of the area not being detrimentally affected by the appearance of materials, and that parking areas be kept available for these purposes at all times. The endorsed plans show 28 car parking spaces onsite (seven car spaces for each industrial building including one disabled car space). It is noted that there is a pending application to subdivide the four industrial buildings into separate lots.

This planning permit was amended on 13 December 2006 to allow for additions and alterations to the industrial development to allow for mezzanine floors.

The current business operating from the three industrial buildings is a fencing business for the sale, supply and installation of fencing to the commercial industry, including estate developments, infrastructure and government projects. There are a total of 15 employees, of which the applicant has stated that there are a maximum of 4 staff onsite at any one time.

There is a history of planning enforcement on the site dating back to 2010 which relates to the unsatisfactory maintenance of landscaping and the unlawful external storage of goods within designated car parking/access way/loading areas. The enforcement history is associated with the same business that is currently seeking this permit amendment. Council has received a number of complaints from the local community about the subject site, specifically in relation to the unlawful external storage of goods within designated car spaces. The current application has been submitted to seek formal approval for the external storage of these goods, within designated car parking areas (*see Attachment 2 for photographs of materials currently being stored within the car parking area*).

Planning application 715448 sought approval for buildings and works to construct a fence to allow for the external storage of goods. Council refused this application at its meeting on 6 October 2015. The applicant subsequently appealed Council's decision to the Victorian Civil and Administrative Tribunal (VCAT) in December 2015. VCAT determined that the correct mechanism to consider the application would be to amend the original Planning Permit 709272.

PROPOSAL

Details of the proposed amendments to Planning Permit No. 709272 are outlined below:

1. Amend endorsed plans to show:

- (a) External storage of goods within designated car parking spaces and reduction in the standard car parking rate

The application proposes to use 14 of the 21 on-site car parking spaces to allow for an external storage area. These car spaces are currently provided within the front setback to Helm Court. It is proposed to store goods associated with the existing fencing business within these nominated car parking spaces. Seven car parking spaces are proposed to be retained as car parks in the front setback of warehouse no. 4 (*see Attachment 3*).

- (b) Construction of a screen/fence

The applicant proposes to erect 2.5m high perforation screens (with a minimum of 50% transparency) around the perimeter of the external storage areas to conceal the materials being stored. It is proposed to erect the screen 2m behind the Helm Court

frontage and returning along the boundary between warehouse Nos. 3 and 4. (see Attachment 3).

2. Alterations to permit preamble

The applicant proposes to amend the permit preamble to include approval for a reduction in car parking.

3. Amend existing permit conditions:

Amend the following conditions:

Condition 14

Currently reads:

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

will be amended to read:

Parking areas and access lanes must be kept available for these purposes at all times, unless otherwise authorised by this permit.

Condition 20

Currently reads:

No fewer than 28 car spaces must be provided on the land for the development.

will be amended to read:

No fewer than 28 car spaces must be provided on the land unless otherwise authorised by this permit.

Condition 21

Currently reads:

Provision must be made within the car park on the site to satisfaction of the Responsible Authority for 5 car spaces clearly marked for the disabled.

will be amended to read:

Provision must be made within the car park on the site to satisfaction of the Responsible Authority for 5 car spaces clearly marked for the disabled unless otherwise authorised by this permit.

4. Deletion of the following condition:

Condition 1 (c)

Currently reads:

Removal of the black chain wire mesh fencing around the frontage of the site. Fencing must only be provided to the side and rear of each of the buildings.

5. Inclusion of the following new conditions:

- *Drawing Front Fence Site Plan and Elevation prepared by Cornetta Partners Architects dated 15 July 2015 must be endorsed and will then form part of this Planning Permit.*
- *Landscaping must be constructed and fencing / screening must be installed in accordance with Drawing Front fence Site Plan and Elevation prepared by Cornetta Partners Architects dated 15 July 2015 within two months of endorsement of the plan by the responsible authority.*
- *Within two years from the date of this amended permit, the use of the setback of warehouses 2 and 3 from Helm Court for storage must cease and storage use in the setbacks to Helm Court ceases, at that time fencing / screening installed in accordance with the Front fence Site Plan and Elevation prepared by Cornetta Partners Architects dated 15 July 2015 must be removed and made good.*
- *The reduction of car parking component authorised by this amended permit will expire two years from the date of this amended permit. The expiry of the reduction of car parking component of this permit shall have no force or effect on any other planning permission authorised by this permit.*

PUBLIC NOTIFICATION

The application is exempt from advertising pursuant to Clause 37.08-8 (Activity Centre Zone). It is noted, however, that Council has received a number of complaints from the local community about the subject site.

PLANNING ASSESSMENT

The following State Planning Policies, Local Planning Policies and particular provisions of the Whittlesea Planning Scheme (the Scheme) are considered relevant to this application.

State Planning Policies

Urban Design (Clause 15.01-1)

The objective of this Clause is *‘to create urban environments that are safe, functional and provide good quality environments with a sense of place and cultural identity.’* It is considered that the proposal does not align with this objective in relation to providing good quality environments, particularly in relation to the appearance of the proposed external storage from the streetscape (of which will still be visible even with the proposed barrier/screen).

Urban Design Principles (Clause 15.01-2)

The objective of this Clause is *‘to achieve architectural and urban design outcomes that contribute positively to local urban character and enhance the public realm while minimising detrimental impact on neighbouring properties.’* It is considered that the proposal does not align with this objective, as it does not contribute positively to the enhancement of the character of the area, and the external storage will be visible both from the public realm (streetscape) and neighbouring properties.

Car parking (Clause 18.02-5)

The objective of this Clause is *'to ensure an adequate supply of car parking that is appropriately designed and located.'* It is considered that the proposed external storage of goods will detrimentally impact upon the easy and efficient use and movement and delivery of goods on the site, and will not achieve a high standard of urban design. Further, the external storage area will result in the loss of 14 onsite car parking spaces.

Local Planning Policies

Industrial Development Policy (Clause 22.09)

The objective of Council's Industrial Development Policy is to achieve well designed, quality industrial developments that are suitably located so as to meet stated economic development objectives.

The policy was introduced as a result of Council's concern with the appearance and functioning of existing industrial areas in the municipality which have typically reflected low construction and architectural standards, and lack cohesion. Invariably, this tends to portray a poor image of the industrial areas in the municipality (which are generally located at the major gateways to the municipality), and in some cases, this is exacerbated by problems in relation to car parking and traffic congestion. New investment is often avoided in areas perceived not to encourage the presentation of quality developments, and this is often depicted by the treatment of the streetscape, and the provision of adequate onsite car parking. In essence, the Industrial Development Policy was introduced in order to assist in achieving appropriately located and designed industrial developments.

It is considered that the proposal does not result in a reasonable or desirable outcome with regard to this policy.

It is policy to:

- *Ensure that the scale and appearance of all buildings and works is consistent with the purpose of the zone, site location, and surrounding land uses.*

The appearance of the external storage area is inconsistent with the purpose of the Activity Centre Zone, is inappropriately located within the front setback and results in the loss of 14 onsite car parking spaces.

- *Encourage appropriate landscape and building setbacks that enhance and / or improve the appearance of industrial areas.*

The proposed external storage area will not enhance or improve the appearance of this industrial area. The submitted application does not provide detail in regards to the retention/improvement of the existing landscaping onsite and will present an unattractive streetscape appearance to Helm Court and Yale Drive, and to neighbouring properties.

- *Ensure landscape plans are provided, showing:*
 - *an automatic sprinkler irrigation system;*
 - *simple landscaping which includes provision of lawn and high canopy trees especially along front setbacks;*
 - *provision of trees in carpark areas; and*
 - *preservation of existing trees on site.*

The application has not formalised or confirmed the retention/enhancement of the existing landscaping on the site.

- *Ensure all external storage of goods and materials, refuse collection areas and garbage skips is fully screened from view. Screening should be in materials consistent with buildings to be constructed on the site.*

The proposed external storage area will not be wholly screened from view and will be visible through the proposed 50 per cent transparency fence/screen.

Zoning and Overlay Provisions

Activity Centre Zone Schedule 1 (Clause 37.08)

The site is affected by the Activity Centre Zone Schedule 1 and falls within Sub-Precinct 8B (Employment). The objectives of this Precinct include increasing employment densities and to achieve a high quality character.

The proposal is considered inappropriate with regard to the purpose of the Activity Centre Zone, as it will detrimentally affect the amenity of the local community and surrounding area by presenting an unattractive streetscape appearance to the precinct, and will set an undesirable precedent for future external storage of goods, machinery and/or vehicles within the front setback and within designated car parking areas.

It is considered that the loss of a 14 onsite car parking spaces to make way for the external storage area will have a detrimental effect on parking for the customers and staff of the site and the surrounding traffic network, and may also impede safe access to and from the site, particularly as stored goods have the potential to limit vehicle manoeuvrability and/or visibility.

While Council encourages economic development and recognises the need for businesses to adapt (and grow) over time, these considerations should not compromise on delivering positive streetscape outcomes for the community. Although the applicant seeks a two year 'temporary' permit, it is considered that granting any approval will result in an undesirable precedent to be set within Council's industrial areas. It is noted that there is extensive planning enforcement history on the site dating back to 2010 and the applicant has been afforded ample time to consider other options and/or consider relocating to a more appropriate location where the storage needs of the business could be suitably accommodated. In this case, Council also has a responsibility to respond to complaints made by the local community and ensure that a desirable precedent is set and high quality character is achieved and maintained.

Development Contributions Plan Overlay Schedule 3 (Clause 45.06)

The site is affected by the Development Contributions Plan Overlay (Schedule 3). The schedule to the overlay requires that drainage contributions be made for non-residential development when the impervious floor area is increased. As the size of the building is not increased, it is considered that the proposal does not attract development contributions.

The site is affected by the Development Contributions Plan Overlay (Schedule 14). The schedule to the overlay requires that contributions be made for all new industrial development. As the size of the building is not increased, it is considered that the proposal does not attract development contributions.

Particular Provisions

Car Parking (Clause 52.06)

A permit is required to reduce the number of car parking spaces required under Clause 52.06.

The current proposal is to reduce the onsite car parking available to the three industrial buildings from 21 car spaces to seven spaces so as to facilitate external storage (a reduction of 14 spaces as shown on the endorsed plans).

Based on the car parking provisions listed in Clause 52.06 for industry use, the number of car spaces required for the existing net floor area of all three industrial buildings is 23 spaces (approximately 796m² total net floor area). As such, a total reduction of 16 car spaces is proposed (or 70% of the required car parking for the industry use).

A reduction in car parking spaces must be based upon the general 'industry' use and not just the particulars of the current operation, as different industries may occupy the different sites in future (three separate industrial buildings). It is noted that there is a current subdivision application being sought which would separate the buildings into three separate tenancies which could be separately owned and occupied.

The application lacks sufficient evidence to support the reduction in the car parking spaces, with no car parking demand assessment submitted with the application. Further, the application provides an unsatisfactory response to Council's relevant local planning policy, the 'Industrial Development Policy' (as required by Clause 52.06-6).

It is considered that the proposed reduction of 70% of the required onsite car parking will negatively impact on the character of the area, and undermine the achievement of a good urban design outcome for the site.

Therefore, it is considered that the reduction in the number of car parking spaces is unacceptable.

RELEVANT VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL PRECEDENTS (VCAT)

The Council Officer's recommendation for refusal is consistent with two recent applications that have been presented to Council for consideration. Both decisions for refusal have been affirmed by VCAT over the last year (1-3 Brand Drive, Thomastown and 64 Commercial Drive, Thomastown).

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, strategies and decision guidelines of Urban design (Clause 15.01-1), Urban design principles (Clause 15.01-2), Car parking (Clause 18.02-5), Industrial Development Policy (Clause 22.09) Activity Centre Zone Schedule 1 (Clause 37.08) and Car Parking (Clause 52.06).

The proposal to reduce the standard car parking rate to establish an external storage area will detrimentally affect the amenity of the local community and surrounding area by presenting an unattractive streetscape appearance to the precinct, and will set an undesirable precedent for future proposals for the external storage of goods, machinery and/or vehicles within the front setback. It is considered that the proposed screen/fence will also result in an unattractive outcome for the site and surrounding area.

The proposed reduction in car parking is to provide for an 'external storage area', which has the potential to result in adverse effects on traffic flow and road safety (on and off site) and will result in an unreasonable reduction in the standard car parking rate for the purposes of an industrial use.

It is therefore recommended that Council refuse the application.

RECOMMENDATION

THAT Council resolve to Refuse the Application to Amend Planning Permit 709272 and issue a Refusal to Amend Planning Permit 709272 at 2-4 Helm Court, Epping on the following grounds:

1. The proposal fails to comply with the State Planning Policy Framework in particular Urban design (Clause 15.01-1), Urban design principles (Clause 15.01-2) and Car parking (Clause 18.02-5) of the Whittlesea Planning Scheme.
2. The proposal fails to comply with the Local Planning Policy Framework, in particular Industrial Development Policy (Clause 22.09) of the Whittlesea Planning Scheme.
3. The proposal fails to comply with the purpose of Activity Centre Zone Schedule 1 (Clause 37.08) of the Whittlesea Planning Scheme.
4. The proposal fails to comply with the purpose and decision guidelines of Car Parking (Clause 52.06) of the Whittlesea Planning Scheme.
5. The proposal will detrimentally affect the amenity of the local community and surrounding area by presenting an unattractive streetscape appearance to the industrial precinct, and will set an undesirable precedent for future external storage of goods, machinery and/or vehicles within the front setback.

COUNCIL RESOLUTION

MOVED: *Cr Lalios*
SECONDED: *Cr Kelly*

THAT Council resolve to:

- A. Refuse the Application to Amend Planning Permit 709272 and issue a Refusal to Amend Planning Permit 709272 at 2-4 Helm Court, Epping on the following grounds:
 1. The proposal fails to comply with the State Planning Policy Framework in particular Urban design (Clause 15.01-1), Urban design principles (Clause 15.01-2) and Car parking (Clause 18.02-5) of the Whittlesea Planning Scheme.

2. The proposal fails to comply with the Local Planning Policy Framework, in particular Industrial Development Policy (Clause 22.09) of the Whittlesea Planning Scheme.
 3. The proposal fails to comply with the purpose of Activity Centre Zone Schedule 1 (Clause 37.08) of the Whittlesea Planning Scheme.
 4. The proposal fails to comply with the purpose and decision guidelines of Car Parking (Clause 52.06) of the Whittlesea Planning Scheme.
 5. The proposal will detrimentally affect the amenity of the local community and surrounding area by presenting an unattractive streetscape appearance to the industrial precinct, and will set an undesirable precedent for future external storage of goods, machinery and/or vehicles within the front setback.
- B. Work with the applicant and business owner to provide advice on opportunities for managing the growing business.

CARRIED

6.1.7 44 APPLÉGUM DRIVE, SOUTH MORANG - REMOVAL OF RESTRICTIVE COVENANT ON PLAN OF SUBDIVISION 701101M TO ALLOW FOR THE REMOVAL OF NATIVE VEGETATION AND A TREE PROTECTION ENVELOPE/EXCLUSION ZONE

File No:	715820
Attachments:	1 Locality Maps 2 Tree protection zone 3 Siting of proposed dwelling 4 Photos of Subject Tree
Responsible Officer:	Director Planning & Major Projects
Author:	Planning Officer EAP
APPLICANT:	Mrs M Solomon
COUNCIL POLICY:	Nil
ZONING:	General Residential Zone
OVERLAY:	Vegetation Protection Overlay (Schedule 1) Development Plan Overlay (Schedule 6)
REFERRAL:	Nil
OBJECTIONS:	One
RECOMMENDATION:	That Council refuse the application

REPORT**EXECUTIVE SUMMARY**

The applicant proposes to remove a restrictive Covenant on Plan of Subdivision 701101M to allow for the removal of native vegetation consisting of a long leaf box tree (*Eucalyptus gonicalyx*) and the associated tree protection zone to facilitate the construction of a single dwelling on the subject land at 44 Applegum Drive, South Morang.

The subject tree is protected via the Restrictive Covenant and the Vegetation Protection Overlay (Schedule 1) that affects the subject property.

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 the removal of tree resulting in a loss arising from change to the character of the neighbourhood and a loss of visual amenity.

Council's arborist has inspected the tree and does not support the recommendation from the applicant's arboricultural report submitted that the tree requires removal. It is considered that any future development of the property should have due regard for the retention and protection of the tree imposed by the restriction on title.

As such, Council officers recommend that the application be refused as the proposal will result in detriment to a beneficiary of the covenant (the objector) and that the removal of the tree does not meet the purpose of the Vegetation Protection Overlay the affects the property.

SITE AND SURROUNDING AREA

The subject site is a corner residential allotment located within Stage 5 of the Camalda Estate on the south side of Applegum Drive, South Morang (see *Attachment 1*).

The site has an area of 659m² and is irregular in shape with a frontage of approximately 19.0m along the north property boundary and approximately 27.0m along the west property boundary. The site is devoid of any buildings and works and contains one significant tree (*Eucalyptus gonicalyx*) within the northeast portion of the land (see *Attachment 4*). Vehicle access to the site is provided by way of an existing concrete crossing located along the west property boundary to Cloud Street.

The surrounding area is characterised by recent residential development, generally constructed in the last five years and consists predominantly of single dwellings with some dual occupancy developments, constructed in a combination of contemporary building materials. A number of public open space areas are provided, with several other significant trees located within privately owned allotments.

RESTRICTIONS AND EASEMENTS

The subject site is legally described as Lot 538 on Plan of Subdivision 701101M and is encumbered by a number of restrictions registered on title on 17 January 2014. The relevant part of the covenant reads:

Restriction C

The registered proprietor or proprietors of any Burdened Lot shall not:

1. *Allow any buildings and works (including paving, unless specific written approval for paving has been obtained Whittlesea City Council) to be constructed within the boundaries of the Tree Envelope/Exclusion Zone.*
2. *Allow building or works to occur within the Tree Envelope/Exclusion Zone other than in accordance with the Building Envelope Plan(s), and any conditions/requirements therefore approved under planning permit No. 712466 and 712510 issued by the Whittlesea City Council, unless written consent is obtained from the Responsible Authority to vary the Plan.*
3. *Remove, lop or destroy any existing tree within the designated Tree Envelope/Exclusion Zone without the approval of the Responsible authority.*
4. *Remove any existing tree from the Tree Envelope/Exclusion Zone including a tree that is substantially damaged to the extent that the tree must be removed, without re-installing a new advanced tree of the same species within the Tree Envelope/Exclusion Zone and without, prior to reinstatement, removing the entire tree including roots from the site.*
5. *Remove any existing tree from the Tree Envelope/Exclusion Zone without making it available for use by the Responsible Authority within the local area for habitat or public art purposes.*
6. *Remove any existing tree from the Tree Envelope/Exclusion Zone without satisfying the appropriate offset and net gain requirements as specified in the Whittlesea Planning Scheme and/or relevant state government requirements/legislation applicable at the time of removal relating to offset requirements.*

PROPOSAL

The proposal seeks to remove restriction 'C' of Restrictive Covenant on Plan of Subdivision 701101M to allow the removal of the existing significant tree (*Eucalyptus gonicalyx*) and the Tree Envelope/Exclusion Zone registered on title for the land. The applicant requires the removal of the tree to accommodate the construction of a single dwelling that they propose to construct on the land (see *Attachment 3*).

PUBLIC NOTIFICATION

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

1. Loss arising from change to the character of the neighbourhood.
2. Loss of visual amenity.

PLANNING ASSESSMENT

The following State Planning Policies, Local Planning Policies, particular provisions and zoning requirements of the Whittlesea Planning Scheme are considered relevant to this application.

State and Local Planning Policies

Protection of Biodiversity (Clause 12.01-1)

Clause 12.01 of the Whittlesea Planning Scheme relates to biodiversity and the protection and conservation of Victoria's biodiversity, including important habitat for Victoria's flora and fauna and other strategically valuable biodiversity sites.

Native Vegetation Management (Clause 12.01-2)

This clause seeks to ensure that the permitted clearing of native vegetation results in no net loss in the contribution made by native vegetation to Victoria's biodiversity. This involves applying the risk-based approach to managing native vegetation as set out in the *Permitted Clearing of Native Vegetation – Biodiversity Assessment Guidelines* (Department of Environment and Primary Industries, September 2013). These are:

- *Avoid the removal of native vegetation that makes a significant contribution to Victoria's biodiversity.*
- *Minimise impacts on Victoria's biodiversity.*
- *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.*

General Residential Zone (Clause 32.08)

The purpose of the General Residential Zone is to provide residential development at a range of densities that respect neighbourhood character. The removal of vegetation does not trigger a permit requirement under this Clause.

Vegetation Protection Overlay (VPO1) (Clause 42.02)

The purpose of this overlay include:

- *To protect areas of significant vegetation.*
- *To ensure that development minimises loss of vegetation.*
- *To preserve existing trees and other vegetation.*
- *To recognise vegetation protection areas as locations of special significance, nature beauty, interest and importance.*

Pursuant to Clause 42.02-2 of the Whittlesea Planning Scheme, a permit is required to remove, destroy or lop any native vegetation.

Council acknowledges the importance of native vegetation as a visual and environmental feature within the municipality. Any requests to remove native vegetation should only be supported where compelling reasons exist to do so. The removal of the tree to accommodate a specific dwelling design is not considered a valid reason.

The arborist report submitted with the application has been reviewed by Council's Arborist. Council's arborist did not concur with the arborist report submitted that identified the tree as being semi-mature with a poor useful life expectancy, fair structure and fair health. The report maintains previous excavation for remedial purpose has damaged the tree roots and has left wounding in the trunk showing kino secreting and recommends the immediate removal of the tree for safety and for the fact that this species is a wide spreading tree.

Using the same tree descriptors provided by the applicant's arboricultural report, Council officers have indicated that the tree is a mature tree, has a long useful life expectancy, has good structure and good health. It is considered that there have been no valid reasons as to why the tree has been assessed to be in such a poor condition, worthy of immediate removal. There is evidence that there has been some change in soil levels on the site, although given the good health of the tree and high foliage density in the canopy, it appears that this may have only had a very minimal effect on the tree's health.

Council's arborist recommends that the tree be retained and in the event of any buildings and works on the site, must be protected in accordance with the City of Whittlesea Tree Protection Guidelines or AS4970-2009 Protection of Trees on Development sites (whichever is greater).

Development Plan Overlay (DPO6)(Clause 43.04)

The purpose of this overlay is to identify the requirements for the South Morang 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.

Native Vegetation (Clause 52.17)

The purpose of this provision is to ensure permitted clearing of native vegetation results in no net loss in the contribution made by native vegetation to Victoria's biodiversity. As the site is less than 4000m² in size, no permit is required for the removal of the tree 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 –

- (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.*

Restrictive Covenant PS701101M (registered on title on 17 January 2014) is subject to Section 60(2) as outlined above.

In general, the Covenant (PS701101M) requires that all buildings and works must be constructed outside the boundaries of the Tree Envelope/Exclusion Zone and that any tree within the Tree Envelope/Exclusion Zone must not be removed, lopped or destroyed without the approval of Council.

Existing and future landowners who seek to purchase land in this estate do so with the expectation that the existing native vegetation protected via the restrictive covenant will create a certain level of visual amenity and neighbourhood character.

As such, Council officers contend that the objector, who benefits from the covenant, is likely to suffer loss of amenity and loss arising from a change to the character of the neighbourhood and therefore, cannot support the removal of the Covenant.

COMMENTS ON GROUNDS OF OBJECTION

1. 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 removal of the tree is consistent with the Restrictive Covenant which was prepared by the developer of the Camalda Estate to ensure existing vegetation of significance is retained to maintain and enhance the character within the surrounds. Accordingly, this objection can be substantiated under Section 60(2) of the Act

2. Loss of visual amenity

Loss of amenity including visual amenity, is a specific consideration as listed in Section 60(2) of the Act. Accordingly, this objection can be substantiated 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 remove restrictive Covenant on PS701101M to allow the removal of native vegetation and a Tree Envelope/Exclusion Zone registered on title for the land. Council's arborist has determined the tree is mature, has a long useful life expectancy, has good structure and good health and recommends the retention of the tree.

An objection to the removal of the tree and the restrictive covenant has been received from a beneficiary to the Covenant. The objection relates to loss of amenity and loss arising from change to the existing neighbourhood character of the surrounds.

As such, Council officers recommend that the application be refused as the proposal will result in detriment to a beneficiary of the covenant (the objector) and that the removal of the tree does not meet the purpose of the Vegetation Protection Overlay the affects the property.

RECOMMENDATION

THAT Council resolve to Refuse Planning Application No. 715820 and issue a Refusal to Grant a Planning Permit for removal of restrictive covenant on Plan of Subdivision 701101M at 44 Applegum Drive, South Morang, to allow for the removal of native vegetation and a tree envelope/exclusion zone on the following grounds:

1. The removal of restrictive Covenant on PS701101M would result in persons benefiting from the covenant (restriction) to suffer amenity loss and loss arising from change to the existing character of the neighbourhood having regard to Section 60(2) of the *Planning and Environment Act 1987*.
2. The removal of restrictive Covenant on PS701101M 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.
3. The removal of the tree and restrictive Covenant on PS701101M is contrary to the purpose of the Vegetation Protection Overlay (Schedule 1).

Chief Executive Officer's Explanatory Notation

Item 6.1.7, 44 Applegum Drive, South Morang – Removal of Restrictive Covenant on Plan of Subdivision 701101M to Allow for the Removal of Native Vegetation and a Tree Protection Envelope/Exclusion Zone, was withdrawn by the applicant and was not considered at the meeting.

6.1.8 DEVELOPMENT PLAN - 182 GREENHILLS ROAD THOMASTOWN**File No:** 1972273**Attachments:**
1 Locality Maps
2 Parcel Map
3 Development Plans
4 Road Layout**Responsible Officer:** Director Planning & Major Projects**Author:** Planning Officer EAP**APPLICANT:** ASK Planning Services P/L**ZONING:** General Residential Zone
Public Use Zone**OVERLAY:** Development Contributions Plan Overlay
Development Plan Overlay
Public Acquisition Overlay**RECOMMENDATION:** That Council approves the Development Plan**REPORT****EXECUTIVE SUMMARY**

A Development Plan (DP) has been prepared for four land parcels located north of Greenhills Road, Bundoora (see *Locality and Parcel Maps - Attachments 1 and 2*). The DP layout (see *Attachment 3*) provides a subdivision framework, road layout and provision for public open space. The DP has been prepared by a consultant acting for the landowner of 182 Greenhills Road which comprises of the majority plan area. The DP is intended to accommodate an estimated 50 lots (comprising of standard and medium density dwellings predominately in the form of town houses). The DP area was rezoned from Industrial 1 to Residential 1 (now General Residential) in 2012 because Council and the surrounding community did not support industrial development on the land due to site constraints.

A DP must be approved before a planning permit can be granted to use or develop the site. This report seeks a Council resolution to adopt the DP, subject to some further minor amendments, in accordance with the requirements of the Whittlesea Planning Scheme. The DP has been exhibited to surrounding property owners and occupiers and only one minor submission has been received from a surrounding landowner. A further submission has been received from VicRoads (the owner of one of the land parcels within the DP). Both submissions are addressed in this report.

SITE AND SURROUNDING AREA

The proposed DP affects approximately 3.7ha of land located north of Greenhills Road, west of Darebin Creek, south of the Metropolitan Ring Road and east of Longview Court (an established industrial area). All land parcels within the DP area are currently vacant. The four land parcels within the DP area are as follows (see *Attachment 2*):

182 Greenhills Road, Thomastown. This land parcel comprises an area of 2.60ha of which 1.55ha is available for development. The balance of the land (1.05ha) is affected by a Public Acquisition Overlay (PAO) for the future Metropolitan Ring Road/ E6 road corridor

interchange. The majority of proposed development within the DP area is to be accommodated on the developable portion of this land.

172 Greenhills Road, Thomastown. This land parcel (1.4ha) comprises surplus VicRoads-owned land not currently designated for future road purposes. The majority of this land parcel comprises of the Darebin Creek and adjacent flood affected areas. It also contains the existing Darebin Creek shared path maintained by Council. The developable portion of the land is only approximately 0.3ha. As discussed further in this report, VicRoads have advised that the DP should no longer provide for development on this land.

214W Greenhills Road, Bundoora. This land parcel contains an undeveloped Council-owned reserve of 1,071m² located between Greenhills Road and the Melbourne Water pipetrack reservation. The reserve is not embellishment and does not contain any indigenous or planted vegetation. The reserve is not used for active or passive recreation.

Melbourne Water pipetrack reservation. This area comprises approximately 1.0ha of lineal 20m wide reserve between established dwellings and the proposed development. The reservation is of historical archaeological interest as it contains the buried remains of the Maroondah bluestone aqueduct. The reserve is to be embellished with a shared path and landscaping as part of future development associated with the DP. A small part of the reservation (required for a road connection from Greenhills Road) is affected by the Development Plan Overlay.

With the exception of a mature and semi mature tree (a Pink Flowered Yellow Gum and a Pincushion Hakea) the developable area does not contain any significant vegetation. Two mature Radiata pines are located on the Melbourne Water pipetrack reservation and are associated with the historic Maroondah aqueduct reservation. The retention of these trees will be assessed at the planning permit stage.

The existing Darebin Creek shared trail bisects the northeast corner of the site. A 2.4m wide drainage and sewerage easement is located within the eastern portion of the land and runs diagonally from the northern to the eastern boundary of the land.

The properties surrounding the subject site are varied in terms of land use and lot sizes. The land to the north and east of the subject site forms part of the Metropolitan Ring Road and proposed E6 interchange. No part of the development is proposed on this land.

To the east of the subject site is the Darebin Creek. At its closest point, this waterway is 15m from the northeast corner of the DP boundary.

To the west of the subject site is an established industrial precinct which has separate access from Longview Crescent. All future vehicular access to Longview Crescent will be terminated under the DP. The established residential areas to the south abutting Greenhills Road are predominantly single dwellings constructed between the late 1970s and early 1980s.

BACKGROUND

On 12 July 2012, the Minister for Planning approved Amendment C111 to the Whittlesea Planning Scheme to rezone the land from Industrial 1 to Residential 1 (now known as General Residential). The Industrial 1 Zone was assessed at that time as inappropriate having regard to the constrained nature of the land, the proximity of nearby established residential areas and the land's interface with the Darebin Creek. The Amendment also applied the Development Plan Overlay – Schedule 30 (DPO30) to the rezoned land. This provision requires a development plan to be prepared to ensure that future use and

development under a planning permit occurs in an integrated manner and has regard to the opportunities and constraints of the site and the surrounding land.

PROPOSAL

The DP layout (see *Attachment 3*) provides a subdivision framework, indicative local road layout and public open space for the following four sites:

- 182 Greenhills Road, Thomastown;
- A small portion of Melbourne Water pipetrack reservation required to provide access to the DP area.
- 214W Greenhills Road, Bundoora (an unused Council reserve)
- 172 Greenhills Road, Thomastown (surplus land currently owned by VicRoads)

The DP is intended to accommodate an estimated 50 lots (comprising of standard to medium density lots to be provided in the form of town houses with a mixture of double and some triple storey dwellings).

Legal access to the site is currently via an easement right of way from Longview Court forming part of the industrial land to the west. Under the proposed DP, access from this area is to be terminated in favour of a new access from Greenhills Road via part of Council's unused reserve and also incorporating a crossing of the pipe track reservation. That part of the unused reserve not required for road purposes will be retained as an open space reserve.

It is proposed that the loss of Council's unused reserve for required road reservation purposes be offset through a land swap arrangement involving the setting aside of unencumbered open space within 182 Greenhills Road adjacent to the Darebin Creek. Under this arrangement there will be no net loss of public open space for the community and it is generally considered the provision of public open space in this location, adjacent to the Darebin Creek shared trail, will be more usable and beneficial for the community than the current unembellished pocket park. It should also be noted that this proposed arrangement will be provided above, and in addition to, a public open space contribution required at the subdivision stage (discussed further in this report). The land swap arrangement is subject to separate proceedings and negotiations which will be further reported to Council. However, as this land swap outcome has been supported by Council in-principle as part of its previous support and adoption of Amendment C111, it is appropriate that the DP be considered for approval conditional upon the further resolution of this issue.

The road connection from Greenhills Road to the subject land at 182 Greenhills Road is to be set aside as a public road while the proposed internal roads are to be set aside under a body corporate arrangement (see *Attachment 4*). To ensure the small triangular VicRoads-owned portion of the site is not landlocked in a legal sense from the rest of the development, a carriageway easement is required over the body corporate roads. These matters will be further addressed at the planning permit stages.

PLANNING CONTROLS

The DP area is zoned General Residential under the Whittlesea Planning Scheme. The purpose of the zone is to provide a diversity of housing types and moderate housing growth in locations offering good access to services and transport.

The Urban Floodway Zone affects an area of approximately 900m² within the northeast portion of the site. No buildings or works are proposed within this zone and this land will be set aside for inclusion in the Darebin Creek reserve.

The subject land is affected by the Development Plan Overlay Schedule 30 (DPO30). This DP fulfils the Schedule requirements and will facilitate the further subdivision of existing land parcels under a planning permit process.

A Development Contributions Plan Overlay Schedule 3 applies to the land requiring contributions to be paid for drainage infrastructure. Contributions are payable at the planning permit stage of development.

The north western corner of 182 Greenhills Road is affected by the Public Acquisition Overlay (PAO2). The acquiring authority is VicRoads and the acquisition is for the purpose of the future Metropolitan Ring Road/ E6 road corridor interchange. As previously stated, no development is proposed on this portion of the land. As this land has been retained within an Industrial 1 Zone, it will be necessary for the DP to be amended to require that a section 173 Agreement be entered into at the planning permit application stage to ensure that the land not be used for industrial purposes or other purposes that would impact on the amenity of future residents (in the event that the land is not transferred to VicRoads for road purposes in the short to medium term).

EXHIBITION

The non-statutory exhibition period of the DP occurred for three weeks from 23 November to 15 December 2015. A formal letter and copy of the DP layout was sent to owners and occupiers of properties adjoining and opposite the DP area including residents along Greenhills Road.

One submission was received from an existing resident on Greenhills Road who raised concerns of overlooking between proposed double storey dwellings and the existing rear of the submitter's residence. This concern can be addressed at planning permit stage. Clause 55 of the Whittlesea Planning Scheme sets out provisions for maintaining secluded private open space and overlooking into habitable room windows. It is further noted that the 20m wide pipe track reservation separates proposed dwellings from existing dwellings along Greenhills Road.

REFERRAL AUTHORITY COMMENTS

The DPO30 Schedule requires the Responsible Authority to consider the views of the Department of Environment Land, Water and Planning (DELWP), VicRoads and Melbourne Water and incorporate changes where possible to address the views of these authorities.

Melbourne Water Corporation

Melbourne Water has provided no objection to the DP. In particular the authority has no objection to the proposed new road connection from Greenhills Road across the pipe track reservation (containing a large water main). Melbourne Water stated that it cannot grant a carriageway easement across the reserve as it is Crown Land (vested in Melbourne Water). The applicant is required to negotiate the acquisition of the land with DELWP and this will be further resolved at the planning permit stage. All of the land will need to be transferred to Council as a road reserve at the time of subdivision.

VicRoads

Although VicRoads did not object to the earlier planning scheme amendment (C111) to rezone the land and introduce a Development Plan Overlay, it has now advised that it does not support the designation of a road network on its land at 172 Greenhills Road on the basis that it *may* be required as part of the proposed freeway interchange reservation. VicRoads has therefore requested that the DP be amended to remove the indicative road network from the approximate 0.3ha originally proposed for residential development. There are no

implications on the balance of the development that will arise from this change. The connections to the land will be retained because this land is not currently zoned or reserved for road purposes.

The plan currently shows two further road connections in the central and western portion of the DP area terminating at the PAO boundary (proposed interchange). Although it is not the intention of the plan to provide opportunities for a future vehicular connection of these roads on to the land proposed for the interchange reservation, VicRoads has requested that this be made more certain on the plans. The road termination should not preclude future shared path linkages associated with the interchange and road corridors if proposed at a future date. The details of the local road termination will be determined at the planning permit stage.

Lastly, VicRoads has required that an acoustic report be submitted from a suitably qualified consultant to ensure that:

Any residential development complies with the requirements of the VicRoads Traffic Noise Reduction Policy 2005 which includes the installation of noise attenuation for properties affected by noise greater than 63 dB (A) L10 (18 hour), as measured 1 metre out from the façade of any dwelling located within the subdivision for a period of at least 10 years after the anticipated construction and operation of the E6/ Freeway interchange.

It will be appropriate that the DP require that issues relating to noise attenuation be further addressed at the subdivision and development stages, including a further referral to VicRoads at that time. At this stage the timing for the commencement of the E6 corridor is unknown. There is currently no design for the interchange although it is generally accepted that the land is sufficiently large to accommodate future mounding and screening within the existing and proposed reservation.

DELWP

The Department confirmed that it has no requirements in relation to the land affected by the DPO.

Development Plan Overlay – Schedule 30

Clause 43.04 sets out the requirements the Development requirements for Greenhills Road. All requirements have been considered as follows.

- *Typical road cross sections*

Road cross sections have been provided demonstrating the various road situations that are proposed in the development. The cross sections have been assessed by Council's City Design and Transport team who are now satisfied with the layout and functionality.

- *Traffic management plan*

The proponent engaged suitably qualified consultants to prepare a traffic engineering report. Advice was provided on the width of the road reserve, road width, cul-de-sac arrangements and on street parking. The report has been assessed by Council's City Design and Transport who are satisfied with the findings and recommendations. These will inform further detailed plans at the planning permit application stage.

The provision of a subdivision road is to be provided into the proposed development (across the pipe track reservation). However, the balance of the site will contain roads managed under a body corporate arrangement.

- *Acoustic report*

A report was provided by DBL Engineering who measured the noise levels over the proposed development and concluded that they were 'average' noise levels for a suburban environment. The DP will be amended to address the concerns raised by VicRoads previously discussed in this report.

- *Visual impact assessment*

An assessment has been provided that included appropriate interface treatments to the industrial land to the west, Darebin Creek to the east, Metropolitan Ring Road to the north and Melbourne Water pipe-track reservation to the south.

- *Preliminary site assessment of the potential for contamination*

A site contamination report was provided by consultants who assessed the historical land use, potential contamination status of soil and groundwater and the suitability of the land for dwellings. The site has previously been assessed as suitable for residential development as part of the rezoning process and an Environmental Audit is not required. The land has not previously been used for industry.

- *Interface treatments with the industrial land to the west and the Metropolitan Ring Road/ proposed E6 interchange*

It is expected that the generous reservation provided for the future Metropolitan Ring Road/ E6 interchange will provide ample opportunities for noise attenuation in the form of mounding and fencing. The timing for the interchange is unknown at this stage and physical requirements prior to its completion will be the subject of further discussions and negotiations with VicRoads at the subdivision and development stages.

A small portion of the development abuts an existing industrial area to the west. The DP will require dwellings to be suitably designed to ensure an appropriate outcome is achieved. Council's offices have investigated designs where the rear wall of the proposed townhouses can be located on the boundary that abuts the industrial zone. This will remove any acoustic and visual impacts and will not expose the occupants to unsightly views. The windows and private open space are required to be orientated to the front of the dwellings and designed to receive nature daylight from the north and east.

- *Tree protection zones for all indigenous trees*

An ecological assessment of the site revealed that there are no indigenous trees on the site.

- *Archaeological survey and heritage assessment*

Investigations have shown that the activity area is of very low sensitivity. A Cultural heritage Management Plan has been previously undertaken on the land and the finding pose no implications for future development. There are no sites of European cultural heritage significance on the land other than the archaeological values associated with the former Maroondah bluestone aqueduct (now covered over). A Consent to Disturb this archaeological feature may be required from Heritage Victorian as part of the road crossing.

- *Landscape and urban design*

A design elements response plan has been provided nominating the landscaping opportunities in reserve spaces. Council's Parks and Open Space Department will further advise on this aspect of the proposal at the planning permit application stage. The plan shows opportunities to provide a shared path in the Melbourne Water pipe track reservation/ former aqueduct land. This would also involve the basic embellishment of this reservation. There is potential for these works to be undertaken as part of the public open space contribution requirements at the subdivision stage.

- *Stormwater management plan*

Plans have been provided which demonstrate that the land can accommodate stormwater flows. These plans have been considered by Council's City Design and Transportation Department and will further inform the development and subdivision stages.

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

This report sets out a planning framework to guide the future residential subdivision and development of land which has recently been rezoned for residential purposes. While the land has been constrained for development in the past, the current DP offers an appropriate solution for this infill site by providing suitable interface treatments and provisions for public open space.

It is considered appropriate that the Greenhills Road Residential Development Plan be approved subject to the changes recommended in this report.

<h2>RECOMMENDATION</h2>

THAT Council resolve to approve the Greenhills Road Development Plan pursuant to Clause 43.04 (Schedule 30) of the Whittlesea Planning Scheme subject to the following change to the DP:

- 1. Removal of the indicative road network from the VicRoads site.**
- 2. Clarification that local roads will not connect with the proposed Metropolitan Ring Road/ E6 corridor interchange.**
- 3. Requirements for acoustic investigations to be undertaken at the subdivision and development stage to address the requirements of VicRoads.**

COUNCIL RESOLUTION

MOVED: *Cr Alessi*

SECONDED: *Cr Lalios*

THAT Council resolve to adopt the Recommendation.

CARRIED

6.1.9 WHITTLESEA PLANNING SCHEME AMENDMENT C175 - REZONING MERNDA TOWNSHIP**File No:** 191851

Attachments:

- 1 Locality and Current Zoning Plan
- 2 Proposed Concept Plan
- 3 Land Subject to 1 in 100 Year Flooding Map
- 4 Proposed Land Subject to Inundation Overlay Map

Responsible Officer: Director Planning & Major Projects**Author:** Strategic Planning and Design**REPORT****EXECUTIVE SUMMARY**

Whittlesea Planning Scheme Amendment C175 proposes to rezone land in the Mernda Township from the Township Zone and Public Use Zone 2 to the General Residential Zone and introduce a Development Plan Overlay. The Amendment applies to all land within the Mernda Township which is subject of the Township Zone. The Amendment will also apply to the Land Subject to Inundation Overlay and Vegetation Protection Overlay on select areas within the Mernda Township. The Amendment was reported to Council on 14 July 2015, where Council resolved to seek authorisation from the Minister for Planning to prepare and exhibit the Amendment.

The Amendment was placed on public exhibition to affected landowners, relevant authorities and prescribed Ministers for a period of 10 weeks. At the conclusion of the exhibition period on 8 February 2016, a total of 22 submissions were received. It is recommended that Council request that the Minister for Planning appoint an Independent Planning Panel to consider unresolved submissions made in relation to the proposed Amendment.

INTRODUCTION

The purpose of this report is to discuss the outcomes of the statutory exhibition process for Whittlesea Planning Scheme Amendment C175.

PROPOSAL

Amendment C175 applies to multiple properties within the Mernda Township, the area generally bounded by the Mernda Rail Reserve to west, Bridge Inn Road to the south, Hazel Glen Drive to the north and the Plenty River and environs to the east. The Amendment only affects the land within the Mernda Township which is currently subject to the Township Zone (TZ) (see *Attachment 1*).

The proposed Amendment will rezone land in the Mernda Township from TZ and Public Use Zone 2 (PUZ2) to the General Residential Zone (GRZ) and introduce a Development Plan Overlay (DPO) – Schedule 34 to the full extent of the nominated Township area. The Amendment will also apply the Land Subject to Inundation Overlay (LSIO) and Vegetation Protection Overlay – Schedule 1 (VPO1) on select areas within the Township. This is consistent with the current planning controls within the broader Mernda/Doreen growth corridor.

In addition, the Amendment also seeks to correct an anomaly in the Whittlesea Planning Scheme, by removing DPO Schedule – 16 as it applies to land adjacent to the intersection of

Plenty Road and Bridge Inn Road and instead, applies DPO Schedule – 15 being the correct Schedule.

BACKGROUND

As reported to Council on 14 July 2015, Amendment C175 when originally conceived consisted of two components relating to the Mernda Township. First is the proposed rezoning of the TZ and PUZ2 to the GRZ and application of the DPO and VPO.

The second component related to the land between the current TZ area and Plenty River, which currently, is mostly within the Rural Conservation Zone (RCZ). It was at that time proposed to rezone a portion of the RCZ land to GRZ and apply the DPO and VPO as per the proposal for the area affected by the current TZ, with the balance of land abutting the Plenty River being transferred to Council to establish a linear open space link.

At that time Costa Mushroom Exchange (Mushroom Exchange) raised concerns regarding the proposal to rezone the RCZ land on the basis that it would result in urban development encroaching into the buffer areas and that this would adversely impact their operations on site.

Given the potential impact of this component of the Amendment on the Mushroom Exchange, it was resolved by Council to change Amendment C175 so as to proceed only with the first component of the rezoning namely that part which was within the existing “Township” boundary. The second component, namely RCZ rezoning was to be removed from the Amendment and be reviewed at a future point in time, should circumstances change.

In essence the Amendment as now proposed seeks to update the planning controls in line with the balance of the Mernda Strategy Plan (MSP) area, to better equip the Mernda Township to cope with current and future development pressure.

NOTIFICATION PROCESS

Amendment C175 was placed on public exhibition between 3 December 2015 and 8 February 2016, to affected landowners, prescribed Ministers and relevant authorities. Notice of the Amendment was also placed in the Whittlesea Leader and Victorian Government Gazette.

At the conclusion of the public exhibition period, 22 submissions were received. These are summarised in the table below with accompanying officer responses as relevant. Where submissions cannot be resolved they must be referred to an Independent Planning Panel. The Panel is convened by the Minister for Planning and will consider the unresolved submissions referred to them unless Council determines to abandon the Amendment. There are a number of submissions which cannot be resolved by Council Officers, and as such, this report recommends that the unresolved submissions be referred to a Panel for consideration.

SUBMITTER STRATEGIC ISSUES

The following section will outline the key strategic and common issues raised by submitters. A submission table has also been included within the next section of the report that summarises the submissions raised and provides an initial officer response. It is anticipated that between now and the Panel Hearing that Council Officers will continue to work with submitters to resolve as many issues as practicable prior to the Panel Hearing.

Inclusion of Rural Conservation Zone Properties

A common issue raised in the submissions was the reinstatement of the proposal to rezone the RCZ component of the Amendment to GRZ, this being the component of the Amendment that was removed before the Amendment was formally exhibited.

Prior to seeking a resolution from Council to proceed with exhibiting the Amendment, Council officers had lengthy discussions with the seven properties adjacent to the western bank of the Plenty River in the context of the potential for rezoning their properties as described above.

As mentioned earlier in this report and discussed more thoroughly in the 14 July 2015 Council Report, at the time that Amendment C175 was originally proposed, the Mushroom Exchange raised concerns in relation to any potential development within areas they considered a buffer to their operations. The concern as expressed was that that any encroachment would prejudice the Mushroom Exchange's ability to operate on the site and prejudicially affect the proposal to undertake actions as outlined in their master plan that was developed in 2012.

The economic and social benefits the Mushroom Exchange affords the City of Whittlesea, were considered and it was deemed at that time that it was not appropriate to consider any rezoning of the RCZ land as part of Amendment C175. Clearly, the issue represents a considerably more complex matter than the primary purpose of Amendment C175 which is to deal with the Mernda Township zoning issues. It was acknowledged at the time that the achievement of the extension of the Plenty River Park in this location remained a strategically important objective to Council, but which could not be dealt with at the time in the context of the concerns expressed by the Mushroom Exchange.

Consequently, as part of the 14 July 2015 Council meeting, it was resolved to hold in abeyance any rezoning of RCZ land for the time being and only advance the component of the Amendment which sought to rezone land affected by the TZ. Amendment C175 was then exhibited in this amended format. Accordingly, given that Amendment C175 does not propose a rezoning of the existing RCZ land, a reconsideration of this issue as part of Amendment C175 is not open to Council as it would have the effect of comprising a very significant change to Amendment C175.

Council does not have the ability to not consider any submission. Under the *Planning and Environment Act 1987*, Council is obliged to consider all submissions and unless it resolves to abandon the Amendment, otherwise forward any unresolved submissions to an Independent Panel Hearing.

Officer Recommendation:

- **Not support the submissions to include Rural Conservation zoned land within this Amendment.**
- **Request the matter be referred to an Independent Panel for consideration.**

Application of the Land Subject to Inundation Overlay

Another issue commonly raised in a number of submissions was the proposed introduction of the Land Subject to Inundation Overlay (LSIO). The concerns related mostly to the loss of developable land and more substantially the validity of data that is used to determine the application of the LSIO.

The main premise of Amendment C175 is to secure the orderly planning of the Mernda Township, by updating current planning controls. This will be achieved through rezoning, identifying gaps in the coverage of planning controls and applying relevant overlays. In addition to this a Concept Plan (see *Attachment 2*) has been prepared to identify suitable locations for future land uses, densities and infrastructure and guide future development applications.

Given the complexity of the Mernda Township area, Council officers sought the advice of a number of statutory authorities, to ensure the Concept Plan placed on public exhibition was informed.

Melbourne Water is the statutory authority on waterway management. It is the role of Melbourne Water under the *Water Act 1989* to broadly declare flood levels; to control

developments that may be proposed for land adjoining waterways; and to provide advice about flooding and controls on development to local councils.

As the Mernda Township adjoins a major waterway, it was considered necessary to seek Melbourne Water's views on the form and layout of the proposed Amendment and associated Concept Plan. Originally it was not intended to apply any flooding controls within the Amendment as most land adjacent to the Plenty River is within the RCZ and is not part of this Amendment. However, Melbourne Water indicated to Council Officers that some land within the central area of the Mernda Township had been declared as being subject to 1 in 100 year flooding in 1990 under *Division 4 of Part 10 of the Water Act 1989* (See Attachment 3). The declaration was made after modelling undertaken to measure the extent of two 100 year floods in 1974 and 1987. Both floods resulted in the subject land being submerged from backflow flooding from the Plenty River along the open storm water channel that passes through this area. Backflow flooding has been defined by the Royal Commission into the 2011 Queensland Floods as *"flooding that occurs when the discharge point for a stormwater pipe that collects water from a low-lying area is located near a waterway and that discharge point becomes submerged by a tide, storm surge or floodwater, causing water to pass back through the pipe and out of inlets and manholes"*.

Upon reviewing the Concept Plan it was identified that none of this affected land had appropriately identified that it was subject to flooding and that currently no relevant planning controls were in place. Melbourne Water expressed concern at the absence of planning controls on the encumbered land, and requested that Amendment C175 include the application of the LSIO to this land. As Melbourne Water is the authority on drainage and waterway management, it is considered appropriate that the LSIO should be applied (see Attachment 4).

The purpose of the LSIO is to *'identify land in flood storage or flood fringe areas affected by the 1 in 100 year flood or any other area determined by the floodplain management authority and to reflect any declaration under Division 4 of Part 10 of the Water Act 1989 where a declaration has been made'*, the application of the LSIO accords with this purpose. It is recommended that Council supports the application of the LSIO.

It should be noted that regardless of whether of the LSIO is applied to the land or not, as the land has been declared under the *Water Act 1989*, as part of the building permit process any development proposals are required to be referred to Melbourne Water, who have discretion on any such proposals.

Officer Recommendation:

Support Melbourne Water's submission to apply the Land Subject to Inundation Overlay to land at 88 and 99 Schotters Road, and 22 Hayes Road Mernda.

SUBMITTER SUMMARY TABLE

The table below summarise the submissions received for Amendment C175. It highlights the matters considered unresolved but also provides officer comment on the matters which are considered reasonable to negotiate with submitters with a view to seeking to resolve as many of the submissions as practicable prior to the Panel.

Key Submission Points	Officer Response
Agency	
Vic Roads	
Request clarification on the details of the four proposed 'Controlled Intersections' located along Schotters Road.	There are five intersections nominated for potential treatment along Schotters Road from Hazel Glen Drive to Bridge Inn Road Mernda. It is agreed that there is a level of ambiguity with the nomination of "Controlled Intersection", as this could be misinterpreted as those that require traffic signals. It is agreed that the central three

	<p>'internal' intersections along Schotters Road are unlikely to warrant signals.</p> <p>At the Concept Plan level, it is intended to act as a guide that some form of treatment is required, and that details of the ultimate intersection treatments will be finalised as part of future Development Plan and Planning Permit applications.</p> <p>With specific mention to the Hazel Glen Drive and Schotters Road intersection, VCAT Order P527/2014 includes a condition relating to the signalisation of this intersection. For clarity the Schotters Road and Hazel Glen Drive intersection should be nominated as signalised.</p> <p><u>Officer Recommendation:</u></p> <ul style="list-style-type: none"> • Support updating the proposed Concept Plan to apply '<i>Signalised Intersection</i>' nomination for the intersection of Schotters Road with Hazel Glen Drive. • Include a footnote on the Concept Plan to the effect that the ultimate form and details of intersection treatments are to be determined at subsequent Development Plan and Planning Permit application stages.
Request the ' <i>Controlled Intersection</i> ' nomination for Bridge Inn Road and Schotters Road be amended to ' <i>Left In / Left Out Intersection</i> '.	<p>The intersections along Bridge Inn Road have been subject to much discussion with external authorities, through the development of the Mernda Town Centre (MTC).</p> <p>Significant discussion has been undertaken to provide a signalised intersection at Bridge Inn Road and Schotters Road. This has been identified within the Mernda Strategy Plan (MSP) as being a prime access point to the MTC from the Mernda Township and Laurimar Estate to the north. The ultimate intersection in this location will be determined in due course when plans for the rail extension, and first stage of implementation of development of the Woolworths site in the MTC area are finalised.</p> <p>As mentioned previously, at the Concept Plan level, it is only a guide with respect to the ultimate form and layout of the intersections. Further discussions regarding the intersection treatments will be undertaken during the planning and development of the Mernda Rail Extension Project (MREP) with Vic Roads, Public Transport Victoria (PTV), the Level Crossing Removal Authority (LXRA) and Council.</p> <p>Until such time as these processes are advanced it is considered appropriate to not nominate a specific intersection treatment and as such the Concept Plan should reflect this.</p> <p><u>Officer Recommendation:</u></p> <p>Not support this submission.</p> <p>The submission should be referred to an Independent Panel for consideration.</p>
Yarra Valley Water (YVW)	
YVW have no objection to C175.	Noted.
Department of Environment, Land, Water and Planning (DELWP)	
<p>DELWP have indicated that there are no issues with C175.</p> <p><i>This response is also on behalf of Parks Victoria, Heritage Victoria and Aboriginal Affairs Victoria.</i></p>	Noted.

Country Fire Authority (CFA)	
CFA have no objection to C175.	Noted.
APA Group (APA)	
APA has indicated no objection to C175. However APA has indicated that they will require an application for natural gas supply form to be forwarded to APA Group, Planning and Engineering, for consideration and to facilitate any future gas reticulation of this area.	Noted. To be dealt with during the detailed subdivision/development stage.
Melbourne Water (MW)	
MW has no concern with C175 and consents to the application of the LSIO on land located at 88 and 90 Schotters Road, and 22 Hayes Road encumbered by the 1:100 year flood line.	Noted. The LSIO was applied to the land at the request of MW.
MW have also requested that the LSIO be applied to land located at 265, 279 and 303 Hazel Glen Drive which are also encumbered by the 1:100 year flood line.	<p>The land subject to the request will not be rezoned as part of Amendment C175. This land is mostly zoned RCZ and the areas affected by the 1 in 100 year flood line are within the Public Park and Recreation Zone (PPRZ). The purpose of the PPRZ is to recognise areas for public open space and conservation, the PPRZ is very restrictive on the types of development permissible.</p> <p>This circumstance was explained to MW, who agreed that current planning controls are sufficient in controlling the types of development on this land, and that due to the LSIO not being exhibited on this land would unnecessarily delay the progress of Amendment C175.</p> <p>MW agreed to withdraw this specific request, however have stated that should this land be subject to any future rezoning, to allow for development, MW will request the application of the LSIO to encumbered land.</p>
Native Title Services Victoria (NTSV)	
NTSV have no objection to C175.	Noted.
Telstra	
Telstra have indicated that there are no issues with C175. However Telstra have noted that if Bridge Inn Road is to be widened there may be a requirement to relocate some of the existing telecommunications infrastructure.	Noted.
Department of Education & Training (DET)	
DET have no objection to C175.	Noted.
Public Transport Victoria (PTV)	
PTV request that the Concept Plan be amended to show Station Road as an 'informal unsealed track' instead of an 'existing urban road requiring upgrade to	Station Road, north of Bridge Inn Road and west of the Mernda Rail Reserve is an informal road that provides access to existing dwellings. As part of the Mernda Rail Extension Project, details regarding the form and layout of Station Road have been subject to a number of discussions between Council, PTV, the Level

<p>urban standard’.</p>	<p>Crossing Removal Authority (LXRA) and Vic Roads.</p> <p>The position of Vic Roads is to have a fully signalised intersection at Bridge Inn Road and Station Road. It is noted that the MSP and <i>MSP Development Contributions Plan</i> provides for a signalised intersection at this location. It is clearly preferred that Station Road is upgraded to provide greater permeability and access within the north-eastern corner of the MTC.</p> <p>With regards to Amendment C175, the road is beyond the scope of the Amendment. The Concept Plan purely reflects its current use. Its status is currently under discussion as part of the proposed <i>Mernda Town Centre North East Development Plan</i> application, which has yet to be resolved. The final details of the road will be determined during the Development Plan and Planning Permit application processes.</p> <p>Notwithstanding, there is no issue with amending the Concept Plan with appropriate wording to reflect its current status under review.</p> <p><u>Officer Recommendation:</u></p> <ul style="list-style-type: none"> • Amend reference to Station Road to reflect that its status will be determined via separate planning processes. • Should the above recommendation not be supported by the submitter, the matter should be referred to an Independent Panel for consideration.
<p>PTV requests that a requirement be added to the DPO Schedule in Section 2.0 – Conditions and requirements for permits that states ‘all planning permit applications for land within 50 metres east of the rail reserve must be referred to Public Transport Victoria pursuant to Section 55 of the <i>Planning and Environment Act 1987</i>’.</p>	<p>The delivery of the Mernda Rail will significantly change the context of the Mernda Township. At the time of the preparation of the Amendment it was unclear as to how the Mernda Rail Extension Project would affect the Mernda Township.</p> <p>Through the public exhibition process it has been ascertained that the land forming part of the former Whittlesea Railway Corridor is to potentially accommodate train stabling.</p> <p>As there will be land in close proximity to the train stabling, it is considered reasonable to seek the views of PTV regarding development applications.</p> <p>However it is not considered that PTV should be given determination powers under Section 55 of the <i>Planning and Environment Act 1987</i>, as this land is already developed and there will inevitably be development applications in association with the existing uses.</p> <p>It is considered more appropriate that the PTV be a recommending referral authority under Section 52 of the <i>Planning and Environment Act 1987</i> in this instance, and that it should be at the discretion of Council as Responsible Authority to determine the incorporation or consideration of any referral advice as part of any subsequent Planning Permit application assessment process.</p> <p><u>Officer Recommendation:</u></p> <p>Not support the submission.</p> <p>Update the proposed DPO Schedule 34, at Clause 2.0, to include a requirement that ‘Any application for subdivision and/or buildings and works, within 50 metres east of the Mernda rail reserve must be referred to Public Transport Victoria under Section 52 of the <i>Planning and Environment Act 1987</i> to the satisfaction of the Responsible Authority’.</p> <p>The submission should be referred to an Independent Panel for consideration.</p>

<p>Delete the two proposed east-west roads shown in the Concept Plan crossing the rail corridor, as this land will be required for rail infrastructure.</p>	<p>At the time the Concept Plan was prepared, it was unclear how the rail corridor adjacent to the Mernda Township was to be used.</p> <p>Given the proximity of the Mernda Township to the future MTC it was considered important to improve connectivity between the two locations by providing for additional road links. It was also considered that the local roads would increase traffic and pedestrian permeability.</p> <p>It has been clarified that the land is to be used for train stables; therefore it is considered appropriate to remove the two east-west road links crossing the rail reserve from the Concept Plan.</p> <p><u>Officer Recommendation:</u></p> <p>Support the submission.</p> <p>Update the proposed Concept Plan to remove reference to the two proposed east-west roads crossing the rail corridor.</p>
<p>Delete the proposed north-south shared path shown in the Concept Plan running the length of the rail corridor, as this land will be required for rail infrastructure.</p>	<p>As per above, at the time the Concept Plan was prepared, it was unclear how the rail corridor adjacent to the Mernda Township was to be used.</p> <p>The <i>Mernda Local Structure Plan – Part 1</i> on Page 18 states that there is an opportunity for <i>‘the investigation of a possible pedestrian link along the heavy rail reservation subject to agreement from the Public Transport Corporation’</i>. On this basis it was considered appropriate to nominate the potential for a shared path arrangement on the Concept Plan.</p> <p>The advice received from PTV is that the land is to be used for train stables; therefore it is appropriate to remove reference to any shared path within the rail reserve.</p> <p>A north-south shared path within the Mernda Township is an important design outcome that will increase pedestrian access to the MTC and future railway station to the south. Council Officers will seek to meet with PTV in the immediate future to determine if a suitable alternative can be agreed to.</p> <p><u>Officer Recommendation:</u></p> <p>Support the submission.</p> <p>Update the proposed Concept Plan to remove reference to the north-south shared path within the rail corridor.</p>
<p>PTV suggests a further requirement to the DPO Schedule in Section 3.0 – Requirements for development plan that requires ‘provision of a shared pathway along the length of Schotters Road that provides a pedestrian connection from Bridge Inn Road to Hazel Glen Drive’ and to also update the Concept Plan accordingly.</p>	<p>It is considered that a north-south pedestrian link between Bridge Inn Road and Hazel Glen Drive is important to facilitate better pedestrian connectivity. The relocation of the shared path from the old Whittlesea rail reserve to the Schotters Road road reserve is a suitable alternative. Concerns do relate to the amount of land available within the Schotters Road reserve to be able to deliver a shared path. Whilst the difficulty of providing a shared path within the rail reserve between Bridge Inn Road and the future stabling is noted, further discussion is appropriate to determine the potential for a shared path to at best be accommodated north of any stabling area to Hazel Glen Drive.</p> <p>Council Officers will seek to meet with PTV in the immediate future to determine if a suitable alternative can be agreed to.</p> <p>It should be noted that details regarding the ultimate form of the shared path will be considered at the subsequent Development Plan and Planning Permit application stages.</p> <p><u>Officer Recommendation:</u></p> <p>Not support the submission.</p> <ul style="list-style-type: none"> Continue negotiations with PTV on this issue to seek

	<p>resolution prior to a Panel hearing.</p> <ul style="list-style-type: none"> Should negotiating not resolve this matter then it should be referred to an Independent Panel for consideration.
Request the rail reserve be clearly shown on the Concept Plan and shown outside of the Development Plan Overlay area.	<p>For clarity it is considered that this request is reasonable.</p> <p><u>Officer Recommendation:</u> Support the submission. Update the proposed Concept Plan to show the rail reserve.</p>
Request that should the intersection of Schotters Road and Bridge Inn Road be signalised, that reference be made on the Concept Plan that Bus Priority is given.	<p>As previously mentioned the MSP nominates the Schotters Road and Bridge Inn Road for full signalisation. The details and layout of intersections adjacent to Mernda Rail Corridor will be determined as part of the ongoing work of the Mernda Rail Extension Project and Woolworths development site.</p> <p>Until such time as these processes are advanced it is considered appropriate to not nominate a specific intersection treatment and as such the Concept Plan should reflect this.</p> <p><u>Officer Recommendation:</u> Not support this submission. The submission should be referred to an Independent Panel for consideration.</p>
Request that within a 1km radius of the future Mernda Train Station land be nominated for medium density housing to maximise the potential walk up catchment for the future train station.	<p>It is noted that the final location of the Mernda Train Station is yet to be agreed upon. Noting this, Council officers have measured a 1km radius from the intersection of Schotters Road and Bridge Inn Road. Most of the land that is developable within this radius has been nominated on the Concept Plan as 'medium density', with the exception of a small portion of standard density development within Jane Court.</p> <p>This designation reflects the existing built form. The area has limited access and minimal opportunities to increase pedestrian permeability.</p> <p><u>Officer Recommendation:</u> Not support this submission. The submission should be referred to an Independent Panel for consideration.</p>
Request the DPO Schedule be amended to include, at Clause 3.0, a requirement for a Noise Vibration and Light Spill Impact Report for development in close proximity to the rail corridor.	<p>Land adjacent to the proposed stabling yards contains well established residential development. The sizes of the lots are not conducive to allow for broad scale development/redevelopment. It is considered unnecessary to burden existing landowners with this requirement as their land use is already established.</p> <p>It is considered that the works undertaken to deliver the stabling should minimise impacts on existing uses.</p> <p><u>Officer Recommendation:</u> Not support this submission. The submission should be referred to an Independent Panel for consideration.</p>
Request the Decision Guidelines of the DPO Schedule be amended to include a requirement that the responsible authority should consider the views of PTV prior to approving or amending a development plan.	<p>In accordance with Council practice, all DP applications are referred to PTV for comment as part of the non-statutory exhibition process.</p> <p>By making specific reference to the consideration of the views of PTV within the DPO Schedule it could be argued that, reference must also be made to the thirteen other referral authorities who have also been notified as part of this Amendment process. It is not considered necessary to list all referral authorities within the DPO given Council's well established practice of referring</p>

	<p>Development Plan applications.</p> <p><u>Officer Recommendation:</u></p> <p>Not support this submission.</p> <p>The submission should be referred to an Independent Panel for consideration.</p>
Level Crossing Removal Authority (LXRA)	
<p>LXRA have indicated that they generally support the vision of the Amendment as it will allow the orderly development of the Mernda Township and allow for increased densities in an area in close proximity to the future Mernda Town Centre and Mernda Railway Station, subject to suggested changes.</p>	<p>Noted. The suggested changes are addressed individually below. It should be noted that the submissions from the LXRA are exactly identical to those submitted from PTV and as such similar officer responses are provided.</p>
<p>LXRA suggests that a requirement be added to the DPO Schedule in Section 2.0 – Conditions and requirements for permits that states ‘all planning permit applications for land within 50 metres east of the rail reserve must be referred to Public Transport Victoria pursuant to Section 55 of the <i>Planning and Environment Act 1987</i>.</p>	<p>Noted. As discussed previously it is recommended that PTV be a recommending referral authority under Section 52 of the <i>Planning and Environment Act 1987</i>.</p> <p><u>Officer Recommendation:</u></p> <p>Not Support this submission.</p> <p>Update the proposed DPO Schedule 34, at Clause 2.0, to include a required that ‘Any application for subdivision and/or buildings and works, within 50 metres east of the Mernda rail reserve must be referred to Public Transport Victoria under Section 52 of the <i>Planning and Environment Act 1987</i> to the satisfaction of the Responsible Authority’.</p> <p>The submission should be referred to an Independent Panel for consideration.</p>
<p>LXRA suggests a further requirement to the DPO Schedule in Section 3.0 – Requirements for development plan that requires ‘provision of a shared pathway along the length of Schotters Road that provides a pedestrian connection from Bridge Inn Road to Hazel Glen Drive’ and to also update the Concept Plan accordingly.</p>	<p>Noted. As previously discussed with the PTV submission, at the time the Concept Plan was prepared, it was unclear how the rail corridor adjacent to the Mernda Township was to be used.</p> <p>A north-south shared path within Mernda Township is an important design outcome that will increase pedestrian access to the MTC and future railway station to the south.</p> <p>The location of a north-south shared path will be subject to further discussion with PTV. The LXRA will be invited to these discussions.</p> <p><u>Officer Recommendation:</u></p> <p>Not support the submission.</p> <ul style="list-style-type: none"> • Continue negotiations with PTV and the LXRA on this issue to seek resolution prior to a Panel hearing. • Should negotiating not resolve this matter then it should be referred to an Independent Panel for consideration.
<p>Request the DPO Schedule be amended to include, at Clause 3.0, a requirement for a Noise Vibration and Light Spill Impact Report for development in close proximity to the rail corridor.</p>	<p>Noted. As previously discussed land adjacent to the proposed stabling yards contain well established residential uses. It is considered that this requirement will unnecessarily burden existing landowners.</p> <p>It is considered that the works undertaken to deliver the stabling should minimise impacts on existing uses.</p> <p><u>Officer Recommendation:</u></p> <p>Not support this submission.</p> <p>The submission should be referred to an Independent Panel for consideration.</p>

Request the Decision Guidelines of the DPO Schedule be amended to include a requirement that the responsible authority should consider the views of PTV prior to approving or amending a development plan.	<p>Noted. As discussed it is a well-established practice of Council to refer all DP applications to PTV. It is not considered necessary to include this requirement.</p> <p><u>Officer Recommendation:</u></p> <p>Not support this submission.</p> <p>The submission should be referred to an Independent Panel for consideration.</p>
Request the rail reserve be clearly shown on the Concept Plan and shown outside of the Development Plan Overlay area. Also request that the sensitive interface with residential land be shown on plan and legend.	<p>For clarity it is considered that this request is reasonable.</p> <p><u>Officer Recommendation:</u></p> <p>Support this submission.</p> <p>Update the proposed Concept Plan to show the rail reserve and also the sensitive interfaces.</p>
LXRA request that the Concept Plan be amended to remove the reference to Station Road within the rail reserve as VicTrack have advised that 'whilst there is an informal unsealed track at this location, this is not a public road'.	<p>Noted. As previously discussed Station Road is an informal local road that provides access to some lots. The future status of the road has been subject to much discussion between Council, PTV, the LXRA and Vic Roads. The final details of this road will be determined during future discussions regarding the assessment of the <i>Mernda Town Centre North East Development Plan</i> and rollout of the Mernda Rail Extension Project.</p> <p><u>Officer Recommendation:</u></p> <ul style="list-style-type: none"> Amend reference to Station Road to reflect that its status will be determined via separate planning processes. Should the above recommendation not be supported by the submitter, the matter should be referred to an Independent Panel for consideration.
Delete the two proposed east-west roads shown in the Concept Plan crossing the rail corridor, as this land will be required for rail infrastructure.	<p>Noted. As previously discussed, at the time the Concept Plan was prepared, it was unclear how the old Whittlesea rail corridor adjacent to the Mernda Township was to be used. The request is supported.</p> <p><u>Officer Recommendation:</u></p> <p>Support this submission.</p> <p>Update the proposed Concept Plan to remove reference to the two proposed east-west roads crossing the rail corridor.</p>
SP Ausnet	
SP Ausnet has no objection to C175.	Noted.
Stakeholders/Affected Landowners	
Wilcon Projects (on behalf of 303 Hazel Glen Drive Mernda)	
<p>Request the above property be included as part of the Amendment to rezone the majority of land from RCZ to GRZ, with the balance of the land to be transferred to Council ownership.</p> <p>Also requests that the following properties are rezoned to GRZ as part of this Amendment:</p> <ul style="list-style-type: none"> 265 Hazel Glen Drive, 	<p>As described earlier in the report, the Amendment does not propose to rezone land currently zoned RCZ. This would be a substantial change to the Amendment and potentially transform the Amendment which is not permitted. Such a rezoning would need to be the subject of a new planning scheme amendment.</p> <p><u>Officer Recommendation:</u></p> <p>Not support this submission.</p> <p>The submission should be referred to an Independent Panel for consideration.</p>

<p>Mernda;</p> <ul style="list-style-type: none"> • 279 Hazel Glen Drive, Mernda; and • 285 Hazel Glen Drive, Mernda 	
<p>Identify existing dwellings that are already in much closer proximity to the operations of the Mushroom Exchange than the subject land.</p>	<p>It is acknowledged that there are established dwellings to the west of the Mushroom Exchange both in the RCZ land and existing TZ area.</p> <p>However, as described earlier in the report, the Amendment does not propose to rezone land currently zoned RCZ. This would be a substantial change to the Amendment and potentially transform the Amendment which is not permitted. Such a rezoning would need to be the subject of a new planning scheme amendment.</p> <p><u>Officer Recommendation:</u></p> <p>Not support this submission.</p> <p>The submission should be referred to an Independent Panel for consideration.</p>
<p>The operations of the Mushroom Exchange are generally located to the south of the site and provide sufficient separation from the subject site.</p> <p>The Plenty River and associated buffer (floodway / open space etc.) will provide a significant buffer distance between the commercial operations and the subject site.</p> <p>The potential for the Mushroom Exchange to expand northwards is restricted due to the Plenty River Environs.</p>	<p>The comments are noted. The <i>Costa Exchange Mushroom Farm Master Plan 2012</i> (which is an incorporated document within the Whittlesea Planning Scheme under Schedule 7 of the Special Use Zone), does indicate that expansion and intensification of operations is likely to occur in the southern portion of the site in the short term. The land further north was set aside to provide an additional level of flexibility should further expansion of the operations be required in the long term.</p> <p>However, as described earlier in the report, the Amendment does not propose to rezone land currently zoned RCZ. This would be a substantial change to the Amendment and potentially transform the Amendment which is not permitted. Such a rezoning would need to be the subject of a new planning scheme amendment.</p> <p><u>Officer Recommendation:</u></p> <p>Not support this submission.</p> <p>The submission should be referred to an Independent Panel for consideration.</p>
<p>Appropriate mechanisms can be put in place such that any future residents are made aware of the commercial operations and that they recognise the importance of this to the region and therefore they cannot object to ongoing operations. Existing examples exist where a simple agreement is registered on title to ensure future residents are respectful of the importance of nearby commercial operations.</p>	<p>The comments are noted. It should be acknowledged that from an in-principle perspective, agreements put forward of this type are often as a means of compromise. It is the officer's understanding however that these types of agreements cannot fetter any future resident's ability to object or lodge a complaint on any specific matter in relation to the Mushroom Exchange or the obligation of the Mushroom Exchange to ensure compliance with certain amenity standards consequent upon closer settlement. Without considering the matter in detail therefore, since the proposal is not before Council, it is not certain that the mechanism sought resolves the issues/concerns raised on either side of the argument.</p> <p>As described earlier in the report, the Amendment does not propose to rezone land currently zoned RCZ. This would be a substantial change to the Amendment and potentially transform the Amendment which is not permitted. Such a rezoning would need to be the subject of a new planning scheme amendment.</p> <p><u>Officer Recommendation:</u></p> <p>Not support this submission.</p> <p>The submission should be referred to an Independent Panel for consideration.</p>

279 Hazel Glen Drive Mernda	
Request their property be considered for rezoning as part of this Amendment.	<p>Comments are noted. The request to include the rezoning of RCZ land and the impacts this could have on the current status of Amendment C175 was discussed in the previous section of the report and dealt with in the response to other similar submissions.</p> <p><u>Officer Recommendation:</u> Not support this submission.</p> <p>The submission should be referred to an Independent Panel for consideration.</p>
265 Hazel Glen Drive Mernda	
Request their property be considered for rezoning as part of this Amendment.	<p>Comments are noted. The request to include the rezoning of RCZ land and the impacts this could have on the current status of Amendment C175 was discussed in the previous section of the report and dealt with in the response to other similar submissions.</p> <p><u>Officer Recommendation:</u> Not support this submission.</p> <p>The submission should be referred to an Independent Panel for consideration.</p>
Banon Consultants (on behalf of 27 Heals Road, Mernda)	
Request that all of their land should be included in the General Residential Zone	<p>Comments are noted.</p> <p>As described earlier in the report, the Amendment does not propose to rezone land currently zoned RCZ. This would be a substantial change to the Amendment and potentially transform the Amendment which is not permitted. Such a rezoning would need to be the subject of a new planning scheme amendment.</p> <p><u>Officer Recommendation:</u> Not support this submission.</p> <p>The submission should be referred to an Independent Panel for consideration.</p>
Claim that there are significant areas of land as close to the Mushroom farm as this site and they are being placed in the GRZ.	<p>Comments are noted. Refer to response to Wilcon Projects submission above.</p> <p><u>Officer Recommendation:</u> Not support this submission.</p> <p>The submission should be referred to an Independent Panel for consideration.</p>
Suggests that it is a poor planning outcome to have zoning boundaries that don't follow title boundaries.	<p>Comments are noted. It is agreed that ideally dual/multiple zonings are not preferred. It is however not unique. While the relevant practice note prefers zone boundaries to follow title boundaries, it is also appropriate to follow other boundaries formed by roads, creeks, rivers and other physical or strategic features such as buffer areas or buffer distances.</p> <p><u>Officer Recommendation:</u> Not support this submission.</p> <p>The submission should be referred to an Independent Panel for consideration.</p>
Consider that it is unreasonable to prejudice the favourable zoning of this land because the mushroom farm has failed to implement the agreed master	<p>The <i>Costa Exchange Mushroom Farm Master Plan 2012</i> was incorporated into the Whittlesea Planning Scheme as part of Amendment C133. The plan details how the Mushroom Exchange may develop its site in the future.</p> <p>Prior to carrying out any future works, the Mushroom Exchange</p>

<p>plan.</p>	<p>is to provide Council with further plans relating to building design, stormwater management, construction management, landscaping, traffic management, environmental protection, and mitigation measures for noise and air emissions. To date Council has not received any of the above. There are no prescriptive timeframes for implementation of any aspects of the plan.</p> <p>It is unclear whether/how any aspects of the implementation of the master plan will mitigate any potential amenity issues. This is a matter to be assessed at the appropriate time in the future.</p> <p><u>Officer Recommendation:</u> Not support this submission. The submission should be referred to an Independent Panel for consideration.</p>
<p>Question the scientific basis of the Mushroom Exchange's establishment of the size and location of noise and odour buffer areas.</p>	<p>To date there has been no modelling undertaken to determine the extent of noise and odour impact of the Mushroom Exchange on nearby sensitive uses.</p> <p>Historically, the RCZ area to the west and the Farming Zone (FZ) land to the east have acted as buffers to the Mushroom Exchange's operations. Development encroachment from the implementation of the MSP has increased the pressure on the Mushroom Exchange to increasingly deal with potential offsite impacts on nearby sensitive uses. This situation forms the basis of the Mushroom Exchange's objection to any inclusion of additional area (RCZ land) being rezoned for residential development. This is a position supported by Council at its meeting of 14 July 2015.</p> <p><u>Officer Recommendation:</u> Not support this submission. The submission should be referred to an Independent Panel for consideration.</p>
<p>Propose an alternate option to consider the rezoning of the RCZ properties as a separate Planning Scheme Amendment.</p>	<p>The comments are noted.</p> <p>As described earlier in the report, the Amendment does not propose to rezone land currently zoned RCZ. This would be a substantial change to the Amendment and potentially transform the Amendment which is not permitted. Such a rezoning would need to be the subject of a new planning scheme amendment.</p> <p><u>Officer Recommendation:</u> Not support this submission. The submission should be referred to an Independent Panel for consideration.</p>
<p>Peyton Waite (on behalf of 31-35 Johnsons Road Mernda)</p>	
<p>Request the Concept Plan be amended to nominate their land as '<i>retirement village</i>', or alternatively '<i>medium density residential</i>'.</p>	<p>The landowner has been actively pursuing a retirement village use for this site over many years. It is noted a retirement village is not a prohibited use and requires a planning permit under the provisions of both the existing TZ and the proposed GRZ. Whilst the land use term does not ultimately affect the scope of the Amendment to provide guidance to the future development and built form of the Mernda Township, there is no in principle objection to providing this designation to provide greater clarity and certainty regarding this use.</p> <p>Specific details regarding the built form and functionality of the site will be required at the Planning Permit application stage.</p> <p>Should the proposed use not be considered viable or not proceed at that time, the applicant will have to amend the Concept Plan as part of a planning scheme Amendment process.</p>

	<p><u>Officer Recommendation:</u> Support submission. Update the proposed Concept Plan to nominate land at 31-35 Johnsons Road as 'Retirement Village'.</p>
88 Schotters Road Mernda (corner of Schotters Road and Hayes Road)	
The application of the LSIO will devalue the property.	<p>Previous VCAT case law has determined that "impact on property values" is not a valid planning consideration. It is noted that MW, as the authority responsible for waterways/drainage, has requested the application of the LSIO. As discussed earlier in the report, irrespective of formalising this overlay the land has been identified as subject to 1:100 year flooding and as a result any building works would require MW approval. <u>Officer Recommendation:</u> Not support this submission. No change to the Amendment proposed. The submission should be referred to an Independent Panel for consideration.</p>
Request a reduction in rates to account for loss of developable area due to the application of the LSIO.	<p>The request is noted. This is not relevant to the consideration of this Amendment. Thus is a matter for the Property and Valuation Department. To this end Department Officers can assist the submitter to make enquiries with the Property and Valuation Department. <u>Officer Recommendation:</u> Not support this submission. No change to the Amendment proposed. The submission should be referred to an Independent Panel for consideration.</p>
Seek permission to build a single dwelling on the property.	<p>To maximise the use of the land and its location within the Mernda Township, the site was considered suitable for 'medium density' residential development. It is intended that this will be the ultimate long term use of the land. The decision of whether or not to build a single dwelling is initially a decision the owner must make. However, this would not be consistent with the strategic purpose of the identification of the site as suitable for medium density. That said, the construction of a single dwelling on a lot does not require a permit under the GRZ. Unless some other relevant permit trigger applies, the owner cannot be prevented from constructing a single dwelling. <u>Officer Recommendation:</u> No change to the Amendment proposed. The submission should be referred to an Independent Panel for consideration.</p>
90 Schotters Road Mernda	
The Amendment will devalue the property.	<p>Submission noted. See response to submission from 88 Schotters Road above. <u>Officer Recommendation:</u> Not support this submission. No change to the Amendment proposed. The submission should be referred to an Independent Panel for consideration.</p>
The application of the LSIO will greatly reduce the opportunity to	Submission noted. See response to submission from 88

develop the land in the future.	<p>Schotters Road above.</p> <p><u>Officer Recommendation:</u></p> <p>Not support this submission.</p> <p>No change to the Amendment proposed.</p> <p>The submission should be referred to an Independent Panel for consideration.</p>
Request to see data relating to historical flood records, drainage plans and surveys of the area, and the criteria for determining land subject to 1:100 year flooding.	<p>A letter was provided to the submitter on 12 April 2016 on behalf of MW that outlined the processes that MW uses to determine flooding extents.</p> <p>The letter also included plans and data that were used to support the declaration of this site as being subject to 1 in 100 year flooding.</p> <p><u>Officer Recommendation:</u></p> <p>Support this submission.</p> <p>No change to the Amendment proposed.</p> <p>The submission should be referred to an Independent Panel for consideration.</p>
Concerned at the level of consultation undertaken before proposing the application of the LSIO.	<p>Council officers liaised with MW to discuss drainage matters as part of the preparation of the Concept Plan. This allowed MW to review the current drainage and flooding context of the Mernda Township. It was discovered that some land within the Township was subject to 1 in 100 year flooding and had no appropriate planning controls in place.</p> <p>As MW is the authority on flood management, Council Officers sought the advice of MW to determine the best course of action. It was recommended that the LSIO be applied as this would allow residents and future developers to be aware of the risk the land poses to future development opportunities.</p> <p>It is noted that the site is currently affected by 1 in 100 year flooding and as such this is merely formalising the relevant controls.</p> <p><u>Officer Recommendation:</u></p> <p>Not support this submission.</p> <p>The submission should be referred to an Independent Panel for consideration.</p>
Propose an alternative option to locate drainage infrastructure within the road reserve of Hayes Road.	<p>It is considered that the proposed drainage could potentially be accommodated within the Hayes Road road reserve during any future upgrade.</p> <p>Advice received from MW suggests that such a proposal does not relieve the site from potential flooding. The site is not affected by flooding from the adjoining stormwater channel, as is perceived, rather it is subject to backflow flooding from the Plenty River due to the topography of the area.</p> <p>Ultimately this is a matter for MW.</p> <p><u>Officer Recommendation:</u></p> <p>Not support this submission.</p> <p>No change to the Amendment proposed.</p> <p>The submission should be referred to an Independent Panel for consideration.</p>
DD Planning (on behalf of 345 Hazel Glen Drive Mernda)	
The amount of local open space proposed is not consistent with the historical precedent in earlier	<p>The only applicable strategic framework for the subject site is the <i>Mernda Local Structure Plan (Part 1)</i> (MLSP). The MLSP was approved in 1998 as part of the implementation of the Laurimar</p>

<p>development plans and structure plans for the area. It is requested that the open space be removed from the Concept Plan.</p>	<p>development area which included as part of the proposal to provide backlog sewer to the Mernda Township. The MLSP only discusses open space in the context of establishing a linear pedestrian path along the western bank of the Plenty River.</p> <p>The local open space nominated for this site has been located to retain the River Red Gums on site. This is in accordance with VCAT Order P527/2014. The creation of pocket parks for the retention of River Red Gums is in accordance with the provisions of Local Planning Policy – Clause 22.10 “River Red Gum Policy”.</p> <p><u>Officer Recommendation:</u> Not support this submission. The submission should be referred to an Independent Panel for consideration.</p>
<p>The land is currently covered by Development Plan Overlay – Schedule 14 “Cooper Street Employment Precinct” and the relevant <i>Cooper Street Employment Precinct Plan</i> is silent with respect to the subject land.</p>	<p>It is acknowledged that during the exhibition period, there was a discrepancy between the controls affecting the site on Planning Property Reports and the Whittlesea Planning Scheme Maps.</p> <p>Planning Property Reports incorrectly identified the DPO14 ‘Cooper Street Employment Precinct’ applying to the site. Whittlesea Planning Scheme Maps correctly identified the DPO 16 ‘Mernda Township’ affecting the site.</p> <p>DELWP were notified of this error and amended the Planning Property Reports accordingly. Any reference to the Cooper Street Employment Precinct or <i>Cooper Street Employment Precinct Plan</i> in the context of this Amendment should be disregarded.</p> <p><u>Officer Recommendation:</u> The submission should be referred to an Independent Panel for consideration.</p>
<p>The amount of land set aside as “proposed local open space” to allow for the retention of River Red Gums is excessive.</p>	<p>The subject site has an extensive history regarding planning matters, the most prevalent relate to the provision of open space and retention of native vegetation.</p> <p>Planning Permit application 713337 was lodged in 2011 for a multi-lot subdivision and removal of native vegetation. The application process was protracted due to the disagreement between the applicant and Council officers over the layout and retention of significant vegetation.</p> <p>The application proceeded to mediation at VCAT in 2014, who with agreement from both parties issued a planning permit under VCAT Order P527/2014. The VCAT Order allowed for the multi-lot subdivision to occur for the majority of the site as well as creating superlot (Lot A) for balance land (1.061ha) containing the existing dwelling which will be considered for subdivision at a future point in time.</p> <p>The balance Lot A contains the majority of remnant River Red Gums and their location is identified through the nomination of two passive open space areas. At a broad level the Concept Plan reflects this nomination. The details around the specific boundary and area of these reserves are subject of the detailed planning permit process.</p> <p>In addition to the above, it is noted that Condition 2(d) of the VCAT Order requires that a pocket park be created for the retention of Tree no 2 (southwest corner of the site). This has been reflected on the approved subdivision plan. This park should also be included on the Concept Plan for completeness.</p> <p><u>Officer Recommendation:</u></p> <ul style="list-style-type: none"> • Not support submission regarding excessive allocation of open space for River Red Gum protection and request

	<p>the matter is referred to an Independent Panel for consideration.</p> <ul style="list-style-type: none"> • Update the proposed Concept Plan to include a pocket park at the southwest corner of 345 Hazel Glen Drive for the protection of Tree 2 (River Red Gum), in accordance with VCAT Order P527/2014. • The submission should be referred to an Independent Panel for consideration.
<p>Planning Permit 713337 was issued by consent order and conditions relating to this permit can be varied.</p>	<p>It is irrelevant as to how Planning Permit 713337 was issued, as any planning permit conditions can be varied subject to a planning permit Amendment application. In this case the request to vary the conditions of the Planning Permit would need to be heard by VCAT.</p> <p>The Concept Plan prepared for the Amendment is reflecting the conditions of the current Planning Permit which is a legal document applying to the site. Should the applicant wish to challenge the conditions of the Planning Permit, they should do so through other processes available.</p> <p><u>Officer Recommendation:</u> Not support this submission. No change to the Amendment proposed. The submission should be referred to an Independent Panel for consideration.</p>
<p>In granting the issue of Planning Permit 713337, the Tribunal has not considered the specific merits of the subdivision, policy, the various structure plans, the proposed Amendment C175, arborist reports/ evidence and subdivision layout in its determination.</p>	<p>Planning Permit 713337 has been issued with the consent of the landowner; there is no relevance to whether or not VCAT has considered the subdivision. If the landowner had unresolved issues then they should not have agreed to the consent order. The Planning Permit as issued should be given its due legal weight.</p> <p><u>Officer Recommendation:</u> Not support this submission. No change to the Amendment proposed. The submission should be referred to an Independent Panel for consideration.</p>
<p>22 Hayes Road Mernda</p>	
<p>The provision of local roads within and adjacent to the subject site will result in a reduction of privacy.</p>	<p>As discussed, the role of the Concept Plan is to set in place the strategic framework to guide the long term planning of the Mernda Township.</p> <p>The Concept Plan is by its nature a high level document. It is intended to be refined further through the requirement for preparation of a Development Plan. Any Development Plan must be generally in accordance with the Concept Plan.</p> <p>There is no compulsion to develop at a particular point in time but rather, when development is proposed it needs to be undertaken in accordance with the overarching strategic documents to ensure orderly and coordinated planning.</p> <p>Highly fragmented land ownership patterns like those that exist in the Mernda Township are always the most difficult to coordinate. In these scenarios it is even more important to ensure that overarching plans are in place or that development proponents are required to ensure that consideration is given to integration beyond an individual landholding's proposal. To this end, it is important to ensure that road, pedestrian, bike, open space links are provided/taken into account.</p> <p><u>Officer Recommendation:</u></p>

	<p>Not support this submission.</p> <p>No change to the Amendment proposed.</p> <p>The submission should be referred to an Independent Panel for consideration.</p>
<p>The application of the LSIO will limit opportunities for future development and subdivision.</p>	<p>The application of the LSIO was at the request of MW which is the authority on flood management within Metropolitan Melbourne.</p> <p>The justification for applying the LSIO and how this is to impact landowners and the process of the Amendment has been discussed previously above.</p> <p><u>Officer Recommendation:</u></p> <p>Not support this submission.</p> <p>No change to the Amendment proposed.</p> <p>The submission should be referred to an Independent Panel for consideration.</p>
<p>Seek clarification on how land is considered for the application of the LSIO.</p>	<p>See previous comments to submission from 90 Schotters Road earlier.</p>
<p>The area nominated for “<i>medium density development</i>” is too small and not financially viable.</p>	<p>It is noted that the subject site referred to is constrained in size, shape and location given its location to the LSIO.</p> <p>The ‘<i>medium density</i>’ designation was in part to provide flexibility for the implementation of land use. There is no in principle issue with maintaining land use flexibility but the issue relates more to the constraints of the site.</p> <p>It is noted that the submitter has not proposed an alternative that responds to these constraints.</p> <p><u>Officer Recommendation:</u></p> <p>Not support this submission.</p> <p>No change to the Amendment proposed.</p> <p>The submission should be referred to an Independent Panel for consideration.</p>
<p>The neighbouring Heritage property at 32 Hayes Road, will limit the amount and type of development on the subject site.</p>	<p>It is noted that the adjacent property at 32 Hayes Road is affected by a Heritage Overlay Schedule 15 (Hazelmere – ‘Horner’s House’).</p> <p>As is standard planning practice any proposal within or adjacent to a Heritage Overlay Property will need to ensure that it is developed sympathetically to, and does not detract from, the heritage significance of the site.</p> <p><u>Officer Recommendation:</u></p> <p>Not support this submission.</p> <p>No change to the Amendment proposed.</p> <p>The submission should be referred to an Independent Panel for consideration.</p>
<p>The Amendment will devalue the property.</p>	<p>Submission noted. See response to submission from 88 Schotters Road above.</p> <p><u>Officer Recommendation:</u></p> <p>Not support this submission.</p> <p>No change to the Amendment proposed.</p> <p>The submission should be referred to an Independent Panel for consideration.</p>
<p>Request a ‘credit’ in rates be applied to the property to account</p>	<p>Submission noted. See response to submission from 88 Schotters Road above.</p>

for the loss development potential due to the application of the LSIO.	<u>Officer Recommendation:</u> Not support this submission. No change to the Amendment proposed.
Costa Mushroom Exchange (45 Cookes Road Doreen)	
Request further justification regarding the proposed planning controls.	Council officers provided details of the Amendment to the Mushroom Exchange and outlined that the current Amendment scope does not extend beyond the existing TZ area. The Mushroom Exchange provided a letter to Council on 18 March 2016 outlining their satisfaction with the intent of the Amendment and subsequent withdrawal of their submission, however noting their request to be heard at any subsequent Panel Hearing.
Concerned the Amendment may prejudice their ability to undertake operations as part of the 2012 <i>Master Plan</i> endorsed by Council.	As per above.

NEXT STEPS

As part of the Planning Scheme Amendment process under the *Planning and Environment Act 1987*, having regard to the broad range of submissions received Council must determine whether to abandon the Amendment or request the Minister for Planning to appoint an Independent Planning Panel within a specified timeframe after the exhibition process concludes. Where changes have been recommended by Council officers, these can be dealt with as part of any Council submission to a planning panel assuming that the Amendment is not abandoned.

Included within the exhibited documentation were tentative dates should an Independent Panel Hearing be required. The dates proposed were for July/August 2016.

Should Council resolve to refer the submissions to a panel, Council must resolve that the Minister appoint an Independent Panel to consider unresolved submissions. Council Officers will request the Panel convene at approximately the abovementioned time. During the period in the lead up to the Panel Hearing, it would be appropriate for Council Officers to continue to work with submitters to reach a resolution on outstanding issues generally based on the officer recommendations in the responses to submissions table.

Council also has the option to abandon the whole Amendment and review the opportunity to undertake the process again at an appropriate time in the future. However, this option is not considered to be prudent or beneficial given the current planning controls within the Mernda Township allow for uses that could ultimately prejudice the delivery of the Mernda Town Centre. The two issues are separate issues and if the issue of the zoning of the RCZ land is to be dealt with it should be dealt with separately to the township zone issues.

CRITICAL DATES

- **December 2012** – Amendment C175 first reported to Council requesting Ministerial authorisation to prepare and exhibit the Amendment to the Whittlesea Planning Scheme.
- **July 2015** – Amendment C175 reported to Council requesting Ministerial authorisation to prepare and exhibit a revised Amendment which limits the proposed rezoning to the existing Township Zoned land. Request granted by Council. Ministerial authorisation sought.

- **July 2015** – Relevant stakeholders and landowners notified of Council's decision to hold in abeyance any rezoning of the Rural Conservation Zoned land.
- **December 2015 – February 2016** – Amendment C175 placed on public exhibition.

POLICY STRATEGY AND LEGISLATION

This Amendment reflects the ambitions of the extensive set of Council policies. Several notable Community Plan Strategic Objectives include:

- Accessibility in, out and around our city – our road network provides access to the municipality and beyond.
- Growing our economy – there are a diverse range of local employment opportunities.
- Places and spaces to connect people – our urban design helps build connection to place and the community.

The Amendment will also help ensure that significant heritage sites are retained and incorporated into the future vision of the Mernda Township. This is in accordance with Clause 21.08-3 of the Whittlesea Planning Scheme, which seeks to increase the level of protection for and opportunities for incorporation of the City's European and Aboriginal heritage.

These build upon the strategies and objectives of the State Government's key Metropolitan Planning Strategy *Plan Melbourne* particularly:

- Initiative 1.2.2 – Maintain the competitiveness of employment land in Melbourne's growth areas.
- Initiative 1.2.3 – Plan for commercial land and activity centre needs.
- Initiative 2.2.3 – Deliver housing close to jobs and transport.
- Direction 3.4 – Improve local travel options to increase social and economic participation.
- Initiative 4.2.1 – Protect our unique neighbourhoods from residential densification.
- Initiative 4.2.4 – Protect waterways from inappropriate development.

LINKS TO THE COUNCIL PLAN

FUTURE DIRECTION **Growing our economy**

Theme **Employment**

Strategic Objective **There are a diverse range of local employment opportunities**

FUTURE DIRECTION **Places and spaces connect people**

Theme **Planning our space**

Strategic Objective **There are a diverse range of local employment opportunities**

The proposed Mernda Township Planning Scheme Amendment will provide for the framework to allow the existing Mernda Township to better integrate with the larger Mernda-Doreen development corridor.

As such, it is considered that the plan will meet the direction of creating places and spaces for people to connect and that the plan has also utilised the principles of good urban design to facilitate future development to create a place which helps the existing and future community to connect with each other and their surrounds.

Equally the strategic objective in relation to employment needs to be considered. As outlined earlier in the report the Mushroom Exchange are one of Whittlesea's largest employers and any decision in relation to planning that may impact their operations needs due consideration.

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

Whittlesea Planning Scheme Amendment C175 has had an extensive and protracted history, which has seen the Amendment undertake various forms.

Over this period, the one constant of the Amendment has been to update the planning controls of the Mernda Township to reflect its position within the broader Mernda-Doreen growth area. By updating the controls, Council will have greater ability to guide development within the Mernda Township as well as ensure that uses that could compromise the delivery of the Mernda Town Centre do not eventuate.

There is clear strategic merit regarding the rezoning of Rural Conservation Zone land to facilitate the delivery of a linear park along the western bank of the Plenty River. However it is considered that this purpose is separate to the purpose of rezoning the current Mernda Township. At its meeting of 14 July 2015 Council resolved to proceed with an Amendment which limited changes to proposed statutory controls to the area currently covered by the Township Zone, given the issues raised by the Mushroom Exchange.

As is standard practice it is recommended that Council Officers be authorised to have discussions with a view to trying to resolve any outstanding submissions where possible prior to the panel, based on the officer recommendation within the submissions table within the body of this Council Report.

Specifically it is recommended that Council resolve to:

- Request the Minister for Planning appoint an Independent Planning Panel to consider unresolved submissions made in relation to proposed Whittlesea Planning Scheme Amendment C175.
- Authorise officers to continue discussions to try and resolve submissions where possible prior to an independent Panel Hearing.
- Make changes to the Amendment documentation to reflect the changes recommended by this report to Council and put those changes forwards as the preferred form of the Amendment;
- Advise relevant landowners, submitters, and external agencies of resolutions above.

DECLARATION OF INTEREST

Cr Lalios declared an indirect financial interest in item 6.1.9 Whittlesea Planning Scheme Amendment C175 – Rezoning Mernda Township.

Prior to the matter being considered or any vote taken in relation to the matter, Cr Lalios left the Council Chamber at 6:48PM and advised the Mayor accordingly.

Cr Lalios returned to the Council Chamber at 6:49PM following the vote on item 6.1.9 Whittlesea Planning Scheme Amendment C175 – Rezoning Mernda Township.

RECOMMENDATION

THAT Council resolve to:

- 1. Request the Minister for Planning appoint an Independent Planning Panel to consider unresolved submissions made in relation to proposed Whittlesea Planning Scheme Amendment C175.**
- 2. Authorise officers to continue discussions to try and resolve submissions where possible prior to an independent Panel Hearing.**
- 3. Make changes to the Amendment documentation to reflect the changes recommended by this report to Council and put those changes forwards as the preferred form of the Amendment;**
- 4. Advise relevant landowners, submitters, and external agencies of resolutions above.**

COUNCIL RESOLUTION

MOVED: *Cr Stow*
SECONDED: *Cr Kirkham*

THAT Council resolve to adopt the Recommendation.

CARRIED

6.1.10 AMENDMENT C123- 50 AND 60 HUNTERS ROAD, MERNDA**File No:** 159193

Attachments:

- 1 Subject Site
- 2 Zoning
- 3 Development Plan Overlay
- 4 Proposed Mernda Strategy Plan Amendment
- 5 Future Land Use and Connectivity

Responsible Officer: Director Planning & Major Projects**Author:** Senior Strategic Planner**REPORT****EXECUTIVE SUMMARY**

The landowners of 50 and 60 Hunters Road, Mernda, have requested that Council amend the Mernda Strategy Plan in order to remove the current conservation open space designation from the subject land.

It is noted that the proposed Planning Scheme Amendment does not seek to alter the underlying zones on the subject sites. The Amendment seeks to amend the incorporated Mernda Strategy Plan, to alter the designation of the land-use on the subject sites, from Conservation Open Space to residential, in order to allow the landowners to develop their sites for residential purposes.

The Amendment is generally supported on the basis that the land is surplus to Council's open space needs. It recommended that Council seek authorisation from the Minister for Planning to prepare and exhibit the Planning Scheme Amendment.

This matter was presented to Council for consideration on 15 March 2016, at which time Council resolved to defer this item for further consideration to a subsequent Council Meeting and that the item be scheduled for discussion at a Forum Meeting prior to that. A briefing was then conducted at Council Forum on 19 April 2016. This report is now presented again for Council consideration.

INTRODUCTION

The purpose of this report is to discuss a proposed planning scheme amendment for the land located at 50 and 60 Hunters Road, Mernda. The amendment proposes to amend the Mernda Strategy Plan to nominate the future land-use of the subject properties as residential, rather than the current designation of Open Space.

The subject sites maintain direct abutments to the north, east and west with the Woodland Waters Conservation Area and are bounded by the unconstructed Hunters Road. Land to the south of the subject sites is currently vacant, but will be developed for residential purposes in the next 5 to 10 years in accordance with the Development Plan Overlay Schedule 27. A development plan for these sites is currently being prepared by the landowners.

The sites are currently accessed via Hunters Road, which is rural grade gravel road. It is noted that the road is proposed to be discontinued in the future. Given the nature of the road and the sites abutting it, access to the subject sites will likely be via the development to the south of the site.

The subject land has been identified by Council's Parks and Open Space department, as being surplus to Council's open space requirements.

BACKGROUND

The amendment applies to the land at 50 and 60 Hunters Road, Mernda (Attachment 1- Subject Site). The subject properties were rezoned to a Residential 1 Zone (now General Residential Zone) (Attachment 2- Zoning Plan), with a Development Contributions Plan- Schedule 8, Development Plan Overlay- Schedule 5, Incorporated Plan Overlay- Schedule 1 and the Vegetation Protection Overlay Schedule, in 2004 at the time of the Mernda Strategy Plan being adopted and implemented into the Planning Scheme. These zoning and overlay controls are consistent with those applied to all land within the Mernda Strategy Plan (*Attachment 3 shows the existing Development Plan Overlay*).

Combined, the sites are a total of approximately 8000 square metres. Each site currently contains a single dwelling and both are mostly cleared of trees. As shown on Attachment 1, the sites are flanked to the north, east and west by the Woodland Waters Conservation area, making them fragmented and disconnected to residential development to the north and west.

The sites are located within Precinct 4 of the Mernda Strategy Plan, and are nominated as Conservation Open Space, forming part of the Woodland Waters Conservation area.

The sites have been, or for as long as records indicate, been cleared in order to accommodate residential development, they contain no known conservation values.

In late 2013, the landowner of 60 Hunters Road, Mernda, contacted Council officers to seek clarification on the land-use designation of the land, and were subsequently advised that the land was designated as Conservation Open Space, forming part of the ultimate Woodland Waters Conservation area to facilitate the inclusion of this land into the surrounding Conservation Open Space, Council would be required to purchase the land.

From a process perspective, Council, through the Development Contributions Plan would be required to purchase the land, noting that the subject landholdings apparently are totally located within the Conservation Open Space designation.

It is noted that the earlier iterations of the plan were different to those that were adopted as the final Mernda Strategy Plan. The exhibited versions identified that the sites at 50 and 60 Hunters Road, Mernda, would be included as part of a broader low density residential precinct.

This position changed through the Planning Panel process undertaken for the Mernda Strategy Plan, with the land subsequently designated as Open Space as part of a broader Conservation Area known as the Woodlands Waters Conservation Area as part of the ultimate approval of the Mernda Strategy Plan.

On 16 August 2015, 10 Consulting Group, on behalf of the landholder of 60 Hunters Road, Mernda requested that Council prepare a Planning Scheme Amendment to the Mernda Strategy Plan, in order to change the land use designation on the site from Conservation Open Space to Residential. It was noted in this request that the existing Zone and Overlay controls on the site were considered to be appropriate, and no change was proposed.

Verbal support for the amendment has been received from the landowner of 50 Hunters Road, Mernda. The landowner will be given the opportunity to comment formally on the amendment through the exhibition process.

PROPOSAL

The landowner of 60 Hunters Road, Mernda, has requested that Council amend the Mernda Strategy Plan in order to change the land use designation of 50 and 60 Hunters Road, Mernda, from Conservation Open Space to Residential as the land does not contain significant vegetation values and does not warrant inclusion as open space within the Conservation Reserve.

It is important to note that the existing zones and overlays on the site, General Residential Zone (GRZ), Development Contributions Plan- Schedule 8 (DPO8), Development Plan

Overlay- Schedule 5 (DPO5), Development Contribution Plan- Schedule 8 (DCPO8), Incorporated Plan Overlay- Schedule 1 (IPO1) and the Vegetation Protection Overlay Schedule (VPO), are not proposed to be amended on the basis that they are considered to be appropriate and consistent with the balance of the Mernda Strategy Plan.

DISCUSSION

The subject land is currently shown with a Conservation Open Space land use designation within the Mernda Strategy Plan as part of the northern abutting Conservation area known as the Woodland Waters Conservation area (Attachment 4).

At the time of finalising the Mernda Strategy Plan, there was no ability for the sites at 50 and 60 Hunters Road to be integrated into surrounding residential development as they were 'hemmed' along their northern, eastern, and western boundaries by an area containing high conservation value. Because of this constraint they were included under the land use designation of Conservation Open Space as part of the approval of the Mernda Strategy Plan, with the land to ultimately be acquired and absorbed into the abutting Conservation area by Council via the Development Contributions Plan, once it was required and the funds were available.

As noted previously, the two properties are developed with a single house on each property and to all intents and purposes are large residential allotments, devoid of any environmental significance.

Following discussions with the landowner of 60 Hunters Road, Mernda, clarification was sought as to whether or not the land was required by Parks and Open Space for Open Space purposes, or inclusion into the abutting Conservation area. It was noted by Parks and Open Space that the land did not contain any significant conservation values, and was surplus to Council open space needs.

Noting this, it was considered to be unlikely that Council would be in a position to acquire the properties in the medium to long term, as there was neither a conservation value, or a need for the land to be acquired for more general open space needs. In short, there would be little financial value in Council purchasing these properties and that constrained funding would be better allocated elsewhere.

This is a unique circumstance, in that this land is entirely included within a conservation open space designation, and as such there is no development opportunity to effect the open space reimbursement that Council would have to pay for the sites. In short, Council will be required to purchase 100% of the sites, with no potential for an offsetting of costs via development contributions.

When considering propositions for this land, including its potential development, it is important to understand that the broader planning of the area has progressed substantially and the properties are no longer so far removed from opportunities to be integrated into other future residential communities.

It is pertinent to note that Hunters Road is proposed to be partially discontinued in the medium term, while the eastern most extent of the road has been terminated at Plenty Road already. It is noted that it is intended that Hunters Road will form part of a green link or shared pathway once it has been discontinued in full.

While considering the potential development of 50 and 60 Hunters Road, Mernda it is considered that such an outcome will not impact on the ultimate closure/downgrading of the road. From a practical perspective in order for any future development to occur on either of the sites, access will need to be provided via the development to the south of the site at 25 Hunters Road, Mernda. It is expected that this would be resolved through the finalisation of

Development Plans for each of the sites. *Attachment 5* illustrates the likely landuse/connectivity outcome to be implemented through the development plan process. Likewise, relevant servicing infrastructure will also need to be provided from the south, as no servicing infrastructure will be able to be provided from the north of the sites. Irrespective of the implementation of this amendment, the integration and timing of any development will be necessarily linked to development of the land to the south of the subject properties.

While there were previously no opportunities for the properties to be easily integrated into surrounding development, land which is located directly to the south (known as 25 Hunters Road, Mernda) was included within the Urban Growth Boundary as part of the VC68 Planning Scheme Amendment. For Whittlesea, this amendment shifted the Urban Growth Boundary in order to facilitate the assemblage of the Quarry Hills Regional Parkland, and was subsequently rezoned for residential purposes in 2013. The land is zoned GRZ, with a Development Plan Overlays (DPO27 and DPO5).

A Development Plan is currently being prepared for this property, in line with both DPO27 and DPO5 (which covers the eastern portion of the site), along with 80 McArthurs Road which is slightly further south of the subject site. This will ultimately need to ensure that opportunities are maintained to provide appropriate linkages to the subject sites and that this integration will include vehicular access, and the ability for requisite servicing infrastructure to be extended from the property to the south.

As the Development Plan to the south of the subject sites will be required to respond to both DPO5 and DPO27, it is considered that the zones and overlays which currently apply to 50 and 60 Hunters Road, Mernda are still appropriate.

Having regard to the Development Contribution Plan- Schedule 8 which applies to the sites, given the scale and quantum of the subject properties, it is not considered practical or appropriate to amend the DCP in this instance. However, in order to ensure DCPs are paid at the time of developing these sites, a Section 173 Agreement will be required to be prepared.

It is proposed that the process from here is to exhibit the amendment to provide affected landowners with the opportunity to comment on the proposal. In order for this to occur, we require formal authorisation from the Minister for Planning.

Noting the above, it is considered appropriate that Council support the landowners request to amend the Mernda Strategy Plan to change the land use designation from Conservation Open Space to Residential, and seek authorisation from the Minister for Planning to prepare and exhibit the amendment.

LINKS TO THE COUNCIL PLAN

FUTURE DIRECTION	Places and spaces to connect people
Theme	Planning our space
Strategic Objective	Our urban design helps build connection to place and the community

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

Amending the Mernda Strategy Plan to change the land use designation of the sites at 50 and 60 Hunters Road, Mernda from Conservation Open Space to Residential will provide a practical outcome for the landowners of these properties for land considered to be surplus to Council needs and are no longer required for Conservation Open Space.

The properties will be able to be integrated into the property to the south, and will be able to be considered under their current zones and overlays in order to ensure a consistent approach to residential development within this area.

It is therefore recommended that Authorisation be sought from the Minister for Planning for the preparation and exhibition of this proposed planning scheme amendment.

RECOMMENDATION

THAT Council resolve to:

1. **Seek authorisation of the Minister for Planning to prepare and exhibit an amendment to the Whittlesea Planning Scheme to amend the Mernda Strategy Plan to change the land use designation for 50 and 60 Hunters Road, Mernda from Conservation Open Space to Residential;**
2. **Prepare and exhibit the planning scheme amendment if Authorisation set out in 1 above is provided.**
3. **Notify the amendment proponent of 1 and 2 above.**

COUNCIL RESOLUTION

MOVED: *Cr Sinclair*
SECONDED: *Cr Kirkham*

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

CARRIED

6.2 COMMUNITY SERVICES

6.2.1 HACC TRANSITION TO THE NDIS

File No: 154345

Responsible Officer: Director Community Services

Author: Manager Aged and Disability Services

REPORT

SUMMARY

This report provides an assessment and recommendations regarding three service provision options for clients of Council's Home and Community Care (HACC) program that will be eligible to transition to the National Disability Insurance Scheme (NDIS).

With the progressive unfolding of information regarding the NDIS rollout it is now possible to provide an informed assessment of Council's options.

A decision regarding Council's role is required as between 7-10% of Council's existing HACC clients will transition to the NDIS. This will occur during the 2016/17 year, commencing in August 2016.

The options considered are:

1. Council does not provide services to NDIS eligible individuals once they transition to the NDIS.
2. Council seeks to enter into a transitional arrangement to provide interim services to existing clients as they transition to the NDIS. This would be in partnership with an existing NDIS registered provider and for a time limited period whilst clients choose suitable alternative providers of comparable services.
3. Council registers as a service provider to NDIS eligible residents.

The impacts on clients, their carers, Council staff, and Council finances have been assessed.

It is recommended that Council seeks to enter into a transitional arrangement. The report details that this option minimises the impact of the transition process on clients, their carers, Council staff, Council finances and Council reputation.

BACKGROUND

From 1 July 2016 through to June 2019 the systems of service provision to residents with a disability will undergo major transition.

It is necessary to determine Council's role in service provision to this group as a significant group of existing HACC clients will be eligible to transition to the NDIS. It is understood that the majority of this group will transition to the NDIS during the 2016/17 financial year.

PROPOSAL

The local NDIS rollout will directly impact on some existing Council HACC clients transitioning to the NDIS, their carers, Council staff and finances.

As the Victorian HACC program and the National Disability Insurance Agency (NDIA) are using 2014/2015 year service and client data to forecast the NDIS rollout, Council's service

data for the same period has been used in this assessment of impact. The term Respite Care has also been used throughout the report to describe the service type commonly referred to as 'respite', even though this term is not specifically recognised by the NDIS.

Impacts on Council HACC Clients:

Council currently provides a range of HACC services to approximately 3,600 residents.

It is estimated that approximately 250 of existing HACC clients are almost certain to be eligible to transition to packages of individual support under the NDIS.

This group comprises 7% of HACC clients but they are amongst the highest needs clients and receive around 15% of all HACC services totalling 23,800 hours of service during 2015.

There is a possibility that a further 100 clients may also be eligible, but their eligibility is less certain. As these additional clients receive relatively few HACC services from Council, this report is based on the services usage of the group of 250 higher service users.

The services most commonly received are:

- 3,600 hours of Home Care which is 12% of all HACC Home Care
- 4,585 hours of Personal Care which is 16% of all HACC Personal Care
- 12,985 hours of Respite Care which is 62% of all HACC Respite Care. About 50% of these hours are delivered in the evening or on the weekends when it provides the most effective support for carers of younger residents, including the Full of Spirit (FOS) program.

As HACC clients transition to the NDIS, Council's block funding for those services will cease and these residents will be required to choose their service provider from NDIS registered providers. Council is not currently registered as an NDIS provider.

On average, these clients are receiving seven hours of service per week, with higher needs clients receiving up to ten hours per week. These services are often required after hours and on the weekends.

If Council was to exit all service provision to clients as they transition, this would require clients to choose alternative NDIS registered providers which have the capacity to provide these additional services.

The NDIA has undertaken a market assessment of the 'North East Melbourne Area', including an assessment of likely new entrants to the market, however, the results have not yet been released. Based on the recently released NDIS New South Wales Market Position Statement, it would appear that when released this report will provide useful detail about likely demand but limited information about likely providers.

It would seem unlikely that there are currently existing NDIS registered providers who would have the capacity to provide an additional 23,800 hours of services within the required timelines.

In particular, it is not likely that a replacement provider would emerge for the groups such as the Full of Spirit (FOS) program.

If Council was to continue to offer services to NDIS participants on either a transitional or ongoing basis, it is probable that many existing clients would initially choose to continue to receive services from Council. However, as Council's home support staff are minimally trained in disability supports, and many of this cohort already receive some services from other disability specific providers, it is likely that over time the majority of NDIS participants would choose to consolidate their services with other disability specific providers.

Impacts on Council's Home Support staff:

The 23,800 hours of service received by HACC clients expected to transition to the NDIS is equivalent to the work done by approximately 20 of Council's 135 Home Support Staff.

Most home support staff work part time, typically about 20 hours per week.

Whilst these clients are spread across all home support staff, some staff with particular skills have a higher proportion of these clients. If Council was to exit service delivery to each NDIS eligible client, staff would experience the following impacts:

- If the service reductions were spread evenly across each staff member it would be equivalent to a reduction of about 3.5 hours per week per staff member.
- As some staff have a much greater concentration of these clients in their rosters, at least 25 staff are facing the loss of significantly more work.

The structure of the employment arrangements for Council's home support staff are such that it is improbable that any staff would become redundant. However, even if all remaining work was shared evenly across all staff, the remaining work would principally be within ordinary hours and there would be a significant loss of income for some of Council's home support staff.

As noted above, if Council became an NDIS provider, either ongoing or on a transitional basis, it is likely that many clients would initially choose to receive services from Council. In the longer term it is likely that most would eventually transition to other disability specific providers. Such a graduated transition would spread the impact on Council HACC staff over a longer period of time.

In the case of more graduated loss of work, it is likely that the majority of the impact on staff would be offset by a combination of natural attrition and potential growth in general HACC service.

It is also considered possible that over time, those staff that favour working in evenings and on weekends could obtain employment with emerging NDIS providers who will be actively seeking to recruit experienced staff willing to work at these times and with this client base.

Impacts on Council's Income and Expense:

If Council was to provide NDIS services to clients as they transitioned, either ongoing or on a transitional basis, it would have a significant impact on income and expense.

Over the range of services transitioning to NDIS, there is minimal difference between the price paid for service by the NDIS compared to HACC. The key difference is that NDIS service providers cannot charge the client a fee to cover the gap between the unit price and actual cost of the service and therefore it is expected that there would be an income reduction given that Council currently charges fees to assist in offsetting the service cost.

It is difficult to estimate accurately how expenses would vary.

- There would be no significant variation in direct service delivery costs.
- There may be some additional staff training costs associated with orientating staff to being a provider under the NDIS.
- There would be some set up costs associated with registering as an NDIS provider, particularly with demonstrating compliance with disability standards.
- There would be some set up costs associated with system modifications to interface with NDIS reporting and invoicing.
- If Council was to make a long term commitment to NDIS service provision there would be the need to engage in an active loyalty and marketing program to ensure existing clients remained and new clients were attracted to the service.

Currently the gap between HACC income and the actual cost of service delivery is just below 30% of total service cost, with the vast majority of this driven by staff wages. As many of the services received by this cohort are provided out of hours, the cost gap is slightly higher for this group. This gap between income and cost is further increased by the inability to charge a fee to NDIS clients.

In summary, service provision to NDIS participants would replicate the existing situation where the cost of delivering HACC services exceeds the unit price, compounded by the loss of fee income.

ASSESSMENT OF OPTIONS

The following discussion explores three options:

1. Not provide NDIS services once clients transition to the NDIS.
2. Provide NDIS services on a transitional basis for an interim period.
3. Become an NDIS provider.

The discussion considers the following:

- Approximately 250 and up to 350 existing HACC clients will transition to the NDIS.
- Based on information confirmed by the NDIA the transition of clients will be quite rapid. It is estimated that, commencing August 2016, at least half of the NDIS eligible clients currently receiving HACC services will have transitioned by the end of the calendar year. All eligible clients will have transitioned by June 2017.
- Council's HACC program is not currently registered with the NDIS as a service provider and whilst it is possible to meet the registration requirements it would require considerable effort in a very limited period.
- As previously reported, the NDS readiness assessment suggests that the basic level of supports, staff skill levels and restricted flexibility offered through the HACC program would mean that, long term, NDIS eligible clients may not consider Council as a provider of choice.
- The NDIA describes its pricing schedule for services as 'lean pricing' and the price for the two most commonly received services are well below the actual cost of service delivery. The NDIA pricing scale does take into account penalty rates for services delivered in the evening and on the weekends, which does have a favourable impact on the overall cost to Council for some service types. However, it is estimated that the cost of service delivery would continue to exceed price paid, especially as no client or gap fee is chargeable.

Option one: Not provide NDIS services once clients transition to the NDIS.

If Council was to exit service delivery in an environment of rapid transition to NDIS the implications include:

- In the short term, clients would almost certainly struggle to obtain access to alternate NDIS registered providers of suitable respite care and personal care. This is particularly the case for after hours and weekend services and group respite.
- Lack of adequate NDIS service providers would cause significant disruption for clients and their carers.
- The rapid loss of these services would also have a significant impact on Council's HACC workforce.
- The resulting disruptions would likely have a detrimental effect on clients, carers and staff.

Option two: Provide NDIS services on a transitional basis for an interim period.

Council could seek to smooth out the transition experience for existing HACC clients and their carers as they move to the NDIS, without making a long term commitment to be an NDIS provider.

This would be done by entering into a fixed term agreement with another party which is already an NDIS provider.

- The NDIA permits registered NDIS providers to provide services via sub-contract arrangements with agencies which are not registered with the NDIS such as Council.
- In this scenario, Council's existing HACC clients who are transitioning to the NDIS would 'choose' the registered NDIS service provider on the clear understanding that the actual services will be provided via Council.
- Once Council has provided the services to these clients, the NDIS provider reports the outcomes to the NDIA and receives the NDIS payment for those services and would remit the agreed amount to Council.
- During this transitional period, clients would be supported to identify other suitable providers and progressively transition to them.
- It is possible that the NDIS registered partner may expand its own services, and employ additional staff and be able to offer Council's clients the opportunity to become direct clients of that provider.

Such a partnership would have to be engaged in through an open and transparent process to identify the most suitable partner agency.

Officers believe that this approach would be attractive to existing NDIS registered providers.

Entering into such an arrangement would address several risks:

- Avert serious disruption for clients and their carers who would have short term continuity of care whilst they were supported to exercise long term choice.
- Avert the likelihood of severe impacts on Council staff as a more progressive reduction of workload would better be able to be absorbed by natural attrition and potential growth in HACC service delivery.
- Avert a long term commitment to service provision where service delivery costs exceed income.

If Council was to choose this option, it would be necessary to immediately implement an EOI or similar process to identify a suitable partner.

The EOI process would seek to establish a partnership of approximately 18 months duration with a service provider who met the following criteria:

- Existing NDIS provider registration and demonstrated compliance with required standards.
- Existing capability to interact with NDIS / NDIA client management and billing systems.
- Existing local operating base.
- Preference would be given to a partner who also has:
 - Experience working in partnership with local government.
 - Demonstrated capability to innovate and deliver client focused services to the community.
 - Demonstrated capacity to be a 'provider of choice' for local people with a disability.

- Potential to expand their current service capability to include ongoing service provision of NDIS eligible services that Council currently provides.

An EOI process could be undertaken during May with the appointment of a partner in June. This would enable the partnership to commence delivering services to transitioning clients when the first clients are likely to transition in August / September 2016.

Option Three: Become an NDIS provider

Council may consider becoming an NDIS provider and offering to provide services to existing HACC clients who choose to remain with Council. This would also present the opportunity of pursuing other NDIS clients as the scheme rolls out in the region.

Implications of this option include:

- Council would need to rapidly undertake the work required to become a registered NDIS provider including Disability Service Standards compliance and undertake system modifications to interact directly with NDIS systems.
- Council would need to develop an enhanced service model to better respond to the particular service needs of NDIS participants including more highly trained staff.
- Council would need to invest in a consumer facing marketing program to engage existing and potentially new clients in choosing Council as their provider.
- Council would need to address the financial implications of delivering services under the NDIA's 'lean pricing' model.
- This option would exclude pursuing the possibility of working closely with any Local Area Coordination (LAC) provider.

The key challenge of this option would be to achieve the considerable amount of work involved in a limited time frame within an uncertain and dynamic environment.

CONSULTATION

In the lead up to the transition to the NDIS in the North East Melbourne Area, officers have been working closely with the NDS, representatives from the NDIA, the Department of Health and Human Services, and the MAV.

In particular, the NDIS Prepare Project Officer has played a key role in facilitating discussion and information flow, and in preparing the municipality for the upcoming transition.

CRITICAL DATES

The transition to NDIS will begin in Whittlesea and neighbouring municipalities as of 1 July 2016.

FINANCIAL IMPLICATIONS

The financial implications for each option are outlined below:

1. If Council elected to not provide services to NDIS eligible HACC clients:
 - In 2016/17 it is estimated that the costs associated with approximately half of the 23,800 hours currently provided to NDIS eligible clients would be saved as clients progressively transitioned to the NDIS across that year.
 - In the following year, the costs associated with the full 23,800 hours would be saved.
 - These savings would be offset to some degree by a loss of fee income.
 - There are unlikely to be any staff redundancies but staff would be heavily impacted.

2. If Council elected to provide services on a fixed term transitional basis to NDIS eligible HACC clients:
 - For the duration of the agreement there would be a modest short term increase in budgeted costs associated with the loss of client fee income and any costs associated with entering into a transitional arrangement with a third party, such as any administration fee which might be charged for processing service claims.
 - The agreement would be for a fixed term of approximately 18 months and clients would be progressively transitioning from Council HACC services to Council NDIS services and then also progressively transitioning on to non-Council NDIS services.
 - It is estimated that the financial impact associated with this model would be:
 - A transactional cost or administration fee charged by the partner agency.
 - A loss of fee income.
 - These costs would be partially offset by the savings associated with no longer providing services as clients transitioned to the non-Council NDIS provider. These are estimated to be negligible in 2016/17 but savings are expected to increase in 2017/18.
 - There are unlikely to be any staff redundancies and impact on staff will be slight.
3. If Council elected to provide services on a more sustained basis to NDIS eligible residents:
 - Ongoing service delivery would continue to incur at least the existing recurrent and budgeted amount plus the loss of fee income.
 - There would be some one-off and some recurrent costs associated with establishing registration with the NDIS as a service provider.
 - This option also has the potential to attract additional NDIS clients, which if successful would further increase the recurrent unbudgeted costs to Council.

POLICY STRATEGY AND LEGISLATION

There are no specific policies or strategies or legislation requiring Council to engage in NDIS service provision.

Council's Disability Action Plan commits Council to engage in the NDIS rollout.

Council's NDIS Prepare project has been established to monitor the rollout of the NDIS and is working to ensure maximum community benefit is received from the NDIS.

Deciding to provide transitional support of existing HACC clients during NDIS rollout would be consistent with these considerations.

By contrast, not providing transitional support in such a dynamic service provision environment would be inconsistent with these considerations.

Committing significant Council resources to ongoing NDIS service provision is not necessary for Council to be consistent with these considerations.

LINKS TO THE COUNCIL PLAN

FUTURE DIRECTION **Accessibility in, out and around our city**

Theme **Access to services**

Strategic Objective **We can access health services**

Offering fixed term support to existing HACC clients who transition to the NDIS will ensure clients and their carers receive continuity of care during a period of great change in disability service provision.

This option is also consistent with many other Council objectives as it minimises impacts on Council staff and Council reputation whilst also having minimal short term cost with long term financial benefits to Council.

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 implementation and progressive roll out of the NDIS within Whittlesea is expected to provide greatly improved services for people with disability and their carers. However, there is likely to be some disruption for people receiving services in the initial stages as new service providers enter the market and those receiving services consider the opportunities presented by this change. To minimise disruption to those of Council's HACC clients who currently receive NDIS eligible services, it is proposed that Council seek to enter into a fixed term agreement with another party which is already an NDIS provider as a transitional arrangement.

RECOMMENDATION

THAT Council resolve to undertake an Expression of Interest process to seek interest from suitably experienced and registered NDIS service providers in relation to entering into a fixed term agreement for the provision of those of Council's HACC services which will transition to the NDIS.

COUNCIL RESOLUTION

MOVED: *Cr Alessi*

SECONDED: *Cr Stow*

THAT Council resolve to adopt the Recommendation.

CARRIED

6.3 CITY TRANSPORT AND PRESENTATION

6.3.1 SAFETY IMPROVEMENT WORKS AT HENDERSONS ROAD BRIDGE - PEDESTRIAN AND CYCLING PATH LINK

File No: 194381

Attachments:

1	Hendersons Road Bridge Safety Works Overview
2	Hendersons Road Bridge - Darebin Creek Trail Bicycle Network

Responsible Officer: Director City Transport & Presentation

Author: Senior Projects Engineer

REPORT

SUMMARY

The purpose of this report is to consider a petition regarding community concerns with the proposed safety improvement works on the Hendersons Road Bridge, Epping.

BACKGROUND

In order to improve pedestrian and cyclist safety along Hendersons Road and address pathway gaps that undermined cycling path connectivity, a project was included within the new works program to increase the width of the footpath along the north side of the Hendersons Road Bridge, and to provide a safe crossing point across Hendersons Road for users of the Darebin Creek Trail (Attachment 1).

A petition regarding community concerns with the proposed safety improvement works on the Hendersons Road Bridge, Epping was tabled at Council's meeting on 23 February 2016, where Council resolved *to receive the petition and a report be prepared*.

The petition was signed by 211 residents and 7 non-residents and requested Council to re-consider its proposal for the re-configuration of the Hendersons Road Bridge and cycling path link. In support of the request, the petitioners raised the following concerns:

- *That by erecting the bicycle path and narrowing the road will endanger cyclists as they will be within a one metre area, next to pedestrians, and motorists.*
- *Hendersons Road has bus route 569, it should also be noteworthy that large vehicles utilise this carriageway having large side mirrors on their vehicles which could be hazardous for cyclists.*
- *Narrowing the road will impact on the road users as well.*

Furthermore, the petitioners requested Council to retain the Hendersons Road Bridge as is and construct a separate bicycle/walking bridge alongside the existing bridge.

DISCUSSION

Road and Path Network

Hendersons Road

Hendersons Road is a collector road that runs in an east west direction between Woolnough Drive and Cooper Street and it serves as one of the two road exits from the residential area bounded by the Darebin Creek, South Morang Rail Line, E6 Easement and Childs Road. Hendersons Road is approximately 800m in length, generally straight in alignment with 2 bridges, one over the Darebin Creek and one over the Hendersons Creek.

Road cushions were installed in Hendersons Road in late 2005 to address concerns with traffic speeds in the area.

Hendersons Road services the 569 (Epping Plaza SC to South Morang) bus route. The speed limit on Hendersons Road is 50km/h.

Path Network

As part of the development of the City of Whittlesea Bicycle Strategy, a gap in the trail network was identified in the vicinity of the Hendersons Road Bridge over Darebin Creek. This project is required to complete a crucial junction in the municipality's cycling network which connects together four existing trails (the Cooper Street Trail, South Morang Rail Trail, Darebin Creek Trail north and Darebin Creek Trail south) and improves permeability in the path network, and increases the safety for pedestrians and cyclists in the area (Attachment 1 and 2).

The Darebin Creek Trail is an important regional cycling route which extends from the Yarra River Main Trail in Alphington to Epping North. The Darebin Creek Trail will eventually extend to Donnybrook and Woodstock through the implementation of various precinct structure plans. The proposed works better connect two sections of the trail, and builds on improvements underway to create a continuous all weather off road pathway by converting the surface from granitic sand to concrete.

The development of a priority walking and cycling route along the Darebin Creek is included as part of the Epping Central Structure Plan (2011).

In the vicinity of Hendersons Road there are a number of facilities that generate a large amount of pedestrian and cyclist activity, such as Epping Railway Station (300m), Melbourne Polytechnic Epping campus (400m), Saint Monica's College (450m for Davisson Street Campus, 500m for Dalton Road campus), Epping Primary School Greenbrook Campus (900m via South Morang Rail Trail), St Peters Church (600m), Lalor North Secondary College (600m via Darebin Creek Trail), Epping Secondary College (1,050m via Darebin Creek Trail), Epping Village Shopping Centre (1,050m) and Epping Pacific Shopping Centre (1,200m).

Traffic and Pedestrian Surveys

Vehicle Traffic

Vehicle Traffic surveys in Hendersons Road were last undertaken approximately 100m east of the bridge (in late 2012), and the results are summarised in the following table:

Location (House No.)	Vehicles per			Speed (km/h)		Vehicles Over	
	Day	Peak Hour ¹		Average	85 th tile ²	50 km/h	60 km/h
		AM	PM				
At No.12 ³	2,903	383	244	48.2	57	1,093 (38%)	171 (5.9%)

¹ Peak Hour – 8:00 to 9:00am and 3:00 to 4:00pm

² 85thile speed is the speed at which 85% of vehicle are travelling at or below. It is an important factor in determining the safe operating speed of the road.

³ Location of the traffic survey data collection – approximately 100m east of the Hendersons Road Bridge

The results indicate that traffic volumes in Hendersons Road are within the design parameters for the road (~3,000 vehicles per day) however the traffic speeds in proximity to the bridge are higher than desirable for a 50km/h speed limit environment. Therefore it is considered appropriate that some form of action will be required to reduce the traffic speeds along this section of the road.

Due to community concern with traffic speeds in Hendersons Road Council installed three sets of asphalt road cushions in 2006.

In the period since the installation of the traffic calming devices there have been six concerns from residents in the area with the traffic speeds along the section of the road between Dalton Road intersection and the first traffic treatment in front of 18 Hendersons Road. The traffic surveys provided evidence that speeds are higher than desirable in this section of the road.

The proposed safety improvement works at Hendersons Road Bridge and the provision of the raised shared path crossing will further assist with reducing the traffic speeds and improving safety at this location.

The implementation of a similar device in other locations within the municipality (i.e. Ormond Boulevard in Bundoora) resulted in reduction of operating speed by 10km/h post installation.

Pedestrian/Cyclist Traffic

Pedestrian/cyclist surveys were undertaken at this location in November 2014 and March 2015. The results are summarised below:

Date	Pedestrians	Cyclists	Total
11 November 2014 (Tuesday)	229	82	311
15 March 2015 (Sunday)	210	82	292

The existing pedestrian activities at this site meet VicRoads guidelines for the installation of a pedestrian crossing. The path user numbers are expected to increase with the increasing residential density in surrounding neighbourhood and connections to new suburbs in the north.

Ongoing and past upgrade works along the Darebin Creek Trail have seen a significant increase in numbers of pedestrians and cyclists using the new path. Recent upgrade works of the trail to the south of McKimmies Road have seen trail user numbers increase fivefold after the works were completed.

Given the surrounding generators of pedestrian and cyclist activities, undertaking trail connectivity and safety improvements at Hendersons Road Bridge would further increase the use of the Darebin Creek Trail.

PROPOSAL

The Hendersons Road Bridge is a key junction point for a number of trails in the City's cycling network being the point where the Cooper Street cycling lane and the South Morang Rail trail meet with the Darebin Creek trail. Links between these trails are important for the broader cycling network, as well as for pedestrian and cyclist permeability in the local area.

This project seeks to improve both connectivity and safety at this junction, by:

- Widening the footpath on the northern side of the bridge, which is currently 1.8m, to 2.95m. This joins the local footpath and shared pathway to the Darebin Creek Trail and improves connections from the Cooper Street bicycle lane to the Darebin Creek trail. Given the high level of pedestrians and cyclist activity at this point, widening the space allocated to pedestrians and cyclist on the bridge considerably improves safety.
- Providing a safe pedestrian and cyclist crossing point of Hendersons Road, crucial to users of the Darebin Creek trail, through a raised pedestrian crossing with zebra line marking and signage;
- Completing a short missing link in the trail network on each side of the bridge, which is important to improving the connection between the two sections of the Darebin Creek trail.

In addition to pedestrian and cyclist network improvements, the project also seeks to reduce vehicle speeds in this section of Hendersons Road, introducing a raised pavement, which also serves as the cyclist and pedestrians crossing point.

The traffic lane widths on the bridge will be reduced from 4.27 metres to 3.5 metres. This proposed lane widths is within relevant Australian standards, and is wider than the existing 3.2 metre lanes at Cooper Street on the western approach to the bridge (Attachment 1). It is Council traffic engineers' professional view that the reduced lane width on Henderson Road Bridge will not adversely affect road safety.

CONSULTATION

Council Officers have engaged with the Whittlesea BUG, Bicycle Network Victoria, Dysons Bus Company and PTV during the development of the proposal to ensure that the proposed safety improvement works meet user needs and requirements.

In November 2015 a mail out was distributed to 48 residents of the immediate Hendersons Road Bridge area notifying of the proposed safety improvement works. The proposal received a positive feedback from several residents in the area and two objections to the proposed works. Following this survey a petition was initiated requesting Council to reconsider the proposal and retain the existing conditions along Hendersons Road Bridge.

Public Information Session

To provide more information on the proposal and to investigate community concerns, a new mail out to 439 residents of the wider Hendersons Road Bridge community was conducted in March 2016, which included:

- additional plans demonstrating the operation of the improved new bridge; and
- an invitation to a public information session.

A public information session was held at the Epping Memorial Hall on Wednesday, 16 March 2016, and was attended by 21 residents of the area. The community concerns raised during the public information session with Council Officers responses are summarised in the table below:

Concern 1	The reduction of the traffic lane width from 4.27m to 3.5m will affect the safety of the road users.
Officers' Response	<i>Currently road users mingle and do not have defined paths of travel. In accordance with the Austroads Guide to Road Design, the current Australian standard is to provide traffic lane widths of between 3 metres to 3.5 metres in urban areas, which allows for large and small vehicles to pass freely without concern. The addition of a designated 2.95 metre shared path, in accordance</i>

	<i>with Australian Standards, allows for pedestrians and cyclists to be free from motorists travelling over the bridge. Research has shown that there is no evidence that supports the assumption that road safety is increased with wider traffic lanes.</i>
Concern 2	An alternative cyclist/pedestrian bridge should be built adjacent to the existing road bridge
Officer Response	<i>While it is possible to construct an additional cyclist/pedestrian bridge adjacent to the vehicle bridge, this will result in achieving similar road safety results for substantially greater cost (approximately \$500,000- \$1,000,000).</i>
Concern 3	An alternative underpass should be considered below the bridge instead of the raised pedestrian/cyclist crossing.
Officer Response	<i>An additional underpass is unfeasible due to the physical constraints of the site and Melbourne Water flood prevention requirements that would result in an excessive cost for its implementation at this location.</i>
Concern 4	The Bridge cannot structurally take the additional load from the wider footpath.
Officers' Response	<i>The design loads were checked and independently verified by a qualified structural engineering design consultant as part of the design process. The additional loading on the structure will not reduce the capacity of the bridge.</i>
Concern 5	Public lighting at the bridge is below standard.
Officers' Response	<i>This matter had been raised previously by the community and in response plans have been developed to improve public lighting in the vicinity of the crossing. Works will be carried out as part of the 2016/17 Darebin Creek Trail works.</i>
Concern 6	Concern over the mingling of pedestrians and cyclist on the bridge.
Response	<i>The widening of the footpath will provide a shared path function.</i> <i>The widening from the current 1.8m to 2.95m will increase the area available for pedestrians and cyclists to pass each other whilst reducing the risk of conflicts between them, thereby improving safety.</i>
Concern 7	Concern about interaction between vehicles and cyclists in the new alignment.
Response	<i>The purpose of the works is to reduce the interaction between vehicles and cyclists and improve safety to all road users (pedestrians, cyclist, and motorists) in the area. As cyclists will no longer be required to use the traffic lane there will be significantly reduced interaction between the cyclists and the vehicles.</i>

CRITICAL DATES

Council Officers had tendered out the construction works prior to the petition being received, however progression of the tender process has been put on hold pending the outcome of the petition. Subject to Council adopting the recommendation in this report, the tender approval report will be presented to Council at its meeting on 26 May 2016, however the works will not be able to be completed in the 2015/16 financial year.

FINANCIAL IMPLICATIONS

Pre-tender estimate of works was \$150,000. Post tender quotation values will be discussed by Council in a future meeting and as part of the tender approval report.

POLICY STRATEGY AND LEGISLATION

The investigation and consultation process and implementation of traffic management measures accords with the Epping Central Structure Plan (ECSP) (2011, amended 2013) Council's *Community Plan* (CP) and *Road Safety Strategy 2004* (RSS), in particular:

- ECSP Items relating to the Walking and Cycling network and the Darebin Creek parkland recommendations.
- CP Item 2.6 - Deliver road safety improvement projects to the satisfaction of authorities and residents.
- RSS – Action Plans 2 (relating to community consultation on road safety matters), 4 (pedestrian safety), 7 (children and road safety), 8 (older persons and road safety) & 9 (speed management).

LINKS TO THE COUNCIL PLAN

FUTURE DIRECTION	Accessibility in, out and around our city
Theme	Transport
Strategic Objective	We can cycle safely

This project relates to the “we can cycle safely” action by providing an off road path connection for cyclists and a safe road crossing.

The installation of raised crossing would improve the pedestrians and cyclist safety whilst at the same time reducing the traffic speeds along this section of Hendersons Road.

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 proposed road safety improvement works on the Hendersons Road Bridge over the Darebin Creek will result in the following benefits for the community:

- Provision of an exclusive and improved pedestrian/bicycle lane over the Hendersons Road Bridge;
- Provision of shared path improved connections along and to the Darebin Creek Trail;
- Provision of a safe pedestrian/bicycle crossing over Hendersons Road; and
- Reduced traffic speeds in the area.

It is recommended that Council proceed with the proposed works.

RECOMMENDATION

THAT Council resolve to:

1. Proceed with the safety and connectivity improvement works on Hendersons Road Bridge as planned; and
2. Advise the petitioners of Council's decision on this matter.

COUNCIL RESOLUTION

MOVED: *Cr Pavlidis*

SECONDED: *Cr Alessi*

THAT Council resolve to:

1. Proceed with the safety and connectivity improvement works on Hendersons Road Bridge as planned;
2. Monitor and review the safety and connectivity improvement works and report back to Council in 6 months after the works have been completed; and
3. Advise the petitioners of Council's decision on this matter.

CARRIED

6.3.2 PARKING MANAGEMENT - GRAND PARADE, EPPING

File No: 1140022

Attachments: 1 Parking Conditions Comparison

Responsible Officer: Acting Manager City Design & Transport

Author: Traffic Engineer

REPORT**SUMMARY**

This report discusses a community request for existing parking restrictions to be reviewed, and recommends that the current parking restrictions are effective and should be retained.

INTRODUCTION

A joint letter requesting parking restrictions be reviewed in Grand Parade and Monica Court, Epping was tabled at the Council meeting on 17 November 2015. Council resolved to receive the joint letter and requested that a report be prepared on this matter.

The joint letter was signed by 18 residents, representing 16 properties in Grand Parade and Monica Court, requested *residential only parking, or 2 Hour parking on both sides of the Grand Parade and Monica Court*.

BACKGROUND

Grand Parade and Monica Court are local roads providing access to residential properties and direct pedestrian access to the Melbourne Polytechnic site through Monica Park. Melbourne Polytechnic students commenced parking within Grand Parade and Monica Court in late 2014 following Melbourne Polytechnic introducing paid on campus student parking in July 2014.

As a result of student parking in these streets causing parking congestion, local residents have submitted a number of joint letters and petitions which Council has previously considered. The submission of the joint letter preceded the implementation of measures to address parking congestion as a result of Council's resolution on a previous petition. These measures, which entail 2 hour parking restrictions on one side of both streets, combined with changes to on campus parking arrangements at Melbourne Polytech earlier this year, address the concerns raised and requests included within the joint letter received by Council on the 17 November 2015.

The background to previous petitions and joint letters is outlined below:-

- A joint letter containing two signatures of residents from one property was tabled at the Council meeting on 24 March 2015. The letter raised concerns about students from Melbourne Polytechnic (formally NMIT), train commuters and St Monica's college parents parking vehicles on both sides of Grand Parade, illegal parking, blocking property access and creating waste collection issues.
- A petition containing 19 signatures of residents in Grand Parade, Epping was subsequently tabled at the Council meeting on 5 May 2015. The petition was initiated as

a result of the community consultation process being undertaken as part of the investigation into the concerns raised in the joint letter. The petition requested:

- *Installation of 'No Stopping 8am to 4pm Monday to Friday' parking restrictions on both sides of Grand Parade between 95 Grand Parade and 121 Grand Parade*
- *Allocation of free parking permits to residents to exempt them from the parking restrictions.*

In response to the joint letter and petition, a detailed investigation which included community consultation and a public meeting was undertaken by Council officers. At the 25 August 2015 Council meeting, Council considered a report on parking in Grand Parade and Monica Court, detailing the outcomes of this investigation and resolved to:

1. *Not establish a residential parking permit scheme in the Grand Parade area in Epping.*
2. *Install "2P 8am to 4pm Monday to Friday" parking restrictions on one side of Grand Parade and Monica Court.*
3. *Monitor the effectiveness of the parking restrictions within three months of these arrangements being installed and amend as required in consultation with Grand Parade residents.*
4. *Advise the residents of the Grand Parade area of Council's decision on this matter.*
5. *Work with Melbourne Polytechnic to advise students of changes in local street parking arrangements and encourage students to utilise on campus parking.*

The joint letter currently under consideration was dated 2 September 2015, which was written prior to the installation of measures outlined in the 25 August 2015 Council resolution.

DISCUSSION

Parking Conditions October 2015

Observations of the parking conditions in Grand Parade and Monica Court commenced a week after the parking restriction signs were implemented and observations confirmed a decrease in on-street parking demand.

A summary of the parking conditions in Grand Parade and Monica Court prior to and following the introduction of parking management measures are shown in *Attachment 1*.

Parking observations and surveys were conducted in October 2015 i.e. the last two weeks of the Polytechnic tertiary year and in March 2016 i.e. the start of the 2016 Polytechnic tertiary year. These surveys indicate:

- In the 2P areas, parking occupancy rates were as low as approximately 14 per cent in Grand Parade and 42 per cent in Monica Court.
- In the unrestricted areas, parking occupancy rates were approximately 28 per cent in Grand Parade and 77 per cent in Monica Court.
- Vehicles were parked within the marked parking bays, there was no evidence of vehicles parking too close to driveways or intersections, which was an issue raised in previous petitions.
- Melbourne Polytechnic car park was consistently at saturation level in the March 2016 observations.

Previous concerns raised by the residents and petitioners were that the vehicles parked all day belonged to students, Epping Railway Station commuters or parents dropping-off or picking-up St Monica's students. From the latest observations and surveys, it can be concluded that vehicles parking on-street are likely to belong to residents and/or their visitors as vehicles were not parked in locations convenient to Melbourne Polytechnic, Epping Railway Station or St. Monica's College.

Concerns originally raised by residents of Grand Parade and Monica Court regarding on-street student parking, property access/egress and waste collection issues have been addressed.

Melbourne Polytechnic

Following further investigations and discussions with Melbourne Polytechnic, the following formal advice was received on the matter, *Melbourne Polytechnic executive decided in early 2016 that paid parking would not apply to students. Paid parking still applies to contractors, staff and other visitors.*

This change has markedly reduced demand for parking in Grand Parade and Monica Court and removes the original basis for the residents' concerns of parking congestion resulting from Melbourne Polytechnic students seeking to avoid paid on campus parking.

POSSIBLE ACTIONS

Options available to address current concerns are to retain the current restrictions, alter the restrictions, or remove the parking restrictions.

Retain Current Restrictions

Observations conducted in March 2016 in the Grand Parade area and within the Melbourne Polytechnic campus indicate that students no longer park in the Grand Parade area, however the Melbourne Polytechnic car park is at capacity.

The current provision of 2P parking restrictions on one side of Grand Parade and Monica Court provides the best balance of short term and unrestricted parking available for use by residents, their visitors and the general public and is consistent with the City of Whittlesea's balanced approach to the implementation of restrictions in local streets in areas of high parking demand.

Retaining the current 2P parking restrictions in Grand Parade and Monica Court is likely to deter students from parking on-street should student parking demand further increase and students are forced to park outside the Melbourne Polytechnic campus car park.

Alter Restrictions

An alternative option would be to install 2P restrictions on both sides of the road as requested in the joint letters. This is not supported due to the changes in on campus parking arrangements at Melbourne Polytechnic reducing parking demand and current restrictions on one side of the road adequately balancing residents' needs with any residual student parking demand.

CONSULTATION

The 2015 consultation process was undertaken in two stages. In the first stage a questionnaire was sent to 129 properties in the area seeking opinion on implementing four hour (4P) parking restrictions between 8am to 5pm Monday to Friday on one side of Grand

Parade and Monica Court in Epping. A summary of survey results is presented in the table below:

Letters Sent	Responses Received	Response Rate	4P Restrictions	
			Yes	No
129	37	29%	17	20

Due to the conflicting requests and poor level of support for the 4P parking restrictions, the second consultation stage involved a community meeting held on 30 July 2015 that was attended by 22 residents representing 15 households (12 from Grand Parade, two from Monica Court and one from Petra Court).

Following the public meeting, it was concluded that although residents' opinion on the type and form of parking restrictions for the Grand Parade area was divided, there was a united view that all day student parking was the primary source of their concern. The restrictions implemented as per Council resolution sought to address concerns of all day student parking while also providing for residential parking needs by having one side of the street unrestricted.

A number of parking demand observations were undertaken in 2016 which confirmed that parking demand and behaviour in the residential streets had altered since the implementation of the parking restrictions and Melbourne Polytechnic removing paid student parking within their car park.

FINANCIAL IMPLICATIONS

There is no cost associated with retaining the current parking restrictions in Grand Parade and Monica Court.

POLICY STRATEGY AND LEGISLATION

City of Whittlesea, Municipal Road Safety Strategy, 2004: Action Plan 3. Ensure that a safer road environment is developed and maintained.

City of Whittlesea, Integrated Transport Strategy, 2014: Action RF 2.2. Manage local roads to improve amenity and safety for users and ensure consistency with SmartRoads principles.

LINKS TO THE COUNCIL PLAN

FUTURE DIRECTION	Inclusive & Engaged Community
Theme	Participation & decision making
Strategic Objective	Community decision making is inclusive

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

Parking restrictions were introduced in Grand Parade and Monica Court in 2015 to address resident concerns regarding the paid parking arrangements at the Polytechnic car park and the flow-on effect this had on students parking all day in local streets.

Melbourne Polytechnic executive has decided that on campus paid parking will no longer apply to students. As a result of this change, in combination with the parking restrictions, the level of parking in Monica Court and Grand Parade has significantly reduced. However, there is merit in retaining restrictions on one side of both streets to deter student parking in the future noting that the Melbourne Polytechnic car park is at saturation level.

RECOMMENDATION

THAT Council resolve to:

1. Retain the current parking restrictions in Grand Parade and Monica Court, Epping.
2. Acknowledge that the introduction of 2P parking restrictions within Grand Parade and Monica Court, in combination with changes to Melbourne Polytechnic's on campus parking, have been effective in reducing on-street student parking.
3. Advise the joint letter signatories of Council's decision on this matter.

COUNCIL RESOLUTION

MOVED: Cr Sinclair
SECONDED: Cr Kirkham

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

CARRIED

6.3.3 BINDTS ROAD, WOLLERT - ROAD CONDITION

File No: ST/105392
Attachments: 1 Locality Plan
Responsible Officer: Director City Transport & Presentation
Author: Senior Development Engineer

REPORT**SUMMARY**

The purpose of this report is to consider a joint letter regarding a request for Council to upgrade the road surface of Bindts Road, Wollert due to its poor condition and the impact that the increased traffic volumes are having on local residents.

BACKGROUND

On 2 November 2015, a joint letter containing signatures from 17 residents from eight properties was received by Council, requesting that Council upgrade the road surface at Bindts Road, Wollert. The joint letter was tabled at the Council meeting held on 17 November 2015, where Council resolved to prepare a report to consider the request.

The resident's concerns have been summarised to:

- The unsatisfactory condition of the unsealed road is causing excess dust which reduces the visibility for motorists and poses an increased road safety risk.
- Excessive dust is contaminating residents' tank drinking water and is dangerous to health.
- Speeding and 'out of control' vehicles on the unmade gravel road resulting in road safety issues. Crashes through fences of private property were identified.

Based on the above issues the residents requested that Bindts Road be upgraded as a sealed road.

Some of the above concerns have previously been considered by Council on the 6 May 2014 where Council resolved to: -

- *"Monitor traffic conditions on Bindts Road now that the 50 km/h speed signs have been installed and;*
- *Continue road maintenance on Bindts Road as required."*

In accordance with the resolution, the maintenance required for Bindts Road has increased. However, due to the volume of traffic using the road, dust generation remains an issue and the road surface does deteriorate between maintenance visits, resulting in corrugation and pot holes. Traffic volumes in 2015 and 2016 have remained the same since Council responded to the resident petition in May 2014. Commentary on vehicle speeds is provided later in the report.

DETAILS AND INVESTIGATION

Road Network and Layout

Bindts Road is a local, rural gravel road which runs parallel to the east of Epping Road. It is around 6m in width, 3.2km in length and runs between Harvest Home Road at the southern end and Bridge Inn Road at the northern end (refer Attachment 1). It provides direct access to 12 properties, eight of which are occupied and would generate around 80 local vehicle trips per day.

Bindts Road does not form part of the adjoining Eucalypt Estate. The road is within the future Quarry Hills PSP area where it is identified as being decommissioned with the road reserve being incorporated into the future extent of the proposed Quarry Hills Conservation Reserve. Bindts Road is also located within the VicRoads public acquisition overlay (PAO 6) and is required for the future E6 transport corridor. The future Quarry Hills PSP area is to be developed on the side of Bindts Road. (See Attachment - Locality Plan)

Traffic Data

Traffic surveys have recently been conducted at three locations in Bindts Road. A summary of traffic survey data is presented in the table below:

* Bindts Road Section	Survey Year	Location (House No.)	85 th percentile speed (Km/h)	Vehicles per Day (VPD)	Direction		AM Peak Period Volumes		
					North	South	Two-Way	North	South
South	Nov 2015	No. 40-60	66	236	108	128	78	9	68
South	April 2008	No.150	51	60	27	33	2	3	5
South	Nov 2015	No.150	60	223	101	122	79	11	68
North	April 2008	Mid-block (No.240)	75	40	25	16	3	2	5
North	Nov 2015	Mid-block (No.240)	64	568	150	417	309	13	295

*Bindts Road Section refers to:

- South (between Harvest Home Road and Lehmanns Road)
- North (between Bridge Inn Road and Lehmanns Road)

Whilst historical traffic volumes on Bindts Road is low (i.e. in 2008), there has been an increase in traffic volume over the past several years, as indicated in the most recent traffic survey conducted in 2015 where the results indicate:

Traffic speeds

Since the reduction of the speed limit in Bindts Road from 80 km/h to 50 km/h, the 85th percentile speeds have changed as follows:

- An increase of 9 km/h in Bindts Road (South) from 51km/h to 60 km/h and,
- A reduction of 11 km/h in Bindts Road (North) from 75 km/h to 64 km/h

The reduced speed limit from 80 km/h to 50km/h has been somewhat effective in lowering the speed of vehicles on Bindts Road (North) as indicated by the above data.

Traffic Volume

Bindts Road in combination with Lehmanns Road is being used as a 'rat run' to avoid the area's congested arterial road network in the AM and PM peak periods (i.e. Bridge Inn Road, Epping Road and the Bridge Inn Road / Epping Road Intersection).

- Between April 2008 and November 2015, traffic volumes on Bindts Road (including both cars and trucks) have increased significantly from 60 vpd to 236 vpd in Bindts Road (South) and from 40 vpd to 568 vpd in Bindts Road (North). It should also be noted that a 4.5 tonne load limit is in place in Bindts Road, which has restricted the size of trucks using the road to small rigid vehicles.
- The increase in traffic volume reveals that traffic (i.e. 295 vehicles in the AM peak period 7am-9am) are travelling west along Bridge Inn Road then using Bindts Road (North) as a short-cut to Craigieburn Road to avoid the AM peak period congestion occurring at the Epping Road/Bridge Inn Road intersection.
- Similarly, the traffic using Bindts Road to travel further south to Harvest Home Road is using Bindts Road (South) as a short-cut to both Epping Road and the Al Siraat College due to its recent increase in student numbers.

These traffic patterns have been identified as motorists are using these short-cuts especially, to avoid the AM peak period congestion at the Epping Road/Bridge Inn Road intersection. Traffic volumes have increased as a result of urban growth in the area.

Road Maintenance / Unsealed Road Condition / Dust

Maintenance involving the grading of Bindts Road has increased due to the concerns raised by the residents of severe corrugation on the road and the formation of dust clouds. Typically, grading occurs two or three times per year for a rural gravel road however, due to the increase in development of the surrounding area and traffic generated by the surrounding developments, maintenance of Bindts Road has increased to eight times per year. Despite the increased maintenance frequency, road corrugations and pot holes still occur regularly and the generation of dust due to high traffic volumes continues.

Consideration should be given to either applying a longer term stabilising treatment, sealing the road or closing the road, as the current maintenance frequency will not be able to sufficiently address the issues created by the dust and condition of Bindts Road given traffic volumes.

Road Safety

Details available from VicRoads' *CrashStats* for Bindts Road indicate that there has been 6 reported casualty crashes in the past 5 years from 2011 to 2015.

DISCUSSION

A range of options have been considered to address the concerns of residents relating to dust and road safety, while also maintaining Bindts Road as an alternative to the areas congested arterial road network.

The south section of Bindts Road (i.e. between Harvest Home Road and Lehmanns Road) will be sealed by the developer of the adjoining Eucalyptus Estate, as part of the construction requirements for this subdivision. This requirement has been stipulated as part of the construction approval for the subdivision to ensure that future residents of the Eucalyptus

Estate are not impacted by dust generation from Bindts Road. This will also address the issues raised by existing residents along this section of Bindts Road.

Sealing works, which will be undertaken in stages, have commenced and are scheduled to be completed by the end of the year.

Furthermore, the Eucalypt Estate development will provide a north-south collector road (i.e. Saltlake Boulevard) allowing vehicles to travel between Lehmanns Road and Harvest Home Road. When completed in December 2016, this collector road will provide an alternative direct north-south road link between Lehmanns Road and Harvest Home Road, reducing the traffic volume and reliance of motorists using the south section of Bindts Road.

Three residences exist along the north section of Bindts Road (i.e. between Bridge Inn Road and Lehmanns Road). A number of options exist through this section, which are described below: -

- Upgrade the road from a rural unsealed 'gravel' road to a sealed 'asphalt' road pavement. Seal the full length of the north section, at an estimated cost ranging from \$350,000 to \$500,000. This would address resident concerns relating to dust, although would likely result in increased volumes of traffic using the road as an alternative to the arterial road network.
- Address dust generation along localised lengths of the north section of Bindts Road adjacent to residential properties through either the application of a spray seal or a gravel binding or alternative stabilising product. The cost of the undertaking of this work for an approximate length of 300 metres ranges from \$20,000 to \$60,000. Due to the flat grade of the road, lower traffic volumes and changed stabilising composition, it is considered that the gravel binding or similar stabilising product will be more successful than where it has been previously trialled at a gravel road in Mernda.

Given the low residential density that exists along the north section of Bindts Road, the existing traffic volumes and the flat grade of the road, the most cost effective way to address residential concerns is to suppress dust along localised sections of the road abutting existing residences, either through the application of a spray seal or a binding product. The final solution, and the resulting cost, will be subject of a detailed technical investigation.

FINANCIAL IMPLICATIONS

The cost of undertaking localised dust suppression in the north section of Bindts Road will range from \$20,000 to \$60,000, with the final cost subject to a detailed technical investigation. This will be funded through over expenditure from the operational road maintenance budget, which will be balanced against other operational budget savings.

There is no direct cost to Council for sealing the south section of Bindts Road.

POLICY STRATEGY AND LEGISLATION

City of Whittlesea, Municipal Road Safety Strategy, 2004: Action Plan 3. Ensure that a safer road environment is developed and maintained.

City of Whittlesea, Integrated Transport Strategy, 2014: Action RF 2.2. Manage local roads to improve amenity and safety for users and ensure consistency with SmartRoads principles.

LINKS TO THE COUNCIL PLAN

FUTURE DIRECTION	Inclusive & Engaged Community
Theme	Participation & decision making
Strategic Objective	People are involved in issues that affect them

The investigation accords with Council's *Community Plan* (CP) and *Road Safety Strategy 2004* (RSS), in particular:

- CP Item 1.1 - Engage and consult with our community, stakeholders and customers in a meaningful way.
- CP Item 2.6 - Deliver road safety improvement projects to the satisfaction of authorities and residents.
- RSS Action Plans:
 - Action 2 (Relating to community consultation on road safety matters)
 - Action 9 (Relating to speed management).

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

Increasing the maintenance program from two to eight times a year has not been effective in addressing the dust issue and sustaining a road without corrugation or potholes. Based on the existing traffic volumes further increasing the maintenance frequency would not adequately address the issue of dust generation.

The Eucalypt Estate developer has commenced sealing the south section of Bindts Road (i.e. between Harvest Home Road and Lehmanns Road) in a staged way as part of their subdivision construction requirements. Sealing of the full southern section of Bindts Road is scheduled to be completed by December 2016. When completed, this will address the issues raised in the joint letter for residents along the south section of the road. Existing maintenance regimes will be applied to the balance of the gravel road until it is sealed.

Applying either a spray seal or alternative dust suppressant product along localised lengths of the north section of Bindts Road adjacent to existing residences is recommended as the most cost effective way of addressing the concerns raised in the joint letter. The final solution will be subject to a detailed technical investigation. Existing maintenance regimes will continue to apply to the balance of the gravel road along the northern section.

RECOMMENDATION

THAT Council resolve to:

1. Note that the developer of the Eucalyptus Estate will seal the southern section of Bindts Road;
2. Undertake localised dust suppression along the north section of Bindts Road adjacent to affected residences;
3. Continue to undertake maintenance at current levels on the remaining gravel lengths of Bindts Road; and
4. Advise the residents of the joint letter of the recommendations of this report.

COUNCIL RESOLUTION

MOVED: *Cr Alessi*
SECONDED: *Cr Stow*

THAT Council resolve to:

1. **Note that the developer of the Eucalyptus Estate will seal the southern section of Bindts Road;**
2. **Undertake localised dust suppression along the north section of Bindts Road adjacent to affected residences;**
3. **Continue to undertake maintenance at current levels on the remaining gravel lengths of Bindts Road;**
4. **Investigate the use of local recycled material GATT (Graded Aggregate Total Treatment) as per its use by the Shire of Yarra Ranges; and**
5. **Advise the residents of the joint letter of the recommendations of this report.**

CARRIED

6.4 CORPORATE SERVICES

6.4.1 ASSEMBLIES OF COUNCILLOR REPORT - 26 APRIL 2016

File No: 188199

Responsible Officer: Acting Director Corporate Services

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
CEO Employment Matters Advisory Committee 31 August 2015	Cr Kirkham (Mayor) Cr Kozmevski Cr Lalios		Interviews for appointment of Independent Panel Member <i>Nil disclosures</i>
CEO Employment Matters Advisory Committee 21 October 2015	Cr Kirkham (Mayor) Cr Kozmevski Cr Lalios		CEO Recruitment <i>Nil disclosures</i>
CEO Employment Matters Advisory Committee 23 November 2015	Cr Kozmevski (Mayor) Cr Kirkham (via phone hook-up) Cr Lalios		CEO Recruitment <i>Nil disclosures</i>

Assembly Details	Councillor attendees	Officer attendees	Matters discussed
CEO Employment Matters Advisory Committee 25 November 2015	Cr Kozmevski (Mayor) Cr Kirkham (via phone hook-up) Cr Lalios	CEO	CEO six (6) Monthly Review <i>Nil disclosures</i>
CEO Employment Matters Advisory Committee 25 November 2015	Cr Kozmevski (Mayor) Cr Kirkham (via phone hook-up) Cr Lalios		CEO Recruitment <i>Nil disclosures</i>
CEO Employment Matters Advisory Committee 3 December 2015	Cr Kozmevski (Mayor) Cr Kirkham (via phone hook-up) Cr Lalios		CEO Recruitment <i>Nil disclosures</i>
CEO Employment Matters Advisory Committee 7 December 2015	Cr Kozmevski (Mayor) Cr Kirkham Cr Lalios		CEO Recruitment <i>Nil disclosures</i>
CEO Employment Matters Advisory Committee 18 January 2016	Cr Kozmevski (Mayor) Cr Lalios		CEO Recruitment <i>Nil disclosures</i>
CEO Employment Matters Advisory Committee 8 February 2016	Cr Kozmevski (Mayor) Cr Kirkham via phone hook-up) Cr Lalios		CEO Recruitment <i>Nil disclosures</i>
CEO Employment Matters Advisory Committee 22 February 2016	Cr Kozmevski (Mayor) Cr Kirkham via phone hook-up) Cr Lalios		CEO Recruitment <i>Nil disclosures</i>
CEO Employment Matters Advisory Committee 29 February 2016	Cr Kozmevski (Mayor) Cr Kirkham Cr Lalios		CEO Recruitment <i>Nil disclosures</i>
CEO Employment Matters Advisory Committee 10 March 2016	Cr Kozmevski (Mayor) Cr Alessi Cr Griffin Cr Kelly Cr Kirkham Cr Lalios Cr Pavlidis Cr Sinclair Cr Spinelli Cr Stow		CEO Recruitment <i>Nil disclosures</i>
CEO Employment Matters Advisory Committee 11 March 2016	Cr Kozmevski (Mayor) Cr Kirkham via phone hook-up) Cr Lalios		CEO Recruitment <i>Nil disclosures</i>

The table below represents an Index of Officer titles:

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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 Kirkham

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

CARRIED

6.4.2 ROAD DISCONTINUANCE - 4 FIGTREE COURT MILL PARK**File No:** SU193772**Attachments:**
1 Site Plan & Photo
2 Advertising Plan**Responsible Officer:** Acting Director Corporate Services**Author:** Senior Property Officer**REPORT****SUMMARY**

This report seeks Council's approval to invite public submissions on the proposed discontinuance of a section of road reserve shown on the attached plans (*see Attachment 1 – Site Plan & Photo and Attachment 2 – Advertising Plan*) under Section 206 of the *Local Government Act 1989*. The road reserve is contained within Council's South East Ward.

BACKGROUND

Council officers recently received an application from the owner of 4 Figtree Court, Mill Park, (Applicant) seeking an agreement to discontinue and dispose of a small section of road reserve that presently forms part of the Applicant's existing driveway and crossover point.

The section of land (82m²), was originally set aside to allow for a suitable driveway and crossover point to be constructed as part of a new residential dwelling.

Council officers have reviewed the proposal and have no objection to the road being discontinued and retained by the Applicant for its intended purpose.

PROPOSAL

To seek Council's approval to invite public submissions on the proposed discontinuance and sale of a section of Figtree Court, Mill Park, for the purposes of consolidating the land within the adjoining residential allotment (4 Figtree Court, Mill Park).

CONSULTATION

Consultation has been held between Council officers, Council's appointed surveyor (Barker Monahan), all relevant statutory authorities and the owner of 4 Figtree Court, Mill Park (Applicant), to ensure that the land is no longer required for its original purpose and that all existing and proposed easements are noted within the advertising plan.

PUBLIC SUBMISSIONS

Council officers will invite public submissions on the proposed discontinuance under Section 223 of the *Local Government Act 1989*. An advertisement will be placed in the Whittlesea Leader newspaper and Council's website (public notices) on Tuesday 3 May 2016, requesting that public submissions be received by 12 noon on Wednesday 1 June 2016.

The proposed road discontinuance was referred onto the relevant statutory authorities to confirm that there are no assets currently located within the subject area, see attached Plan for confirmation.

FINANCIAL IMPLICATIONS

Council's Manager Property & Valuation Services has undertaken a market valuation of the land and negotiated a sale price of \$8,200 (including GST). The land has a diminished value given its irregular shape and its current use as the Applicant's driveway and crossover.

All additional costs associated with the purchase, i.e. surveying, advertising and transfer, will also be borne by the Applicant (approximately \$5,000).

POLICY STRATEGY AND LEGISLATION

Council must seek public submissions on the proposed lease under Section 206 and 223 of the *Local Government Act* 1989. Submissions will be invited for a period no less than 28 days and referred on to an appointed 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	Accessibility in, out and around our city
Theme	Transport
Strategic Objective	Our road network provides adequate access to the Advocate municipality and beyond

The proposal seeks to facilitate the discontinuance and sale of a section of road that currently forms part of the Applicant's driveway and crossover.

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

To invite public submissions on the proposed discontinuance and sale of a section of road reserve marked in *Attachment 2 – Advertising Plan*, to the adjoining landowner at 4 Figtree Court, Mill Park. The land will be purchased and consolidated within the existing property for the purposes of formalising an existing driveway and crossover.

RECOMMENDATION

THAT Council resolve to:

1. Invite public submissions in accordance with Section 206 and 223 of the *Local Government Act* 1989, of its intentions to commence procedures to discontinue and sell the section of road, marked in *Attachment 2 – Advertising Plan*, to the adjoining landowner at 4 Figtree Court, Mill Park.
2. Establish an Advisory Committee of Council comprising of South-East Ward Councillors, to consider any written submissions received on the proposal and make recommendations to Council on any such submissions.

3. Authorise the Chief Executive Officer to carry out administrative procedures necessary to enable Council to carry out its functions under Section 223 of the *Local Government Act 1989*.
4. Receive a further report on the proposed discontinuance following the close of the submission period.

COUNCIL RESOLUTION

MOVED: Cr Sinclair
SECONDED: Cr Kirkham

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

CARRIED

6.4.3 LEASE - LALOR BOWLING CLUB - LALOR RECREATION RESERVE

File No: SU167292

Attachments: 1 Site Plan & Photo

Responsible Officer: Acting Director Corporate Services

Author: Senior Property Officer

REPORT**SUMMARY**

This report seeks Council approval to invite public submissions on the proposed lease currently being negotiated with the Lalor Bowling Club for use of the land known as 22 Sydney Crescent, Lalor (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 Lalor Bowling Club Inc by a further six years (with two further terms of six years each) for the purposes of operating a bowling club.

BACKGROUND

The Lalor Bowling Club ('Club') has entered into negotiations with Council officers, seeking an agreement to extend the Club's current occupancy arrangement (due to expire 30 June 2016). The premise consists of the clubhouse, two bowling greens and 36 gaming machines.

Council officers have proposed that a new long term lease be executed so that it may conform to the requirements of the Gaming Board regarding the distribution of gaming licences.

Under the Gaming Board requirements, the Club is required to secure a minimum lease term of ten years to ensure that it sufficiently covers the tenure in which the gaming licence entitlements are issued (presently expiring August 2022).

The proposal will also ensure that the tenure will mirror the existing tenancy agreement and uphold the terms and conditions such as keeping the premises in good repair, payment of rent, rates, levies, insurance and utility charges, and preventing the premises from being used for anything other than its permitted use.

Council, at its meeting held on 11 August 2009, had previously resolved to support the Club's application to surrender its existing lease in favour of a new 15 year agreement. Under that arrangement, the Club was to be granted a new lease to comply with the tenancy arrangements required under the new gaming licence legislation (minimum of ten years from 2012). In addition, the lease would no longer charge a fixed rental (currently \$20,000 per annum), but rather a rental that would be determined as a percentage of net profit (12%). The rental determination would encourage the Club to reinvest its revenue back into its own facility and other community organisations, thus lowering its net profit (and rental as a result).

The terms and conditions of the proposed lease were presented to the Club (for review) but subsequently rejected when they did not meet the Committee's expectations.

The Club proposed that a term of 25 years would provide greater security over the property (capital investment), and that a fixed market rental (\$20,000 per annum and fixed 4% annual increments) would be a more viable approach for the Club to be sustainable. The extension in the lease period would also provide the Club with sufficient tenure to renew its ten year gaming licences (in 2022) without requiring the future consent of Council.

Subsequent reports were presented to Council on 17 September 2013 and 10 December 2013, seeking endorsement on the revised lease terms negotiated by Council officers and Club representatives, however, a final agreement could not be reached prior to changes in Retail Leases Act that permit the use of minimum rental charges. The change would prohibit Landlords from setting a minimum rent in the event that the Club returned a deficit in the previous financial year. No changes were made to the legislation that prohibited the use of maximum rentals being applied.

In this instance, the legislative changes would prohibit Council from charging a minimum rental of \$20,000 per annum (plus GST) in the event that the Club would not return a positive net profit.

Council's legal representatives confirmed that the new legislation altered the key terms previously endorsed by Council, prompting officers to seek a new recommendation on the proposed lease. Council officers must seek a market rental to ensure that a suitable return on investment is derived on each of its commercial leases.

PROPOSAL

To invite public submissions on the proposed lease to the Lalor Bowling Club of the property located at 22 Sydney Crescent, Lalor. The premises will be made exclusively available to the Club for an initial period of six years with two further terms of six years each. The Club will pay a commencement date rental of \$20,000 per annum (plus GST) that will be reviewed annually with fixed 4% increases and a market rent review on the third and sixth anniversary of each of the lease terms.

The Club will continue to undertake all repairs and maintenance (including structural) under the proposed land lease.

CONSULTATION

External consultation has been held between Council officers and the Club to ensure that the proposed lease is drawn in the appropriate manner and is beneficial to all parties involved. The lease would be drawn as 'land only' agreement and recognise that the building and all improvements were owned, managed and insured by the Club. A maintenance schedule was also developed to reconfirm that no works would be carried out by Council as part of the lease.

CRITICAL DATES

Council officers and Club representatives have noted that the new lease will expire on 30 June 2034 (if all further terms are exercised) which grants an opportunity for both parties to negotiate a new lease in conjunction with the renewal of gaming licences that may be issued until August 2032. Under the current legislation, the Club must provide evidence that it has secured a tenancy of the premises for a period greater than the term of the ten year gaming licences.

PUBLIC SUBMISSIONS

Council will invite public submissions under Section 223 of the *Local Government Act* 1989 in regards to the proposed lease. An advertisement will be placed in the Whittlesea Leader newspaper and Council's website on Tuesday 3 May 2016 requesting that public submissions be received by Wednesday 1 June 2016 (12 noon).

FINANCIAL IMPLICATIONS

Following negotiations with Club representatives, Council's Manager Property & Valuation Services has proposed the Club will pay a commencement date rental of \$20,000 per annum (plus GST) that will be reviewed annually with fixed 4% increases and a market rent review on the third and sixth anniversary of each of the lease terms. The Club had requested that a rental cap be applied to ensure that additional revenue would be redirected into the upkeep of the premises, purchasing of new gaming licences and donations to community facilities.

For example, the commencement date rental will be \$20,000 per annum (plus GST), \$20,800 per annum (plus GST) the following year, \$21,632 per annum (plus GST) in year 3 and reviewed to market at the commencement of year 4. The fixed 4% increases would follow in each of the following two years.

Under the existing lease, the Club currently pays an annual rental of \$20,000 per annum (plus GST) which is fixed for the balance of the existing term (30 June 2016). The annual payment has been paid for 2015/16.

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	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 proposal seeks to extend the tenancy of the Lalor Bowling Club and offer a greater provision of bowling services to Council and the greater community within the Lalor 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

To invite public submissions on the proposed lease of Council's premises at 22 Sydney Crescent, Lalor and extend the occupancy presently granted to the Lalor Bowling Club for the purposes of operating a bowling club.

RECOMMENDATION

THAT Council resolve to:

1. **Invite public submissions in accordance with Section 190 and 223 of the *Local Government Act 1989*, on its intentions to lease the land located at 22 Sydney Crescent, Lalor, to the Lalor Bowling Club. The lease will be drawn under the following terms and conditions –**
 - a) **The Tenant will be offered a lease for an initial period of six years with two further terms of six years each.**
 - b) **The Tenant will pay a commencement date rental of \$20,000 per annum (plus GST) that will be reviewed annually with fixed 4% increases and a market rent review on the third and sixth anniversary of each of the lease terms.**

2. Establish an advisory Committee of Council comprising of South-West Ward Councillors, to consider any written submissions received on the proposal and make recommendations to Council on any such submissions.
3. Authorise the Chief Executive Officer to carry out administrative procedures necessary to enable Council to carry out its functions under Section 223 of the *Local Government Act 1989*.
4. Receive a further report on the proposed lease following the close of the submission period.

COUNCIL RESOLUTION

MOVED: *Cr Sinclair*
SECONDED: *Cr Kirkham*

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

CARRIED

6.4.4 GAZETTAL OF OFF LEASH DOG PARK AREAS

File No: N/A

Attachments: 1 Overview Site Maps of Designated Areas

Responsible Officer: Acting Director Corporate Services

Author: Team Leader Animal Management

REPORT**SUMMARY**

It is proposed that Council resolve to designate five off leash dog park areas in the municipality in addition to the dog park in the Whittlesea Public Gardens located at 158 Barry Road, Thomastown which has previously been designated.

BACKGROUND

At its meeting of 1 September 2009 Council adopted a 12 month trial of one dog park in the Whittlesea Public Gardens located at 158 Barry Road, Thomastown. During this period Council received positive community feedback in relation to the operation of this off leash dog park.

Council encourages owners of dogs to use off leash park areas as they provide an opportunity for dogs to get exercise and for their owners to contribute to their own health, well-being and enjoyment. This also provides an opportunity to socialise by meeting other dog owners. Accordingly, it was decided to investigate the establishment of additional dog parks within the municipality which would need to be formally gazetted.

An Order published in the Victoria Government Gazette on 1 September 2009 requires dog owners to keep their dogs under effective control by means of chain, cord or leash held by the owner and attached to the dog whilst in a reserve or public place other than a designated off leash area. Any new designated off leash areas must be gazetted and advertised in a newspaper circulating in the municipality.

PROPOSAL

It is proposed that the following locations already operating as off leash dog parks be formally designated off leash dog parks by publishing a notice in the Victoria Government Gazette and a newspaper circulating in the municipality:

- Delacombe Reserve - 5W Delacombe Drive, Mill Park
- Lyndarum Wetlands - 27W Manor House Drive, Epping.

As part of the development of new subdivisions, developers have constructed two additional off leash dog parks detailed below which also need to be designated:

- Stockland through community involvement and consultation with Mernda and District Residents Association (MADRA) has established an off leash dog park at Creek Park, Mernda Village Drive, Mernda.
- As part of the Orchard Grove Development, the first stage of another off leash dog park has been established located at Fitzwilliam Park, 30W Fitzwilliam Drive Doreen.

In addition, Council established a new off leash dog park late last year in Whittlesea Park, Laurel Street, Whittlesea. This park will also be gazetted as a designated off leash dog park.

Refer to Attachment 1 for plans of the five park locations.

It should also be noted that in-line with Council's *Domestic Animal Management Plan* and Community Plan other locations are proposed to be added to the Schedule in the future.

CONSULTATION

Following the success of the initial 12 month trial of the off leash dog parks, Council received positive feedback from the community regarding the parks and also questions from residents living in other areas of the municipality as to the possibility of establishing further off leash parks within walking distance of their homes. It was therefore decided to explore the possibility of other locations that may be suitable for establishing similar parks.

In response to the community's requests for more off leash dog parks, Officers will continue to investigate other suitable sites in the municipality for the possible establishment of further off leash parks.

DIVERSITY (ACCESS & EQUITY)

There are approximately 21,000 dogs registered within Whittlesea. The importance of having off leash dog parks is highlighted in Council's *Domestic Animal Management Plan* and *Responsible Pet Ownership* program. The establishment of these parks encourages dog owners to exercise their dogs and balances the needs of dog owners, non-dog owners and visitors.

It is acknowledged that not all residents welcome the presence of dogs within open spaces, therefore, the provision of designated off leash dog parks that are fully fenced provides an opportunity not only for the dog owners to enjoy activities with their dogs but also for other community members to enjoy adjacent open space without feeling uncomfortable or being confronted by errant dogs.

FINANCIAL IMPLICATIONS

Costs associated with publishing the required notices are included in existing Departmental budgets.

POLICY STRATEGY AND LEGISLATION

The proposal supports Council's *Domestic Animal Management Plan* and Council's policy on dog being off leash in public areas. The proposal is also an initiative in the Plan and is supported by Council's *Responsible Pet Ownership Education* program.

LINKS TO THE COUNCIL PLAN

FUTURE DIRECTION	Places and spaces to connect people
Theme	Open space
Strategic Objective	We have open spaces that are welcoming and safe for public gathering

This proposal meets the future direction objectives of '*Places and Spaces to Connect People*' as set out in Council's Community Plan by providing places that bring both people and their dogs together to socialise.

The creation of designated off leash parks can also contribute to the health and wellbeing of the community while at the same time providing a safe environment to both those within the fenced off leash parks along with those outside the designated 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 the relevant members of staff, reports that no disclosable interests have been raised in relation to this report.

CONCLUSION

It recommended that Council resolve to gazette the following locations as designated off leash dog parks areas in the municipality:

- Delacombe Reserve - 5W Delacombe Drive, Mill Park
- Lyndarum Wetlands - 27W Manor House Drive, Epping
- Creek Park - 2W Perry Street, Mernda
- Fitzwilliam Park - 30W Fitzwilliam Drive, Doreen
- Whittlesea Park, Laurel Street Whittlesea.

RECOMMENDATION

THAT Council resolve to:

1. Designate the following locations as off leash dog park areas as detailed in the attached plans:
 - a) Delacombe Reserve - Delacombe Drive, Mill Park;
 - b) Lyndarum Wetlands - Manor House Drive, Epping;
 - c) Creek Park - 2W Perry Street, Mernda;
 - d) Fitzwilliam Park - 30W Fitzwilliam Drive, Doreen; and
 - e) Whittlesea Park, Laurel Street, Whittlesea
2. Publish a notice in the Victoria Government Gazette and in a newspaper circulating in the municipality giving effect to Council's resolution to designate five additional off leash dog parks as detailed in the report.

COUNCIL RESOLUTION

MOVED: Cr Sinclair
SECONDED: Cr Kirkham

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

CARRIED

6.4.5 2016-17 PROPOSED BUDGET**File No:** 194574

Attachments:

- 1 Proposed 2016-17 Budget** (distributed separately - refer to p.7)
- 2 Budget Requests Advisory Committee Meeting Minutes**
- 3 Rating Strategy 2016-2017**

Responsible Officer: Acting Director Corporate Services**Author:** Manager Financial Services**REPORT****SUMMARY**

The preparation of the 2016-17 Proposed Budget (Attachment 1) required a number of financial challenges to be worked through. These included the implementation of rate capping by the State Government, the continuation of significant growth and change in the municipality, the implementation of a number of key strategies such as the Open Space Strategy which includes a review of the existing Masterplan for Whittlesea Gardens, implementation of a playground improvement program, and works along Darebin and Edgars Creek; Aquatic Centre Strategy which includes the design documentation for the development of Mill Park Leisure Centre, and feasibility studies for Mernda Aquatic and Indoor Centre and the refurbishment of Whittlesea Swim Centre; Family Violence Strategy and Gender Equity Strategy action plans; the Community Building Strategy; and the delivery of a significant new works program.

The proposed budget balances the needs for additional infrastructure and responsible expenditure, while meeting the key priorities outlined within our 2013-17 Council Plan.

Councillors and officers have worked together over many months in developing the budget to ensure it meets the needs and aspirations of our community. To assist with informing budget deliberations, the “Your Priority, Your Community” public consultation process was undertaken for the first time, with Council receiving and considering a total of 51 requests. Many of the requests related to capital projects which are included in either the current budget or future year’s budgets, while others related to minor funding contributions or items which Council may be in a position to assist with advocacy. The Budget Requests Advisory Committee Minutes are included in Attachment 2.

The 2016-17 Proposed Budget contains a New Works Program to fund 115 new projects totalling \$42.95M and provides for the maintenance of existing operational service levels.

The proposed increase in total rate revenue is 2.5% and has been capped by State Government legislation. Whittlesea City Council will not be seeking a variation to the rate cap for the 2016-17 year and is very aware of cost pressures on individuals and businesses, and has historically made every attempt to minimise rate increases.

A general revaluation of the city has taken place with the revised valuations taking effect for the 2016-17 year. The combination of the revaluation and the effects of the rate cap will see individual properties vary significantly across the municipality.

Council is also required to endorse its rating strategy as part of the budget adoption process. No changes to the rating structure are proposed for the 2016-17 year. Details of the Rating Strategy are included in Attachment 3.

BACKGROUND

The Proposed Budget has been prepared on the principles of responsible financial management to achieve an operating surplus that ensures and maintains long term financial sustainability and on a cash basis to deliver a surplus in order to fund new works.

This Budget, Council's Strategic Resource Plan and Strategic Long Term Financial Plan, achieve this by –

- Providing a balanced cash budget.
- Providing for capital works expenditure of \$42.95M in 2016/2017 plus ongoing capital projects carried over from 2015/2016 of \$15.93M.
- Maintenance of a strong balance sheet which enables liquidity and financial capacity into the future.

The compilation of the Proposed Budget has been challenging in order to deliver services to a growing community, whilst improving organisation efficiencies and business processes.

Whilst always difficult to raise revenue, especially in times of economic uncertainty, the rate increase proposed is in line with the rate cap introduced by the State Government and provides for a continued mix of responsible recurrent and capital budget expenditures.

On 5 May 2005, the then State Government announced that land in Cooper Street, Epping would be acquired to facilitate the relocation of the Wholesale Market from Footscray. Part of Council's commitment to supporting the relocation of the markets to the Epping site was to agree to rate relief for a period of five years. The relocation of the markets to Epping will attract significant economic benefits to the municipality through ongoing jobs and investment. Council confirmed on 8 April 2014 its intention to provide five years' rate relief to the Wholesale Market's businesses from commencement of trading, which occurred on 1 September 2015. The 2016-17 Budget represents the first full year of rate relief.

Budget Highlights

Some key features of the Proposed Budget include:

- Operating revenue of \$195.42M (excluding developer contributions, non-monetary assets and non-recurrent capital grants);
- Operating expenditure of \$192.15M;
- Rates rise of 2.5% and a continued farm rate discount of 15.0%;
- \$10.35M for general maintenance of parks and open space;
- Allocation of \$8.6M to provide homecare services and enable older people to live independently in their homes;
- Allocation of \$5.77M for provision of maternal and child health services;
- Allocation of \$2.02M on supporting local youth;
- Allocation of \$2.09M for school crossing supervision;
- Allocation of \$810,600 in grant money which will be distributed to community groups to assist them to provide their own programs for the wider community including:
 - Community Groups and agencies \$528,700;
 - Senior Citizens \$150,000; and
 - CFA and SES donations \$131,900.
- Allocation of \$4.85M contribution to provide the Regional Library Service;
- Allocation of \$3.97M on general footpath expenditure;

- Collections on behalf of the State Government:
 - EPA Waste Levy - \$3.4M, an increase of \$200,000 on 2015/16 collection forecast;
 - Domestic Animal Levy - \$95,530, an increase of \$19,700 on 2015/16 forecast; and
 - Fire Services Levy - \$363,000 payable for Council properties.

New Works Budget of \$58.88M, including:

Improving roads, footpaths and bike paths

\$16.8 million for roads, footpaths, bike paths and road related projects. Projects include:

- \$700,000 for footpaths and streetscape improvements including the missing links program;
- \$3.8 million to complete the construction and signalisation of the Bridge Inn and Painted Hills Road Intersection;
- Additional \$880,000 to complete the urbanisation of McKimmies Road between Darebin Creek and Garden Grove Drive; and
- \$1.885 million for bicycle facilities and shared pathways including the Darebin Creek trail and missing links

Upgrading or building new community facilities

- \$2.8 million to complete the New Animal Welfare Precinct in Epping. The new facility will deliver a high quality animal management service for lost pets and impounded livestock;
- \$600,000 to complete the construction of a new early learning centre in Hawkestone Parade, Mernda;
- \$1.3 million to complete the upgrade and extension to the pavilion at RGC Cook Reserve in Thomastown;
- \$500,000 to complete the Barry Road Community Activity Centre refurbishment and car parking extension; and
- \$1.5 million to construct the Ashley Park Community Activity Centre.

Parks and playgrounds

- \$1.285 million to complete the Mill Park Lakes Reserve synthetic surface installation;
- \$1.5 million to commence the upgrade to the tennis courts and pavilion at TH Hurrey Reserve in Yan Yean;
- \$1.0 million to renew the athletic track at Meadowglen Athletics Reserve; and
- \$1.36 million to upgrade playgrounds across the municipality.

PROPOSAL

It is proposed that Council authorise the Chief Executive Officer to give public notice of the Proposed Budget and Rating Strategy for the 2016-17 financial year.

CONSULTATION

In the lead up to preparing the proposed budget for 2016-17 Council undertook a community consultation process, "Your Priority, Your Community" in order to inform the decision making around the budget. This new process saw 51 requests from across the City covering a broad range of issues and these requests have been considered as part of the drafting process for the Proposed Budget.

The 2016-17 Proposed Budget will be advertised on Thursday 28 April 2016, allowing public comments and submissions to be received up until 5pm Thursday 26 May 2016.

CRITICAL DATES

It is proposed that the Final Budget be adopted by Council at a Special Meeting to be held on Thursday 23 June 2016 following consideration of any submissions by a Committee of Councillors.

FINANCIAL IMPLICATIONS

In 2016/17 we will spend \$251 million to deliver more than 100 community services and invest in essential new infrastructure.

This includes a \$42.95 million capital works program, with 115 projects to build and upgrade community centres, sporting fields and tennis courts, playgrounds, roads, bikepaths and footpaths across our new and established areas.

POLICY STRATEGY AND LEGISLATION

Council prepares its annual Budget under the provisions of the Local Government Act 1989 and the Local Government (Planning 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

Council has developed a responsible Budget which reflects community needs and responds to feedback received by residents. The 2016/2017 Proposed Budget continues Council's efforts to deliver its capital expenditure obligations and day to day service delivery challenges.

As Council looks to the future with limited opportunities to broaden its revenue base, meeting these obligations will require added financial discipline, monitoring, and continuous improvement to ensure that Council is delivering services in a cost-effective manner.

Residents and other interested members of our community are invited to make comments and submissions on the 2016-17 Proposed Budget.

EXTENSION OF SPEAKING TIME

Cr Alessi requested an extension of speaking time.

COUNCIL RESOLUTION

MOVED: *Cr Pavlidis*
SECONDED: *Cr Griffin*

THAT Council resolve to extend the speaking time for Cr Alessi for a further two minutes.

CARRIED

RECOMMENDATION

THAT Council resolve to:

1. Authorise the Chief Executive Officer to give public notice of the 2016-17 Proposed Budget attached to this report, which makes provision for two rate rebates (including a \$1.37M rebate relating to the Melbourne Wholesale Markets) and is the Budget prepared for the purposes of section 127 of the *Local Government Act 1989* ('the Proposed Budget').
2. Note the recommendations of the Committee of Council which considered the "Your Priority, Your Community" budget requests included in Attachment 2.
3. Adopt the Rating Strategy for the 2016-17 year as proposed in Attachment 3.
4. Establish an Advisory Committee comprising Cr _____; Cr _____; and Cr _____ ('the Advisory Committee') to consider submissions, and hear from any person who requests to speak in support of their submission on the Proposed Budget.
5. Require the Advisory Committee to report to Council, with any recommendation, at the Special Meeting of Council to be held at 6.00 pm on Thursday, 23 June 2016.
6. Make copies of the Proposed Budget available for inspection at the following locations:
 - a. Council Offices at –
 - i. 25 Ferres Boulevard, South Morang
 - ii. Westfield Plenty Valley Shopping Centre
 - b. Libraries at –
 - i. May Road, Lalor
 - ii. Main Street, Thomastown
 - iii. Plenty Road, Mill Park
 - iv. Laurel Street, Whittlesea
 - v. The Mobile Library.
 - c. Whittlesea City Council's website – www.whittlesea.vic.gov.au.

7. Provide the following information in respect of the Proposed Budget:
 - a. The total amount of borrowings by Council as at 30 June 2016 is \$30,445,717.
 - b. The amount proposed to be borrowed by Council during the 2016-17 financial year is \$nil.
 - c. The total amount of loans projected to be redeemed during the 2016-17 financial year is \$2,348,379 plus repayment provisions of \$580,300.
 - d. The projected total amount of borrowings as at 30 June 2017 is \$28,096,338.
 - e. The projected cost of servicing the borrowings during the 2016-17 financial year is \$1,984,051.
 - f. Council intends to calculate its general rates by using the Net Annual Value system of valuation (NAV) in respect of all rateable land within the municipal district to be applied differentially as follows:
 - i. In respect of residential and commercial use land (of a non farm nature) the rate applicable shall be 0.06389510 cents in the NAV dollar.
 - ii. In respect of farmland the rate applicable with be 0.05431084 cents in the NAV dollar.
8. Not give incentives under Section 168(1) of the Act for the payment of rates before the due date for payment.

MOTION

MOVED: *Cr Alessi*
SECONDED: *Cr Kirkham*

THAT Council resolve to:

1. Authorise the Chief Executive Officer to give public notice of the 2016-17 Proposed Budget attached to this report, which makes provision for two rate rebates (including a \$1.37M rebate relating to the Melbourne Wholesale Markets) and is the Budget prepared for the purposes of section 127 of the *Local Government Act 1989* ('the Proposed Budget').
2. Note the recommendations of the Committee of Council which considered the "Your Priority, Your Community" budget requests included in Attachment 2.
3. Adopt the Rating Strategy for the 2016-17 year as proposed in Attachment 3.
4. Establish an Advisory Committee comprising the Mayor, Cr Kozmevski, Cr Alessi; Cr Kirkham and Cr Sinclair ('the Advisory Committee') to consider submissions, and hear from any person who requests to speak in support of their submission on the Proposed Budget.
5. Require the Advisory Committee to report to Council, with any recommendation, at the Special Meeting of Council to be held at 6.00 pm on Thursday, 23 June 2016.
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 - e. The projected cost of servicing the borrowings during the 2016-17 financial year is \$1,984,051.
 - f. Council intends to calculate its general rates by using the Net Annual Value system of valuation (NAV) in respect of all rateable land within the municipal district to be applied differentially as follows:
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 - ii. In respect of farmland the rate applicable with be 0.05431084 cents in the NAV dollar.
8. Not give incentives under Section 168(1) of the Act for the payment of rates before the due date for payment.

AMENDMENT

MOVED: *Cr Kirkham*

SECONDED: *Cr Stow*

THAT Council resolve to:

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2. Note the recommendations of the Committee of Council which considered the "Your Priority, Your Community" budget requests included in Attachment 2.
3. Adopt the Rating Strategy for the 2016-17 year as proposed in Attachment 3.
4. Establish an Advisory Committee comprising the Mayor, Cr Kozmevski, Cr Alessi; Cr Kirkham and Cr Sinclair ('the Advisory Committee') to consider submissions, and hear from any person who requests to speak in support of their submission on the Proposed Budget.
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 - ii. In respect of farmland the rate applicable with be 0.05431084 cents in the NAV dollar.
8. Not give incentives under Section 168(1) of the Act for the payment of rates before the due date for payment.
9. Include \$50,000 for outside sheltering at Waterview Reserve, Mernda and an additional \$30,000 for a temporary lighting solution at Sycamore Reserve, Mill Park. .

The amendment was put and **CARRIED** and became the substantive motion

EXTENSION OF SPEAKING TIME

Cr Lalios requested an extension of speaking time.

COUNCIL RESOLUTION

MOVED: *Cr Kelly*
SECONDED: *Cr Griffin*

THAT Council resolve to extend the speaking time for Cr Lalios for a further two minutes.

CARRIED

COUNCIL RESOLUTION

MOVED: *Cr Alessi*
SECONDED: *Cr Kirkham*

THAT Council resolve to:

1. Authorise the Chief Executive Officer to give public notice of the 2016-17 Proposed Budget attached to this report, which makes provision for two rate rebates (including a \$1.37M rebate relating to the Melbourne Wholesale Markets) and is the Budget prepared for the purposes of section 127 of the Local Government Act 1989 ('the Proposed Budget').
2. Note the recommendations of the Committee of Council which considered the "Your Priority, Your Community" budget requests included in Attachment 2.
3. Adopt the Rating Strategy for the 2016-17 year as proposed in Attachment 3.
4. Establish an Advisory Committee comprising the Mayor, Cr Kozmevski, Cr Alessi, Cr Kirkham and Cr Sinclair ('the Advisory Committee') to consider submissions, and hear from any person who requests to speak in support of their submission on the Proposed Budget.
5. Require the Advisory Committee to report to Council, with any recommendation, at the Special Meeting of Council to be held at 6.00 pm on Thursday, 23 June 2016.
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 - a. Council Offices at: –
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 - i. In respect of residential and commercial use land (of a non farm nature) the rate applicable shall be 0.06389510 cents in the NAV dollar.
 - ii. In respect of farmland the rate applicable with be 0.05431084 cents in the NAV dollar.
8. Not give incentives under Section 168(1) of the Act for the payment of rates before the due date for payment.
9. Include \$50,000 for outside sheltering at Waterview Reserve, Mernda and an additional \$30,000 for a temporary lighting solution at Sycamore Reserve, Mill Park.

The substantive motion was put and **CARRIED UNANIMOUSLY**

6.5 PARTNERSHIPS & ENGAGEMENT

NIL REPORTS

6.6 EXECUTIVE SERVICES

6.6.1 2013-17 COUNCIL PLAN - REVIEWED YEAR 4 2016/17 ACTIONS

File No:

.

Attachments:

1 DRAFT YEAR 4 ACTION PLAN AND SRP

Responsible Officer:

Manager One Whittlesea

Author:

Corporate Planner

REPORT

SUMMARY

We conduct an annual review of the actions of the 2013-2017 Council Plan in accordance with Section 125 of the Local Government Act as well as to ensure that our efforts are focussed on the priorities of the municipality. This report provides an overview of how the Action Plan for Year 4r (2016/17) was developed and the actions for endorsement.

BACKGROUND

The Council Plan 2013-2017 'Shaping Our Future' (incorporating the Municipal Health and Wellbeing Plan) was adopted by Council on 25 June 2013 and submitted to the Minister Local Government by 30 June 2013, in accordance with Section 125 of the Local Government Act, and Section 49 of the Public Health and Wellbeing Act.

Under the abovementioned legislation, the Council Plan must be reviewed annually by Council, and by the community, to ensure that the actions align to the needs of the municipality. The progress of these Council Plan actions is reported in the Annual Report to provide transparency for the Plan's implementation.

In its original state, the 2013-2017 Council Plan incorporated a four year action plan, with the majority of actions scheduled for Years 1 & 2. Councillors and the Executive Leadership team participated in a workshop in late 2015 to identify the Year 4 priorities and actions. The final list is now ready to present to the Community through the public exhibition process

The draft Action Plan is provided as Attachment 1. Three areas within this draft report are highlighted in yellow as the information required to complete these sections will be updated once community consultation has been finalised.

PROPOSAL

That the Year 4 Action Plan be endorsed for community comment during the public exhibition period of 2 May 2016 to 30 May 2016.

CONSULTATION

Consultation will take place for these actions as per the s223 process outlined in the Local Government Act 1989. These actions will be made public for a period of 28 days to enable the community to respond.

Notices will be published in both The Age and Leader newspapers to support this process.

CRITICAL DATES

This reporting and review process needs to meet strict timelines in order to have the reviewed Year 4 Action Plan to the Minister by 30 June 2016. This draft plan will be

advertised for 28 days (2 May 2016 – 30 May 2016) and a review of submissions must be finalised by Thursday 14 June in order that a final report be adopted by Council at the 28 June Council Meeting.

FINANCIAL IMPLICATIONS

The financial implications have already been incorporated into the review of the Council Plan, as projects or resources for projects that were not able to be funded in 2016/17 have been amended in the Council Plan.

The only external cost involved in the review of the Council Plan is the cost of advertising and printing. The printing will only be for the 2016/17 addendum, and not a reprint of the entire Council Plan.

POLICY STRATEGY AND LEGISLATION

The Council Plan is a statutory document and a review of the annual actions must be undertaken every year, and submitted to the Minister Local Government by the end of the financial year prior.

LINKS TO THE COUNCIL PLAN

FUTURE DIRECTION	Good Governance
Theme	Continuous improvements
Strategic Objective	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 the relevant members of staff, reports that no disclosable interests have been raised in relation to this report.

CONCLUSION

A robust review has been undertaken of the actions scheduled for the 2016/17 year for the current Council Plan representing excellent strategic thinking and planning relating to the needs of our Community. The 21 Actions contained in this draft report represent the major initiatives that the organisation is committed to achieve in the coming 12 months and these should now be exhibited for public comment.

RECOMMENDATION

That council resolve to:

1. Endorse the Year 4 Action Plan, as part of Council Plan 2013-2017 '*Shaping Our Future*', for the purposes of allowing consultation in accordance with sections 125 and 223 of the Local Government Act 1989 (as amended).
2. Establish a Committee of Council of three councillors, including the Mayor, Cr _____, Cr _____ to consider any written submissions and hear those persons requesting to be heard in relation to the Year 4 Action Plan, as part of Council Plan 2013-2017 '*Shaping Our Future*', with the Committee to meet at the Municipal Offices, Ferres Boulevard, South Morang at a time and date to be determined by the Committee.

3. Provide a copy of the Year 4 Action Plan, as part of Council Plan 2013-2017 '*Shaping Our Future*', at the following locations:
 - a) Civic Centre
 - b) Whittlesea Courthouse, Church Street, Whittlesea
 - c) City of Whittlesea Websites; and
 - d) Public Libraries at:
 - i) May Road, Lalor
 - ii) Main Street, Thomastown
 - iii) Plenty Road, Mill Park
 - iv) Laurel Street, Whittlesea
 - v) Mobile Library
4. Seek written public submissions on the Year 4 Council Action Plan 2013-2017 '*Shaping Our Future*' during the consultation period of Monday 02 May 2016 to Monday 30 May 2016.

COUNCIL RESOLUTION

MOVED: Cr Lalios
SECONDED: Cr Griffin

THAT Council resolve to:

1. Endorse the Year 4 Action Plan, as part of Council Plan 2013-2017 '*Shaping Our Future*', for the purposes of allowing consultation in accordance with sections 125 and 223 of the Local Government Act 1989 with the following amendments:
 - a) Page 11 Future Direction 7 Good Corporate Governance – Customer Centric Operations to be shaded blue;
 - b) Page 12 Council Plan Action – Integrated Transport Strategy Implementation; add the measure “advocate for the extension of Tram 86”; and
 - c) Page 13 Council Plan Action – Mernda Rail Extension and Mernda Town Centre; add the measure “advocate against Elevated rail as an outcome of the project”.
2. Establish a Committee of Council of three councillors, including the Mayor, Cr Kozmevski, Cr Lalios and Cr Alessi to consider any written submissions and hear those persons requesting to be heard in relation to the Year 4 Action Plan, as part of Council Plan 2013-2017 '*Shaping Our Future*', with the Committee to meet at the Municipal Offices, Ferres Boulevard, South Morang at a time and date to be determined by the Committee.
3. Provide a copy of the Year 4 Action Plan, as part of Council Plan 2013-2017 '*Shaping Our Future*', at the following locations:
 - a) Civic Centre
 - b) Whittlesea Courthouse, Church Street, Whittlesea
 - c) City of Whittlesea Websites; and
 - d) Public Libraries at:
 - i. May Road, Lalor
 - ii. Main Street, Thomastown

- iii. Plenty Road, Mill Park
 - iv. Laurel Street, Whittlesea
 - v. Mobile Library
4. Seek written public submissions on the Year 4 Council Action Plan 2013-2017 '*Shaping Our Future*' during the consultation period of Monday 02 May 2016 to Monday 30 May 2016.

CARRIED

- 7. NOTICES OF MOTION
NIL REPORTS
- 8. QUESTIONS TO OFFICERS
NIL REPORTS

9. URGENT BUSINESS

9.1 THANK YOU LETTER TO FORMER CHIEF EXECUTIVE OFFICER MR DAVID TURNBULL

Cr Alessi requested that the following matter be dealt with as an item of urgent business:

THAT Council resolve to send a letter under Council's seal to the former Chief Executive Officer of the City of Whittlesea, Mr David Turnbull, expressing Council's appreciation for his valuable contribution to this City during 21 years service as Chief Executive Officer and Director of Planning and Development.

COUNCIL RESOLUTION

MOVED: *Cr Pavlidis*
SECONDED: *Cr Griffin*

THAT Council resolve that this matter be dealt with as an item of Urgent Business.

CARRIED

COUNCIL RESOLUTION

MOVED: *Cr Alessi*
SECONDED: *Cr Pavlidis*

THAT Council resolve to send a letter under Council's seal to the former Chief Executive Officer of the City of Whittlesea, Mr David Turnbull, expressing Council's appreciation for his valuable contribution to this City during 21 years service as Chief Executive Officer and Director of Planning and Development.

CARRIED UNANIMOUSLY

9.2 THANK YOU LETTER TO FORMER DIRECTOR ADVOCACY AND COMMUNICATIONS MR GRIFF DAVIS

Cr Kirkham requested that the following matter be dealt with as an item of urgent business:

THAT Council resolve to send a letter under Council's seal to the former Director Advocacy and Communications of the City of Whittlesea, Mr Griff Davis, expressing Council's appreciation for his valuable contribution to this City during 21 years service in various executive positions.

COUNCIL RESOLUTION

MOVED: *Cr Stow*
SECONDED: *Cr Griffin*

THAT Council resolve that this matter be dealt with as an item of Urgent Business.

CARRIED

COUNCIL RESOLUTION

MOVED: *Cr Kirkham*
SECONDED: *Cr Griffin*

THAT Council resolve to send a letter under Council's seal to the former Director Advocacy and Communications of the City of Whittlesea, Mr Griff Davis, expressing Council's appreciation for his valuable contribution to this City during 21 years service in various executive positions.

CARRIED UNANIMOUSLY

10. REPORTS FROM DELEGATES APPOINTED TO COUNCIL BY OTHER BODIES

10.1 YARRA PLENTY REGIONAL LIBRARY BOARD

Cr Lalios provided an overview of a recent meeting of the Yarra Plenty Regional Library Board when the following items were discussed:

- New Chief Executive Officer, Diane Shaw
- Library strategy in Mernda and Epping North
- A hearing loop will be installed at Mill Park Library.
- City of Swan visited the Mill Park Library.
- The Draft Budget for the library service was adopted and advertised for public consultation.
- Make a space area was launched at Thomastown Library.
- Chinese New Year celebration for the Year of the Monkey took place with 95 community members attending.
- Lalor Community Connections day also took place.
- The Library Service participates in a number of festivals including the Community Festival.
- The Library Service participated in the Walk for Autism. Show bags that included books no longer in circulation were distributed during the Walk.

Cr Pavlidis left the Council Chamber at 8:28PM. Prior to the vote on item 10.1 Yarra Plenty Regional Library Board.

COUNCIL RESOLUTION

MOVED: *Cr Kelly*
SECONDED: *Cr Stow*

THAT the delegate's report be received.

CARRIED

10.2 METROPOLITAN LOCAL GOVERNMENT WASTE FORUM

Cr Alessi provided an overview of a recent meeting of the Metropolitan Local Government Waste Forum when the following items were discussed:

- Received a report from the Chief Executive Officer.
- Draft metro plan looking at the four major landfills in metropolitan Melbourne. There is a need for a new pre-sort facility in the future.
- A number of presenters featured discussing resource recovery.
- A panel of experts also took place including discussions about market developments.

Cr Pavlidis returned to the Council Chamber at 8:38PM prior to the vote on item 10.2 Metropolitan Local Government Waste Forum.

COUNCIL RESOLUTION

MOVED: *Cr Stow*
SECONDED: *Cr Griffin*

THAT the delegate's report be received

CARRIED

10.3 WHITTLESEA COMMUNITY CONNECTIONS

Cr Alessi provided an overview of a recent meeting of Whittlesea Community Connections when the following items were discussed:

- Farewell to the former Chief Executive Officer, Jemal Ahmet
- Budget overview
- Chief Executive Officer recruitment process is currently being undertaken
- A number of exciting projects are expected to gain federal funding.
- Membership is increasing
- Partnership developments with other service organisations within the City of Whittlesea including the Brotherhood of St Lawrence and Plenty Valley Community Health
- Legal Service partnership with La Trobe University
- Opportunities with Community Link transport are being explored.
- Telephone system upgrade.
- Funding issues include that in 2017 there will be a 10 per cent cut in federal funding for legal services.
- Number of funding applications underway.

COUNCIL RESOLUTION

MOVED: *Cr Pavlidis*
SECONDED: *Cr Sinclair*

THAT Council resolve to note the Delegate's report.

CARRIED

11. QUESTIONS TO COUNCILLORS

NIL

12. CONFIDENTIAL BUSINESS

12.1 PLANNING AND MAJOR PROJECTS

12.1.1 CIVIL AND LANDSCAPE CONSTRUCTION FOR CHAMPIONS PARADE CHILD AND FAMILY CENTRE CONTRACT 2015-60 - CONTRACT VARIATION REPORT

12.1.2 REFURBISHMENT OF TOILETS & REPLACEMENT OF THE HEATING & COOLING SYSTEM (HVAC) FOR THE LALOR LIBRARY CONTRACT 2013-89 - CONTRACT FINALISATION REPORT

12.1.3 CONSTRUCTION OF RENAISSANCE RISE FAMILY AND COMMUNITY CENTRE CONTRACT 2013-41 - CONTRACT FINALISATION REPORT

12.2 COMMUNITY SERVICES

NIL REPORTS

12.3 CITY TRANSPORT AND PRESENTATION

12.3.1 CONTRACT FINALISATION CONTRACT NO. 2014-5 WINCHESTER PARK LANDSCAPE & PLAYGROUND WORKS

12.4 CORPORATE SERVICES

12.4.1 OPERATION OF ANIMAL POUND SERVICES - CT000105 CONTRACT EXTENSION -RSPCA

12.5 PARTNERSHIPS & ENGAGEMENT

NIL REPORTS

12.6 EXECUTIVE SERVICES

12.6.1 MEETINGS OF THE CHIEF EXECUTIVE OFFICER - 25 MARCH TO 15 APRIL 2016

COUNCIL RESOLUTION

MOVED: Cr Stow
SECONDED: Cr Kelly

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 CIVIL AND LANDSCAPE CONSTRUCTION FOR CHAMPIONS PARADE CHILD AND FAMILY CENTRE CONTRACT 2015-60 - CONTRACT VARIATION REPORT
Confidential in accordance with Section 89(2)(d) of the Local Government Act 1989.
- 12.1.2 REFURBISHMENT OF TOILETS & REPLACEMENT OF THE HEATING & COOLING SYSTEM (HVAC) FOR THE LALOR LIBRARY CONTRACT 2013-89 - CONTRACT FINALISATION REPORT
Confidential in accordance with Section 89(2)(d) of the Local Government Act 1989.
- 12.1.3 CONSTRUCTION OF RENAISSANCE RISE FAMILY AND COMMUNITY CENTRE CONTRACT 2013-41 - CONTRACT FINALISATION REPORT
Confidential in accordance with Section 89(2)(d) of the Local Government Act 1989.
- 12.3.1 CONTRACT FINALISATION CONTRACT NO. 2014-5 WINCHESTER PARK LANDSCAPE & PLAYGROUND WORKS
Confidential in accordance with Section 89(2)(d) of the Local Government Act 1989.
- 12.4.1 OPERATION OF ANIMAL POUND SERVICES - CT000105 CONTRACT EXTENSION -RSPCA
Confidential in accordance with Section 89(2)(d) of the Local Government Act 1989.
- 12.6.1 MEETINGS OF THE CHIEF EXECUTIVE OFFICER - 25 MARCH TO 15 APRIL 2016
Confidential in accordance with Section 89(2)(a),(b),(c),(d),(e),(f),(g),(h) of the Local Government Act 1989.

CARRIED

ACCORDINGLY, THE MEETING WAS CLOSED TO THE PUBLIC AT 8:48 PM.

THE MEETING WAS RE-OPENED TO THE PUBLIC AT 9:39PM.

13. CLOSURE

THERE BEING NO FURTHER BUSINESS THE MAYOR DECLARED THE MEETING CLOSED AT 9:40PM.

CONFIRMED THIS 17TH DAY OF MAY 2016.

**CR STEVAN KOZMEVSKI
MAYOR**