



*City of*  
**Whittlesea**

# **MINUTES**

## **OF ORDINARY COUNCIL MEETING**

**HELD ON**

**TUESDAY 19 JULY 2016**

**AT 6:30PM**

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



---

## COUNCILLORS

---

STEVAN KOZMEVSKI	MAYOR, SOUTH WEST WARD
KRIS PAVLIDIS	SOUTH WEST WARD
DARRYL SINCLAIR	SOUTH WEST WARD
ADRIAN SPINELLI	SOUTH WEST WARD
NORM KELLY	DEPUTY MAYOR, SOUTH EAST WARD
SAM ALESSI	SOUTH EAST WARD
KEN HARRIS	SOUTH EAST WARD
MARY LALIOS	SOUTH EAST WARD
REX GRIFFIN	NORTH WARD
RICKY KIRKHAM	NORTH WARD
CHRISTINE STOW	NORTH WARD



---

## SENIOR OFFICERS

---

MICHAEL WOOTTEN

CHIEF EXECUTIVE OFFICER

RUSSELL HOPKINS

DIRECTOR COMMUNITY SERVICES

STEVE O'BRIEN

DIRECTOR PLANNING AND MAJOR PROJECTS

BEN HARRIES

ACTING DIRECTOR CITY TRANSPORT &  
PRESENTATION

HELEN SUI

DIRECTOR CORPORATE SERVICES

SEAN MCMANUS

ACTING DIRECTOR PARTNERSHIPS &  
ENGAGEMENT

MICHAEL TONTA

MANAGER GOVERNANCE



## ORDER OF BUSINESS

The Chief Executive Officer submits the following business:

<b>1.</b>	<b>OPENING.....</b>	<b>9</b>
1.1	MEETING OPENING AND PRAYER.....	9
1.2	MAYOR'S RECONCILIATION STATEMENT .....	9
1.3	PRESENT.....	9
<b>2.</b>	<b>APOLOGIES.....</b>	<b>11</b>
<b>3.</b>	<b>DECLARATIONS OF INTEREST.....</b>	<b>11</b>
<b>4.</b>	<b>CONFIRMATION OF MINUTES OF PREVIOUS MEETING.....</b>	<b>13</b>
<b>5.</b>	<b>CONSIDERATION AND ACTION ON PETITIONS AND JOINT LETTERS .....</b>	<b>13</b>
5.1	PETITIONS.....	13
	NIL REPORTS.....	13
5.2	JOINT LETTERS.....	13
	NIL REPORTS.....	13
<b>6.</b>	<b>OFFICERS' REPORTS .....</b>	<b>15</b>
6.1	PLANNING AND MAJOR PROJECTS.....	17
6.1.1	37 DAVID STREET LALOR - CONSTRUCTION OF FOUR DWELLINGS.....	17
6.1.2	76 CEDAR STREET THOMASTOWN - CONSTRUCTION OF THREE DWELLINGS .....	27
6.1.3	560 FINDON ROAD, SOUTH MORANG - CONSTRUCTION OF NINETEEN DWELLINGS .....	41
6.1.4	84 & 86 DALTON ROAD, THOMASTOWN - USE AND DEVELOPMENT OF A CHILDCARE CENTRE, REDUCTION IN REQUIRED ONSITE PARKING AND ALTER ACCESS TO A ROAD ZONE CATEGORY 1 .....	55
6.1.5	37 TRAVERS STREET, THOMASTOWN- CONSTRUCTION OF TWO DWELLINGS.....	63
6.1.6	6 HAMILTON COURT, LALOR - CONSTRUCTION OF A DWELLING TO THE REAR OF AN EXISTING DWELLING .....	73
6.1.7	2365 PLENTY ROAD, WHITTLESEA - BUILDINGS AND WORKS (INCLUDING EARTHWORKS) TO CONSTRUCT A WATER SLIDE.....	83
6.1.8	2 CHARLES STREET AND 32 HEYINGTON AVENUE, THOMASTOWN - USE AND DEVELOPMENT OF A CHILD CARE CENTRE .....	89

<b>6.2</b>	<b>COMMUNITY SERVICES.....</b>	<b>103</b>
	NIL REPORTS.....	103
<b>6.3</b>	<b>CITY TRANSPORT AND PRESENTATION .....</b>	<b>105</b>
	NIL REPORTS.....	105
<b>6.4</b>	<b>CORPORATE SERVICES .....</b>	<b>107</b>
6.4.1	LEASE - YARRA PLENTY REGIONAL LIBRARY SERVICE - STAFF ACCOMMODATION .....	107
6.4.2	EPPING CEMETERY - TRUST ACCOUNTS AND FREEDOM OF INFORMATION REQUESTS .....	111
6.4.3	PROPOSED NAMING OF LOT 3 490 COOPER STREET EPPING - 'EPPING ANIMAL WELFARE FACILITY' .....	115
6.4.4	COMMITTEE OF COUNCIL RECOMMENDATION - LEASE - AF WALKER RESERVE - PORTABLE BUILDING.....	119
6.4.5	ASSEMBLIES OF COUNCIL REPORT - 19 JULY 2016 .....	123
<b>6.5</b>	<b>PARTNERSHIPS &amp; ENGAGEMENT .....</b>	<b>127</b>
6.5.1	COMMERCIAL HOTEL, SOUTH MORANG APPLICATION FOR NEW GAMBLING PREMISES FOR 40 ELECTRONIC GAMING MACHINES.....	127
<b>6.6</b>	<b>EXECUTIVE SERVICES.....</b>	<b>139</b>
	NIL REPORTS.....	139
<b>7.</b>	<b>NOTICES OF MOTION .....</b>	<b>141</b>
	NIL REPORTS.....	141
<b>8.</b>	<b>QUESTIONS TO OFFICERS .....</b>	<b>141</b>
	NIL QUESTIONS .....	141
<b>9.</b>	<b>URGENT BUSINESS .....</b>	<b>141</b>
	NIL URGENT BUSINESS .....	141
<b>10.</b>	<b>REPORTS FROM DELEGATES APPOINTED TO COUNCIL BY OTHER BODIES .....</b>	<b>141</b>
10.1	MEADOWGLEN INTERNATIONAL ATHLETICS STADIUM INCORPORATED .....	141
<b>11.</b>	<b>QUESTIONS TO COUNCILLORS .....</b>	<b>141</b>
<b>12.</b>	<b>CONFIDENTIAL BUSINESS.....</b>	<b>143</b>
<b>12.1</b>	<b>PLANNING AND MAJOR PROJECTS.....</b>	<b>143</b>
	NIL REPORTS.....	143
<b>12.2</b>	<b>COMMUNITY SERVICES.....</b>	<b>143</b>
	NIL REPORTS.....	143
<b>12.3</b>	<b>CITY TRANSPORT AND PRESENTATION .....</b>	<b>143</b>



12.3.1	PROVISION OF PARKS AND GARDENS SERVICES CONTRACT CT080901 - CONTRACT VARIATION .....	143
12.3.2	PROVISION OF STREET TREE REMOVAL, PLANTING AND MAINTENANCE - CONTRACT CT121382A-C - CONTRACT EXTENSION.....	143
12.3.3	PROVISION OF MAINTENANCE SERVICES TO EXIT AND EMERGENCY LIGHTS IN COUNCIL BUILDINGS - CONTRACT NO. 2016-13 - TENDER EVALUATION .....	143
12.3.4	PROVISION OF BULK CHANGE OVER - ENERGY EFFICIENT PUBLIC LIGHTING - CONTRACT NO. 2013-23 - CONTRACT FINALISATION.....	143
<b>12.4</b>	<b>CORPORATE SERVICES .....</b>	<b>143</b>
12.4.1	PROPOSED LAND ACQUISITION - MERNDA .....	143
<b>12.5</b>	<b>PARTNERSHIPS &amp; ENGAGEMENT .....</b>	<b>143</b>
	NIL REPORTS.....	143
<b>12.6</b>	<b>EXECUTIVE SERVICES.....</b>	<b>143</b>
12.6.1	MEETINGS OF THE CHIEF EXECUTIVE OFFICER - 20 JUNE 2016 TO 8 JULY 2016 .....	143
12.6.2	CHIEF EXECUTIVE OFFICER EMPLOYMENT MATTERS .....	143
<b>13.</b>	<b>CLOSURE.....</b>	<b>145</b>

**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 6.30pm

**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 Adrian Spinelli	Councillor (South West Ward)
Cr Norm Kelly	Deputy Mayor (South East Ward)
Cr Sam Alessi	Councillor (South East Ward)
Cr Ken Harris	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)

\* Entered the Council chamber at 6:35pm

**Officers:**

Mr Michael Wootten	Chief Executive Officer
Mr Steve O'Brien	Director Planning and Major Projects
Mr Russell Hopkins	Director Community Services
Mr Ben Harries	Acting Director City Transport & Presentation
Ms Helen Sui	Director Corporate Services
Mr Sean McManus	Acting Director Partnerships & Engagement
Mr Michael Tonta	Manager Governance



## 2. APOLOGIES

### APOLOGY

An apology was received on behalf of Cr Ken Harris who requested that leave be granted for this meeting

### COUNCIL RESOLUTION

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

**THAT the Councillor's apology be received and leave be granted.**

**CARRIED**

Cr Harris entered the Council Chamber at 6:35PM

## 3. DECLARATIONS OF INTEREST

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

Cr Sam Alessi declared a direct in item 6.5.1 – Commercial Hotel, South Morang Application for New Gambling premises for 40 Electronic Gaming Machines.

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

Cr Griffin declared an indirect financial interest in item 6.5.1 – Commercial Hotel, South Morang Application for New Gambling premises for 40 Electronic Gaming Machines on the grounds that he owns shares in Wesfarmers, which is in opposition to ALH.

Cr Harris declared an indirect interest because of impact on residential amenity in item 6.5.1 -Commercial Hotel, South Morang Application for New Gambling premises for 40 Electronic Gaming Machines as he lives directly opposite the Commercial Hotel.

Cr Lalios declared an indirect financial interest in item 6.5.1 – Commercial Hotel, South Morang Application for New Gambling premises for 40 Electronic Gaming Machines on the grounds that she owns a shop at the Stables Shopping Centre which is situated near the Plough Hotel.



**4. CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

<b>COUNCIL RESOLUTION</b>
---------------------------

**MOVED:** *Cr Kirkham*

**SECONDED:** *Cr Sinclair*

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

Ordinary Meeting of Council held 28 June 2016

Adjourned Meeting of Council held 5 July 2016; and

Special Meeting of Council held 12 July 2016

**CARRIED**

**5. CONSIDERATION AND ACTION ON PETITIONS AND JOINT LETTERS**

**5.1 PETITIONS**

**NIL REPORTS**

**5.2 JOINT LETTERS**

**NIL REPORTS**





**6. OFFICERS' REPORTS**

**COUNCIL RESOLUTION**

**MOVED:** *Cr Kirkham*

**SECONDED:** *Cr Sinclair*

**THAT Council resolve to adopt the Recommendations for items numbers 6.1.1, 6.1.4, 6.1.5, 6.1.6, 6.1.8, 6.4.1 and 6.4.5 .**

**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 37 DAVID STREET LALOR - CONSTRUCTION OF FOUR DWELLINGS**

<b>File No:</b>	<b>715536</b>
<b>Attachments:</b>	<b>1 Locality Maps</b> <b>2 Development Plans</b>
<b>Responsible Officer:</b>	<b>Director Planning &amp; Major Projects</b>
<b>Author:</b>	<b>Senior Planner</b>
<b>APPLICANT:</b>	<b>MS Designer Living Pty Ltd</b>
<b>COUNCIL POLICY:</b>	<b>Housing Diversity Strategy</b>
<b>ZONING:</b>	<b>General Residential</b>
<b>OVERLAY:</b>	<b>Development Contributions Plan (Schedule 3)</b>
<b>REFERRAL:</b>	<b>Nil</b>
<b>OBJECTIONS:</b>	<b>One</b>
<b>RECOMMENDATION:</b>	<b>That Council refuse the application</b>

**REPORT****EXECUTIVE SUMMARY**

The applicant proposes to demolish the existing dwelling and construct four double storey dwellings. The existing vehicle crossing is integrated into the design response and a second vehicle crossover is also proposed.

Advertising of the proposal resulted in one objection being received. The grounds of objection relate to the height and mass of the proposal, overlooking, neighbourhood character, dwelling density and loss of views.

The proposal does not demonstrate a satisfactory level of compliance with the provisions of Clause 55 of the Whittlesea Planning Scheme with regard to residential policy, street setback, energy efficiency, landscaping, parking location, overlooking, internal views, dwelling entry and private open space objectives.

The Housing Diversity Strategy (HDS) nominates this site as being within the Neighbourhood Interface Change Area. The proposal does not provide appropriate side and rear setbacks to facilitate appropriate landscaping outcomes including the provision of at least one large tree towards the rear of the development site, and has a bias towards increased housing density without appropriate landscaping. Accordingly, the proposed development is not considered to be an acceptable development.

On the basis of the Clause 55 assessment and the proposal's general lack of compliance with the HDS, it is recommended that Council refuse the application.

## SITE AND SURROUNDING AREA

The subject site is located on the south side of David Street, Lalor approximately 80m east of the intersection with Munro Street (see *Attachment 1*). The property is flat and rectangular in shape and has a frontage of 15.2m and a depth of 44.2m, giving a total site area of 673m<sup>2</sup>. The site is currently occupied by a single storey weatherboard dwelling with a tiled hipped roof. Adjoining the site to the east and west are single storey detached dwellings with associated outbuildings.

The surrounding area is generally characterised by a mixture of double and single storey dwellings. Examples of medium density development within the immediate vicinity are located at Nos. 29, 35, 76, 80, 82, 84, 86, 51 and 53 David Street. The land directly south of the subject site is also currently being developed for three dwellings.

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

- Lorne Park (175m east).
- Lorne Street Shops (320m east).
- St Luke's Primary School (430m west).
- Bus route 556 Epping to Northland SC (560m east in Dalton Road)
- Lalor Shops (600m west).

## RESTRICTIONS AND EASEMENTS

The Certificate of Title for the property shows that the site is not affected by any encumbrances or restrictions. A 1.8m wide drainage easement runs along the rear of the property.

## PROPOSAL

It is proposed to construct four double storey dwellings (see *Attachment 2*). The existing dwelling will be demolished.

The proposed dwellings will each contain an open plan kitchen/lounge/meals area, amenities, and attached garage at ground floor level. Bedrooms and a bathroom are provided at the upper level of each dwelling. Dwelling Nos. 2, 3 and 4 will utilise a shared accessway located on the western side of the property frontage. Dwelling No. 1 is provided with separate access located on the eastern side of the property frontage.

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	3	7.0m front (north) 0m side (east) 6.5m side (west) 26.5m rear (south)	76m <sup>2</sup> (including 37m <sup>2</sup> secluded private open space)	Single garage (6.0m x 3.5m) and an open car parking space in a tandem configuration.	7.6m (overall)
Dwelling No. 2	Double Storey	2	15.4m front (north) 3.4m side (east) 4.0m side (west) 19.5m rear (south)	37m <sup>2</sup> (all secluded private open space)	Single garage (6.0m x 3.5m).	7.3m (overall)

	Height /Scale	Number of Bedrooms	Setbacks	Private Open Space	Car Parking	Maximum Height
Dwelling No. 3	Double Storey	2	24.5m front (north) 3.4m side (east) 4.0m side (west) 10.5m rear (south)	37m <sup>2</sup> (all secluded private open space)	Single garage (6.0m x 3.5m).	7.3m (overall)
Dwelling No. 4	Double Storey	2	33.3m front (north) 3.0m side (east) 0m side (west) 1.8m rear (south)	52m <sup>2</sup> (including 30m <sup>2</sup> secluded private open space)	Single garage (6.0m x 3.5m).	7.2m (overall)

## PUBLIC NOTIFICATION

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

1. Inappropriate scale of double storey development
2. Neighbourhood character
3. Unacceptable density of development
4. Loss of views
5. Loss of privacy / Overlooking

## 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 is included within Clause 21.09-4 'Change Areas in the Established Suburbs'. An assessment against the HDS is provided under Standard B2 of the Clause 55 assessment.

## ASSESSMENT AGAINST CLAUSE 55 OF THE WHITTLESEA PLANNING SCHEME

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

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

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

	✓ - Compliance x - Non compliance	Objectives	Standards	Comments
B1	Neighbourhood Character	X	X	<p>The surrounding area is characterised by a mixture of single and multi-dwelling developments of both double and single storey scale. Developments in the area range in style from 1950s and 1960s single storey brick and weatherboard to recent infill development usually incorporating both brick and render elements. Housing in the area typically is low scale with generous front setbacks and very limited built form on the boundary (garages and sheds in the rear open spaces are the exception). Where a second storey is provided these are typically well recessed from the ground floor frontage.</p> <p>The proposed dwellings are not considered to be of a scale and form that respects the established character of the area, nor the preferred future character envisaged by the Housing Diversity Strategy.</p> <p>The Housing Diversity Strategy (HDS) nominates this site as being within the Neighbourhood Interface change area. The proposal does not provide for a satisfactory response to the preferred density and design principles of this Change Area and is considered unacceptable in this context.</p> <p>There are a number of aspects of the proposal that are not responsive to the existing or preferred character of the area including the continual built form, lack of setbacks and spacing, reduced front setback, overall scale and bulk of the four double-storey dwellings with a lack of opportunity for meaningful landscaping.</p>
B2	Residential Policy	X	X	<p>The Housing Diversity Strategy (HDS) nominates the site as being within the Neighbourhood Interface Change Area. The current proposal resulting in four dwellings does not accord with the Key Design Principles due to the lack of space provided for landscaping (including the provision of a large tree in the rear of the property).</p>
B3	Dwelling Diversity	N/A	N/A	<p>Only applicable to developments of ten (10) or more dwellings</p>

	✓ - Compliance x - Non compliance	Objectives	Standards	Comments
B4	Infrastructure	✓	✓	
B5	Integration with the street	✓	✓	
B6	Street setback	X	X	<p>The proposed development requires a street setback of 7.5m. The proposed front setback is 7.0m, being 0.5m less than the standard. The proposed reduction from the standard is not considered to be appropriate for the following reasons:</p> <ul style="list-style-type: none"> <li>• The proposed dwellings are double storey, with Dwelling No. 1 providing only a small recession from the ground floor.</li> <li>• The proposed reduction of the standard is only required due to the number of dwellings that are proposed to be constructed.</li> </ul>
B7	Building height	✓	✓	
B8	Site coverage	✓	✓	
B9	Permeability	✓	✓	
B10	Energy efficiency	X	X	<p>The proposed development does not provide an ideal design layout in terms of energy efficiency, with few north facing windows provided. It is noted that a reduction in the number of dwelling would facilitate notable improvements to the energy efficiency of the dwellings.</p>
B11	Open space	N/A	N/A	<p>Only applicable if public or communal open space is to be provided on site or adjacent to the development</p>
B12	Safety	✓	✓	
B13	Landscaping	X	X	<p>A detailed landscape plan has not been submitted with the application.</p> <p>It is noted that the proposed development does not provide adequate areas that are appropriate for quality landscaping opportunities. In particular, the areas of secluded private open space are minimal and do not facilitate the planting of larger trees whilst maintaining useable spaces for the further occupants of the dwellings.</p>

	✓ - Compliance x - Non compliance	Objectives	Standards	Comments
B14	Access	✓	✓	
B15	Parking location	X	X	<p>The proposed window to the lounge of Dwelling No. 4 is not adequately recessed from the common vehicle accessway. In this instance, the proposal provides a setback of 0.5m from the common driveway, compared to the Standard that requires a setback of 1.5m.</p> <p>It is noted that a reduction in the number of dwellings would facilitate a resolution of this issue.</p>
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	X	<p>The plans submitted to Council for assessment do not identify that windows will be screened to comply with this design standard. Subsequently, the proposal does not achieve the overlooking objective.</p>
B23	Internal views	X	X	<p>The plans submitted to Council for assessment lack sufficient detail to demonstrate that the south facing window to bedroom 3 of Dwelling No. 1 will be adequately screened to avoid internal overlooking into the secluded private open space of Dwelling No. 2.</p>
B24	Noise impacts	✓	✓	
B25	Accessibility	✓	✓	
B26	Dwelling entry	X	X	<p>The proposed dwelling entry for Dwelling No. 3 is concealed from view and lacks an appropriate sense of identity.</p>
B27	Daylight to new windows	✓	✓	



	✓ - Compliance x - Non compliance	Objectives	Standards	Comments
B28	Private open space	X	X	<p>Proposed Dwelling Nos. 2 and 3 are not provided with private open space as set out in the design standard. Specifically, these dwellings are provided with 37m<sup>2</sup> of private open spaces, 3m<sup>2</sup> less than the Standard.</p> <p>Furthermore the minimum dimensions of the spaces are not sufficient to provide a reasonable argument that the useability of the spaces justifies a reduction of the total area required.</p> <p>It is noted that a reduction in the number of dwellings would facilitate a resolution of this issue.</p>
B29	Solar access to open space	✓	✓	
B30	Storage	✓	✓	
B31	Design detail	✓	✓	
B32	Front fences	N/A	N/A	
B33	Common property	✓	✓	
B34	Site services	✓	✓	

## CAR PARKING

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

Dwelling No.	No. of bedrooms	Car spaces required	Car spaces provided	Complies
1	3	2	2	Y
2	2	1	1	Y
3	2	1	1	Y
4	2	1	1	Y

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.

Clause 52.06 also requires visibility splays to be provided at the entrance to the subject site to ensure that appropriate lines of sight are provided for vehicles exiting the land. In this instance the visibility splays have not been shown and may conflict with the proposed mailbox location if the common meter box is to be incorporated.

### **DEVELOPMENT CONTRIBUTIONS PLAN OVERLAY (SCHEDULE 3)**

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

### **COMMENTS ON GROUNDS OF OBJECTION**

#### **1. Inappropriate scale of double storey development**

The mass and bulk proposed is not considered to be appropriate for the area. In particular, the bulk of the proposed development is extenuated by the lack of upper level recession and reduced front setback. The proposed continuous built form also contributes to a built form mass that is not consistent with the surrounding streetscape. Accordingly, this ground of objection can be substantiated.

#### **2. Neighbourhood character**

The surrounding area is undergoing change with a number of multi-dwelling developments having been approved and constructed in recent years. The proposed development incorporates a number of design features that are found in the surrounding area such as eaves at the upper level. A schedule of colours and materials has not been submitted for consideration. It is noted that the Whittlesea Planning Scheme does not express specific preferred character outcomes for residential areas. However, Clause 21.09 provides general guidance for new residential development in this area, with reference made to the Key Design Principles contained with the HDS. In this instance the proposal does not provide a design outcomes that is consistent with the Key Design Principles contained with the HDS. Accordingly, this ground of objection can be substantiated.

#### **3. Unacceptable density of development**

The Whittlesea Planning Scheme does not specify a maximum density for residential development in this area. However, Clause 21.09 provides general guidance for new residential development in this area, with reference made to the Key Design Principles contained with the HDS. In this instance the proposal does not provide a design outcomes that is consistent with the Key Design Principles contained with the HDS. Accordingly, this ground of objection can be substantiated.

#### **4. Loss of views**

The proposed development complies with the relevant objectives and standards for overshadowing, building height, as well as side and rear building setbacks. Furthermore, there are no specific planning controls affecting the site or surrounding area that seek to preserve specific views or vistas. Accordingly, this ground of objection cannot be substantiated.

#### **5. Loss of privacy / Overlooking**

The proposed development requires extensive screening of upper level windows. However, the plans submitted indicate that no screening is to be provided. The proposed development in its current form would result in the overlooking of adjoining properties. Accordingly, this ground of objection can be substantiated.

### **DECLARATIONS OF CONFLICTS OF INTEREST**

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

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

## CONCLUSION

The application has been assessed against the Whittlesea Planning Scheme and in particular the objectives and standards of Clause 55. The proposal does not satisfy the key design principles of the Neighbourhood Interface Change Area of the Housing Diversity Strategy. It is considered that the proposal will result in unreasonable impacts on the character of the neighbourhood and surrounding residential properties in addition to providing poor onsite amenity for the future occupants. The site is considered suitable for some form of infill development, however fewer dwellings on site may address many of the concerns.

Accordingly, it is recommended that Council refuse the application.

## RECOMMENDATION

**THAT Council resolve to Refuse Planning Application No. 715536 and issue a Notice of Decision to Refuse to Grant a Planning Permit for the construction of four double storey dwellings at 37 David Street Lalor on the following grounds:**

1. The proposed development does not satisfactorily respond to the following objectives and standards of the Whittlesea Planning Scheme:
  - a) Clause 55.02-1 Neighbourhood Character
  - b) Clause 55.02-2 Residential Policy
  - c) Clause 55.03-1 Street Setback
  - d) Clause 55.03-5 Energy Efficiency
  - e) Clause 55.03-8 Landscaping
  - f) Clause 55.03-10 Parking Location
  - g) Clause 55.04-6 Overlooking
  - h) Clause 55.04-7 Internal Views
  - i) Clause 55.05-2 Dwelling Entry
  - j) Clause 55.05-4 Private Open Space
2. The proposal does not comply with Clause 52.06 due to the absence of visibility splays demonstrating that access to and from the development site is safe and appropriate.
3. The proposal does not provide an appropriate response to Clause 21.09-4 with regard to the design aspirations identified in the Housing Diversity Strategy

## COUNCIL RESOLUTION

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

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

**CARRIED**



**6.1.2 76 CEDAR STREET THOMASTOWN - CONSTRUCTION OF THREE DWELLINGS**

<b>File No:</b>	<b>715532</b>
<b>Attachments:</b>	<b>1 Locality Maps</b> <b>2 Development Plans</b>
<b>Responsible Officer:</b>	<b>Director Planning &amp; Major Projects</b>
<b>Author:</b>	<b>Senior Planner</b>
<b>APPLICANT:</b>	<b>First Angle</b>
<b>COUNCIL POLICY:</b>	<b>Nil</b>
<b>ZONING:</b>	<b>General Residential Zone</b>
<b>OVERLAY:</b>	<b>Development Contributions Plan (Schedule 3)</b>
<b>REFERRAL:</b>	<b>Nil</b>
<b>OBJECTIONS:</b>	<b>Nine</b>
<b>RECOMMENDATION:</b>	<b>That Council approve the application</b>

**REPORT****EXECUTIVE SUMMARY**

The applicant proposes to demolish the existing dwelling and construct three double storey dwellings. The existing vehicle crossing is integrated into the design response.

Advertising of the proposal resulted in nine objections being received. The grounds of objection relate to the height and mass of the proposed development, overlooking, neighbourhood character and additional noise.

The proposal demonstrates a satisfactory level of compliance with the provisions of Clause 55 of the Whittlesea Planning Scheme. Planning permit conditions are required to clarify and improve the proposed development in relation to sense of address and overlooking.

The Housing Diversity Strategy (HDS) nominates this site as being within the Neighbourhood Interface Change Area. The proposal generally complies with the preferred density and design principles of this Change Area and is considered to be an acceptable three dwelling development in an appropriate location as nominated by the HDS.

On the basis of the Clause 55 assessment and the proposal's general compliance with the proposed HDS, it is recommended that Council approve the application.

**SITE AND SURROUNDING AREA**

The subject site is a residential property located on the northern side of Cedar Street, Thomastown; approximately 160m east of Belah Street (*see Attachment 1*). The subject site is relatively flat and rectangular in shape with a frontage to Cedar Street of 16.15m and a depth of 42.67m, giving a total site area of approximately 689m<sup>2</sup>. The site currently contains a detached single storey dwelling constructed of brick with a concrete tiled hipped roof. There is no vegetation of significance on the land.

The surrounding area is generally characterised by single storey dwellings and a mix of dwelling styles, with few double storey dwellings in the area. The adjoining property to the east contains three single-storey dwellings and the adjoining property to the west contains one single storey dwelling. Other examples of medium density development within the immediate vicinity of the site are located at No. 74 Cedar Street (three single storey dwellings), No. 56 Cedar Street (two single-storey dwellings) and at No. 17 Waratah Street (two dwellings – one double storey and one single storey). The majority of the dwellings in the area are constructed of brick with pitched tiled roofs.

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

- Thomastown East Primary School (50m east)
- Bus route 559 - Thomastown via Darebin Drive (100m south)
- Bus route 554 - Thomastown via West Lalor (800m west)
- Bus route 555 - Epping Northland via Lalor, Thomastown, Reservoir (800m west)
- Thomastown Railway Station (800m west)
- Thomastown shops (800m west)

## RESTRICTIONS AND EASEMENTS

The site is legally described as Lot 116 on Plan of Subdivision 013481. Covenant 2448748 applies to the land and relates to the removal of gravel or sand from the site for purposes other than building.

A 1.83m wide sewerage and drainage easement runs along the rear (north) of the property. No buildings and works are proposed over this easement.

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

## BACKGROUND

In response to matters raised by Council officers, the applicant provided revised plans after the application had been advertised that provided greater clarity of the proposed development. This included revised details of the feature fencing within the front setback, clarification on the accessway width and the resolution of minor discrepancies between the plans and elevations.

## PROPOSAL

It is proposed to construct three double storey dwellings (*see Attachment 2*). The existing dwelling will be demolished.

Each dwelling will contain an open plan kitchen/lounge/meals area, amenities, bathroom and attached double garage. All dwellings will be provided with three bedrooms located at the upper level. Dwelling Nos. 2 and 3 will utilise a shared accessway via the existing vehicle crossover located on the west side of the property, while Dwelling No. 1 will be provided with separate vehicle access via a new vehicle crossover on the south eastern corner.

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	Three	7.5m front (south), 3.7m side (west) and 0m side (east).	69m <sup>2</sup> (including 31m <sup>2</sup> of secluded private open space)	Two car parking spaces within a double garage (5.5m x 6.0m)	6.2m (overall)

	Height /Scale	Number of Bedrooms	Setbacks	Private Open Space	Car Parking	Maximum Height
Dwelling No. 2	Double Storey	Three	4.4m side (west) and 0m side (east).	36m <sup>2</sup> (all secluded private open space)	Two car parking spaces within a double garage (5.5m x 6.0m)	6.3m (overall)
Dwelling No. 3	Double Storey	Three	0m side (west), 0m side (east) and 1.0m rear (north).	40m <sup>2</sup> (including 34m <sup>2</sup> of secluded private open space)	Two car parking spaces within a double garage (5.5m x 6.0m)	6.5m (overall)

## PUBLIC NOTIFICATION

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

1. Double storey is not appropriate
2. Overlooking
3. Inconsistent with neighbourhood character
4. Increased traffic
5. Increased noise

## 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	✓	✓	Developments within the area are generally from the 1960s and typically detached, single storey dwellings

	✓ - Compliance x - Non compliance	Objectives	Standards	Comments
				<p>constructed of brick or weatherboard. Garages, where provided, are generally located at the rear of the property whereas the verandah style carports are located in front of the main building line or aligned with the building façade.</p> <p>The proposed development represents a departure from the typical built form found within the surrounding area. However, the proposed development provides an appropriate design response to the surrounding character by using a flat room form with a recession of the upper levels that keeps the visual appearance of the proposed built form to a minimum. A feature front fence also lends upon a common character trait of the area and provides a modern interpretation of this.</p>
B2	Residential Policy	✓	✓	<p>The HDS nominates the subject site as located within the Neighbourhood Interface Change Area (Clause 21.09-4 of the WPS). This Change Area encourages medium and standard density development with the preferred housing types comprising single dwellings, dual occupancies (including duplexes), townhouses and multi-units. Key design principles include a range of building heights that support housing diversity, moderate front setbacks to allow for significant landscaping and medium canopy trees, medium site coverage, useable private open space and the provision of a large canopy tree in the rear setback.</p> <p>The proposed development is generally consistent with the preferred density and key design principles outlined in the HDS. The exception to this is the availability for space to provide a large canopy tree in the rear yard, which is more likely to be a medium sized tree. Nonetheless, adequate opportunities for landscaping have been provided to compliment the proposed built form.</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	✓	X	<p>The development is required to provide a front setback of 8m. The proposed development provides a setback of 7.7m which is a 0.3m reduction of this standard.</p> <p>The setback of dwellings within the Cedar Street streetscape is very consistent. The proposed variation is modest and consistent with the typical variation between adjoining dwellings that can be found with the surrounding streetscape. Accordingly the proposed variation of the standard is considered to be acceptable.</p>
B7	Building height	✓	✓	
B8	Site coverage	✓	✓	
B9	Permeability	✓	✓	
B10	Energy efficiency			
B11	Open space	N/A	N/A	Only applicable if public or communal open space is to be provided on site or adjacent to the development
B12	Safety	✓	✓	
B13	Landscaping	✓	X	A landscape plan has not been provided with the application. It is considered that this can be dealt with by a condition on any permit that is issued.
B14	Access	✓	✓	
B15	Parking location	✓	✓	
B17	Side and rear setbacks	✓	✓	
B18	Walls on boundaries	✓	X	The subject site has an eastern boundary with a length of 42.7m. This standard allows walls within 200mm or a carport within 1m of a boundary to be constructed with a total length not exceeding 10m plus 25% of the remaining boundary length. For this property, the standard allows 18.2m of the eastern boundary to have walls and/or carports constructed on the boundary.

	✓ - Compliance x - Non compliance	Objectives	Standards	Comments
				<p>The proposed development exceeds this standard by 1.4m with 19.6m of walls on the boundary.</p> <p>The proposed variation is considered to be appropriate for the following reasons:</p> <ul style="list-style-type: none"> <li>• The proposed variation of 1.4m to the standard is minor.</li> <li>• The proposed walls are not continuous.</li> </ul> <p>The proposed height of the wall is less than the maximum height allowable, but does exceed the average wall height requirement by 0.2m. This minor non-compliance due to the floor to ceiling heights proposed at ground level is considered to be an acceptable variation of the standard.</p>
B19	Daylight to existing windows	✓	✓	
B20	North-facing windows	✓	✓	
B21	Overshadowing open space	✓	✓	
B22	Overlooking	✓	X	Where required, the plans show windows with an indication that the windows are to be obscured. However clear notations are required on the plans to ensure that fixed obscured glazing will be provided. A condition requiring this can be included on any planning permit that is issued.
B23	Internal views	✓	✓	
B24	Noise impacts	✓	✓	
B25	Accessibility	✓	✓	
B26	Dwelling entry			
B27	Daylight to new windows	✓	✓	
B28	Private open space	✓	X	The proposed development requires a minor variation of the private open space requirements set out in Standard B28. This standard requires that each dwelling should be provided with 40m <sup>2</sup> of private open space, of which, 25m <sup>2</sup> must be secluded and

	✓ - Compliance x - Non compliance	Objectives	Standards	Comments
				<p>have a minimum width of 3m.</p> <p>In this instance, Dwelling Nos. 1 and 3 comply with the standard. However, Dwelling No. 2 is provided with 36m<sup>2</sup> of private open space. All of this space is secluded and has a minimum dimension of 4.2m, exceeding the requirement for secluded private open space both in terms of area and minimum width.</p> <p>The result is an area that exceeds the standard for secluded private open space and with a width of 4.2m is more practical for future residents to use. It is recommended that this variation is justified and provides a more usable space than a layout that strictly complies with the standard.</p>
B29	Solar access to open space	✓	✓	
B30	Storage	✓	✓	
B31	Design detail	✓	✓	
B32	Front fences	✓	✓	
B33	Common property	✓	✓	
B34	Site services	✓	✓	

## CAR PARKING

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

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

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.

### **DEVELOPMENT CONTRIBUTIONS PLAN OVERLAY (SCHEDULE 3)**

The site is affected by the Development Contributions Plan Overlay. Pursuant to Clause 45.06 of the Whittlesea Planning Scheme, the Development Contributions Plan Overlay enables the levying of contributions for the provision of works, services and facilities prior to development commencing.

Schedule 3 to the overlay requires contributions for drainage infrastructure for medium density residential development at a current rate of \$2.19 per square metre of the total site area. This requirement must be included as a condition on any planning permit that is issued.

### **COMMENTS ON GROUNDS OF OBJECTION**

#### **1. Double storey is not appropriate**

The height, mass and bulk proposed is considered to be appropriate. The proposed dwellings are provided with appropriate recessing and articulation at first floor level to ensure their impact is diminished. This is further assisted by the proposed flat roof form. Accordingly, this ground of objection cannot be substantiated.

#### **2. Overlooking**

Through the use of 'hi-lite' windows and obscure glazing on the first floor, the applicant has ensured that there will be no overlooking into neighbouring properties in accordance with Standard B22. As noted in the assessment of the application against the provisions of Clause 55, a condition is required to be included on any permit issued to ensure that compliance with this Standard is met. Accordingly this ground of objection cannot be substantiated.

#### **3. Inconsistent with neighbourhood character**

There are few examples of similar two-storey built form in the immediate vicinity of the site. However, the visual appearance of the proposed built form is kept to a minimum by providing a flat roof form and incorporating recession of the upper levels. A feature front fence also lends upon a common character trait of the area and provides a modern interpretation of this. Accordingly, this ground of objection cannot be substantiated.

#### **4. Increased traffic**

The development complies with the requirements of Clause 52.06 (Car parking) of the Whittlesea Planning Scheme. The proposal will result in a minor increase in vehicle movements per day and will not adversely affect Cedar Street. Accordingly, this ground of objection cannot be substantiated.

#### **5. Increased noise**

The development as proposed complies with Standard B24 of the Whittlesea Planning Scheme which seeks to contain noise sources in developments that may affect existing dwellings and to protect residents from external noise. The proposal is for residential use of the land in a residential area and the development will not require external mechanical plant or any other inappropriate source of noise. While some additional noise will be generated by virtue of the greater number of residents on the land, this is acceptable in a residential area. Accordingly, this ground of objection cannot be substantiated.

### **DECLARATIONS OF CONFLICTS OF INTEREST**

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

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

## CONCLUSION

The application has been assessed against the Whittlesea Planning Scheme and in particular the objectives and standards of Clause 55. The proposal demonstrates a satisfactory level of compliance subject to minor modifications as outlined. It is considered that the proposal will not have a detrimental impact on the character of the neighbourhood nor on existing surrounding residential properties and accordingly approval of the application is recommended.

## RECOMMENDATION

THAT Council resolve to approve Planning Application No. 715532 and issue a Notice of Decision to Grant a Permit for the construction of three dwellings at 76 Cedar Street Thomastown, in accordance with the endorsed plans and subject to the following conditions:

1. Prior to the endorsement of the plans required under Condition No. 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 endorsement of the plans required under Condition No. 3, or at such later date as the Responsible Authority may approve in writing, there shall be lodged with the Responsible Authority an amount of \$3,000 as security deposit for the satisfactory completion and maintenance of the landscaping works hereby permitted. Upon completion of the landscaping works to the satisfaction of the Responsible Authority, the Responsible Authority will refund the security deposit to the then owner of the subject land.
3. Before the development starts, three copies of a revised plan must be submitted to and approved by the Responsible Authority, showing:
  - a) A notation on all relevant elevations that all windows that require screening to comply with Standard B22 will be screened and fixed in accordance with Standard B22.
  - b) A schedule (including samples) of all external materials and colours for all walls, roofs, and doors including hard surface areas to be used for the construction of the proposed dwellings/buildings, including access ways. Any proposed access way must be constructed from coloured concrete, bricks, pavers and not from plain concrete.
  - c) 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. Any proposed trees must be at an advanced stage of growth when planted.

4. The development allowed by this permit and shown on the plans and/or schedules endorsed to accompany this permit shall not be amended for any reason without the consent of the Responsible Authority.
5. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.
6. Before the use of the development allowed by this permit starts, landscaping works shown on the endorsed plan must be completed and then maintained to the satisfaction of the Responsible Authority.
7. Before the use of the development starts, the car parking areas and access ways must be drained, and fully sealed and constructed with asphalt, interlocking paving bricks, coloured concrete or other similar materials to the satisfaction of the Responsible Authority.
8. 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.
9. Vehicular access to the site must be by way of a vehicle crossing constructed in accordance with Council's Vehicle Crossing Specifications to suit the proposed driveway(s) and the vehicles that will be using the crossing(s). The location, design, and construction of the vehicle crossing(s) must be approved by the Responsible Authority. Any existing unused or redundant crossing(s) must be removed and replaced with concrete kerb, channel and nature strip to the satisfaction of the Responsible Authority. All vehicle crossing works are to be carried out with Council supervision under a Road Opening Permit.
10. Before starting any buildings or works, engineering plans showing a properly prepared design (with computations) for the internal drainage and method of disposal of stormwater from all roofed and sealed areas, including the use of an on-site detention system (if required), must be submitted to Council for approval. These internal drainage works must be completed to Council's satisfaction prior to using or occupying any building on the site.
11. Prior to using or occupying any building on the site, 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.
12. Before the use of the development commences, reticulated (water, sewerage, gas and electricity) services must be constructed and available to the satisfaction of the Responsible Authority.
13. 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.
14. Prior to occupation of any dwelling on the subject site, a letter box and house number to the satisfaction of the Responsible Authority shall be provided for each dwelling.

15. 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.
16. 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.
17. 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.
18. During the construction phase, a truck wheel washing facility or similar device must be installed and used to the satisfaction of the Responsible Authority so that vehicles leaving the site do not deposit mud or other materials on roadways. Any mud or other materials deposited on roadways as a result of construction works on the site must be cleaned to the satisfaction of the Responsible Authority within two hours of it being deposited.
19. This permit will expire if:
  - a) The approved development does not start within two years of the date of this permit; or
  - b) The approved development is not completed within four years of the date of this permit.

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

## NOTES

### Advanced Trees

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

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

### Easements

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

### Property Numbering

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

---

**COUNCIL RESOLUTION**

---

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

**THAT Council resolve to approve Planning Application No. 715532 and issue a Notice of Decision to Grant a Permit for the construction of three dwellings at 76 Cedar Street Thomastown, in accordance with the endorsed plans and subject to the following conditions:**

- 1. Prior to the endorsement of the plans required under Condition No. 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 endorsement of the plans required under Condition No. 3, or at such later date as the Responsible Authority may approve in writing, there shall be lodged with the Responsible Authority an amount of \$3,000 as security deposit for the satisfactory completion and maintenance of the landscaping works hereby permitted. Upon completion of the landscaping works to the satisfaction of the Responsible Authority, the Responsible Authority will refund the security deposit to the then owner of the subject land.**
- 3. Before the development starts, three copies of a revised plan must be submitted to and approved by the Responsible Authority, showing:**
  - a) Dwelling 2 to be provided with a minimum of 40m<sup>2</sup> of private open space.**
  - b) A notation on all relevant elevations that all windows that require screening to comply with Standard B22 will be screened and fixed in accordance with Standard B22.**
  - c) A schedule (including samples) of all external materials and colours for all walls, roofs, and doors including hard surface areas to be used for the construction of the proposed dwellings/buildings, including access ways. Any proposed access way must be constructed from coloured concrete, bricks, pavers and not from plain concrete.**
  - d) 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. Any proposed trees must be at an advanced stage of growth when planted.**
- 4. The development allowed by this permit and shown on the plans and/or schedules endorsed to accompany this permit shall not be amended for any reason without the consent of the Responsible Authority.**
- 5. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.**
- 6. Before the use of the development allowed by this permit starts, landscaping works shown on the endorsed plan must be completed and then maintained to**



the satisfaction of the Responsible Authority.

7. Before the use of the development starts, the car parking areas and access ways must be drained, and fully sealed and constructed with asphalt, interlocking paving bricks, coloured concrete or other similar materials to the satisfaction of the Responsible Authority.
8. 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.
9. Vehicular access to the site must be by way of a vehicle crossing constructed in accordance with Council's Vehicle Crossing Specifications to suit the proposed driveway(s) and the vehicles that will be using the crossing(s). The location, design, and construction of the vehicle crossing(s) must be approved by the Responsible Authority. Any existing unused or redundant crossing(s) must be removed and replaced with concrete kerb, channel and nature strip to the satisfaction of the Responsible Authority. All vehicle crossing works are to be carried out with Council supervision under a Road Opening Permit.
10. Before starting any buildings or works, engineering plans showing a properly prepared design (with computations) for the internal drainage and method of disposal of stormwater from all roofed and sealed areas, including the use of an on-site detention system (if required), must be submitted to Council for approval. These internal drainage works must be completed to Council's satisfaction prior to using or occupying any building on the site.
11. Prior to using or occupying any building on the site, 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.
12. Before the use of the development commences, reticulated (water, sewerage, gas and electricity) services must be constructed and available to the satisfaction of the Responsible Authority.
13. 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.
14. Prior to occupation of any dwelling on the subject site, a letter box and house number to the satisfaction of the Responsible Authority shall be provided for each dwelling.
15. 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.
16. 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.
17. 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.

18. During the construction phase, a truck wheel washing facility or similar device must be installed and used to the satisfaction of the Responsible Authority so that vehicles leaving the site do not deposit mud or other materials on roadways. Any mud or other materials deposited on roadways as a result of construction works on the site must be cleaned to the satisfaction of the Responsible Authority within two hours of it being deposited.

19. This permit will expire if:

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

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

## **NOTES**

### **Advanced Trees**

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

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

### **Easements**

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

### **Property Numbering**

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

**CARRIED**

**6.1.3 560 FINDON ROAD, SOUTH MORANG - CONSTRUCTION OF NINETEEN DWELLINGS**

<b>File No:</b>	<b>715514</b>
<b>Attachments:</b>	<b>1 Locality Maps</b> <b>2 Development Plans</b>
<b>Responsible Officer:</b>	<b>Director Planning &amp; Major Projects</b>
<b>Author:</b>	<b>Senior Planner</b>
<b>APPLICANT:</b>	<b>Caddco Pty Ltd</b>
<b>COUNCIL POLICY:</b>	<b>Nil</b>
<b>ZONING:</b>	<b>General Residential Zone</b>
<b>OVERLAY:</b>	<b>Development Plan (Schedule 32)</b> <b>Vegetation Protection (Schedule 1)</b>
<b>REFERRAL:</b>	<b>Nil</b>
<b>OBJECTIONS:</b>	<b>Three</b>
<b>RECOMMENDATION:</b>	<b>That Council approve the application</b>

**REPORT****EXECUTIVE SUMMARY**

The applicant proposes to construct nineteen double storey dwellings on a vacant lot. Advertising of the proposal resulted in three objections being received. The grounds of objection relate to the additional traffic, overlooking, loss of views and adverse impacts on local wildlife.

The proposal demonstrates a satisfactory level of compliance with the provisions of Clause 55 of the Whittlesea Planning Scheme and meets all standards subject to a number of modifications to the detail of the proposal. The proposal also meets the requirements relating to site coverage, permeability and the provision of private open space. The scale of the development is considered appropriate to the size of the subject site (>5000m<sup>2</sup>).

The subject site is not located within an area covered by the Housing Diversity Strategy.

On the basis of the Clause 55 assessment, it is recommended that Council approve the application.

**SITE AND SURROUNDING AREA**

The subject site is a residential property located on the northern side of Findon Road, South Morang, approximately 420m east of The Great Eastern Way (*see Attachment 1*). The subject site is flat and irregular in shape with a frontage to Findon Road of 86.1m and a total site area of approximately 5,159m<sup>2</sup>. The site is currently vacant and there is no vegetation of significance contained within the site. However, there are five large trees located on the adjoining land to the west of the site.

The surrounding area is generally characterised by a mixture of double and single storey dwellings. The adjoining properties to the east and north are occupied by single dwellings.

A reserve abuts the southernmost portion of the eastern boundary. To the west is a vacant site that, like the subject site, is within a Development Plan Overlay. The approved Development Plan Overlay identifies the land to the west as being future public open space.

Examples of medium density development within the immediate vicinity are located at 2 and 31 Koonunga Crescent, 1 Penola Drive, 7 and 10 Lister Street, 9 Chandler Drive and Tintern Terrace.

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

- Koonuga Park (0m east)
- Grange Park (285m east)
- Marymede Catholic College (500m east)
- St Marys College (500m east)
- Hillsvie Recreation Reserve (600m northwest).
- Proposed Marymeade Railway Station (Approx. 900m east)
- Westfield Plenty Valley (Approx. 2.0km)

## RESTRICTIONS AND EASEMENTS

The site is legally described as Lot 1 on Plan of Subdivision 63994R. The site is subject to two S173 agreements registered on title.

Agreement AG462118X provides protection for trees located with the plan of subdivision. None of the trees protected by this agreement are located on the subject site

Agreement AK350447S requires the payment of an infrastructure levy, the construction of a shared path (not located on the subject site) and the transfer of land within the high voltage transmission line easement to Council (not located on the subject site).

None of the agreements preclude Council from determining the current planning permit application.

## PROPOSAL

It is proposed to construct nineteen double storey dwellings (*see Attachment 2*). A new vehicle access to Findon Road is proposed to provide access to the site.

All of the proposed dwellings are provided with an open plan kitchen/living/meals area at ground floor, amenities at both levels and bedrooms at the upper level. Dwelling Nos. 8, 9 and 19 also provide an additional bedroom on the ground floor. Private open space is provided to each dwelling at ground level and accessed via a living room.

All garages and open car parking spaces comply with the minimum standards set out in Clause 52.06 of the Whittlesea Planning Scheme. A total of four visitor car parking spaces are also provided on the site (two within each stage of the development).

External materials are a combination of brick at the ground level and a combination of light weight cladding treatments to the upper levels.

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

	Number of Bedrooms	Setbacks	Private Open Space	Car Parking	Maximum Height
Dwelling No. 1	3	0.5m from western boundary (side) and 3.0m from northern boundary (rear)	33.5m <sup>2</sup> (including 23.9m <sup>2</sup> secluded private open space)	Attached double garage (6.0m x 5.5m)	6.7m (overall)

	Number of Bedrooms	Setbacks	Private Open Space	Car Parking	Maximum Height
Dwelling Nos. 2 – 5	3	3.0m from northern boundary (rear)	47.8m <sup>2</sup> (including 31.4m <sup>2</sup> secluded private open space)	Attached double garage (6.0m x 5.5m)	≤6.8m (overall)
Dwelling No. 6	3	3.0m from northern boundary (rear)	40.8m <sup>2</sup> (including 30.4m <sup>2</sup> secluded private open space)	Attached double garage (6.0m x 5.5m)	6.8m (overall)
Dwelling No. 7	3	3.2m from Findon Road	41.6m <sup>2</sup> (including 33.7m <sup>2</sup> secluded private open space)	Attached double garage (6.0m x 5.5m)	6.2m (overall)
Dwelling No. 8	4	3.8m from Findon Road	42.1m <sup>2</sup> (including 35.7m <sup>2</sup> secluded private open space)	Detached double garage (6.0m x 5.5m)	6.4m (overall)
Dwelling No. 9	4	4.0m from Findon Road	64.4m <sup>2</sup> (including 54.7m <sup>2</sup> secluded private open space)	Detached double garage (6.0m x 5.5m)	6.8m (overall)
Dwelling No. 10	3	1.0m from the northern boundary (rear) and 3.9m from the eastern boundary (side)	57.0m <sup>2</sup> (including 41.0m <sup>2</sup> secluded private open space)	Attached double garage (6.0m x 5.5m)	6.8m (overall)
Dwelling Nos. 11 – 17	3	3.9m from the eastern boundary (side)	57.0m <sup>2</sup> (including 40.9m <sup>2</sup> secluded private open space)	Attached double garage (6.0m x 5.5m)	≤6.8m (overall)
Dwelling No. 18	3	3.0m from Findon Road	28.1m <sup>2</sup> (including 28.1m <sup>2</sup> secluded private open space)	Attached single garage (6.0m x 3.5m) and open car parking space in tandem	6.8m (overall)
Dwelling No. 19	4	4.0m from Findon Road and 0m from the eastern boundary (side).	49.4m <sup>2</sup> (including 49.4m <sup>2</sup> secluded private open space)	Detached single garage (6.0m x 3.5m) and open car parking space in tandem	6.4m (overall)

## PUBLIC NOTIFICATION

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

1. Traffic congestion of the surrounding street network
2. Overlooking / Overshadowing into neighbouring properties
3. Loss of views
4. Impact on local wildlife

## 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	✓	✓	<p>Developments within the area are generally from the early 2000s and are typically detached houses. Garages are common and provided within the roofline of the dwelling.</p> <p>The subject site has no abutting properties that have frontage to Findon Road.</p> <p>The design of the proposed dwellings and materials used provide modern facades that use material commonly found in dwelling construction in the surrounding area.</p> <p>The proposed development is considered appropriate and complementary to the existing character of the area.</p>
B2	Residential Policy	✓	✓	The Housing Diversity Strategy does not apply to this area.
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	<p>The standard requires that, in this instance, a front setback of 4m is provided. The proposed setback is 3.0m (Dwelling No. 18), with other dwellings fronting Findon Road providing a setback varying between 3.2m to 4.0m</p> <p>The site provides a curved frontage to Findon Road. The design response responds well to this with the staggering of dwellings that are provided with double fronted facades with good articulation.</p> <p>The reduction of the standard (by up to 1.0m) only occurs at corners of the dwellings nearest the curved frontage of the site. The remaining areas to each dwelling provide space within the setback that complies with this</p>

	✓ - Compliance x - Non compliance	Objectives	Standards	Comments
				<p>standard.</p> <p>In this instance the variation is considered to be appropriate for the following reasons:</p> <ul style="list-style-type: none"> <li>• The site frontage is curved</li> <li>• The proposed dwellings provide well-articulated frontages with adequate space provided for landscaping</li> <li>• Only the corners of the dwellings encroach the setback standard</li> </ul>
B7	Building height	✓	✓	
B8	Site coverage	✓	✓	
B9	Permeability	✓	✓	
B10	Energy efficiency	✓	✓	
B11	Open space	✓	X	<p>The proposed development provides a frontage to an existing park to the east of the subject site (Koonuga Park) and a larger open reserve that is to be provided as part of the development of the adjoining land at 510 Findon Road.</p> <p>With regard to the interface with Koonuga Park, Dwelling No. 19 presents a two storey built form to be constructed on the park boundary. In its current form, the proposed interface is not acceptable due to the sheer two storey wall with no active interface with the adjoining reserve. However, alterations can be made to ensure that the dwelling provides an appropriate interface with the park. It is proposed that a permit condition be imposed that requires the upper level of the dwelling to be recessed a minimum of 1m from boundary and to provide windows overlooking the park in order to provide passive surveillance. This alteration will require a revised layout for the dwelling and may result in the loss of one bedroom.</p> <p>Dwelling Nos. 1 to 6 provide a poor interface with the new park to be created as part of the development of the land at 510 Findon Road. It is proposed that that a permit condition be imposed that requires balconies be</p>

	✓ - Compliance x - Non compliance	Objectives	Standards	Comments
				provided to at least three of the six dwellings to provide passive surveillance of the new park.  Neither of the proposed alterations will result in overlooking of existing residential properties.
B12	Safety	✓	✓	
B13	Landscaping	✓	X	A landscape plan has not been provided with the application. It is considered that this can be dealt with by a condition on any permit that is issued.
B14	Access	✓	✓	
B15	Parking location	✓	✓	
B17	Side and rear setbacks	✓	X	The proposed Dwelling No. 19 presents a wall on the eastern boundary abutting a reserve that does not provide a setback in accordance with this standard.  In this instance it is recommended that conditions be imposed requiring the upper level of Dwelling No. 19 to be amended to provide a side setback in accordance with this Standard.
B18	Walls on boundaries	✓	X	Dwelling No. 19 presents a wall on the eastern boundary abutting a reserve that is taller than the allowable height of 3.6m.  In this instance it is recommended that conditions be imposed requiring the upper level of Dwelling No. 19 to be amended to provide a side setback to enable compliance with this Standard and to also provide windows and/or a balcony to provide passive surveillance of the reserve.
B19	Daylight to existing windows	✓	✓	
B20	North-facing windows	✓	✓	
B21	Overshadowing open space	✓	✓	
B22	Overlooking	✓	X	The proposed balcony to the frontage of Dwelling No. 10 will result in the overlooking of the secluded private open space of an existing dwelling to



	✓ - Compliance x - Non compliance	Objectives	Standards	Comments
				the north of the subject site. A permit condition is required to ensure that screening is provided to ensure compliance with this standard.
B23	Internal views	✓	✓	
B24	Noise impacts	✓	✓	
B25	Accessibility	✓	✓	
B26	Dwelling entry	✓	✓	
B27	Daylight to new windows	✓	✓	
B28	Private open space	✓	✓	
B29	Solar access to open space	✓	✓	
B30	Storage	✓	✓	
B31	Design detail	✓	X	The applicant has indicated the proposed materials for the façade of each dwelling, comprised of brick and various light weight cladding treatments. However, a more detailed schedule of these materials and colours is required prior to the endorsement of plans should a permit be issued. It is therefore recommended that a condition of permit be included requiring the submission of a details schedule of colours and materials.
B32	Front fences	N/A	N/A	
B33	Common property	✓	✓	
B34	Site services	✓	X	The proposed development will require waste to be collected from within the site by a private contractor. A condition of permit is recommended, requiring the applicant to provide a waste management plan for this development.

## 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 Nos.	No. of bedrooms	Car spaces required	Car spaces provided	Complies
All	3-4	2	2	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.

The development of land for more than five dwellings is also required to provide visitor car parking spaces at a ratio of one visitor space for every five dwellings. The proposed development exceeds this requirement with the provision for four on-site visitor spaces.

The proposed accessways also comply with standards required by Clause 52.06 of the Whittlesea Planning Scheme.

### **DEVELOPMENT PLAN OVERLAY (SCHEDULE 32)**

The subject site is located within a Development Plan Overlay (Schedule 32). The purpose of this overlay is to facilitate the development of the orderly development of larger areas. The '510 & 560 Findon Road, South Morang Development Plan' was recently approved by Council on 6 April 2016. The plan covers most of the Development Plan Overlay, with the exception of the land at 560 Findon Road.

A number of large trees are present on the land at 510 Findon Road, near the property boundary with the subject site. This results in a natural separation from the remaining portion of the land affected by the Development Plan Overlay. The subject site is relatively small to the balance of the development plan area and is subsequently restricted in the types of development opportunities that would be possible. The proposed residential development is considered to be consistent with the Development Plan Overlay and the approved Development Plan for 510 Findon Road.

The approved development plan shows a small portion of a tree protection zone that enters the subject site. It is therefore recommended that should a permit be issued, a condition be included requiring tree protection fencing to be provided in accordance with the approved development plan to ensure that trees on the abutting land are not damaged during construction. It is also recommended that tree protection fencing be provided for all street trees that are to be retained.

The schedule to the development plan also requires the preparation of an ESD report. While the applicant has provided an ESD report, there are a number of minor deficiencies that can be addressed via a condition of permit, should a permit be issued.

### **COMMENTS ON GROUNDS OF OBJECTION**

#### **1. Traffic congestion of the surrounding street network**

While the existing traffic congestion is noted, this is a matter that can only be addressed by a broader traffic management analysis and works that are not a direct result of individual applications such as this. The current proposal will not result in an unacceptable increase in vehicle traffic within the surrounding road network. Accordingly, this ground of objection cannot be substantiated.

#### **2. Overlooking / Overshadowing into neighbouring properties**

Through the use of 'hi-lite' windows and obscure glazing, the applicant has ensured that there will be no overlooking into neighbouring properties. The notable exception to this being Dwelling No. 10, which requires screening to the upper level of the western façade.

The shadow diagrams submitted with the application show that the level of overshadowing experienced by neighbouring properties will be minimal and in accordance with the relevant requirements of Clause 55 of the Whittlesea Planning Scheme. Accordingly, subject to conditions, this ground of objection cannot be substantiated.

### 3. Loss of views

The proposed development complies with the relevant objectives and standards for building height. While there is an alteration to the building setback of Dwelling No. 19, the application in its current form will not affect the view lines from nearby properties. Furthermore, there are no specific planning controls affecting the site or surrounding area that seek to preserve specific views or vistas. Accordingly, this ground of objection cannot be substantiated.

### 4. Impact on local wildlife

The subject site is zoned for residential purposes. The proposed development will not result in the removal or blocking of an established wildlife corridor. Accordingly, this ground of objection cannot be substantiated.

## DECLARATIONS OF CONFLICTS OF INTEREST

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

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

## CONCLUSION

The application has been assessed against the Whittlesea Planning Scheme and in particular the objectives and standards of Clause 55. The proposal demonstrates a satisfactory level of compliance subject to minor modifications as outlined. The scale of the development is considered appropriate to the size of the subject site (>5000m<sup>2</sup>). It is considered that the proposal will not have a detrimental impact on the character of the neighbourhood nor on existing surrounding residential properties and accordingly approval of the application is recommended.

## RECOMMENDATION

THAT Council resolve to approve Planning Application No. 715514 and issue a Notice of Decision to Grant a Permit for the construction of nineteen (19) dwellings in accordance with the endorsed plans and subject to the following conditions:

1. Prior to the endorsement of the plans, or at such later date as the Responsible Authority may approve in writing, there shall be lodged with the Responsible Authority an amount of \$10,000 as security deposit for the satisfactory completion and maintenance of the landscaping works hereby permitted. Upon completion of the landscaping works to the satisfaction of the Responsible Authority, the Responsible Authority will refund the security deposit to the then owner of the subject land.
2. Before the development starts, three copies of revised plans to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority, showing:
  - a) Balconies to be provided to the upper level of Dwelling Nos. 1 to 6 to provide passive surveillance of the reserve to the north. Each balcony must be suitably screened to prevent internal views of secluded private open spaces of dwellings

in accordance with Standard B23.

- b) Screening of the west facing balcony of Dwelling No. 10 to comply with Standard B22 (Overlooking).
- c) All fencing visible from public and communal spaces to be identified as 'feature fencing'
- d) An amended elevation with details of the 'feature fencing'. This fencing must be 20% visually permeable and be constructed of timber slats or similar to the satisfaction of the Responsible Authority.
- e) Remove all colouring from areas to be used for landscaping. All landscaping treatments including paving, decking, the location of garden beds, clothes lines are to be shown only on the detailed landscape plan (refer to condition 2. s).
- f) Paths to dwellings to be clear and consistent in delineation and provide a clear path of travel from common accessways or footpaths to the entrance of each dwelling.
- g) Deletion of the shed for Dwelling Nos. 7 and 18.
- h) Alterations to the garage of Dwelling Nos. 7 and 18 to provide a total of 6m<sup>3</sup> of storage.
- i) The location of bin storage within the private area (private open space or garage) of each dwelling.
- j) Removal of the screening to the bin collection area.
- k) A revised configuration of the upper level of Dwelling No. 19 to provide:
  - i. A recession of the upper level from the ground level, generally in accordance with the side setback requirement detailed in Standard B17 of Clause 55.04-1, and
  - ii. Windows and/or a balcony facing the adjoin reserve to the east.
- l) Alterations to the west facing balcony/windows of Dwelling No. 10 to comply with Standard B22 of Clause 55.04-6.
- m) A variation of accessway treatments (such as colour concrete, exposed aggregate concrete, asphalt and/or paving).
- n) Bollards or low fencing to prevent vehicle access from common areas to the adjoining land to the west.
- o) A schedule (including samples) of all external materials and colours for all walls, roofs, and doors including hard surface areas to be used for the construction of the proposed dwellings/buildings, including access ways. Any proposed access way must be constructed from coloured concrete, bricks, pavers and not from plain concrete.
- p) Tree protection fencing in accordance with the approved Development Plan titled 510 & 560 Findon Road, South Morang Development Plan (approved 6/4/16 or as updated).
- q) The staging plan to provide all portions of the site required to service 'stage 1' to be located within 'stage 1'.
- r) A revised ESD report, modified to provide for:
  - i. The consistent use of thermally broken double glazing and insulation with the higher R value to improve thermal efficiency for all dwellings.
  - ii. Unshaded glazing on western facades to have shade structures installed to

reduce summer solar heat gain.

iii. Air conditioning units to be within 1.5 stars of the best available

- s) 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. Any proposed trees must be at an advanced stage of growth when planted. The plan must also show the location of clothes lines, water tanks and decking/paving.
3. Prior to the endorsement of plans, a Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The plan must:
    - a) Provide for the private collection of waste from the site.
    - b) Ensure that all waste collection occurs within the site.
    - c) Demonstrate that collection of waste can be undertaken in an appropriate manner after the completion of stage one of the development and after the completion of stage two (the final stage) of the development.
    - d) Identify the location of temporary bin placement on waste collection days.
  4. The development allowed by this permit and shown on the plans and/or schedules endorsed to accompany this permit shall not be amended for any reason without the consent of the Responsible Authority.
  5. Once a stage of the development has started it must be continued and completed to the satisfaction of the Responsible Authority.
  6. Before the use of a development stage allowed by this permit starts, landscaping works shown on the endorsed plan must be completed and then maintained to the satisfaction of the Responsible Authority.
  7. Before the use of the development starts, the car parking areas and access ways must be drained, and fully sealed and constructed with asphalt, interlocking paving bricks, coloured concrete or other similar materials to the satisfaction of the Responsible Authority.
  8. 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.
  9. Vehicular access to the site must be by way of a vehicle crossing constructed in accordance with Council's Vehicle Crossing Specifications to suit the proposed driveway(s) and the vehicles that will be using the crossing(s). The location, design, and construction of the vehicle crossing(s) must be approved by the Responsible Authority. Any existing unused or redundant crossing(s) must be removed and replaced with concrete kerb, channel and naturestrip to the satisfaction of the Responsible Authority. All vehicle crossing works are to be carried out with Council supervision under a Road Opening Permit.
  10. Before starting any buildings or works, engineering plans showing a properly prepared design (with computations) for the internal drainage and method of disposal of stormwater from all roofed and sealed areas, including the use of an on-site detention system (if required), must be submitted to Council for approval. These internal drainage works must be completed to Council's satisfaction prior to using or occupying any building on the site.
  11. Before starting any buildings or works, Prior to the commencement of any works on the

land, each tree protection zone nominated within an open space and/or road reservation on the approved Functional Layout Plans must:

- a) be fenced with temporary fencing in accordance with the attached specifications annotated in this permit to the satisfaction of the responsible authority.
- b) include a notice on the fence to the satisfaction of the responsible authority advising on the purpose of the tree protection zone, the need to retain and maintain the temporary fencing and that fines will be imposed for removal or damage of the fencing and trees.

The tree protection zone temporary fencing must be maintained until works are completed, including the construction of the dwellings hereby approved, to the satisfaction of the responsible authority or until such earlier date as is approved by the responsible authority in writing.

A copy of the tree protection zone(s) are to be included in any contract for the construction of the development or for any other works which may impact upon the trees.

12. Prior to using or occupying any building on the site, the permit holder is required to construct at no cost to Council, drainage works between the subject site and the Council nominated point of discharge. Such drainage works must be designed by a qualified engineer and submitted to and approved by Council. Computations will also be required to demonstrate that the drainage system will not be overloaded by the new development. Construction of the drainage system must be carried out in accordance with Council specifications and under Council supervision.
13. Before the use of the development commences, reticulated (water, sewerage, gas and electricity) services must be constructed and available to the satisfaction of the Responsible Authority.
14. Prior to the occupation of any building approved under this permit, a compliance inspection and report from the author of the ESD Report, approved pursuant to this permit, or similarly qualified person or company, must be submitted to the Responsible Authority.
15. 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.
16. Prior to occupation of any dwelling on the subject site, a letter box and house number to the satisfaction of the Responsible Authority shall be provided for each dwelling.
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. During the construction phase, any mud or other materials deposited on roadways as a result of construction works on the site must be cleaned to the satisfaction of the

Responsible Authority within two hours of it being deposited.

21. This permit will expire if:

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

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.

Street Numbering Note

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

**COUNCIL RESOLUTION**

**MOVED:** *Cr Kirkham*

**SECONDED:** *Cr Stow*

**THAT Council resolve to refuse Planning Application No. 715514 and issue a Notice of Decision Refuse to Grant a Planning Permit for the construction of nineteen dwellings at 560 Findon Road, South Morang, on the following grounds:**

1. The proposed development does not satisfactorily respond to the following objectives and standards of Clause 55 of the Whittlesea Planning Scheme:
  - a) Clause 55.02-1 (Neighbourhood Character)
  - b) Clause 55.03-1 (Street Setback)
  - c) Clause 55.03-6 (Open Space)
  - d) Clause 55.03-8 (Landscaping)
  - e) Clause 55.04-1 (Side and Rear Setbacks)
  - f) Clause 55.04-2 (Walls on Boundaries)
  - g) Clause 55.04-6 (Overlooking)
  - h) Clause 55.05-4 (Private Open Space)
  - i) Clause 55.06-1 (Design Detail)
  - j) Clause 55.06-4 (Site Services)
2. The proposal will detrimentally impact on surrounding residential properties due to the excessive bulk and scale of the built form.

**CARRIED UNANIMOUSLY**





**6.1.4 84 & 86 DALTON ROAD, THOMASTOWN - USE AND DEVELOPMENT OF A  
CHILDCARE CENTRE, REDUCTION IN REQUIRED ONSITE PARKING AND  
ALTER ACCESS TO A ROAD ZONE CATEGORY 1****File No:** 715747**Attachments:** 1 Locality Maps  
2 Development Plans**Responsible Officer:** Director Planning & Major Projects**Author:** Principal Planner**APPLICANT:** Amjad Shehada & Ola Ouda**COUNCIL POLICY:** Clause 22.05 Child Care Centre Policy**ZONING:** General Residential Zone**OVERLAY:** Development Contributions Plan Overlay (Schedule 3)**REFERRAL:** VicRoads**OBJECTIONS:** Four**RECOMMENDATION:** That Council refuse the application.**REPORT****EXECUTIVE SUMMARY**

The applicant proposes to retrofit the existing two dwellings to develop and use the site as a 54 place childcare centre. The proposal includes the provision of eight parking spaces within the site with two vehicle access points to separate ingress and egress.

Advertising of the application resulted in four objections being received. The grounds of objection relate to safety issues, traffic and parking; noise; loss of vegetation; inadequate open space for the children; and lack of demand for the use.

The proposal demonstrates poor compliance with the Clause 22.05 Child Care Policy, poor compliance with the requirements of Clause 52.06 in relation to provision of parking and is considered to have safety and traffic implications as a result.

On the basis of the assessment and the proposal's inherent problems, it is recommended that Council refuse the application.

**SITE AND SURROUNDING AREA**

The subject site is made up of two allotments, located on the eastern side of Dalton Road. Dalton Road is a dual carriageway with two lanes in each direction and a substantial median strip separating the different directions of traffic. Both sides of Dalton Road have a dedicated bike lane, located outside the next-to-kerb parking areas. The nearest break in the median to cross the road, to get to the site, when travelling from the south, is the Dalton Road and Darebin Drive intersection located 130m north of the site.

The overall site is approximately 1094m<sup>2</sup> in area and is virtually level across the site. The site currently contains two, single-storey dwellings (one on each allotment) and outbuildings. There are a number of trees dispersed on both the site and on the abutting nature strip.

Abutting the site on all sides are single storey dwellings. In the broader area there is a mix of residential and commercial uses.

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

- CNH Nursing Home (40m west)
- Nick Ascenzo Park (280m northwest)
- Thomastown Learning Centre (Childcare) (426m north)
- Thomastown East Primary School (660m northwest)
- Dalton Road Preschool (820m north)
- Lalor Secondary College (1.1km North)
- St John Primary School (1.3km northeast)
- Lalor Living and Learning Centre – Occasional care (2.2km northwest)

### **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 2.44m wide existing easement at the rear of both sites.

### **PROPOSAL**

It is proposed to construct and use a childcare centre with a capacity for 54 children. The building will be an adaption of the existing dwellings on site and proposes the addition of a second storey component.

The proposal includes a reduction in the statutory requirement for onsite parking. Car parking for eight vehicles will be provided at the front of the site, with a single ingress and single egress point onto Dalton Road. Three of the eight spaces will be in tandem and one of the eight spaces will be a disabled parking space. The front of the site will provide vehicular and pedestrian access.

The childcare centre is proposed to operate between the hours of 7.00am and 6.30pm Monday to Friday.

### **PUBLIC NOTIFICATION**

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

1. Safety issues with respect to children near the road if not alighting on site.
2. Inadequate provision of onsite parking affecting traffic and safety.
3. Noise during the day.
4. Loss of vegetation.
5. Not suitable design and area of open space for 54 children.
6. Other child care centres in the area exist and are not full.

**CLAUSE 32.08 GENERAL RESIDENTIAL ZONE**

The subject site is located within the General Residential Zone (GRZ1). Pursuant to Clause 32.08-1 of the Whittlesea Planning Scheme, a Child Care Centre is a section 2 use, therefore a planning permit is required. Additionally, the proposed buildings and works requires planning approval.

There are a number of decision guidelines provided for non-residential uses and development that form part of the consideration, as outlined below:

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

It is considered that the proposed use and development are both compatible with the residential uses. The childcare centre is likely to create some noise (children playing), however given the general nature of childcare centres, the peak times for outdoor play are not in the earlier or later hours of operation. The built form is complementary to other built form found in the area.

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

As identified later in this report there may not be a demonstrated need for an additional childcare centre in this area, at this time.

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

The scale and intensity of the building is considered proportionate to the size of the land and the context of being located on a main road.

The child care centre will operate from 7.00am to 6:30pm, Monday to Friday. These hours of operation will be confirmed via a condition on any permit issued to protect the amenity of surrounding residents.

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

It is considered that the design, overall height, setbacks and general appearance of the building, is an acceptable outcome consistent with the mixed uses found within the area. However, as outlined below it is considered that the ancillary works and landscaping are not achieved for the site.

- *The proposed landscaping.*

A concept Landscape Plan was submitted as part of the application. Council's Parks and Open Space Officers raised a number of concerns regarding the landscape design. Some of the key concerns relate to lack of space to accommodate substantial vegetation to assist in softening the presentation of the built form. Additionally, there are inappropriate species selections for this type of use. Furthermore the design does not provide landscape treatments which appeal to children and encourages them to engage with the nature i.e. a lack of nature play, sensory elements, produce garden etc.

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

Details of car and bicycle parking are discussed within later sections of this report.

- *Any proposed loading and refuse collection facilities.*

It is anticipated that deliveries to the site will be via smaller vehicles for supplies and food. The proposed car park will be able to accommodate such vehicles.

The matter of waste collection is a concern. The bins are located within the side walkway to the south of the buildings. Collection vehicles will not have direct access to these bins, as there are the tandem parking spaces between the bins and the stopping space. As this is a residential area, collection of bins outside the operating hours is not supported as the childcare centre is proposed to be open 7.00am-6.30pm. The location of bin storage may affect amenity, being located adjacent to a window of the neighbouring dwelling to the south.

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

The application was referred internally to Council's City Design and Transport department who raised concerns arising from the anticipated traffic on the surrounding network. A more detailed assessment is included in the Clause 52.06 assessment.

### **ALTER ACCESS TO A ROAD ZONE CATEGORY 1**

Dalton Road is a 'Road Zone Category 1'. The proposal includes alteration of access to the road, which is required to be referred to VicRoads as the road manager. Initially VicRoads had responded with an objection to the proposal, however they subsequently changed their response to no objection, subject to permit conditions. The Conditions include:

*Before the use starts amended plans must be submitted to and approved by the Responsible Authority. Then the plans may be endorsed and will then form part of the permit. The plans must be generally in accordance with the plans submitted with the application but modified to show:*

- Removal of parking bay No 3.*
- Installation of a 'Entry only' sign at the northern access point facing to the entering traffic and 'No exit' sign facing to the internal traffic.*
- 'No entry' sign at the southern access point facing to the Dalton Road traffic.*

### **CLAUSE 22.05 CHILD CARE POLICY**

The objective of this policy is to ensure appropriately located and well-designed child care centres have a minimal impact on the amenity of the area and serve the needs of the community.

It is considered the proposed childcare centre is not generally in accordance with the Child Care Centre Local Planning Policy. An assessment against the requirements of the policy is provided below.

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

The subject site is located in proximity to the following services:

- Thomastown East Primary School (600m northwest).
- Thomastown Learning Centre (child care) (430m north).
- Dalton Road Preschool (820m north)
- Nick Ascenzo Park (280m northwest).

Based on the above, it is considered that the site is not well located to the services recommended by the Clause.

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

The subject site is located in proximity to the following public transport routes:

- Bus route 556 which runs along Dalton Road, running between Lalor and Northland Shopping Centre.
- Bus route 559 which runs along Darebin Drive (160m north of the site), circular route through Thomastown.
- *Minimise impacts on residential amenity and enhance access, corner sites are preferred locations for child care centres. Establishment of child care centres within cul-de-sacs and on main roads is discouraged.*

The subject site is located on a main road, Dalton Road. There are significant concerns about the site's location, particularly with respect to the required reduction in onsite parking. There is an unacceptable risk to children who may alight from vehicles on the main road. Additionally, there may be an impact on neighbouring residents through the repeated access to the road reserve.

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

The scale of the built form per se is not a concern, as the site is located on a main road where there are other buildings of a similar scale. The site is not a typical residential street where closer attention needs to be paid to residential character.

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

There are significant concerns regarding the parking layout, access, reduction of onsite parking and other traffic matters, which are discussed in more detail in other sections of this report.

- *Ensure proposals fulfil a demonstrated need.*

There are two other childcare centres within 500m of the subject site. Those child care centres both are only half filled, suggesting that there is not a demonstrated need for a child care centre in this location.

Based on the assessment above, it is considered that the proposal responds poorly to the child care policy in terms of its site location and demand.

### **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 commercial development at a current rate of \$4.02 per square metre of the total site area. This requirement must be included as a condition on any planning permit that is issued.

**CAR PARKING**

Pursuant to clause 52.06 of the Whittlesea Planning Scheme, the following car parking rates are required for the proposed development:

Proposed Use	Clause 52.06 Car Parking Rate	Size/No.	No. of Spaces required	No. of Spaces provided	Total Planning Scheme Shortfall
Child care centre	0.22 spaces per child	54 children	11 spaces	7* spaces	4 spaces

\* The number of parking spaces is shown as 7, as VicRoads requires the deletion of space No. 3.

A permit is required to reduce the number of car parking spaces required. In this instance, the request to reduce the number of parking spaces is not supported. The reasons include:

- The car park survey presented in the traffic report prepared by EB Traffic Solutions extends up to 100m distance from the site and is considered inappropriate. The proposed use will likely generate short term parking at numerous peak periods throughout the day, of which parking will be concentrated directly along the frontage of site and possibly 1 or 2 neighbouring properties, limiting the availability of on street parking for others.
- In accordance with the traffic report, the parking requirement for the site is 11 spaces, with seven off-street parking spaces plus one accessible space provided, resulting in a shortfall of four spaces. The adopted rates in the traffic report are not supported.
- The overall circulation of the car park is considered very poor and manoeuvrability very tight, leaving no room for error upon entering or exiting the car park.
- The reliance on tandem parking is inappropriate in this instance. Given the nature of the use, parents/carers cannot use three of the seven spaces, additionally one of the remaining spaces is for disabled parking, which has limitations on its use. Therefore there are only three spaces left for use by up to 54 parents/carers.
- The use of tandem parking spaces for such a facility is considered unsatisfactory and will likely lead to staff vehicles being parked in Dalton Road, outside the facility or dangerous vehicular movements from parents.
- Parking space No. 2 requires the car to reverse into the entry point to the site, which may cause queuing outside the site, creating safety issues.
- Access to the bicycle racks appears problematic i.e. subject to the occupation of the adjacent car park and clearances should other bicycles already be parked.

**COMMENTS ON GROUNDS OF OBJECTION****1. Safety issues with respect to children near the road if not alighting on site.**

The concerns regarding parking have been discussed within this report. Accordingly, this ground of objection is substantiated.

**2. Inadequate provision of onsite parking affecting traffic and safety.**

The concerns regarding parking have been discussed within this report. Accordingly, this ground of objection is substantiated.

**3. Noise during the day.**

It is acknowledged that there would be some noise that would emanate from the site from the proposed use, however it would be mostly occurring within daytime hours, as children are generally contained indoors for the start and end of the day. However, issue of noise can arise from this particular use. If a permit was issued a condition could be applied requiring acoustic treatment including acoustic fencing. Accordingly, this ground of objection cannot be substantiated.

**4. Loss of vegetation.**

It is agreed that there is a large loss of vegetation on the site. Some of the larger vegetation would go some way to soften the appearance of the built form and retain existing character, however the development as proposed is unable to achieve that. In the event that a permit was issued a permit condition would require landscaping of the site. As described in other sections of the report there is insufficient space to accommodate meaningful landscaping. Accordingly, this ground of objection is substantiated.

**5. Not suitable design and area of open space for 54 children.**

The required provision of open space and its layout is regulated under State Government Provisions. The required space for the number of children has just been met. Accordingly, this ground of objection cannot be substantiated.

**6. Other child care centres in the area exist and are not full.**

The matter of demand, is discussed in an earlier section of this report. Accordingly, this ground of objection is substantiated.

**DECLARATIONS OF CONFLICTS OF INTEREST**

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

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

**CONCLUSION**

The application has been assessed against the planning zone provisions including 'non-residential uses' decision guidelines, the Child Care Policy (Clause 22.05), Car Parking clause (52.06) of the Whittlesea Planning Scheme, and is considered that the application has poor compliance with the provisions. Accordingly, refusal of this application is recommended.

<b>RECOMMENDATION</b>
-----------------------

**THAT Council resolve to Refuse Planning Application No. 715747 and issue a Notice of Decision to Refuse to Grant a Planning Permit for use and development of a child care centre, reduction of car parking requirements and alteration of access to a road in a Road Zone Category 1 at 84 & 86 Dalton Road, Thomastown on the following grounds:**

- 1. The proposal will result in a number of poor outcomes, as assessed against the decision guidelines of 'non-residential use and development' within the General Residential Zone, including:**

- a) Poor landscaping design response
  - b) The car and bicycle parking and associated accessways are problematic.
  - c) Refuse collection is problematic.
  - d) There are safety, efficiency and amenity effects of traffic generated by the proposal.
2. The application shows poor compliance with the Local Planning Policy Clause 22.05 Child care policy, in particular:
- a) The site is not located in close proximity to community facilities such as schools, preschools, open space, medical centre and recreational facilities, as encouraged by the policy.
  - b) The site is located on a main road which is discouraged by the policy.
  - c) Access to and from the site is not safe or efficient for vehicle and pedestrian movements.
  - d) There is not a demonstrated need for a child care centre in this location.
3. The reduction of onsite parking (pursuant to Clause 52.06 Car Parking) is not supported as it will likely result in detrimental impacts to neighbouring properties.

**COUNCIL RESOLUTION**

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

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

**CARRIED**



**6.1.5 37 TRAVERS STREET, THOMASTOWN- CONSTRUCTION OF TWO DWELLINGS**

**File No:** 715782

**Attachments:** 1 Locality Maps  
2 Development Plans

**Responsible Officer:** Director Planning & Major Projects

**Author:** Planning Officer

**APPLICANT:** Mark Varrasso (Robus Group P/L)

**COUNCIL POLICY:** Clause 21.09 Housing Diversity Strategy

**ZONING:** General Residential Zone

**OVERLAY:** Development Contributions Plan Overlay (Schedule 3)

**REFERRAL:** Nil

**OBJECTIONS:** One

**RECOMMENDATION:** That Council approve the application.

**REPORT****EXECUTIVE SUMMARY**

The applicant proposes to construct two single storey dwellings on the subject land. A new crossover along Travers Street will provide access to Dwelling No. 2, and the existing crossover (also located along Travers Street) will provide access to Dwelling No.1

Advertising of the proposal resulted in one objection being received. The grounds of objection relate to overlooking, side and rear setbacks and noise concerns.

The proposal demonstrates a satisfactory level of compliance with the provisions of Clause 55 of the Whittlesea Planning Scheme and meets all standards relating to overshadowing and overlooking. The proposal also meets the requirements relating to site coverage, permeability and the provision of private open space.

The Housing Diversity Strategy (HDS) nominates the site as being within the Suburban Residential Area. The proposal complies with the preferred density and design principles of this change area and is considered to be an acceptable development in an appropriate location as nominated by the HDS.

On the basis of the Clause 55 assessment and the proposal's general compliance with the proposed HDS, it is recommended that Council approve the application.

**SITE AND SURROUNDING AREA**

The subject site is a residential property located on the north of Travers Street, Thomastown, approximately 70m south of Mount View Road (see *Attachment 1*).

The land is generally flat and is rectangular in shape. It has a frontage of approximately 15.2m to Travers Street and a depth of 42.0m. The site has a total area of approximately 632m<sup>2</sup>.

The site currently contains a detached single storey dwelling constructed of brick and weatherboard with a concrete tile hipped roof. There is no vegetation of significance contained within the site.

The surrounding area is generally characterised by detached single storey dwellings constructed in brick and/or weatherboard with hipped tile roofs

Examples of medium density development in the general area include 36, 34, 31, 29, 27, 22, 21 and 19 Travers Street; 36, 30, 28, 27, 26, 25 and 22 Westall Street; 72, 72A and 56 Mount View Road.

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

- Bus route 555- Epping to Northland Shopping Centre (350m east).
- Bus route 554- Thomastown via West Lalor (350m east).
- Thomas Street Reserve (420m west).
- Lalor Shopping Centre (450m east).
- Thomastown Shopping Centre (510m southeast).
- Main Street Recreation Reserve (900m southwest).
- Thomastown Primary School (950m south).

## RESTRICTIONS AND EASEMENTS

Covenant 2640166 affects the subject site and relates to quarrying restrictions as well as prohibiting winning of bricks, tiles or potteryware. These restrictions do not preclude Council from making a decision on the application.

A 3.05m wide easement traverses the rear (south) boundary of the property. This easement contains Yarra Valley Water sewerage infrastructure (pipe). Council's City Design and Transportation Department have noted that the applicant will need to obtain consent from Council and Yarra Valley Water for the proposed shed to be built over this easement.

## PROPOSAL

It is proposed to construct two new dwellings in the form of a duplex (see *Attachment 2*). The proposed dwellings are of a contemporary style and will be constructed from brick and acrylic render.

Both dwellings contain an open plan kitchen/meals/living area, a bathroom, laundry, study and three bedrooms (master with an ensuite and walk in robe). A single garage and tandem space is provided to each dwelling.

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	Single Storey	3	7.6m front (north) 1.1m side (east) 3.0m rear (south)	90m <sup>2</sup> (including 26.9m <sup>2</sup> of Secluded Private Open Space)	Single garage (6.0m x 3.5m) and one tandem space (5.4m x 2.6m)	5.1m

	Height/ Scale	Number of Bedrooms	Setbacks	Private Open Space	Car Parking	Maximum Height
Dwelling No. 2	Single Storey	3	7.6m front (north) 1.1m side (west) 3.0m rear (south)	90m <sup>2</sup> (including 26.9m <sup>2</sup> of Secluded Private Open Space)	Single garage (6.0m x 3.5m) and one tandem space (5.4m x 2.6m)	5.1m

## PUBLIC NOTIFICATION

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

1. Overlooking
2. Side and rear setbacks
3. Noise impacts

## 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	✓	✓	

	✓ - Compliance x - Non compliance	Objectives	Standards	Comments
B2	Residential Policy	✓	✓	<p>The HDS nominates this site as being within the Suburban Residential Change Area.</p> <p>The proposed development is consistent with the preferred density and key design principles outlined in the HDS, including landscaping, sufficient area to allow for the planting of a large canopy tree in the front setback, and site coverage (which is intended to balance densities and landscape opportunities).</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	<p>The proposal does not meet the street setback objectives as the proposed dwellings are setback 7.58 metres and they should be setback 7.65 metres.</p> <p>Accordingly, a condition will be placed on any permit issued requesting both dwellings to show compliance with the street setback provisions and be setback 7.65 metres.</p>
B7	Building height	✓	✓	
B8	Site coverage	✓	✓	
B9	Permeability	✓	✓	
B10	Energy efficiency	✓	✓	
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	✓	✓	
B14	Access	✓	✓	
B15	Parking location	✓	✓	
B17	Side and rear setbacks	✓	✓	

	✓ - Compliance x - Non compliance	Objectives	Standards	Comments
B18	Walls on boundaries	✓	✓	
B19	Daylight to existing windows	✓	✓	
B20	North-facing windows	✓	✓	
B21	Overshadowing open space	✓	✓	
B22	Overlooking	✓	✓	
B23	Internal views	✓	✓	
B24	Noise impacts	✓	✓	
B25	Accessibility	✓	✓	
B26	Dwelling entry	✓	✓	
B27	Daylight to new windows	✓	✓	
B28	Private open space	✓	✓	
B29	Solar access to open space	✓	✓	
B30	Storage	✓	✓	
B31	Design detail	✓	X	It is considered that the facades of both dwellings do not show a clear distinction between each of the dwellings.  Accordingly, a condition will be placed on any permit issued requesting that varied design detail be provided to provide separate identities for each dwelling.
B32	Front fences	✓	✓	
B33	Common property	✓	✓	
B34	Site services	✓	✓	

## CAR PARKING

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

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

### **DEVELOPMENT CONTRIBUTIONS PLAN OVERLAY (SCHEDULE 3)**

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

### **COMMENTS ON GROUNDS OF OBJECTION**

#### **1. Overlooking**

The objector raised concerns in relation to overlooking into their property.

The proposal achieves the objective of Clause 55.04-6 'Overlooking' of the Whittlesea Planning Scheme as the proposal is for two single storey dwellings. Furthermore the floors of each dwelling are not elevated, therefore the 1.8 metre high timber paling fence at the boundaries of each dwelling will be adequate.

Accordingly, this ground of objection cannot be substantiated.

#### **2. Side and Rear Setbacks**

The objector raised concerns in relation to the side and rear setbacks of the dwelling.

The proposal achieves the objectives of Clause 54.04-1 'Side and Rear Setbacks' of the Whittlesea Planning Scheme as the side and rear boundaries are all over the required 1.0 metre setback. Both of the dwellings are setback 1.09 metres from the side boundary and 3.0 metres from the rear boundary.

Accordingly, this ground of objection cannot be substantiated.

#### **3. Noise impacts**

The objector raised concerns in relation to the foreseen increase in noise that will be generated by the dwellings.

The noise generated in association with the construction of two dwellings on the lot is considered to be minimal. As the proposal is for two dwellings, it is considered that the traffic and associated noise generated by the development will have no material detriment to surrounding neighbours.

Accordingly, this ground of objection cannot be substantiated.

## **DECLARATIONS OF CONFLICTS OF INTEREST**

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

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

## **CONCLUSION**

The application has been assessed against the Whittlesea Planning Scheme and in particular the objectives and standards of Clause 55 and the Housing Diversity Strategy. The proposal demonstrates a satisfactory level of compliance subject to minor modifications as outline. It is considered that the proposal will not have a detrimental impact on the character of the neighbourhood nor on existing surrounding residential properties and accordingly approval of the application is recommended.

<b>RECOMMENDATION</b>
-----------------------

**THAT Council resolve to approve Planning Application No. 715782 and issue a Notice of Decision to Grant a Permit for the construction of two dwellings at 37 Travers Street, Thomastown in accordance with the endorsed plans and subject to the following conditions:**

1. Prior to the endorsement of the plans required under Condition No. 2 of this permit, the permit holder must pay to Council a contribution for drainage pursuant to Clause 45.06 (Schedule 3) of the Whittlesea Planning Scheme. The drainage contribution will be subject to the Consumer Price Index (CPI) applicable at the time of payment.
2. Before the development commences, three copies of amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be generally in accordance with the advertised plans but modified to show:
  - a) The provision of corner splays to all accessways in accordance with Clause 52.06-8 of the Whittlesea Planning Scheme.
  - b) A 1.8m high timber paling fence located on the side and rear boundaries of the development. Side boundary fences must be tapered to 900mm within the site frontage.
  - c) A varied design detail to the front façade of each dwelling to distinguish between each of the dwellings (eg: change of materials, varied window form, porch treatment).
  - d) A street setback of 7.65 metres (to comply with Clause 55.03-1).
3. The development allowed by this permit and shown on the plans and/or schedules endorsed to accompany this permit shall not be amended for any reason without the consent of the Responsible Authority.
4. Once the development has started it must be continued and completed to the

satisfaction of the Responsible Authority.

5. Prior to occupation, landscaping works shown on the endorsed plan must be completed and then maintained to the satisfaction of the Responsible Authority.
6. Discharge of stormwater from the land will be required by means of an underground pipe drainage system designed to the satisfaction of the Responsible Authority and discharging into an approved outlet in a street or an underground pipe drain to the requirements of the Responsible Authority. In this regard no water shall be discharged from any pipe or paved area onto the surface of any adjacent land.
7. Before starting any buildings or works, engineering plans showing a properly prepared design (with computations) for the internal drainage and method of disposal of stormwater from all roofed and sealed areas, including the use of an on-site detention system, 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.
8. Before the use of the development commences, reticulated (water, sewerage, gas and electricity) services must be constructed and available to the satisfaction of the Responsible Authority.
9. 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.
10. Prior to occupation of any dwelling on the subject site, a letter box and house number to the satisfaction of the Responsible Authority shall be provided for each dwelling.
11. 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.
12. 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.
13. 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.
14. 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.
15. This permit will expire if:



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

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.

##### **Building Over Easements**

Any building or works to occur within an easement must be carried out to the satisfaction of the Responsible Authority. In addition, the following will apply:

- a) Access to any drainage pit in the easement is to be maintained.
- b) Council reserves the right to excavate, lay, repair or replace pipes within the easement.
- c) Council is not liable for any damage from such works and that reinstatement shall be the owner's responsibility and at the owner's expense.
- d) Prior to a building approval being issued, any drain(s) existing in the easement are required to be shown on the plans, with a detailed sketch indicating any pier and beam footings required to span these public assets.
- e) Building approval must be obtained prior to the commencement of the works.

##### **Street Numbering Note**

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

<b>COUNCIL RESOLUTION</b>
---------------------------

**MOVED:**                      *Cr Kirkham*

**SECONDED:**              *Cr Sinclair*

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

**CARRIED**

**6.1.6 6 HAMILTON COURT, LALOR - CONSTRUCTION OF A DWELLING TO THE REAR OF AN EXISTING DWELLING**

**File No:** 715907

**Attachments:** 1 Locality Maps  
2 Development Plans

**Responsible Officer:** Director Planning & Major Projects

**Author:** Planning Officer

**APPLICANT:** Mr. Ahmed Dirani

**COUNCIL POLICY:** Housing Diversity Strategy

**ZONING:** Neighbourhood Residential Zone

**OVERLAY:** Development Contributions Plan Overlay

**REFERRAL:** Nil

**OBJECTIONS:** One

**RECOMMENDATION:** That Council approve the application

**REPORT****EXECUTIVE SUMMARY**

The applicant proposes to construct a single storey dwelling to the rear of an existing dwelling on the subject land. The existing dwelling is to be retained, and access to both dwellings will be via the existing driveway and crossover.

Advertising of the proposal resulted in one objection being received. The grounds of objection relate to amenity impacts and neighbourhood character.

The proposal demonstrates a satisfactory level of compliance with the provisions of Clause 55 of the Whittlesea Planning Scheme and meets all standards relating to overshadowing and overlooking. The proposal also meets the requirements relating to site coverage, permeability, energy efficiency and the provision of private open space.

The Housing Diversity Strategy (HDS) nominates this site as being within the Suburban Residential Area. The proposal complies with the preferred density and design principles of this Change Area and is considered to be an acceptable development in an appropriate location as nominated by the HDS.

On the basis of the Clause 55 assessment and the proposal's general compliance with the HDS, it is recommended that Council approve the application.

**SITE AND SURROUNDING AREA**

The subject site is a residential property located on the north side of Hamilton Court, Lalor, approximately 250m west of Dalton Road.

The land is generally flat and rectangular in shape. It has a frontage of 15.9m to Hamilton Court and a depth of 47.6m. The site has a total site area of 753m<sup>2</sup>.

A single story detached dwelling currently exists on site, and it is considered that there is no vegetation of significance contained within the site.

The surrounding area is generally characterised by detached single and double storey dwellings constructed in brick with hipped tile roofs.

Examples of medium density development in the general area include No. 2 Hamilton Court; Nos. 75, 86, 87, 90, 103, 108, 118 Curtin Avenue and Nos. 22, 24, 25, 38, 55 and No. 67 Burton Street.

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

- Lalor North Primary School (200m)
- Lalor Recreation Reserve (500m)
- Partridge Recreation Reserve (500m)
- Lalor Secondary College (600m)
- Stockade Park (800m)
- St Lukes Primary School (1.1km)
- Station Street Shopping Strip (1km)
- Lalor Train Station (1.1km)

## RESTRICTIONS AND EASEMENTS

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

## PROPOSAL

The proposed development is for the construction of a new single storey dwelling to the rear of an existing dwelling.

The existing dwelling is single storey brick veneer, and is comprised of three (3) bedrooms, living area, dining/family area, kitchen, bathroom and laundry. The dwelling is setback 7.5m from the street. A brick fence in a dilapidated state currently exists at the front of the site and is to be replaced by a new brick fence 1.2m in height.

The proposed new dwelling is to include three (3) bedrooms, with living, dining, kitchen, laundry and bathroom areas provided. The private open space to the rear of the dwelling is to include a deck and grassed area. Single car garages with tandem car parking arrangements in the driveway are to be provided to the proposed and existing dwellings.

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

	Height /Scale	Number of Bedrooms	Setbacks	Private Open Space	Car Parking	Maximum Height
Dwelling No. 1 (Existing)	Single storey	3	7.6m - Front 3.0m - Rear	138m <sup>2</sup>	2 Spaces	5.5m
Dwelling No. 2	Single storey	3	1.0m - West side 4.6m - Rear 1.2m – East side	72.7m <sup>2</sup>	2 Spaces	5.3m

## PUBLIC NOTIFICATION

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

1. Excessive dwelling size;
2. Dwelling side setback distance;
3. Failure to address the Housing Diversity Strategy and Neighbourhood Residential Zoning;
4. Visibility of the proposed dwelling from the street.

## 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	✓	✓	There currently exist several multi-unit and dual occupancy dwellings in the area immediately surrounding the subject site.
B2	Residential Policy	✓	✓	The HDS nominates this site as being within the Suburban Residential Change Area.  The proposed development is consistent with the preferred density and key design principles outlined in the HDS, including landscaping, sufficient area to allow for the planting of a large canopy tree in the front setback, and site coverage. The planting of canopy trees in the rear setbacks of both dwellings is proposed as part of the application.

	√- Compliance X - Non compliance	Objectives	Standards	COMMENTS
				The proposed dwelling also provides adequate side setbacks and respects the low building height common throughout the neighbourhood.
B3	Dwelling Diversity	N/A	N/A	Only applicable to developments of ten or more dwellings
B4	Infrastructure	✓	✓	
B5	Integration with the street	✓	✓	
B6	Street setback	✓	✓	
B7	Building height	✓	✓	
B8	Site coverage	✓	✓	
B9	Permeability	✓	✓	
B10	Energy efficiency	✓	✓	
B11	Open space	N/A	N/A	Only applicable if public or communal open space is to be provided on site or adjacent to the development.
B12	Safety	✓	✓	
B13	Landscaping	✓	✓	4-6 small trees are to be removed from the rear of the site. The location of several larger trees scheduled for planting is included on the plans.
B14	Access	✓	✓	
B15	Parking location	✓	✓	
B17	Side and rear setbacks	✓	✓	
B18	Walls on boundaries	✓	✓	

	√- Compliance X - Non compliance	Objectives	Standards	COMMENTS
B19	Daylight to existing windows	✓	✓	
B20	North-facing windows	✓	✓	
B21	Overshadowing open space	✓	✓	
B22	Overlooking	✓	✓	
B23	Internal views	✓	✓	
B24	Noise impacts	✓	✓	
B25	Accessibility	✓	✓	
B26	Dwelling entry	✓	✓	
B27	Daylight to new windows	✓	✓	
B28	Private open space	✓	✓	
B29	Solar access to open space	✓	✓	
B30	Storage	✓	✓	
B31	Design detail	✓	✓	
B32	Front fences	✓	✓	
B33	Common property	✓	✓	
B34	Site services	✓	✓	

## CAR PARKING

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

Dwelling No.	No. of bedrooms	Car spaces required	Car spaces provided	Complies
1 (Existing)	3	2	2	Yes
2 (Proposed)	3	2	2	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.

## DEVELOPMENT CONTRIBUTIONS PLAN OVERLAY (SCHEDULE 3)

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

## COMMENTS ON GROUNDS OF OBJECTION

### 1. Excessive dwelling size

The objector raised concerns in relation to the excessive size of the proposed dwelling. The proposed dwelling will have three bedrooms and is considered to be of a comparable size in relation to the existing dwelling on the site, as well as dwellings on adjoining lots.

Accordingly, this ground of objection cannot be substantiated.

### 2. Dwelling side setback distance

The objector raises concerns in relation to the side setback distance of the proposed dwelling to the west boundary. Specifically, the objector's concerns relate to a "...loss of view, loss of privacy and the feeling of being 'blocked in'". The proposal achieves the objective of Clause 55.04-1 'Side and rear setbacks objective' of the Whittlesea Planning Scheme by providing a setback of 1.0m to the property boundary. It is also considered that the adjoining property (No.4 Hamilton Court) features a garage constructed on this portion of the boundary, and thus there will not be any considerable impact on views or privacy to the neighbouring property.

Accordingly, this ground of objection cannot be substantiated.

### 3. Failure to address the Housing Diversity Strategy and Neighbourhood Residential Zoning

The objector raises concerns that the proposed development does not adequately address the provisions of the Housing Diversity Strategy (HDS) and Neighbourhood Residential Zoning (NRZ).



The HDS nominates this site as being within the Suburban Residential Change Area. The proposal is considered to be consistent with the preferred density, housing type and proximity to services and facilities as outlined in the HDS. Furthermore, the proposed development satisfies the key design principles relating to the preferred height, setbacks, site coverage, private open space and landscaping to be provided on site.

The proposal is also considered to be consistent with the requirements of the NRZ, satisfying the purposes of the zone and meeting the requirements of Clause 32.09-3 'Number of Dwellings on a lot', and Clause 32.06-6 'Requirements of Clause 54 and Clause 55'. Accordingly, these grounds of objection cannot be substantiated.

#### **4. Visibility of the proposed dwelling from the street**

The objector raises concerns about being able to view the proposed dwelling from the street.

The orientation and siting of the dwelling does satisfy Clause 55.03-7 'Safety objective', which requires that the layout of development provides for the safety and security of residents and property. Standard B12 of the objective states that '*Entrances to dwellings and residential buildings should not be obscured or isolated from the street and internal accessways*'. Accordingly, this ground of objection cannot be substantiated.

#### **DECLARATIONS OF CONFLICTS OF INTEREST**

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

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

#### **CONCLUSION**

The application has been assessed against the Whittlesea Planning Scheme and in particular the objectives and standards of Clause 55 and the Housing Diversity Strategy. The proposal demonstrates a satisfactory level of compliance as outlined. It is considered that the proposal will not have a detrimental impact on the character of the neighbourhood nor on existing surrounding residential properties and accordingly approval of the application is recommended.

<b>RECOMMENDATION</b>
-----------------------

**THAT Council resolve to approve Planning Application No. 715907 and issue a Notice of Decision to Grant a Permit for the construction of a dwelling to the rear of an existing dwelling at 6 Hamilton Court, Lalor in accordance with the endorsed plans and subject to the following conditions:**

- 1. Prior to the endorsement of the plans of this permit, the permit holder must pay to Council a contribution for drainage pursuant to Clause 45.06 (Schedule 3) of the Whittlesea Planning Scheme. The drainage contribution will be subject to the Consumer Price Index (CPI) applicable at the time of payment.**
- 2. Before the development commences, a detailed landscape plan prepared by a person suitably qualified or experienced in landscape design must be submitted to and approved by the Responsible Authority. The plans must be drawn to scale**

- with dimensions and show all proposed landscaping, including a large canopy tree within the front and rear setback, 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. Any proposed trees must be at an advanced stage of growth when planted.
3. The development allowed by this permit and shown on the plans and/or schedules endorsed to accompany this permit shall not be amended for any reason without the consent of the Responsible Authority.
  4. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.
  5. Before the use of the development allowed by this permit starts, landscaping works shown on the endorsed plan must be completed and then maintained to the satisfaction of the Responsible Authority.
  6. Before the use of the development starts, the car parking areas and access ways must be drained, and fully sealed and constructed with asphalt, interlocking paving bricks, coloured concrete or other similar materials to the satisfaction of the Responsible Authority.
  7. 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.
  8. Vehicular access to the site must be by way of a vehicle crossing constructed in accordance with Council's Vehicle Crossing Specifications to suit the proposed driveway(s) and the vehicles that will be using the crossing(s). The location, design and construction of the vehicle crossing(s) must be approved by the Responsible Authority. Any existing unused or redundant crossing(s) must be removed and replaced with concrete kerb, channel and naturestrip to the satisfaction of the Responsible Authority. All vehicle crossing works are to be carried out with Council supervision under a Road Opening Permit.
  9. Discharge of stormwater from the land will be required by means of an underground pipe drainage system designed to the satisfaction of the Responsible Authority and discharging into an approved outlet in a street or an underground pipe drain to the requirements of the Responsible Authority. In this regard no water shall be discharged from any pipe or paved area onto the surface of any adjacent land.
  10. Before starting any buildings or works, engineering plans showing a properly prepared design (with computations) for the internal drainage and method of disposal of stormwater from all roofed and sealed areas, including the use of an on-site detention system (if required), must be submitted to Council for approval. These internal drainage works must be completed to Council's satisfaction prior to using or occupying any building on the site.
  11. Before the use of the development commences, reticulated (water, sewerage, gas and electricity) services must be constructed and available to the satisfaction of the Responsible Authority.
  12. 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.
  13. Prior to occupation of any dwelling on the subject site, a letter box and house number to the satisfaction of the Responsible Authority shall be provided for

each dwelling.

14. 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.
15. 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.
16. 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 overspills onto adjoining land. Prior to occupation and/or use of the building, all litter shall be completely removed from the site.
17. 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.
18. This permit will expire if:
  - a) The approved development does not start within two years of the date of this permit; or
  - b) The approved development is not completed within four years of the date of this permit.

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.

##### Building Over Easements

Any building or works to occur within an easement must be carried out to the satisfaction of the Responsible Authority. In addition, the following will apply:

- a) Access to any drainage pit in the easement is to be maintained.
- b) Council reserves the right to excavate, lay, repair or replace pipes within the easement.
- c) Council is not liable for any damage from such works and that reinstatement shall be the owner's responsibility and at the owner's expense.
- d) Prior to a building approval being issued, any drain(s) existing in the easement are required to be shown on the plans, with a detailed sketch indicating any pier and beam footings required to span these public assets.
- e) Building approval must be obtained prior to the commencement of the works.

**Street Numbering Note**

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

<b>COUNCIL RESOLUTION</b>
---------------------------

**MOVED:**                      *Cr Kirkham*

**SECONDED:**              *Cr Sinclair*

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

**CARRIED**

**6.1.7 2365 PLENTY ROAD, WHITTLESEA - BUILDINGS AND WORKS (INCLUDING EARTHWORKS) TO CONSTRUCT A WATER SLIDE**

**File No:** 715913

**Attachments:** 1 Locality Maps  
2 Development Plans

**Responsible Officer:** Director Planning & Major Projects

**Author:** Planning Officer Established Areas Planning

**APPLICANT:** Caswell Nominees Pty Ltd

**COUNCIL POLICY:** Nil

**ZONING:** Green Wedge

**OVERLAY:** Significant Landscape (Schedule 1)

**REFERRAL:** Nil

**OBJECTIONS:** Five

**RECOMMENDATION:** That Council approve the application.

**REPORT****EXECUTIVE SUMMARY**

The applicant proposes to construct a new water slide and carry out associated earthworks within the existing Funfields facility, Whittlesea.

The application was advertised and five objections were received from nearby residential properties. The objections relate to emissions from the site during and post-construction works and during operating hours (dust, noise, early operating hours), traffic on Plenty Road and traffic management concerns particularly in the case of an emergency situation, water flows and provision of adequate drainage, and overlooking residential properties from the water slide.

It is considered that subject to the inclusion of conditions in relation to noise and the submission of a detailed landscaping plan on any permit that is issued, that the application sufficiently complies with the existing use of the land and will not create unreasonable amenity impacts to nearby residential properties.

Therefore, it is recommended that Council approve the application.

**SITE AND SURROUNDING AREA**

The subject site is located on the western side of Plenty Road, south of the Whittlesea township. The site is regular in shape and is 15.6 hectares in area. The site rises gently from Plenty Road towards the central section of the property and then rises steeply to the rear of the site.

The subject site operates as an amusement park known as 'Funfields'. The site currently contains a number of amusement rides, BBQ shelters and buildings including a caretaker's residence. At the front of the site is a gravel car park. There is existing mature vegetation throughout the site, most of which has been planted since the facility was established.

Surrounding uses to the site include residential housing of a traditional suburban layout (north and south) and larger allotments consistent with the Green Wedge Zone (predominantly to the west).

### **RESTRICTIONS AND EASEMENTS**

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

### **BACKGROUND**

Funfields has operated from the subject site for approximately 27 years. Over that time there has been a significant number of Planning Approvals. Permits since 2004 are listed below:

- Planning Permit 708615 was issued on 14 July 2004 to allow for the construction of toilets, shelters, a swimming pool and earthworks.
- Planning Permit 709831 was issued on 10 October 2006. The permit allows for a water play area. The amendments allowed extension of change and toilet facilities.
- Planning Permit 708060 was issued on 7 August 2007 to allow for the kiosk and go kart track.
- Planning Permit 711604 was issued on 24 June 2009 and amended on 6 January 2010 and 7 November 2012. The permit allowed the construction of three new rides including the pirate ship, raft waterslides and a children's steam train. The Permit includes a condition relating to operating hours (restricted to 10.00am – 5.00pm).
- Planning Permit 712507 was issued on 23 August 2010 to allow for the construction and use of the kiosk, toilets and BBQ shelters.
- Planning Permit 713626 was issued on 21 May 2012 to allow for additional buildings and works including shelters, ticket and first aid offices, merchandise building and 'kid zone' rides.
- Planning Permit 715211 was issued on 7 May 2015 for buildings and works to construct a water slide.
- Planning Permit 715210 was issued on 15 September 2015 for buildings and works to construct a pavilion and associated earthworks.

### **PROPOSAL**

It is proposed to construct a new 'tornado wave' water slide. The water slide is proposed to be located in the centre of the site, adjacent to the braided water slide approved via Planning Permit No. 715211 last year. The site is located southwest of the existing go kart track.

The water slide is proposed to have a maximum height of 17.2m above natural ground level at the highest point and will travel approximately 85m. It is proposed to be a 4-person curved-wall ride with a finish pool at the end (east).

A tower is proposed to be incorporated at the top of the water slide (west) and will have a shade sail cover to match. A 6.1m x 5.0m plant room is also proposed in association with the water slide, located to the south of the slide.

Earthworks are associated with the water slide, including some cut and fill. The cut is proposed to be re-graded to ground level.

### **PUBLIC NOTIFICATION**

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

1. The emissions from the site during and post-construction works and during operating hours (dust, noise, early operating hours)
2. Traffic on Plenty Road and traffic management concerns particularly in the case of an emergency situation
3. Water flows and provision of adequate drainage
4. Overlooking residential properties from the water slide

The application was readvertised following an error by the applicant in the maximum height nominated for the water slide and no additional objections were received. No objections were withdrawn.

### **PLANNING ASSESSMENT**

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

#### **State Planning Policy Framework**

##### *Urban design principles - Clause 15.01-2*

The objective of this clause includes achieving architectural and urban design outcomes that contribute positively to local urban character and enhance the public realm while minimising detrimental impact on neighbouring properties.

The proposal satisfies the objectives of this Clause in that the water slide complements the existing structures and rides on the subject site, and the slide is setback a significant distance from residential properties to minimise any detrimental impact on neighbouring properties.

##### *Business – Clause 17.01-1*

The objective of this Clause is 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.

The proposal satisfies the objective of this Clause by providing additional development which meets the needs of the users of the facility (customers/tourists) by providing an additional attraction (water slide) in a suitable location on the site.

#### **Zoning and Overlay Provisions**

##### *Green Wedge Zone (Clause 35.04)*

The subject land is within a Green Wedge Zone. The objectives of this zone include recognising, protecting and conserving green wedge land for its agricultural, environmental, historic, landscape, recreational and tourism opportunities, and mineral and stone resources.

The use of the land as an amusement park is defined under Whittlesea Planning Scheme as a leisure and recreation centre and is a Section 2 (permit required) use within a Green Wedge Zone. While the site has on-going use rights for a leisure and recreation centre, any buildings and works in association with a Section 2 use requires planning approval.

It is considered that the proposed development is located in an area capable of accommodating an additional water slide. While the site adjoins residential areas, the siting of the water slide approximately 130.0m from the northern property boundary is considered suitable and compatible with the adjoining residential area (subject to the inclusion of conditions in any approval granted).

Significant Landscape Overlay (Schedule 1) (Clause 42.03)

The land is affected by a Significant Landscape Overlay the purpose of which is to conserve and enhance the character of significant landscape.

A permit is required to construct a building and/or carry out works within a Significant Landscape Overlay.

It is considered that the water slide will suit the existing amusement park use on site and will not detrimentally affect the conservation and enhancement of the area including visual amenity given that the slide is significantly setback from neighbouring properties boundaries (130.0m from the northern property boundary and 85.0m from the southern property boundary) to ensure residential amenity is not compromised, and is setback from any native vegetation.

**COMMENTS ON GROUNDS OF OBJECTION**

**1. The emissions from the site during construction works and during operating hours (dust, noise, early operating hours)**

It is considered that the water slide is setback a sufficient distance to ensure noise and dust emissions (i.e. from construction, and from patrons) will not significantly impact on residential amenity. The water slide is proposed to be significantly setback (approximately 130m) from the residential properties to the north (objecting properties). Impacts due to construction works on the site are not an applicable planning consideration and addressed via the building permit process. Accordingly, this objection cannot be substantiated.

**2. Traffic on Plenty Road and traffic management concerns particularly in the case of an emergency situation**

This application is only for buildings and works. The land owner is currently working with Council officers to resolve the issues relating to traffic management, separately to this application. Accordingly, this objection cannot be substantiated.

**3. Water flows and provision of adequate drainage**

Given the size of the site, and the proposal for a relatively minor water slide (in comparison to the context of the existing amusement park), it is considered that the likely impacts to water flows and drainage will be minimal. Accordingly, this objection cannot be substantiated.

**4. Overlooking residential properties from the proposed water slide**

The proposed water slide will be setback approximately 130m from the northern property boundary. A Council reserve with a walking path and landscaping is located between the subject site and the residential properties to the north. Therefore, it is considered that the water slide is not located in a position which will allow for overlooking potential, and that it is setback a satisfactory distance. Accordingly, this 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 proposal has been assessed against the relevant provisions of the Whittlesea Planning Scheme and is deemed to show a high level of compliance. It is considered the proposal will have no detrimental impact with regard to the Significant Landscape Overlay due to the proposed location of the buildings and works (including earthworks). It is considered that the proposal will not have a detrimental impact on neighbouring properties around the proposed water slide due to the significant setbacks to the site boundaries and the presence of some landscaping along the boundaries. Accordingly, approval of the application is recommended.

## RECOMMENDATION

**THAT Council resolve to approve Planning Application No. 715913 and issue a Notice of Decision to Grant a Permit for buildings and works (including earthworks) to construct a water slide at 2365 Plenty Road, Whittlesea in accordance with the endorsed plans and subject to the following conditions:**

1. The development allowed by this permit and shown on the plans and/or schedules endorsed to accompany this permit shall not be amended for any reason without the consent of the Responsible Authority.
2. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.
3. 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.
4. 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.
5. This permit will expire if:
  - a) the approved development does not start within two years of the date of this permit; or
  - b) the approved development is not completed within four years of the date of this permit.

Before the permit expires or within six months afterwards, the owner or the occupier of the land to which it applies may ask the Responsible Authority for an extension of time. The Responsible Authority may extend the time within which the development is to be started or completed.

<b>COUNCIL RESOLUTION</b>
---------------------------

**MOVED:** *Cr Stow*  
**SECONDED:** *Cr Griffin*

**THAT Council resolve to adopt the Recommendation.**

**CARRIED**

**6.1.8 2 CHARLES STREET AND 32 HEYINGTON AVENUE, THOMASTOWN - USE AND DEVELOPMENT OF A CHILD CARE CENTRE**

<b>File No:</b>	<b>715508</b>
<b>Attachments:</b>	<b>1 Locality Maps</b> <b>2 Development Plans</b>
<b>Responsible Officer:</b>	<b>Director Planning &amp; Major Projects</b>
<b>Author:</b>	<b>Principal Planner</b>
<b>APPLICANT:</b>	<b>Ellis Group Architects</b>
<b>COUNCIL POLICY:</b>	<b>22.05 Child Care Centre Policy</b> <b>22.11 Development Contribution Plan Policy</b>
<b>ZONING:</b>	<b>General Residential Zone</b>
<b>OVERLAY:</b>	<b>Development Contributions Plan Overlay – Schedule 3</b> <b>Special Building Overlay</b>
<b>REFERRAL:</b>	<b>Melbourne Water</b>
<b>OBJECTIONS:</b>	<b>Three</b>
<b>RECOMMENDATION:</b>	<b>That Council approve the application</b>

<b>REPORT</b>
---------------

**EXECUTIVE SUMMARY**

The applicant proposes the use and development of a new child care centre accommodating 84 children. The existing buildings are proposed to be demolished. Advertising of the proposal resulted in three objections being received. The grounds of objection mostly relate to impacts on off-site amenity.

The proposal demonstrates a satisfactory level of compliance with the provisions of the Whittlesea Planning Scheme including the zoning provisions and *Clause 22.05 Child Care Centre Policy*. Various conditions should be included on any permit that is issued to ensure the operation of the child care centre has limited impact on the residential uses that surround the site.

On the basis of the detailed assessment below and the proposal's general compliance with the relevant planning provisions, it is recommended that Council approve the application.

**SITE AND SURROUNDING AREA**

The subject site comprises two existing residential allotments at No. 2 Charles Street (east side of Charles Street) and No. 32 Heyington Avenue (north side of Heyington Avenue), Thomastown (see *Attachment 1*). The L-shaped site has a total area of 1394m<sup>2</sup> is generally flat in topography. The site is located approximately 320m east of the intersection with Station Street and 400m east of the intersection with High Street.

The subject site contains two dwellings, associated outbuildings and established gardens. Existing access to the site is via existing crossovers to Charles Street and Heyington Avenue.

The surrounding area is predominantly characterised by residential development to the north, west and east, with single dwellings and a number of medium density developments in the vicinity. Land to the south, across Heyington Avenue is zoned Commercial 2 with a variety of industrial and commercial uses present.

## **RESTRICTIONS AND EASEMENTS**

The Certificate of Title for the property shows that the site is not affected by any encumbrances or restrictions. There is an existing 1.8m wide drainage and sewerage easement at the rear of No. 32 Heyington Avenue.

## **PROPOSAL**

The applicant proposes to demolish the existing residential buildings and construct a double-storey child care centre accommodating 84 children. The proposed operating hours will be 6.30am to 6.30pm, Monday to Friday.

The child care centre will be contained within a double-storey building located within No. 32 Heyington Avenue. Surrounding the building to the north, south, west and east are outdoor play areas for the children rooms, with additional play areas in the form of balconies at first floor level. The building will have minimum nil setbacks from the western and eastern side boundaries, and a front setback from Heyington Avenue of 7.7m, consistent with adjoining residential properties.

Vehicular access to the site will be from Charles Street, with car parking for 17 vehicles, including one disabled (accessible) car space located within No. 2 Charles Street. Pedestrian access will be provided from both Charles Street and Heyington Avenue.

## **PUBLIC NOTIFICATION**

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

1. Noise
2. Illegal parking and congestion
3. Inadequate fencing / Loss of privacy
4. No gate to lock car park at night attracting undesirables

## **PLANNING ASSESSMENT**

The application has been assessed against the following relevant policies:

### **Local Planning Policy**

#### *Child Care Centre Policy (Clause 22.05)*

The objective of this policy is to ensure appropriately located and well-designed child care centres have a minimal impact on the amenity of the area and serve the needs of the community.

It is considered the proposed child care centre is generally in accordance with the Child Care Centre Local Planning Policy. An assessment against the requirements of the policy is provided below.

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

The subject site is located in proximity to the following services:

- 380m east of Heyington Park;
- 200m south-east of Dorothy Avenue Childcare Centre;
- 420m east of Thomastown Primary School;
- 510m south-west of Thomastown East Primary School;
- 660m south-west of Nick Ascenzo Park.

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

The subject site is located in proximity to the following public transport routes:

- 380m south-east Thomastown Railway Station;
- Bus Route 559 (Thomastown via Darebin Drive);
- Bus Route 570 (Thomastown - RMIT Bundoora via Betula Ave and Plenty Road).

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

The site is not on a corner; however the midblock location on a street that offers good east-west connection within the greater road network is considered an appropriate location for a child care centre. As preferred by the policy, the childcare centre is not proposed in a cul-de-sac or main road.

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

The proposed child care centre will be double storey, consistent with the scale of built form in the area. The presentation of the built form does vary from the residential style being a commercial building; however the features are not a significant departure from dwellings styles in the greater area. The built form is setback significantly from the street, which will reduce its visual presence in the street.

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

The proposal includes a private car park for 17 spaces, meeting the requirements of the Whittlesea Planning Scheme. Vehicular and pedestrian access has been designed to ensure safe and efficient movements within and from the site. Pedestrian access through the car parking area will be provided along the southern boundary of No. 2 Charles Street. A secondary pedestrian access will be provided from the Heyington Avenue frontage and will be accessible with a security code or similar. Appropriate set down areas will be provided within the car parking area.

- *Ensure proposals fulfil a demonstrated need.*

There are three existing childcare centres within 1km of the subject site. Continually there is additional housing in the area with an increase in the number of families. Therefore the lack of centres in the immediate vicinity and increases in population demonstrate that there is a possible need.

Based on the assessment above, it is considered that the proposal responds well to the child care policy in terms of its site location and demand.

## **Zoning and Overlay Provisions**

### General Residential Zone (Clause 32.08)

The subject site is located within the General Residential Zone (GRZ1). Pursuant to Clause 32.08-1 of the Whittlesea Planning Scheme, a Child Care Centre is a Section 2 – permit required use, therefore a planning permit is required. Additionally, Clause 32.08-6 of the Whittlesea Planning Scheme, states that any buildings and works associated with a Section 2 use require a planning permit.

It is considered the proposed child care centre is generally in accordance with the objectives General Residential Zone.

There are a number of decision guidelines provided for non-residential uses and development that form part of the consideration, as outlined below:

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

It is considered that the proposed use and development are both compatible with surrounding residential uses. The child care centre is likely to create some noise (children playing), however given the general nature of child care centres, the peak times for outdoor play are not in the earlier or later hours of operation. The built form is complementary to other built form found in the area.

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

As identified previously, it is considered the proposed child care centre is appropriately located to service the needs of the surrounding community, consistent with the purpose of the General Residential Zone.

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

The scale and intensity of the use is considered proportionate to the size of the land. The child care centre will be accommodated across two residential allotments, therefore allowing adequate space to accommodate the use while minimising impacts outside the site.

The child care centre will operate from 6:30am to 6:30pm, Monday to Friday. These hours of operation will be confirmed via a condition on any permit issued to protect the amenity of surrounding residents.

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

It is considered the design, overall height, setbacks and general appearance of the building, is an acceptable outcome consistent with the residential character of the area.

▪ *The proposed landscaping.*

A concept Landscape Plan was submitted as part of the application. It is considered the landscape areas provided for planting are satisfactory.

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

Details of car and bicycle parking are discussed within later sections of this report.

▪ *Any proposed loading and refuse collection facilities.*

It is anticipated that deliveries to the site will be via smaller vehicles for supplies and food. The proposed car park will be able to accommodate such vehicles. Waste will be stored and collected from within the car parking area via private waste collection. The waste management plan submitted with the application will be endorsed and will form part of any planning permit that is issued.

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

The application was referred internally to Council's City Design and Transport department who did not raise concerns arising from the anticipated traffic on the surrounding network. Standard conditions will require the submission of engineering plans including line marking plans which will assist in protecting safety on and off site.

Special Building Overlay – Clause 44.05

The subject site is partially affected by a Special Building Overlay. Pursuant to Clause 44.05-1, a permit is required to construct a building or to construct or carry out works within a Special Building Overlay. The proposed car park will be constructed within the Special Building Overlay area therefore permit is required. The application was required to be referred to the relevant floodplain management authority (Melbourne Water). Melbourne Water has no objection to the proposal subject to conditions being included on any permit that is issued.

Development Contributions Plan Overlay – Schedule 3 (Clause 45.06)

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 commercial development at a current rate of \$4.02 per square metre of the total site area. 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. Pursuant to this clause the following car spaces are required:

Proposed Use	Clause 52.06 Car Parking Rate	Size/No.	No. of Spaces required	No. of Spaces provided	Total Planning Scheme Shortfall
Child Care Centre	0.22 spaces per child	84 children	17 spaces	17 spaces	Nil

As the required parking has been provided there is no planning approval required for reduction or waiver of parking.

Bicycle Facilities (Clause 52.34)

The child care centre use does not generate a requirement for the provision of bicycle parking spaces; however it is recommended that a minimum of five bicycle parking spaces should be provided within the car parking area. A condition can be included on any planning permit that is issued requiring revised plans showing bicycle parking spaces.

**COMMENTS ON GROUNDS OF OBJECTION**

**1. Noise**

The objectors have concerns regarding noise, including from cars visiting the site, delivery and waste collection trucks, and from kids screaming and playing all day.

The applicant has advised that a 1.8m high acoustic fence is proposed to be constructed between the property at No. 2 Charles Street and No. 4 Charles Street which will reduce noise transfer between the properties.

The proposed child care centre will provide care to children aged from 0-5 years, with extensive quiet times (sleeping / rest) part of the care. It is however noted that the play areas are located to the front, sides and rear of the property, adjacent to the rear open space areas of adjoining properties. While the noise of children playing within the play areas may be generated throughout the day, this is considered compatible with the expected noise levels within a residential area.

With regard to waste collection vehicles, a condition should be included on any permit that is issued requiring that waste collection must not cause unreasonable disturbance to nearby residential properties. Accordingly, this objection cannot be substantiated.

**2. Illegal parking and congestion**

The objectors have concerns regarding existing issues with illegal parking and congestion in Charles Street, particularly as a result of services at the nearby Thomastown Mosque. The proposed child care centre will provide the required number of car parking spaces on the site in accordance with Clause 52.06 of the Whittlesea Planning Scheme. Furthermore, it is considered the level of traffic generated by the proposed development will not have a detrimental impact on safety or operation of Charles Street, Heyington Avenue and the surrounding road network. Accordingly, this ground of objection cannot be substantiated. With regard to existing car parking and congestion problems from the operation of the Mosque, this is outside the scope of this application and cannot be considered in this assessment.

**3. Inadequate fencing / Loss of privacy**

The applicant proposes a 1.8m high acoustic fence between proposed between the proposed child care centre and No. 4 Charles Street, which will ensure visual, privacy and noise impacts between the two properties are controlled. Although not applicable to the proposed development, the child centre building has been designed to ensure compliance with the applicable objectives and standards within Clause 55.04 (ResCode) relating to Amenity Impacts. This includes overshadowing, overlooking and noise impacts. The child care centre is generally of a residential scale and impacts on



the privacy of surrounding properties are likely to be minimal. Accordingly, this ground of objection cannot be substantiated.

**4. No gate to lock car park at night attracting undesirables**

The applicant has advised that a security chain can be provided across the car park access in Charles Street at night if necessary. A condition can be included on any permit that is issued requiring a revised plan showing the provision of a security chain or alternative security mechanism across the Charles Street frontage to the satisfaction of Council for out of hours use. Accordingly, this ground of objection cannot be substantiated.

**DECLARATIONS OF CONFLICTS OF INTEREST**

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

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

**CONCLUSION**

The application has been assessed against the Whittlesea Planning Scheme and in particular the provisions of the zoning of the site and *Clause 22.05 Child Care Centre Policy*. The proposal demonstrates a satisfactory level of compliance subject to minor modifications as outlined. It is considered that the proposal will not have a detrimental impact on the character of the neighbourhood nor on existing surrounding residential properties and accordingly approval of the application is recommended.

<b>RECOMMENDATION</b>
-----------------------

**THAT Council resolve to approve Planning Application No. 715508 and issue a Notice of Decision to Grant a Permit for the use and development of a child care centre at No. 2 Charles Street and No. 32 Heyington Avenue, Thomastown in accordance with the endorsed plans and subject to the following conditions:**

- 1. Prior to the endorsement of the plans required under Condition No. 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 endorsement of the plans required under Condition No. 3, or at such later date as the Responsible Authority may approve in writing, there shall be lodged with the Responsible Authority an amount of \$5,000 as security deposit for the satisfactory completion and maintenance of the landscaping works hereby permitted.**

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

3. Before the development starts, three copies of revised plans must be submitted to and approved by the Responsible Authority, showing:-
  - a) Provision for a minimum of five bicycle parking spaces within the car parking area for staff and visitors to the site.
  - b) Provision of a 1.8m high acoustic fence to the property boundary between Nos. 2 and 4 Charles Street. The design of the fence must be prepared by a suitably qualified acoustic engineer.
  - c) Notation that all external lighting onsite must be baffled to ensure no light spills onto adjoining sites, protecting the amenity of the neighbouring sites.
  - d) Provision of a security chain or alternative security mechanism across the Charles Street frontage to the satisfaction of Council for use when the child care centre is not operating.
  - e) A signage and linemarking plan for the site, including car parking areas. The plan must include directional signage and linemarking required for the car park, including line marking and signage of the proposed parking spaces, disabled (accessible) car parking spaces and turning area.
  - f) Amended landscape plan as per Condition No. 4.
  - g) Amendments as recommended in the approved Sustainable Design Assessment required as per Condition No. 6.
4. Before the development starts, three copies of revised landscape plans must be submitted to and approved by the Responsible Authority, showing:-
  - a) Construction details for the landscape areas including fixed playground elements.
  - b) Updated plant schedule to include plant quantities for understorey planting and locations on plan.
5. Before development starts, a Lighting, Signage and Line Marking Plan showing all external lighting, road markings and signs is to be submitted to the Responsible Authority for approval. The use and installation of signs and line marking must be in accordance with all relevant standards, including Council Standard Drawings, VicRoads, Australian Standards and AustRoads.
6. Before the development starts, three copies of a Sustainable Design Assessment must be submitted to and approved by the Responsible Authority. The Sustainable Design Assessment must be prepared by a Sustainability Consultant and will need to address the following ten key sustainable categories:-
  - a) Indoor Environment Quality
  - b) Energy Efficiency
  - c) Water Efficiency
  - d) Stormwater Management
  - e) Building Materials
  - f) Transport
  - g) Waste Management
  - h) Urban Ecology
  - i) Innovation
  - j) Construction and Building Management.

7. Before the development starts, the permit holder must submit a Site Management Plan for approval to the Responsible Authority. The Site Management Plan must provide details of:-
  - a) Hours during which construction activity will take place;
  - b) Measures to control noise, dust and runoff, including the collection of silt and other waterborne contaminants;
  - c) The protection of flora and fauna and weed control measures;
  - d) The location of where building materials are to be kept during construction;
  - e) Site security; and
  - f) Traffic management for entry and egress to the site.
8. Before the development and use commences Lots 97 and 107 PS: 011279 must be consolidated under the Subdivision Act 1988.
9. Before starting any buildings or works, engineering plans showing a properly prepared design (with computations) for the internal drainage and method of disposal of stormwater from all roofed and sealed areas, including the use of an on-site detention system (if required), must be submitted to Council for approval. These internal drainage works must be completed to Council's satisfaction prior to using or occupying any building on the site.
10. The development allowed by this Permit and shown on the plans and / or schedules endorsed to accompany this Permit must not be amended for any reason without the consent of the Responsible Authority.
11. During construction temporary tree protection fencing must be erected around all street trees at a radius of 2.5m from the centre of the tree trunk. Fencing shall extend no further than the back of kerb and edge of footpath. Fencing shall comprise a chain link wire or welded mesh fence with concrete feet (installed in accordance with Australian Standard AS 4687-2007 *Temporary Fencing and Hoardings*). Fencing shall be regularly maintained during and until the completion of all buildings and works. No works, materials or vehicles shall encroach inside the protection fencing without the prior approval of Council's Parks and Open Space Department.
12. The permit holder must 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 must be responsible for obtaining prior specific written approval for any works involving the alteration of Council or other Public Authority assets.
13. 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.
14. 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.

15. Vehicular access to the site must be by way of a vehicle crossing constructed in accordance with Council's Vehicle Crossing Specifications to suit the proposed driveway(s) and the vehicles that will be using the crossing(s). The location, design, and construction of the vehicle crossing(s) must be approved by the Responsible Authority. Any existing unused or redundant crossing(s) must be removed and replaced with concrete kerb, channel and naturestrip to the satisfaction of the Responsible Authority. All vehicle crossing works are to be carried out with Council supervision under a Road Opening Permit.
16. At all times during the construction phase of the development, the permit holder shall take measures to ensure that pedestrians are able to use with safety any footpath along the boundaries of the site.
17. During the construction phase, no mud or other material is to be deposited on roadways by vehicles leaving the site. 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.
18. During the construction phase, a truck wheel washing facility or similar device must be installed and used to the satisfaction of the Responsible Authority so that vehicles leaving the site do not deposit mud or other materials on roadways. Any mud or other materials deposited on roadways as a result of construction works on the site must be cleaned to the satisfaction of the Responsible Authority within two hours of it being deposited.
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. Before the use commences, an acoustic fence must be erected and must be put in place along the northern boundary of the site between Nos. 2 and 4 Charles Street to a minimum height of 1.8m above natural ground level. The design of the fence must be prepared by a suitably qualified acoustic engineer. The details of the design and acoustic qualities of the fence must be to the satisfaction of the Responsible Authority.
21. Discharge of stormwater from the land will be required by means of an underground pipe drainage system designed to the satisfaction of the Responsible Authority and discharging to the legal point of discharge in a street or an underground pipe drain to the requirements of the Responsible Authority. In this regard no water shall be discharged from any pipe or paved area onto the surface of any adjacent land.  
Stormwater flows in excess of the approved capacity of the pipe drainage system must not be trapped by any construction but must be permitted to flow over the finished surface of the site to the street or drainage easement.
22. Prior to using or occupying any building on the site, 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.

23. Prior to the occupation of the child care centre the following works must be undertaken to the satisfaction of the Responsible Authority:
  - a) Landscaping works shown on the endorsed plan must be completed and then maintained to the satisfaction of the Responsible Authority.
  - b) The car parking areas and access ways must be drained, and fully sealed and constructed with asphalt, interlocking paving bricks, coloured concrete or other similar materials to the satisfaction of the Responsible Authority.
  - c) Construction and connection of all internal drainage including the drainage between the subject site and the Council nominated point of discharge.
24. The child care centre must only operate from 6:30am to 6:30pm, Monday to Friday.
25. No more than 84 children must be accommodated within the child care centre at any one given time to the satisfaction of the Responsible Authority.
26. A minimum of 17 car spaces must be provided on the land for the child care centre to the satisfaction of the Responsible Authority.
27. A minimum of one car space must be provided for the exclusive use of disabled persons. The car space must be provided as close as practicable to a suitable entrance of the building and must be clearly marked with a sign to indicate that the space must only be utilised by disabled persons.
28. Vehicles under the control of the operator of the use or the operator's staff must not be parked on nearby roads.
29. Outdoor lighting must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect to adjoining land.
30. Surveillance cameras are to be located to the satisfaction of the Responsible Authority and are not to be directed onto any adjoining residential property.
31. No air conditioning equipment, plant or the like shall be installed on the roof of the building such that it would be visible to the public.
32. Air conditioning and other plant and equipment installed on the subject building shall be positioned and baffled so that noise disturbance is minimised, to the satisfaction of the Responsible Authority.
33. All security alarms or similar devices installed on the land must be of a silent type approved by the Standards Association of Australia and be connected to a registered security service,
34. The site shall at all times be kept in a neat and tidy condition to the satisfaction of the Responsible Authority. Any litter shall be immediately removed from the

site and surrounding area at the direction of the Responsible Authority.

35. Collection of waste must be in accordance with the Waste Management Plan as approved by the Responsible Authority and must be undertaken by a private contractor (and collected within the site). Waste collection must not cause unreasonable disturbance to nearby residential properties to the satisfaction of the Responsible Authority.
36. The permit holder must promptly remove or obliterate any graffiti on the subject site which is visible to the public and keep the site free from graffiti at all times to the satisfaction of the Responsible Authority.
37. 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.

**MELBOURNE WATER (CONDITION NOS. 38 - 41)**

38. No polluted and / or sediment laden runoff is to be discharged directly or indirectly into Melbourne Water's drains or watercourses.
39. Finished floor levels of the development must be a minimum of 300mm above the applicable flood level.
40. Open car park must be constructed at the existing natural surface level.
41. Prior to the issue of a Certificate of Occupancy, a certified survey plan, showing finished floor levels (as constructed) reduced to the Australian Height Datum, must be submitted to Melbourne Water to demonstrate that the floor levels have been constructed in accordance with Melbourne Water's requirements.
42. In accordance with the *Planning and Environment Act 1987*, a permit for use and development expires if:-
  - a) The approved development does not start within 2 years of the date of this permit; or
  - b) The approved development is not completed within 4 years of the date of this permit; or
  - c) The use of the land for a child care centre has not commenced within four years of the date of this permit; or
  - d) The use of the land is discontinued for a continuous 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.

**Permit Notes:**

**Health Department**

The child care centre kitchen is required to be registered with Whittlesea City Council under the Food Act 1984. Detailed plans and elevations of the kitchen/work areas must be submitted to Council's Health Department for approval prior to any building or fit out works commencing, to ensure compliance with the required standards.

**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.

**Building Over Easements**

Any building or works to occur within an easement must be carried out to the satisfaction of the Responsible Authority. In addition, the following will apply:

- a) Access to any drainage pit in the easement is to be maintained.
- b) Council reserves the right to excavate, lay, repair or replace pipes within the easement.
- c) Council is not liable for any damage from such works and that reinstatement shall be the owner's responsibility and at the owner's expense.
- d) Prior to a building approval being issued, any drain(s) existing in the easement are required to be shown on the plans, with a detailed sketch indicating any pier and beam footings required to span these public assets.
- e) Building approval must be obtained prior to the commencement of the works.

**Street Numbering Note**

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

Without the consent of the Responsible Authority, no advertising, direction or identification sign shall be erected on the land (including flags, windvanes, bunting streamers or other like devices) except where in compliance with Clause 52.05 of the Whittlesea Planning Scheme.

**Melbourne Water**

The applicable flood level for the property is 106.9 metres to Australian Height Datum.

If further information is required in relation to Melbourne Water's permit conditions shown above, please contact Melbourne Water on 9679 7517, quoting Melbourne Water's reference 261520.

<b>COUNCIL RESOLUTION</b>
---------------------------

**MOVED:**                      *Cr Kirkham*

**SECONDED:**              *Cr Sinclair*

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

**CARRIED**



**6.2 COMMUNITY SERVICES**

**NIL REPORTS**



**6.3 CITY TRANSPORT AND PRESENTATION**

**NIL REPORTS**



## 6.4 CORPORATE SERVICES

### 6.4.1 LEASE - YARRA PLENTY REGIONAL LIBRARY SERVICE - STAFF ACCOMMODATION

**File No:** SU162306

**Attachments:** 1 Site Plan

**Responsible Officer:** Director Corporate Services

**Author:** Senior Property Officer

#### REPORT

#### SUMMARY

This report seeks Council approval to invite public submissions on the proposed lease with Yarra Plenty Regional Library Service ('YPRLS'), for the exclusive use of part of Council's Plenty Ranges Arts and Convention Centre located at 35 Ferres Boulevard, South Morang (see Attachment 1 – Site Plan). The land is located within Council's South East Ward.

The proposal seeks to surrender the existing lease granted to YPRLS in 2011 for their use of part of Council's Civic Centre offices and enter into a new agreement for the use of the office space at Council's Plenty Ranges Arts and Convention Centre.

#### BACKGROUND

YPRLS currently hold a lease to occupy part of Council's Civic Centre offices (400m<sup>2</sup> of ground floor) for the purposes of back office accommodation to support regional libraries operating in the Cities of Whittlesea and Banyule and the Shire of Nillumbik.

The lease, commencing 1 February 2011 was executed for a period of five years and requested a commencement date rental of \$115,000 per annum (plus GST). The rent would be reviewed annually to CPI ('Consumer Price Index') and be reviewed to market at the commencement of the five year further term granted under the lease. The lease also provided for the allocation of 20 car-parking bays for staff and access to suitable loading docks for deliveries.

Following the completion of the first term, both parties met in good faith to review the on-going nature of the occupancy arrangement and Council's requirement for office space under its staff accommodation strategy and review of its heating, ventilation and air-conditioning ('HVAC') upgrade.

It was agreed that an alternate space be created within Council's Plenty Ranges Arts and Convention Centre (235m<sup>2</sup>) to facilitate the process and enable YPRLS to continue its operations without interruption. The proposed changes to the premises, lease term and rent (due to the reduction in lettable area) triggered a requirement for the lease (further term) to be surrendered in favour of a new agreement (in accordance with Sections 190 & 223 of the Local Government Act 1989). Both parties have agreed that a new lease be drawn for an initial period of six months (subject to one further term of six months) whilst a long term office accommodation location is sourced. It is proposed that the relocation of operations occur over the first weekend of September 2016.

## PROPOSAL

To seek Council's recommendation and invite public submissions on the proposed lease with YPRLS, for use of part of Council's Plenty Ranges Arts and Convention Centre located at 35 Ferres Boulevard, South Morang. The premises will be made exclusively available to YPRLS for a period of six months with the option for one further term of six months. A commencement date rental of \$80,000 per annum (plus GST) will be charged to YPRLS.

## CONSULTATION

Consultation has been held between Council officers and representatives of YPRLS to ensure that the proposed lease is drawn in the appropriate manner and is beneficial to all parties involved. The lease will enable YPRLS to relocate its operations to Council's Plenty Ranges Arts and Convention Centre whilst mechanical upgrades are undertaken within Council's Civic Centre, and supports the staff accommodation requirements of the YPRLS whilst a long term alternative is sourced.

## PUBLIC SUBMISSIONS

Council will invite public submissions from the community regarding the proposed lease for 28 days under Section 223 of the *Local Government Act 1989*. An advertisement will be placed in the Whittlesea Leader newspaper and Council's website on Tuesday 26 July 2016 requesting that public submissions be received by Wednesday 24 August 2016 (12 noon).

## FINANCIAL IMPLICATIONS

Following discussions with YPRLS, Council's Manager Property & Valuation Services has agreed that the annual rental of \$80,000 per annum (plus GST) be applied for the initial term secured under lease.

## POLICY STRATEGY AND LEGISLATION

Council must seek public submissions on the proposed lease under Section 190 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

<b>FUTURE DIRECTION</b>	<b>Growing our economy</b>
<b>Theme</b>	<b>Economic development</b>
<b>Strategic Objective</b>	<b>Local businesses are supported</b>

The proposal seeks to surrender the existing lease granted to YPRLS in 2011 for their use of part of Council's Civic Centre offices and enter into a new agreement for the use of the office space at Council's Plenty Ranges Arts and Convention Centre. The office space will be utilised for the provision of back office accommodation to support regional libraries operating in the Cities of Whittlesea and Banyule and the Shire of Nillumbik.

## 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 presented to YPRLS for the exclusive use of part of Council's Plenty Ranges Arts and Convention Centre (235m<sup>2</sup>) located at 35 Ferres Boulevard, South Morang. The lease will enable YPRLS to continue its operations as back office accommodation support for regional libraries operating in the Cities of Whittlesea and Banyule and the Shire of Nillumbik.

**RECOMMENDATION**

**THAT Council resolve to:**

1. Invite public submissions in accordance with Section 190 and 223 of the Local Government Act 1989, of its intentions to lease part of the office space (235m<sup>2</sup>) located within Council's Plenty Ranges Arts and Convention Centre (35 Ferres Boulevard, South Morang), to Yarra Plenty Regional Library Service. 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 months with one further term of six months.
  - b) The Tenant will pay a lease commencement date rental of \$80,000 per annum (plus GST).
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 lease following the close of the submission period.

**COUNCIL RESOLUTION**

**MOVED:** Cr Kirkham

**SECONDED:** Cr Sinclair

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

**CARRIED**





**6.4.2 EPPING CEMETERY - TRUST ACCOUNTS AND FREEDOM OF INFORMATION REQUESTS**

**File No:** SU147448

**Attachments:** 1 Site Plan & Photo  
2 Abstract of Accounts

**Responsible Officer:** Director Corporate Services

**Author:** Senior Property Officer

**REPORT****SUMMARY**

The City of Whittlesea was appointed Trustee of the Epping Cemetery Trust ('Trust') on 21 April 1994 under the *Cemeteries Act 1958* (now *Cemeteries and Crematoria Act 2003*) and all Councillors are Trust members for their term on Council.

This report requests that Councillors, as members of the Trust, appoint the Mayor and two Councillors, to be signatories of the 2015/16 Abstract of Accounts (which reports on the annual finance, maintenance and burials records). The Department of Health remains responsible for the collection of all 'Abstract of Accounts' prepared by Class A & B Cemetery Trusts, in accordance with 'Section 52 of the *Cemeteries and Crematoria Act 2003*'.

**BACKGROUND**

The Epping Cemetery, located at the intersection of High Street and O'Herns Road, Epping, is a closed Class B Cemetery (no longer reserved for the purposes of accepting new burials) that has been managed by Council since its appointment as Committee of Management on 12 April 1994 and remains a historic landmark that symbolises the final resting place of many of the township's first settlers (*refer to Attachment 1 – Site Plan & Photo*).

The cemetery was widely used for burials through the late 1800's and 1900's, but has since been retained for conservation value since its formal closure in 1960. The Cemetery was managed by an elected Cemetery Management Trust until the last known representative passed away in 1994.

Council, on behalf of the Epping Cemetery Trust, executed a conservation agreement with the former Department of Sustainability & Environment in 1995, for the management of native grasses and other flora and fauna located within the site. All other maintenance, including the replacement and improvement of headstones, remain the responsibility of the descendants of those buried at the cemetery.

**PROPOSAL**

To seek Council's recommendation to endorse the Abstract of Accounts (2015/16 period) from the Department of Health (*refer to Attachment 2 – Abstract of Accounts*).

**CONSULTATION**

Council officers held regular consultation with the Department of Health ('Department') and other Cemetery Trusts to consider any suitable grant applications at the Epping Cemetery. This report acknowledges that there were no successful grant applications to undertake works at the Epping Cemetery during the financial year.

## CRITICAL DATES

Council officers must submit a signed copy of the '2015/16 Abstract of Accounts' to the Department by a date no later than 31 August 2016.

Council officers are also required to advise the Freedom of Information Commission that no requests were made in regard to the Epping Cemetery during the same period.

## POLICY STRATEGY AND LEGISLATION

Management of Class B Cemeteries is governed by the legislation defined under the 'Cemeteries and Crematoria Act 2003'.

## LINKS TO THE COUNCIL PLAN

<b>FUTURE DIRECTION</b>	<b>Living Sustainably</b>
<b>Theme</b>	<b>Environmental sustainability</b>
<b>Strategic Objective</b>	<b>We have environmental education and conservation programs</b>

The proposal is consistent in meeting the objectives set out in Council's 'Shaping Our Future – Whittlesea 2030 Strategic Community Plan' particularly those referenced under 'We have environmental education and conservation programs'.

The Epping Cemetery has undergone significant changes to improve its amenity and overall conservation of native grasslands and other flora and fauna and flora located within the site. Much of the work, including the monitoring of controlled burns (grasslands) and removal of hazardous trees/limbs are co-ordinated by Council's Parks & Open Space department.

## 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

That Council appoint three signatories to endorse the annual Abstract of Accounts prepared for the 2015/16 financial period and note that Council officers have advised the Freedom of Information Commissioner that no requests were made with regard to the Epping Cemetery during the same period.

## RECOMMENDATION

THAT Council acting in its capacity as the Epping Cemetery Trust, resolve to:

1. Nominate the Mayor and Cr ..... and Cr ..... to sign the Abstract of Accounts for the 2015/16 financial period.
2. Note that the Freedom of Information Commissioner has been advised that no requests were made with regard to the Epping Cemetery, during the 2015/16 financial year.

---

<b>COUNCIL RESOLUTION</b>
---------------------------

**MOVED:** *Cr Griffin*  
**SECONDED:** *Cr Sinclair*

**THAT Council acting in its capacity as the Epping Cemetery Trust, resolve to:**

- 1. Nominate the Mayor Cr Kozmevski and Cr Griffin and Cr Sinclair to sign the Abstract of Accounts for the 2015/16 financial period.**
- 2. Note that the Freedom of Information Commissioner has been advised that no requests were made with regard to the Epping Cemetery, during the 2015/16 financial year**

**CARRIED**



**6.4.3 PROPOSED NAMING OF LOT 3 490 COOPER STREET EPPING - 'EPPING ANIMAL WELFARE FACILITY'**

**File No:** 195110

**Attachments:** 1 Plan - Lot 3 490 Cooper Street Epping

**Responsible Officer:** Director Corporate Services

**Author:** Strategy & Systems Accountant

**REPORT****SUMMARY**

This report proposes to name the Animal Welfare Facility, located at Lot 3, 490 Cooper Street, Epping. This Facility will be the new Council pound and shelter and is being built in a partnership with Moreland and Darebin Councils. It is proposed to formally name the Facility "*Epping Animal Welfare Facility*".

**BACKGROUND**

On Tuesday 8 December 2015, Council resolved to enter into a Shared Services Agreement with Moreland City Council and the City of Darebin for the construction of a regional Animal Welfare Facility. This Facility is currently under construction and due for completion in early 2017. Moreland and Darebin Councils are contributing to the construction of the Facility and will be operating their pound services from the building for the life of the Agreement.

A Project Control Group (PCG) has been established with representatives from all three Councils. The PCG meets each month to discuss the construction progress and claims, contract service, communication plans, risk assessments and issues relating to the operations of the Facility, including the proposed name. The PCG was consulted on the proposed name and provided agreement.

The Facility will have the capacity to hold 135 dogs, 150 cats, 15 small animals and an area of 3,130m<sup>2</sup> for livestock from Whittlesea, Moreland and Darebin municipalities.

**PROPOSAL**

It is proposed to name the Facility located at Lot 3, 490 Cooper Street, Epping, '*Epping Animal Welfare Facility*' (refer to attachment 1).

The PCG proposes the name 'Epping Animal Welfare Facility' to allow residents from all three municipalities and other users of the Facility to easily identify and associate with the area and its services.

Formally naming the Facility will see it included on paper (such as Melways) and electronic mapping systems and will aid in the formal identification and location of the Facility.

Council has received an *in principal* support from the Office of Geographic Names to name the facility '*Epping Animal Welfare Facility*'.

**CONSULTATION**

The PCG met on Monday 27 June 2016 and all parties agreed on the proposed name of '*Epping Animal Welfare Facility*'. The PCG includes officers from Whittlesea, Moreland and Darebin Councils.

Naming processes are regulated by the State Government's Office of Geographic Names Guidelines ('the Guidelines') which set out the process for naming and renaming features, localities and roads. Council is the naming authority on behalf of the State Government.

The Guidelines state that the proposed name must conform to 13 Principles. Council is required to provide a detailed assessment against each Principle. A preliminary assessment indicates that the proposed name generally conforms to the 13 Principles.

The Guidelines state that naming authorities must consult with the public on any naming proposal and must invite comments on the proposal from local residents, ratepayers and business in the immediate area.

In this instance, the level of consultation would be to advertise the proposal in the local press and also promote it on Council's website. It only requires advertising to the City of Whittlesea community, despite its regional nature, as the Facility is located in this municipality.

### CRITICAL DATES

The process of approving and registering a name for a building or feature typically takes three to four months to complete. The steps required include:

1. Advisory Committee of Council to be appointed at the Council meeting on 19 July 2016
2. Public notices placed in local newspapers inviting public submissions on 26 July 2016
3. Consultation period open for at least four weeks closing on 16 August 2016.
4. Advisory Committee of Council meets 24 August 2016 to review submissions and make recommendations
5. Advisory Committee's recommendations to be tabled for consideration and final decision by Council at the Council Meeting on 20 September 2016
6. Following the Council meeting, advise the Office of Geographic Names of the proposed name.
7. The Office of Geographic Names decides on the proposal.

### FINANCIAL IMPLICATIONS

Costs associated with advertising the proposal in the local press will be approximately \$1,000 and will be covered within the overall project cost.

### POLICY STRATEGY AND LEGISLATION

The naming process is governed by State Government Guidelines and there is a requirement for the proposed name to be assessed against specific criteria set out in the Guidelines for Geographic Names 2010.

### LINKS TO THE COUNCIL PLAN

<b>FUTURE DIRECTION</b>	<b>Accessibility in, out and around our city</b>
<b>Theme</b>	<b>Access to services</b>
<b>Strategic Objective</b>	<b>We can access Council services</b>

Naming this building provides an opportunity to promote the Facility as a hub for the northern area and it recognises the joint venture with Moreland City Council and City of Darebin.

### 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.

## POLICY STRATEGY AND LEGISLATION

Council is governed by the Guidelines issued under the *Geographic Place Names Act 1998* when considering naming proposals.

Council will seek public submissions on the proposed name change. Submissions will be invited for a period no less than 30 days and referred to an Advisory Committee of Council. The Committee will consider submissions and report its findings to Council for decision.

## CONCLUSION

It is recommended that Council endorse the naming proposal for the purposes of public consultation.

### RECOMMENDATION

THAT Council resolve to:

1. Endorse the proposal to name the reserve located at Lot 3, 490 Cooper Street Epping, 'Epping Animal Welfare Facility' (refer to attachment 1)
2. In accordance with the Guidelines for Geographic Names 2010 invite written public submissions on the proposed name.
3. Appoint an Advisory Committee of Council comprising Cr ....., Cr ..... and Cr ..... to hear and consider any written submissions and report to Council with recommendations on the proposal at the close of the submission period.

### COUNCIL RESOLUTION

**MOVED:** Cr Griffin  
**SECONDED:** Cr Pavlidis

THAT Council resolve to:

1. Endorse the proposal to name the reserve located at Lot 3, 490 Cooper Street Epping, 'Epping Animal Welfare Facility' (refer to attachment 1)
2. In accordance with the Guidelines for Geographic Names 2010 invite written public submissions on the proposed name.
3. Appoint an Advisory Committee of Council comprising of the Mayor Cr Kozmevski, Cr Griffin, Cr Pavlidis, Cr Sinclair and Cr Spinelli to hear and consider any written submissions and report to Council with recommendations on the proposal at the close of the submission period.

**CARRIED**





**6.4.4 COMMITTEE OF COUNCIL RECOMMENDATION - LEASE - AF WALKER RESERVE - PORTABLE BUILDING**

**File No:** SU194015

**Attachments:** 1 Site Plan & Photo

**Responsible Officer:** Director Corporate Services

**Author:** Senior Property Officer

**REPORT****SUMMARY**

To report on the recommendations presented by the Committee of Council regarding the proposed lease with the Diamond Valley Special Development School ('Diamond Valley SDS') for use of the portable building located within AF Walker Reserve, Whittlesea (see *Attachment 1 – Site Plan & Photo*).

The proposal seeks to grant occupancy of the existing portable building to Diamond Valley SDS for the provision of education services to children with special needs. The 12 month lease will enable the Tenant to establish operations within the Whittlesea area and occupy the Council owned portable that was previously operated under successive leases to Try Australia and Hazel Glen College (during the redevelopment of the Whittlesea Community Activity Centre).

**BACKGROUND**

Council, at its meeting held on 7 June 2016, formally resolved to invite public submissions in relation to the proposed lease with Diamond Valley SDS for the exclusive use of the existing portable building located at AF Walker Reserve (76 Laurel Street, Whittlesea).

Diamond Valley SDS is a purpose designed government school offering a safe and effective learning environment for the very specific needs of school age students with significant intellectual, multiple or behavioural disabilities.

Diamond Valley SDS had approached Council with the view of establishing new educational services within Whittlesea. Council's existing portable (which is presently vacant) presents a unique opportunity to establish the service on a short term basis whilst further funding is sought from the State Government for a long term facility.

The premises will be made exclusively available to the Tenant for a period of 12 months, with no provision of a further term, and require a commencement date rental of \$104 per annum (plus GST).

**PROPOSAL**

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

**CONSULTATION**

A Committee of Council, comprising of Cr Griffin, Cr Stow and Cr Kirkham, was appointed to consider any written submissions received in response to Council's public notice advertised in the Whittlesea Leader newspaper on Tuesday 14 June 2016.

No submissions were received at the close of the advertising period (13 July 2016, 12 noon). A memo was sent to the Committee of Council on Wednesday 13 July 2016, advising that no

public submissions were received and the Committee of Council hearing would not be required.

## FINANCIAL IMPLICATIONS

Council, at its meeting dated 7 June 2016, endorsed that the commencement date rental be set at \$104 per annum (plus GST). The Tenant will also be responsible for the payment of all outgoings, for the term of the lease.

## POLICY STRATEGY AND LEGISLATION

Council have sought public submissions on the proposed lease under Section 190 and 223 of the *Local Government Act* 1989. Submissions were invited for a period no less than 28 days and referred on to an appointed Committee of Council for consideration. The Committee of Council has been advised that no submissions were received and there was no requirement to report any findings to Council for its final recommendation.

## LINKS TO THE COUNCIL PLAN

**FUTURE DIRECTION**                      **Places and spaces to connect people**

**Theme**    **Community hubs**

**Strategic Objective**                      **We have areas that bring people together around services and entertainment experiences**

The proposal seeks to establish an appropriate facility for the provision of education services to children with special needs.

## DECLARATIONS OF CONFLICTS OF INTEREST

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

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

## CONCLUSION

It is recommended that Council enter into a lease with Diamond Valley Special Development School for use of the portable building located within AF Walker Reserve (76 Laurel Street, Whittlesea). The lease will enable the Diamond Valley Special Development School to establish new educational services within Whittlesea whilst further funding is sought from the State Government for a long term facility.

## RECOMMENDATION

**THAT Council resolve to:**

1. **Note that public submissions on the proposed lease with the Diamond Valley Special Development School were invited in accordance with Section 223 of the *Local Government Act* 1989 and that no submissions were received at the close of the public submission period.**
2. **Enter into a lease with the Diamond Valley Special Development School for the exclusive use of the existing portable building located within AF Walker Reserve (76 Laurel Street, Whittlesea), under the following terms and conditions –**

- a) The Tenant will be offered a lease for a period of 12 months with no provision of a further term.
  - b) The Tenant will pay a commencement date rental of \$104 per annum (plus GST) and be responsible for the payment of all outgoings.
3. Authorise the Chief Executive Officer to negotiate all other terms and conditions.

<b>COUNCIL RESOLUTION</b>
---------------------------

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

**THAT Council resolve to adopt the Recommendation.**

**CARRIED**



#### 6.4.5 ASSEMBLIES OF COUNCIL REPORT - 19 JULY 2016

**File No:** 188199

**Responsible Officer:** 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 1989*.

#### 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
Whittlesea Disability Network <b>10 May 2016</b>	Cr Lalios Cr Stow	ARO ASPO FPS MACDW MAD NDISPPPO PO TLA	<ol style="list-style-type: none"> <li>1. Reports from Working Groups                             <ol style="list-style-type: none"> <li>(a) Accessible Parking and Transport</li> <li>(b) Disability Cluster                                     <ol style="list-style-type: none"> <li>(i) Employment</li> </ol> </li> <li>(c) Hospital Issues</li> <li>(d) Carers' Week</li> <li>(e) International Day of People with Disability (IDPwD)</li> <li>(f) Budget</li> <li>(g) Respite Consortium</li> <li>(h) <i>Our News</i> Newsletter</li> <li>(i) National Disability Insurance Scheme (NDIS)</li> </ol> </li> <li>2. NDIS Rollout</li> <li>3. Mernda Rail Extension</li> <li>4. Other Business                             <ol style="list-style-type: none"> <li>(a) Peer Access Support Group</li> </ol> </li> </ol>

*Nil disclosures*

Assembly Details	Councillor attendees	Officer attendees	Matters discussed
Council Plan Submissions Advisory Committee Meeting <b>14 June 2016</b>	Cr Kozmevski (Mayor) Cr Lalios	DCRS-A MOW GO	To hear and consider a public submission and to make recommendations to Council.  <i>Nil disclosures</i>
Council Forum <b>14 June 2016</b>	Cr Kozmevski (Mayor) Cr Kelly (Deputy Mayor) Cr Alessi Cr Harris Cr Kirkham Cr Lalios Cr Pavlidis Cr Sinclair Cr Stow	CEO DCS DCRS-A DCTP DPMP DPE-A MMP PPP TLSP TLSP	1. Update – Cooper Street West Position Paper 2. Community Solar Savers Program  <i>Nil disclosures</i>
Budget Submissions Advisory Committee Meeting <b>14 June 2016</b>	Cr Kozmevski (Mayor) Cr Alessi Cr Kirkham Cr Sinclair	CEO DCS DCRS-A DCTP DPMP DPE-A GO MFA MLCF TLMA	To hear and consider budget submissions and make recommendations to Council.  <i>Nil disclosures</i>

The table below represents an Index of Officer titles:

Initials	Title of Officer	Initials	Title of Officer
ARO	Assistant Records Officer – Jordan Plowman	MFA	Manager Finance and Assets – Darryl Nelson
ASPO	Admin Support & Project Officer – Alice Wells	MLCF	Manager Leisure and Community Facilities – Paul Reading
CEO	Chief Executive Officer – Michael Wootten	MMP	Manager Major Projects – Nick Mazzarella
DCS	Director Community Services – Russell Hopkins	MOW	Manager One Whittlesea – Sam Dureau
DCRS-A	Acting Director Corporate Services – Michael Tonta	NDISPPO	National Disability Insurance Scheme (NDIS) Prepare Project Officer – Kathy Pompetti
DCTP	Director City Transport and Presentation – Nick Mann	PO	Project Officer – Brendan O'Reilly
DPMP	Director Planning & Major Projects – Steve O'Brien	PPP	Principal Policy Planner – Naomi Keung
DPE-A	Acting Director Partnerships & Engagement – Sean McManus	TLA	Team Leader Access – Stephen Bell
FPS	Future Project Specialist – Ivan Peterson	TLMA	Team Leader Management Accounting – Graham Haylock
GO	Governance Officer – Janet Taylor	TLSP	Team Leader Sustainable Projects – Karen Rosenberg
MACDW	Metro Access Community Development Worker – Bernie Ezeokoli	TLSP	Team Leader Strategic Planning Policy – Denise Turner
MAD	Manager Aged & Disability – Steve Ward		

## 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

<b>Future Direction</b>	Good Governance
<b>Theme</b>	Continuous improvement
<b>Strategic Objective</b>	Best practice models of operation are adopted by Council
<b>Council Goal</b>	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 Kirkham  
**SECONDED:** Cr Sinclair

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

**CARRIED**





## 6.5 PARTNERSHIPS & ENGAGEMENT

### 6.5.1 COMMERCIAL HOTEL, SOUTH MORANG APPLICATION FOR NEW GAMBLING PREMISES FOR 40 ELECTRONIC GAMING MACHINES.

**File No:** 189519

**Attachments:**

- 1 Executive Summary - Applicant's Social and Economic Impact Assessment Commercial Hotel
- 2 Executive Summary - Applicant's Expenditure Report Commercial Hotel
- 3 Executive Summary - Council Commissioned Social and Economic Impact Assessment Commercial Hotel
- 4 Applicant's Social and Economic Impact Assessment Commercial Hotel - Full Document
- 5 Applicant's Expenditure Report Commercial Hotel - Full Document
- 6 Council Commissioned Social and Economic Impact Assessment Commercial Hotel - Full Document

**Responsible Officer:** Acting Director Partnerships & Engagement

**Author:** Social Planner

## REPORT

### SUMMARY

On 1 June 2016, The Victorian Commission for Gambling and Liquor Regulation (VCGLR) notified Council an application had been lodged with them from Australian Leisure and Hospitality Group Pty Ltd (ALH) (Applicant) for approval of 40 Electronic Gaming Machines (EGMs) to be installed at the Commercial Hotel (Hotel), 820 Plenty Road South Morang. The Hotel does not currently operate EGMS. If approved, this would represent a new gaming venue in the City of Whittlesea.

The VCGLR oversees the conduct of gambling in Victoria and is the statutory authority to determine whether an application for a gambling license is granted or not. Under the Gambling Regulation Act, Council has until 2 August 2016 to make a submission on this application. A submission by Council to the VCGLR is required to address the social and economic impact of the proposal on the local community.

The purpose of this report is to:

- Inform Council of the application by the Commercial Hotel, South Morang for approval of a new gambling premise for 40 EGMS
- Present to Council the Social and Economic Impact Assessment (SEIA) and Expenditure Analysis documentation prepared by the Applicant (*attachments 1 and 2*)
- Present to Council the Independent SEIA (draft) commissioned by Council (*attachment 3*). This SEIA presents detailed analysis of the application by the Applicant to the VCGLR in terms of the anticipated social and economic impacts on the wellbeing of the municipal district

- Seek Council's direction to make a submission to the VCGLR to oppose the application.

This report and attached documentation concerns itself only with the EGM gaming licence application to the VCGLR. The Applicant has simultaneously lodged a planning permit application with the City of Whittlesea for building works and the conversion of the existing bottle shop to a function room, and the use and installation of EGMs at the existing Commercial Hotel. This application is subject to a separate assessment and timeframe process to that of the VCGLR.

## BACKGROUND

The Commercial Hotel was built in 1890 and has a prominent location at a key intersection between Plenty Road, McDonalds Road and Gorge Road. The Applicant purchased the venue in 2012 and now operates it as part of its portfolio. It does not presently operate EGMs.

The Hotel consists of a bistro, TAB bar, public bar, BWS (Beer, Wine, Spirits) drive-through liquor shop and associated service areas at the ground floor level. To the north-east of the Hotel there is a Dan Murphy's liquor store and car parking, with proposed residential development beyond this. On the southern side of Gorge Road is a variety of retail uses including takeaway food, commercial tenants and convenience retail. To the west is the Masters Home Improvement store and to the south west is Axis Lifestyle Centre consisting of mixed use development including commercial office floor space and bulky goods retailing.

### Gambling in the City of Whittlesea

The City of Whittlesea currently has 691 EGMs distributed across 10 venues including six Hotels and four Clubs.

Eight of the ten venues with EGMs are located in the southern region of the municipality designated by the State Government as a Regional Cap area with a maximum of 581 EGMs permitted. The maximum 581 EGM entitlements are currently operating.

The northern region of the municipality is designated by the State Government as a Municipal Limit area with a maximum of 212 EGMs permitted. There are currently 110 EGMs operating across two venues:

- The Whittlesea Bowls Club Inc, Whittlesea - 50 EGMs
- The Bridge Inn Hotel, Mernda - 60 EGMs

There is potential for an additional 102 EGMs in this region of the municipality within the designated cap. The Commercial Hotel is located in the designated northern regional of the municipality. If approved, the addition of 40 EGMs at the Commercial Hotel would bring the total number of machines in the northern regional to 150, which is 62 below the allowed municipal limit.

The latest statistics from the VCGLR website based on the 2014/2015 financial year indicates the City of Whittlesea:

- Has the seventh highest EGM losses out of 70 local government areas in Victoria at \$101,646,865 (this equates to \$278,485 per day)
- Has four of the top ten hotels in Victoria with the highest EGMs losses:
  - Epping Plaza Hotel, Epping - \$21,137,399.07 - 1st
  - Plough Hotel, Mill Park - \$18,308,238.20 - 5th
  - Bundoora Taverner, Bundoora - \$18,124,038.25 - 6th
  - Excelsior Hotel, Thomastown - \$15,901,820.69 - 9th

- Has a number of gaming indicators that were higher than the Metropolitan Melbourne average, including:

Gambling Indicator	City of Whittlesea	Metro Melbourne
Increase in total losses (expenditure) from 2013/14 to 2014/15	5.7%	2.9%
EGM density/per 1,000 adults <sup>1</sup>	4.53	5
Average loss per adult in 2014/15 <sup>2</sup>	\$697.68	\$576.32

## PROPOSAL

The application to the VCGLR is for approval of premises for gambling suitable for 40 EGMs with 20 of the 40 EGM entitlements transferred from other ALH venues in the municipality:

- Plough Hotel, Mill Park – 10
- Excelsior Hotel, Thomastown – 4
- Bundoora Taverner, Bundoora – 6

If this application is successful, the total number of EGMs in the City of Whittlesea will rise from 691 to 711.

Below is a brief summary of two key reports submitted by the Applicant:

- Urbis Pty Ltd. – Commercial Hotel, South Morang, Social and Economic Impact Assessment May 2016 (*refer to Attachment 1 – Executive Summary*)
- ShineWing Australia – Commercial Hotel, Expert's report in respect of application for 40 electronic gaming machines [Expenditure Report] 19 May 2016 (*refer to Attachment 2 - Executive Summary*).

The full documents are available via the Councillors online Portal.

## Summary of Applicant's Social and Economic Impact Assessment (*Attachment 1 – Executive Summary*)

The Applicant's SEIA argues the Hotel is not considered a convenience venue and is sufficiently removed from the Gorge Road group of shops. The Applicant's SEIA analysis of key social and economic indices illustrates the immediate surrounding catchment areas are not experiencing high levels of socio-economic disadvantage (*pp. 13-33*).

As the largest company operating EGMs in Victoria, ALH have established procedures to minimise the harmful effects of problem gambling, abiding by the legislative requirements and implementing initiatives in addition to mandated requirements. These gaming initiatives include staff training, contracting David Schwarz (former professional footballer and reformed

<sup>1</sup> Victorian Commission for Gambling and Liquor Regulation (VCGLR), Electronic Gaming Machine LGA Level Density and Expenditure data base [www.vcgr.vic.gov.au]

<sup>2</sup> Ibid

problem gambler) to deliver workshops, and committing to introducing a voluntary pre-commitment system before it becomes a legislative requirement. In addition, ALH have adopted a responsible gambling charter. (pp. 40 – 41).

The Hotel offers a range of facilities including a public bar and bistro, TAB and Drive through BWS and currently employs approximately 32 full-time, part-time and casual staff. With the addition of EGM gambling and the extension of other facilities, ALH have estimated an increase of approximately 20 additional staff.

The Applicant undertook a survey of bistro patrons between January and February 2016. The survey results comprise of 1,053 responses. The results indicated that the bistro at the venue has a largely localised draw, with 55% of patrons from the nearby suburbs of South Morang, Doreen and Mill Park. The Hotel currently contributes to a variety of sporting clubs and the ALH has provided donations within the municipality over the past three years to the City of Whittlesea Meadowglen and YMCA Fun Run and the Northern Hospital Appeal.

If the application to operate EGMs is approved, ALH has indicated an expansion of its community contributions plan as follows:

- \$100,000 annually for ten years
- \$40,000 to the City of Whittlesea for problem gambling initiatives
- \$50,000 to a grants committee for local community/sports groups
- At the end of 10 years, \$25,000 per annum to local community/sporting groups to be allocated via a committee for the term of the operation of the EGMs

The Hotel has planned redevelopments involving modifications to the existing TAB area, refurbishment of the BWS bottle shop to provide a function room accommodating 200 patrons, including ancillary facilities and construction of a roof top bar/beer garden on the first floor level. Modifications to the existing TAB area will be undertaken to provide an enclosed gaming room for the proposed 40 EGMs. Value of the extensions and alterations to the Hotel is estimated at \$2.3 million.

The current operating hours for the venue are:

- Bistro 11:30am – 3:00 pm and 5:30pm–9:00 pm every day
- Public Bar 12:00pm – 10:00pm – Sunday – Thursday

12:00pm – 1:00am – Friday - Saturday.

If the EGMs are approved the opening hours for the gaming room are intended to be:

- 10:00am – 1:00am - Monday-Saturday
- 10:00am – 11:00pm – Sunday
- 12:00pm – 11:00pm – Good Friday/ANZAC Day

The Applicant's SEIA states a key disadvantage of the application is potential for increased problem gambling, however the applicant argues the direct effect from this application will be minimal due to:

- Transferral of 20 machines from venues in the southern part of the municipality

- Problem gambling initiatives
- Limited number of EGMS proposed
- Limited opening hours

The Applicant's social and economic impact analysis concludes the net effects of the installations of 40 EGMS at the Hotel will not be detrimental to the wellbeing of the local community or the broader community in the City of Whittlesea. The Applicant is content the proposal will unlikely act as the primary attraction or change the focus of the venue and concludes the impact on problem gambling at the venue will be minimal.

**Summary of Applicant's Expenditure Analysis Report (*Attachment 2 – Executive Summary*)**

As the Hotel does not presently operate EGMS the Report submitted by the Applicant, provides an analysis of comparable venues that currently operate EGMS in Victoria (Bridge Inn Hotel, Pascoe Vale Taverner Hotel and Sugar Gum Hotel) and the recent trend in gaming expenditure in both the State of Victoria and the City of Whittlesea. The report concludes the level of gross gaming expenditure generated from the installation of 40 EGMS at the Hotel would be between \$5,645,090 and \$6,239,310 per annum with 85% of this achieved within the first 12 months of trade.

**Summary of Independent Social and Economic Impact Assessment (*Attachment 3 – Executive Summary.*) – Council commissioned**

To ensure Council adopts an informed decision in response to this application and in line with Council's adopted City of Whittlesea Gambling Strategy and Action Plan 2014 – 2024, a consultant was engaged to undertake an independent detailed SEIA.

The full document is available via the Councillors online Portal.

The purpose of the SEIA report was to assess the potential impacts of a new gaming venue focussing on health and related social impacts of problem and harmful gambling at individual, family and community levels. A public health approach was taken to assess impacts of more EGMS on the population and the whole municipality was chosen as the best area for analysis as 75% of the population lives within a viable driving distance from the Hotel.

This involved reviewing literature on the risk factors and impacts of gambling, assessing the community profile against the risk factors and consulting the community.

The socio-economic profile of the City of Whittlesea shows a less advantaged municipality, with poorer outcomes on income, education, employment and other demographic indicators. The municipality is also significantly worse off on measures of social capital and health and wellbeing. The City of Whittlesea's high per-capita spending rate on gambling is a risk factor for problem gambling. Other factors that contribute to problem gambling are accessibility, lack of alternate options, low levels of social capital and the normalisation of gambling and unemployment. These risk factors are evident in the municipal profile.

**Summary of Impacts**

VCGLR Indicator	Applicant's SEIA	Independent SEIA
<b>Economic impacts</b>		
Gaming expenditure	Beneficial	Detrimental
Employment	Beneficial	Neutral
Infrastructure investment	Beneficial	Neutral
Supply contracts	Beneficial	Neutral
Complementary expenditure	Beneficial	Neutral
Shifts in expenditure	Detrimental	Detrimental
Evidence of financial stress	Detrimental	Detrimental
<b>Social impacts</b>		
Social, recreational opportunities	Beneficial	Detrimental
Increase in problem gambling, residents at risk, and demand for community support	Detrimental	Detrimental
Incidence of gambling related crime and social disturbance	Not assessed	Detrimental
Relationships and emotional costs and impact on community values and lifestyle	Not assessed	Detrimental
Additional social and economic impact information	Not assessed	Detrimental
Community views	Not assessed	Detrimental

The Independent SEIA commissioned by Council concludes the proposal for 40 EGMs at the Hotel will have, on balance, a net detrimental impact on the health and wellbeing of the municipal district.

**CONSULTATION**

In accordance with action 1.4 of the City of Whittlesea Gambling Strategy and Action Plan, Council provided the opportunity for the community to respond to this application. A public notification of the application by ALH to install 40 EGMs at the Hotel was advertised by Council in the *Whittlesea Leader* newspaper on Tuesday 28 June 2016.

A community attitude survey was posted on the 'Have Your Say' page of the City of Whittlesea website and advertised through Council's social media channel and will run until 13 July 2016. At the time of writing this report, there was 133 respondents to the survey, with the following results:

- 90.4% of respondents think EGMs should not be available in South Morang
- 84.9% of respondents disagree the local community will benefit economically from having gaming machines at the Hotel
- 85.9% of respondents disagree the local community will benefit socially from having gaming machines at the Hotel
- 48.7% of respondents think community wellbeing would greatly decrease by the approval of the application to install 40 EGMs at the Hotel
- 92.2% respondents do not want EGMs at the Hotel

As part of Council's commissioned SEIA report, a focus group of selected representatives from health and welfare agencies and community groups was undertaken on Friday 1 July 2016. Participants related concerns that an additional gaming venue within the City of Whittlesea would add to financial hardships and family violence problems experienced in the community.

As part of the process of the planning permit application, the planning application is being advertised via a public notice in the local paper, a sign on each road frontage and mail notification to adjoining, opposite and close property owners/occupiers. This is presently underway. Public submissions will be addressed as part of the planning application process, which will include a report to a later Council Meeting for determination.

### CRITICAL DATES

Council has until the **2 August 2016** to submit a SEIA submission to the VCGLR should it choose to do so (section 3.3.6 of the Gambling Regulation Act 2003).

### FINANCIAL IMPLICATIONS

The Independent SEIA including the community attitude survey (design and analysis) cost Council \$5,200 (excluding GST) under existing budget allocation.

Pursuant to Council's decision (to oppose the application), consideration needs to be given to the cost of engaging legal representation for the VCGLR hearing. Estimated costs for legal representation are approximately \$13,000 - \$15,000, costs dependent on the amount of preparation time necessary and the VCGLR allocated hearing of one day. These costs would be funded through Council's general legal fund.

In addition consideration needs to be given to engage expert witness/s, to be represented at the VCGLR hearing. In this case, the author of the independent SEIA, would be engaged as Council's expert witness. Estimated costs would be approximately \$400 (excluding GST) dependent on the amount of preparation time necessary and the VCGLR allocated hearing of one day. Budget is available for this representation.

### POLICY STRATEGY AND LEGISLATION

The State Government is the level of government responsible for the regulation of EGMs in Victoria. EGM gambling in Victoria is governed primarily by two forms of legislation:

- a) Gambling Regulation Act 2003
- b) Planning and Environment Act 1987

The Gambling Regulation Act 2003 seeks to foster responsible gambling in order to;

- a) Minimise harm caused by problem gambling
- b) Accommodate those who gamble without harming themselves or others

The location and use of EGMs require permission pursuant to the provisions of each Act, through the approval of both gaming licence and a planning permit.

Clause 52.28 of the Victorian Planning Provisions cites the following objectives for EGM gambling:

- Ensure that EGMs are situated in appropriate locations and premises
- Ensure the social and economic impacts of the location of EGMs are considered
- Prohibit EGMs in specified shopping complexes and strip shopping centres.

Local government is subject to a range of provisions under Victorian State Legislation, including the Local Government Act 1989 and the Public Health and Wellbeing Act 2008. These concern matters such as regard to the social, economic and environmental viability and sustainability of the local area, community wellbeing and quality of life.

While local government is the responsible authority for assessing EGM planning permit applications, the VCGLR is the statutory authority for determining gaming license approvals.

### **Local Context**

The adopted (Council meeting, 9 December 2014) City of Whittlesea Gambling Strategy and Action Plan 2014-2024 (Strategy) articulates:

#### **Vision**

The City of Whittlesea is a leader in minimising the harms associated with gambling in the municipality through investing in health and community well-being.

#### **Position Statement**

The City of Whittlesea aims to reduce the detrimental impacts of gambling on the health and wellbeing of individuals, families, businesses and communities, whilst acknowledging use of EGMs is a legal recreational activity that forms part of a range of entertainment options available to the community.

It promotes healthy communities to mitigate the harms associated with EGMs by adopting a public health approach. This approach importantly recognises many factors influence both the health and wellbeing of individuals, families, businesses and community.

The Strategy objectives are that Council will;

1. Effectively lead in working towards reducing the harm to public health caused by gambling.
2. Advocate for best practise gambling regulation and policy changes that reduce the potential harms to the social, economic, environmental and health outcomes of current and future City of Whittlesea residents.
3. Provide transparent and coordinated decision-making across Council in relation to gambling, especially in Council's role as a regulator and planning authority.

### **CONCLUSION**



On 1 June 2016 VCGLR notified Council an application had been lodged with them from Australian Leisure and Hospitality Group Pty Ltd for approval of premises for gambling suitable for 40 EGMs at the Commercial Hotel, 820 Plenty Road South Morang.

Under the Gambling Regulation Act 2003 Council has until 2 August 2016 to make a submission to the VCGLR on this application.

A submission by Council to the VCGLR is required to address the social and economic impact assessment of the proposed application on community wellbeing and the surrounding municipal district.

The City of Whittlesea continues to have high levels of EGM losses (the municipality had the third highest increase in losses, an increase from the previous financial year), which contributes to social harms. Gambling has impacts on health and wellbeing in a number of ways. It affects mental and physical health, but also has impacts on finances, family and relationship functioning, productivity as an employee, student or volunteer, involvement in crime, and perception of safety.

The Victorian Competition and Efficiency Commission (VCEC) in 2012 undertook an inquiry into the social and economic costs of problem gambling. The comprehensive report estimated the social and economic costs of problem gambling in Victoria in the 2011/2012 financial year were between \$1.5 billion and \$2.8 billion.

To ensure Council adopts an informed decision in response to this application and in line with Council's adopted Gambling Strategy, a specialised consultant was engaged to undertake an independent detailed SEIA, including an online community attitudes survey.

This report concludes on the analysis and evidenced presented in the independent SEIA commissioned by Council the proposal for 40 EGMs at the Commercial Hotel, South Morang will have will result in a net detrimental impact on the health and wellbeing of the municipal district.

The City of Whittlesea Community Plan, the Municipal Public Health and Wellbeing Plan and the Gambling Strategy and Action Plan 2014-2024 state the importance of reducing the incidences and impact of gambling at the local level.

Direction is now sought from Council, based on the advice provided, to oppose this application. To make a submission to oppose the application, it is advisable that Council is legally represented and an expert witness (consultant who completed the Independent SEIA) provides evidence at the VCGLR hearing.

## LINKS TO THE COUNCIL PLAN

**FUTURE DIRECTION**                      **Health and Wellbeing**

**Theme**    **Healthy community**

**Strategic Objective**                      **We take a prevention approach to health issues and health policy**

The City of Whittlesea Council Plan 2013 – 2017 Shaping Our Future (Council Plan) establishes Council's Strategic direction for four years and for the first time has incorporated the Municipal Public Health and Wellbeing Plan.

The Council Plan dedicates Future Direction 5 to Health and Wellbeing and includes the commitment to taking action through a partnership approach to reduce and minimise the negative social, economic and health impacts of gambling noted under Council goal 5.16.

**DECLARATION OF INTEREST**

Prior to the meeting Cr Alessi declared a direct interest in item 6.5.1 Commercial Hotel – South Morang application for new gambling premises for 40 Electronic Gaming Machines, to the Chief Executive Officer.

Prior to the matter being considered or any vote taken in relation to the matter, Cr Alessi left the Council Chamber at 7:05pm and advised the Mayor accordingly.

Cr Alessi returned to the Council Chamber at 7:15 PM following the vote on this item.

**DECLARATION OF INTEREST**

Cr Harris declared an indirect interest because of impact on residential amenity in item 6.5.1 Commercial Hotel – South Morang application for new gambling premises for 40 Electronic Gaming Machines on the grounds that he lives in close proximity to the Commercial Hotel. Prior to the matter being considered or any vote taken in relation to the matter, Cr Harris left the Council Chamber at 7:05pm and advised the Mayor accordingly.

Cr Harris returned to the Council Chamber at 7:15 PM following the vote on this item.

**DECLARATION OF INTEREST**

Cr Lalios declared an indirect financial interest in item 6.5.1 – Commercial Hotel, South Morang Application for New Gambling premises for 40 Electronic Gaming Machines on the grounds that she owns a shop at the Stables Shopping Centre which is situated near the Plough Hotel. Prior to the matter being considered or any vote taken in relation to the matter, Cr Lalios left the Council Chamber at 7:05pm and advised the Mayor accordingly.

Cr Lalios returned to the Council Chamber at 7:15 PM following the vote on this item.

**DECLARATION OF INTEREST**

Cr Griffin declared an indirect financial interest in item 6.5.1 – Commercial Hotel, South Morang Application for New Gambling premises for 40 Electronic Gaming Machines on the grounds that he owns shares in Wesfarmers, which is in opposition to ALH. Prior to the matter being considered or any vote taken in relation to the matter, Cr Griffin left the Council Chamber at 7:05pm and advised the Mayor accordingly.

Cr Griffin returned to the Council Chamber at 7:16 PM following the vote on this item.

**RECOMMENDATION**

**THAT Council resolve to:**

1. **Note an application has been lodged with the Victorian Commission for Gambling and Liquor Regulation (VCGLR) from Australian Leisure and Hospitality Group Pty Ltd (ALH) Applicant) for approval of premises for gambling at the Commercial Hotel (Hotel), 820 Plenty Road South Morang for 40 electronic gaming machines (EGMs), with the following supporting documentation:**

- a) Social and Economic Impact Assessment, May 2016 (Urbis Pty Ltd)
- b) Expenditure Report, 19 May 2016 (ShineWing Australia)
2. Note and consider the Social and Economic Impact Assessment (SEIA) – (July 2016) report commissioned by Council
3. On the basis of the evidence presented in the SEIA (July 2016) oppose the application by ALH for approval of premises for gambling suitable for 40 EGMs at the Commercial Hotel, 820 Plenty Road South Morang and:
  - i) Follow the processes outlined by the VCGLR to oppose the application
  - ii) Submit the SEIA commissioned by Council to the VCGLR indicating Council does not support the application by ALH for approval of premises for gambling suitable for 40 EGMs at the Commercial Hotel, 820 Plenty Road South Morang
  - iii) Be represented at the VCGLR hearing (legal and expert witness representation)

<b>COUNCIL RESOLUTION</b>
---------------------------

**MOVED:** *Cr Spinelli*  
**SECONDED:** *Cr Pavlidis*

THAT Council resolve to adopt the Recommendation.

**CARRIED UNANIMOUSLY**



**6.6 EXECUTIVE SERVICES**

**NIL REPORTS**



**7. NOTICES OF MOTION**

**NIL REPORTS**

**8. QUESTIONS TO OFFICERS**

**NIL QUESTIONS**

**9. URGENT BUSINESS**

**NIL URGENT BUSINESS**

**10. REPORTS FROM DELEGATES APPOINTED TO COUNCIL BY OTHER BODIES**

**10.1 MEADOWGLEN INTERNATIONAL ATHLETICS STADIUM INCORPORATED**

Cr Darryl Sinclair provided an overview of a recent meeting of the Meadowglen International Athletics Stadium Incorporated when the following items were discussed:

- Recent announcement in budget regarding \$1M track upgrade – Committee is over the moon.
- Current track is over 21 years old – lifespan of track normally 15 years. Recent works have only been a patch up job, so pleasing to see track being upgraded now.
- Committee congratulated Council's Planning & Major Projects team on their communications regarding this project.
- Noted that the works are going out to Tender shortly.
- Training and programs will need to be moved to another venue during construction period, but Committee happy with that.
- New Meeting Rooms and Toilets – now fully utilised.
- Also pleasing to note that whilst Meadowglen Athletics Stadium might look like a quiet site, in the background the facility is constantly being utilised by Schools both in and outside of the municipality, from Albury, Alphington and Hurstbridge.

**COUNCIL RESOLUTION**

**MOVED:** *Cr Pavlidis*  
**SECONDED:** *Cr Lalios*

**THAT Council resolve to note the Delegate's report.**

**CARRIED**

**11. QUESTIONS TO COUNCILLORS**

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

**NIL QUESTIONS**





**12. CONFIDENTIAL BUSINESS**

**12.1 PLANNING AND MAJOR PROJECTS**

**NIL REPORTS**

**12.2 COMMUNITY SERVICES**

**NIL REPORTS**

**12.3 CITY TRANSPORT AND PRESENTATION**

**12.3.1 PROVISION OF PARKS AND GARDENS SERVICES CONTRACT CT080901 - CONTRACT VARIATION**

**12.3.2 PROVISION OF STREET TREE REMOVAL, PLANTING AND MAINTENANCE - CONTRACT CT121382A-C - CONTRACT EXTENSION**

**12.3.3 PROVISION OF MAINTENANCE SERVICES TO EXIT AND EMERGENCY LIGHTS IN COUNCIL BUILDINGS - CONTRACT NO. 2016-13 - TENDER EVALUATION**

**12.3.4 PROVISION OF BULK CHANGE OVER - ENERGY EFFICIENT PUBLIC LIGHTING - CONTRACT NO. 2013-23 - CONTRACT FINALISATION**

**12.4 CORPORATE SERVICES**

**12.4.1 PROPOSED LAND ACQUISITION - MERNDA**

**12.5 PARTNERSHIPS & ENGAGEMENT**

**NIL REPORTS**

**12.6 EXECUTIVE SERVICES**

**12.6.1 MEETINGS OF THE CHIEF EXECUTIVE OFFICER - 20 JUNE 2016 TO 8 JULY 2016**

**12.6.2 CHIEF EXECUTIVE OFFICER EMPLOYMENT MATTERS**

**COUNCIL RESOLUTION**

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

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:

**12.3.1 PROVISION OF PARKS AND GARDENS SERVICES CONTRACT CT080901 - CONTRACT VARIATION**

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

**12.3.2 PROVISION OF STREET TREE REMOVAL, PLANTING AND MAINTENANCE - CONTRACT CT121382A-C - CONTRACT EXTENSION**

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

**12.3.3 PROVISION OF MAINTENANCE SERVICES TO EXIT AND EMERGENCY LIGHTS IN COUNCIL BUILDINGS - CONTRACT NO. 2016-13 - TENDER EVALUATION**

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

**12.3.4 PROVISION OF BULK CHANGE OVER - ENERGY EFFICIENT PUBLIC LIGHTING - CONTRACT NO. 2013-23 - CONTRACT FINALISATION**

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

**12.4.1 PROPOSED LAND ACQUISITION - MERNDA**

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

**12.6.1 MEETINGS OF THE CHIEF EXECUTIVE OFFICER - 20 JUNE 2016 TO 8 JULY 2016**

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

**12.6.2 CHIEF EXECUTIVE OFFICER EMPLOYMENT MATTERS**

*Confidential in accordance with Section 89(2)(a),(f) of the Local Government Act 1989.*

**CARRIED**

**ACCORDINGLY, THE MEETING WAS CLOSED TO THE PUBLIC AT 7:20 PM.**

THE MEETING WAS RE-OPENED TO THE PUBLIC AT 8:52PM

13. CLOSURE

THERE BEING NO FURTHER BUSINESS THE MAYOR DECLARED THE MEETING CLOSED AT 8:52PM.

CONFIRMED THIS 9<sup>TH</sup> DAY OF AUGUST, 2016.

CR STEVAN KOZMEVSKI  
MAYOR