



City of
Whittlesea

MINUTES

OF ORDINARY COUNCIL MEETING

HELD ON

TUESDAY 22 NOVEMBER 2016

AT 6:30PM

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

COUNCILLORS

RICKY KIRKHAM	MAYOR, NORTH WARD
JOHN BUTLER	NORTH WARD
EMILIA LISA STERJOVA	NORTH WARD
NORM KELLY	DEPUTY MAYOR, SOUTH EAST WARD
SAM ALESSI	SOUTH EAST WARD
ALAHNA DESIATO	SOUTH EAST WARD
MARY LALIOS	SOUTH EAST WARD
LAWRIE COX	SOUTH WEST WARD
STEVAN KOZMEVSKI	SOUTH WEST WARD
CAZ MONTELEONE	SOUTH WEST WARD
KRIS PAVLIDIS	SOUTH WEST WARD

SENIOR OFFICERS

MICHAEL WOOTTEN

CHIEF EXECUTIVE OFFICER

RUSSELL HOPKINS

DIRECTOR COMMUNITY SERVICES

STEVE O'BRIEN

DIRECTOR PLANNING AND MAJOR PROJECTS

NICK MANN

DIRECTOR CITY TRANSPORT & PRESENTATION

HELEN SUI

DIRECTOR CORPORATE SERVICES

LIANA THOMPSON

DIRECTOR PARTNERSHIPS & ENGAGEMENT

MICHAEL TONTA

MANAGER GOVERNANCE

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Note:

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

1. OPENING

1.1 MEETING OPENING AND PRAYER

The Chief Executive Officer opened the meeting with a prayer at 6:30PM.

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:

Ricky Kirkham	Mayor (North Ward)
John Butler	Councillor (North Ward)
Emilia Lisa Sterjova	Councillor (North Ward)
Norm Kelly	Deputy Mayor (South East Ward)
Sam Alessi	Councillor (South East Ward)
Alahna Desiato	Councillor (South East Ward)
Mary Lalios	Councillor (South East Ward)
Lawrie Cox	Councillor (South West Ward)
Stevan Kozmevski	Councillor (South West Ward)
Caz Monteleone	Councillor (South West Ward)
Kris Pavlidis	Councillor (South West Ward)

Officers:

Mr Michael Wootten	Chief Executive Officer
Mr Steve O'Brien	Director Planning and Major Projects
Mr Russell Hopkins	Director Community Services
Mr Nick Mann	Director City Transport & Presentation
Ms Helen Sui	Director Corporate Services
Ms Liana Thompson	Director Partnerships & Engagement
Mr Michael Tonta	Manager Governance

2. APOLOGIES

NIL

3. DECLARATIONS OF INTEREST

NIL

SUSPENSION OF STANDING ORDERS

MOVED: *Cr Lalios*
SECONDED: *Cr Kozmevski*

THAT Council resolve to suspend Standing Orders.

CARRIED

URGENT BUSINESS - SEATING AT COUNCIL MEETINGS

URGENT BUSINESS

The Mayor, Cr Ricky Kirkham sought leave to raise an item of urgent business in relation to seating at Council Meetings.

COUNCIL RESOLUTION

MOVED: *Cr Kirkham*
SECONDED: *Cr Butler*

THAT Council resolve that this matter be dealt with as an item of Urgent Business.

CARRIED

MOTION

MOVED: *Cr Kirkham*
SECONDED: *Cr Kelly*

THAT Council resolve to:

1. Determine seating arrangements at Council meetings at the first Council meeting following the Special Council meeting to elect the Mayor each year; and
2. Determine that the following seating arrangements apply in relation to Council meetings held during the current mayoral term commencing 22 November 2016 and ending 2 November 2017:

The Mayor, Cr Kirkham	
Cr Kelly South East Ward	Cr Butler North Ward
Cr Lalios South East Ward	Cr Sterjova North Ward

Cr Desiato South East Ward	Cr Pavlidis South West Ward
Cr Alessi South East Ward	Cr Cox South West Ward
Cr Kozmevski South West Ward	Cr Monteleone South West Ward
Helen Sui Director Corporate Services	Russell Hopkins Director Community Services
Nick Mann Director City Transport & Presentation	Liana Thompson Director Partnerships & Engagement
Steve O'Brien Director Planning & Major Projects	

AMENDMENT

Cr Cox proposed that the motion be amended as follows:

MOVED: *Cr Alessi*

SECONDED: *Cr Cox*

THAT Council resolve to:

1. Determine seating arrangements at Council meetings at the first Council meeting following the Special Council meeting to elect the Mayor each year; and
2. Determine that the following seating arrangements apply in relation to Council meetings held during the current mayoral term commencing 22 November 2016 and ending 2 November 2017:

The Mayor, Cr Kirkham	
Cr Kelly South East Ward	Cr Pavlidis South West Ward
Cr Lalios South East Ward	Cr Alessi South East Ward
Cr Desiato South East Ward	Cr Kozmevski South West Ward
Cr Butler North Ward	Cr Sterjova North Ward

Cr Monteleone South West Ward	Cr Cox South West Ward
Helen Sui Director Corporate Services	Russell Hopkins Director Community Services
Nick Mann Director City Transport and Presentation	Liana Thompson Director Partnerships & Engagement
Steve O'Brien Director Planning & Major Projects	

LOST

DIVISION

Immediately after the motion was voted on, Cr Alessi called for a division which resulted in the following votes being recorded.

For	Against	Abstained
Cr Pavlidis	Cr Kirkham	Nil
Cr Kozmevski	Cr Kelly	
Cr Alessi	Cr Lalios	
Cr Cox	Cr Monteleone	
Cr Sterjova	Cr Desiato	
	Cr Butler	

Based on the votes cast during the Division, the motion was lost.

LOST

COUNCIL RESOLUTION

MOVED: *Cr Kirkham*
SECONDED: *Cr Kelly*

THAT Council resolve to:

- Determine seating arrangements at Council meetings at the first Council meeting following the Special Council meeting to elect the Mayor each year; and**
- Determine that the following seating arrangements apply in relation to Council meetings held during the current mayoral term commencing 22 November 2016 and ending 2 November 2017:**

The Mayor, Cr Kirkham	
Cr Kelly South East Ward	Cr Butler North Ward
Cr Lalios South East Ward	Cr Sterjova North Ward
Cr Desiato South East Ward	Cr Pavlidis South West Ward
Cr Alessi South East Ward	Cr Cox South West Ward
Cr Kozmevski South West Ward	Cr Monteleone South West Ward
Helen Sui Director Corporate Services	Russell Hopkins Director Community Services
Nick Mann Director City Transport & Presentation	Liana Thompson Director Partnerships & Engagement
Steve O'Brien Director Planning & Major Projects	

CARRIED

DIVISION

Immediately after the motion was voted on, Cr Alessi called for a division which resulted in the following votes being recorded.

For	Against	Abstained
Cr Kirkham	Cr Pavlidis	Nil
Cr Kelly	Cr Kozmevski	
Cr Lalios	Cr Alessi	
Cr Monteleone	Cr Cox	
Cr Desiato	Cr Sterjova	
Cr Butler		

Based on the votes cast during the Division, the motion was carried.

CARRIED

MEETING ADJOURNED

The Mayor adjourned the meeting at 6:49PM to allow Councillors to take their seats.

RESUMPTION OF STANDING ORDERS

MOVED: *Cr Kirkham*
SECONDED: *Cr Kelly*

Standing orders resumed at 6:55 PM.

CARRIED

4. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

COUNCIL RESOLUTION

MOVED: *Cr Laliros*
SECONDED: *Cr Kelly*

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

Ordinary Meeting of Council held 11 October 2016.

CARRIED

MOTION

MOVED: *Cr Laliros*
SECONDED: *Cr Kelly*

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

Special Meeting of Council held 3 November 2016

AMENDMENT

MOVED: *Cr Cox*

Cr Cox moved an amendment to the Minutes.

THE MAYOR'S RULING

The Mayor, Cr Kirkham, ruled that the motion from Cr Cox to amend the Minutes of the Special Meeting of Council held 3 November 2016 be rejected.

DISSENT FROM THE CHAIRPERSON'S RULING

MOVED: *Cr Cox*
SECONDED: *Cr Alessi*

THAT a motion of Dissent in the Chairperson's Ruling be accepted.

In accordance with clause 65 (a) of the Procedural Matters Local Law (No.1 of 2012), the Mayor, Cr Kirkham vacated the Chair.

NOMINATION OF TEMPORARY CHAIRPERSON

The Chief Executive Officer took the chair and called for Nominations for the role of Temporary Chairperson.

Cr Lalios nominated Deputy Mayor, Cr Kelly to take the Chair in the Chairperson's absence.

Cr Alessi nominated Cr Pavlidis to take the Chair in the Chairperson's absence.

There being more than one nomination, the Chief Executive Officer called for a vote. After a show of hands, the Deputy Mayor, Cr Kelly received the majority of votes and was declared Temporary Chairperson.

The Deputy Mayor, Cr Kelly took the chair.

DISSENT FROM THE CHAIRPERSON'S RULING

The Temporary Chairperson, Deputy Mayor, Cr Kelly took the chair and invited Cr Cox, the mover of the Dissent Motion, to outline the reasons for his motion.

REASONS FOR DISSENT FROM THE CHAIRPERSON'S RULING

Cr Cox outlined the reasons for his dissent motion.

CHAIRPERSON'S REPLY

The Mayor, Cr Kirkham, outlined the basis for his ruling.

EXTENSION OF SPEAKING TIME

MOVED: *Cr Alessi*
SECONDED: *Cr Cox*

THAT Council resolve to extend the speaking time for Cr Alessi by one minute.

VOTE ON THE DISSENT MOTION

After Councillors were provided with an opportunity to speak to the motion, the Temporary Chairperson, Deputy Mayor, Cr Kelly, called for a vote on the Dissent Motion. Based on the votes cast, the Dissent Motion was lost.

LOST

DIVISION

Immediately after the motion was voted on, Cr Alessi called for a division which resulted in the following votes being recorded.

For	Against	Abstained
Cr Pavlidis	Cr Kirkham	Nil
Cr Kozmevski	Cr Kelly	
Cr Alessi	Cr Lalios	
Cr Cox	Cr Monteleone	
Cr Sterjova	Cr Desiato	
	Cr Butler	

Based on the votes cast during the Division, the motion was lost.

LOST

COUNCIL RESOLUTION

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

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

Special Meeting of Council held 3 November 2016

CARRIED

DIVISION

Immediately after the motion was voted on, Cr Alessi called for a division which resulted in the following votes being recorded.

For	Against	Abstained
Cr Kirkham	Cr Pavlidis	Nil
Cr Kelly	Cr Kozmevski	
Cr Lalios	Cr Alessi	
Cr Monteleone	Cr Cox	
Cr Desiato	Cr Sterjova	
Cr Butler		

Based on the votes cast during the Division, the motion was carried.

CARRIED

5. CONSIDERATION AND ACTION ON PETITIONS AND JOINT LETTERS

5.1 PETITIONS

5.1.1 PETITION - 2 EGRET PLACE, WHITTLESEA - PARKING ISSUES

Cr Sterjova tabled a petition from five residents regarding parking issues at 2 Egret Place, Whittlesea.

COUNCIL RESOLUTION

MOVED: *Cr Sterjova*
SECONDED: *Cr Pavlidis*

THAT Council resolve to receive the petition regarding parking issues at 2 Egret Place, Whittlesea and a report be prepared.

CARRIED

5.2 JOINT LETTERS

NIL REPORTS

6. OFFICERS' REPORTS

COUNCIL RESOLUTION

MOVED: Cr Kelly
SECONDED: Cr Lalios

THAT Council resolve to adopt the Recommendations for items numbers 6.1.8, 6.1.13, 6.4.3, 6.4.4, and 6.5.1 .

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 84 THE BOULEVARD, THOMASTOWN - REQUEST FOR EXTENSION OF TIME TO PLANNING PERMIT - THE CONSTRUCTION OF FOUR DWELLINGS**

File No: 712283

Attachments: 1 Locality Maps
2 Development Plans

Responsible Officer: Director Planning & Major Projects

Author: Planning Officer

APPLICANT: Mr B Xie

COUNCIL POLICY: Housing Policy

ZONING: General Residential Zone

OVERLAY: Development Contributions Plan Overlay

RECOMMENDATION: That Council approve an extension of time

REPORT**EXECUTIVE SUMMARY**

An application has been received to extend a planning permit (No. 712283) allowing the construction of four dwellings at 84 the Boulevard, Thomastown. The application seeks to extend the time for the commencement of the development. The permit was originally granted on 20 September 2011 by Council due to two objections being received. Three previous requests for an extension of time have been granted. The permit expired on 20 September 2016 as development has not yet commenced. The permit allows for extension requests to be made within three months of the lapse date.

At its meeting on 30 August 2016, Council resolved to make amendments to its Instrument of Delegation to require that requests for extensions of time to planning permits under section 69(2) of the *Planning and Environment Act 1987* be determined by Council where planning circumstances have changed since the grant of a permit or where there is a recommendation by officers to refuse an extension.

This report recommends that the extension of time relating to the subject permit be approved as it is highly likely that if a fresh application were to be made for the same development a further planning permit would be granted.

The changed circumstances set out in this report relate to Council's Housing Diversity Strategy. The outcomes of this Strategy now form part of the Whittlesea Planning Scheme and provide direction on preferred housing character in different parts of the municipality. Under the Strategy the subject land is now classified as 'Neighbourhood Interface' in which preferred housing is to be characterised by medium and standard density housing such as single dwellings, dual occupancies, townhouses and multi-units. The development approved under the permit is considered to be consistent with this preferred character.

SITE AND SURROUNDING AREA

The subject land is located on the north side of The Boulevard, Thomastown (see *Attachment 1*). The site is a regular shaped allotment that is relatively flat and has a total site area of 728m². The site contains a single storey brick dwelling and vehicular access is provided via an existing concrete crossing located within the southeast corner of the land.

The surrounding area is generally characterised by single storey brick veneer dwellings constructed circa 1950's. There are also a number of recently constructed medium density developments of a double storey nature within the immediate surrounds and particularly along The Boulevard. Further west of the site is the Thomastown Railway Station and a small commercial hub, comprising shops, medical suites and a social club.

BACKGROUND

Planning Permit No. 712283 was granted on 20 September 2011 authorising the construction of three double storey dwellings and one single storey dwelling. The application was determined by Council on 14 December 2010 as there were two objections at the end of the advertising period. The endorsed plans are shown in *Attachment 2*.

Condition No. 17 of the Permit states:

In accordance with the Planning and Environment Act 1987 this permit will expire if one of the following circumstances applies:

- (a) the development is not started within two years of the date of this permit;*
- (b) the development is not completed within four years of the date of this permit.*

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within three months afterwards.

An application for the extension was received on 9 September 2016. This request has been received within the time specified above and can therefore be considered. It is noted, three previous requests for an extension of time have been granted. The permit expired on 20 September 2016.

CURRENT PERMIT EXTENSION REQUEST

The applicant seeks an extension of two (2) years to commence and complete the development citing insufficient funding at the present time as the reason for the request.

ASSESSMENT

When the permit was issued on 20 September 2011 the land was located in a Residential 1 Zone. In October 2015 Amendment C181 was approved by the Minister for Planning which introduced the new Statewide reformed residential zones to all established areas within the Whittlesea Planning Scheme. In relation to the subject land and surrounds, the General Residential Zone was applied. Amendment C181 also included Council's adopted Housing Diversity Strategy (HDS) within the Municipal Strategic Statement (which forms part of the Planning Scheme). In particular, Clause 21.09-4 was introduced to define residential change areas and the preferred housing character within these areas. The subject land was included in a 'Neighbourhood Interface' change area in which preferred housing is to be characterised by medium and standard density housing comprising single dwellings, dual occupancies, town houses and multi-unit developments. These areas are within moderate proximity (10-15 minute walk) to public transport and activity centres.

The HDS sets out 'Key Design Principles' that encourage low to medium building heights, moderate front setbacks and sufficient side and rear setbacks to allow for medium site coverage and useable private open space with landscaping to complement medium density built form.

The proposed development (see *Attachment 2*) is for three double storey dwellings and one single storey dwelling and is therefore consistent with the preferred density and building heights for the Neighbourhood Interface change area. The indicative landscape areas shown on the plans submitted allow sufficient private open space to accommodate a small to medium canopy tree for each dwelling which will soften the impact of the proposed built form on site. The generous front setback can also accommodate a large tree or a number of medium canopy trees to further enhance the streetscape.

The applicable principles for considering extensions of time have been established by VCAT, are based on legal precedent and are applied by all councils. These tests are referred to as the 'Kantor' tests (named after the legal case which introduced them). The tests guide decisions and provide a degree of certainty for all stakeholders who may be affected by decisions relating to the extensions of time.

It should be noted that there are no statutory provisions for notifying other affected persons of extension of time requests.

The 'Kantor' tests are set out below with comments under each heading relevant to the current application.

Whether there is a change of planning policy

The change of policy brought about by the approval of Amendment C181 and the introduction of the HDS and associated changes to the Local Planning Policy Framework have been discussed previously in this report. The changed policy context supports the current proposal.

Whether the landowner is seeking to 'warehouse' the permit

The permit has been extended a number of times already. No reasons (other than those mentioned below) were provided in the application for the extension of time and under these circumstances the further extension could be considered to constitute warehousing. However, as the development is one that continues to be supported under the planning provisions, a further extension is reasonable. It is recommended that the applicant be advised that further extensions of time are unlikely to be granted.

Intervening circumstances bearing on the grant or refusal of the extension

There are no intervening circumstances bearing on the grant or refusal of the extension other than the permit holder has insufficient funding to commence the development at the present time.

The total elapse of time

The total period that has elapsed since the granting of the permit is now five years. However, because planning circumstances continue to support this form of development, an extension is considered reasonable.

Whether the time limit originally imposed was adequate

The time limit imposed was reasonable. The permit holder was given the benefit of a standard two year commencement period and other extensions.

The economic burden imposed on the landowner by the permit

This relates to the degree to which the permit holder is economically committed to the permit proposal as a consequence of actions taken to give effect to the permit. No evidence has

been provided indicating that the permit holder is under any economic burden because of commitments made in relation to the proposal.

The probability of a permit issuing should a fresh application be made

Under the HDS the site is located within the Neighbourhood Interface change area. This change area nominates the preferred housing type as single dwellings, dual occupancies, townhouses and multi-units such as that proposed. It is likely the current development would be supported if a new application were to be made.

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 purpose of limiting the life of a permit is to ensure that it does not become inappropriate due to a change of circumstances. The HDS was introduced into the Whittlesea Planning Scheme subsequent to the issue of the permit. These changes in policy suggest that it is highly likely that the current proposal would be supported if a fresh application were to be made. On these grounds it is recommended that one further extension of time be approved.

RECOMMENDATION

THAT Council resolve to approve the application to extend Planning Permit No. 712283 for the construction of four dwellings at 84 The Boulevard, Thomastown.

COUNCIL RESOLUTION

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

THAT Council resolve to approve the application to extend Planning Permit No. 712283 for a further two years, for the construction of four dwellings at 84 The Boulevard, Thomastown..

CARRIED

6.1.2 27 BICKLEY AVENUE, THOMASTOWN - REQUEST FOR EXTENSION OF TIME TO PLANNING PERMIT - THE CONSTRUCTION OF TWO SINGLE STOREY DWELLINGS TO THE REAR OF THE EXISTING SINGLE STOREY DWELLING

File No: 713374

Attachments: 1 Locality Maps
2 Development Plans

Responsible Officer: Director Planning & Major Projects

Author: Planning Officer Established Areas Planning

APPLICANT: Ikonomidis Reid

COUNCIL POLICY: Housing Policy

ZONING: General Residential Zone

OVERLAY: Development Contributions Plan Overlay

RECOMMENDATION: That Council refuse an extension of time.

REPORT**EXECUTIVE SUMMARY**

An application has been received to extend a planning permit (No. 713374) allowing the construction of two single storey dwellings to the rear of the existing single storey dwelling at 27 Bickley Avenue, Thomastown. The application seeks to extend the time for the commencement and completion date of the development. The permit was originally granted on 16 March 2012 under delegation by officers (as no objections were received). The permit expired on 16 March 2016. The application requesting the extension was received within the prescribed time following the lapse date.

At its meeting on 30 August 2016, Council resolved to make amendments to its Instrument of Delegation to require that requests for extensions of time to planning permits under section 69(2) of the *Planning and Environment Act 1987* be determined by Council where planning circumstances have changed since the grant of a permit or where there is a recommendation by officers to refuse an extension.

This report recommends that the extension of time relating to the subject permit be refused as it is highly likely that if a fresh application were to be made for the same development a further planning permit would not be granted.

The changed circumstances set out in this report relate to Council's Housing Diversity Strategy. The outcomes of this Strategy now form part of the Whittlesea Planning Scheme and provide direction on preferred housing character in different parts of the municipality. Under the Strategy the subject land is now classified as 'Suburban Residential' in which preferred housing is to be characterised by standard density housing such as detached dwellings and duplexes. The development approved under the Permit has been assessed as potentially being inconsistent with this preferred housing and character.

SITE AND SURROUNDING AREA

The subject land is an irregular shaped property located on the southern side of Bickley Avenue, approximately 130m east of Richardson Street (see *Attachment 1*). The subject site

has a frontage to Bickley Avenue of 12.5m and an overall area of 817m². The site is flat and contains a single storey detached dwelling constructed out of brick with a concrete tiled hipped roof. The rear of the site abuts a Melbourne Water pipe track reservation which is included in a Heritage Overlay under the Whittlesea Planning Scheme. Within the rear portion of the property there currently are a number of outbuildings. The site is level and contains no native vegetation. Vehicular access into the site is achieved from the north western corner of the property via a double crossover.

The surrounding area is largely residential in nature and generally consists of slightly smaller lot sizes with each containing a similar built form to the dwelling on the subject site. Immediately beyond the rear boundary of the site and the pipetrack reservation is the Thomastown East Reserve. There are no other medium density housing sites in the surrounding area other than Nos. 9 and 49 Bickley Avenue which contain dual occupancies/duplexes.

BACKGROUND

Planning Permit No. 713374 was granted on 16 March 2012 authorising the construction of two single storey dwellings to the rear of the existing single storey dwelling. The application was determined under delegation by officers as no objections were received at the end of the advertising period.

Condition No. 20 of the Permit states:

20. *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 three 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.

Development under the permit did not commence within the initial two year period and a further two year extension of time to commence development was granted under delegation on 11 February 2014 to allow development to commence by no later than 16 March 2016. Plans were endorsed on 9 April 2014 (see Attachment 2).

A further (second) extension of time request was received on 20 January 2016. Given that there had been a change of policy with the introduction of Clause 21.09 and the Housing Diversity Strategy in October 2015, the extension request was refused on 9 February 2016 under delegation. Accordingly, the permit holder only had until 16 March 2016 to commence the development.

Notwithstanding the refusal to the extend the time, a building contract was signed on 9 February 2016 and a Building permit was issued on 16 February 2016. The permit holder has also advised that Yarra Valley Water contributions were made on 7 March 2016. No building works commenced under the Building Permit by the permit lapse date (16 March). The issuing of a Building Permit cannot be relied upon of itself to constitute a commencement.

The current application is the third extension of time request for this Planning Permit and was received on 31 August 2016. Although this third request was made more than three months after the extended lapse date, legislation had changed since the permit was granted to allow extension requests to be made within six months of a lapse date. This third request was made immediately following the change in Council's Instrument of Delegation requiring that

extension of time now be determined by Council where there is a change in circumstances or where there is a recommendation for refusal.

CURRENT PERMIT EXTENSION REQUEST

The applicant seeks an extension period of one (1) year to commence and complete the development and provides the following reasons in support of the application:

- Building delay. A Building Permit has already been issued
- Subdivision has been approved (22 August 2014) and certified (10 August 2016).
- No changes to the zone and overlays affecting the land and no changes in the surrounding area.

ASSESSMENT

When the permit was issued on 16 March 2012 the land was located in a Residential 1 Zone. In October 2015 Amendment C181 was approved by the Minister for Planning which introduced the new Statewide reformed residential zones to all established areas within the Whittlesea Planning Scheme. In relation to the subject land and surrounds, the General Residential Zone was applied. Amendment C181 also included Council's adopted Housing Diversity Strategy (HDS) within the Municipal Strategic Statement (which forms part of the Planning Scheme). In particular, Clause 21.09-4 was introduced to define residential change areas and the preferred housing character within these areas. The subject land was included in a 'Suburban Residential' change area in which preferred housing is to be characterised by standard density housing and dual occupancies/ duplexes. These areas are typically not in close proximity to public transport and activity centres.

The HDS sets out 'Key Design Principles' that encourage separation of dwellings at ground level, increased areas of private open space and provision for significant landscaping including canopy trees. Building heights are to reflect existing suburban scale and character.

The proposed development (*refer Attachment 2*) is for the construction of two single storey dwellings to the rear of the existing single storey dwelling. The secluded private open space for each proposed dwelling is compliant with Clause 55.05-4 of the Whittlesea Planning Scheme; however, the Key Design Principle requiring an increased area of private open space to allow for significant landscaping, including the provision of larger canopy trees is restricted, particularly within the private open space area of Dwelling No. 2. Under the current plans, such trees are generally restricted to the front setback although a small tree is nominated within each rear yard under the endorsed landscape plan. The viability of the trees within the rear yards is questionable, with the ability to plant an extra-large tree in the rear setback significantly limited by the existing drainage and sewerage easement.

The applicable principles for considering extensions of time have been established by VCAT, are based on legal precedent and are applied by all councils. These tests are referred to as the 'Kantor' tests (named after the legal case which introduced them). The tests guide decisions and provide a degree of certainty for all stakeholders who may be affected by decisions relating to the extensions of time.

It should be noted that there are no statutory provisions for notifying other affected persons of extension of time requests.

The 'Kantor' tests are set out below with comments under each heading relevant to the current application.

Whether there is a change of planning policy

The change in policy brought about by the approval of Amendment C181 and the introduction of the HDS and associated changes to the Local Planning Policy Framework have been discussed previously in this report. The changed policy context is no longer supportive of the current proposal. These policy changes were exhibited and adopted after the permit was originally approved in 2012 and Amendment C181 was gazetted over a year ago in October 2015. This change of planning policy formed the basis of the refusal of the second extension of time request to this Permit in February 2016 under delegation.

A change in planning policy does not prohibit a permit being extended and the context of the site may be taken into account. Where there are already examples of medium density development that may be non-compliant with a recently introduced change to the planning provisions, a responsible authority may exercise its discretion to extend a planning permit if other tests can be reasonably met. However, in cases such as this, where the surrounding area is broadly consistent with the proposed change in policy, an extension of time should not be supported because it would potentially result in a development outcome that is inconsistent with both the existing and preferred character of the area.

Whether the landowner is seeking to 'warehouse' the permit

There is no evidence that the permit holder is seeking to 'warehouse' the permit (i.e. not intending to act on the permit in the foreseeable future). Nevertheless, this application is the third extension of time request submitted to Council.

Intervening circumstances bearing on the grant or refusal of the extension

There are no intervening circumstances bearing on the grant or refusal of the extension other than the permit holder has incurred builder delays to commence the development at the present time. It is the view of officers that this intervening circumstance is an insufficient justification for allowing an extension of time when weighted against other more critical criteria. The applicant has also stated that there have been no changes in the zoning or overlay controls, however the zoning control did change in October 2015 (as previously stated), and the introduction of Clause 21.09 into the Whittlesea Planning Scheme is considered a significant policy change.

The total elapse of time

A period of more than four years has elapsed since the permit was initially granted in 2012.

Whether the time limit original imposed was adequate

The time limit imposed was reasonable. The permit holder was given the benefit of a standard two year commencement period when the permit was granted. The applicant was then afforded a further two year extension. This was adequate under the circumstances.

The economic burden imposed on the landowner by the permit

This relates to the degree to which the permit holder/ proponent is economically committed to the permit proposal as a consequence of actions taken to give effect to the permit. No development has commenced under the permit. While works preparatory to the commencement of development have occurred in the form of subdivision approval and obtaining a building permit, the building application was made very close to the time of the permit expiry, and in the context of changed planning circumstances. Making an application for a building permit without any certainty about whether a planning permit will be extended or not is not recommended.

It should be noted that if the development had commenced under the permit (this would have required building works), a further two years would have been available to complete the development. No buildings and works have commenced on the site in association with the Planning Permit.

The probability of a permit issuing should a fresh application be made

Under the HDS the site is located within the Suburban Residential change area. This change area nominates the preferred housing type as single dwellings and dual occupancies. There is no certainty that the permit for the construction of two dwellings to the rear of the existing dwelling (a total of three dwellings) would be granted on the subject land should a fresh application be made. Based on other similar decisions recently made by Council and VCAT, it is likely that this application would be refused based on the changed planning zone and policy.

In a recent VCAT decision (23 June 2016) (*Alliance Property Solutions v City of Whittlesea P467/2016*), a senior legal member (H. McM. Wright QC) refused an application for review of an extension of time request similar to the current application.

This matter related to permit that had been granted for three dwellings on a 773m² lot at 16 Hall Street, Epping (also subject to a 'Suburban Residential' change area introduced by the HDS). The Tribunal stated in this recent case that:

The two Kantor tests of relevance in this case are:

- *whether there has been a change of planning policy; and*
- *The probability of a permit issuing should a fresh application be made.*

The two tests are related in that the planning policy will be a major determinant as to whether the permit would issue on a fresh application.

.....

The Tribunal is of the opinion that in cases where there is a real and substantial divergence of opinion as to the planning merits of a new application it is not appropriate to resolve the debate on an application for an extension of time of the existing permit. At this stage it cannot be said that the Kantor test regarding the probability of a permit issuing should a fresh application be made is satisfied. On the other hand if a fresh application is made what is presently speculation will be translated into actuality.

.....

....in cases where the use or development is still permitted the prudent course is to see whether it, of some modification of it [the development] will be permitted.

.....

In the ever changing kaleidoscope of planning policy and planning controls it should never be assumed that a permit will be extended.

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 purpose of limiting the life of a permit is to ensure that it does not become inappropriate due to a change in circumstances. The HDS was introduced into the Whittlesea Planning Scheme subsequent to the issue of the permit. These changes in policy suggest that it would be unlikely that the current proposal would be supported if a fresh application were to be made. On these grounds it is recommended that the extension of time be refused. The applicant is not prevented from making a further application for medium density development on the land which complies with current planning provisions.

RECOMMENDATION

THAT Council resolve to refuse the application to extend Planning Permit No. 713374 for the construction of two single storey dwellings to the rear of the existing single storey dwelling at 27 Bickley Avenue, Thomastown and advise the applicant accordingly.

COUNCIL RESOLUTION

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

THAT Council resolve to approve the application to extend Planning Permit No. 713374 for a further two years, for the construction of two single storey dwellings to the rear of the existing single storey dwelling at 27 Bickley Avenue, Thomastown and advise the applicant accordingly.

CARRIED

6.1.3 36 HOWELL STREET, LALOR - REQUEST FOR EXTENSION OF TIME TO PLANNING PERMIT - THE CONSTRUCTION OF THREE DWELLINGS

File No:	714828
Attachments:	1 Locality Maps 2 Development Plans
Responsible Officer:	Director Planning & Major Projects
Author:	Planning Officer
APPLICANT:	MS Designer Living Pty Ltd
COUNCIL POLICY:	Housing Policy
ZONING:	General Residential Zone
OVERLAY:	Development Contributions Plan Overlay
RECOMMENDATION:	That Council approve an extension of time

REPORT**EXECUTIVE SUMMARY**

An application has been received to extend a planning permit (No. 714828) allowing the construction of three dwellings at 36 Howell Street, Lalor. The application seeks to extend the time for the commencement of the development. The permit was originally granted on 23 December 2014 under delegation by officers (as no objections were received). The permit is due to expire on 23 December 2016. The permit allows for extension requests to be made within six months of the expiry date.

At its meeting on 30 August 2016, Council resolved to make amendments to its Instrument of Delegation to require that requests for extensions of time to planning permits under section 69(2) of the *Planning and Environment Act 1987* be determined by Council where planning circumstances have changed since the grant of a permit or where there is a recommendation by officers to refuse an extension.

This report recommends that the extension of time relating to the subject permit be approved as it is highly likely that if a fresh application were to be made for the same development a further planning permit would be granted.

The changed circumstances set out in this report relate to Council's Housing Diversity Strategy. The outcomes of this Strategy now form part of the Whittlesea Planning Scheme and provide direction on preferred housing character in different parts of the municipality. Under the Strategy the subject land is now classified as 'Neighbourhood Interface' in which preferred housing is to be characterised by medium and standard density housing such as single dwellings, dual occupancies, townhouses and multi-units. The development approved under the permit is considered to be consistent with this preferred character.

SITE AND SURROUNDING AREA

The subject land is located on the north side of Howell Street, Lalor (*see Attachment 1*). The site is a regular shaped allotment that is relatively flat and has a total site area of 628m². The site contains a single storey weatherboard dwelling and vehicular access is provided via an existing concrete crossing located within the southeast corner of the land.

The surrounding area is generally characterised by single storey brick veneer or weatherboard dwellings. There are a number of medium density developments within the immediate surrounds located along Howell Street, Richard Street, Tramoo Street and Mount View Road.

BACKGROUND

Planning Permit No. 714828 was granted on 23 December 2014 authorising the construction of three double storey dwellings. The application was determined under delegation by officers as no objections were received at the end of the advertising period. Condition No. 3 of the permit requires the submission of revised plans before the development starts. This requirement currently remains outstanding. The advertised development plans are shown in *Attachment 2*.

Condition No. 20 of the Permit states:

In accordance with the Planning and Environment Act 1987 a permit for the 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.*

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.

An application for the extension was received on 3 August 2016. This request has been received within the time specified above and can therefore be considered. This is the first request for an extension of time.

CURRENT PERMIT EXTENSION REQUEST

The applicant seeks an extension of two (2) years to commence and complete the development citing insufficient funding at the present time as the reason for the request.

ASSESSMENT

When the permit was issued on 23 December 2014 the land was located in a General Residential Zone. In October 2015 Amendment C181 was approved by the Minister for Planning which introduced the new Statewide reformed residential zones to all established areas within the Whittlesea Planning Scheme. In relation to the subject land and surrounds, the General Residential Zone remained unchanged. Amendment C181 also included Council's adopted Housing Diversity Strategy (HDS) within the Municipal Strategic Statement (which forms part of the Planning Scheme). In particular, Clause 21.09-4 was introduced to define residential change areas and the preferred housing character within these areas. The subject land was included in a 'Neighbourhood Interface' change area in which preferred housing is to be characterised by medium and standard density housing comprising single dwellings, dual occupancies, town houses and multi-unit developments. These areas are within moderate proximity (10-15 minute walk) to public transport and activity centres.

The HDS sets out 'Key Design Principles' that encourage low to medium building heights, moderate front setbacks and sufficient side and rear setbacks to allow for medium site

coverage and useable private open space with landscaping to complement medium density built form.

The proposed development (see *Attachment 2*) is for three double storey dwellings and is therefore consistent with the preferred density and building heights for the Neighbourhood Interface change area. The indicative landscape areas shown on the plans submitted allow sufficient private open space to accommodate a small to medium canopy tree for each dwelling which will soften the impact of the proposed built form on site. The generous front setback can also accommodate a large tree or a number of medium canopy trees to further enhance the streetscape.

The applicable principles for considering extensions of time have been established by VCAT, are based on legal precedent and are applied by all councils. These tests are referred to as the 'Kantor' tests (named after the legal case which introduced them). The tests guide decisions and provide a degree of certainty for all stakeholders who may be affected by decisions relating to the extensions of time.

It should be noted that there are no statutory provisions for notifying other affected persons of extension of time requests.

The 'Kantor' tests are set out below with comments under each heading relevant to the current application.

Whether there is a change of planning policy

The change of policy brought about by the approval of Amendment C181 and the introduction of the HDS and associated changes to the Local Planning Policy Framework have been discussed previously in this report. The changed policy context supports the current proposal.

Whether the landowner is seeking to 'warehouse' the permit

There is no evidence that the permit holder is seeking to 'warehouse' the permit (i.e. not intending to act on the permit in the foreseeable future).

Intervening circumstances bearing on the grant or refusal of the extension

There are no intervening circumstances bearing on the grant or refusal of the extension other than the permit holder has insufficient funding to commence the development at the present time.

The total elapse of time

The total period that has elapsed since the granting of the permit is currently less than two years. However, because planning circumstances continue to support this form of development, an extension is considered reasonable.

Whether the time limit originally imposed was adequate

The time limit imposed was reasonable. The permit holder was given the benefit of a standard two year commencement period.

The economic burden imposed on the landowner by the permit

This relates to the degree to which the permit holder is economically committed to the permit proposal as a consequence of actions taken to give effect to the permit. The request to extend the permit was made before the permit expiry date and this is the first request for an

extension of time to commence the approved development. There is no evidence that the permit holder is not committed to the permit proposal.

The probability of a permit issuing should a fresh application be made

Under the HDS the site is located within the Neighbourhood Interface change area. This change area nominates the preferred housing type as single dwellings, dual occupancies, townhouses and multi-units such as that proposed. It is likely the current development would be supported if a new application were to be made.

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 purpose of limiting the life of a permit is to ensure that it does not become inappropriate due to a change in circumstances. The HDS was introduced into the Whittlesea Planning Scheme subsequent to the issue of the permit. These changes in policy suggest that it is highly likely that the current proposal would be supported if a fresh application were to be made. On these grounds it is recommended that the extension of time be approved.

RECOMMENDATION

THAT Council resolve to approve the application to extend Planning Permit No. 714828 for the construction of three dwellings at 36 Howell Street, Lalor and advise the applicant accordingly.

COUNCIL RESOLUTION

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

THAT Council resolve to approve the application to extend Planning Permit No. 714828 for a further two years for the construction of three dwellings at 36 Howell Street, Lalor and advise the applicant accordingly.

CARRIED

6.1.4 315 & 317-319 HIGH STREET, THOMASTOWN - REQUEST FOR EXTENSION OF TIME TO PLANNING PERMIT - CONSTRUCTION OF 40 DWELLINGS (THREE STOREY APARTMENT BUILDING WITH BASEMENT PARKING)

File No: 714201

Attachments: 1 Locality Maps
2 Development Plans

Responsible Officer: Director Planning & Major Projects

Author: Planning Officer

APPLICANT: Healthville Investments Pty Ltd

COUNCIL POLICY: Housing Policy

ZONING: Residential Growth Zone

OVERLAY: Development Contributions Plan Overlay

RECOMMENDATION: That Council approve an extension of time

REPORT**EXECUTIVE SUMMARY**

An application has been received to extend planning permit (No. 714201) allowing the construction of 40 dwellings (three storey apartment building with basement parking) at 315 and 317-319 High Street, Thomastown. The application seeks to extend the time for the commencement of the development. The permit was originally granted on 20 September 2013 under delegation by officers (as no objections were received). The permit expired on 20 September 2016 as development has not yet commenced. The permit allows for extension requests to be made within six months of the expiry date.

At its meeting on 30 August 2016, Council resolved to make amendments to its Instrument of Delegation to require that requests for extensions of time to planning permits under section 69(2) of the *Planning and Environment Act 1987* be determined by Council where planning circumstances have changed since the grant of a permit or where there is a recommendation by officers to refuse an extension.

This report recommends that the extension of time relating to the subject permit be approved as it is highly likely that if a fresh application were to be made for the same development a further planning permit would be granted.

The changed circumstances set out in this report relate to Council's Housing Diversity Strategy. The outcomes of this Strategy now form part of the Whittlesea Planning Scheme and provide direction on preferred housing character in different parts of the municipality. Under the Strategy the subject land is now classified as 'Neighbourhood Renewal' in which preferred housing is to be characterised by medium and higher density housing such as townhouses, multi-units, small scale apartments and shop-top housing and mixed use developments. The development approved under the permit is considered to be consistent with this preferred character.

SITE AND SURROUNDING AREA

The subject land comprises two residential allotments (315 and 317-319 High Street) located on the southwest corner of High Street and Westall Street, Thomastown (see *Attachment 1*). The site is flat and irregular in shape with a total site area of 1,665m². The site currently contains a single storey brick dwelling at 315 High Street and a large scale single storey medical centre and rear car parking area at 317-319 High Street.

The surrounding area is generally characterised by single storey detached dwellings. A 3.0m wide laneway abuts the subject site to the west and extends from Westall Street to Chappell Street. There are numerous medium density developments within the immediate surrounds including 307, 327 and 33 High Street; 25, 27, 30, 36 and 39 Westall Street; 1A, 18, 19, 20, 24, 28, 34, 37 and 38 Chappell Street; and 1, 13, 19, 22, 31, 34 and 36 Travers Street. Further south and southeast of the site is the Thomastown Shops comprising a range of commercial uses and the Thomastown Railway Station.

BACKGROUND

Planning Permit No. 714201 was granted on 20 September 2013 authorising the construction of 40 dwellings (three storey apartment building with basement parking). The application was determined under delegation by officers as no objections were received at the end of the advertising period. The endorsed plans are shown in *Attachment 2*.

Condition No. 22 of the Permit states:

In accordance with the Planning and Environment Act 1987 a permit for the development expires if:

- (a) the approved development does not start within 3 years of the date of this permit; or*
- (b) the approved development is not completed within 6 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.

An application for the extension was received on 8 August 2016. This request has been received within the time specified above and can therefore be considered. This is the first request for an extension of time.

CURRENT PERMIT EXTENSION REQUEST

The applicant seeks an extension of three (3) years to commence and complete the development citing the current uncertain economic climate has resulted in difficulties in accessing the required funds from financial lenders to commence development as the reason for the request.

ASSESSMENT

When the permit was issued on 20 September 2013 the land was located in a Residential 1 Zone. In October 2015 Amendment C181 was approved by the Minister for Planning which introduced the new Statewide reformed residential zones to all established areas within the Whittlesea Planning Scheme. In relation to the subject land and surrounds, the Residential Growth Zone was applied. The Residential Growth Zone aims to provide housing at increased densities in buildings up to four storeys. Amendment C181 also included Council's adopted Housing Diversity Strategy (HDS) within the Municipal Strategic Statement (which forms part of the Planning Scheme). In particular, Clause 21.09-4 was introduced to define

residential change areas and the preferred housing character within these areas. The subject land was included in a 'Neighbourhood Renewal' change area in which preferred housing is to be characterised by town houses, multi-units, small scale apartments and shop-stop housing and mixed use developments. These areas are within close proximity (5-10 minute walk) to public transport and in particular the train and a good mix of community services and facilities.

The HDS sets out 'Key Design Principles' that encourage a range of medium building heights, reduced front setbacks, medium to higher site coverage and useable private open space with landscaping to complement medium to higher density built form.

The proposed development (see *Attachment 2*) is for 40 dwellings in the form of a three storey apartment building with basement parking and is therefore consistent with the preferred density and building heights for the Neighbourhood Renewal change area. The indicative landscape areas shown on the landscape plan submitted allow for low level landscaping to complement the proposed higher density built form and the reduced setbacks will provide activation of the street along High and Westall Streets.

The applicable principles for considering extensions of time have been established by VCAT, are based on legal precedent and are applied by all councils. These tests are referred to as the 'Kantor' tests (named after the legal case which introduced them). The tests guide decisions and provide a degree of certainty for all stakeholders who may be affected by decisions relating to the extensions of time.

It should be noted that there are no statutory provisions for notifying other affected persons of extension of time requests.

The 'Kantor' tests are set out below with comments under each heading relevant to the current application.

Whether there is a change of planning policy

The change of policy brought about by the approval of Amendment C181 and the introduction of the HDS and associated changes to the Local Planning Policy Framework have been discussed previously in this report. The changed policy context supports the current proposal.

Whether the landowner is seeking to 'warehouse' the permit

There is no evidence that the permit holder is seeking to 'warehouse' the permit (i.e. not intending to act on the permit in the foreseeable future).

Intervening circumstances bearing on the grant or refusal of the extension

There are no intervening circumstances bearing on the grant or refusal of the extension other than the permit holder has insufficient funding to commence the development at the present time.

The total elapse of time

The total period that has elapsed since the granting of the permit is only three years.

Whether the time limit originally imposed was adequate

The time limit imposed was reasonable. The permit holder was given the benefit of a three year commencement period.

The economic burden imposed on the landowner by the permit

This relates to the degree to which the permit holder is economically committed to the permit proposal as a consequence of actions taken to give effect to the permit. The request to extend the permit was made before the permit expiry date and this is the first request for an extension of time to commence the approved development. There is no evidence that the permit holder is not committed to the permit proposal.

The probability of a permit issuing should a fresh application be made

Under the HDS the site is located within the Neighbourhood Renewal change area. This change area nominates the preferred housing type as townhouses, multi-units, shop-top housing, mixed use developments and small scale apartments such as that proposed. It is likely the current development would be supported if a new application were to be made.

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 purpose of limiting the life of a permit is to ensure that it does not become inappropriate due to a change in circumstances. The HDS was introduced into the Whittlesea Planning Scheme subsequent to the issue of the permit. These changes in policy suggest that it is highly likely that the current proposal would be supported if a fresh application were to be made. On these grounds it is recommended that the extension of time be approved.

RECOMMENDATION

THAT Council resolve to approve the application to extend Planning Permit No. 714201 for the construction of 40 dwellings (three storey apartment building with basement parking) at 315 and 317-319 High Street, Thomastown and advise the applicant accordingly.

COUNCIL RESOLUTION

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

THAT Council resolve to approve the application to extend Planning Permit No. 714201 for a further three years, for the construction of 40 dwellings (three storey apartment building with basement parking) at 315 and 317-319 High Street, Thomastown and advise the applicant accordingly.

CARRIED

6.1.5 531 HIGH STREET EPPING - REQUEST FOR AN EXTENSION OF TIME - THE EXPANSION OF PACIFIC EPPING SHOPPING CENTRE

File No: 713585

Attachments: 1 Locality Maps
2 Development Plans

Responsible Officer: Director Planning & Major Projects

Author: Senior Planner

APPLICANT: BMDA Development Advisory

COUNCIL POLICY: Epping Central Structure Plan

ZONING: Activity Centre (Schedule 1)

OVERLAY: Development Contributions Plan (Schedules 3 & 14)
Environmental Audit Overlay

RECOMMENDATION: That Council approve an extension of time.

REPORT**EXECUTIVE SUMMARY**

An application has been received to extend a Planning Permit 713585. This Permit allows for the expansion of Pacific Epping Shopping Centre. The application seeks to extend the time for the commencement of the development for a further two year period. The permit was originally granted on 21 September 2012 under delegation by officers (as no objections were received). On 22 September 2014, an extension of time was granted for an additional two years. The permit expired on 21 September 2016. The *Planning and Environment Act 1987* allows for extension of time requests to be made within six months of the expiry date.

At its meeting on 30 August 2016, Council resolved to make amendments to its Instrument of Delegation to require that requests for extensions of time to planning permits under section 69(2) of the *Planning and Environment Act 1987* be determined by Council where planning circumstances have changed since the grant of a permit or where there is a recommendation by officers to refuse an extension.

This report recommends that the extension of time relating to the subject permit be approved as it is highly likely that if a fresh application were to be made for the same development a further planning permit would be granted.

The changed circumstances set out in this report relate to the approval of the Planning Scheme Amendment (Amendment C130) that was approved and came in operation since the permit was issued. The land is now in the Activity Centre Zone Schedule 1 (ACZ1), is affected by new overlay controls and is guided by the Epping Central Structure Plan. The development approved under the permit is considered to be consistent with the Activity Centre Zone, Epping Central Structure Plan and associated overlay controls.

SITE AND SURROUNDING AREA

The subject site is irregular in shape and located on the south-west corner of the intersection of High Street and Cooper Street, Epping (see *attachment 1*). The site has a frontage to Cooper Street of 700m and a frontage to High Street of 400m, for a total area of approximately 24ha. The site is currently occupied by the Pacific Epping Shopping Centre.

The subject site has good access to public transport with a bus interchange located on site, accommodating a total of six bus routes. The bus terminal is located in the northern car park accessed via Cooper Street and positioned near the cinemas. A new bus interchange has been constructed to increase capacity for new bus services accessing the site, including the Smart Bus service. Epping Railway Station is located approximately 400m east of the subject site, providing access to the metropolitan rail network.

BACKGROUND

Planning Permit 713585 was granted on 21 September 2012 under delegation authorising the *'Use and development of the land for shops (expansion of the existing shopping centre) a commercial premises (Office or Shop) buildings and works associated with the use of the land for Motor Repairs, display of business identification signage, removal of native vegetation and creation of a new access to a road in a Road Zone Category 1'* (see *attachment 2*). The conditions of the permit were later varied on 19 February 2013 in accordance with orders issued by the Victorian Civil and Administrative Tribunal.

Condition No. 52 of the permit states that:

In accordance with the Planning and Environment Act 1987 a permit for the use and or development expires if:

- (a) the development or any stage is not started within two years after the issue of the permit; or*
- (b) the development or any stage is not completed within four years after the issue of the permit; or*
- (c) the use does not start within two years after completion of the development; or*
- (d) the use is discontinued for a period of two years.*

On 22 September 2014, an extension of time was granted for an additional two years. The permit then expired on 21 September 2016. This request has been received within the time specified by the *Planning and Environment Act 1987* and can therefore be considered.

CURRENT PERMIT EXTENSION REQUEST

The applicant seeks an extension of two (2) years to commence and complete the development citing ongoing alterations of the layout resulting from negotiations with major tenants as the reason for the request.

ASSESSMENT

The applicable principles for considering extensions of time have been established by VCAT, are based on legal precedent and are applied by all councils. These tests are referred to as the 'Kantor' tests (named after the legal case which introduced them). The tests guide decisions and provide a degree of certainty for all stakeholders who may be affected by decisions relating to extensions of time.

It should be noted that there are no statutory provisions for notifying others affected persons of extension of time requests.

In The 'Kantor' tests are set out below with comments under each heading relevant to the current application:

Whether there is a change of planning policy

Since the permit was issued, Amendment C130 to the Planning Scheme was approved and came into operation on 19 March 2015. This amendment made the following changes:

- Amended the Municipal Strategic Statement to include the policy objectives of the Epping Central Structure Plan.
- Rezoned the subject site from Commercial 1 Zone to Activity Centre Zone (Schedule 1).
- Introduced a Parking Overlay (Schedule 1).
- Introduced a Development Contributions Plan Overlay (Schedule 14).
- Introduced an Environmental Audit Overlay.

The changed policy context would not prohibit the previously approved development from occurring, nor would it materially affect the outcome including the design of the expansion. Contributions have already been secured through an agreement relating to the construction of Deveny Road and therefore there are no implications associated with the introduction of the Development Contribution Plan Overlay 14.

There are no sensitive land uses forming part of the proposal and therefore the Environmental Audit Overlay has limited implications, whilst the introduction of the Parking Overlay reduced the parking rates for the area, thereby having no impact on the parking provision included as part of the approval.

Whether the landowner is seeking to 'warehouse' the permit

There is no evidence that the permit holder is seeking to 'warehouse' the permit (i.e. not intending to act on the permit in the foreseeable future).

Intervening circumstances bearing on the grant or refusal of the extension

The applicant has indicated that ongoing negotiations with major tenants and subsequent planning approval for further development to the south-west of the site have required alterations to the layout of the development and that further changes are likely to be submitted to Council for approval in the near future.

The total elapse of time and whether the time limit original imposed was adequate.

The original time limit imposed was reasonable, with one extension of time having since been issued, providing a total of four years for works to commence.

The economic burden imposed on the landowner by the permit

This relates to the degree to which the permit holder is economically committed to the permit proposal as a consequence of actions taken to give effect to the permit. The request to extend the permit was made after the permit had expired, but within the prescribed time to request and extension to the permit. This is the second request for an extension of time to commence the approved development. There is no evidence that the permit holder is not committed to the permit proposal.

The probability of a permit issuing should a fresh application be made.

It is highly likely that the permit for the proposal would be granted should the same application be made today. The proposed expansion of the shopping centre is consistent with the Activity Centre Zone and structure plan for the area.

DECLARATIONS OF CONFLICTS OF INTEREST

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

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

CONCLUSION

The purpose of limiting the life of a permit is to ensure that it does not become inappropriate due to a change in circumstances. The Epping Central Structure Plan and Activity Centre Zone were introduced into the Whittlesea Planning Scheme subsequent to the issue of the permit, and the approved development remains consistent with the planning framework and associated change in controls. On these grounds, it is recommended that the extension of time be approved.

RECOMMENDATION

THAT Council resolve to approve the application to extend Planning Permit No. 713585 for the Use and development of the land for shops (expansion of the existing shopping centre) a commercial premises (Office or Shop) buildings and works associated with the use of the land for Motor Repairs, display of business identification signage, removal of native vegetation and creation of a new access to a road in a Road Zone Category 1 at 531 High Street, Epping and advise the applicant accordingly.

COUNCIL RESOLUTION

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

THAT Council resolve to approve the application to extend Planning Permit No. 713585 for a further two years, for the Use and development of the land for shops (expansion of the existing shopping centre) a commercial premises (Office or Shop) buildings and works associated with the use of the land for Motor Repairs, display of business identification signage, removal of native vegetation and creation of a new access to a road in a Road Zone Category 1 at 531 High Street, Epping and advise the applicant accordingly.

CARRIED

6.1.6 719 HIGH STREET, EPPING - REQUEST FOR EXTENSION OF TIME TO PLANNING PERMIT - MIXED USE DEVELOPMENT COMPRISING COMMERCIAL USES (INCLUDING OFFICE, SUPERMARKET, SHOPS GYMNASIUM AND CHILD CARE), RESIDENTIAL APARTMENTS AND REDUCTION IN STANDARD CAR PARKING REQUIREMENTS.

File No: 713509

Attachments: 1 Locality Maps
2 Development Plans

Responsible Officer: Director Planning & Major Projects

Author: Principal Planner

APPLICANT: Citinova (on behalf of property owner)

COUNCIL POLICY: Epping Central Structure Plan

ZONING: Activity Centre Zone Schedule 1

OVERLAY: Development Contributions Plan Overlay Schedule 3 and Schedule 14
Parking Overlay

RECOMMENDATION: That Council approve an extension of time

REPORT

EXECUTIVE SUMMARY

An application has been received to extend Planning Permit 713509. This Permit allows the construction of a mixed use and residential development, with a height of part 10 storeys and part 12 storeys. The Permit also authorised a reduction of associated car parking. The application seeks to extend the time for the commencement of the development for a further two year period. The permit was originally granted on 23 September 2013 at the direction of VCAT, via a consent order, after agreement was reached between Council and the Applicant. By condition of permit, the development had three years to commence and five years to complete. The commencement time therefore expired on 23 September 2016. The permit allows for extension requests to be made within six months of the expiry date.

At its meeting on 30 August 2016, Council resolved to make amendments to its Instrument of Delegation to require that requests for extensions of time to planning permits under section 69(2) of the Planning and Environment Act 1987 be determined by Council where planning circumstances have changed since the grant of a permit or where there is a recommendation by officers to refuse an extension.

This report recommends that the extension of time relating to the subject permit be approved as it is considered that if a fresh application were to be made for the same development a further planning permit would be granted.

The changed circumstances set out in this report relate to the approval of the Planning Scheme Amendment (Amendment C130) that was approved and came in operation since the permit was issued. The land is now in the Activity Centre Zone Schedule 1 (ACZ1). The initial application was considered having regard to the then proposed ACZ1. The development approved is considered to be consistent with the current controls.

SITE AND SURROUNDING AREA

The site is presently vacant and situated on the northwestern corner of High Street and Wedge Street (*see Attachment 1*). .

It is irregular in shape with an area of 4,697m², with frontages of 53.5m to High Street and 84.2m to Wedge Street.

To the north of the site fronting High Street are a number of established business and retail outlets and at the rear (west) of these buildings is a squash court complex with an adjacent sealed car parking area. The site also abuts the end of a laneway on the north side, which runs off Coulstock Street past the rear of the shops fronting High Street.

To the west is vacant land at 70 and 72 Wedge Street, and on the south side of Wedge Street opposite the site is Council's Epping Community Services Hub building (formerly Centrelink office).

BACKGROUND

The application initially proposed the development as a 17 storey "podium and tower" development. It was refused by Council at its meeting on 25 February 2013.

As part of its VCAT Application for Review (Appeal), the Applicant prepared revised plans, to replace the plans considered by Council, to address concerns. These revised plans reduced the overall height from 17 storeys to partly ten storeys and partly 12 storeys, with other minor consequential changes (*see Attachment 2*).

The revised plans were reconsidered by Council on 2 July 2013, where it was resolved to support the amended plans in principle subject to additional changes to address design issues such as building massing and scale, overshadowing and amenity impacts. These were addressed through the VCAT process.

The proposed development includes a number of shops at ground floor level (including a small supermarket), with offices, gymnasium, 'wellness centre' and child care centre in the lower seven levels. The levels above contain residential apartments.

Agreement was reached through the VCAT process and a 'consent order' by VCAT confirmed that agreement. The permit was issued on 23 September 2013.

There was a minor amendment to the permit granted in December 2015, which allowed the deletion of the basement parking with an additional internal car parking level in the multi-level car parking in the core of the building. There were no external alterations. Plans relating to that amended permit are still to be endorsed.

When the initial application was considered by Council and subsequently by VCAT, the site was within the Business 1 Zone (B1Z), Design and Development Overlay Schedule 10 (DDO10), which designated the site as one of four key development sites, and the Development Contributions Plan Overlay Schedule 3 (DCPO3).

Consideration of the proposal had significant regard to the Epping Central Structure Plan (adopted by Council on 13 December 2011). A Planning Scheme amendment (Amendment C130) was prepared to implement that Structure Plan. Amendment C130 was well advanced at the time the application was considered, and was finally approved and came into effect on 19 March 2015. This led to the present Activity Centre Zone Schedule 1 (ACZ1).

CURRENT PERMIT EXTENSION REQUEST

The Applicant has requested an extension of time of two (2) years to commence and complete the development, citing that there have been delays in getting the contractors lined up due to the overall size and scope of the project.

ASSESSMENT

The applicable principles for considering extensions of time have been established by VCAT, are based on legal precedent and are applied by all councils. These tests are referred to as the 'Kantor' tests (named after the legal case which introduced them). The tests guide decisions and provide a degree of certainty for all stakeholders who may be affected by decisions relating to the extensions of time.

It should be noted that there are no statutory provisions for notifying other affected persons of extension of time requests.

The 'Kantor' tests are set out below with comments under each heading relevant to the current application.

Whether there is a change of planning policy

Since that permit was issued, Amendment C130 to the Planning Scheme was approved and came into operation on 19 March 2015. However, the proposal was substantially assessed under the ACZ1, by both Council and VCAT, prior to the approval of that Amendment, as it was then close to approval and was considered as a 'seriously entertained' planning proposal (than pending approval by the Minister).

Notably, the permit includes conditions requiring the Development Contributions to be paid in accordance with the current DCPO3 and DCPO14, the latter of which was introduced by Amendment C130.

While the ACZ1 has been formalised since the Permit was issued, there has been no change in the effect of planning controls or policy. The changed zone and policy context supports the proposal.

Whether the landowner is seeking to 'warehouse' the permit

There is no evidence that the permit holder is seeking to 'warehouse' the permit (i.e. not intending to act on the permit in the foreseeable future).

Intervening circumstances bearing on the grant or refusal of the extension

There are no intervening circumstances bearing on the grant or refusal of the extension other than the permit holder states that the size and scope of the project has delayed engaging contractors.

The total elapse of time

The total period that has elapsed since the granting of the permit is now three years. However, because planning circumstances continue to support this form of development, an extension is considered reasonable.

Whether the time limit originally imposed was adequate

The time limit imposed was reasonable. The permit holder was given the benefit of a three year commencement period, instead of two years as typically imposed.

The economic burden imposed on the landowner by the permit

This relates to the degree to which the permit holder is economically committed to the permit proposal as a consequence of actions taken to give effect to the permit. The request to extend the permit was made before the permit expiry date and this is the first request for an extension of time to commence the approved development. There is no evidence that the permit holder is not committed to the permit proposal.

The probability of a permit issuing should a fresh application be made

It is likely that the permit for the proposal would be granted should the same application was made today. The proposal is consistent with the ACZ1, and in particular the expectations of development in "Precinct 1" which has the objective to be a high-change. Precinct 1 also designates the subject site as a "Strategic Redevelopment Site".

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 purpose of limiting the life of a permit is to ensure that it does not become inappropriate due to a change in circumstances. The introduction into the Whittlesea Planning Scheme of the ACZ1 subsequent to the issue of the permit, support the proposal and would support a permit being granted if a fresh application were to be made. On these grounds it is recommended that the extension of time be approved.

RECOMMENDATION

THAT Council resolve to approve the application to extend Planning Permit No. 713509 for a mixed use development at 719 High Street Epping and advise the applicant accordingly.

COUNCIL RESOLUTION

MOVED: *Cr Laliros*
SECONDED: *Cr Kelly*

THAT Council resolve to approve the application to extend Planning Permit No. 713509 for a further two years, for a mixed use development at 719 High Street Epping and advise the applicant accordingly.

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CARRIED

6.1.7 84 LINCOLN DRIVE, THOMASTOWN - REQUEST FOR EXTENSION OF TIME TO PLANNING PERMIT - CONSTRUCTION OF A DWELLING TO THE REAR OF THE EXISTING DWELLING

File No: 712422

Attachments: 1 Locality Maps
2 Development Plans

Responsible Officer: Director Planning & Major Projects

Author: Planning Officer

APPLICANT: Chang E Liang

COUNCIL POLICY: Housing Diversity Strategy

ZONING: General Residential Zone

OVERLAY: Development Contributions Plan Overlay

RECOMMENDATION: That Council approve an extension of time.

REPORT**EXECUTIVE SUMMARY**

An application has been received to extend a planning permit (No.712422) allowing the construction of one single storey dwelling to the rear of an existing dwelling. The application seeks to extend the time for the commencement and completion of the development. The permit was originally granted on 28 September 2010 under delegation by officers (as no objections were received). An application for an extension of time to the permit was granted on 26 March 2015, extending the required completion date of the development to 28 September 2016. The permit allows for extension requests to be made within three months of the expiry date.

At its meeting on 30 August 2016, Council resolved to make amendments to its Instrument of Delegation to require that requests for extensions of time to planning permits under section 69(2) of the *Planning and Environment Act 1987* be determined by Council where planning circumstances have changed since the grant of a permit or where there is a recommendation by officers to refuse an extension.

This report recommends that the extension of time relating to the subject permit be approved as it is highly likely that if a fresh application were to be made for the same development a further planning permit would be granted.

The changed circumstances set out in this report relate to Council's Housing Diversity Strategy. The outcomes of this Strategy now form part of the Whittlesea Planning Scheme and provide direction on preferred housing character in different parts of the municipality. Under the Strategy the subject land is now classified as 'Suburban Residential' in which preferred housing is to be characterised by standard density housing such as detached housing and dual occupancies/duplexes. The development approved under the permit is considered to be consistent with this preferred character.

SITE AND SURROUNDING AREA

The subject land (see *Attachment 1*) comprises a lot of 639m² with an existing single storey dwelling, located on the east side of Lincoln Drive, Thomastown. The surrounding area is described as predominantly flat with some gently sloping land. The area contains a range of road layout patterns, with a distorted grid being most frequent. Development is mainly detached average size single storey houses in Cream Brick style dating from the 1960's. There are also some areas of 1950's Timber houses. Front fences are generally low.

BACKGROUND

Planning Permit No. 712422 was granted on 28 September 2010 authorising the construction of one single storey dwelling to the rear of the existing dwelling. The application was determined under delegation by officers as no objections were received at the end of the advertising period. The endorsed development plans are shown in *Attachment 2*.

Condition No. 20 of the Permit states:

In accordance with the Planning and Environment Act 1987 a permit for the development expires if:

(a) the development of any stage is not completed within 4 years after the issue of the permit.

Before the permit expires or within three 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 or any stage of it is to be started or the development or any stage of it is to be completed.

An application for the extension was received on 23 August 2016. This request was received within the time specified above and can therefore be considered. This is the second request for an extension of time.

CURRENT PERMIT EXTENSION REQUEST

The applicant seeks an extension of two (2) years to commence and complete the development citing insufficient funding at the present time as the reason for the request.

ASSESSMENT

When the permit was issued on 28 September 2010 the land was located in a Residential 1 Zone. In October 2015 Amendment C181 was approved by the Minister for Planning which introduced the new Statewide reformed residential zones to all established areas within the Whittlesea Planning Scheme. In relation to the subject land and surrounds, the General Residential Zone is essentially the same as the former Residential 1 Zone. Amendment C181 also included Council's adopted Housing Diversity Strategy (HDS) within the Municipal Strategic Statement (which forms part of the Planning Scheme). In particular, Clause 21.09-4 was introduced to define residential change areas and the preferred housing character within these areas. The subject land was included in a 'Suburban Residential' change area in which preferred housing is to be characterised by standard density housing such as detached housing and dual occupancies/duplexes.

The proposed development (see *Attachment 2*) is consistent with the preferred density and building heights for the Suburban Residential change area.

The applicable principles for considering extensions of time have been established by VCAT, are based on legal precedent and are applied by all councils. These tests are referred to as the 'Kantor' tests (named after the legal case which introduced them). The tests guide decisions and provide a degree of certainty for all stakeholders who may be affected by decisions relating to the extensions of time.

It should be noted that there are no statutory provisions for notifying other affected persons of extension of time requests.

The 'Kantor' tests are set out below with comments under each heading relevant to the current application.

Whether there is a change of planning policy

The change of policy brought about by the approval of Amendment C181 and the introduction of the HDS and associated changes to the Local Planning Policy Framework have been discussed previously in this report. The changed policy context supports the current proposal.

Whether the landowner is seeking to 'warehouse' the permit

There is no evidence that the permit holder is seeking to 'warehouse' the permit (i.e. not intending to act on the permit in the foreseeable future).

Intervening circumstances bearing on the grant or refusal of the extension

There are no intervening circumstances bearing on the grant or refusal of the extension other than the permit holder has insufficient funding to commence the development at the present time.

The total elapse of time

The total period that has elapsed since the granting of the permit is now six years. However, because planning circumstances continue to support this form of development, an extension is considered reasonable.

Whether the time limit originally imposed was adequate

The time limit imposed was reasonable. The permit holder was given the benefit of a standard four year completion period and a further two year extension of this period.

The economic burden imposed on the landowner by the permit

This relates to the degree to which the permit holder is economically committed to the permit proposal as a consequence of actions taken to give effect to the permit. The request to extend the permit was made before the permit expiry date and this is the first request for an extension of time to commence the approved development. There is no evidence that the permit holder is not committed to the permit proposal.

The probability of a permit issuing should a fresh application be made.

Under the HDS the site is located within the Suburban Residential change area. This change area nominates the preferred housing type as standard density housing such as detached housing and dual occupancies/duplexes. It is likely the current development would be supported if a new application were to be made

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 purpose of limiting the life of a permit is to ensure that it does not become inappropriate due to a change in circumstances. The HDS was introduced into the Whittlesea Planning

Scheme subsequent to the issue of the permit. These changes in policy suggest that it is highly likely that the current proposal would be supported if a fresh application were to be made. On these grounds it is recommended that the extension of time be approved.

RECOMMENDATION

THAT Council resolve to approve the application to extend Planning Permit No. 712422 for the construction of a dwelling to the rear of the existing dwelling at 84 Lincoln Drive, Thomastown and advise the applicant accordingly.

COUNCIL RESOLUTION

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

THAT Council resolve to approve the application to extend Planning Permit No. 712422 for a further two years, for the construction of a dwelling to the rear of the existing dwelling at 84 Lincoln Drive, Thomastown and advise the applicant accordingly.

CARRIED

6.1.8 35 CUTHBERT DRIVE, MILL PARK - CONSTRUCTION OF A DWELLING TO THE REAR OF AN EXISTING DWELLING

File No: 716015

Attachments: 1 Locality Maps
2 Development Plans

Responsible Officer: Director Planning & Major Projects

Author: Principal Planner

APPLICANT: Mr D Ujgunovski

COUNCIL POLICY: Nil

ZONING: General Residential Zone

OVERLAY: Development Contributions Plan Overlay (Schedule 3)
Special Building Overlay

REFERRAL: Melbourne Water

OBJECTIONS: Two

RECOMMENDATION: That Council approve the application.

REPORT

EXECUTIVE SUMMARY

The applicant proposes to construct a double storey dwelling to the rear of the existing single storey dwelling. The proposal will utilise the existing crossover to Cuthbert Drive.

Advertising of the proposal resulted in two objections being received. The grounds of objection relate to the demolition of the existing garage and erection of a new garage on, or near to, the shared side boundary; and the impact of development on an established garden on the objectors land.

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 this site as being within the 'Suburban Residential Change Area'. The proposal complies with the preferred density and design principles of this Change Area and is considered to be an acceptable two 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 HDS, it is recommended that Council approve the application.

SITE AND SURROUNDING AREA

The subject site is located on the northwest side of Cuthbert Drive and is approximately 642m² in area (see *Attachment 1*). The subject site currently contains a single storey, brick dwelling and a large garage at the rear of the site. Two large trees in the rear open space were removed within the last 12 months. There is very little vegetation on the site.

To the rear of the site, is a single storey dwelling, setback 5.1m from the shared boundary, this dwelling faces Wickham Court. To the southwest of the site is a double storey dwelling and to the northeast of the site is a cluster of four established single storey dwellings that were constructed on a double allotment.

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

- Freeman Park (120m north)
- Findon Primary School (240m southwest)
- Bus Routes 562 – Greensborough to Whittlesea, 566 – Lalor to Northland and 955 – night bus (250m north).
- Bus Route 564 – Bundoora to South Morang (360m south)
- Findon Recreation Reserve (470m southwest)
- St Francis Assisi Primary School (620m northeast)

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 2.0m wide easement that extends for the entire width of the rear boundary.

PROPOSAL

It is proposed to construct a double storey dwelling to the rear of the existing dwelling. Both dwellings will share vehicle access from the existing access point from Cuthbert Drive. The new dwelling includes a double car garage next to the dwelling and the existing dwelling will be provided a single car carport located between the two dwellings.

The new dwelling will be provided living areas and secluded open space on the ground level and three bedrooms and amenities on the upper level. The new dwelling will have a mix of external materials including face brickwork on the lower level and render finish for the upper level. The pitched roof will be tiled.

The existing dwelling will be modified. Changes include reducing the number of bedrooms from three to two and converting bedroom 3 into an extension of an open plan living area accessing the open space to the northeast. Additionally, the existing verandah will be removed and the garden will be redone.

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

	Height /Scale	Number of Bedrooms	Setbacks	Private Open Space	Car Parking	Maximum Height
Dwelling No. 1 (existing)	Single storey	2	9.4m front setback; 4.5m side (east) setback; 1.2 side (west) setback.	61m ²	Single car carport	4.5m
Dwelling No. 2	Double storey	3	2.2m rear setback; zero (east) side setback; 1.1m side (west) setback.	57m ²	Double car garage	7.4m

During the detailed assessment it became apparent that there were some details that were missing from the plans, such as internal fencing detail, details relating to window treatments that protect neighbouring from overlooking and notations about modifications to the amended plans. Amended plans were submitted addressing these matters (*see Attachment 2*). The changes to the plans did not have the potential to increase any detriment, therefore the plans were not readvertised.

PUBLIC NOTIFICATION

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

1. Inadequate replacement boundary fencing
2. Damage to established garden bed on objector's land
3. Loss of privacy and security.

HOUSING DIVERSITY STRATEGY

The Housing Diversity Strategy (HDS) was introduced into the Whittlesea Planning Scheme 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	✓	✓	
B2	Residential policy	✓	✓	
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	✓	✓	
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	✓	✓	
B14	Access	✓	✓	
B15	Parking location	✓	✓	
B17	Side and rear setbacks	✓	✓	
B18	Walls on boundaries	✓	✓	
B19	Daylight to existing windows	✓	✓	
B20	North-facing windows	✓	✓	
B21	Overshadowing open space	✓	✓	
B22	Overlooking	✓	✓	
B23	Internal views	✓	✓	
B24	Noise impacts	✓	✓	
B25	Accessibility	✓	✓	

	✓ - Compliance x - Non compliance	Objectives	Standards	Comments
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	n/a	n/a	There is no front fence proposed.
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	2	1	1	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.

There was some concern regarding the ability of vehicles being able to exit their carport or garage and then have adequate space to turn their vehicle and leave the site in a forward direction. As a result, the applicant provided amended plans (10 October 2016) to address the matter. Minor modifications were made to increase the width and reduce the length of the proposed carport for the existing dwelling. The amendment increased the setback of the turning area for the garage of the proposed dwelling and reduced the porch area. This resulted in very minor decrease of the setback to the rear (120mm).

The alteration of the plans is very minor and will not warrant readvertising. The alteration of the plans has improved the turning area for the vehicles and is now satisfactory. The modifications all still comply with the requirements of Clause 52.06. If approval is granted a permit condition will require that plans be provided in accordance with the amended plans.

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.

SPECIAL BUILDING OVERLAY

The site is affected by the Special Building Overlay, which is an overlay relating to anticipated areas of flooding. Pursuant to Clause 44.05 of the Whittlesea Planning Scheme, the application was required to be referred to Melbourne Water under section 55 of the Act. Melbourne Water does not object to the proposal, but has provided four conditions that need to be included as part of any approval.

COMMENTS ON GROUNDS OF OBJECTION**1. Inadequate replacement boundary fencing**

The boundary between the subject land and Unit 3/37 Cuthbert Drive currently comprises a 14 m long brick garage. This structure is to be removed and replaced with shorter section of garage wall (6.0m in length). A 1.95m high paling fence will be constructed on the remaining part of the east boundary and this will accord with the relevant standards relating to seclusion and privacy. The objector (landowner) has requested that the existing garage wall be retained to provide privacy or, alternatively, a new 2.0m high double brick wall be constructed to maintain privacy rather than the proposed paling fence.

The request goes beyond the standards for privacy and seclusion set out in Clause 55 of the Planning Scheme and it would not be appropriate to compel the applicant to provide this outcome. If provided, this would be via an agreement between the objector and the applicant or, alternatively provided by the objector with the consent of the applicant/landowner.

2. Damage to established garden bed on objector's land.

The occupier of Unit 3/37 Cuthbert Street has objected to the proposed development on the basis that it will damage a garden that has taken a long time to establish. No details are provided as to how this might occur. While disturbance may result as a consequence of building and fencing works along the shared boundary, building regulations can ensure that assets are appropriately protected. The objection is not sufficient for the proposal to be refused or modified.

3. Loss of privacy and security

The occupier of Unit 3/37 Cuthbert Street requests that the permit not be granted because it would result in a loss of privacy and security. As previously set out in this report, fencing will be provided to appropriate standards and upper storey windows have been designed to prevent overlooking.

It is not considered the objections to the application warrant the refusal of the application of modifications to the design.

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 high 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 the existing surrounding residential properties and accordingly approval of the application is recommended.

<h2>RECOMMENDATION</h2>

THAT Council resolve to approve Planning Application No. 716015 and issue a Notice of Decision to Grant a Permit for the construction of a second dwelling to the rear of the dwelling and modifications of the existing dwelling at 35 Cuthbert Drive, Mill Park 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. Before the development starts, 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 the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the advertised plans, but modified to show:**
 - a) Changes to the plans in accordance with the plans received by Council on 19 September 2016, showing:**
 - i. Correct details of modifications to existing dwelling**
 - ii. Internal fencing detail**
 - iii. Corrected visibility splay for vehicles**
 - iv. Window treatments**
 - b) Changes to the plans in accordance with the plans received by Council on 10 October 2016, showing improvements to the vehicle turning areas, including:**
 - i. Changes to carport dimensions**
 - ii. Changes to building setback**
 - iii. Reduction of the porch for the proposed dwelling**
 - c) The changes required to the elevation plans as a result of the amendments shown on the plans received by Council on 10 October 2016.**
- 3. Prior to the commencement of works civil engineering plans prepared by a**

suitably qualified person must be submitted to and approved by the Responsible Authority. The plans must be drawn to scale with dimensions and show Drainage 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.

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.

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 written consent of the Responsible Authority.

Prior to occupation

5. Prior to the occupation of the proposed dwelling the following works must be undertaken to the satisfaction of the Responsible Authority:
 - a) Modifications required to Dwelling 1 (existing dwelling), in accordance with the endorsed plans.
 - b) Landscaping works shown on the endorsed plan must be completed and then maintained to the satisfaction of the Responsible Authority.
 - c) 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.
 - d) Construction and connection of all internal drainage including the drainage between the subject site and the Council nominated point of discharge.
6. 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.

Parking and Access

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. In accordance with Whittlesea Planning Scheme Clause 52.06-8, access ways should have a corner splay or area at least 50 per cent clear of visual obstructions extending at least 2m along the frontage road from the edge of the exit lane and 2.5m along the exit lane from the frontage, to provide a clear view of pedestrians on the footpath of the frontage road. The area clear of visual obstructions may include an adjacent entry or exit lane where more than one lane is provided, or adjacent landscaped areas, provided the landscaping in those areas is less than 900mm high.

Requirements during works

10. 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.

11. 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.
12. 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.

Expiry

13. 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 (including works required for the existing dwelling) 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:

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

COUNCIL RESOLUTION

MOVED: Cr Kelly
SECONDED: Cr Lalios

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

CARRIED

6.1.9 19 CEDAR STREET, THOMASTOWN - CONSTRUCTION OF FOUR DWELLINGS

File No: 715980

Attachments: 1 Locality Maps
2 Development Plans

Responsible Officer: Director Planning & Major Projects

Author: Planning Officer Established Areas Planning

APPLICANT: Archedge Design

COUNCIL POLICY: Nil

ZONING: Residential Growth Zone

OVERLAY: Special Building Overlay
Development Contributions Plan Overlay

REFERRAL: Melbourne Water

OBJECTIONS: One

RECOMMENDATION: That Council approve the application.

REPORT**EXECUTIVE SUMMARY**

The applicant proposes to demolish the existing dwelling and construct four double storey dwellings on the subject site.

Advertising of the proposal resulted in one objection being received. The grounds of objection relate to the application being an overdevelopment; traffic congestion and lack of car parking; overlooking; loss of privacy and overshadowing; and an increase in noise, particularly during construction.

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 site coverage, permeability and the provision of private open space. Conditions can be included to adequately address minor non-compliances in relation to overlooking and car parking.

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

The application was referred to Melbourne Water as a determining referral authority. No objection was received subject to the inclusion of standard conditions of permit.

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 site is located on the south side of Cedar Street between Station and Beech Streets, approximately 170m east of the Thomastown Shopping Centre and train station. The land is rectangular in shape with a street frontage width of 15.2m, a depth of 42.7m and an area of 650m².

The site has been developed with a single storey, faux-brick dwelling setback approximately 6.8m from the street. Vehicle access to a garage at the rear is located adjacent to the western boundary. Private open space is located to the rear of the dwelling, and the front setback consists of lawn. There is no significant vegetation on the site. A low timber picket fence abuts the street frontage.

The adjoining property to the east contains a single storey brick dwelling and is located 1.1m from the common boundary. The adjoining property to the west contains a single storey brick dwelling and is setback 1.3m from the common boundary.

Cedar Street is a local residential street, with medium density development emerging. Features directly in front of the site include a street tree.

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

- Bus route 570 – South Morang Station to Pacific Epping Shopping Centre (120m north).
- Bus route 559 – Thomastown via Darebin Drive (130m west).
- Thomastown Railway Station (300m west)
- High Street shopping strip (400m west).
- Thomastown East Primary School (560m east).
- Nick Ascenzo Reserve (800m east).

RESTRICTIONS AND EASEMENTS

The site is legally described as Lot 139 on Plan of Subdivision 013479. Covenant 2448748 applies to the land and relates to the removal of any earth, clay, stone, gravel or soil from the site for purposes other than building. Covenant 2738609 also applies to the land and relates to the minimum floor areas for any dwelling erected on the land being no less than 850 square feet (79m²). There are no restrictions on title that preclude Council from determining the application.

PROPOSAL

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

Dwelling No. 1 is proposed to be 'reverse living' and contains three bedrooms and a bathroom on the ground level and an open plan kitchen/meals/living area, laundry and toilet and balcony on the upper level. The remaining dwellings (nos. 2-4) are proposed to each contain an open plan living/meals/kitchen area a laundry and powder room at the ground floor (Dwelling No. 4 also contains a small study on the ground floor) and two bedrooms, a bathroom and study nook area at the upper floor. Dwellings Nos. 2 - 4 will utilise the existing crossover and driveway located along the western boundary and Dwelling No. 1 will be accessed by a new crossover and driveway located along the eastern property boundary.

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	5.4m front (north), 0m side (east), 4.1m side (west)	Balcony 9.3m ² (plus 3.8m ² service yard)	One car parking space within a carport (6.0m x 3.5m) + tandem car space	7.0m (overall)
Dwelling No. 2	Double storey	2	3.3m side (east), 4.0m side (west)	40m ² (all secluded)	One car parking space within a garage (6.0m x 4.0m)	6.9m (overall)
Dwelling No. 3	Double storey	2	3.3m side (east), 4.0m side (west)	43.9m ² (all secluded)	One car parking space within a shared carport (6.0m x 6.0m)	6.9m (overall)
Dwelling No. 4	Double storey	2	3.3m side (east), 1.2m side (west), 1.3m rear (south)	42.8m ² (including 25m ² secluded)	One car parking space within a shared carport (6.0m x 6.0m)	7.0m (overall)

PUBLIC NOTIFICATION

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

1. The application is an overdevelopment and is not in character with the neighbourhood
2. Traffic congestion and lack of car parking
3. Overlooking/loss of privacy/overshadowing
4. Increase in noise, particularly during construction

HOUSING DIVERSITY STRATEGY

The Housing Diversity Strategy (HDS) was introduced into the Whittlesea Planning Scheme 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 Whittlesea Planning Scheme and an assessment against it is provided under Standard B2 of the Clause 55 assessment.

REFERRALS

The application was referred to Melbourne Water as a determining referral authority. The authority requires the inclusion of standard conditions on any permit issued.

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 1960s and typically detached, double fronted single storey houses in brick or weatherboard cladding. Garages, where provided, are generally located at the rear of the property whereas the veranda style carports are located in front of the main building line or aligned with the building façade.</p> <p>A medium density multi-unit development is considered to be in keeping with the changing neighbourhood character (to a more contemporary, higher-density character).</p> <p>Overall, the dwellings present a contemporary design in a neighbourhood which currently contains some examples of generally low-scale multi-dwelling developments.</p>
B2	Residential Policy	✓	✓	<p>The subject site is located within the Neighbourhood Renewal Change Area within the HDS. This Change Area encourages a range of medium building heights that can be integrated with existing housing stock. Reduced front setbacks are encouraged to allow activation of the street. Medium to higher site coverage is allowed to facilitate a balance between increased densities and landscape opportunities. Provision of attractive landscaping to complement medium to higher density built form is encouraged.</p> <p>Generally, the proposed four dwelling development achieves the key design principles for the Neighbourhood Renewal Change Area. The double storey nature of dwellings is consistent with the emerging medium density character of the area, and sufficient separation has been provided between the dwellings at the upper floors. The proposed setbacks from title boundaries will allow for generous landscaping to be provided throughout the development,</p>

	✓ - Compliance x - Non compliance	Objectives	Standards	Comments
				including a large canopy tree within the front setback of the property and within the private open space areas of Dwelling Nos. 2 -4.
B3	Dwelling Diversity	✓	✓	Only applicable to developments of ten (10) or more dwellings
B4	Infrastructure	✓	✓	
B5	Integration with the street	✓	✓	
B6	Street setback	✓	x	The proposed setback of 5.4m is slightly less than the required setback of 6.6m; however, it is considered that within the context of the Neighbourhood Renewal Change Area as nominated in the HDS, the reduced setback is appropriate, and the planting of a large canopy tree can still be accommodated to provide an attractive streetscape appearance.
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	✓	✓	
B14	Access	✓	✓	
B15	Parking location	✓	x	The proposed car spaces for Dwelling Nos. 3 and 4 are constrained and do not allow for convenient turning circle movements to enter/exit the site safely. Therefore, a condition will be included on any permit issued requiring an increase in the width of the shared carport to be no less than 7.0m, to the satisfaction of the Responsible Authority.
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	✓	x	The upper floor west-facing windows of Dwelling No. 3 appear to have some overlooking opportunity. Therefore, provision of diagrams representing full compliance with Clause 55.04-6 must be provided, or appropriate obscuring provided, to the satisfaction of the Responsible Authority.
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	N/A	N/A	None proposed.
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	N
4	2	1	1	N

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. Dwelling Nos. 1 and 2 comply with these requirements.

The proposed shared carport for Dwelling Nos. 3 and 4 is 6.0m x 6.0m. Turning templates have been applied and convenient and safe turning movements appear difficult to achieve, and are not supported. Therefore, a condition will be included on any permit issued requiring an increase in the width of the shared carport to be no less than 7.0m, to the satisfaction of the Responsible Authority.

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. The application is an overdevelopment and is not in character with the neighbourhood**

Council's Housing Diversity Strategy nominates the subject site as located within the Neighbourhood Renewal Change Area where medium to high density housing development is encouraged. Subject to minor conditions included on any permit issued, the proposal will provide sufficient car parking and private open space areas, will not result in unreasonable overlooking or overshadowing, and meets the site coverage and permeability requirements of Clause 55 and is therefore considered appropriate for the site. Accordingly, this ground of objection is not substantiated.

2. Traffic congestion and lack of car parking

The proposal is not expected to generate a significant increase in the number of vehicles along Cedar Street and therefore will not cause an adverse impact on the volume of traffic within the surrounding road network. Subject to the inclusion of minor conditions of permit in relation to the width of car spaces to achieve sufficient turning circle movements, the proposal complies with the relevant on-site car parking provisions within Clause 52.06 of the Scheme. Accordingly, this ground of objection can be addressed by including a condition of any permit issued.

3. Overlooking/loss of privacy/overshadowing

The proposed habitable room windows at first floor level for each dwelling have generally incorporated appropriately designs to prevent overlooking, either through the provision of fixed obscure glazing in accordance with the standard requirements of Clause 55.04-6 or obscured to 1.7m by way of a highlight window. However, the upper floor west-facing windows of Dwelling No. 3 appear to have some overlooking opportunity. Subject to the inclusion of minor conditions of permit in relation to the provision of diagrams representing full compliance of these windows with Clause 55.04-6, it is considered that this ground of objection can be addressed by including a condition of any permit issued.

The shadow diagrams submitted with the application show that the level of overshadowing experienced by neighbouring properties will be in accordance with Clause 55 of the Whittlesea Planning Scheme which aims to ensure buildings do not significantly overshadow existing secluded private open space of an existing dwelling. The shadow diagrams show a minor shadow cast over existing dwellings and outbuildings of the abutting properties to the east and west; however the extent of shadow cast complies with Clause 55.04-5 of the Whittlesea Planning Scheme. Accordingly, this ground of objection is not substantiated.

4. Increase in noise, particularly during construction

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. Whilst some additional noise will be generated by virtue of the greater number of residents on the land, this is considered acceptable in a residential area. Construction noise associated with the development is not a relevant planning consideration and should be addressed under separate cover.

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 52.06, Clause 55 and the Housing Diversity Strategy. 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. 715980 and issue a Notice of Decision to Grant a Permit for construction of four dwellings at 19 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 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 \$800.00 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) Diagrams representing full compliance with Clause 55.04-6 for the upper floor west-facing windows of Dwelling No. 3, or appropriate obscuring provided;
 - b) An increase in the width of the shared carport to Dwelling No. 3 and 4 to be no less than 7.0m with no reduction in setback to any other boundary as a result nor reduction in width of the Dwelling No. 2 garage, to the satisfaction of the Responsible Authority;
 - c) A revised landscape plan in accordance with Condition No. 3 b).
4. Prior to the commencement of buildings and works, a detailed landscape plan, prepared by a person suitably qualified or experienced in landscape design, must be submitted to and approved by the Responsible Authority. The plans must be drawn to scale, with dimensions, and show all proposed landscaping, including details of any existing vegetation to be removed or retained, the location of all new planting, a schedule of plant species and height at maturity and a maintenance schedule. Species selection is to be to the satisfaction of the Responsible Authority. Any proposed trees must be at an advanced stage of growth when planted.
5. The development allowed by this Permit and shown on the plans and / or schedules endorsed to accompany this Permit must not be amended for any reason without the prior written consent of the Responsible Authority.
6. Once the development has started, it must be continued and completed to the satisfaction of the Responsible Authority.
7. Prior to the occupation of the proposed dwellings hereby approved, landscaping works shown on the endorsed plan must be completed and then maintained to the satisfaction of the Responsible Authority.
8. Prior to the occupation of the proposed dwellings hereby approved, the car parking areas and accessways must be drained, fully sealed and constructed with asphalt, interlocking paving bricks, coloured concrete or other similar materials to the satisfaction of the Responsible Authority.
9. In areas set aside for car parking, measures must be taken to the satisfaction of the Responsible Authority to prevent damage to fences or landscaped areas.
10. Vehicular access to the site must be by way of a vehicle crossing constructed in accordance with Council's Vehicle Crossing Specifications to suit the proposed driveway(s) and the vehicles that will be using the crossing(s). The location, design and construction of the vehicle crossing(s) must be approved by the Responsible Authority. Any existing unused or redundant crossing(s) must be removed and replaced with concrete kerb, channel and naturestrip to the satisfaction of the Responsible Authority. All vehicle crossing works are to be carried out with Council

supervision under a Road Opening Permit.

11. Before starting any buildings or works, engineering plans showing a properly prepared design (with computations) for the internal drainage and method of disposal of stormwater from all roofed and sealed areas, including the use of an on-site detention system (if required), must be submitted to Council for approval. These internal drainage works must be completed to Council's satisfaction prior to using or occupying any building on the site.
 12. Prior to the occupation of the dwellings hereby approved, the permit holder is required to construct at no cost to Council, drainage works between the subject site and the Council nominated point of discharge. Such drainage works must be designed by a qualified engineer and submitted to and approved by Council. Computations will also be required to demonstrate that the drainage system will not be overloaded by the new development. Construction of the drainage system must be carried out in accordance with Council specifications and under Council supervision.
 13. 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.
 14. Prior to the occupation of the dwellings hereby approved, reticulated (water, sewerage, gas and electricity) services must be constructed and available to the satisfaction of the Responsible Authority.
 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 the 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. 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.
- Melbourne Water conditions (21 to 29)
21. Prior to the development plans being endorsed, the plans must be amended to address Melbourne Water's Conditions 3 & 4. Plans must be submitted with surface and floor levels to Australian Height Datum (AHD).
 22. The dwellings must be constructed with finished floor levels set no lower than 108.2

metres to Australian Height Datum (AHD) which is 300mm above the applicable flood level of 107.9 metres to AHD.

23. The garage of Unit 2 must be constructed with finished floor levels set no lower than 108.05 metres to Australian Height Datum (AHD) which is 150mm above the applicable flood level of 107.9 metres to AHD.
24. The carports of Units 1, 3 & 4 must be set at natural surface levels with no roller/garage doors and remain open for the life of the structure.
25. Prior to the issue of an Occupancy Permit, a certified survey plan, showing finished floor levels (as constructed) reduced to the AHD, must be submitted to Melbourne Water to demonstrate that the floor levels have been constructed in accordance with Melbourne Water's requirements.
26. The building footprint must not be altered without prior consent of Melbourne Water.
27. Imported fill must be kept to a minimum on the property and only be used for the sub floor areas of the dwellings, garage and driveway ramp.
28. Any new fence must be of an open style of construction (minimum 50% open) to allow for the passage of overland flows.
29. Pollution and sediment laden runoff shall not be discharged directly or indirectly into Melbourne Water's drains or waterways.
30. In accordance with the Planning and Environment Act 1987, a Permit for the development expires:-
 - (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 six months after the permit expiry date where the development has not yet started and within 12 months after the permit expiry date where the development allowed by the permit has lawfully started before the permit expires.

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.

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.

Melbourne Water

- 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 239698.
- Flood Level and Velocity Information:

The property is subject to flooding from the Thomastown Drain. For a storm event with a 1% chance of occurrence in any one year, the applicable flood level for the property is 107.9 metres to Australian Height Datum (AHD).

For the purpose of the Building Code of Australia - Building in Flood Hazard Areas, Melbourne Water has determined that during a flood event that has a probability of occurrence of 1% in any one year, the maximum flow rate of flood water (velocity) will be below 1.5 metres per second.

COUNCIL RESOLUTION

MOVED: *Cr Pavlidis*
SECONDED: *Cr Kozmevski*

THAT Council resolve to refuse Planning Application No. 715980 and issue a Refusal to Grant a Planning Permit for the construction of four dwellings at 19 Cedar Street, Thomastown, on the following grounds:

1. The proposed development does not satisfactorily respond to Clause 55.03-1 of Whittlesea Planning Scheme relating to street setback.
2. The proposed development does not satisfactorily respond to Clause 55.05-4 of Whittlesea Planning Scheme relating to the provision of private open space associated Dwelling No. 4 particularly in relation to the provision of such space to the south and west of the proposed dwelling which has inadequate dimensions.
3. The proposed development does not comply with Clause 52.06 of the Whittlesea Planning Scheme and in particular provides inadequate car parking space dimensions for Dwelling Nos. 3 and 4 and inadequate turning circles to allow vehicles to exit the site in a forward motion.
4. The proposed entrance to Dwelling No. 4 is unsafe and is not sufficiently set back from vehicle access and turning areas.
5. The proposal will result in an overdevelopment of the site.
6. The fence line between the carport and private open space associated with Dwelling No. 1 is inadequate..

CARRIED

DIVISION

Immediately after the motion was voted on, Cr Pavlidis called for a division which resulted in the following votes being recorded.

For	Against	Abstained
Cr Pavlidis	Cr Kirkham	Nil
Cr Kozmevski	Cr Kelly	
Cr Alessi	Cr Lalios	
Cr Cox	Cr Desiato	
Cr Monteleone	Cr Butler	
Cr Sterjova		

Based on the votes cast during the Division, the motion was carried.

CARRIED

6.1.10 10 KATHLEEN COURT, BUNDOORA - CONSTRUCTION OF THREE DWELLINGS

File No: 715807

Attachments: 1 Locality Maps
2 Development Plans

Responsible Officer: Director Planning & Major Projects

Author: Planning Officer

APPLICANT: B Mitris

COUNCIL POLICY: Housing Diversity Strategy

ZONING: General Residential Zone

OVERLAY: Development Contributions Plan Overlay

REFERRAL: Nil

OBJECTIONS: One

RECOMMENDATION: That Council approve the application.

REPORT**EXECUTIVE SUMMARY**

The applicant proposes to demolish the existing dwelling and construct three double storey dwellings on the subject land. The existing concrete crossing located along the south and east property boundaries is to provide vehicular access to all three dwellings.

Advertising of the proposal resulted in one objection being received. The grounds of objection relate to overlooking and impact on the amenity of the existing abutting school site (Northside Christian College).

The proposal demonstrates a satisfactory level of compliance with the provisions of Clause 55 of the Whittlesea Planning Scheme. All objectives of Clause 55 can be met. A small number of standards have not been met but can be addressed through conditions of any permit that may be issued.

The Housing Diversity Strategy (HDS) nominates the site as being within the Neighbourhood Interface Change 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 northeast side of Kathleen Court at the end of the court bowl, approximately 68m north of Nickson Street and 390m west of Plenty Road, Bundoora (see *Attachment 1*). The site is irregular in shape and provides a frontage to Kathleen Court of 14.4m and a depth of approximately 35.0m, providing a total site area of 889m². The site is relatively flat and contains a detached single storey brick dwelling with a tiled hipped roof, a garage and a bungalow located to the rear of the dwelling.

Vehicular access to the site is provided via a single concrete crossing located along the south and east property boundaries. There is no vegetation of significance contained within the site.

The surrounding area is generally characterised by residential land uses with existing single storey dwelling being typical of the prevailing built form and some double storey built form to the east of the site. There are a number of multi-dwelling developments within the immediate vicinity to the east and west of the site. The Northside Christian College school site abuts the northern (rear) boundary of the subject land. A large school building is set back approximately 5.0m from this rear boundary.

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

- Northside Christian College (abutting subject land to north).
- Bus Route 902 - SMARTBUS Service Chelsea to Airport West (300m south on Settlement Road).
- Norris Bank Parklands (480m west).
- St Damian's Primary School (310m southeast).
- Bundoora Shopping Centre (340m east).
- Edward Street Preschool (400m southwest).
- Tram route 86 - Bundoora RMIT to Waterfront City Docklands (460m southeast on Plenty Road).
- Goodstart Early Learning Centre Bundoora (700m southeast).

RESTRICTIONS AND EASEMENTS

The Certificate of Title for the property shows that the site is not affected by any restrictive covenants or Section 173 Agreements. The site is however encumbered by a 2.44m wide drainage and sewerage easement along the north and east property boundaries.

PROPOSAL

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

Dwelling No. 1 will have street frontage to Kathleen Court and comprise an open plan kitchen/meals area, a separate family/living area, a powder room and laundry facilities at ground level. At first floor level, the dwelling will contain three bedrooms (master with ensuite and walk-in-robe) and a separate bathroom.

Dwelling Nos. 2 and 3 will be located side-by-side and to the rear of the property. The dwellings will each comprise a similar floor plan with a varied configuration. At ground level, the dwellings will contain an open plan kitchen/meals/family area, a powder room and a laundry. At first floor level, the dwellings will contain three bedrooms (master with ensuite and walk-in-robe) and a separate bathroom. These dwellings will also contain a study nook at ground level for Dwelling No. 1 and first floor level for Dwelling No. 2.

All three dwellings will be provided with an attached double space garage, private open space and secure external storage accessible from their respective living areas.

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 (southwest), 5.0m side (southeast) and 2.2m side (west).	143m ² (including 54m ² of secluded private open space)	Double garage (6.0m x 5.5m)	8.3m (overall)
Dwelling No. 2	Double storey	3	1.6m side (west) and 3.0m rear (north).	85m ² (all secluded private open space)	Double garage (6.0m x 5.5m)	7.8m (overall)
Dwelling No. 3	Double storey	3	2.4m side (east), 1.0m side (southeast) and 3.5m rear (north).	88m ² (all secluded private open space)	Double garage (6.0m x 5.5m)	7.4m (overall)

PUBLIC NOTIFICATION

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

1. Overlooking.
2. Impact on amenity of the existing abutting school site.

HOUSING DIVERSITY STRATEGY

The Housing Diversity Strategy (HDS) was introduced into the Whittlesea Planning Scheme 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	✓	✓	<p>Development within the area generally consists of detached, average size single storey dwellings in 1970's style. Roofs are either of hip or gable style and consist of concrete or terracotta tiling. Where present, garages and carports are either attached to dwellings or located within rear yards or alongside boundaries. Neighbouring properties along Kathleen Court have varying street frontage setbacks ranging from 7-12m and front fences are not present.</p> <p>The surrounding area to the east and west of the subject site is also characterised by recently constructed medium density developments that exhibit a contemporary double storey built form. The area is further characterised by a school site to the north and public open space and sporting facilities to the west.</p> <p>The proposed development includes reduced upper level components and concrete tiled hipped roof forms that will complement the streetscape.</p> <p>The proposed development is considered to be consistent with the emerging mixed density residential character of the surrounding area.</p>
B2	Residential Policy	✓	✓	<p>The subject site is located within the Neighbourhood Interface Change Area within the HDS. 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.</p> <p>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 in the front setback, 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 indicative landscape areas shown on the plans submitted allow sufficient private open space to accommodate a small to medium canopy tree within the rear setback for each dwelling which will soften the impact of the proposed built form. The generous front setback can also accommodate a large</p>

	✓ - Compliance x - Non compliance	Objectives	Standards	Comments
				canopy tree or a number of medium canopy trees to replace the existing tree on site and further enhance the streetscape.
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 a street setback that is the average of the front walls of the existing dwellings on the two abutting properties or 9.0m whichever is the lesser.</p> <p>The proposed street setback for Dwelling No. 1 is varied with a minimum street setback of 7.0m and a maximum street setback of 8.5m due to the subject site being located at the end of the court bowl. The average street setback of the two dwellings on the abutting properties is 7.8m. Applying the minimum street setback of 7.0m for Dwelling No. 1 results in a reduction of 0.8m.</p> <p>The proposed 0.8m variation to the standard requirements is considered to be a minor and will not have a detrimental visual impact on the existing streetscape. Dwelling No. 1 has been designed to promote a good transition between the varying setbacks of the dwellings on the abutting properties and will enable the development to proceed without compromising the existing neighbourhood character.</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.

	✓ - Compliance x - Non compliance	Objectives	Standards	Comments
B14	Access	✓	✓	
B15	Parking location	✓	✓	
B17	Side and rear setbacks	✓	✓	
B18	Walls on boundaries	✓	✓	
B19	Daylight to existing windows	✓	✓	
B20	North-facing windows	✓	✓	
B21	Overshadowing open space	✓	✓	
B22	Overlooking	✓	✓	
B23	Internal views	✓	✓	
B24	Noise impacts	✓	✓	
B25	Accessibility	✓	✓	
B26	Dwelling entry	✓	✓	
B27	Daylight to new windows	✓	✓	
B28	Private open space	✓	✓	
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	Yes
2	3	2	2	Yes
3	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 into neighbouring properties.**

The proposed habitable room windows at first floor level for each dwelling have been appropriately screened and located at a distance to minimise the impact of overlooking into neighbouring properties including the school. Clause 55.04-6 of the Whittlesea Planning Scheme aims to limit views into existing secluded private open space and habitable room windows of an existing dwelling. The objector in this instance is the abutting school where concerns have been raised regarding the lack of screening to the proposed north facing bathroom and stairwell windows at first floor level for Dwelling Nos. 2 and 3. Although these windows are defined by the Scheme as non-habitable room windows, given the sensitive interface between the subject site and the school, these windows should be appropriately screened to minimise overlooking into the abutting school site. This requirement can be addressed via a condition on any permit that is issued. Accordingly, this ground of objection can be resolved via conditions of permit.

2. Impact on the amenity of the existing abutting school site.

The objector has raised concerns in terms of how the proposed development may compromise the viability of future buildings and works within the abutting school site. The objector has advised that it is very possible that an additional floor level will be constructed above the existing school building. The proposed dwellings have been appropriately designed to comply with the standard requirements of Clause 55.04-1 which aims to ensure that the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of surrounding built form. There is no evidence that the proposed

development will compromise the amenity of any future buildings and works on the abutting school site. 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 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. Additionally, a condition will be included on any permit that is issued to prevent overlooking into and from the abutting Northside Christian College school site. Accordingly approval of the application is recommended.

RECOMMENDATION

THAT Council resolve to approve Planning Application No. 715807 and issue a Notice of Decision to Grant a Permit for the construction of three dwellings at 10 Kathleen Court, Bundoora 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. (a) 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 \$600 as security deposit for the satisfactory completion and maintenance of the landscaping works hereby permitted.
(b) 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 Landscape Plan in accordance with Condition No. 4.
 - (b) Appropriate screening to all north facing windows at first floor level for Dwelling Nos. 2 and 3 to prevent views into and from the abutting school site.
4. Before development commences, a detailed landscape plan prepared by a person suitably qualified or experienced in landscape design must be submitted to and approved by the Responsible Authority. The plans must be drawn to scale with dimensions and show all proposed landscaping, including details of any existing vegetation to be removed or retained, the location of all new planting, a schedule of plant species and height at maturity, and a maintenance schedule. Species selection

-
- is to be to the satisfaction of the Responsible Authority. Any proposed trees must be at an advanced stage of growth when planted.
5. The development allowed by this permit and shown on the plans and/or schedules endorsed to accompany this permit shall not be amended for any reason without the consent of the Responsible Authority.
 6. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.
 7. Prior to the occupation of the dwellings hereby approved, landscaping works shown on the endorsed plan must be completed and then maintained to the satisfaction of the Responsible Authority.
 8. Prior to the occupation of the dwellings hereby approved, the car parking areas and access ways must be drained, fully sealed and constructed with asphalt, interlocking paving bricks, coloured concrete or other similar materials to the satisfaction of the Responsible Authority.
 9. In areas set aside for car parking, measures must be taken to the satisfaction of the Responsible Authority to prevent damage to fences or landscaped areas.
 10. Vehicular access to the site must be by way of a vehicle crossing constructed in accordance with Council's Vehicle Crossing Specifications to suit the proposed driveway(s) and the vehicles that will be using the crossing(s). The location, design and construction of the vehicle crossing(s) must be approved by the Responsible Authority. Any existing unused or redundant crossing(s) must be removed and replaced with concrete kerb, channel and naturestrip to the satisfaction of the Responsible Authority. All vehicle crossing works are to be carried out with Council supervision under a Road Opening Permit.
 11. Before starting any buildings or works, engineering plans showing a properly prepared design (with computations) for the internal drainage and method of disposal of stormwater from all roofed and sealed areas, including the use of an on-site detention system, must be submitted to Council for approval. These internal drainage works must be completed to Council's satisfaction prior to using or occupying any building on the site.
 12. Prior to the occupation of the dwellings hereby approved, the permit holder is required to construct at no cost to Council, drainage works between the subject site and the Council nominated point of discharge. Such drainage works must be designed by a qualified engineer and submitted to and approved by Council. Computations will also be required to demonstrate that the drainage system will not be overloaded by the new development. Construction of the drainage system must be carried out in accordance with Council specifications and under Council supervision.
 13. Prior to the occupation of the dwellings hereby approved, reticulated (water, sewerage, gas and electricity) services must be constructed and available to the satisfaction of the Responsible Authority.
 14. The permit holder shall be responsible to meet all costs associated with reinstatement and/or alterations to Council or other Public Authority assets deemed necessary by such Authorities as a result of the development. The permit holder shall be responsible for obtaining prior specific written approval for any works involving the alteration of Council or other Public Authority assets.
 15. Prior to occupation of any dwelling on the subject site, a letter box and house number to the satisfaction of the Responsible Authority shall be provided for each dwelling.
 16. At all times during the construction phase of the development, the permit holder shall take measures to ensure that pedestrians are able to use with safety any footpath along the boundaries of the site.
-

17. Upon completion of all buildings and works authorised by this permit the permit holder must notify the Responsible Authority of the satisfactory completion of the development and compliance with all relevant conditions.
18. Any litter generated by building activities on the site shall be collected and stored in an appropriate enclosure which complies with Council's Code of Practice for building/development sites. The enclosures shall be regularly emptied and maintained such that no litter overflows onto adjoining land. Prior to occupation and/or use of the building, all litter shall be completely removed from the site.
19. During the construction phase, 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.
20. In accordance with the Planning and Environment Act 1987 a permit for the development expires:
 - (a) the approved development does not start within 2 years of the date of this permit; or
 - (b) the approved development is not completed within 4 years of the date of this permit.

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

NOTES

Advanced Trees

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

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

Easements

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

Property Numbering

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

COUNCIL RESOLUTION

MOVED: *Cr Alessi*
SECONDED: *Cr Lalios*

THAT Council resolve to approve Planning Application No. 715807 and issue a Notice

of Decision to Grant a Permit for the construction of three dwellings at 10 Kathleen Court, Bundoora 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. (a) 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 \$600 as security deposit for the satisfactory completion and maintenance of the landscaping works hereby permitted.
 (b) 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) Redesign of the entrance to Dwelling No. 3 to address pedestrian and resident safety from vehicles reversing from the garage attached to the dwelling.
 - (b) A Landscape Plan in accordance with Condition No. 4.
 - (c) Appropriate screening to all north facing windows at first floor level for Dwelling Nos. 2 and 3 to prevent views into and from the abutting school site.
4. Before development commences, a detailed landscape plan prepared by a person suitably qualified or experienced in landscape design must be submitted to and approved by the Responsible Authority. The plans must be drawn to scale with dimensions and show all proposed landscaping, including details of any existing vegetation to be removed or retained, the location of all new planting, a schedule of plant species and height at maturity, and a maintenance schedule. Species selection is to be to the satisfaction of the Responsible Authority. Any proposed trees must be at an advanced stage of growth when planted.
5. The development allowed by this permit and shown on the plans and/or schedules endorsed to accompany this permit shall not be amended for any reason without the consent of the Responsible Authority.
6. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.
7. Prior to the occupation of the dwellings hereby approved, landscaping works shown on the endorsed plan must be completed and then maintained to the satisfaction of the Responsible Authority.
8. Prior to the occupation of the dwellings hereby approved, the car parking areas and access ways must be drained, fully sealed and constructed with asphalt, interlocking paving bricks, coloured concrete or other similar materials to the satisfaction of the Responsible Authority.
9. In areas set aside for car parking, measures must be taken to the satisfaction of the Responsible Authority to prevent damage to fences or landscaped areas.

10. Vehicular access to the site must be by way of a vehicle crossing constructed in accordance with Council's Vehicle Crossing Specifications to suit the proposed driveway(s) and the vehicles that will be using the crossing(s). The location, design and construction of the vehicle crossing(s) must be approved by the Responsible Authority. Any existing unused or redundant crossing(s) must be removed and replaced with concrete kerb, channel and naturestrip to the satisfaction of the Responsible Authority. All vehicle crossing works are to be carried out with Council supervision under a Road Opening Permit.
11. Before starting any buildings or works, engineering plans showing a properly prepared design (with computations) for the internal drainage and method of disposal of stormwater from all roofed and sealed areas, including the use of an on-site detention system, must be submitted to Council for approval. These internal drainage works must be completed to Council's satisfaction prior to using or occupying any building on the site.
12. Prior to the occupation of the dwellings hereby approved, the permit holder is required to construct at no cost to Council, drainage works between the subject site and the Council nominated point of discharge. Such drainage works must be designed by a qualified engineer and submitted to and approved by Council. Computations will also be required to demonstrate that the drainage system will not be overloaded by the new development. Construction of the drainage system must be carried out in accordance with Council specifications and under Council supervision.
13. Prior to the occupation of the dwellings hereby approved, reticulated (water, sewerage, gas and electricity) services must be constructed and available to the satisfaction of the Responsible Authority.
14. The permit holder shall be responsible to meet all costs associated with reinstatement and/or alterations to Council or other Public Authority assets deemed necessary by such Authorities as a result of the development. The permit holder shall be responsible for obtaining prior specific written approval for any works involving the alteration of Council or other Public Authority assets.
15. Prior to occupation of any dwelling on the subject site, a letter box and house number to the satisfaction of the Responsible Authority shall be provided for each dwelling.
16. At all times during the construction phase of the development, the permit holder shall take measures to ensure that pedestrians are able to use with safety any footpath along the boundaries of the site.
17. Upon completion of all buildings and works authorised by this permit the permit holder must notify the Responsible Authority of the satisfactory completion of the development and compliance with all relevant conditions.
18. Any litter generated by building activities on the site shall be collected and stored in an appropriate enclosure which complies with Council's Code of Practice for building/development sites. The enclosures shall be regularly emptied and maintained such that no litter overspills onto adjoining land. Prior to occupation and/or use of the building, all litter shall be completely removed from the site.
19. During the construction phase, 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.

20. In accordance with the Planning and Environment Act 1987 a permit for the development expires:

- (a) the approved development does not start within 2 years of the date of this permit; or
- (b) the approved development is not completed within 4 years of the date of this permit.

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

NOTES

Advanced Trees

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

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

Easements

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

Property Numbering

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

CARRIED

**6.1.11 WHITTLESEA PLANNING SCHEME AMENDMENT C175 – PANEL REPORT
OUTCOMES & ADOPTION****File No:** 191851**Attachments:**
1 Locality and Zoning Plan
2 C175 Panel Report - Executive Summary
3 Proposed Concept Plan (Panel Version)**Responsible Officer:** Director Planning & Major Projects**Author:** Strategic Planner**REPORT****EXECUTIVE SUMMARY**

The purpose of this report is to consider the recommendations of the Panel Report arising from the Independent Planning Panel Hearing held in relation to Amendment C175 to the Whittlesea Planning Scheme. Amendment C175 seeks to provide improved guidance over the future growth of the Mernda Township (the area generally bound by Hazel Glen Drive to north, Plenty River to the east, Bridge Inn Road to the south and the Mernda Rail Reserve), by rezoning land currently zoned Township and Public Use to General Residential Zone, and applying the Development Plan Overlay Schedule 34, the Land Subject to Inundation Overlay, and the Vegetation Protection Overlay Schedule 1.

The Panel Report recommends approval of Amendment C175 subject to 12 modifications. The Panel Report also makes a 'further recommendation' that Council should prepare a new Amendment to the Whittlesea Planning Scheme which seeks to rezone land currently zoned Rural Conservation (to the east of the Township Zone land).

Generally, the recommendations in the Panel Report align with Council's formal position on the Amendment adopted at the 26 April 2016, Council Meeting. The Panel concluded that the Amendment represents sound planning, and should be supported. This report proposes that Council adopt Amendment C175 subject to incorporating each of the Panel's recommendations, with the exception of the 'further recommendation'.

With respect to the 'further recommendation' it is considered that as Council made a relatively recent decision on this matter, at its 14 July 2015 Council Meeting, and that circumstances remain unchanged, the position of Council to hold in abeyance any rezoning of the RCZ land until an appropriate time in the future should circumstances change, should persist.

Upon adoption of Amendment C175, Council's position on Amendment C175 as outlined in this report, and the Panel Report will then be forwarded to the Minister for Planning for ultimate determination.

PROPOSAL

Whittlesea Planning Scheme Amendment C175 (**Amendment C175**) applies to multiple properties within the Mernda Township, the area generally bounded by the Mernda Rail Reserve to the west, Bridge Inn Road to the south, Hazel Glen Drive to the north and the Plenty River and Environs to the east. Amendment C175 only affects land within the Mernda Township which is currently subject to the Township Zone (TZ) and Public Use Zone 2 (PUZ2) (see *Attachment 1*).

Amendment C175 proposes to rezone land in the Mernda Township from TZ and PUZ2 to the General Residential Zone (**GRZ**) and introduce a Development Plan Overlay (**DPO**) – Schedule 34 to the full extent of the nominated Township area. The Amendment will also apply the Land Subject to Inundation Overlay (**LSIO**) and Vegetation Protection Overlay – Schedule 1 (**VPO1**) on select areas within the Township. This is consistent with the current planning controls within the broader Mernda/Doreen growth corridor.

In addition, Amendment C175 also seeks to correct an anomaly in the Whittlesea Planning Scheme, by removing DPO – Schedule 16 as it applies to land adjacent to the intersection of Plenty Road and Bridge Inn Road and instead, applies DPO – Schedule 15 being the correct Schedule.

BACKGROUND

Authorisation

As previously reported to Council, Amendment C175 when originally conceived consisted of two components relating to the Mernda Township. First being the proposed rezoning of the TZ and PUZ2 to the GRZ and application of the DPO and VPO. The second component related to the land between the current TZ area and the Plenty River, which currently, is mostly within the Rural Conservation Zone (**RCZ**).

At that time the proposal was to rezone a portion of the RCZ to GRZ and apply the DPO and VPO as per the proposal for the area affected by the current TZ, with the balance of land abutting the Plenty River being transferred to Council to establish a linear open space link.

Early in 2015, the Costa Mushroom Exchange (**Mushroom Exchange**) raised concerns regarding the proposal to rezone the RCZ land on the basis that it would result in urban development encroaching into buffer areas which would adversely impact their operations on site.

Given the potential impact of this component of Amendment C175 on the Mushroom Exchange, it was resolved by Council, at its 14 July 2015 meeting, to proceed only with the first component of the rezoning, namely that part within the TZ boundary. The RCZ rezoning component was excised from Amendment C175, to be held in abeyance and reviewed as a separate Amendment at a future point in time, should circumstances change.

Following the 14 July 2015 Council Meeting, Council Officers sought authorisation from the Minister for Planning to prepare and exhibit the revised form of Amendment C175, which was subsequently granted.

Exhibition & Submissions

Amendment C175 was placed on public exhibition for ten weeks between 3 December 2015 and 8 February 2016. Of the 300 plus properties affected, and the twenty authorities notified, a total of twenty submissions were received in response to the public exhibition process. Of the submissions, twelve were in support of the Amendment (although five requested changes), eight were opposing (two of the objecting submissions were subsequently withdrawn).

The main issues raised in submissions were:

- The reinstatement of rezoning the RCZ portion of the Township as part of Amendment C175 as previously proposed;
- The necessity to apply the LSIO and the impact this will have on the development potential of the land affected;
- Ensuring that new development fostered under proposed Amendment C175 will not impact upon the Mernda Rail Extension Project (**MREP**).

Following close of exhibition, Council Officers liaised with submitters in an attempt to resolve issues where possible. Council Officers (with assistance from Melbourne Water) were

successfully able to resolve a number of issues raised and resulted in the complete withdrawal of two submissions.

For the submissions and issues that could not be negotiated at Officer Level, it was resolved by Council at its 26 April 2016 meeting to request that the Minister for Planning appoint an Independent Planning Panel to consider unresolved submissions made in relation to Amendment C175.

PANEL HEARING

The Minister for Planning appointed a two-member Panel to consider unresolved submissions to Amendment C175.

Following the appointment of the Planning Panel, a Directions Hearing to deal with scheduling and administrative matters was held on 4 July 2016, followed by the formal Panel Hearing which occurred on 3 August 2016.

Parties presenting to the Panel included the following stakeholders:

- City of Whittlesea;
- Melbourne Water;
- Owner of 303 Hazel Glen Drive (with support from 265, 289 and 295 Hazel Glen Drive);
- Costa Mushroom Exchange;
- Owner of 90 Schotters Road;

The Panel also considered the written submissions from Public Transport Victoria (**PTV**), the Level Crossing Removal Authority (**LXRA**), and the landowner at 31-35 Johnsons Road and the landowner at 345 Hazel Glen Drive, all of whom did not present to the Panel.

Discussion relating to the status of the RCZ land, impact of Amendment C175 on the Mushroom Exchange and the application of the LSIO to encumbered land accounted for the majority of the Panel Hearing time.

Following the conclusion of the Panel Hearing, the Panel Members provided their formal recommendation on Amendment C175 and submissions within a Panel Report. All submitters were notified of the Panel Report which was publicly released on 22 September 2016.

PANEL REPORT – PROCESS & RECOMMENDATIONS

From a process perspective it is important to clarify the role of the Panel and the Planning Scheme Amendment process. The Minister for Planning is the person responsible for making the ultimate decision on this Planning Scheme Amendment. In the circumstance where submissions to an amendment are not able to be resolved then it is general practice to request the Minister for Planning to appoint an Independent Panel to hear submissions, review the overall amendment and make recommendations.

Following this, Council then needs to provide a formal position on the amendment as a whole and each of the Panel's recommendations. Council's position on these matters and the Panel Report are then forwarded to the Minister for Planning for his decision. Whilst the Minister for Planning will seriously consider the recommendations of the Panel and Council in his decision making, it is important to note that the Minister for Planning is not bound by these recommendations, and as such, can determine the amendment as he deems appropriate.

With regard to Amendment C175 the Panel found that the Amendment represents 'sound planning', and has recommended that Amendment C175 proceed to the Minister for Planning for consideration as exhibited, subject to a number of drafting changes. The Executive Summary of the Panel Report has been included as *Attachment 2* to this report.

The Panel provided a total of twelve recommended changes to Amendment C175. These changes were made in relation to: the proposed Schedule 34 of the DPO, the Concept Plan (see *Attachment 3*) and the Schedule of Clause 66.04 of the Whittlesea Planning Scheme (Referral and Notice Provisions). The Panel also provided an additional recommendation for Council to begin preparation of a new Planning Scheme Amendment to rezone the RCZ land that was omitted from Amendment C175.

The table below outlines the full set of Panel Recommendations for Amendment C175 as detailed in the Panel Report. Each Panel Recommendation has a corresponding Council Officer response and recommendation. The table below matches the numbering and structure of the Panel Report.

Panel Recommendation	Officer Response
1. Amend Schedule 34 to the Development Plan Overlay as follows:	
<p>a) <i>Include the following in a new Clause 3.0:</i></p> <p><i>‘3.0 Referral of applications’</i></p> <p><i>In accordance with section 55 of the Planning and Environment Act 1987, an application must be referred to the relevant authority specified in the Schedule to Clause 66.04 [Public Transport Victoria].</i></p>	<p>This recommendation has been made due to the request of Public Transport Victoria (PTV) to be nominated as a determining referral authority under Section 55 of the <i>Planning and Environment Act 1987</i>, for all planning permit applications within 50 metres east of the Mernda Rail Reserve.</p> <p>Council acknowledged the importance of PTV’s role in maintaining and protecting the Mernda Rail Reserve and associated MREP. It was the preference of Council to nominate PTV as a recommending referral authority under Section 52 of the <i>Planning and Environment Act 1987</i> on the basis that the majority of land within 50m to the east of the Mernda Rail Reserve had largely been developed. Council argued that it was unnecessary to refer development applications associated with existing uses to PTV.</p> <p>The Panel were sympathetic to Council’s position, however were concerned that the powers vested under Section 52 of the <i>Planning and Environment Act 1987</i> were not substantial enough for PTV to ensure the role of the Mernda Rail Reserve was not compromised.</p> <p>In this instance, it is considered that this recommendation should be supported. By having PTV nominated as referral authority under Section 55 of the <i>Planning and Environment Act 1987</i>, this will enable an appropriate and statutory assessment of the merits of the development on the state significant Mernda Rail Reserve and MREP.</p> <p><u>Officer Recommendation:</u></p> <p>Support Panel Recommendation 1a.</p>
<p>b) <i>In Clause 3.0 (now Clause 4.0), include the following additional dot point under the heading ‘Road and pedestrian network’:</i></p> <ul style="list-style-type: none"> ▪ <i>Provision of a shared pathway along the length of Schotters Road that provides a pedestrian connection from Bridge Inn Road to Hazel Glen Drive. The final layout of the shared pathway is to be determined following discussions between the Responsible Authority and Public</i> 	<p>Originally it was intended to provide the north-south shared path along the length of the Mernda Rail Reserve. As the southern portion of the Mernda Rail Reserve is required for stabling as part of the MREP, an alternative was proposed to relocate the shared path to form part of the road reserve of Schotters Road.</p> <p>Whilst officers supported the alternative proposed by PTV, concerns were raised about the amount of land available within the road reserve of Schotters Road to deliver a shared path.</p> <p>It was agreed to at the Panel Hearing that for the purposes of Amendment C175 the shared path should be shown within the road reserve for Schotters Road. The</p>

<p><i>Transport Victoria prior to approval of the Development Plan.</i></p>	<p>ultimate form and delivery of the shared path will be subject to discussions with PTV at an appropriate time in the future at the subsequent Development Plan application stage and once design and implementation of the rail works are advanced.</p> <p>Future discussions with PTV will determine if an alternative solution can be implemented should the Schotters Road road reserve not be suitable.</p> <p><u>Officer Recommendation:</u> Support Panel Recommendation 1b.</p>
<p>c) <i>Include the following in a new Clause 5.0:</i></p> <p><i>'5.0 Decision guidelines'</i></p> <p><i>Before deciding on a request to approve or amend a Development Plan, the Responsible Authority must consider the views of Public Transport Victoria in relation to whether the Development Plan or Amended Development Plan prejudices the operation of the Mernda Railway Line.</i></p>	<p>This recommendation has also been made in response to PTV requesting their involvement in the assessment of development application for land adjacent to the Mernda Rail Reserve.</p> <p>Council's original position was that is unnecessary to include PTV as a nominated referral authority as part of the Development Plan assessment process given its well established practice of inviting all referral agencies to comment on all proposals.</p> <p>The Panel identified that the Mernda Rail Extension was of state significance and that the views of PTV should be sought. Unlike the referral authority recommendation previously discussed for planning permit applications, this recommendation merely asks the Responsible Authority to consider the views of PTV as part of the Development Plan process. It does not require the Development Plan to be approved to PTVs satisfaction.</p> <p>There is no objection to this position. It is considered appropriate to include specific reference to refer Development Plan applications to PTV for their input.</p> <p><u>Officer Recommendation:</u> Support Panel Recommendation 1c.</p>
<p>2. Amend the Concept Plan in Clause 4.0 (now Clause 6.0) of Schedule 34 to the Development Plan Overlay as follows:</p>	
<p>a) <i>Amend the boundaries of the 'Plenty River Environs' designation insofar as it affects the property at 88-90 Schotters Road and the properties fronting Hayes Road so that the 'Plenty River environs' boundaries accord with those of the Land Subject to Inundation Overlay (LSIO). Insert the following footnote:</i></p> <ul style="list-style-type: none"> ▪ <i>The area designated as 'Plenty River environs' that is also subject to the LSIO is developable on conditions consistent with, and no more onerous than, those applying under the LSIO.</i> 	<p>The application of the LSIO to land encumbered by the 1:100 year flood line within the Mernda Township was disputed in three submissions to the Amendment.</p> <p>As documented in the 26 April 2016 Council Report and discussed at length at the Panel Hearing, the LSIO concerns related to the perceived loss of developable land and more substantially the validity of data that is used to determine the application of the LSIO.</p> <p>The issue of flooding and identifying risk is ultimately the responsibility of the Catchment Management Authority, in this instance Melbourne Water. In addition, it is the role of Melbourne Water to communicate these circumstances to the public. Council Officers and Melbourne Water held discussions with the three submitters on this issue. It should be noted that as a result of these discussions one submission was successfully withdrawn and of the two remaining submissions only one presented to Panel.</p> <p>At the Panel Hearing, Melbourne Water presented information relating to flooding in the Mernda Township. It was explained that areas within the 1:100 year flood line were susceptible to low risk flooding and therefore the application of the least onerous planning control (the LSIO) was the most appropriate measure to deal with the</p>

	<p>issue. In essence the LSIO does not prohibit development within the area affected by the overlay, but requires Melbourne Water approval as the relevant authority.</p> <p>The Panel accepted, from the material presented before it, the position of Melbourne Water and Council and supported the application of the LSIO. However the extent and purpose of the LSIO drew the attention of Panel, particularly in relation to its reflection on the Concept Plan within DPO 34.</p> <p>The 'Plenty River Environs' designation on the exhibited Concept Plan was intended to show land encumbered by 1:100 year flooding, and with respect to the LSIO it was to accurately reflect the definition and extent of the LSIO. However there was no explanation on the exhibited Concept Plan confirming this.</p> <p>Given the representation of the 'Plenty River Environs' on the Concept Plan as green and the lack of detail establishing its purpose, it is conceded that some of the concern relating to the application of the LSIO was as a result of the inadequate representation of the 'Plenty River Environs'. The current depiction on the Concept Plan could be misinterpreted as the land not being suitable for any development. It is considered for clarity that Council support the recommendation of the Panel to update the Concept Plan.</p> <p>The inclusion of the footnote on the Concept Plan will also serve to clarify that the land although encumbered is still developable subject to the advice of the relevant authority (Melbourne Water).</p> <p><u>Officer Recommendation:</u> Support Panel Recommendation 2a.</p>
<p>b) <i>Illustrate the Mernda Rail Reserve and clearly show it as being outside the area covered by the Concept Plan and Schedule 34 to the Development Plan Overlay.</i></p>	<p>Prior to the Panel Hearing, Council Officers agreed to support this technical request made by PTV for clarity. This position was conveyed at the Panel Hearing.</p> <p><u>Officer Recommendation:</u> Support Panel Recommendation 2b.</p>
<p>c) <i>Remove the shared pathway shown in the Mernda Rail Reserve and include it within the Schotters Road road reserve. Insert the following footnote:</i></p> <ul style="list-style-type: none"> ▪ <i>The ultimate form and delivery of the shared path will be subject to discussion with Public Transport Victoria at the Development Plan and Planning Permit application stages.</i> 	<p>This recommendation is reflecting the recommended change proposed at Recommendation 1b), to make provision for the north-south shared path along Schotters Road on the Concept Plan.</p> <p>It is considered for completeness that this change be made.</p> <p><u>Officer Recommendation:</u> Support Panel Recommendation 2c.</p>
<p>d) <i>Delete the two east-west road links across the Mernda Rail Reserve.</i></p>	<p>Prior to the Panel Hearing, it was reported that at the time the Concept Plan was being prepared, it was unclear how the Mernda Rail Reserve was to be used. Through the exhibition process PTV advised that the southern portion of the Mernda Rail Reserve would be used for stabling, and as such would not accommodate the road crossings as proposed. Based on this advice the request was supported by Council, and was conveyed at the Panel Hearing.</p>

	<p><u>Officer Recommendation:</u> Support Panel Recommendation 2d.</p>
<p>e) <i>Remove the status of Station Road as nominated on the Concept Plan. Insert the following footnote:</i></p> <ul style="list-style-type: none"> ▪ <i>The status of Station Road is to be determined by a separate planning process.</i> 	<p>Given the proximity of Station Road to the Mernda Township, it was considered important to highlight the road on the Concept Plan for clarity. The exhibited Concept Plan was merely reflecting the current status of Station Road. Discussions relating to the ultimate role and function of Station Road have been considered and contested through assessment of the <i>Mernda Town Centre North East Development Plan</i> and delivery of the MREP.</p> <p>As the role and function of Station Road has no bearing on the scope of Amendment C175 it was considered appropriate to amend reference to Station Road to reflect that its status would be determined via separate planning processes.</p> <p>The recommendation of the Panel reflects the suggestion of Council in response to PTV's submission regarding the status of Station Road. In their report, the Panel supported the rationale of Council in making this suggestion.</p> <p><u>Officer Recommendation:</u> Support Panel Recommendation 2e.</p>
<p>f) <i>Remove any reference to specific intersection treatments and nominate intersections likely to require an intersection treatment. Insert the following footnote:</i></p> <ul style="list-style-type: none"> ▪ <i>The ultimate form and details of intersection treatments are to be determined at the Development Plan and planning permit application stages</i> 	<p>The recommendation has been made in response to the concerns raised by Vic Roads in their submission to Amendment C175.</p> <p>The concerns related to the level of ambiguity of the nomination of 'Controlled Intersections' on the exhibited Concept Plan, as this could be misinterpreted as those that require traffic signals. It was agreed between Council and Vic Roads that the ultimate form of the intersection treatments would be discussed as part of future Development Plan and Planning Permit applications. It was further agreed that the Concept Plan should be amended to reflect this position.</p> <p>This proposed change was supported by Council at its 26 April 2016 Meeting and in a letter from Vic Roads dated 1 July 2016, which were then conveyed to the Panel. As a result the recommendation of the Panel reflects the suggested recommendation of Council.</p> <p><u>Officer Recommendation:</u> Support Panel Recommendation 2f.</p>
<p>g) <i>Show an additional 'proposed local open space' area in the location of Reserve No.1 as shown on the certified plan of subdivision prepared pursuant to Planning Permit 713337 for the subdivision of the land at 345 Hazel Glen Drive.</i></p>	<p>In preparing the Concept Plan an error occurred when an endorsed tree protection reserve from Planning Permit 713337 was not shown on the plan. Council submitted that the Concept Plan within Amendment C175 be updated to accurately reflect the status of the tree protection reserve. The Panel agreed with Council's submission.</p> <p><u>Officer Recommendation:</u> Support Panel Recommendation 2g.</p>
<p>h) <i>Designate the residential portion of the land at 31-35 Johnsons Road Mernda as 'standard density residential / retirement village'.</i></p>	<p>Prior to the Panel Hearing, Council agreed to update the Concept Plan to reflect the land use designation as 'retirement village' to support the landowner's request, who has been actively seeking to build a retirement village on this land for a number of years.</p> <p>It was made clear by Council Officers to the proponent</p>

	<p>that in making this change, the flexibility for the use of the land would be lost. If the retirement village was not considered to be viable, the applicant would have to amend the Concept Plan via a new Planning Scheme Amendment process.</p> <p>The Panel agreed with Council that specifically designating the land as 'retirement village' may limit flexibility going forward should the landowners wish to proceed with pursuing an alternative land use.</p> <p>The Panel also noted that a retirement village could also be argued that it is not generally in accordance with the current designation of the land for 'standard density residential', which is the reason for the proposal to amend the designation.</p> <p>To avoid the possibility of the site being restricted by the specific land use designations, the Panel have recommended a dual land use designation of 'standard density residential' / 'retirement village'.</p> <p>It is agreed that this recommendation is appropriate as it maximises the flexibility of the land use and does not render the land undevelopable should a retirement village be unfeasible.</p> <p><u>Officer Recommendation:</u> Support Panel Recommendation 2h.</p>
<p>3. Amend the Schedule to Clause 66.04 of the Whittlesea Planning Scheme to include the following requirements in the table in the Schedule:</p>	
<ul style="list-style-type: none"> ▪ <i>Clause – Clause 3.0 of Schedule 34 to Clause 43.04 (Development Plan Overlay)</i> ▪ <i>Kind of application – An application to use land, subdivide land, or construct a building or carry out works on land within 50 metres east of the Mernda Rail Reserve and within the area of the Mernda township as shown on the Concept Plan in Clause 3.0 of Schedule 34 to Clause 43.04.</i> ▪ <i>Referral Authority – Public Transport Victoria</i> ▪ <i>Type of referral authority – [determining] referral authority</i> 	<p>This recommendation is a technical change to legitimise the role of Public Transport Victoria as a referral authority under Section 55 of the <i>Planning and Environment Act 1987</i> in accordance with Clause 3.0 of DPO34.</p> <p>As it is recommended that Council support PTV becoming a referral authority in accordance with Clause 3.0 of DPO34, it is further recommended that these changes proposed under Clause 66.04 be supported.</p> <p><u>Officer Recommendation:</u> Support Panel Recommendation 3.</p>
<p>Further Recommendation</p>	
<p>Whittlesea City Council should prepare an amendment without delay to:</p>	
<ul style="list-style-type: none"> ▪ <i>Rezone Rural Conservation Zoned land within the Mernda Township for residential development.</i> ▪ <i>Apply the Land Subject to inundation Overlay to that part of the land that is within the declared 1 in 100 year flood line.</i> 	<p>The further recommendation of the Panel has been made in response to the request made in a number of submissions to reinstate the proposal to rezone the RCZ land within the Mernda Township to the GRZ. This being the component that was not included within the exhibited Amendment C175.</p> <p>The issues regarding the RCZ land and the recommendation of the Panel are discussed in detail in the following section of the report.</p>

PANEL REPORT – FURTHER RECOMMENDATION

As mentioned previously, a substantial portion of the Panel Hearing was dedicated to the re-instatement of the RCZ land as part of Amendment C175. This has translated into a significant portion of the Panel Report discussing the implications and benefits of reinstating the RCZ land.

In its deliberations, the Panel resolved to support Council's position to exclude the RCZ land from Amendment C175. The decision made by the Panel however, was not as a result of the arguments raised by Council, but rather on a technicality. As the RCZ land had not been subject to the same formal processes of a Planning Scheme Amendment, as per the TZ land, the inclusion of the RCZ land at this late stage in the Planning Scheme Amendment process could be seen as being procedurally unfair for potentially affected landowners.

The Panel concluded that:

"On the basis of the material before it, the Panel would have found it difficult not to recommend rezoning the RCZ land to GRZ, if not for the transformation and procedural fairness issues".

As a result of this conclusion, the Panel have made a recommendation that:

"Whittlesea City Council should prepare an amendment without delay to:

- *Rezone the RCZ land within the Mernda Township for residential development".*

Whilst not a formal recommendation that relates to the finalisation of Amendment C175, it is important that Council form a view as part of the response to be forwarded to the Minister for Planning.

At its meeting of 14 July 2015 Council noted that the achievement of an open space pedestrian link along the Plenty River is an important strategic objective (which remains relevant), however on balance the concerns raised around the impact any additional development in proximity to the Mushroom Exchange may have on its ongoing viability in that location, should be considered. As a result Council resolved to hold in abeyance the rezoning of RCZ land until a future point in time should circumstances with respect to the operations of the Mushroom Exchange change to allow consideration of such a proposal.

Notwithstanding the Panel's recommendation, it is considered that the circumstances relating to this issue remain unchanged since Council's relatively recent decision, and as such do not warrant a change of course at this stage. It is on this basis that, in line with its 14 July 2015 decision, Council should continue to hold in abeyance any consideration to rezone RCZ land until an appropriate future point in time should circumstances change.

Officer Recommendation:

- **Not support the further recommendation (iv) of the Panel.**

NEXT STEPS

As part of the Planning Scheme Amendment process under the *Planning and Environment Act 1987*, having regard to Panel Recommendations, Council must determine whether to abandon the Amendment or adopt the Amendment.

Should Council adopt the Amendment, the Amendment will need to be forwarded to the Minister for Planning within 10 business days, for his ultimate determination.

The Minister will hand down his decision within 40 business days from the lodgement of the Amendment. During this time Amendment C175 would be known as being 'seriously entertained' by Council, whereby Council Officers are required to acknowledge the proposal and consider it in any development assessment applications during this time.

CRITICAL DATES

- **December 2012** – Amendment C175 first reported to Council requesting Ministerial authorisation to prepare and exhibit the Amendment to the Whittlesea Planning Scheme.
- **July 2015** – Amendment C175 reported to Council requesting Ministerial authorisation to prepare and exhibit a revised Amendment which limits the proposed rezoning to the existing Township Zoned land. Request granted by Council. Ministerial authorisation sought.
- **July 2015** – Relevant stakeholders and landowners notified of Council's decision to hold in abeyance any rezoning of the Rural Conservation Zoned land.
- **December 2015 to February 2016** – Amendment C175 placed on public exhibition.
- **April 2016** – Outcomes of the public exhibition process are reported to Council. Council resolves to request the Minister for Planning appoint an Independent Planning Panel to consider unresolved submissions to Amendment C175.
- **August 2016** – Panel Hearing for Amendment C175 held at the City of Whittlesea Civic Centre.
- **September 2016** – Panel Report handed down outlining findings and recommendations for Amendment C175.

FINANCIAL IMPLICATIONS

There may be an increase in additional permits triggered under the LSIO that will have a small, but manageable administrative impact within existing resources of the Planning and Major Projects Directorate.

POLICY STRATEGY AND LEGISLATION

Amendment C175 reflects the ambitions of the extensive set of Council policies. Several notable Community Plan Strategic Objectives include:

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

Amendment C175 will also help ensure that significant heritage sites are retained and incorporated into the future vision of the Mernda Township. This is in accordance with Clause 21.08-3 of the Whittlesea Planning Scheme, which seeks to increase the level of protection for and opportunities for incorporation of the City's European and Aboriginal heritage.

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

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

LINKS TO THE COUNCIL PLAN

FUTURE DIRECTION Growing our economy

Theme Employment

Strategic Objective There are a diverse range of local employment opportunities

FUTURE DIRECTION Places and spaces connect people

Theme Planning our space

Strategic Objective Our urban design helps to build connection to place and the community

The proposed Whittlesea Planning Scheme Amendment C175 will provide for the framework to allow the existing Mernda Township to better integrate with the larger Mernda-Doreen development corridor.

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

DECLARATIONS OF CONFLICTS OF INTEREST

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

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

CONCLUSION

The proposed Whittlesea Planning Scheme Amendment C175 represents a significant strategic project that will provide the Mernda Township with the same level of long-term planning controls that are afforded to the adjacent and surrounding Mernda Strategy Plan area.

This Amendment has been advanced essentially to ensure that the relevant planning controls are in place to guide the significant growth currently occurring and likely to occur in the future.

Underpinned by sound planning merit, Amendment C175 has been subject to a formal Planning Scheme Amendment process and is supported by an Independent Panel (subject to minor drafting changes).

It is recommended that all the Panel Recommendations regarding the specific matters in relation to Amendment C175 as exhibited are supported, as detailed in the submissions table in the body of this report. The specific Panel Report recommendations include 1(a) – 1(c), 2(a) – 2(h) and 3.

With respect to the 'further recommendation' regarding the advancement of a new Planning Scheme Amendment for the Rural Conservation Zone land within the Mernda Township, it is considered in keeping with earlier Council recommendation that this should not be advanced at this time and therefore Panel 'Further Recommendation (iv)' should not be supported.

From a process perspective the Panel Report together with Councils response and updated Amendment documents should be forwarded to the Minister for Planning for determination.

It is therefore recommended that Council resolve to:

- Adopt Planning Scheme Amendment C175 to the Whittlesea Planning Scheme as per Panel Recommendations 1(a) – 1(c), 2(a) – 2 (h), and 3;
- Not support Panel ‘Further Recommendation (vi)’;
- Forward Amendment C175, together with the Panel Report and Council’s recommendations, to the Minister for Planning for determination;
- Advise the submitters of Council’s resolution regarding the above.

RECOMMENDATION

THAT Council resolve to:

1. Adopt Planning Scheme Amendment C175 to the Whittlesea Planning Scheme as per Panel Recommendations 1(a) – 1(c), 2(a) – 2 (h), and 3;
2. Not support Panel ‘Further Recommendation (vi)’ ;
3. Forward Amendment C175, together with the Panel Report and Council’s recommendations, to the Minister for Planning for determination;
4. Advise the submitters of Council’s resolution regarding 1. to 3. above.

COUNCIL RESOLUTION

MOVED: *Cr Butler*
SECONDED: *Cr Lalios*

1. **Adopt Planning Scheme Amendment C175 to the Whittlesea Planning Scheme as per Panel Recommendations 1(a) – 1(c), 2(a) – 2 (h), and 3;**
2. **Not support Panel ‘Further Recommendation (iv)’ ;**
3. **Forward Amendment C175, together with the Panel Report and Council’s recommendations, to the Minister for Planning for determination;**
4. **Advise the submitters of Council’s resolution regarding 1. to 3. above..**

CARRIED

6.1.12 AMENDMENT C123- 50 AND 60 HUNTERS ROAD, MERNDA, AMENDMENT TO THE MERNDA STRATEGY PLAN**File No:** 195015

Attachments:

- 1 Subject Site
- 2 Zoning Plan
- 3 Overlay Plan
- 4 Amended Mernda Strategy Plan Precinct 4 Plan

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

Whittlesea Planning Amendment C123 proposes to amend the Mernda Strategy Plan by removing the current Conservation Open Space designation from the subject land known as 50 and 60 Hunters Road, Mernda. The amendment does not seek to alter or amend any of the zone and overlay controls that currently apply to the land.

The Amendment was reported to Council on 27 April 2016, where Council resolved to seek authorisation from the Minister for Planning to prepare and exhibit the Amendment.

The Amendment was placed on public exhibition to affected landowners, relevant authorities and prescribed Ministers for a period of 28 days. At the conclusion of the exhibition period, only one submission was received from the landowner of one of the affected sites which did not object to the amendment.

It is recommended that Council adopt Planning Scheme Amendment C123 and forward to the Minister for Planning for approval.

INTRODUCTION

The purpose of this report is to discuss the outcomes of the statutory exhibition process for Whittlesea Planning Scheme Amendment C123 and provide recommendations to finalise the amendment process.

The amendment proposes to amend the Mernda Strategy Plan to nominate the future land-use of 50 and 60 Hunters Road as residential, rather than the current designation of Conservation Open Space.

The Mernda Strategy Plan is an incorporated document in the Whittlesea Planning Scheme and as such any changes require a Planning Scheme Amendment.

BACKGROUND

The amendment applies to the land at 50 and 60 Hunters Road, Mernda (Attachment 1- Subject Site). The subject properties were rezoned to a Residential 1 Zone (now General Residential Zone) (Attachment 2- Zoning Plan), with a Development Contributions Plan- Schedule 8, Development Plan Overlay- Schedule 5 (attachment 3), Incorporated Plan Overlay- Schedule 1 and the Vegetation Protection Overlay Schedule, in 2004 as part of the

approval of the Mernda Strategy Plan. These zoning and overlay controls are consistent with those applied to all land within the Mernda Strategy Plan.

The Mernda Strategy Plan currently provides for a Conservation Open Space designation to the subject properties which applies generally to the area of the current Woodland Waters Conservation Reserve.

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

The properties combined, the sites are a total of approximately 8000 square metres. Each site currently contains a single dwelling and importantly do not contain any known native vegetation values. It has been identified by Council's Parks and Open Space department as being surplus to its open space needs.

It is noted that any future re-development of the subject sites will be able to be incorporated as part of the proposed development to the south. It is noted that there is currently a Development Plan under preparation which will be required to integrate the subject properties into any layout proposed layout.

NOTIFICATION AND SUBMISSIONS

Amendment C123 was placed on public exhibition from 29 August 2016 until 30 September 2016, to adjoining landowners, prescribed Ministers and relevant authorities. Notice of the Amendment was also placed in the Whittlesea Leader and the Victorian Government Gazette.

The exhibited documentation included a list of changes and a full copy of the Mernda Strategy Plan and all plans which are proposed to be altered as part of Amendment C123.

Of the plans contained within the Mernda Strategy Plan, the plans on pages 10, 15, 23, 25, 30 and 34 are required to be amended in order to change the land use designation on the subject properties.

At the conclusion of the public exhibition period, one submission was received from the landowner at 60 Hunters Road, Mernda. The submission was supportive of the Amendment, as exhibited, however, it was noted that the Precinct 4 Plan on page 15 of the proposed Amendment, had erroneously shown the subject properties as Conservation Open Space rather than the proposed Standard Residential land use designation.

This error has been noted, and the Precinct 4 Plan has been updated to reflect the proposed change in land use designation (Attachment 4- Proposed Mernda Strategy Plan Amendment Precinct 4 Plan).

DISCUSSION

The Amendment has been the subject of a standard exhibition process. It is noted that at the conclusion of the exhibition period, no objecting submissions were received.

The subject sites have been identified as being surplus to Council's open space needs, and the site does not contain any known native vegetation values. On this basis there is little value in maintaining the subject sites as Conservation Open Space, particularly where Council would be liable to acquiring this land through the DCP as currently designated.

Importantly, the proposed amendment to the Mernda Strategy Plan reflects what is considered to be the both the current use of the sites and the logical future use of the subject sites, which is supported by the underlying zones and overlays that apply to the site.

The proposed Amendment has been considered within the broader context of the area, and it is noted that the subject sites will be able to be incorporated into future residential development which will occur to the south.

Noting the above, it is considered that the proposed land use designation change from Conservation Open Space to Standard Residential is appropriate, and necessary to ensure that the future planning and use of the subject properties adequately reflects existing site conditions.

POLICY STRATEGY AND LEGISLATION

The proposed Amendment to the Mernda Strategy Plan is supported by underlying Zones and Overlays which apply to the site.

LINKS TO THE COUNCIL PLAN

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

DECLARATIONS OF CONFLICTS OF INTEREST

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

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

CONCLUSION

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

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

Therefore, it is recommended that Council resolve to adopt Planning Scheme Amendment C123 and forward to the Minister for Planning requesting approval.

RECOMMENDATION

THAT Council resolve to:

- 1. Adopt Planning Scheme Amendment C123 to the Whittlesea Planning Scheme;**
- 2. Request the Minister for Planning approve Amendment C123 to the Whittlesea Planning Scheme;**
- 3. Advise the landowners of Council's resolution regarding 1. and 2. above.**

COUNCIL RESOLUTION

MOVED: *Cr Butler*
SECONDED: *Cr Alessi*

THAT Council resolve to adopt the Recommendation.

CARRIED

6.1.13 895 YAN YEAN ROAD AND 900 BRIDGE INN ROAD, DOREEN: REMOVAL OF NATIVE VEGETATION

File No:	716177
Attachments:	1 Locality Maps 2 Tree Removal and Retention Plan 3 Photos of Trees
Responsible Officer:	Director Planning & Major Projects
Author:	Planning Officer - Growth Areas Development Assessment
APPLICANT:	Mr Stephen Lake
COUNCIL POLICY:	River Redgum Protection Policy
ZONING:	General Residential Zone
OVERLAY:	Development Contributions Plan (Schedule 6) Development Plan (Schedule 5) Incorporated Plan (Schedule 1) Vegetation Protection (Schedule 1)
REFERRAL:	Sustainability Planning Parks and Open Space Department of Environment, Land, Water and Planning
OBJECTIONS:	Nil
RECOMMENDATION:	That Council resolve to approve Planning Permit No. 716177 to allow for the removal of ten (10) River Red Gum trees.

REPORT**EXECUTIVE SUMMARY**

Planning Permit No. 712003 was issued on 27 July 2010 for the purpose of undertaking a multi lot residential subdivision (comprising 361 lots, native vegetation removal and the construction of the Garden Road and Bridge Inn Road intersection) at 830-860 Bridge Inn Road, Doreen (also known as the 'Hazelcroft' estate) (see *Attachment 1*). Condition Nos. 1(q), 1(s), 1(t), 7(c) and 7(d) of Planning Permit No. 712003 require upgrade works and the preparation of the interim and ultimate design of the Garden Road and Bridge Inn Road intersection. During the preparation of the functional layout design for this intersection, it was identified that the required road works would negatively impact upon native vegetation located on two adjoining properties on the southwest corner of the Garden Road and Bridge Inn Road intersection.

A tree assessment of the vegetation identified twelve (12) indigenous River Red Gum (*Eucalyptus camaldulensis*) trees in this location and recommended the removal of Trees 1-11 as they would be directly impacted upon by the road upgrades. The tree assessment also identified that the trees proposed to be removed are fair to poor in health with moderate to low retention value. Council's Sustainability Planning Unit and Parks and Open Space

Department support the removal of the trees except for Tree 11. Accordingly, it is recommended that Planning Permit No. 716177 be approved to allow the removal of ten River Red Gum trees (Trees 1-10) from the land. Conditions on any permit issued will require the retention of Tree 11 and the provision of native vegetation offsets in accordance with the provisions of the 'Biodiversity Assessment Guidelines (DEPI 2013) and Native Vegetation Gain Scoring Manual (DEPI 2013)'.

SITE AND SURROUNDING AREA

The subject site is located to the south of Bridge Inn Road and consists of two properties which have a total frontage to Garden Road and Bridge Inn Road of 330m and 161m respectively (see *Attachment 1*). The site comprises a total area of approximately 41 hectares and is located within the General Residential Zone.

The locality has undergone significant change over the past five years from rural living and agricultural uses to a more urban character. Surrounding developments include the Vaucuse Estate which is located to the south of the site whilst to the west is the Hazelcroft Estate which is under construction. A series of remnant rural-residential land parcels adjoin the site to the north and east.

The site is predominantly vacant and is partly encumbered by an existing electricity transmission easement along the northwest portion of the site which will be embellished with a shared path and landscaping when the land is developed. A tree assessment identified twelve (12) trees within the northwest corner of the site. All trees are remnant, indigenous River Red Gum (*Eucalyptus camaldulensis*) trees.

RESTRICTIONS AND EASEMENTS

No. 900 Bridge Inn Road, Doreen is legally described as Lot 1 on Title Plan 139446U of Volume 7834 Folio 149 whilst No. 895 Yan Yean Road, Doreen is known as Lot 1 on Title Plan 139447S of Volume 09812 Folio 806. There are no restrictions on both Titles that preclude Council from determining this application.

BACKGROUND

The subject site is located within the Garden Road Development Plan area and the Mernda Strategy Plan area. According to the Garden Road Development Plan, the site is identified for standard density residential development.

Planning Permit No. 712003 was issued on 27 July 2010 to allow for the creation of a multi-lot residential development and the removal of forty four (44) native trees to the west of the subject site at 830-860 Bridge Inn Road, Doreen (also known as the 'Hazelcroft' estate). No. 830-860 Bridge Inn Road, Doreen is located within the Ashley Park Development Plan which identifies the land for residential purposes. The Tree Removal and Retention Plan (see *Attachment 2*) which forms part of this current application under consideration shows the vegetation already approved for removal under Planning Permit No. 712003.

A number of conditions on Planning Permit No. 712003 require the construction of the Garden Road and Bridge Inn Road intersection in order to facilitate safe and efficient access to the proposed subdivision and surrounding estates. Planning Permit No. 712003 did not consider the impacts of the intersection on a number of trees located on two adjoining properties on the southwest corner of Garden Road and Bridge Inn Road as these trees were outside the confines of the proposed subdivision. The current application seeks to allow for the removal of eleven (11) additional trees to expedite the construction of the above-mentioned intersection, however Council's assessment has identified that only ten (10) of these trees should be removed as identified below in greater detail.

PROPOSAL

The applicant proposes the removal of eleven (11) River Red Gum trees (*Eucalyptus camaldulensis*) from the site (see *Attachments 2 and 3*).

Details of existing vegetation on the site is outlined in the following table:

Tree Identification	Common Name (Species)	Height and Width (m)	Diameter of Trunk over bark at Breast Height (cm)	Retention Value	Health	Australian Standard Tree Protection Zone (TPZ) (m- radius)
1	River Red Gum (<i>Eucalyptus camaldulensis</i>)	15 X 19	88	Moderate	Fair	10.6
2	River Red Gum (<i>Eucalyptus camaldulensis</i>)	28 X 20	113,47	Moderate	Fair	14.7
3	River Red Gum (<i>Eucalyptus camaldulensis</i>)	12 X 3	23	Low	Fair-Poor	2.8
4	River Red Gum (<i>Eucalyptus camaldulensis</i>)	13 X 8	45	Low	Fair-Poor	5.4
5	River Red Gum (<i>Eucalyptus camaldulensis</i>)	7 X 6	17	Low	Fair	2.0
6	River Red Gum (<i>Eucalyptus camaldulensis</i>)	18 X 20	114	Low	Fair	13.7
7	River Red Gum (<i>Eucalyptus camaldulensis</i>)	18 X 11	70	Low	Fair-Poor	8.4
8	River Red Gum (<i>Eucalyptus camaldulensis</i>)	15 X 14	79	Moderate	Fair-Poor	9.5
9	River Red Gum (<i>Eucalyptus camaldulensis</i>)	12 X 8	32	Low	Fair	3.8
10	River Red Gum (<i>Eucalyptus camaldulensis</i>)	19 X 18	80	Moderate	Fair	9.6
11	River Red Gum (<i>Eucalyptus camaldulensis</i>)	23 X 25	159	Moderate	Fair-Poor	15.0
12	River Red Gum (<i>Eucalyptus camaldulensis</i>)	16 X 16	75	Moderate	Fair-Poor	9.0

The assessment of the proposed native vegetation earmarked for removal identifies the trees with a low to moderate retention value with fair to poor health and structure. The functional design for the subdivision has resulted in the need for construction activities to occur at the Bridge Inn Road and Garden Road intersection within proximity to the Tree Protection Zones of Trees 1-11. The applicant's submission notes that the works will negatively impact upon the longevity of the trees which may ultimately pose a liability to Council in the future if they were to be retained, however Council's assessment has identified that only ten (10) of these trees should be removed. The Tree Removal Plan submitted with the application also does allow for the retention of Tree 12.

PLANNING CONTEXT**State Planning Policy Framework**Clause 12.01-1 Protection of biodiversity

Clause 12.01 of the Whittlesea Planning Scheme relates to biodiversity and the protection of Victoria's natural habitat. The objective of this clause is to assist the protection and conservation of biodiversity, including native vegetation retention and provision of habitats for native plants and animals and control of pest plants and animals.

Clause 12.01-2 Native Vegetation Management

This clause seeks to achieve no net loss in the extent and quality of native vegetation. The strategy to achieve this is to apply the risk-based approach to managing native vegetation as set out in Permitted clearing of native vegetation – Biodiversity assessment guidelines (Department of Environment and Primary Industries, September 2013).

LOCAL PLANNING POLICY FRAMEWORKClause 22.10 River Red Gum Protection Policy

Clause 22.10 of the Whittlesea Planning Scheme relates to Council's River Red Gum Protection Policy. This policy applies to the protection of River Red Gums located in urban and rural areas. The objective of this policy is "to ensure that the development of urban and rural areas takes into account the presence, retention, enhancement and long term viability of Red Gums in urban areas." The policy states that:

- *The intrinsic value of River Red Gums be recognised in establishing character and identity in urban and rural areas.*
- *Urban development be designed to take into account the presence, retention and long term viability of River Red Gums.*
- *Generally only those trees independently assessed as presenting a danger to people and property should be removed.*
- *Where feasible, areas of significant River Red Gum regeneration be protected in any development proposal.*
- *The awareness of developers and land owners to the significance, value and potential benefits of the trees be increased.*

When assessed against the relevant decision guidelines of this policy and in the context of the level of remnant River Red Gums being retained across the site as a whole, the proposed removal of the River Red Gum trees is considered satisfactory except for the removal of Tree 11.

Whilst River Red Gum trees contribute to the landscape character of the surrounding area, Trees 1-10 which are proposed to be removed are in fair-poor condition, and located between an upcoming major vehicular intersection and an electricity transmission easement. Furthermore, as the alignment of these roads is largely set and is required under the Ashley Park and Garden Road Development Plans, retaining these trees would significantly compromise the future development of the subject sites and surrounding area. Notwithstanding, Council's Parks and Open Space Department considers that Tree 11 can be retained subject to the applicant engaging an arborist to oversee all works within the Tree Protection Zone during the construction of the intersection as described in greater detail under 'Referrals' below.

Consequently, it is considered that the removal of ten River Red Gums is consistent with the overarching objectives and decision guidelines of this policy.

ZONE AND OVERLAY DECISION GUIDELINES

The subject site is located within the General Residential Zone. The land is also affected by the Vegetation Protection Overlay (Schedule 1), Incorporated Plan Overlay (Schedule 1), Development Contributions Plan Overlay (Schedule 6) and Development Plan Overlay (Schedule 5). Pursuant to Clause 32.08 of the Whittlesea Planning Scheme, a planning permit is not required to remove native vegetation from land within a General Residential Zone, in which the trees are earmarked for removal is located.

Of particular relevance to this application is the Vegetation Protection Overlay - Clause 42.02 of the Whittlesea Planning Scheme which requires a planning permit for the removal, destruction and lopping of native vegetation on land affected by the overlay. Schedule 1 to this overlay relates to the River Red Gum Grassy Woodland region within the Mernda, Doreen and South Morang area, where the subject site is located. This schedule has the following objectives:

- *To preserve and maintain significant vegetation and the character of the area;*
- *Maintain soil qualities and minimise the impacts of erosion; and*
- *Preserve natural habitat for flora and fauna.*

Particular Provisions

Clause 52.17 – Native Vegetation

Pursuant to Clause 52.17 of the Whittlesea Planning Scheme, planning approval is required to remove, destroy or lop native vegetation, including dead vegetation, on land that together with all contiguous land in one ownership, has an area greater than 0.4 hectares. This does not apply:

- *If the table to Clause 52.17-6 specifically states that a permit is not required.*
- *To the removal, destruction or lopping of native vegetation specified in the schedule to this clause.*
- *To an area specified in the schedule to this clause.*

The permit exemptions in Clause 52.17-6 do not apply to this proposal.

REFERRALS

Internal

The application was referred internally to Council's Parks and Open Space Department and Sustainability Planning Unit.

Council's Parks and Open Space Department considered the application and offered no objection to the removal of Trees 1 -10 as these trees will be significantly impacted upon as a result of the proposed road works and service provision associated with the Garden Road and Bridge Inn Road intersection. However, it was noted that the road works could allow for the retention of Tree 11 subject to the applicant engaging an arborist to oversee all work within and adjacent to the Tree Protection Zone during the construction of the intersection. Accordingly, a condition on any permit issued will require the retention of Tree 11.

Council's Parks and Open Space Department also stated that a road side barrier may need to be installed to mitigate a road side hazard in relation to Tree 11, however this will be

determined separately as part of the assessment of the Functional Layout Plans for the intersection under Planning Permit No. 712003 and subject to the consent of VicRoads.

Council's Sustainability Planning Unit advises that the proposal to remove the River Red Gum trees from the land is acceptable subject to the inclusion of conditions on any permit issued.

External

The application was referred externally to the Department of Environment, Land, Water and Planning (DELWP).

The Department of Environment, Land, Water and Planning advised that they do not object to the removal of the River Red Gum trees from the land since the total removal of native vegetation is less than 0.5ha and therefore not considered to have detrimental biodiversity impacts on the site.

PLANNING COMMENTS

Council acknowledges the importance of native vegetation, and in particular River Red Gum trees, as a visual and environmental feature within the municipality. In this instance, the removal of ten River Red Gum trees (Trees 1-10) from the land and the retention of Tree 11 is considered acceptable.

The removal of the River Red Gum trees is required to facilitate the construction of the Garden Road and Bridge Inn Road intersection which is a requirement of Planning Permit No. 712003 and is in accordance with the provisions of the Ashley Park and Garden Road Development Plans. The intersection is required to enable safe and efficient access to the Hazelcroft estate and the surrounding area.

The arboricultural and ecological assessments provided by the applicant confirm that the native vegetation earmarked for removal is of poor to fair health with low to moderate retention value. It was also found that the Tree Protection Zones associated with Trees 1-10 will be considerably impacted as a result of the road works, service provision (water and gas) and ultimately a 2.5m wide shared path that forms part of the construction of the Garden Road and Bridge Inn Road intersection. However, Council's Parks and Open Space Department noted that the road works could allow for the retention of Tree 11 subject to the applicant engaging an arborist to oversee all work within and adjacent to the Tree Protection Zone during the construction of the intersection. Accordingly, a condition of permit will require the retention of this tree.

The removal of ten (10) River Red Gum trees is considered to provide a balanced outcome by facilitating development that accords with the relevant policies of the Whittlesea Planning Scheme, Ashley Park and the Garden Road Development Plans. The road works will also allow for the retention of Tree 12.

It is considered that the relevant policy objectives relating to Clauses 22.10 (River Red Gum Protection Policy), 42.02 (Vegetation Protection Policy Overlay Schedule 1), and 52.17 (Native Vegetation Removal) of the Whittlesea Planning Scheme have been appropriately addressed in the planning assessment. Offsets in accordance with the provisions 'Biodiversity Assessment Guidelines (DEPI 2013) and Native Vegetation Gain Scoring Manual (DEPI 2013)' may be required as a condition on any permit that issues.

PUBLIC NOTIFICATION

The site is covered by the Development Plan Overlay – Schedule 5 (DPO5) and the Incorporated Plan Overlay – Schedule 1 (IPO1) which both exempt planning permit applications from the notice requirements of Section 52(1)(a), (b) and (d) of the Planning and Environment Act, 1987, provided that the application is generally in accordance with the associated incorporated or approved plan.

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 considered that the removal of ten (10) River Red Gum trees is in accordance with the relevant provisions of the Whittlesea Planning Scheme. The removal of ten River Red Gum trees of fair to poor health and moderate to low retention value is acceptable subject to the retention of Tree 11 and given the support by Council's Parks and Open Space Department and Sustainability Planning Unit, and the Department of Environment, Land, Water and Planning. The vegetation removal is justified given the need to facilitate the construction of the Bridge Inn Road and Garden Road intersection in order to provide for efficient access to a planned community.

Accordingly, it is recommended that the application for the removal of native vegetation be approved in this instance.

<h2>RECOMMENDATION</h2>

THAT Council resolve to approve Planning Application No. 716177 and issue a Planning Permit for the removal of native vegetation (11 River Red Gum trees) at 895 Yan Yean Road, Doreen and 900 Bridge Inn Road, Doreen in accordance with the endorsed plans and subject to the following conditions:

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

1. Before the tree removal commences, three copies of amended plans must be submitted to and approved by the Responsible Authority. The plans must be drawn to scale with dimensions and three copies provided. The plans must be generally in accordance with the Tree Removal and Retention Plan, Drawing No. 0094-GR-F11, prepared by GPR Consulting, dated October 2016, Rev A, and modified to the satisfaction of the Responsible Authority to show:
 - a) The retention of Tree 11 and the inclusion of an annotation specifying that the permit holder must engage an arborist to oversee all work within and adjacent to the Tree Protection Zone during construction.
2. No trees, dead or alive, or remnant vegetation, other than that shown on the endorsed plan, shall be destroyed, felled, lopped, ring barked or uprooted, without the consent of the Responsible Authority.
3. Prior to the commencement of the tree removal works, all scattered trees and

remnant vegetation to be retained must be protected in the following manner:

- a) Trees are to be protected in accordance with the Tree Protection Zone (TPZ) to the standards requirements by the City of Whittlesea (SDL.2.01) and areas of native vegetation to be retained must be temporarily fenced. Fencing must comply with the Australian Standard for the protection of trees/native vegetation on development sites (AS4970-2009).
 - b) Fencing must be signposted as 'Tree Protection Zone' or "No Go Zone" and must remain in place for the entire construction period.
4. In order to offset the removal of native vegetation (habitat hectares and scattered tree) approved as part of this permit, the applicant must provide a native vegetation offset that is in accordance with the Permitted Clearing of Native Vegetation – Biodiversity assessment guidelines and the Native Vegetation Gain Scoring Manual. The offset must contribute a gain of the required general biodiversity equivalence units, be located within the boundary of the Whittlesea municipality or the Port Phillip and Westernport Catchment Management Authority area, and have a strategic score of at least 80 per cent of the strategic biodiversity score of the native vegetation approved for removal. Before any native vegetation is removed, evidence that an offset has been secured must be provided to the satisfaction of the Responsible Authority.
 5. Prior to removal, the subject trees must be inspected by a suitably qualified and experienced zoologist to determine the presence of animals living or nesting in the tree. Should any native animals be detected, reasonable steps must be taken to capture and relocate such animals as recommended by the zoologist.
 6. Each tree nominated for removal must be suitably marked prior to the commencement of any works and an inspection arranged with an appropriate Council officer to verify that the trees marked accords with this permit.
 7. The applicant must contact Council's Parks and Open Space Department to arrange for an appropriate officer to be present on site to supervise the removal of the trees.
 8. The project manager is to ensure that tree removal is carried out in a safe manner.
 9. The project manager is to locate all services either above or below ground prior to the commencement of any works.
 10. Stumps and any surface roots are to be ground down below ground level. Ground and chipped material to a depth of 50mm is to be removed from site at the direction of the project manager. The project manager must supply and replace suitable topsoil and seed the area making certain that the reinstated ground surface is level, even and safe.
 11. All stumps not removed immediately after removal of the tree are to be paint marked with a suitable bright yellow reflective marking paint.
 12. All stumps must be removed within 14 days of removal of the tree.
 13. After a tree has been felled, the tree must be protected from firewood harvesting via temporary fencing and signage to the satisfaction of Council until such time as the tree has been relocated for habitat or mulched.

14. Wherever possible and appropriate, native trees to be removed should be retained for use in core conservation areas for habitat purposes or reused in open space as urban art, park furniture and/or other uses determined appropriate by the Responsible Authority.
15. All timber greater than 300mm in diameter that cannot be reused as habitat, furniture or another use determined as appropriate by the Responsible Authority shall be hammer milled and shredded for reuse as mulch within the subject site.
16. All timber less than 300mm in diameter and branch/leaf material shall be shredded for re-use as mulch within the subject site.
17. At the completion of the works, the applicant is to arrange for an appropriate Council officer to inspect the site to ensure compliance with the planning permit.
18. No buildings or works, including loading and unloading, storage of materials, dumping of waste, vehicle access, parking and other construction activity is to occur within a tree protection zone without the written consent of and to the satisfaction of the Responsible Authority.
19. The permit for tree removal expires if it is not commenced and completed within two years after the issue of the permit. Before the permit expires or within three months afterwards, the owner or 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 use or development or any stage of it may be started or any stage of it is to be completed.

Notes:

Prior to the removal of the trees, the permit holder must notify all adjacent landholders that the trees are to be removed with Council consent.

A consulting arborist must be employed to supervise works which may impact upon trees marked for retention on the approved plan.

The consulting arborist must conduct an induction of all personnel involved in construction that may impact on tree protection zones.

Any works within the tree protection zone should be completed or supervised by the consulting arborist.

The area inside the tree protection zone should, where considered relevant by the consulting arborist, be modified in the following manner to enhance the growing environment of the tree and to help reduce stress or damage to the tree:

- the area within the tree protection zone may require mulch with wood chips or compost matter to a depth of 150 millimetres.
- trees may require supplementary watering, with the amount to be assessed by the consulting arborist and determined by the extent of disturbance to the trees roots and climatic conditions.
- where severing of roots (greater than 50 millimetres in diameter) is required directly adjacent to the exclusion zone they must be cut cleanly. Where possible this is to be completed at the beginning of development of the site. Roots are not to be left exposed, but back-filled or covered with damp hessian.

The storing or disposing of chemicals or toxic materials must not be undertaken within 10 metres of any tree protection zone. Where the slope of the land suggests these materials may drain towards a tree protection zone, the storing or disposing of these materials is strictly forbidden.

Tree protection envelope fencing is to be constructed to the following requirements:

- Ring lock wire mesh (or equivalent) no less than 1.2 metres high.
- Main posts 100mm treated pine (TP).
- Intermediate posts steel star pickets (SP).
- The corner posts are to be TP with TP stays.
- Every third post is to be TP.
- SP to be placed intermediately between the TP at 3m intervals.
- The ring lock mesh to encircle the structure and be firmly secured at each post.
- Posts must be sunk into the ground by 450mm (there is to be no concrete to secure posts as this may affect p.H. levels).
- The tree protection zone is to be clearly sign posted in accordance with the condition titled Tree Protection Zone fencing.

With the agreement of the responsible authority, tree protection zone fencing may not be provided where permanent reserve fencing is introduced prior to construction. The specification of the permanent fencing must be to the satisfaction of the Responsible Authority.

COUNCIL RESOLUTION

MOVED: Cr Kelly
SECONDED: Cr Lalios

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

CARRIED

**6.1.14 283 THE LAKES BOULEVARD AND 70 MARTIN CLOSE, SOUTH MORANG -
MULTI-LOT SUBDIVISION AND THE REMOVAL OF NATIVE VEGETATION**

File No:	715996
Attachments:	1 Locality Maps 2 Subdivision Plan 3 Tree Removal/Retention Plan 4 Photographs
Responsible Officer:	Director Planning & Major Projects
Author:	Principal Planner
APPLICANT:	Balance Property Partners Pty Ltd
COUNCIL POLICY:	22.10 River Redgum Protection Policy
ZONING:	General Residential Zone
OVERLAY:	Development Plan Overlay Vegetation Protection Overlay
REFERRAL:	AusNet Electricity Services Pty Ltd Melbourne Water Country Fire Authority Yarra Valley Water APA Group
OBJECTIONS:	Not applicable
RECOMMENDATION:	That Council approve the application

REPORT**EXECUTIVE SUMMARY**

The application involves a multi-lot subdivision (21 residential lots, including three reserves) and the removal of native vegetation (28 small River Red Gums). This application is being reported to Council because the application for subdivision also involves the removal of small River Red Gums. The removal of one or more River Red Gum, regardless of size, must be reported to Council under its Instrument of Delegation.

The application is exempt from advertising pursuant to Clause 43.04-2 of the Whittlesea Planning Scheme, as it was considered to be generally in accordance with the Council-approved Girvan Place/ Martin Close Development Plan.

The proposal demonstrates a satisfactory level of compliance with the provisions of the Whittlesea Planning Scheme including provisions relating to native vegetation removal.

The application was referred to a number of external referral authorities who had no objection to the proposal subject to the inclusion of conditions in any permit that is issued.

On the basis of the proposal's general compliance with the Whittlesea Planning Scheme, it is recommended that Council approve the application.

SITE AND SURROUNDING AREA

The subject site is located on the northeastern corner of The Lakes Boulevard and Martin Close, South Morang (see *Attachment 1*). The site is vacant, has an area of 1.69ha and is irregularly shaped. The site contains two large River Red Gums located centrally within the site. Another large River Red Gum straddles the northern property boundary. A number of smaller River Red Gums are located immediately adjacent to the northern boundary on 70 Martin Close.

The surrounding locality is characterised by standard residential allotments to the south and east. To the north and west are larger low density residential allotments which are nominated for further residential development under the Girvan Place/ Martin Close Development Plan (DP). The site is located in proximity to the following sites, services and infrastructure:

- Mill Park Lakes Community Activity Centre and Red Gum Grove Park (370m west)
- Coles supermarket and a variety of specialty shops (250m west)
- The Lakes Primary School and Merriang Special Development School (450m west).
- Mill Park Lakes Recreation Reserve (680m west)
- Paradise Kids Child Care Centre (150m west)

RESTRICTIONS AND EASEMENTS

The subject site is affected by Restrictive Covenant P720320R which requires any dwelling to be constructed on the site to be 75% brick, brick veneer, stone or like material, with the roof to be constructed of cement tiles, terracotta tiles, slate or Colorbond. The covenant also requires all dwellings to have an area of not less than 120m² excluding verandahs, garages and carports. Subdivision Permit No. 609248 was issued on 1 September 2016 for the removal of this covenant which is currently under consideration.

PROPOSAL

The applicant proposes to subdivide the subject land into 21 residential allotments ranging between 200m² and 583m², with a 3,186m² super lot, two tree reserves (1,217m² and 221m²) and an open space reserve (1,217m²). *Attachment 2* shows the proposed subdivision layout. Two roads are also proposed: the continuation of Odette Way, with an intersection provided at Martin Close, and Chiodo Street, which will continue north into 70 Martin Close.

The application also proposes the removal of 28 small River Red Gums (see *Attachment 3*). The majority of these trees are located on the southern boundary of 70 Martin Close which abuts, and has a shared boundary with, the subject land. The canopy of these small young trees overhang proposed and future residential lots and the future extension of Chiodo Street. The remaining trees to be removed are located within the existing Martin Close Road reserve (on land required for road works) and within proposed Odette Way (on the land subject to the proposed subdivision). All trees to be removed are young trees with an estimated age of between 5-10 years. The following table provides a breakdown of the characteristics of each of the trees. *Attachment 4* provides photos of the trees to be retained and removed.

Tree No.	Botanical Name / Common Name	Height Width DBH	Health	Structure	Form	Retention Value	Comment
2	<i>Eucalyptus camaldulensis</i> River Red Gum	7.5m 6.5m 31cm	Good	Fair	Good	Medium	

Tree No.	Botanical Name / Common Name	Height Width DBH	Health	Structure	Form	Retention Value	Comment
3	<i>Eucalyptus camaldulensis</i> River Red Gum	13.0m 7.0m 35cm	Good	Fair	Poor	Medium	
4	<i>Eucalyptus camaldulensis</i> River Red Gum	10.6m 5.0m 28cm	Good	Fair	Poor	Medium	
5	<i>Eucalyptus camaldulensis</i> River Red Gum	10.6m 5.0m 33*cm	Good	Fair	Poor	Medium	
6	<i>Eucalyptus camaldulensis</i> River Red Gum	10.6m 5.0m 26cm	Good	Fair	Poor	Medium	
7	<i>Eucalyptus camaldulensis</i> River Red Gum	9.5m 5.0m 30cm	Good	Poor	Poor	Low	Bifurcated with included bark
8	<i>Eucalyptus camaldulensis</i> River Red Gum	6.0m 4.0m 13cm	Good	Fair	Fair	Medium	
9	<i>Eucalyptus camaldulensis</i> River Red Gum	7.0m 2.0m 11cm	Good	Good	Good	Medium	
10	<i>Eucalyptus camaldulensis</i> River Red Gum	5.0m 4.0m 10cm	Good	Poor	Poor	Low	Stump regrowth
11	<i>Eucalyptus camaldulensis</i> River Red Gum	4.0m 2.0m 8cm	Poor	Fair	Poor	Low	
12	<i>Eucalyptus camaldulensis</i> River Red Gum	9.5m 7.0m 17cm	Good	Fair	Poor	Medium	
13	<i>Eucalyptus camaldulensis</i> River Red Gum	3.0m 2.0m 27cm	Good	Fair	Fair	Medium	
14	<i>Eucalyptus camaldulensis</i> River Red Gum	6.0m 1.0m 9cm	Good	Fair	Poor	Medium	
15	<i>Eucalyptus camaldulensis</i> River Red Gum	4.0m 1.0m 7cm	Fair	Fair	Poor	Medium	
16	<i>Eucalyptus camaldulensis</i> River Red Gum	6.0m 1.0m 9cm	Fair	Fair	Fair	Medium	

Tree No.	Botanical Name / Common Name	Height Width DBH	Health	Structure	Form	Retention Value	Comment
17	<i>Eucalyptus camaldulensis</i> River Red Gum	6.0m 4.0m 10cm	Good	Fair	Fair	Medium	
18	<i>Eucalyptus camaldulensis</i> River Red Gum	7.0m 3.0m 11cm	Good	Fair	Fair	Medium	
19	<i>Eucalyptus camaldulensis</i> River Red Gum	6.0m 2.0m 8cm	Good	Fair	Fair	Medium	
20	<i>Eucalyptus camaldulensis</i> River Red Gum	11.0m 4.0m 20cm	Good	Fair	Fair	Medium	
21	<i>Eucalyptus camaldulensis</i> River Red Gum	4.0m 1.0m 6cm	Fair	Fair	Poor	Medium	
22	<i>Eucalyptus camaldulensis</i> River Red Gum	4.0m 3.0m 7cm	Fair	Fair	Poor	Medium	
23	<i>Eucalyptus camaldulensis</i> River Red Gum	4.0m 2.0m 7cm	Good	Fair	Fair	Medium	
24	<i>Eucalyptus camaldulensis</i> River Red Gum	8.0m 1.0m 11cm	Good	Fair	Poor	Medium	
25	<i>Eucalyptus camaldulensis</i> River Red Gum	6.0m 2.0m 9cm	Good	Fair	Poor	Medium	
26	<i>Eucalyptus camaldulensis</i> River Red Gum	4.5m 2m 7cm	Good	Good	Good	Medium	
27	<i>Eucalyptus camaldulensis</i> River Red Gum	6.5m 2.0m 13cm	Good	Fair	Fair	Medium	
28	<i>Eucalyptus camaldulensis</i> River Red Gum	5.0m 2.0m 7cm	Fair	Fair	Fair	Medium	
29	<i>Eucalyptus camaldulensis</i> River Red Gum	9.0m 7.0m 42cm	Good	Poor	Poor	Low	Stump regrowth

PUBLIC NOTIFICATION

A development plan has previously been approved by Council in relation to the subject land and surrounding areas (Girvan Place/ Martin Close DP). Pursuant to Clause 43.04-2 of the Whittlesea Planning Scheme, an application under any provision of this scheme which is generally in accordance with an approved development plan is exempt from the public notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the *Planning and Environment Act 1987*.

PLANNING CONTROLS

State Planning Policy Framework

Officers have assessed the subdivision component of the application under the relevant State Planning Policy Framework which include:

- Clause 11.02-1 Supply of urban land
- Clause 11.02-2 Planning for growth areas
- Clause 11.04-2 Housing choice and affordability
- Clause 15.01-1 Urban design
- Clause 15.01-2 Urban design principles
- Clause 15.01-3 Neighbourhood and subdivision design
- Clause 15.01-5 Cultural identity and neighbourhood character
- Clause 16.01 Residential development
- Clause 18.02 Movement networks

The key strategic directions which emerge from these policies include:

- Provide a range of lot sizes to suit a variety of dwelling and household types to meet the needs and aspirations of different groups of people.
- Ensure that new land is released in growth areas in a timely fashion to facilitate coordinated and cost-efficient provision of local and regional infrastructure.
- Require new development to make a financial contribution to the provision of infrastructure such as community facilities, public transport and roads.
- Promote good urban design to make the environment more liveable and attractive.
- Pedestrian spaces, streets, parks and walkways, should be protected and enhanced.
- Create compact neighbourhoods that have walkable distances between activities and where neighbourhood centres provide access to services and facilities to meet day to day needs.

The proposed subdivision is considered to be consistent with these policies and directions.

In relation to native vegetation, State Planning provisions seek to 'assist the protection and conservation of biodiversity, including native vegetation retention and provision of habitats for native plants and animals' (Clause 12.01-1) and 'ensure that permitted clearing of native vegetation results in no net loss in the contribution made by native vegetation to Victoria's biodiversity' (Clause 12.01-2)

Local Planning Policy Framework

Officers have assessed the subdivision component of the application under the relevant Local Planning Policy Framework (LPPF), including the Municipal Strategic Statement which includes:

- Clause 21.04-2 (Urban growth)
- Clause 22.04-4 (Open space network)
- Clause 21.08-1 (Urban design)

Clause 21.09 (Housing)
 Clause 21.11-1 (Integrated transport)
 Clause 21.12-3 (Development Infrastructure)

The application is considered to be consistent with the relevant objectives contained in these provisions. The proposed subdivision will allow for a range of lot sizes within walking distance to community and retail services, schools and open space.

Clause 22.10 of the LPPF (River Red Gum Protection Policy) seeks to 'ensure that the development of urban and rural areas takes into account the presence, retention, enhancement and long term viability of River Red Gums in urban areas.'

The policy requires that the intrinsic value of River Red Gums be recognised in establishing character and identity and that urban development be designed to take into account the presence, retention and long term viability of River Red Gums.

The proposed subdivision retains all significant River Red Gums on the land within public open space reserves. The trees to be removed constitute recent regrowth and these trees have been assessed as not being capable of retention as part of the proposed subdivision.

Zone and Overlay Controls

General Residential Zone – Schedule 1

The subject site is located within a General Residential Zone (GRZ1). The GRZ1 seeks to encourage a diversity of housing types in locations offering good access to services. Pursuant to Clause 32.08-2 of the Whittlesea Planning Scheme, a permit is required to subdivide land within this zone. The proposal involves a 22 lot subdivision with three lots to be vested in Council for reserve purposes for tree protection and public open space. Applications for subdivision must meet the relevant objectives and should meet the relevant standards of Clause 56. The subdivision has been assessed as being consistent with these provisions.

Development Plan Overlay – Schedule 6 (South Morang Development Plan)

The subject site is affected by the Development Plan Overlay (Schedule 6) pursuant to Clause 43.04-1 of the Whittlesea Planning Scheme. The Girvan Place/ Martin Close DP has been previously approved by Council (3 October 2006 and amended on 16 September 2014) to guide future subdivision within this area. The subject site has been designated for standard and medium density residential development, with a large River Red Gum to be retained within an area of public open space, to be serviced by public local roads and a service road adjacent to The Lakes Boulevard. The proposed subdivision is considered to be in accordance with the Girvan Place/Martin Close DP. The large River Red Gums to be retained in Reserve Nos. 2 and 3 are consistent with this plan

The Trees to be removed under this application are not marked on the approved DP and have likely grown since the plan was originally considered a decade ago. Because these trees are not nominated for removal under the DP, their removal must be authorised via a resolution of Council as officers have no discretion to consider this matter under delegation.

Vegetation Protection Overlay - Schedule 1 – Significant Vegetation (River Red Gum Grassy Woodland)

The subject site is affected by a Vegetation Protection Overlay. Pursuant to Clause 42.02-2 of the Whittlesea Planning Scheme, a permit is required to remove, destroy or lop any native vegetation. The removal of the small trees has been assessed as acceptable under this

planning provision because the trees are not significant, other more significant trees are to be protected and a native vegetation offset is proposed to compensate for the loss.

Particular Provisions

Clause 52.01 Public Open Space Contribution and Subdivision

Pursuant to Clause 52.01 of the Whittlesea Planning Scheme, a person subdividing land must make a contribution for public open space. Development Contributions are calculated under the *South Morang Local Structure Plan*. Should Council resolve to support the application, a permit condition will be included requiring payment of the applicable contribution prior to the issue of a Statement of Compliance. It is noted that open space contributions have already been paid for this site.

Clause 52.17 – Native Vegetation

Pursuant to Clause 52.17-2 of the Whittlesea Planning Scheme, a permit is required to remove, destroy or lop native vegetation, including dead native vegetation. The application involves the removal of 28 young River Red Gums to facilitate subdivision works within the site. Accordingly, permit is required under this provision.

Clause 56 - Residential Subdivision

Clause 56 of the Whittlesea Planning Scheme outlines the basic Planning Scheme requirements for subdivision design with respect to lot design, access, services, open space, integration with surrounding development and related matters. Under the GRZ1, an application for subdivision must meet all the relevant objectives and should meet the relevant standards outlined under this provision.

A full assessment of the proposed subdivision against Clause 56 has been provided with the applicant's planning submission and reviewed by Council officers. The submission satisfactorily demonstrates compliance with all relevant objectives and standards contained within that Clause.

REFERRALS

The application was referred to the following external authorities for comment:

Melbourne Water	Consent with standard conditions
Yarra Valley Water	Consent with standard conditions
AusNet Electricity Services	Consent with standard conditions
APA Group	Consent, no conditions

The application was also referred internally to Council's City Design and Transport, Strategic Planning and Design, Sustainability Planning and Parks and Open Space Departments for comment. No objections were received subject to permit conditions relating to the provision of road infrastructure, traffic management devices, and tree removal.

A condition requiring the reconfiguration of Lot 10 and the adjoining tree reserve is required to ensure sightlines towards the River Red Gum are not impeded and a more practical lot configuration is provided. Permit conditions will require these changes. Council's City Design and Transport Department have also requested a temporary turnaround area be provided at the interim northern end of Chiodo Street to allow for the turning of large vehicles. This may require reconfiguration of Lots 4 and 9. A condition requiring this outcome is also proposed.

PLANNING ASSESSMENT

The proposed subdivision is considered to be satisfactory when assessed against the Whittlesea Planning Scheme. The site's proximity to a nearby retail centre, community centre, schools and active open space will support the proposed lot density and housing outcomes.

The proposal involves the subdivision of the site into 21 residential lots, including 10 medium density allotments (200m² to 206m²) and 11 standard density lots (300m² to 629m²). A 3,186m² superlot is proposed in the southwest corner of the site, to be serviced by an extension to the existing service road located to the east. An application for planning permit (No. 716087) has been lodged for the use and development of this land for the purpose of a child care centre and a food and drink premises. This application is currently under consideration by officers. Odette Way has been designed to continue further to the north when this abutting land is subdivided at a future date. This and other local roads will facilitate a conventional and permeable grid street network and subdivision layout. All proposed lots will be oriented north-south or east-west and will therefore gain adequate solar access. The lots are regular in shape and dimensions, enabling the construction of appropriately sized dwellings.

The significant River Red Gum tree to be protected in Reserve No. 2 will contain the full Tree Protection Zone (TPZ) and will form part of a larger public open space reserve that will prominent on the northwest corner of The Lakes Boulevard and Martin Close. The tree to be retained in Reserve No. 3 will be provided in the form of a pocket park. The remaining (northern) extent of this tree on 70 Martin Close will be reserved and protected as part of the future subdivision of this land at a future date.

In relation to the trees proposed for removal, a native vegetation offset will be required in accordance with State Government guidelines. This offset will not be significant due to the small size of the trees. Conditions are proposed to provide for this outcome.

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 considered that the proposal is in accordance with the relevant provisions of the Whittlesea Planning Scheme. The proposal demonstrates a satisfactory level of compliance with the provisions of the Whittlesea Planning Scheme, including provisions relating to native vegetation removal. The proposed subdivision layout is consistent with the Girvan Place/ Martin Close Development Plan which require that significant trees and open space be designated on the land. Accordingly, it is recommended that the application for a multi-lot subdivision and the removal of native vegetation be approved.

<h2>RECOMMENDATION</h2>

THAT Council resolve to approve Planning Application No. 715996 and issue Planning Permit for a Multi-Lot Subdivision and Removal of Native Vegetation on land at 283 The Lakes Boulevard and 70 Martin Close (including the Martin Close road reserve) in accordance with the endorsed plans and subject to the following conditions:

CONDITIONS TO BE SATISFIED PRIOR TO CERTIFICATION OF THE PLAN OF SUBDIVISION**1. Subdivision Layout Plan**

Before the submission and approval of Functional Layout Plans (FLPs), an amended subdivision layout plan must be submitted to the Responsible Authority for approval. When approved, the subdivision layout plan will be endorsed and then form part of the permit.

The subdivision layout plan must be amended to show:

- (a) Realignment of the northern boundary of Lot 10 to provide for a tree reserve with a minimum width of 10m.
- (b) Temporary turning area at the northern end of Chiodo Street.

The subdivision layout plan must not be amended without the approval and written consent of the Responsible Authority.

2. Functional Layout Plan

Before the submission and approval of construction plans (engineering plans) and the certification of the relevant plan of subdivision for each stage, a functional layout plan for the subdivision or stage of subdivision, to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the functional layout plan will be endorsed and will then form part of the permit. Three copies of the functional layout plan must be drawn at a scale of 1:500 to acceptable drafting standards and an electronic copy (PDF) must be provided. The functional layout plan must be generally in accordance with the Functional Layout Plans prepared by Cardno Victoria Pty Ltd, Dwg No. CG150781-CI Dated 30 August 2016 and 5 October 2016, but amended to show:

- (a) A fully dimensioned subdivision layout, including proposed street names, approximate lot areas, lot numbers, open space areas, and widths of street reservations.
- (b) Topography and existing features, including contours for the subject land and any affected adjacent land.
- (c) Identification by survey of all trees (or group of trees) existing on the site, including dead trees and those that overhang the site from adjoining land.
- (d) Details of tree protection zones (TPZs), for all trees to be retained on site.
- (e) All trees proposed for removal from the site (including dead native trees) clearly designated.
- (f) Typical cross-sections for each street type, dimensioning individual elements, services offsets and any other spatial requirements identified in the Girvan Place / Martin Close Development Plan.
- (g) A table of offsets for all utility services and street trees.
- (h) Location and alignment of kerbs, indented parking spaces, footpaths on the subject land and between the subject land and the nearest other subdivision, shared paths on the subject land and between the subject land and the nearest other existing subdivision, bus stops and traffic controls.
- (i) The proposed minor drainage network and any land required for maintenance access.
- (j) The major drainage system, including any watercourse, lake, wetland, silt pond and/or piped elements showing preliminary sizing.

- (k) Overland flow paths (100 year ARI) to indicate how excess runoff will safely be conveyed to its destination.
- (l) Drainage outfall system (both interim and ultimate), indicating legal point of discharge and any access requirements for construction and maintenance.
- (m) Preliminary location of reserves for electrical kiosks.
- (n) Traffic management plan showing sufficient notional (unmarked) on-street car parking spaces, at the rate of one space per lot, traffic control devices and large vehicle turning overlays.
- (o) Plan indicating the relationship between the subject subdivision stage and surrounding land.
- (p) Proposed linkages to future streets, open space, regional path network and upstream drainage.
- (q) Works external to the subdivision, including both interim and ultimate access requirements.
- (r) Ultimate and interim layout plans for The Lakes Boulevard including The Lakes Boulevard and Martin Close intersection. A separate sheet showing only interim and ultimate alignment of The Lakes Boulevard including intersection with Martin Close must be provided.
- (s) Ultimate and interim cross section of The Lakes Boulevard, including all existing and future trunk services within cross sections. Please note that services running under the footpath or under the pavement are not acceptable to Council.
- (t) Temporary turning area at the northern end of Chiodo Street.
- (u) North-south pram crossing at the Chiodo Street and Odette Way intersection.
- (v) Removal of all details/colours regarding the pavement design for Martin Close. This will be checked and approved as part of the engineering plans in conjunction with a Geotechnical Report.
- (w) Existing Post and Wire fence removed and vehicle exclusion fence installed.

3. Certification plan requirements

Before a plan of subdivision is certified under the *Subdivision Act 1988*, six copies of the plan including two signed heavyweight copies must be submitted to the Council, unless lodged electronically via SPEAR. The plan must show all bearings, distances, street names, lot numbers and any necessary easements and reserves, in accordance with the approved Functional Layout Plan.

CONDITIONS TO BE SATISFIED PRIOR TO COMMENCEMENT OF WORKS

4. Landscape Masterplan

Prior to the approval of any construction plans (engineering plans), a landscape masterplan to the satisfaction of the responsible authority for the entire subdivision must be submitted to and approved by the Responsible Authority. When approved, the landscape masterplan will be endorsed and will then form part of the permit. The landscape masterplan must be drawn to scale with dimensions and three copies must be provided. The landscape masterplan must show:

- (a) The overall landscaping theme to be developed for the subdivision;
- (b) The type or types of species to be used for street tree planting in the subdivision;
- (c) The principles of the proposed treatment of the open space and drainage reserves; and

- (d) A management plan for the Red Gums proposed for retention to ensure their integrity during the site development and landscape maintenance period must be submitted with the landscape masterplan.

5. Telecommunication Services Agreement

The owner of the land must enter into an agreement with:

- (a) A telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and
- (b) A suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

6. Engineering Plans

Pursuant to sections 15 and 17(1) (b) of the *Subdivision Act 1988*, the applicant must submit engineering plans including specifications for works required under this permit to the Responsible Authority for approval. The engineering plans submitted for approval must be to the satisfaction of the Responsible Authority and must incorporate details of all public works within and outside the subdivision as required by this permit.

If the subdivision is to be staged, engineering plans for each stage must be generally in accordance with the approved functional layout plans for each stage.

6.1 *Civil Works Plans*

Works must be provided, in accordance with civil works plans and specifications as approved by the Responsible Authority, prior to the issue of Statement of Compliance. Before any works associated with the subdivision commence, detailed civil works plans for the relevant stage of works to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The civil works plans will not be considered until the functional layout plan(s) for the relevant stage has been approved by the responsible authority and landscape works plans submitted, the plan of subdivision has been lodged for certification with the Responsible Authority and the locations of other authorities' services have been provided to the satisfaction of the Responsible Authority. When approved, the civil works plans will be endorsed and will then form part of the permit. The civil works plans must be drawn to scale with dimensions and three copies must be provided.

The civil works plans must include:

- (a) All necessary computations and supporting documentation, including a Certificate of Compliance (design) for any structure, traffic data, road safety audit and geotechnical investigation report.
- (b) All details of works consistent with the approved functional layout plan, submitted landscape plan and lodged plan of subdivision.

- (c) Design for full construction of streets and underground drainage, including measures to control / capture pollutants and silt.
- (d) Provision for all services and conduits (underground), including alignments and offsets, on a separate services layout plan.
- (e) Provision of public lighting and underground electricity supply within all streets.
- (f) Traffic control measures.
- (g) Provision of street name plates to the Council standard design including a schedule of individual signs and associated street numbers.
- (h) Provision of footpaths in all streets and reserves and between the subject land and the nearest other existing subdivision in accordance with the approved functional layout plan.
- (i) Shared paths in accordance with the approved Development Plan within streets and reserves.
- (j) Provision of underground easement drains of sufficient capacity to serve all lots being created to a legal point of discharge and the provision of an inlet on each such lot.
- (k) The location and provision of vehicle exclusion mechanisms abutting reserves.
- (l) Details of the proposed treatment and provision for lot boundary fencing adjoining all reserves other than road reserves.
- (m) Appropriate mechanisms for protecting environmental and heritage assets during the construction phase of the subdivision.
- (n) Provision for the utilisation of any surplus top soil from this stage.
- (o) Permanent survey marks.
- (p) Unless an alternative empty conduit network is being installed that is suitable for fibre optic infrastructure and the applicant has evidence of an access agreement between the carrier putting in the conduit and the National Broadband Network Company, the provision of conduits, including pits and ancillary works for optical fibre telecommunications services or any equivalent alternative approved by the Responsible Authority and the conduit shall be designed in accordance with Clause 22.13 *Telecommunications Conduit Policy* of the Whittlesea Planning Scheme and Planning Guidelines for Conduits for Optic Fibre Services, 2001.
- (q) Survey details of the canopy trunk location and size of trees to be retained and associated tree protection zones.
- (r) Details in relation to all filling on the site which must be compacted to specifications approved by the Responsible Authority.
- (s) The relocation underground of all existing aerial services, including electricity and telecommunications assets, within streets abutting the subdivision.
- (t) The location of any earthworks (cut or fill) or service provision in a location outside the designated tree protection zone which does not adversely impact on the health and integrity of any trees to be retained.
- (u) A separate signage and line marking plan identifying the road layout, proposed signs, line marking, RRPMS and a sign schedule.
- (v) Approval (offer letter) from Melbourne Water is required for the proposed Melbourne Water main drain within Martin Close.

6.2 *Landscape Works Plans*

Prior to the approval of civil works plans for each stage, a draft landscape works plan for that stage must be submitted to the Responsible Authority

for comparison against the civil works plans. Once approved to the satisfaction of the Responsible Authority, the landscape works plan will be endorsed and will then form part of the permit. The landscape works plan must be drawn to scale with dimensions and three copies of the final plan must be provided. The landscape works plan must show:

- (a) The removal of all existing disused structures, foundations, pipelines or stockpiles and the eradication of weeds.
- (b) All proposed street-tree planting using semi - advanced trees; with maximum container size of 45 litres or equivalent (larger sizes will incur additional establishment and extended maintenance obligations).
- (c) Earth shaping including the supply and spread of sufficient topsoil and sub soil if required on the proposed areas of open space to provide a stable, free draining surface and hydro-seeding of proposed grass areas (including within the drainage reserve if applicable).
- (d) Mechanisms for the exclusion of vehicles.
- (e) All proposed open space and streetscape embellishments such as installation of pathways, park lighting, garden beds, seating, shelters, picnic facilities, boardwalks, tree planting, signage, drinking fountains, irrigation systems, playgrounds, artwork, retaining walls, protective fencing (temporary and permanent), wetlands and ornamental water bodies (including within the drainage reserve if applicable).
- (f) Hazard reduction pruning of trees to be retained, to the satisfaction of the responsible authority.
- (g) Where sufficient detail is shown on the endorsed landscape masterplan, to the satisfaction of the Responsible Authority, stage landscape plans may not be required.

7. Tree Protection Zones

Prior to the certification of a plan of subdivision under the *Subdivision Act 1988*, a Tree Protection Zone plan for the subdivision or stage of subdivision to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Tree Protection Zone plan will be endorsed and will then form part of the permit. The Tree Protection Zone plan must be drawn to scale with dimensions and three copies must be provided. The Tree Protection Zone plan must show:

- (a) A Tree Protection Zone on a lot covering each tree marked for retention on the approved tree protection envelope plan; and
- (b) A Tree Protection Zone within open space and road reserves for each tree or cluster of trees marked for retention on the approved tree management plan.

The Tree Protection Zone is a shape defined by a circle, whose centre point is the centre point of the tree trunk at ground level, and whose radius is equal to half the height of the tree (or half the crown width (whichever is the greater)) plus the tree canopy plus one metre.

8. Tree Protection Zone Fencing

Before any buildings, works or demolition commence on a lot, open space and/or road reservation, each Tree Protection Zone on that lot, open space and/or road reservation must:

- (a) Be fenced with temporary fencing in accordance with the attached specifications, to the satisfaction of the Responsible Authority; and
- (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 a dwelling if the land is a lot, 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 estate or for any other works which may impact upon the trees.

9. Tree Protection Bonding

Prior to commencement of the subdivision hereby permitted, or at such later date as the Responsible Authority may approve in writing, there must be provided to the Responsible Authority a bank guarantee for the amount of \$100,000 as security deposit for the satisfactory completion of the requirements in relation to tree preservation and to ensure that trees are not damaged during the construction phase.

Upon completion of the subdivision works to the satisfaction of the responsible authority, the bank guarantee will be returned to the developer.

Where it is determined to the satisfaction of the Responsible Authority that a tree covered by a tree protection envelope has been damaged as a result of buildings and works by the applicant or its contractors, to an extent that it affects detrimentally the life, health and appearance of the tree or its contribution to the streetscape, financial damages will be paid by the applicant with all monies to be used to purchase trees for planting on the land or to prune or otherwise rehabilitating existing trees, all to the satisfaction of the Responsible Authority. The extent of damages must be established through the appointment of an independent suitably qualified person.

10. Site Management Plan

Before any works, including works required by other authorities, commence:

- (a) Four copies of a site management plan for the relevant stage must be submitted to and approved by the Responsible Authority. When approved, the Site Management Plan will be endorsed and will then form part of the permit. The Site Management Plan must:
 - (i) Include separate parts describing relevant matters of occupational health and safety, traffic management, environmental controls and cultural protection measures.
 - (ii) Be submitted to the Responsible Authority a minimum of seven days before a required pre-commencement meeting (attended by authorised representatives of the construction contractor and project superintendent as appointed by the developer) on the site of the works.
 - (iii) Include the proposed route for construction vehicle access to the site

including a program for the upgrade and maintenance works required along this route while any works are in progress.

- (iv) Include means by which foreign material will be restricted from being deposited on public roads by vehicles associated with building and works on the land to the satisfaction of the Responsible Authority.
 - (v) Include measures to reduce the impact of noise, dust and other emissions created during the construction process.
- (b) All environmental and cultural protection measures identified shall be described on a drawing(s) drawn to scale and prepared in accordance with Melbourne Water standards for such drawings.

The developer must keep the responsible authority informed in writing of any changes to the Site Management Plan. If in the opinion of the Responsible Authority the changes represent a significant departure from the approved Site Management Plan then an amended Site Management Plan must be submitted to and approved by the responsible authority. The approved measures must be carried out continually and completed to the satisfaction of the Responsible Authority.

11. Stormwater Drainage

Any stormwater drain, temporary drainage out falls and ancillary works, required as a condition of a Melbourne Water Drainage Scheme, or that are designated to become the responsibility of the Council for maintenance, must be designed and constructed to the satisfaction of the Responsible Authority.

Before the approval of construction plans for roadworks and drainage, the designs for such works and the details of maintenance requirements (asset management and maintenance schedule) must be submitted to and approved by the Responsible Authority.

CONDITIONS TO BE SATISFIED DURING CONSTRUCTION WORKS

12. Layout not altered

The subdivision as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.

13. Development and works in tree protection zones

No buildings or works, including trenching, level changes and batters, loading and unloading, storage of materials, dumping of waste, vehicle access, parking or other construction activity is to occur within a tree protection zone without the written consent of and to the satisfaction of the Responsible Authority.

14. Filling of land

All filling on the site must be carried out, supervised, completed and recorded in accordance with AS 3798 (Guidelines on earthworks for commercial and residential developments) to specifications to the satisfaction of the Responsible Authority. The geotechnical authority responsible for supervision and testing under this condition must be independently engaged by the applicant and not be engaged by the contractor carrying out the works. Before the issue of a Statement of Compliance unless otherwise agreed in writing by the responsible authority, compaction test results and a report shall be provided to the

satisfaction of the Responsible Authority.

CONDITIONS TO BE SATISFIED PRIOR TO ISSUE OF A STATEMENT OF COMPLIANCE

15. Connection to Telecommunication Services

Before the issue of a Statement of Compliance for any stage of the subdivision under the *Subdivision Act 1988*, the owner of the land must provide written confirmation from:

- (a) A telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and
- (b) A suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

16. Building Envelope Plans

Prior to the issue of a Statement of Compliance, the permit holder must enter into an agreement pursuant to Section 173 of the *Planning and Environment Act 1987* or any alternative restriction deemed satisfactory by the Responsible Authority for all lots between 300m² and 500m² which requires the preparation of building envelope plans. These building envelope plans must:

- (a) Be in accordance with Standard C8 and any other relevant Standard under Clause 56 of the Whittlesea Planning Scheme;
- (b) Incorporate plans and a written statement to address each of the relevant objectives and performance measures of Clause 54 of the *Whittlesea Planning Scheme* to the satisfaction of the Responsible Authority;
- (c) Require the construction of all dwellings and associated development be contained within the nominated building envelope for each of the lots hereby approved except with the prior written consent of the Responsible Authority, and
- (d) Include design guidelines to ensure a consistent building form and design outcomes for groups of contiguous allotments affected by a building envelope pursuant to this Condition.

The costs for preparation and execution of the Agreement shall be borne by the permit holder.

17. Conservation Management Plan

Prior to Certification of any stage of subdivision the permit holder must enter into an agreement with the responsible authority pursuant to Section 173 of the *Planning and Environment Act 1987* which requires preparation of a Conservation Management Plan for the land. The Conservation Management Plan must be prepared to the satisfaction of the responsible authority. The Plan must provide for the early securing, fencing and establishment of interpretive signage of the land from subdivision construction activity, protection of all areas proposed for conservation rehabilitation, re-vegetation and landscaping, pest plant and animal control, soil stabilisation, on-going maintenance and timing and staging of all works. Where the land to be used for vegetation offset purposes

the Conservation Management Plan must define the biodiversity improvement works and actions. Where applicable the Plan shall quantify the extent offset gain to be achieved commensurate with the permitted vegetation clearing and the *Permitted Clearing of Native Vegetation – Biodiversity assessment guidelines*.

The costs for preparation and execution of the Agreement shall be borne by the permit holder.

18. Development contributions

Prior to the issue of a Statement of Compliance for any stage of the subdivision, development contributions must be paid to the Responsible Authority in accordance with the approved South Morang Local Structure Plan, unless otherwise agreed to in writing by the Responsible Authority.

19. Statement of compliance with deferment of engineering works

Prior to the issue of a Statement of Compliance for any stage or by such later date as is approved by the responsible authority in writing, the applicant may seek, to the satisfaction of the Responsible Authority, the issue of the Statement of Compliance but with deferment of completion of specified civil construction works shown on the endorsed construction plans and all or part of landscape construction works shown on the endorsed plans, provided the following requirements have been met:

19.1 *Civil Works*

- (a) All relevant referral authorities have consented to the issue of a Statement of Compliance.
- (b) Civil construction works have been completed except for the wearing course asphalt works, the landscaping component of the works and any other minor works as agreed with the responsible authority.
- (c) An amount equivalent to 150% the agreed estimated cost of outstanding civil construction works will be required by the responsible authority as security deposit.
- (d) A works program is provided setting out the proposed timing of all outstanding construction works.
- (e) A site safety plan that ensures continuous public safety measures are maintained until completion of the deferred works.

Upon completion of the deferred civil construction works the applicant must notify the responsible authority to enable its inspection. If the works have been completed to its satisfaction, the Responsible Authority must refund fully the security deposit.

19.2 *Landscape Works*

- (a) An amount equivalent to 150% of the agreed estimated cost of outstanding streetscape / landscape construction plus an agreed amount for the maintenance works will be required by the Responsible Authority as security deposit.
- (b) A works program is provided setting out the proposed timing of all outstanding landscape construction works. Works must commence within 3 months of issue of Statement of Compliance for the given stage of the subdivision and must be completed prior to occupancy of

any new dwelling within the given stage.

Upon completion of the deferred landscaping construction works, the applicant must notify the Responsible Authority to enable its inspection. Subject to satisfactory completion of the deferred landscaping, a Certificate of Practical Completion for landscaping will be issued, triggering the commencement of the maintenance period. If the works have been completed to its satisfaction, the responsible authority must refund fully the security deposit.

20. Fences adjoining reserves

Before Statement of Compliance is issued for any given stage, all fences adjoining all reserves (including walkway extensions of road reserves but otherwise excluding road reserves) are to be erected by the developer (or owner) at no cost to Council.

CONDITIONS TO BE SATISFIED FOLLOWING CONSTRUCTION WORKS

21. Notification of commencement of street tree planting and landscaping works

The developer must notify the Responsible Authority a minimum of 7 days prior to commencing street tree planting and landscaping so that surveillance of the works can be undertaken.

22. Completion of landscape works

Before occupation of the development commences or by such later date as is approved by the Responsible Authority in writing, the landscape works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority. Upon completion of the landscape construction works, the applicant must notify the Responsible Authority to enable its inspection. Subject to satisfactory completion of the landscaping in accordance with the endorsed plan, a Certificate of Practical Completion for landscaping will be issued, triggering the commencement of the maintenance period.

23. Landscape Maintenance

All landscaping (except for grass in nature strips of streets abutting private property) shown on the approved stage landscape plans, must be maintained to the satisfaction of the responsible authority for a minimum period of 18 months ending on 31 May of the given year from the date of issue of a Certificate of Practical Completion of landscaping, including that any dead, diseased or damaged plants are to be replaced, bare areas of grass are re-established, mulched surfaces reinstated, damaged or faulty infrastructure repaired or replaced etc. Rectification works must not be deferred until the completion of the maintenance period.

To ensure all assets as identified in the approved stage landscape plans are retained in a safe and functional state and to prolong functional life of the asset, landscape works shall be maintained in accordance with Council's Minimum Landscape Maintenance Specification of Services and Works (May 2010).

Upon the completion of maintenance of the street tree planting and landscaping works, the developer must notify the responsible authority to undertake an inspection prior to the issue of the Certificate of Final Completion.

24. As Constructed Engineering Plans

24.1 *Civil Works*

Prior to the commencement of the defects liability period, the following must be submitted to the satisfaction of the Responsible Authority:

- (a) A complete set of 'as constructed plans' of site works, in hard copy transparent film and digital file format AutoCAD (2000). The digital files must have a naming convention to enable identification of Council assets listed.
- (b) A list of asset quantities which include the following Council assets:
 - (i) Total length of Roads, Footpath, Kerb and Channel,
 - (ii) Total number of Bridges, WSUD features, Traffic calming devices,
 - (iii) Total length of pipe and number of pits for Drainage & Telecommunications,
 - (iv) Total number of streetlights.
- (c) Asset information in digital format to include drainage data as per "D-Spec" (the Consultant /Developer Specifications for the delivery of drainage data to Local Governments).

24.2 *Landscape Works*

Within 21 days of the issue of Certificate of Practical Completion for landscaping, the following must be submitted:

- (a) A complete set of 'as constructed plans' (which will be the stage landscape plan amended if necessary to show any changes that may have occurred during construction), in AutoCAD digital file format. All electronic plans are to be geo-referenced with a datum (Map Grid of Australia Zone 55 [GDA 94] or AGD 94).

25. Removal of top soil

No top soil is to be removed from land covered by the subdivision without the written consent of the Responsible Authority.

26. Reticulated Services

Reticulated water, drainage, sewerage and electricity reticulation underground must be available to each lot shown on the endorsed plans before any lot can be used for houses.

TREE REMOVAL CONDITIONS

- 27. No native vegetation, other than that shown on the endorsed plan, shall be destroyed, felled, lopped, ring barked or uprooted, without the consent of the Responsible Authority.
- 28. In order to offset the removal of native vegetation (habitat hectares and scattered trees) approved as part of this permit, the permit holder must provide a native vegetation offset that is in accordance with the Permitted Clearing of Native Vegetation – Biodiversity assessment guidelines and the Native Vegetation Gain Scoring Manual.

The offset must also contribute a gain of the required general biodiversity equivalence units, preferably be located within the boundary of the Whittlesea municipality, and have a strategic score of at least 80 per cent of the strategic biodiversity score of the native vegetation approved for removal. Before any native vegetation is removed, evidence that an offset has been secured must be provided to the satisfaction of the Responsible Authority.

29. The permit holder is to ensure that tree removal is carried out in a safe manner.
30. The permit holder is to locate all services either above or below ground prior to the commencement of any works.
31. Stumps and any surface roots are to be ground down below ground level. Ground and chipped material to a depth of 50mm is to be removed from site at the direction of the project manager. The permit holder must supply and replace suitable topsoil and seed the area making certain that the reinstated ground surface is level, even and safe.
32. All stumps not removed immediately after removal of the tree are to be paint marked with a suitable bright yellow reflective marking paint.
33. All stumps must be removed within 14 days of removal of the tree.
34. All timber greater than 300mm in diameter that cannot be reused as habitat, furniture or another use determined as appropriate by the responsible authority shall be hammer milled and shredded for reuse as mulch within the subject site.
35. All timber less than 300mm in diameter and branch/leaf material shall be shredded for re-use as mulch within the subject site.
46. At the completion of the works, the applicant is to arrange for an appropriate Council officer to inspect the site to ensure compliance with the planning permit.
37. Time Limit

This permit will expire if:

- (a) The plan of subdivision for the first stage is not certified within 2 years of the date of this permit; or
- (b) The plan of subdivision for any subsequent stage of the subdivision is not certified within 2 years of the date of the certification of the previous stage of the subdivision.
- (c) The registration of any stage of the subdivision is not completed within 5 years of the date of certification of the plans of subdivision.

The Responsible Authority may extend the time if a request is made in writing before the permit expires or within six months afterwards.

REFERRAL AUTHORITY CONDITIONS

Country Fire Authority (Condition No. 44)

38. *Hydrants*

Prior to the issue of a Statement of Compliance under the Subdivision Act 1988

the following requirements must be met to the satisfaction of the CFA:

- (a) Above or below ground operable hydrants must be provided. The maximum distance between these hydrants and the rear of all building envelopes (or in the absence of building envelopes, the rear of the lots) must be 120 metres and the hydrants must be no more than 200 metres apart. These distances must be measured around lot boundaries.
- (b) The hydrants must be identified with marker posts and road reflectors as applicable to the satisfaction of the Country Fire Authority.

Note – CFA's requirements for identification of hydrants are specified in 'Identification of Street Hydrants for Firefighting Purposes' available under publications on the CFA website (www.cfa.vic.gov.au).

Melbourne Water (Condition Nos. 45-61)

- 39. Prior to the issue of a Statement of Compliance, the Owner shall enter into and comply with an agreement with Melbourne Water Corporation for the acceptance of surface and storm water from the subject site directly or indirectly into Melbourne Water's drainage systems and waterways, the provision of drainage works and other matters in accordance with the statutory powers of Melbourne Water Corporation.
- 40. Prior to Certification, the Plan of Subdivision must be referred to Melbourne Water, in accordance with Section 8 of the Subdivision Act 1988.
- 41. Prior to Certification of any Plan of Subdivision associated with the application, a stormwater management strategy must be submitted and approved by Melbourne Water and Whittlesea Council. The strategy must demonstrate the following:
 - (a) The proposed alignment for any 1 in 5 year drainage infrastructure and any associated overland flow paths directions for the 1 in 100 year ARI flood event;
 - (b) That the lot layout adequately accommodates the overland flows. The current layout and/or number of lots may need to change.
 - (c) The details of the outfall/s for the development and calculate the appropriate flow volumes and flood levels for the 100-year ARI storm event within the property;
 - (d) Any drainage works triggered by the Upper Henderson Creek Development Services Scheme.
- 42. Alignment of roads and reserves with any adjoining estates must ensure continuity and provide uninterrupted conveyance of overland flows.
- 43. All new lots must achieve appropriate freeboard in relation to local overland flow paths to Council's satisfaction.
- 44. Prior to the commencement of works a separate application, direct to Melbourne Water, must be made for any stormwater connection to a Melbourne Water asset. Applications can be made online via the Melbourne Water website.
- 45. All new lots are to be filled to a minimum of 300mm above the 1 in 100 year flood levels associated with any existing or proposed Melbourne Water pipeline and/or all new lots are to be filled to a minimum of 600mm above the 1 in 100 year flood level associated with any existing or proposed Melbourne Water wetland,

retarding basin or waterway.

56. Stormwater runoff from the subdivision must achieve State Environment Protection Policy (Waters of Victoria) objectives for environmental management of stormwater as set out in the 'Urban Stormwater Best Practice Environmental Management Guidelines (CSIRO) 1999'.
47. Prior to the issue of a Statement of Compliance for the subdivision, engineering plans of the subdivision (in electronic format) must be submitted to Melbourne Water for our records. These plans must show road and drainage details and any overland flow paths for the 100 year ARI storm event.
48. Prior to the issue of a Statement of Compliance for the subdivision, a certified survey plan prepared by or under the supervision of a licensed land surveyor, showing finished lot levels reduced to the Australian Height Datum, may be submitted to Melbourne Water for our records.
49. Prior to the issue of a Statement of Compliance for the subdivision, a Site Management Plan detailing pollution and sediment control measures must be submitted to Melbourne Water.
50. The subdivision is to make provision for overland flows from the upstream catchment utilising roads and/or reserves.
51. Any road or access way intended to act as a stormwater overland flow path must be designed and constructed to comply with Melbourne Water's floodway safety criteria.
52. Easements must be created to the satisfaction of Whittlesea Council.
53. The development is to negotiate with the downstream landowners to obtain a free draining outfall through their property. Approval is to be forwarded to Melbourne Water for our records prior to construction commencing.
54. Any temporary outfall is to be arranged to the satisfaction of Melbourne Water, Council and the affected downstream property owner(s).
55. No polluted and / or sediment laden runoff is to be discharged directly or indirectly into Melbourne Water's drains or watercourses.

Yarra Valley Water (Condition Nos. 62-63)

56. Water

The owner of the subject land must enter into an agreement with Yarra Valley Water for the provision of water services.

57. Sewerage

The owner of the land must enter into an agreement with Yarra Valley Water for the provision of sewerage services.

AusNet Electricity Services Pty Ltd (Condition Nos. 64-65)

58. The Plan of Subdivision submitted for certification must be referred to AUSNET ELECTRICITY SERVICES PTY LTD in accordance with Section 8 of the

*Subdivision Act 1988.***59. The applicant must:**

- (a) Enter in an agreement with AUSNET ELECTRICITY SERVICES PTY LTD for supply of electricity to each lot on the endorsed plan.**
- (b) Enter into an agreement with AUSNET ELECTRICITY SERVICES PTY LTD for the rearrangement of the existing electricity supply system.**
- (c) Enter into an agreement with AUSNET ELECTRICITY SERVICES PTY LTD for rearrangement of the points of supply to any existing installations affected by any private electric power line which would cross a boundary created by the subdivision, or by such means as may be agreed by AUSNET ELECTRICITY SERVICES PTY LTD.**
- (d) Provide easements satisfactory to AUSNET ELECTRICITY SERVICES PTY LTD for the purpose of "Power Line" in the favour of "AUSNET ELECTRICITY SERVICES PTY LTD" pursuant to Section 88 of the Electricity Industry Act 2000, where easements have not been otherwise provided, for all existing AUSNET ELECTRICITY SERVICES PTY LTD electric power lines and for any new power lines required to service the lots on the endorsed plan and/or abutting land.**
- (e) Obtain for the use of AUSNET ELECTRICITY SERVICES PTY LTD any other easement required to service the lots.**
- (f) Adjust the position of any existing AUSNET ELECTRICITY SERVICES PTY LTD easement to accord with the position of the electricity line(s) as determined by survey.**
- (g) Set aside on the plan of subdivision Reserves for the use of AUSNET ELECTRICITY SERVICES PTY LTD for electric substations.**
- (h) Provide survey plans for any electric substations required by AUSNET ELECTRICITY SERVICES PTY LTD and for associated power lines and cables and executes leases for a period of 30 years, at a nominal rental with a right to extend the lease for a further 30 years. AUSNET ELECTRICITY SERVICES PTY LTD requires that such leases are to be noted on the title by way of a caveat or a notification under Section 88 (2) of the Transfer of Land Act prior to the registration of the plan of subdivision.**
- (i) Provide to AUSNET ELECTRICITY SERVICES PTY LTD a copy of the plan of subdivision submitted for certification that shows any amendments that have been required.**
- (j) Agree to provide alternative electricity supply to lot owners and/or each lot until such time as permanent supply is available to the development by AUSNET ELECTRICITY SERVICES PTY LTD. Individual generators must be provided at each supply point. The generator for temporary supply must be installed in such a manner as to comply with the Electricity Safety Act 1998.**
- (k) Ensure that all necessary auditing is completed to the satisfaction of AUSNET ELECTRICITY SERVICES PTY LTD to allow the new network assets to be safely connected to the distribution network.**

PERMIT NOTES

Public Lighting Note

Before the preparation of construction plans for street lighting can be completed Council approval to the type and colour of poles and lanterns will be required.

Tree protection zone and attached specification to Condition Nos. 7 and 8

A consulting arborist must be employed to supervise works which may impact upon trees marked for retention on the approved plan.

The consulting arborist must conduct an induction of all personnel involved in construction that may impact on tree protection zones.

Any works within the tree protection zone should be completed or supervised by the consulting arborist.

The area inside the tree protection zone should, where considered relevant by the consulting arborist, be modified in the following manner to enhance the growing environment of the tree and to help reduce stress or damage to the tree:

- (a) The area within the tree protection zone may require mulch with wood chips or compost matter to a depth of 150 millimetres.
- (b) Trees may require supplementary watering, with the amount to be assessed by the consulting arborist and determined by the extent of disturbance to the trees roots and climatic conditions.
- (c) Where severing of roots (greater than 50 millimetres in diameter) is required directly adjacent to the exclusion zone they must be cut cleanly. Where possible this is to be completed at the beginning of development of the site. Roots are not to be left exposed, but back-filled or covered with damp hessian.

The storing or disposing of chemicals or toxic materials must not be undertaken within 10 metres of any tree protection zone. Where the slope of the land suggests these materials may drain towards a tree protection zone, the storing or disposing of these materials is strictly forbidden.

Tree protection envelope fencing is to be constructed to the following requirements:

- (a) Ring lock wire mesh (or equivalent) no less than 1.2 metres high.
- (b) Main posts 100mm treated pine (TP).
- (c) Intermediate posts steel star pickets (SP).
- (d) The corner posts are to be TP with TP stays.
- (e) Every third post is to be TP.
- (f) SP to be placed intermediately between the TP at 3m intervals.
- (g) The ring lock mesh to encircle the structure and be firmly secured at each post.
- (h) Posts must be sunk into the ground by 450mm (there is to be no concrete to secure posts as this may affect p.H. levels).
- (i) The tree protection zone is to be clearly sign posted in accordance with the condition titled Tree Protection Zone fencing.

With the agreement of the responsible authority, tree protection zone fencing may not be provided where permanent reserve fencing is introduced prior to construction. The specification of the permanent fencing must be to the satisfaction of the Responsible Authority.

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.

Melbourne Water Note

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 275510.

AusNet Electricity Services Pty Ltd Note

It is recommended that, at an early date the applicant commences negotiations with AUSNET ELECTRICITY SERVICES PTY LTD for a supply of electricity in order that supply arrangements can be worked out in detail, so prescribed information can be issued without delay (the release to the municipality enabling a Statement of Compliance with the conditions to be issued).

Arrangements for the supply will be subject to obtaining the agreement of other Authorities and any landowners affected by routes of the electric power lines required to supply the lots and for any tree clearing.

Prospective purchasers of lots on this plan should contact this office to determine the availability of a supply of electricity. Financial contributions may be required.

COUNCIL RESOLUTION

MOVED: *Cr Butler*
SECONDED: *Cr Kozmevski*

THAT Council resolve to adopt the Recommendation.

CARRIED

6.1.15 2016/17 FIRST QUARTER NEW WORKS PROGRAM REPORT**File No:** 192600

Attachments:

- 1 Financial Summary
- 2 Project Progress Report
- 3 Project Status Photos
- 4 Planning and Feasibility Status Report
- 5 Status of New Works Grant Applications

Responsible Officer: Director Planning & Major Projects**Author:** Team Leader Business Support**REPORT****EXECUTIVE SUMMARY**

This report provides an overview of the financial performance and status of the New Works Program at the end of the first quarter of the 2016/17 financial year.

The value of work completed at the end of the first quarter is \$11,134,208 compared to the budget of \$12,035,773. The underspend is due a number of projects being delayed due to inclement weather however the warmer months should see projects progress and completed within the anticipated timeframes. In addition, there are contracts and purchase orders committing another \$34,917,494 as at 30 September 2016, which shows a good level of delivery preparedness for the remainder of the financial year. Refer to **Attachment 1**.

The first quarter includes many projects that have been finalised from the previous financial year as well as the commencement of design and construction of new projects in the 2016/17 financial year. Some significant milestones achieved during the first quarter include:

- Completion of the Mill Park Lakes Pavilion Expansion/Upgrade;
- Completion of the Thomastown Library Refurbishment;
- Completion of the Synthetic Surface at Mill Park Lakes Reserve; and
- Completion of the Urbanisation of McKimmies Road.

The following projects have made significant progress in the first quarter of 2016/17.

- Animal Welfare Facility, Epping;
- Lalor Recreation Reserve - Community Tennis Pavilion, Lalor;
- Ashley Park Community Centre;
- Hawkstowe Parade Early Learning Centre, Mernda;
- RGC Cook Reserve Pavilion Upgrade;
- Signalisation and construction of the intersection at Bridge Inn and Painted Hills Road Mernda; and
- Redevelopment of Barry Road Community Activity Centre, Thomastown.

Significant projects scheduled for commencement in the second quarter of 2016/17 include:

- Meadowglen Athletics Track Resurfacing; and
- Thomastown Recreation and Aquatic Centre Outdoor Playspace;

For a detailed progress report on significant projects refer to **Attachment 2**. Photos on the progress of some significant projects can be found in **Attachment 3**.

BACKGROUND

Council adopted the 2016/17 New Works Program budget on 23 June 2016 with the total budget of \$43.335 million plus \$18.227 million carry forward providing a total New Works Program budget for 2016/17 of \$61.6 million.

CONSULTATION

External stakeholder consultation and engagement is undertaken in relation to individual projects and programs. This occurs throughout the financial year.

FINANCIAL IMPLICATIONS

The 2016/17 budget includes \$61,600,937 for the New Works Program (including carry forward funding). The value of work completed for the year-to-date is \$11,134,208 compared to the year-to-date plan of \$12,035,773. Further commitments (contracts and purchase orders) to the value of \$34,917,494 have been generated. A summary of progress of projects by Group can be found below whilst a description on key projects has been included in Attachment 2.

Financial details for contracts within each project are provided through tender and contract closure reports to Council.

Financial Status of the New Works Program by Group:

Group	Year To Date Actuals	Year To Date Budgets	Year To Date Variance	Annual Budget
Buildings	6,011,562	5,538,219	(473,343)	24,209,009

The Buildings category is currently showing expenditure ahead of schedule of \$473,343 compared to the Year To Date budget.

The key project contributing to the variance is:

- Animal Welfare Facility – This project is tracking ahead of the planned budget timing and due for completion in the third quarter.

Group	Year To Date Actuals	Year To Date Budgets	Year To Date Variance	Annual Budget
Drains	50,500	50,000	(500)	1,403,500
Planning & Feasibility	10,820	40,000	29,180	300,000

The Drains and the Planning and Feasibility categories are currently showing minor variances of expenditure compared to the Year to the Date budget. .

Group	Year To Date Actuals	Year To Date Budgets	Year To Date Variance	Annual Budget
Open Space	1,588,516	2,256,397	667,881	11,464,034

The Open Space category is currently showing an underspend of \$667,881 compared to the Year To Date budget.

The key projects contributing to the variance are:

- General Landscape Improvements – The landscape improvements at neighbourhood parks is behind the planned budget.
- Lalor Tennis Club – Reconstruct Courts 3 to 6 – The works have been delayed due to the withdrawal of the contractor from the contract. A separate report to the 22 November 2016 Council Meeting proposes the appointment of a new contractor.
- Investigations are underway in relation to the scope of the HR Uren Reserve ball catching fence and sufficiency of available budget.

Group	Year To Date Actuals	Year To Date Budgets	Year To Date Variance	Annual Budget
Plant & Equipment	811,945	734,781	(77,164)	4,242,702
Transport	745,334	1,231,245	485,911	5,907,614

The Plant and Equipment category is currently showing an overspend of \$77,164 compared to the Year To Date budget. This is mainly due to the timing for the replacement of motor vehicles.

The Transport category is currently showing an underspend of \$485,911 compared to the Year To Date budget.

The key project contributing to the variance is:

- Painted Hills Road / Bridge Inn Road Intersection works – Inclement weather has delayed the planned progress of works on-site however warmer weather in the coming months should see works progress rapidly.

Group	Year To Date Actuals	Year To Date Budgets	Year To Date Variance	Annual Budget
Roads & Paths	1,915,532	2,178,131	262,599	13,734,473

The Roads and Paths category is currently showing an underspend of \$262,599 compared to the Year To Date budget. However, further contracts and commitments of \$4,450,101 indicate that this category has a high degree of preparedness for delivery in the coming warmer months.

The key project contributing to the variance was:

- Urbanisation of McKimmies Road – Landscaping reinstatement has been delayed due to inclement weather.

Planning and Feasibility Program Update

The Planning and Feasibility Program is designed to allow for adequate planning, scoping, budgeting and scheduling of future projects to ensure projects are correctly scoped and ready for delivery in future years. Planning for future infrastructure projects is vital for the

accurate scoping and costing of works and also provides the opportunity to take advantage of grant funding as it becomes available. Forward planning also ensures that sufficient feasibility work and thorough project briefs and business cases are prepared for future projects.

The 2016/17 New Works Program provides a budget of \$300,000 for the planning and feasibility of future projects. **Attachment 4** provides an update on the status of the Planning and Feasibility Program for 2016/17.

Infrastructure Grants Update

Proactive searches of external grant funding has identified a number of opportunities to supplement the existing New Works Program budget for priority projects. **Attachment 5** provides a summary of the status of infrastructure grant applications for 2016/17. In summary, Council has been successful in receiving grants to the value of \$7,376,750 for the 2016/17 financial year. There are also further grant applications pending announcements by the grant agencies.

Forecast

Progress of works in the second quarter will accelerate as contracts are awarded and weather conditions improve for construction works in the lead-up to the industry shutdown and holiday period in December / January.

POLICY STRATEGY AND LEGISLATION

The business case associated with individual projects identifies the respective policy to which they relate.

LINKS TO THE COUNCIL PLAN

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

CONCLUSION

This report provides a summary of the status of the 2016/17 New Works Program. A continuous improvement program is being implemented to enhance systems, processes and practices to improve the planning and delivery of the New Works Program. Overall the New Works Program is on track and is providing much needed community infrastructure across the municipality.

RECOMMENDATION

THAT Council resolve to note the progress of the New Works Program for the first quarter of the 2016/17 financial year.

COUNCIL RESOLUTION

MOVED: *Cr Pavlidis*

SECONDED: *Cr Alessi*

THAT Council resolve to adopt the Recommendation.

CARRIED

6.2 COMMUNITY SERVICES

6.2.1 PETITION UPDATE - SPRING STREET HALL

File No: SU145005

Attachments: 1 Photo of works

Responsible Officer: Director Community Services

Author: Team Leader Community Facilities

REPORT

EXECUTIVE SUMMARY

Council at its meeting of 26 April 2016 considered a petition received from the Lalor / Thomastown Combined Pensioners Inc., requesting that Council reinstate the door that separates the main hall from the new toilet area at the Spring Street Hall, Thomastown and resolved to receive the petition and a report be prepared.

BACKGROUND

A Disability and Discrimination Act (DDA) audit undertaken at the Spring Street Hall in 2015 noted that whilst the entry area leading to the toilets was DDA compliant, refurbishment to the entry could be undertaken to improve accessibility into the toilets.

As a result in January 2016, works were undertaken to address the recommendations of the DDA audit including the removal of the air lock door separating the main hall from the toilet area.

While consultation was undertaken with hall users in the planning of these works, the removal of the door caused some issues in relation to privacy when using the toilets and the drop of temperature in the main hall. Given the valid concerns raised in the petition in relation to the unexpected consequences of the original works, works have been undertaken to reinstate the door while ensuring that the entry remains DDA compliant

PROPOSAL

To advise Council of action taken in response to a petition table in relation to minor works at the Spring Street Hall.

CONSULTATION

The Lalor/Thomastown Combined Pensioners group was consulted and is satisfied with the action taken to re-instate the air lock entry door.

FINANCIAL IMPLICATIONS

The cost of the works was expended from the recurrent maintenance budget for Spring Street Hall.

POLICY STRATEGY AND LEGISLATION

The Spring Street Hall continues to meet the requirements of the *Disability and Discrimination Act*.

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

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

Meeting the operational requirements of user groups and ensuring regulatory compliance are important aspects of the provision of Council meeting spaces. The issue raised by the Lalor/Thomastown Combined Pensioners group has been considered and works undertaken to ensure that the Spring Street Hall continues to meet its needs while also meeting DDA compliance. See Attachment 1 for a photo of the works.

RECOMMENDATION

THAT Council resolve to note the report.

COUNCIL RESOLUTION

MOVED: *Cr Pavlidis*
SECONDED: *Cr Sterjova*

THAT Council resolve to adopt the Recommendation.

CARRIED

6.3 CITY TRANSPORT AND PRESENTATION

6.3.1 PROPOSED COUNCIL LEASE OF THE FUTURE PUBLIC TRANSPORTATION CORRIDOR AT AURORA ESTATE

File No: 715268

Attachments:

- 1 Western Railway Corridor Plan
- 2 Public Transportation Corridor
- 3 Existing Corridor
- 4 Landscape Master Plan

Responsible Officer: Director City Transport & Presentation

Author: Team Leader Open Space Planning

REPORT

EXECUTIVE SUMMARY

The intent of this report is to seek Council approval to enter into a peppercorn lease agreement with Lend Lease for land to be temporarily embellished as open space along the northern section of the future public transportation corridor within the Aurora Estate. The land is currently owned by Lend Lease but will ultimately be transferred to the Secretary of the Department of Economic Development, Jobs, Transport and Resources when required for the rail extension between Lalor Station and the future town centre within the Wollert Precinct Structure Plan (south of Boundary Road). A plan identifying the entire corridor is attached for reference (Appendix 1 – Western Railway Corridor).

The peppercorn lease agreement whereby Council pays Lend Lease \$1.00 per year would enable the land to be accessed and used by the general public until such time as the corridor is required for public transportation purposes but would obligate Council to upkeep the land and become responsible for the public liability of the space. Lend Lease has estimated that the embellishment of the corridor required under Planning Permit 715268 which they are paying for will cost in the order of \$900,000. Lend Lease has offered an additional one off payment valued at \$20,000 to contribute towards the ongoing maintenance costs to be incurred by Council. A plan identifying the section of the future public transportation corridor addressed in this report is attached for information (Appendix 2 – Public Transportation Corridor).

BACKGROUND

Planning permit 715268 issued on 8 July 2015 in part requires Lend Lease to embellish the future public transportation corridor in the northern section of Aurora Estate. Landscape plans are currently in development. The anticipated works will be commensurate with the existing embellishment of a section of the corridor installed by Places Victoria in 2014 and will include the delivery of a shared path, perimeter fencing, exercise nodes, seating and limited soft landscaping. The ownership of this section of the public transport corridor has already transferred to the State Government. Agreement has already been reached that a lease agreement be executed between the State Government and Council that states that Council will be responsible for the ongoing maintenance of this section of open space until it is required for the provision of public transport. The community is already utilising this area of open space. A plan identifying the extent of the embellished section of corridor is attached

(Appendix 3 – Embellished Corridor). The intent is for the land to be used for passive recreation until such time as the land is required for transportation purposes.

The delivery of the embellishment is expected in mid 2017 subject to land sales. Under the Planning Permit, Lend Lease is required to maintain the landscape works for two summers + three months post the issue of a Landscape Certificate of Practical Completion. On completion of the maintenance period Lend Lease has requested Council to up-keep and maintain the corridor and take on the public liability of the space to enable the land to be accessed and used by the local community until such time as the land needs to be redeveloped for public transportation purposes. This is in line with ordinary arrangements for the handover of public open space from the subdivision process. This outcome is considered advantageous as it enables the space to be meaningfully used by the local community in the interim. An overall landscape master plan for Aurora Precinct 1 inclusive of the future public transportation corridor is attached (Appendix 4 – Landscape Master Plan).

The timing for the development of the Wollert transport corridor (for rail or bus) is identified as being in 15-30 years in Infrastructure Victoria's draft 30 Year Infrastructure Strategy, which was released in October 2016.

PROPOSAL

It is proposed that Council enter into a peppercorn lease agreement with Lend Lease valued at \$1.00 per annum whereby Council becomes responsible for the maintenance and public liability obligations associated with the northern section of the public transportation corridor in the Aurora Estate. This outcome will enable the land to be used for passive recreation by the local community until such time as the land is needed for public transportation purposes. In this regard it is recommended that:

1. Subject to the completion of the standard two summers + three months landscape maintenance period as documented in the planning permit, the City of Whittlesea enter into a lease agreement with Lend Lease for the ongoing maintenance associated with the land until such time as the passive recreation use has ceased and the land redeveloped to accommodate public transportation.
2. Lend Lease shall be solely responsible for and bear all costs associated with the creation of a peppercorn lease agreement to the satisfaction of Council.
3. The standard of maintenance shall be commensurate with the standards and benchmarks contained in *Council's Minimum Landscape Specification of Services and Works* (May 2010).
4. The development of the corridor shall be in accordance with the approved landscape plans associated with Stage 10 of the subdivision (yet to be endorsed).
5. Signage associated with the temporary nature of the embellishment along the corridor shall be installed to the satisfaction of Council.

CONSULTATION

This issue has previously been discussed with Lend Lease, and Council's Strategic Planning, Growth Area Development Assessment and Properties and Evaluations Departments. There is currently no community to consult with within this precinct of Aurora.

CRITICAL DATES

It is anticipated that the landscape embellishment along the public transportation corridor will be delivered in mid 2017 subject to land sales at Aurora Estate. To provide assurance to Lend Lease with regard to Council taking on maintenance and public liability obligations a direction from Council is requested prior to December 2016. This time frame would enable the plans to be completed and approved or the planning permit to be amended prior to Lend Lease applying for Statement of Compliance for Stage 10 to which the obligation for the embellishment is tied.

FINANCIAL IMPLICATIONS

The cost to embellish the northern section of the future public transportation corridor within Aurora is estimated to be \$900,000.00. This cost is a Lend Lease obligation under planning permit 715268.

After the termination of the landscape maintenance period stipulated in the planning permit Lend Lease has offered a one off payment to Council valued at \$20,000.00 to contribute towards the ongoing maintenance costs of the corridor.

Under the current parks maintenance contract, the cost to Council to maintain 1Ha of open space per annum is \$6,300.00. The area associated with the corridor is approximately 2Ha representing an annual cost to Council of \$12,600.00.

The peppercorn lease agreement represents a \$1.00 payment from Council to Lend Lease annually.

All costs associated with the development of a peppercorn lease agreement to the satisfaction of Council to be borne by Lend Lease.

POLICY STRATEGY AND LEGISLATION

The embellishment of the public transportation corridor is consistent with the requirements contained within planning permit 715268 and in particular condition 7(c) and 9.2(e).

The embellishment will be consistent with benchmarks and guidelines contained within the Open Space Strategy.

There are no conflicts with existing policy, strategy and/or legislation.

LINKS TO THE COUNCIL PLAN

FUTURE DIRECTION	Places and spaces to connect people
Theme	Open space
Strategic Objective	We have open spaces that are welcoming and safe for public gathering

The lease agreement will enable land earmarked for public transportation purposes to be used by the community until such time as it is required for the rail extension between Lalor and the town centre located within the Wollert Precinct Structure Plan. The landscape will be available for the community to use and enjoy and will be designed to be safe and conducive for the community to gather, socialise and recreate.

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 peppercorn lease agreement with Lend Lease to enable the northern section of the future public transportation corridor within the Aurora estate to be embellished and used by the community until such time as the land is required for public transportation purposes.

RECOMMENDATION

THAT Council resolve to:

- a) Enter into a peppercorn lease agreement with Lend Lease to maintain the northern section of the public transportation corridor within Aurora Estate; and
- b) Delegate the Chief Executive Officer to negotiate the terms and conditions of the lease.

COUNCIL RESOLUTION

MOVED: *Cr Alessi*
SECONDED: *Cr Cox*

THAT Council resolve to:

- a) Enter into a peppercorn lease agreement with Lend Lease to maintain the northern section of the public transportation corridor within Aurora Estate;
- b) Delegate the Chief Executive Officer to negotiate the terms and conditions of the lease, and
- c) Once the park is completed, appropriate signage identifying the reserve as a future public transportation corridor be installed.

CARRIED

6.4 CORPORATE SERVICES

6.4.1 ROAD DISCONTINUANCE ADJOINING 60 SACKVILLE STREET MERNDA

File No: 190731

Attachments:

1	Site Plan & Photo
2	Advertising Plan
3	Subdivision Plan

Responsible Officer: Director Corporate Services

Author: Senior Property Officer

REPORT

EXECUTIVE SUMMARY

This report seeks Council's approval to invite public submissions under Section 206 of the *Local Government Act 1989* on the proposed discontinuance four sections of road reserve shown on the attached plans (see *Attachment 1 – Site Plan & Photo* and *Attachment 2 – Advertising Plan*).

The discontinuance will allow Council to transfer the four sections of road reserve to the adjoining landowner at 60 Sackville Street, Mernda, in exchange for acquisition by Council of three sections of land (also shown on *Attachment 1*), removing inconsistencies in road reservations widths and enabling the construction and widening of Sackville, William and Regent Streets, Mernda.

BACKGROUND

Council, at its meetings held on 17 April 2012 and 29 May 2012, formally resolved to discontinue and transfer three sections of road that were required for the construction and widening of Sackville, William and Regent Streets, Mernda.

It was agreed that the land marked 'Roads 1-6, Roads 8-9, Road 11 and Road 13 on PS701112G (see *Attachment 3 – Plan of Subdivision*) be transferred to Council to remove the inconsistencies in the width of existing road reservations that prohibit the desired 20.6m road width from being achieved under the Mernda West Development Plan. Land transfer documents were executed to facilitate the exchange and vest the roads within Council (approximately 1,700m² overall).

Beveridge Williams, the development and environment consultancy firm that handled the original application, has approached Council officers, seeking an agreement to discontinue four additional sections of road reserve adjoining the land at 60 Sackville Street, Mernda, that were previously removed from the Plan of Subdivision application.

The land proposed to be discontinued (being 219m² in total) would be transferred to the adjoining landowner in exchange for Council acquiring three sections of this property owner's land (being 96m² in total) that would enable the desired 20.6m road width to be achieved, together with the creation of splay corners. The acquired land would be transferred to Council upon certification of the proposed subdivision permit.

THE SUBJECT SITE

The land, located at 60 Sackville Street, Mernda, is approximately 400m south of the intersection of Bridge Inn Road and Sackville Street, Mernda, is currently zoned General Residential Zone and has a total land area of 2.41ha. The land retains a substantial residential mud brick dwelling (322m² plus garage 40m²), outbuildings and is in close proximity to numerous Council reserves including that occupied by the Findon Pony Club (65 Regent Street, Mernda).

The land is bordered by residential development to the north and south of the site and a large acre block to the east (with capacity to offer further residential development). Land is retained as passive open space to the west.

Beveridge Williams & Co has been engaged by National Pacific Properties, to prepare and submit a planning permit application for a 47 lot subdivision (with an average lot size of 418m² and a net dwelling density of 19.38 lots per hectare) and associated works at 60 Sackville Street, Mernda.

CONSULTATION

Consultation has been held between Council officers, Beveridge Williams, all relevant statutory authorities and the affected landowner, to ensure that the land is no longer required for its original purpose and that all existing and proposed easements are noted within the advertising plan.

PUBLIC SUBMISSIONS

Council officers will invite public submissions on the proposed discontinuance under Section 223 of the *Local Government Act* 1989. An advertisement will be placed in the Whittlesea Leader newspaper and Council's website (public notices) on Tuesday 29 November 2016, requesting that public submissions be received by 12 noon on Wednesday 18 January 2017.

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

FINANCIAL IMPLICATIONS

This proposal has a nil financial impact to Council as it is in effect an exchange of land only.

All additional costs associated with the transfer, i.e. surveying, advertising and transfer, will be borne by the Applicant.

POLICY STRATEGY AND LEGISLATION

Council must seek public submissions on the proposed discontinuance under Section 206 and 223 of the *Local Government Act* 1989. Submissions will be invited for a period no less than 28 days and referred on to an appointed Committee of Council for consideration. The appointed Committee will consider and report all findings to Council for its final recommendation at their next available meeting.

LINKS TO THE COUNCIL PLAN

FUTURE DIRECTION	Accessibility in, out and around our city
Theme	Transport
Strategic Objective	Our road network provides adequate access to the Advocate municipality and beyond

The proposal seeks to facilitate the discontinuance and sale of four sections of road for the purposes of constructing and widening Sackville, William and Regent Streets, Mernda.

DECLARATIONS OF CONFLICTS OF INTEREST

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

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

CONCLUSION

To invite public submissions on the proposed discontinuance of the four sections of road for the purposes of constructing and widening Sackville, William and Regent Streets, Mernda. The land will be discontinued and transferred to the adjoining landowner at 60 Sackville Street for a nominal value.

RECOMMENDATION

THAT Council resolve to:

1. Invite public submissions in accordance with Section 206 and 223 of the *Local Government Act 1989*, relating to its intentions to commence procedures to discontinue the four sections of road, marked in *Attachment 2 – Advertising Plan*.
2. Establish an Advisory Committee of Cr, Cr and Cr, to consider any written submissions received on the proposal and make recommendations to Council on any such submissions.
3. Authorise the Chief Executive Officer to carry out administrative procedures necessary to enable Council to carry out its functions under Section 223 of the *Local Government Act 1989*.
4. Receive a further report on the proposed discontinuance following the close of the submission period.

COUNCIL RESOLUTION

MOVED: Cr Kozmevski
SECONDED: Cr Sterjova

THAT Council resolve to:

1. Invite public submissions in accordance with Section 206 and 223 of the *Local Government Act 1989*, relating to its intentions to commence procedures to discontinue the four sections of road, marked in *Attachment 2 – Advertising Plan*.
2. Establish an Advisory Committee of The Mayor, Cr Ricky Kirkham, Cr John Butler and Cr Emilia Lisa Sterjova, to consider any written submissions received on the proposal and make recommendations to Council on any such submissions.

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

CARRIED

6.4.2 LAND EXCHANGE - 182 & 214W GREENHILLS ROAD BUNDOORA**File No:** SU192974**Attachments:**
1 Site Plan & Photo
2 Development Plan**Responsible Officer:** Director Corporate Services**Author:** Senior Property Officer**REPORT****EXECUTIVE SUMMARY**

This report seeks Council's approval to enter into a land exchange agreement for Council's reserve located at 214W Greenhills Road, Bundoora (*see Attachment 1 - Site Plan & Photo*) and a section of privately owned residential land that will be retained as open space within an existing development plan. The residential land is located at 182 Greenhills Road, Bundoora.

The proposal seeks to exchange land parcels and create better linkages and accessibility to under-utilised open space and future residential allotments under the approved Greenhills Road Development Plan (*see Attachment 2- Development Plan*). The proposed land exchange, which includes the sale of approximately 1,077m² of Council owned land in exchange for the establishment of a reserve located on the far east side adjoining Darebin Creek being 1,153m², was agreed in principle under the Development Plan.

BACKGROUND

Council, at its meeting held on 26 April 2016, formally resolved to approve the Greenhills Road Development Plan and enable a planning framework to guide the future residential subdivision and development of land which has recently been rezoned for residential purposes.

Under the proposal, the Development Plan (DP) was prepared for four land parcels located north of Greenhills Road, Bundoora, and provided a subdivision framework, road layout and provision for public open space:

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

The DP has been endorsed to accommodate 50 lots (comprising of standard to medium density lots to be provided in the form of town houses with a mixture of double and some triple storey dwellings). Pedestrian and vehicular access to the estate will be constructed (in part) through Council's under-utilised reserve at 214W Greenhills Road and part of the adjoining Melbourne Water pipe track reservation. The balance of land, that is not required for road purposes, will be retained as an open space reserve.

The loss of open space (through the land exchange and construction of the access road) will be offset against the creation of an additional reserve within the estate.

Under this arrangement there will be no net loss of public open space for the community and it is generally considered the provision of public open space, adjacent to the Darebin Creek shared trail will be more usable and beneficial for the community than the current under-utilised reserve at 214W Greenhills Road Bundoora. It should also be noted that this proposed arrangement will be provided in addition to, a public open space contribution required at the subdivision stage. The land swap arrangement has been supported by Council in-principle as part of its previous support and adoption of Amendment C111 to the Whittlesea Planning Scheme (to rezone all four land parcels nominated under the Development Plan from Industrial 1 to Residential 1 - now known as General Residential).

The proposed land exchange includes the sale of approximately 1,077m² of Council owned land in exchange for the establishment of a reserve located on the far east side adjoining Darebin Creek being 1,153m² and a cash offset of \$160,000 in favour of Council. Following the exchange, Council's current reserve (once sold) would be set aside in part for road access (575m²) and open space (502m²) under the future open space and development contributions.

It is noted that the establishment and embellishment of the new reserve, adjoining Darebin Creek, could not be reached as a desired Council outcome through the development alone. As such, the sale/exchange of Council's reserve at 214W Greenhills Road, Bundoora, was considered and supported through the development plan.

PROPOSAL

It is proposed that Council invite public submissions in response to the proposed land exchange agreement that will enable the sale of Council's under-utilised reserve located at 214W Greenhills Road, Bundoora (1,077m²), in exchange for the establishment of a new Council reserve within the residential estate (1,153m²), bordering Darebin Creek. Both parties have further agreed that a cash contribution of \$160,000, be made in favour of Council, to offset the difference in land values being exchanged.

The terms of the sale will be made via private treaty and require a 10% deposit upon signing of the contracts. Settlement will remain payable within 60 days of the contract signing date. The park will provide a link to the Darebin Creek linear corridor and therefore, the broader open space network and will include the shared pathway and landscaping. These works will be undertaken by the developer.

CONSULTATION

Extensive consultation has been held between Council officers, neighbouring properties, all relevant statutory authorities and the Applicants acting on behalf of the owners of 182 Greenhills Road, Bundoora (through the planning permit process), to ensure that the proposed exchange of land will create a suitable interface with adjoining properties and open space reservations. A further public consultation process will be required should Council endorse the recommendation and proceed with the land exchange.

PUBLIC SUBMISSIONS

Council will invite public submissions under Section 189, 192 and 223 of the *Local Government Act* 1989 with regard to the proposed exchange of land. An advertisement will be placed in the Whittlesea Leader newspaper and Council's website on Tuesday 29 November 2016 requesting public submissions be received by Wednesday 25 January 2017 (12 noon).

FINANCIAL IMPLICATIONS

Following negotiations with representatives acting on behalf of the owners, JKFC Holdings Trust and JKFC Holdings Pty Ltd, Council's Manager Property & Valuations has negotiated a net sale price of \$160,000 plus GST (in favour of Council) after both parties mutually agreed to offset the sale of the Council reserve located at 214W Greenhills Road, Bundoora

(\$650,000 – 1,077m²), against the value of the proposed Council reserve (\$490,000 - 1,153m²) that will be created within the residential development site at 182 Greenhills Road, Bundoora.

The terms of the sale will be made via private treaty and require a 10% deposit upon signing of the contracts. Settlement will remain payable within 60 days of the contract signing date.

The funds received from the proposed sale of the land will be allocated to the land banking reserve for future investment proposals.

Following the exchange, Council's current reserve (once sold) would be transferred back to Council for road access (575m²) and open space (502m²) under the future open space and development contributions.

POLICY STRATEGY AND LEGISLATION

Council must seek public submissions on the proposed land exchange under Section 189, 192 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 its next available meeting.

LINKS TO THE COUNCIL PLAN

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

The proposal seeks to enter into a land exchange agreement in which an under-utilised Council reserve will be sold and consolidated within an existing residential development located at 182 Greenhills Road, Bundoora. In exchange, Council will acquire funding and the establishment of a new Council reserve that will link with adjoining open space reservations.

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 seek Council's approval to enter into a contract of sale arrangement that will enable the disposal of Council's under-utilised reserve located at 214W Greenhills Road, Bundoora, in exchange for the establishment of an additional reserve within the residential development site at 182 Greenhills Road, Bundoora. Council will also acquire an additional cash offset of \$160,000.

RECOMMENDATION

THAT Council resolve to:

1. Invite public submissions in accordance with Section 189, 192 and 223 of the *Local Government Act* 1989, on its intentions to dispose of Council's reserve, located at 214W Greenhills Road, Bundoora, to JKFC Holdings Trust and JKFC Holdings Pty Ltd, for the purposes of consolidation within an adjoining residential development property located at 182 Greenhills Road, Bundoora on the following terms and conditions:
 - a) The land will be sold to the Applicant for a net sale price of \$160,000 plus GST, including a 10% deposit and settlement within 60 days of signing the contract.
 - b) In exchange, Council will acquire additional open space (1,153m²) within the Applicant's residential development at 182 Greenhills Road, Bundoora.
2. Establish an advisory Committee of Council comprising Cr, Cr, and Cr..... 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; and
4. Receive a further report on the proposed sale of Council's reserve located at 214W Greenhills Road, Bundoora, following the close of the submission period.

COUNCIL RESOLUTION

MOVED: Cr Kozmevski
SECONDED: Cr Lalios

THAT Council resolve to:

1. Invite public submissions in accordance with Section 189, 192 and 223 of the *Local Government Act* 1989, on its intentions to dispose of Council's reserve, located at 214W Greenhills Road, Bundoora, to JKFC Holdings Trust and JKFC Holdings Pty Ltd, for the purposes of consolidation within an adjoining residential development property located at 182 Greenhills Road, Bundoora on the following terms and conditions:
 - a) The land will be sold to the Applicant for a net sale price of \$160,000 plus GST, including a 10% deposit and settlement within 60 days of signing the contract.
 - b) In exchange, Council will acquire additional open space (1,153m²) within the Applicant's residential development at 182 Greenhills Road, Bundoora.
2. Establish an advisory Committee of Council comprising The Deputy Mayor, Cr Norm Kelly, Cr Sam Alessi, Cr Alahna Desiato and Cr Mary Lalios 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*; and
4. Receive a further report on the proposed sale of Council's reserve located at 214W Greenhills Road, Bundoora, following the close of the submission period.

CARRIED

6.4.3 ASSEMBLIES OF COUNCILLORS - 22 NOVEMBER 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.

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 Reconciliation Group Meeting 29 September 2016	Cr Kelly (Deputy Mayor)	ALC TLCCD	Matters discussed: <ol style="list-style-type: none"> 1. WRG Review meeting arrangements for 6 October 2016 2. New Program proposals for 2016-17 3. Annual Budget and 2015-16 expenditure 4. Election of new Co Chair (replacing Toni Mason) 5. WRG membership review 6. Reconciliation Action Plan – RAP 2 (draft plan for comment) 7. Conversations with Mayor and CEO meeting postponed 8. Local Aboriginal Network – new broker Debby Evans 9. Long Walk Women's Luncheon 10. Yung Luv Project <p style="text-align: right;"><i>Nil disclosures</i></p>
Art Cultural and Sporting Grants Program for Young People 19 October 2016	Cr Kozmevski (Mayor) Cr Kelly (Deputy Mayor) Cr Pavlidis Cr Sinclair	MG	The advisory committee made a recommendation to the delegate regarding the following application via a virtual meeting: <ol style="list-style-type: none"> 1. Maria Petrakis – Sporting Grant – Overseas 2. Nika Mirzaie-Basari – Sporting Grant – Overseas <p style="text-align: right;"><i>Nil disclosures</i></p>

The table below represents an Index of Officer titles:

Initials	Title of Officer	Initials	Title of Officer
ALC	Aboriginal Liaison Coordinator – Donna Wright	MG	Manager Governance – Michael Tonta
TLCCD	Team Leader Community Cultural Development – Ben Waterhouse		

CONSULTATION

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

FINANCIAL IMPLICATIONS

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

POLICY STRATEGY AND LEGISLATION

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

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

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

LINKS TO THE COUNCIL PLAN

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

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

DECLARATIONS OF CONFLICTS OF INTEREST

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

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

CONCLUSION

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

RECOMMENDATION

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

COUNCIL RESOLUTION

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

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

CARRIED

6.4.4 COUNCIL MEETING SCHEDULE FOR 2017

File No: .

Responsible Officer: Director Corporate Services

Author: Governance Officer

REPORT

EXECUTIVE SUMMARY

To adopt the Ordinary Council Meeting schedule for 2017.

BACKGROUND

At the Council Meeting on 20 September 2016 it was resolved that the first Ordinary Council Meeting for 2017 be held on 7 February 2017 and public notice has been given for this meeting.

PROPOSAL

The proposed Ordinary Council Meeting schedule for 2017 is set out below and generally follows a three week cycle.

The meeting dates allow for public holidays and conferences including:

- Green Cities, 6 - 8 March 2017, Sydney.
- Urban Development Institute of Australia National Congress (UDIA) 4 – 6 April 2017, Perth.
- Australian Local Government Women's Association (ALGWA) National Conference, 11-13 April 2017, Launceston.
- Local Government Professionals Australia National Congress and Business Expo 22-24 May 2017, Hobart.
- Australian Local Government Association (ALGA) National General Assembly, 19-21 June 2017, Canberra.

Unless otherwise determined by resolution of Council, all Ordinary Council Meetings will be held on Tuesdays, commencing at 6.30pm in the Council Chamber at the Council Offices, 25 Ferres Boulevard, South Morang. It is proposed that three Council meeting will be held at community locations which will be advertised when determined.

The following Council Meeting schedule is proposed for 2017:

28 February	8 August
21 March	29 August
18 April	19 September
9 May	10 October
30 May	31 October
27 June	21 November
18 July	12 December

The following Special Council meetings are proposed:

- Tuesday, 14 February 2017 at 6pm for the adoption of the Councillor Code of Conduct;
- Tuesday, 28 March 2017 at 6pm for the purpose of advertising the 2017-2018 proposed Budget; and
- Thursday, 2 November 2017 at 7pm for the election of the Mayor and Deputy Mayor.

CRITICAL DATES

Section 71(3)(a) of the *Local Government Act* 1989 prescribes that the Mayor is to be elected after the fourth Saturday in October but not later than 30 November in each year.

FINANCIAL IMPLICATIONS

Any costs associated with holding Council Meetings at locations in the community would be covered in existing budgets.

LINKS TO THE COUNCIL PLAN

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

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

Conducting Council meetings throughout the year gives the community access to become involved in Council's decision making process on issues that affect the community.

DECLARATIONS OF CONFLICTS OF INTEREST

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

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

CONCLUSION

It is recommended that the proposed meeting dates be adopted by Council. The meeting dates will facilitate Council's decision making processes by ensuring that regular meetings are held.

RECOMMENDATION

THAT Council resolve to:

- 1. Adopt the Ordinary Council Meeting schedule for 2017 as follows:**

28 February	8 August
21 March	29 August

18 April	19 September
9 May	10 October
30 May	31 October
27 June	21 November
18 July	12 December

2. Set the commencement time of Ordinary Council Meetings at 6.30pm and the venue as the Council Chamber, Council Offices, 25 Ferres Boulevard, South Morang unless otherwise determined by Council resolution.
3. Schedule a Special Council Meeting for Tuesday, 14 February 2017 at 6pm for the review and adoption of the Councillor Code of Conduct.
4. Schedule a Special Council Meeting for Tuesday, 28 March 2017 at 6pm for the purpose of advertising the 2017-2018 proposed Council Budget.
5. Schedule a Special Council Meeting for Thursday, 2 November 2017 at 7pm for the election of the Mayor and Deputy Mayor.
6. Give public notice of the adopted Council Meeting schedule.

COUNCIL RESOLUTION

MOVED: Cr Kelly
SECONDED: Cr Lalios

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

CARRIED

6.4.5 APPOINTMENT OF COUNCILLOR AND OFFICER REPRESENTATION ON ORGANISATIONS AND COMMITTEES FOR 2017

File No: 140748
Attachments: 1 Organisation/Committee
Responsible Officer: Director Corporate Services
Author: Governance Officer

REPORT**SUMMARY**

Annually, Council considers the appointment of Councillor representatives to internal committees and external bodies and committees that require or have requested Council representation.

This report sets out the details of the groups that require or have requested Council representation and notes any changes made since the last appointments.

As this is an election year, all 2016 appointments ended on 21 October 2016 and new appointments will commence on the day after Council makes its 2017 appointments, namely 23 November 2016 and continue until 31 December 2017.

BACKGROUND

Councillor appointments to external groups are made for a number of reasons. These appointments demonstrate Council's interest and involvement in the organisation and allow Council to be involved in developing the organisation's strategic direction. In some instances, the constitution of some of these external bodies includes provision for Councillor membership.

PROPOSAL

Nominations from interested Councillors are sought for representation on the organisations listed in Attachment 1 for the remainder of 2016 and for the whole of 2017. The list has been reviewed and updated and also includes, where relevant, Council Officers who also attend meetings of these groups.

COMMITTEE NOT REQUIRING A FURTHER APPOINTMENT**Melbourne Airport Noise Abatement Committee (External)**

The Committee meets to discuss issues associated with the future plan for Melbourne Airport, flight paths and noise issues associated with future plans.

This is not a decision making group. Council Officers attend this Committee. No Councillor delegate is required.

Enough Pokies – Redressing the Burden: discussion on Electronic Gaming Machine applications and system reform

Led by Monash City Council, a coalition of Mayors, Councillors and Council Officers formed a short term partnership in the lead-up to the State Government election 2014 and is now obsolete.

POLICY STRATEGY AND LEGISLATION

At Council's meeting held 11 December 2012, Council resolved to make appointment to Committees and external bodies at the first Council meeting following the Statutory Council Meeting to elect the Mayor.

LINKS TO THE COUNCIL PLAN

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

The appointment of Councillor representatives on various community organisations and committees provides an opportunity to encourage the development of community spirit within both internal and external organisations and committees.

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

Nominations from interested Councillors are sought for representation on the organisations listed in Attachment 1 for the remainder of 2016 and the whole of 2017.

RECOMMENDATION

THAT Council resolve to nominate Councillor Representatives and to confirm Officer representatives to organisations and committees listed in Attachment 1 for the remainder of 2016 and ending 31 December 2017.

COUNCIL RESOLUTION

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

THAT Council resolve to nominate Councillor Representatives and to confirm Officer representatives to organisations and committees as listed in Attachment 1 for the remainder of 2016 and ending 31 December 2017.

CARRIED

6.5 PARTNERSHIPS & ENGAGEMENT

6.5.1 EPPING COMMUNITY SERVICES HUB - SUB TENANCIES

File No: 193865

Responsible Officer: Director Partnerships & Engagement

Author: Acting Manager Community Building & Planning

REPORT

EXECUTIVE SUMMARY

Scope (Aust) and Salvation Army Crossroads have expressed an interest in locating services at the Epping Community Services Hub (the Hub). Discussions have been held with Council officers and the lead tenant, Brotherhood of St Laurence (BSL), to ensure the services they provide are required by the local community and the agency supports the integrated service provision model stipulated by Council. BSL and Council officers are satisfied that both of these requirements are met.

In accordance with Council's resolution on 24 February 2015 to formally endorse tenancy applicants, this report recommends that Council endorse Scope (Aust) and Crossroads Salvation Army, as tenants at the Hub. Both organisations have requested to commence their operations at the Hub prior to the end of 2016.

BACKGROUND

In September 2014, Council entered into an Expression of Interest (EOI) process for the property at 713 High Street, Epping (the site), with the intention of establishing a Services Hub to facilitate the expansion of much needed service provision to the municipality, and attract best practice collaborative governance and service models.

Council sought interest from agencies to firstly take on the role of lead agency and lead tenant, to manage the facility and to facilitate a collaborative environment, and secondly, partner with other agencies that would like to be accommodated within the building as sub tenants. On 24 February 2015, Council resolved to endorse BSL as the lead agency and lead tenant and lease the site to BSL for a five year period. The lease between Council and BSL has been fully executed.

At its meeting of 15 March 2016, 5 April 2016 and 30 August 2016, Council resolved to endorse a number of agencies as sub-tenants of the Hub. Subsequently, Scope (Aust) and Salvation Army Crossroads, have approached the City of Whittlesea seeking accommodation for seven staff.

PROPOSAL

Salvation Army Crossroads is a network of services working with youth and families. They provide an integrated response to the needs of young people and families, as well as women and children experiencing family violence, homelessness, and other forms of structural disadvantage or dislocation. In addition, we offer a suite of counselling services including financial counselling, gamblers help, sexual assault and generalist counselling.

A wide range of programs are provided across the service including:

- Early intervention/prevention

- Outreach
- Crisis and transitional case management, support and advocacy
- Counselling
- Crisis, transitional and longer term housing.

The specific services that will be delivered by Salvation Army Crossroads from the Hub are:

- Respectful relationships (RR): Crossroads will lead community based respectful relationships education programs for CALD young people. Respectful relationships education will be provided to those young people that fall outside the scope of the school-based programs.
- Therapeutic counselling service - individual counselling (through Medicare Rebate) covering a number of areas provided by highly skilled and trained professionals.
- Financial coaching - an early intervention/prevention program focusing on building skills and capabilities around finances.

Scope (Aust) provides support to people with a disability and their families and carers throughout each life stage. A wide range of programs and services are provided by Scope, including:

- Physiotherapy
- Psychology
- Occupational therapy
- Speech therapy
- Support at home and in the community
- Therapy in schools
- Respite services
- Individualised services
- Sports, arts and social support.

Operating from the Hub, Scope (Aust) will focus on support coordination services to assist NDIS participants with complex needs to explore a range of support options and link the participants to both funded and mainstream providers, in line with their identified goals and plans.

CONSULTATION

Consultations have been undertaken with relevant Council officers, BSL as well as other agencies intending to be located at the Hub.

CRITICAL DATES

Agencies have planned to commence operations at the Hub in the second week of December 2016 pending Council endorsement.

FINANCIAL IMPLICATIONS

Nil

POLICY STRATEGY AND LEGISLATION

The Hub is intended to respond to gaps in service provision and infrastructure and is consistent with Council priorities and plans. The Epping Central Structure Plan (2011), the South Morang Civic Precinct Community Infrastructure Analysis (2013), the Human Services Needs Analysis (2014) and the Council Plan identify substantial demand for additional infrastructure and community services in the municipality, particularly those targeting the needs of young people, families, new migrants, CALD communities, seniors and people with disabilities. The Hub will provide an opportunity to meet the current needs of the community and respond to the evidence of significant population growth.

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

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

Salvation Army Crossroads and Scope (Aust) will provide much needed services for Whittlesea residents. The agencies are fully committed to the vision for the Hub as an integrated service model and have been deemed to be important services to contribute to community wellbeing.

RECOMMENDATION

THAT Council resolve to endorse the following agencies as sub-tenants of the Epping Community Services Hub (713 High Street, Epping):

1. **Scope (Aust)**
2. **Salvation Army Crossroads.**

COUNCIL RESOLUTION

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

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

CARRIED

6.6 EXECUTIVE SERVICES

NIL REPORTS

7. NOTICES OF MOTION

NIL REPORTS

8. QUESTIONS TO OFFICERS

8.1 NATIONAL GROWTH AREAS ALLIANCE CONGRESS

Cr Lawrie Cox to the Chief Executive Officer:

How were Councillors informed and invited to attend the National Growth Areas Alliance Congress (NGAA) held on 14-15 November 2016 in Wanneroo, Western Australia?

Chief Executive Officer:

Consistent with past practice a report was presented to the Council Meeting on 20 September 2016 advising Councillors of the interstate event and Council resolved to approve the attendance of interested Councillors.

9. URGENT BUSINESS

9.1 URGENT BUSINESS - MERNDA RAIL EXTENSION

URGENT BUSINESS

The Mayor, Cr Kirkham sought leave to raise an item of urgent business in relation to the Mernda Rail Extension.

COUNCIL RESOLUTION

MOVED: *Cr Kirkham*

SECONDED: *Cr Kelly*

THAT Council resolve to consider this matter as an item of Urgent Business.

CARRIED

DIVISION

Immediately after the motion was voted on, The Mayor, Cr Kirkham called for a division which resulted in the following votes being recorded.

For	Against	Abstained
Cr Kirkham	Cr Kozmevski	Cr Pavlidis
Cr Kelly	Cr Cox	Cr Alessi
Cr Lalios		Cr Sterjova
Cr Monteleone		
Cr Desiato		
Cr Butler		

Based on the votes cast during the Division, the motion was carried.

CARRIED

DECLARATION OF INTEREST

Cr Alessi declared an indirect financial interest in item 9.1 Urgent Business – Mernda Rail Extension on the grounds that he is a shareholder in Woolworths.

Prior to the matter being considered or any vote taken in relation to the matter, Cr Alessi left the Council Chamber at 9:43PM and advised the Mayor accordingly.

Cr Alessi returned to the Council Chamber at 10:03PM following the vote on this item.

EXTENSION OF SPEAKING TIME

MOVED: *Cr Kelly*
SECONDED: *Cr Butler*

THAT Council resolve to extend the speaking time for Cr Lalios by two minutes.

CARRIED

COUNCIL RESOLUTION

MOVED: *Cr Kirkham*
SECONDED: *Cr Kelly*

THAT Council resolve to:

1. Reaffirms its position and request the State Government grade separate all rail/road crossings to avoid elevated rail bridges;
2. Request the State Government and LXRA to make better provision for people with a disability including access ramps at Mernda, Hawkstowe and Marymede Stations; and
3. Request an urgent meeting with the Mernda Rail Extension Project Director, Woolworths and Council Officers to discuss the best possible integration of the Mernda Town Centre and Mernda Train Station.

CARRIED

DIVISION

Immediately after the motion was voted on, The Mayor, Cr Kirkham called for a division which resulted in the following votes being recorded.

For	Against	Abstained
Cr Kirkham	Cr Kozmevski	Cr Pavlidis
Cr Kelly	Cr Cox	
Cr Lalios	Cr Sterjova	
Cr Monteleone		
Cr Desiato		
Cr Butler		

Based on the votes cast during the Division, the motion was carried.

CARRIED

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

11. QUESTIONS TO COUNCILLORS

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

11.1 MERNDA TOWNSHIP REZONING THE MUSHROOM EXCHANGE

Kris Wilson of WILCON Projects Pty Ltd

At the recent Panel hearing for the Mernda Township Rezoning, the Mushroom Exchange undertook that it would work constructively with the land owners identified by the Panel for an immediate rezoning process were that land to be the subject of a rezoning application.

Can you confirm that the Council will facilitate the Mushroom Exchange's constructive participation in the rezoning process, and that Council will facilitate information sharing between the land owners, the Council and the Mushroom Exchange.

The Mayor – Cr Kirkham

Council is open to working with landowners and the Costa Mushroom Exchange to share relevant information should circumstances change.

11.2 REZONING OF THE MERNDA TOWNSHIP

Kris Wilson of WILCON Projects Pty Ltd

Will Council confirm that it will be giving effect to the very strong recommendations of the Independent Planning Panel for the rezoning of the Mernda Township as follows:

- Whittlesea City Council should prepare an amendment without delay to:
- Rezone the Rural Conservation zoned land within the Mernda Township for residential development
- Apply the Land Subject to Inundation Overlay to that part of the land that is within the declared 1 in 100 year flood line

The amendment should be supported by scientific or technical evidence on the impacts that residential development on this land might on the Mernda Mushroom Exchange".

The Mayor – Cr Kirkham

Council acknowledges the Panel's further recommendations. Our position, as resolved on 14 July 2015, will remain unchanged and Council will continue to hold in abeyance any consideration to rezone Rural Conservation Zone land until an appropriate future point in time, should circumstances change.

12. CONFIDENTIAL BUSINESS

12.1 PLANNING AND MAJOR PROJECTS

**12.1.1 CONSTRUCTION WORKS FOR THE EPPING DEPOT CAR PARK
CONTRACT 2015-222 - TENDER EVALUATION REPORT**

**12.1.2 DESIGN SERVICES FOR PAINTED HILLS RECREATION RESERVE
CONTRACT 2016-110 - TENDER EVALUATION REPORT**

**12.1.3 RE-AWARD OF CONTRACT 2016-35 RECONSTRUCTION OF TENNIS
COURTS AT THE LALOR TENNIS CLUB STAGE 3**

12.2 COMMUNITY SERVICES

NIL REPORTS

12.3 CITY TRANSPORT AND PRESENTATION

**12.3.1 PROVISION OF SECURITY SERVICES - CONTRACT NO. CT121350 -
CONTRACT EXTENSION**

12.4 CORPORATE SERVICES

12.4.1 LAND ACQUISITION - SOUTH MORANG

12.5 PARTNERSHIPS & ENGAGEMENT

NIL REPORTS

12.6 EXECUTIVE SERVICES

**12.6.1 MEETINGS OF THE CHIEF EXECUTIVE OFFICER - 1 OCTOBER TO 11
NOVEMBER 2016**

COUNCIL RESOLUTION

MOVED: Cr Kelly
SECONDED: Cr Pavlidis

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

12.1.1 CONSTRUCTION WORKS FOR THE EPPING DEPOT CAR PARK CONTRACT 2015-222 - TENDER EVALUATION REPORT
Confidential in accordance with Section 89(2)(d) of the Local Government Act 1989.

12.1.2 DESIGN SERVICES FOR PAINTED HILLS RECREATION RESERVE CONTRACT 2016-110 - TENDER EVALUATION REPORT
Confidential in accordance with Section 89(2)(d) of the Local Government Act 1989.

12.1.3 RE-AWARD OF CONTRACT 2016-35 RECONSTRUCTION OF TENNIS COURTS AT THE LALOR TENNIS CLUB STAGE 3
Confidential in accordance with Section 89(2)(d) of the Local Government Act 1989.

12.3.1 PROVISION OF SECURITY SERVICES - CONTRACT NO. CT121350 - CONTRACT EXTENSION
Confidential in accordance with Section 89(2)(d) of the Local Government Act 1989.

12.4.1 LAND ACQUISITION - SOUTH MORANG
Confidential in accordance with Section 89(2)(d) of the Local Government Act 1989.

12.6.1 MEETINGS OF THE CHIEF EXECUTIVE OFFICER - 1 OCTOBER TO 11 NOVEMBER 2016
Confidential in accordance with Section 89(2)(h) of the Local Government Act 1989.

CARRIED

ACCORDINGLY, THE MEETING WAS CLOSED TO THE PUBLIC AT 10:13 PM.

THE MEETING WAS RE-OPENED TO THE PUBLIC AT 10:42PM.

13. CLOSURE

THERE BEING NO FURTHER BUSINESS THE MAYOR DECLARED THE MEETING CLOSED AT 10:45PM.

CONFIRMED THIS 13TH DAY OF DECEMBER 2016.

**CR RICKY KIRKHAM
MAYOR**