

Agenda



Monday, 17 August 2020 7.00pm

Ordinary Meeting of Council

Acknowledgement of the Traditional Custodians

“Our meeting is being held on the Traditional Land of the Wurundjeri Woi-wurrung people and, on behalf of Banyule City Council, I wish to acknowledge them as the Traditional Custodians. I would also like to pay my respects to the Wurundjeri Woi-wurrung Elders, past, present and emerging, and to acknowledge other Aboriginal and Torres Strait Elders joining us today.”

Apologies and Leave of Absence

Confirmation of Minutes

Ordinary Meeting of Council held 27 July 2020

Disclosure of Interests

1. Urgent Business

REPORTS:

2. Petitions

Nil

3. People – Community Strengthening and Support

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4. Planet – Environmental Sustainability

Nil

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6. Participation – Community Involvement in Community Life

Nil

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8. Sealing of Documents

Nil

9. Notices of Motion

Nil

10. General Business

Matters Discussed in Camera

That all confidential matters and reports related to the above items remain confidential unless otherwise specified.

Closure of Meeting

Live Streaming of Council Meeting

Please note that the Council Meeting will be livestreamed to ensure compliance with the Government's COVID -19 Stage 4 restrictions.

The livestream will be available on Council's Facebook and website

www.banyule.vic.gov.au

The next Ordinary Meeting of Council will be held on Monday, 7 September 2020.

3.1 PROPOSAL FOR THE ESTABLISHMENT OF A BANYULE SCOUTS GRANTS PROGRAM

Author: Frances Gianinotti - Community Partnerships Coordinator, Community Programs

EXECUTIVE SUMMARY

This report responds to the following resolution considered at the Ordinary Council Meeting on 9 December 2019:

“That a report be presented to Council investigating the establishment of an annual grants program in the 2020/21 budget to assist the local scouting community apply for capped funding assistance from Council for minor works, or major works where there is a matched contribution from either the Scout groups themselves, or from other bodies or agencies.”

Scouting has successfully shaped the development of young people in local communities around the world for more than 100 years. The Scouts Association of Australia, Victorian Branch, (Scouts Association) is the auspice for the 13 local Scouts groups.

Banyule Scouts groups are operating in buildings that generally require ongoing maintenance and a financial injection for minor and major capital works.

Three options have been identified:

1. Establishment of a new Banyule Scouts Grants Program
2. Establishment of a 4-year Capital Works Program with an annual schedule of works;
3. Inclusion of a new category of *Banyule Scouts Capital Works* within the existing COVID-19 Community Support Grants' administration and criteria.

It is proposed that a \$100,000 annual grants program be established targeting Banyule Scouts to address the minor and major capital works that are needed for their buildings.

RECOMMENDATION

That Council:

1. Establishes a new annual Banyule Scouts Grants Program with an annual allocation of \$100,000;
2. Notes that \$50,000 of the 2020/21 funding allocation has been made to the Bundoora Scouts Club. The remaining \$50,000 is available to deliver the Banyule Scouts Grants Program; and
3. Adopts the *Banyule Scouts Grants Program Guidelines (Attachment 1)*

PROPOSAL FOR THE ESTABLISHMENT OF A BANYULE SCOUTS GRANTS PROGRAM cont'd

4. Notes that a further report on the evaluation of the program after 12 months of implementation will be presented to a future Council meeting.

COUNCIL PLAN

This report is in line with Banyule's Council Plan key direction to "Support and promote health and wellbeing".

BACKGROUND

Scouting has successfully shaped the development of young people in local communities around the world for more than 100 years. The Scouts Association of Australia, Victorian Branch, (Scouts Association) is the auspice for the local scout groups.

Banyule currently has 13 scout groups operating across the municipality:

- 10 on Scouts' owned buildings situated on council land
- 1 wholly Council owned land and building
- 1 on VicTrack Land, and
- 1 wholly owned land and building by the Scouts Association.

The Banyule Scouts operate in buildings that generally require ongoing maintenance and a financial injection of capital works. The Scouts Association does not contribute to the running of the scout groups. Banyule Scouts can apply to the Scouts Association for upgrades of facilities if the works are deemed essential.

Banyule Scouts rely on membership fees, grants and fundraising for operational and improvements to their facilities. Under the COVID-19 pandemic, fundraising opportunities have been severely reduced. The current Banyule Grants Program offers a range of opportunities for equipment, technological enhancements, community projects and training. It does not offer grants for minor or major capital works.

In the past 5 years, Banyule Scouts have received a total of \$129,285 through the Banyule Grants Program and RSL trust grants. This financial year there is an additional one-off capital works allocation of \$50,000 to Bundoora Scouts Group.

In response to Council's resolution of the 9 December 2019, Council officers considered a number of approaches to establishing a Banyule Scouts Grants program including:

1. Establishment of a new Banyule Scouts Grants Program
2. Establishment of a 4-year Capital Works Program with an annual schedule of works;
3. Inclusion of a new category of *Banyule Scouts Capital Works* within the existing COVID-19 Community Support Grants Program applying similar criteria and administration processes.

PROPOSAL FOR THE ESTABLISHMENT OF A BANYULE SCOUTS GRANTS PROGRAM cont'd

The establishment of a new Banyule Scouts Grants Program (option 1) is the preferred approach as it can generally be built upon the existing Banyule Grants Program. Benefits include:

- A dedicated grants program exclusive to Banyule Scouts that address much needed capital works in their existing buildings.
- Applying existing and well developed expertise and knowledge of grants across the organisation as a solid foundation from which to create the new grants program.
- Sound administrative processes that are in place and can be modified to allow for capital works projects.
- Delivery of the program within existing staff resources in the first year;
- Evaluation at the end of year 1 which will inform future service delivery.

Key features of the program are:

- a. A competitive and transparent capital works grants initiative to support Banyule Scouts;
- b. Active support for Banyule Scouts that builds ongoing and supportive relationships;
- c. Delivery of a funding round between February and April each year;
- d. Capital works projects that may include:
 - i. external construction works, e.g. gardens, playgrounds, shade structures;
 - ii. building works, renovations or modifications to existing structures; or
 - iii. equipment installation (equipment that needs to be wired in, plumbed in, built in or permanently fixed)
- e. Projects that are funded up to a maximum of \$20 000 per group for minor capital works;
- f. Projects that are funded between \$20,000 and \$50 000 per group for major capital works and which will require matched funding by the applicant;

Assessment and Decision Making

To ensure probity, assessment and decision-making processes will be in line with the current Banyule Grants Program i.e. Council officers will make initial assessments and recommendations and final approvals will be made by the Director and or their delegate. A report on all successful grant applications will be presented at a Council meeting after each grants round is completed.

Assessments will be made based on three broad criteria:

Priority	What is the extent of need, priority or urgency?
Benefit	Are the outcomes of the proposal clearly defined? How well does the proposal address the identified needs?
Delivery	Is the proposal well planned and developed? Is the budget clear and realistic?

PROPOSAL FOR THE ESTABLISHMENT OF A BANYULE SCOUTS GRANTS PROGRAM cont'd

Evaluation

An evaluation will be conducted by Council officers as part of the Banyule Scouts Grants Program. It will provide information about the effectiveness of the Grants Program and identify opportunities for improvement moving forward. A monitoring and assessment evaluation of the Grants Program will be undertaken during and at the end of the first 12 months. It will include consultation with the scout groups and broadly cover:

- Program rationale
- Community benefit
- All practical aspects of the administration process
- Communication and promotion
- Affiliation with Banyule Scouts
- Resources i.e. financial and staffing

LEGAL CONSIDERATION

There are no direct legal implications arising from the recommendation contained in this report.

HUMAN RIGHTS CHARTER

In developing this report to Council, the subject matter has been considered in accordance with the requirements of the Victorian Charter of Human Rights and Responsibilities.

It is considered that the subject matter does not raise any human rights issues.

OFFICER DECLARATION OF CONFLICT OF INTEREST

The *Local Government Act 2020* (Act) requires members of Council staff, and persons engaged under contract to provide advice to Council, to disclose any direct or indirect interest in a matter to which the advice relates.

Council officers involved in the preparation of this report have no conflict of interest in this matter.

CONCLUSION

The current Banyule Grants Program offers a range of opportunities for equipment, technological enhancements, community projects and training. It does not offer grants for minor or major capital works.

The Council resolution from 9 December 2019 required the investigation into the establishment of an annual grants program in the 2020/21 budget to assist the local scouting community. A number of options were investigated to establishing a Banyule Scouts Grants program with the recommendation that Council establishes a new annual Banyule Scouts Grants Program.

ATTACHMENTS

No.	Title	Page
1	Banyule Scouts Grants Program Guidelines v3	

3.2 PROPOSED NEW LEASE WITH THE SCOUTS ASSOCIATION OF AUSTRALIA (VICTORIAN BRANCH) - VARIOUS SITES

Author: Gary Mills - Senior Property Officer, City Development

EXECUTIVE SUMMARY

At its meeting on 27 July 2020, Council received and considered one written submission pursuant to section 223 of the *Local Government Act 1989* ('the Act') regarding a proposed new lease with The Scouts Association of Australia (Victorian Branch) ('Scouts') for 10 scout hall sites.

The submitter raised concern about the proposed annual rental of \$1,250 plus GST and considered a peppercorn rent was more appropriate.

The proposed lease is for a term of five years commencing 1 July 2020 and ending 30 June 2025 with a five-year option and a commencing rent of \$1,250 (GST excl) per annum.

Council has completed the statutory procedures under sections 190 and 223 of the Act regarding the proposed new lease to Scouts and can now decide whether or not to grant a new lease to the Scouts.

RECOMMENDATION

That

1. Having complied with sections 190 and 223 of the *Local Government Act 1989* by:
 - a. giving notice in the Herald Sun newspaper on 6 June 2020;
 - b. inviting written submissions and requests to be heard in support of any submission at Council's Ordinary Meeting of 27 July 2020; and
 - c. recording and considering the one submission received

Council is of the opinion that the proposed lease to The Scouts Association of Australia (Victorian Branch) for a term of five years commencing 1 July 2020 and ending on 30 June 2025 with a five-year option for an annual rental of \$1,250 (GST excl) for 10 scout hall sites, is offered on fair and reasonable terms and in accordance with Council's Lease and Licence Framework 2018.

2. Council grants a lease to The Scouts Association of Australia (Victorian Branch) for a term of five years commencing 1 July 2020 and ending on 30 June 2025 with a five-year option for an annual rental of \$1,250 (GST excl) for 10 scout hall sites.
3. Council authorises the Director City Development to execute the Lease deed on behalf of the Council.
4. Council advises the submitter of Council's resolution and its reasons pursuant to section 223 of the Act.

PROPOSED NEW LEASE WITH THE SCOUTS ASSOCIATION OF AUSTRALIA (VICTORIAN BRANCH) - VARIOUS SITES cont'd

COUNCIL PLAN

This report is in line with Banyule's Council Plan key direction to "Enhance quality of life and connection through arts and culture".

BACKGROUND

Council has a land lease with The Scout Association of Australia (Victorian Branch) ('Scouts') for 10 scout hall sites. The five-year lease ended on 30 June 2020.

The 10 lease sites are detailed below.

Yandell Reserve	37 St Helena Road Greensborough	1 st & 2 nd Greenhills
Rossi Park	48 Ford Street, Ivanhoe	10 th Ivanhoe
Chelsworth Park	18 Irvine Road, Ivanhoe	1 st Eaglemont
Willinda Park	5 Nell Street, Greensborough	Greensborough
AK Lines Reserve	10 Peters Street, Watsonia	Watsonia
Telfer Reserve	20 Noorong Avenue, Bundoora	Bundoora Group
De Winton Park	1 Grove Road, Rosanna	1 st Rosanna
Donaldson's Creek Reserve	49 Hawker Street, Ivanhoe	1 st Ivanhoe Sea Scouts
Petrie Park	16 Mountain View Road Montmorency	1 st Montmorency
Alma Play Park	10 Para Road, Lower Plenty	1 st Lower Plenty

Table 1

The proposed new lease is for a term of five years commencing 1 July 2020 and ending 30 June 2025 with a five-year option at a commencing rent of \$1,250 (GST excl) per annum. Rent will commence in line with Council's COVID-19 community support package, so that community rent relief is provided to the Scouts in the short term.

Whilst the proposed lease term is greater than the five years generally offered for community leases under Council's *Lease and Licence Framework 2018*, it is considered appropriate for Council to offer Scouts a longer-term lease, given recent and planned capital expenditure at several of the scout hall sites. Under the lease, the granting of any further term is at the absolute discretion of Council.

LEGAL CONSIDERATION

Council has undertaken the necessary statutory procedures in accordance with sections 190 and 223 of the Act. Whilst a new *Local Government Act 2020* has been enacted, provisions pertaining to the leasing of Council land are not yet in operation.

HUMAN RIGHTS CHARTER

In developing this report to Council, the subject matter has been considered in accordance with the requirements of the Victorian Charter of Human Rights and Responsibilities.

It is considered that the subject matter does not raise any human rights issues.

PROPOSED NEW LEASE WITH THE SCOUTS ASSOCIATION OF AUSTRALIA (VICTORIAN BRANCH) - VARIOUS SITES cont'd

Section 223 process

Council gave public notice of the Lease proposal in the Herald Sun newspaper on 6 June 2020 pursuant to sections 190 and 223 of the Act and the proposal was published on Council's website. The submission period closed on 6 July 2020.

Council received one written submission. The submitter had requested to be heard and appear in person in support of his submission, however due to COVID-19 restrictions, the submitter agreed to have his written submission read at the Council meeting.

DISCUSSION

The submitter's primary issue is the proposed lease rental. The submitter initially thought that the lease rental of \$1,250 plus GST applied to each of the 10 sites. The submitter has since indicated his satisfaction that \$125 plus GST for each scout hall site is fair and reasonable, although would prefer a peppercorn rental of \$100 per annum be applied to the lease.

The proposed annual lease rental of \$1,250 plus GST (being \$125 plus GST per scout hall) is a 60 per cent discount on the base community rate of \$300 plus GST per annum. Council adopted its lease and licence fee structure in 2018 which is based on the following key principles:

- **Community benefit**
Providing efficient use of Council facilities that support a range of community groups to provide benefit for the Banyule community.
- **Return to Council**
Maximising return on investment for commercial and residential properties and providing a fair and reasonable rate for community and not for profit entities.
- **Good governance and accountability**
Delivering an equitable, transparent and well documented process.
- **Sustainability**
Promoting sustainable practices and encouraging lessees to take an active role in environmental initiatives.

It is also noted that as part of the budget process Council has introduced an annual grant process for the Scout's Association with a total grant pool of \$50,000 this year and anticipated to be \$100,000 in future years.

POLICY IMPLICATIONS

Council has acted in accordance with its *Lease and Licence Framework 2018* in dealing with this lease, together with its legislative obligations under the Act.

OFFICER DECLARATION OF CONFLICT OF INTEREST

The *Local Government Act 2020* (Act) requires members of Council staff, and persons engaged under contract to provide advice to Council, to disclose any direct or indirect interest in a matter to which the advice relates.

**PROPOSED NEW LEASE WITH THE SCOUTS ASSOCIATION OF AUSTRALIA
(VICTORIAN BRANCH) - VARIOUS SITES cont'd**

Council officers involved in the preparation of this report have no conflict of interest in this matter.

CONCLUSION

The proposed lease to Scouts for an initial term of five years and a further five-year option, provides Scouts with increased security of tenure and enables Scouts to better plan and manage capital expenditure facility upgrades at the 10 scout hall sites over the next 10 years.

ATTACHMENTS

Nil

5.1 NORTH EAST LINK PROJECT: SUPREME COURT APPEAL SETTLEMENT

Author: Paul Bellis - Transport Planning & Advocacy Coordinator, City Development

Previous Items

Council on 15 June 2020 (Item 5.3 - North East Link Project Update)

Council on 3 February 2020 (Item 5.1 - North East Link - Minister for Planning Assessment of Environmental Effects)

Council on 27 July 2020 (Item 1.1 - North East Link Project: Supreme Court Appeal Update)

Council on 18 Nov 2019 7.00pm (Item 5.4 - North East Link Project Advocacy and Financial Update)

Council on 07 Oct 2019 7.00pm (Item 5.6 - Major Transport Projects and North East Link Update)

Council on 26 Aug 2019 7.00pm (Item 5.1 - North East Link Update)

Council on 05 Aug 2019 7.00pm (Item 5.6 - North East Link Update)

Council on 24 Jun 2019 7.00pm (Item 5.3 - North East Link Public Environment Report (PER) and Environment Effects Statement (EES) Submission)

Council on 20 May 2019 7.00pm (Item 5.2 - North East Link - Environmental Effects Statement Submission)

Council on 29 Apr 2019 7.00pm (Item 5.2 - North East Link - Update)

Council on 25 Feb 2019 7.00pm (Item 5.1 - North East Link Update)

EXECUTIVE SUMMARY

The State Government formally announced the North East Link (NEL) project in 2016. Since then, Council has actively participated and contributed to the various phases of this project, including the:

- Technical Review Group process,
- Community Reference Group,
- Environment Effects Statement process,
- Early works; and
- A legal challenge regarding approval processes for the project.

In each of these phases, the involvement of Council has meant changes to the project that have improved the outcomes and reduced the impacts of the project to the Banyule Community.

There will be continued work on behalf of the community to advocate for further changes to the project that will further protect the natural environment, preserve local neighbourhoods, avoid dividing the community, minimise health impacts and provide for real solutions to the transport issues in the north including improved cycling and walking facilities and a reduction in through truck movements on local roads.

There will also be continued advocacy for improved local outcomes for all other State Government transport projects that impact Banyule.

**NORTH EAST LINK PROJECT: SUPREME COURT APPEAL SETTLEMENT
cont'd**

The North East Link (NEL) Environment Effects Statement (EES) panel hearing was held in 2019. The Inquiry and Advisory Committee (IAC) hosted the panel hearing and provided its recommendations to the Minister for Planning, who released his assessment report on 5 December 2019. He also approved planning scheme amendment GC98 in early January 2020.

Maddocks Solicitors, working on behalf of Banyule, Boroondara and Whitehorse Councils, were instructed to investigate the lawfulness of the Victorian Minister for Planning's assessment report on the NEL Project and the Ministers decision on the planning scheme amendment. Legal proceedings subsequently commenced in the Supreme Court against the Minister for Planning's assessment of the environment effects of the North East Link project and his decision to approve the project under the planning scheme.

Judicial mediation commenced on 29 May 2020 with a Court approved independent mediator. Negotiations occurred directly with the State Government and NELP to consider matters of settlement of the case. A final offer was made by NELP to Council on 22 July 2020 which included commitments for Council input to the North East Link design, development and construction phases, opportunity for community comment on the design, a new town square and urban design upgrades at Watsonia, new cycle paths, and upgrades to the Trist Street Reserve.

At the time of the final offer and given the withdrawal of the other Council's from the legal proceedings, updated legal advice was obtained on Council's prospects of success in its challenge. The revised legal advice clearly states that Councils prospects of success have been significantly diminished due to a recent decision of the Supreme Court regarding the Western Highway EES, combined with the Cities of Boroondara, Manningham, and Whitehorse settlement of the case with NELP and withdrawal from the legal proceeding.

On the basis of the updated legal advice, Council decided at its meeting on 27 July 2020 to settle the case to achieve a better community outcomes, particularly in the vicinity of Watsonia and for cycling infrastructure. The legal proceedings have been subsequently withdrawn.

Council also decided to continue to advocate to the State Government and NELP for other key projects to be delivered for the Banyule community and improve outcomes for the design and delivery of the North East Link.

RECOMMENDATION

That Council:

1. Continues to work in partnership with residents, local businesses and traders, community groups and with local MPs to achieve the best possible outcomes for the North East Link in Banyule.
2. Continues to pursue the delivery of projects from the Council adopted North East Link Advocacy Project List – 3 February 2020 with the North East link Project and the State Government.

**NORTH EAST LINK PROJECT: SUPREME COURT APPEAL SETTLEMENT
cont'd**

3. Continues to communicate the recent decision to withdraw from the Supreme Court Appeal for the NE Link Project in accordance with the parameters set by the settlement agreement, and Council's ongoing advocacy to achieve improved outcomes for the community, to key local stakeholders, on Council's website and to all local residents. Key messages will include that:
 - a) Council will continue to advocate for changes to protect the natural environment, preserve local neighbourhoods, avoid dividing the community and provide for real solutions to the transport issues in the north.
 - b) Initial scoping of the project recognised the potential impact on Banyule and included a tunnel under the important Banyule Flats Environmental area, ensure non toll road main road access is maintained for local residents and kept the Lower Plenty Road interchange to the north side of Lower Plenty Road to avoid significant property acquisition.
 - c) Key changes to the reference design and alternative design proposal has been achieved following strategic advocacy by Banyule early in the project's preliminary design phase such as the improved design of infrastructure in the vicinity of Watsonia Activity Centre, shared user and cycling paths and new green bridges along the project corridor.
 - d) More than \$30 million worth of new investment in pavilions, sporting and community facilities to be developed in Banyule proximate to the North East Link corridor has already been agreed by the State Government and is currently being delivered. This includes projects such as the Binnak Park pavilion and sports field upgrade, the Ford Park Masterplan implementation and Greensborough Secondary College sports fields.
 - e) The Environmental Performance Requirements established as part of the Environmental Effects Statement approval process has been influenced by Council which has resulted in a number of new EPRs being approved, more prescriptive wording for many of the original draft EPRs and a requirement for Councils to provide feedback to NELP in the development of Urban Design Framework Plans for all the interchanges of NEL and a specific plan for Watsonia Neighbourhood Activity Centre.
 - f) As part of the Supreme Court Mediation process Council has secured ongoing direct involvement in the design, development and construction phases on the project, the Victorian Government and NELP have agreed to deliver additional improvements to Watsonia Village (\$5.5million for upgrade designs and a new town square), significant improvements to pedestrian and cycling paths (\$3.1million for designs in Heidelberg and delivery of east west path in Watsonia) and an upgraded Trist Street Reserve (\$80,000).
 - g) Community expectations for the project outcome have been outlined to the project delivery bidding consortium so that they can consider opportunities to improve the project in their final designs. This advocacy will continue as the designs are finalised and the project implemented

**NORTH EAST LINK PROJECT: SUPREME COURT APPEAL SETTLEMENT
cont'd**

and could include better environmental protection, potentially a partial longer tunnel, reduced intersection footprints, improved landscaping, green bridges, shared user paths and local economic, business and social support.

- h) Council's adopted North East Link Complementary Project Advocacy List - 3 February 2020 will continue to be used and advocated for, with the list to be revisited and compared with the inclusions of the North East Link project, after the contract has been awarded later this year and updated appropriately.
- i) Council will continue to work closely with key stakeholders in the vicinity of the North East Link project to ensure that the positive outcomes expected from the project are delivered to the community and that detrimental impacts during construction are minimised.
- j) Strong advocacy more broadly for transport improvements in the Banyule area such as an upgraded station at Watsonia and a fully accessible transport interchange at the new Greensborough station as key projects for the community as part of the Hurstbridge Railway Line Upgrade (Stage 2).

COUNCIL PLAN

This report is in line with Banyule's Council Plan key direction to "Preserve and improve Banyule as a great place to live, work and play".

BACKGROUND

Since the State Government announcement of the North East Link (NEL) project in 2016, Council has actively participated and contributed to the various phases of this project to date, including the review of the four alignment options, dedicated involvement with the Technical Review Group process, Community Reference Group, substantial effort and advocacy into the Environment Effects Statement process and the recent legal challenge of the project approval processes. Council will continue to acknowledge the contribution of, provide support for and represent the community on the NEL project.

The Minister for Planning appointed an independent Inquiry and Advisory Committee (IAC) to assess the Environment Effects Statement (EES) for the North East Link. The IAC provided its recommendations to the Minister for Planning, who released his assessment report on 5 December 2019. The Minister's assessment supported (at least in principle) the majority of the 29 IAC recommendations. The Ministers assessment has previously been reported to Council.

Council decided on 9 December 2019 in part to:

1. Obtain legal advice regarding the options to challenge the Ministers decision.
2. Receive a further report regarding any legal advice being proposed.

On 3 January 2020 following the Ministers assessment, the associated Planning Scheme Amendment GC98 was gazetted to bring it in to effect. Council also decided

**NORTH EAST LINK PROJECT: SUPREME COURT APPEAL SETTLEMENT
cont'd**

on 3 February 2020 to host a Special Meeting of Council on 10 February 2020, to decide on whether to file an appeal in relation to the abovementioned planning and environmental approvals.

Further, Council decided at the abovementioned meeting of 10 February 2020 in part, to proceed with a legal challenge and also authorise the CEO to commence discussions with representatives of the State Government to ascertain whether it is possible to resolve the dispute central to the proceeding in a manner that is acceptable to Council taking in the range of matters set out in Council's 'Banyule City Council North East Link project advocacy list – 3 February 2020' document.

Council's legal advisors were instructed to commence proceedings and file pleadings in the form of an Originating Motion for Judicial Review with the Supreme Court of Victoria against the Minister for Planning's assessment of the environment effects of the North East Link project and his decision to approve planning scheme amendment GC98. This was completed on 17 February 2020. The Cities of Boroondara, Manningham and Whitehorse were parties to this legal proceeding.

A Directions Hearing was held in the Supreme Court of Victoria on 24 April 2020 to consider the pleadings filed for the case. Parties attended via video link.

The Honourable Justice Garde presided over the Directions Hearing, with a summary of the key Orders of the Court being as follows:

- The Originating Motion is to be responded to by the Minister for Planning and the State of Victoria, with an opportunity of reply by the Councils by 22 May 2020
- Judicial Mediation was invited and agreed by all parties, to be conducted by a private mediator within the period 22 May and 10 June 2020
- The Councils can seek non-objectional particular categories of documents of relevance to the case, which the Minister for Planning and the State of Victoria must provide by 5 June 2020
- Affidavits from all parties, with which they respectively intend to rely upon in the case, must be filed with the Court by 24 July 2020
- A further directions hearing was listed for 31 July 2020
- All parties are to file and serve a written submission with the Court by 4 September 2020, including a combined list of authorities that are to be served
- The trial was listed for commencement on 14 September 2020

Judicial mediation commenced on 29 May 2020 with a Court approved independent mediator. This enabled Council to negotiate directly with the State Government and NELP to consider matters of settlement of the case. The items for negotiation had been prioritised from the Council adopted North East Link Complementary Project Advocacy List, which was adopted by Council at its meeting of 3 February 2020.

The timing for these negotiations extended in to late July, as the State independently negotiated and progressively settled with the Cities of Boroondara, Manningham and Whitehorse. Manningham Council withdrew from the legal challenge on 15 July 2020, whilst Boroondara and Whitehorse Councils withdrew on the 23 July 2020. The State Government commitment for investment in these municipalities is listed below:

**NORTH EAST LINK PROJECT: SUPREME COURT APPEAL SETTLEMENT
cont'd**

Manningham

- A new safer \$5.8M pedestrian and cyclist shared user path bridge across the Yarra River that will facilitate walking and cycling to connect Banksia Park to the Main Yarra Trail and Heidelberg Station.
- Detailed planning work and a business case worth around \$3M for the future duplication and upgrade of Templestowe Road with shared pedestrian and bike paths.
- Protection of Bulleen Park with no extension of the golf course, the retention of facilities for aero-modellers and archery club, and the preservation of Yarra River frontage and open space.
- Sporting upgrades:
 - Upgrading of two and building of one new AFL/cricket grounds and associated club facilities at Bulleen Park benefitting a range of sporting clubs to offset the impact of losing oval 1
 - Construction of three new soccer pitches and related infrastructure within a new facility at the Bulleen Golf Driving Range site on Templestowe Road
- Planning for future parkland of at least 14 hectares along the Yarra River corridor between Templestowe Road and the Yarra River.
- If the Eastern Freeway is widened, NELP have agreed to directly notify impacted residents as part of their community engagement.
- \$150,000 to further progress the redevelopment of land at Websters Road as a future employment precinct.

Boroondara

- Protect and retain the Freeway Golf Course as an 18-hole, competition-standard public golf course.
- Transfer 1.9 hectares of land at the former VicRoads depot in Kew to the City of Boroondara for community use.
- Plant at least 4000 trees in Boroondara.
- Return the Koonung Creek Reserve land not acquired for the project to its original state with some improvements following completion of the NEL.
- Provide \$300,000 to install the 40km/h shopping centre speed limit on Doncaster Road through the Greythorn Shopping Centre.
- Provide \$500,000 for the finalisation and delivery of the Bellevue Shopping Centre improvement plan.
- Provide \$700,000 for the design and construction of pedestrian-operated signals on Balwyn Road, Balwyn, near Gordon Barnard Reserve.

Whitehorse

- Upgrades to Elgar Park including:
 - a new synthetic multipurpose sports field.
 - sports field lighting for the southern ovals.
 - new and upgraded car parking.
- Upgrade of five playgrounds near the Eastern Freeway.

**NORTH EAST LINK PROJECT: SUPREME COURT APPEAL SETTLEMENT
cont'd**

- Improving the amenity of underutilised open space through upgrading access and new nature play and interactive elements.
- Upgraded irrigation systems.
- A new cycling route to connect the Koonung Creek Trail with key destinations in Whitehorse.
- Increased tree canopy in open spaces along the Eastern Freeway corridor.
- Installing infrastructure in open spaces to enhance dog walking and exercise.
- Exploring options for water harvesting and water monitoring at sports fields.

A final offer was made by NELP to Banyule Council on 22 July 2020, which is discussed later in this report.

At the time of the final offer, Council's legal advisors were requested to provide an update on Council's prospects of success in its challenge, now that the alliance of Councils had been reduced and the outcome of another similar EES legal challenge case at the Supreme Court had been determined.

Council considered this updated legal advice at its meeting of 27 July 2020 and decided to settle the case by accepting the final offer received from NELP and withdraw from the legal proceedings.

LEGAL CONSIDERATION

The updated legal advice provided cast a significantly different view on proceeding to Court compared to the earlier advice to the affected Councils back in February this year. In the current advice Council's barristers state that they think the prospects of success have diminished since they expressed their views back at the start of the year. The two principal reasons for this diminished likelihood of success are due to:

1. A recent Supreme Court decision in relation to the Western Highway EES, that was decided in favour of the defendant (the Minister for Planning), which sets a precedent for similar EES Supreme Court appeals.
2. The other Councils pulling out of the proceeding which narrows the field of argument for Banyule as a stand alone Council, particularly given the favourable comments in the EES Panel Report which supported Banyule on merits but also diminishes the Councils approvals process arguments at the Supreme Court.

HUMAN RIGHTS CHARTER

It is considered that the subject matter does not raise any human rights issues.

ADVOCACY

Council has remained agile and adaptable throughout the various aforementioned phases of the NEL project and continues to work on behalf of its community to advocate for changes to the Project that protect the natural environment, preserve local neighbourhoods, avoid dividing the community, minimise health impacts and provide for real solutions to the transport issues in the north including improved cycling and walking facilities and a reduction in through truck movements on local roads. Council will continue to advocate for improved local outcomes for all other State Government transport projects that impact Banyule.

NORTH EAST LINK PROJECT: SUPREME COURT APPEAL SETTLEMENT cont'd

Council's adopted North East Link Complementary Project Advocacy List - 3 February 2020 (attachment 1) will continue to be used for projects that have not been included for delivery as part of the North East Link project. The project list will be revisited and compared with the inclusions of the North East Link project, after the contract has been awarded later this year. This will be reported to Council at that future time.

There has already been considerable success achieved to date through Councils advocacy associated with the North East Link Project. The advocacy achievements include:

Reference and alternative designs

Key project elements such as the improved design of infrastructure in the vicinity of Watsonia Activity Centre, shared user and cycling paths and new green bridges along the project corridor are now all features of the reference design that have been included following strategic advocacy by Banyule early in the projects preliminary design phase.

It is noted that NELPs preparation of the project reference design for public exhibition of the entire project, was initially released without any road connection across NEL near Watsonia Station. A subsequent plan, the "Watsonia Alternative Design", was released on the eve of the EES public exhibition period detailing the extension of Elder Street to Watsonia Station commuter car park, including the provision of shared path access across NEL with a green bridge. This alternate design for Watsonia, also demonstrated significant improvements to the functionality of the Greensborough Hwy/Watsonia Road intersection and reinstated full directional access at the Greensborough Hwy/ Elder Street intersection. Supplementing this design was the retention of local public road infrastructure preserving "tollfree" access.

Further improvements are expected to the project as advocacy to both the NEL project bidders and NELP continues. It is acknowledged that the shared user bridge over the Yarra River in Heidelberg is also listed under the Manningham announcement. This project was supported and advocated for by both municipalities providing important access for the local community.

Sporting and Community Facilities

More than \$30 million worth of new investment in pavilions, sporting and community facilities to be developed in Banyule proximate to the North East Link corridor has already been agreed by the State Government and is currently being delivered. This includes projects such as the Binnak Park pavilion and sports field upgrade (attachment 2), the Ford Park Masterplan implementation (attachment 3) and Greensborough Secondary College sports field (attachment 4).

Environment Effects Statements (EES)

The NEL EES process progressed with the IAC hosting a public hearing that concluded on 16 September 2019. The hearing received over 800 submissions, ran for nine weeks, with more than 440 documents tabled.

NORTH EAST LINK PROJECT: SUPREME COURT APPEAL SETTLEMENT cont'd

Council along with the Cities of Boroondara and Whitehorse engaged senior counsel, technical consultants and expert witnesses to prepare and present a joint submission to the hearing. Extensive reports and evidence were prepared to respond to issues in transport engineering, traffic modelling, tunnelling, surface water, groundwater, ecology, noise, air quality, urban design landscape & visual impact and economics. Legal Counsel for the councils presented evidence over 12 sitting days. In addition, Council representatives assisted the IAC during two site visits to the project area to identify areas of particular interest for the panel members. A 206 page closing submission was prepared by the joint councils in conjunction with the City of Manningham.

The Minister in his assessment supported (at least in principle) the majority of the 29 recommendations provided by the IAC. Only five recommendations were expressly not supported but three of these are of major significance to Banyule. The Minister did not support the pursuit of an extended tunnel option, the exclusion of Borlase Reserve as a tunnel boring machine launch site, or the designation of Simpson's Barracks as a no-go zone. It was disappointing that these recommendations had not gained the support of the Minister due to their associated impacts as outlined below.

Simpsons Barracks Environmental Impacts

The IAC recommendation to designate the Simpsons Barracks as a 'no-go zone' was determined on their extensive consideration of submissions made to the panel hearing, including that of well-regarded independent experts. The remnant natural biodiversity at this location was thought to be of such significance that any mitigation measures that could be applied would not be sufficient to ensure its protection.

Long Tunnel towards Grimshaw Street

The IAC found that extending the bored section of the tunnel northwards towards Grimshaw Street would reduce ecological, social, noise, air quality, business, and landscape and visual impacts in Banyule.

The long tunnel option would reduce the barrier effect of the Project at Yallambie and Watsonia and have the particular benefit of reducing the business impacts during construction for the Watsonia traders. The Minister's assessment outlined extra costs and time needed to construct the long tunnel option as enough justification to dismiss its adoption. However, as the IAC found, so many negative impacts could be reduced by its adoption. Therefore, it is considered that it should remain worthy of being more fully explored by project construction bidders.

Borlase Reserve TBM Launch Site

The likely impacts on the area of Borlase Reserve are significant due to its proposed use as a launch site of the Tunnel Boring Machines (TBM) and construction compound with associated loss of open space and amenity, and introduction of construction traffic, noise, and dust disruption over a sustained period of many years.

The longer term impacts are also significant with the installation of imposing noise walls and permanent loss of existing views and access to nearby natural parkland and Banyule Creek for surrounding residents. The location of the launch site for

NORTH EAST LINK PROJECT: SUPREME COURT APPEAL SETTLEMENT cont'd

tunnel boring is also something that can be further considered by project construction bidders.

Environmental Performance Requirements (EPR)

During the course of the panel hearing, there were numerous iterations of the draft wording of the EPRs. Council reviewed and contributed to the refinement of the EPRs, working closely with other municipalities and considering advice from subject matter experts from the various disciplines and its legal counsel. This resulted in a number of new EPRs being approved by the Minister, in addition to more prescriptive wording for many of the original draft EPRs. Supplementing this was a requirement to provide feedback to NELP in the development of Urban Design Framework Plans for all the interchanges of NEL and a specific plan for Watsonia Neighbourhood Activity Centre.

This process of direct engagement, consultation and feedback provision is a key outcome of Council's recent negotiations with NELP, for the development of the final project design.

Presentation to bidders

The Councils jointly presented to the bidding consortiums at workshop in February 2020. Reducing the scale of the project footprint was a principal position that was strongly articulated as it related directly to reducing impacts on vegetation, habitat, community assets and residences. Many of the key elements presented by the Council's in their closing submission were reiterated to the bidders directly. Banyule Council also individually presented and discussed with bidder representatives many of the North East Link Complementary Project Advocacy List - 3 February 2020, whilst strongly advocating for an extended tunnel with reduced footprint for the Lower Plenty Road interchange and alternate TBM launch site, and protection of the vegetation and habitat at the Simpson Army Barracks.

Ongoing advocacy

Council will need to continue to work closely with key stakeholders in the vicinity of the North East Link project to ensure that the positive outcomes expected from the project are delivered to the community and that detrimental impacts during construction are minimised. In particular, this will include the residents in the vicinity of Borlase Reserve, those in Macleod and Watsonia near Greensborough Road and at the Watsonia Activity Centre.

Strong advocacy will continue for an extended tunnel, and a reduced footprint for the Lower Plenty Road interchange, both sensitively designed to minimise impacts on the significant vegetation and habitat at the Simpson Army Barracks. There will also continue to be strong advocacy more broadly for an upgraded station at Watsonia and a fully accessible transport interchange at the new Greensborough station as key projects for the community as part of the Hurstbridge Railway Line Upgrade (Stage 2). Details about this project and the associated advocacy is included in a separate report to Council at this meeting. Advocacy for business support for local traders will also remain a very high priority, particularly given the compounding Covid-19 impacts.

**NORTH EAST LINK PROJECT: SUPREME COURT APPEAL SETTLEMENT
cont'd**

DISCUSSION

Council considered the updated legal advice at its meeting of 27 July 2020. In its consideration of this advice, Council contemplated the option of continuing with the legal proceedings. It was determined that the significantly reduced prospect of success at trial, combined with the reduced timeframe for achieving settlement along with the risk of costs (including potential project delay) being awarded against Council if unsuccessful, that the best decision on behalf of the community was to settle the case. The settlement includes the following key features:

- Council will have ongoing direct involvement in the North East Link design, development and construction phases of the project
- The community will also be afforded an opportunity to comment on aspects of the design

Watsonia Village

- \$500,000 provided to Council for the planning of urban design and public space improvements for a Watsonia Village Town Square
- \$5,000,000 provided to Council for the design and construction of the Watsonia Village Town Square and changes to the local roads including services (as required)
- A cycling and pedestrian green bridge across the NEL into Watsonia

Open spaces and movement

- \$3,000,000 for the design and construction of a shared path from Plenty Road, Bundoora to the Plenty River Trail, Yallambie via Watsonia Village Town Square
- \$80,000 for the delivery of an upgrade to the public open space at Trist Street Reserve
- \$100,000 for the scoping of a shared path from Banksia Street to Burke Road North including a grade separated crossing near Banksia Street/Jika Street, Heidelberg

Banyule residents will also benefit greatly from a new safer \$5.8 million pedestrian and cyclist shared user path bridge across the Yarra River to connect Banksia Park to the Main Yarra Trail and Heidelberg Station which has also been committed to and was part of the Banyule advocacy list.

There are very good prospects that the successful contractor will also provide additional benefit to Banyule on other matters that were identified in the EES panel hearing and supported by the Independent Advisory Committee, as well as being highlighted by Council representatives that presented to and discussed the Council adopted North East Link Advocacy Project List with the tender bidding consortiums.

It is considered that in comparison to the NEL Reference Design it is expected that there will be better outcomes delivered for the community, such as an improved Lower Plenty Road interchange with a reduced footprint, a Green Bridge with Shared Paths across NEL at Watsonia, vegetation, habitat and environmental issues being better addressed and managed, various shared user paths and landscaping and potentially a partially extended tunnel near the Simpson Army Barracks. It is also expected that there will be comprehensive support for affected businesses,

NORTH EAST LINK PROJECT: SUPREME COURT APPEAL SETTLEMENT cont'd

particularly in Watsonia and support for local traders, contractors and employment including a potential social inclusion and local jobs program.

FUNDING IMPLICATIONS

Council approved an additional \$150,000 expenditure for fees associated with the legal challenge to the Supreme Court at its Special Meeting of 10 February 2020. This amount was determined on the basis of one-third cost share with the Cities of Boroondara and Whitehorse. All Councils have now settled and withdrawn from the legal proceedings, with legal costs for finalisation of the proceedings to be resolved.

The spending on the legal challenge until the end of June 2020 \$105,358 which included \$85,915 after the 10 February 2020 decision to approve additional expenditure. It is expected that the final invoice associated with the challenge for the legal work undertaken in July 2020 will be received shortly.

A full reconciliation of the legal costs and other expenditure associated with the NE Link Project will be reported to Council at future meeting as has regularly occurred.

COMMUNICATION OF KEY MESSAGES

The Council position on the North East Link project has been clearly articulated for a number of years and should continue to underpin future communication advocacy. Council is not opposed to the North East Link, and whilst the route through Banyule (known as Option A) was not the preferred route Council has continued to advocate for changes to improve the outcome for the community. This should continue, despite the legal challenge to the EES and approval process in the Supreme Court not proceeding.

There is an opportunity for Council to reiterate what it has done and what it has achieved to date to improve the community outcome for the project, and then to also explain what it plans to do from here. The key messages should include the following:

- Council will continue to advocate for changes to protect our natural environment, preserve our local neighbourhoods, avoid dividing our community and provide for real solutions to the transport issues in the north.
- Initial scoping of the project recognised the potential impact on Banyule and included a tunnel under the important Banyule Flats Environmental area, ensure non toll road main road access is maintained for local residents and kept the Lower Plenty Road interchange to the north side of Lower Plenty Road to avoid significant property acquisition.
- Key changes to the reference design and alternative design proposal has been achieved following strategic advocacy by Banyule early in the projects preliminary design phase such as the improved design of infrastructure in the vicinity of Watsonia Activity Centre, shared user and cycling paths and new green bridges along the project corridor.
- More than \$30 million worth of new investment in pavilions, sporting and community facilities to be developed in Banyule proximate to the North East

**NORTH EAST LINK PROJECT: SUPREME COURT APPEAL SETTLEMENT
cont'd**

Link corridor has already been agreed by the State Government and is currently being delivered. This includes projects such as the Binnak Park pavilion and sports field upgrade, the Ford Park Masterplan implementation and Greensborough Secondary College sports fields.

- The Environmental Performance Requirements established as part of the Environmental Effects Statement approval process has been influenced by Council which has resulted in a number of new EPRs being approved, more prescriptive wording for many of the original draft EPRs and a requirement for Councils to provide feedback to NELP in the development of Urban Design Framework Plans for all the interchanges of NEL and a specific plan for Watsonia Neighbourhood Activity Centre.
- As part of the Supreme Court Mediation process Council has secured ongoing direct involvement in the design, development and construction phases on the project, the Victorian Government and NELP have agreed to deliver additional improvements to Watsonia Village (\$5.5million for upgrade designs and a new town square), significant improvements to pedestrian and cycling paths (\$3.1million for designs in Heidelberg and delivery of east west path in Watsonia) and an upgraded Trist Street Reserve (\$80,000).
- Community expectations for the project outcome have been outlined to the project delivery bidding consortium so that they can consider opportunities to improve the project in their final designs. This advocacy will continue as the designs are finalised and the project implemented and could include better environmental protection, potentially a partial longer tunnel, reduced intersection footprints, improved landscaping, green bridges, shared user paths and local economic, business and social support.
- Council's adopted North East Link Complementary Project Advocacy List - 3 February 2020 will continue to be used and advocated for, with the list to be revisited and compared with the inclusions of the North East Link project, after the contract has been awarded later this year and updated appropriately.
- Council will continue to work closely with key stakeholders in the vicinity of the North East Link project to ensure that the positive outcomes expected from the project are delivered to the community and that detrimental impacts during construction are minimised.
- Strong advocacy more broadly for transport improvements in the Banyule area such as an upgraded station at Watsonia and a fully accessible transport interchange at the new Greensborough station as key projects for the community as part of the Hurstbridge Railway Line Upgrade (Stage 2).

OFFICER DECLARATION OF CONFLICT OF INTEREST

The *Local Government Act 2020* (Act) requires members of Council staff, and persons engaged under contract to provide advice to Council, to disclose any direct or indirect interest in a matter to which the advice relates.

Council officers involved in the preparation of this report have no conflict of interest in this matter. However, it is noted that the Director City Development, who has had

**NORTH EAST LINK PROJECT: SUPREME COURT APPEAL SETTLEMENT
cont'd**

input into this report, owns a property within the affected area identified in the NELP submissions to the Federal Government for EPBC Act approval and near to the northern end of the project where it interfaces with the M80. The project has no direct impact on the property.

CONCLUSION

Revised legal advice is clear in its advice that Councils prospects of success were significantly diminished due to not only a recent decision of the Supreme Court in relation to a similar EES process, but also based on the implication on Council's individual legal challenge in light of the Cities of Boroondara, Manningham, and Whitehorse settlement of the case with NELP and subsequent withdrawal from the legal proceeding. Accordingly, Banyule Council has withdrawn its legal challenge in the Supreme Court against the project approval processes.

The settlement agreed with NELP includes commitment for Council input and Community comment on the final design of the project and a number of additional projects that will benefit the Banyule community, particularly in Watsonia. These are projects that Council had advocated for inclusion.

Advocacy will continue to the State Government, NELP and the bidding consortiums for other projects to be included from the Council adopted North East Link Advocacy Project List in addition to design improvements to NEL, that more appropriately reflects the community position on issues as outlined during the EES panel hearing.

ATTACHMENTS

No.	Title	Page
1	NEL - List - BCC - 20191219 - North East Link Advocacy - Project List (Council Meeting 3 February 2020)	
2	Binnak_Park_Master_Plan_Attachment 2	
3	Ford_Park_Master_Plan_Attachment 3	
4	GSC_Master_Plan_Attachment 4	

5.2 HURSTBRIDGE RAILWAY LINE UPGRADE (STAGE 2): ADVOCACY TO ADDRESS PROJECT SHORTCOMINGS

Author: Kathleen Petras - Transport Planning Team Leader, City Development

Ward: Bakewell, Beale and Hawdon

Previous Items

Council on 24 February 2020 (Item 5.2 - Hurstbridge Line Duplication - Stage 2 - Update)

Council on 09 Dec 2019 7.00pm (Item 5.7 - Hurstbridge Railway Line Upgrade Stage 2 - Urban Design Principles and Project Update)

EXECUTIVE SUMMARY

The duplication of the Hurstbridge Railway line from Greensborough to Eltham and provision of an Intermodal Transport Interchange at Greensborough Railway Station has been an important project that has been strongly advocated to the State Government for delivery for many years.

The Greensborough Principal Activity Centre Plan “The Greenbook” was developed and adopted in October 2006. The Plan incorporated previously developed State Government planning for the provision of a transport interchange at Greensborough Station as part of the revitalisation of the town centre.

In 2017, the Greensborough Transport Masterplan was developed to provide an update on opportunities to improve local transport systems to and within the Greensborough Activity Centre. One of its objectives was to improve public transport including: an integrated Greensborough Transport Interchange; improved bus routes; duplication of the Hurstbridge Railway Line between Greensborough and Eltham; and a 10-minute rail service frequency to Greensborough.

There was no significant progress on the implementation of a rail duplication past Greensborough or a transport interchange until a State Government commitment prior to the 2018 State Government election. At this time the delivery of a transport interchange at Greensborough was included in the promised actions of a re-elected Government.

Following Labor’s election success, it was anticipated that a transport interchange would soon again be in State Government planning and development and would be a key inclusion in the Level Crossing Removals Projects’ Hurstbridge Rail Duplication from Greensborough to Eltham. As part of the 2019/20 Victorian State Budget, \$547 million was allocated to the Hurstbridge Railway Line Stage 2 Upgrade project. In May 2019 the Level Crossing Removal Project (LXRP) announced the upgrade of the Hurstbridge Railway line between Greensborough and Eltham. However, the project scope did not include the transport interchange.

On 8 July 2020 Council received formal notice of the release of the State Government’s response to consultation undertaken with stakeholders including Banyule Council and the community regarding the Hurstbridge Railway Line Stage 2 Upgrade project.

HURSTBRIDGE RAILWAY LINE UPGRADE (STAGE 2): ADVOCACY TO ADDRESS PROJECT SHORTCOMINGS cont'd

The Minister for Planning advised that he considers the consultation processes and feedback detailed in the *Hurstbridge Line Upgrade 2020 – Consultation Report – May 2020* satisfies the requirements of Clause 52.03-4 of the Banyule Planning Scheme.

The report largely confirms the previous advice received including the Project scope in Banyule of:

- A new Greensborough Station.
- A major upgrade to Montmorency Station.
- Duplication of 3kms of track between Greensborough and Montmorency.
- A new rail bridge over the Plenty River, Greensborough.
- Replacement road over rail bridge at Mountain View Road Montmorency.
- A new substation at Greensborough.
- Associated signaling, stabling and power improvements to the rail system

Despite repeated submissions and requests, the consultation report confirms that the provision of a bus interchange at Greensborough, a shared user path along the rail corridor, and supporting taxi zones and pedestrian and cycling facilities at both Montmorency and Greensborough Stations will not be provided as part of the project scope but will be future proofed for delivery by State Government when future funding becomes available. The failure to include these elements in the project is considered a major shortcoming and contrary to previous commitments made by the State Government.

The report also confirmed that no additional parking will be delivered at either Greensborough or Montmorency stations as part of the project scope. The state government is reviewing the provision of additional parking outside of the scope of the project. Council's current position on station commuter parking is that additional parking supply is needed on the Hurstbridge Line and should be accommodated by an increase in supply at Watsonia Station.

Further community consultation on station design elements is due to commence shortly. Final designs are expected to be announced in late 2020. Construction is expected to be underway from late 2020 and be complete in 2022.

RECOMMENDATION

That Council:

1. Steps up its strong advocacy regarding the Hurstbridge Railway Line Upgrade (Stage 2) to ensure improved outcomes for the community are achieved with a specific focus on the following key components being included in the scope:
 - a. An off road bus interchange at Greensborough Station;
 - b. A shared user path to be provided along the rail corridor;
 - c. A taxi zone and pedestrian and cycling facilities at both Montmorency and Greensborough Stations;
 - d. General landscaping and urban design enhancements;

HURSTBRIDGE RAILWAY LINE UPGRADE (STAGE 2): ADVOCACY TO ADDRESS PROJECT SHORTCOMINGS cont'd

- e. The potential for an upgrade at Watsonia Station as an additional scope, with delivery aligned to the NE Link project improvements at Watsonia.
2. Writes to the Premier of Victoria and the Minister for Transport Infrastructure requesting the inclusion of an integrated public transport interchange in the new Greensborough Station (to be built as part of the Hurstbridge Rail Line duplication stage 2 works) as promised prior to the State Government election in November 2018 in addition to other scope enhancements.
3. Provides an update to the Banyule community in the Banner and via social media channels regarding Council's advocacy for additional components being included in the scope of the Hurstbridge Railway Line Upgrade (Stage 2) with a specific emphasis on the provision of a transport interchange at Greensborough Station and a shared user path between Greensborough and Montmorency.

COUNCIL PLAN

This report is in line with Banyule's Council Plan key direction to "Support sustainable transport".

BACKGROUND

The duplication of the Hurstbridge Railway line from Greensborough to Eltham and provision of an Intermodal Transport Interchange at Greensborough Railway Station has been an important project that has been strongly advocated to the State Government for delivery for many years.

The Greensborough Principal Activity Centre Plan "The Greenbook" was developed and adopted by Council in October 2006. The Plan incorporated previously developed State Government planning for the provision of a transport interchange at Greensborough Station as part of the revitalisation of the town centre.

In 2007 the Department of Transport (DoT) released the *Meeting Our Transport Challenges Strategy* which identified Greensborough as part of its *Station and Modal Improvement Program*. This led to further work by DoT in conjunction with Council to develop a detailed multimodal access plan for the transport interchange at Greensborough Station. Various options were developed however the project did not proceed at the time.

In 2017 the Greensborough Transport Masterplan was developed by Council to provide an update on opportunities to improve local transport systems to and within the Greensborough Activity Centre. It was not only a transport strategy plan but also an advocacy document designed to respond to the opportunities afforded by the

HURSTBRIDGE RAILWAY LINE UPGRADE (STAGE 2): ADVOCACY TO ADDRESS PROJECT SHORTCOMINGS cont'd

Hurstbridge Rail Line Upgrade - Stage 2 (including the transport interchange) as well as the North East Link (NEL).

The GTMP was adopted by Council in December 2017. Its objectives are to:

1. Improve public transport including: an integrated Greensborough Transport Interchange; improved bus routes; stop locations; frequency and services within and to Greensborough; duplication of the Hurstbridge Railway Line between Greensborough and Eltham; and a 10-minute rail service frequency to Greensborough.
2. Manage through traffic to facilitate pedestrian, cycling, and public transport priority in the Greensborough Activity Centre.
3. Improve pedestrian access within the Activity Centre.
4. Improve cyclist access to and within the Activity Centre.

There was no significant progress on the implementation of a duplicated railway line past Greensborough and transport interchange until a State Government Commitment prior to the 2018 State election. At this time the delivery of a transport interchange at Greensborough was included in the promised actions of a re-elected Labor Government.

Following Labor's election success, it was anticipated that a transport interchange would soon again be in State Government planning and development and would be a key inclusion in the Level Crossing Removal Projects' Hurstbridge Rail Duplication from Greensborough to Eltham. As part of the 2019/20 Victorian State Budget, \$547 million was allocated to the project with indications that this would deliver on the commitments for the Hurstbridge Stage 2 upgrade.

In May 2019 the Level Crossing Removal Project (LXRP) announced the upgrade of the Hurstbridge Railway line between Greensborough and Eltham. The project scope did not include the transport interchange and was restricted to:

- A new Station at Greensborough.
- An upgrade of Montmorency Station.
- 3km of track duplication Greensborough to Montmorency.
- Additional commuter parking at both Greensborough (100 spaces) and Montmorency (30 spaces) Stations.
- Increased frequency of train services.

Council decided at its meeting of 24 February 2020 to advocate for improved local design outcomes for the Hurstbridge Line Duplication – Stage 2 (HB2) project, in Greensborough and Montmorency as set out in the Banyule City Council – Urban Design Response – December 2019 and including:

- A multi-modal transport interchange at Greensborough Station paired with a bus services review.

HURSTBRIDGE RAILWAY LINE UPGRADE (STAGE 2): ADVOCACY TO ADDRESS PROJECT SHORTCOMINGS cont'd

- A shared use path within the rail corridor connecting existing local paths and access to the stations.
- The provision of high-quality station precincts with civic appeal and enhanced public realm.
- Minimised loss of vegetation and mitigate the impacts of screening removal from the heavily treed interface to the rail corridor.
- Increased provision of commuter parking on the Hurstbridge Line at the most appropriate park and ride facility at Watsonia Railway Station.

At the same meeting, concerns were also raised regarding an unexpected change to the planning process by the State Government. This process was modified by the gazettal of VC170 on 31 January 2020 which inserted Clause 52.03 – Level Crossing Removal Project across all Victorian planning schemes.

Letters were sent (28 February 2020) to the Ministers of Planning and Transport Infrastructure, and to local members of parliament to request the project be expanded to include the scope listed above and detailing concerns regarding the planning process.

A letter was also sent (28 February 2020) to LXP requesting details of the project's construction impacts to the rail service.

Further letters were sent to the local Members of Parliament on 27 May 2020 to request a meeting to ensure the Hurstbridge Railway Line Upgrade Stage 2 project provides optimal benefit to the community.

LEGAL CONSIDERATION

There are no direct legal implications arising from the recommendation contained in this report.

HUMAN RIGHTS CHARTER

In developing this report to Council, the subject matter has been considered in accordance with the requirements of the Victorian Charter of Human Rights and Responsibilities.

DISCUSSION

The State Government responded in early June 2020 with details of the change to the planning process and assurances that community feedback obtained during the process will still contribute to the ongoing design considerations.

It also outlined that:

- Significant work has been undertaken to minimise vegetation loss especially at Montmorency.
- The scope of the project will not allow for further integrated development and is limited to:

HURSTBRIDGE RAILWAY LINE UPGRADE (STAGE 2): ADVOCACY TO ADDRESS PROJECT SHORTCOMINGS cont'd

- Greensborough: Provision of a forecourt to integrate the new station with the activity centre and construction of a new pedestrian overpass.
- Montmorency: Maintaining the leafy village character and tree canopy and providing a landscaped interface with the village.
- Future proofing at Greensborough Station includes spatial provision for a bus interchange, with associated taxi zones and pedestrian and cycling facilities.
- The construction of a shared user path (SUP) along the rail corridor will not be included in the project (but not precluded).
- The provision of a bus interchange, and associated taxi zones and pedestrian and cycling facilities including a SUP is the responsibility of the Department of Transport not LXRP. Increased car parking supply may be provided in the future and noted that Watsonia Station will receive 60 additional car parking spaces as part of the NEL project.

On 8 July 2020, Council received formal notice of the release of the State Government's response to consultation undertaken with stakeholders including Banyule Council and the community regarding the Project. The Minister for Planning advised that he considers the consultation processes and feedback detailed in the Hurstbridge Line Upgrade 2020 – Consultation Report – May 2020 satisfies the requirements of Clause 52.03-4 of the Banyule Planning Scheme.

The report draws from the submissions obtained during January and February 2020, occurring at the same time as the modified planning scheme amendment consultation process.

The Minister also advised that the Hurstbridge Line Upgrade 2020: Project Boundary Maps document meets the requirements of Clause 52.03-5 of the Banyule Planning Scheme.

The report largely confirms the previously obtained advice including the Project scope in Banyule of:

- A new Greensborough Station.
- A major upgrade to Montmorency Station.
- Duplication of 3kms of track between Greensborough and Montmorency.
- A new rail bridge over Plenty River, Greensborough.
- Replacement road over rail bridge at Mountain View Road Montmorency.
- A new substation at Greensborough.
- Associated signaling, stabling and power improvements to the rail system.

HURSTBRIDGE RAILWAY LINE UPGRADE (STAGE 2): ADVOCACY TO ADDRESS PROJECT SHORTCOMINGS cont'd

In Part A, the consultation report outlines the consultation process that the State Government has undertaken to date as well as its plans for upcoming consultation and engagement with Council, local businesses and the community.

The Part A engagement phasing is shown below:

- Phase 1 – Initial consultation – Late 2019 – early 2020 - Complete
- Phase 2 – Design development – further community consultation - Mid to late 2020
- Phase 3 - late 2020
 - Awarding of contract and design announcement.
 - Community and trader engagement groups established.
 - Continuation of the Urban Design Advisory Panel's inclusion of Council.
- Phase 4 – Construction – late 2020 to 2022

In Part B, the consultation report outlines the State Government response to 176 written submissions classified into key themes. These include:

- Station Design – Community feedback has been used to inform the urban design principles.
- Car Parking – Increase in supply not in scope – carparking access will be improved.
- Loss of Vegetation – Design and construction will minimise tree loss.
- Station Accessibility – Address pedestrian accessibility across the rail line and ensure accessible stations (for all mobility needs).
- Construction Concerns – To be managed with an Environmental Management Framework (EMF).
- General community support for Project.
- Requests for out of scope items including the bus interchange at Greensborough Station and the shared user path in the rail corridor. These were not supported by the Minister.

The consultation report confirms Council's understanding that the provision of a bus interchange at Greensborough, a shared user path along the rail corridor, and supporting taxi zones and pedestrian and cycling facilities at both Montmorency and Greensborough Stations will not be provided as part of the project scope but will be future proofed for delivery by State Government when future funding becomes available.

The report also confirmed that no additional parking will be delivered at either Greensborough or Montmorency stations as part of the Project scope. This will also be subject to future funding availability. Note that Council's position on station

HURSTBRIDGE RAILWAY LINE UPGRADE (STAGE 2): ADVOCACY TO ADDRESS PROJECT SHORTCOMINGS cont'd

commuter parking is that additional parking supply needs on the Hurstbridge Line should be accommodated by an increase in supply at Watsonia Station.

Watsonia Station Upgrade Opportunity

The NEL project area includes the carparking adjacent to the Watsonia station. Major road works and rearrangements will occur as part of the project with the reference design currently including a 660 space multi-deck carpark to replace the at grade parking. There is the opportunity to increase the size of this carpark by including an additional level which could accommodate some of the committed increased car parking for the Hurstbridge train line.

Also, given the substantial works that are occurring to construct NEL and HB2, which will most likely require the shut down of the train line, it would be the opportune time to consider the upgrade to Watsonia Station. This would ensure that works occurring for NEL are integrated with the station and the Watsonia Town Centre upgrades and may avoid future closures of the train line if the upgrade was to occur at another time.

TIMELINES

Complete:

- Late 2019 – Site investigations and initial community consultation.
- Early 2020 – Site investigations and planning consultation.
- July 2020 – Release of Minister of Planning's report on initial consultation.

Upcoming:

- Mid 2020 – Community consultation on early designs.
- Late 2020 – Final design to be announced and construction to begin.
- 2022 – Works to be completed.

OFFICER DECLARATION OF CONFLICT OF INTEREST

The *Local Government Act 2020* (Act) requires members of Council staff, and persons engaged under contract to provide advice to Council, to disclose any direct or indirect interest in a matter to which the advice relates.

Council officers involved in the preparation of this report have no conflict of interest in this matter.

CONCLUSION

The duplication of the Hurstbridge Railway line from Greensborough to Eltham and provision of an Intermodal Transport Interchange at Greensborough Railway Station has been an important project that has been strongly advocated to the State Government for delivery for many years.

During the 2018 State Government election campaign, the State Government committed to the delivery of a transport interchange at Greensborough as part of the Hurstbridge Railway line duplication if re-elected. As part of the 2019/20 Victorian State Budget, \$547 million was allocated to the project.

HURSTBRIDGE RAILWAY LINE UPGRADE (STAGE 2): ADVOCACY TO ADDRESS PROJECT SHORTCOMINGS cont'd

The Minister for Planning has confirmed his acceptance of Clause 52.03 – Level Crossing Removal Project requirements that must be satisfied prior to the commencement of the Project. These include 52.03-4 – Consultation requirement and 52.03 – Project boundary requirement for community.

This has confirmed Council's more recent understanding that the provision of a bus interchange at Greensborough (and supporting taxi zones and pedestrian and cycling facilities), a shared user path along the rail corridor, and increases in commuter parking supply at both Montmorency and Greensborough Stations will all not be provided as part of the project scope but will be future proofed for delivery by State Government when future funding becomes available. It is considered that the failure to include these elements in the project is a major shortcoming and contrary to previous commitments made by the State Government.

Clause 52.03 outlines other pre-commencement requirements that must be satisfied prior to each component or stage of the Project. These include an Environmental Management Framework. Native vegetation removal plans will be approved directly by the Department of Environment, Land, Water and Planning (DELWP).

ATTACHMENTS

Nil

5.3 **COMMUNITY CLIMATE ACTION PLAN ADOPTION**

Author: Sian Gleeson - Coordinator Environmental Sustainability, City Development

Previous Items

Council on 18 May 2020 (Item 4.1 - Draft Community Climate Action Plan - For Public Exhibition)

Council on 10 Dec 2018 7.00pm (Item 4.1 - Reconfirming Council's Commitment to Acting on Climate Change)

EXECUTIVE SUMMARY

As part of the 10 December 2018 Climate Action Resolution (CO2018/267) Council requested the investigation into how Banyule could support the community in working towards carbon neutrality.

Work has been undertaken over the last 10 months to inform a Community Climate Action Plan (CAP), which builds on the recently adopted Corporate Emissions Reduction Plan (CERP).

Consultation on the draft Community CAP with Councillors and BEAC was undertaken during February 2020. Constructive feedback was provided and incorporated into the Plan, before a six-week period of public consultation.

A range of comments were received as part of the recent public exhibition process, with revisions and strengthening of the Plan undertaken. A summary of changes which have been made to the Plan is included in **Attachment One**.

The final Plan (**Attachment Two**) is now ready to be considered by Council. Following adoption of the Plan, a graphic designed version including illustrated case studies will be prepared and promoted widely throughout the Banyule community.

RECOMMENDATION

That Council:

1. Adopt Banyule's inaugural Community Climate Action Plan (August 2020).
2. Consider ongoing financial support through future budget processes to deliver on actions within the Community Climate Action Plan.
3. Receive a further report regarding the implementation of the Community Climate Action Plan via the annual State of the Environment (SOE) Report.

COMMUNITY CLIMATE ACTION PLAN ADOPTION cont'd

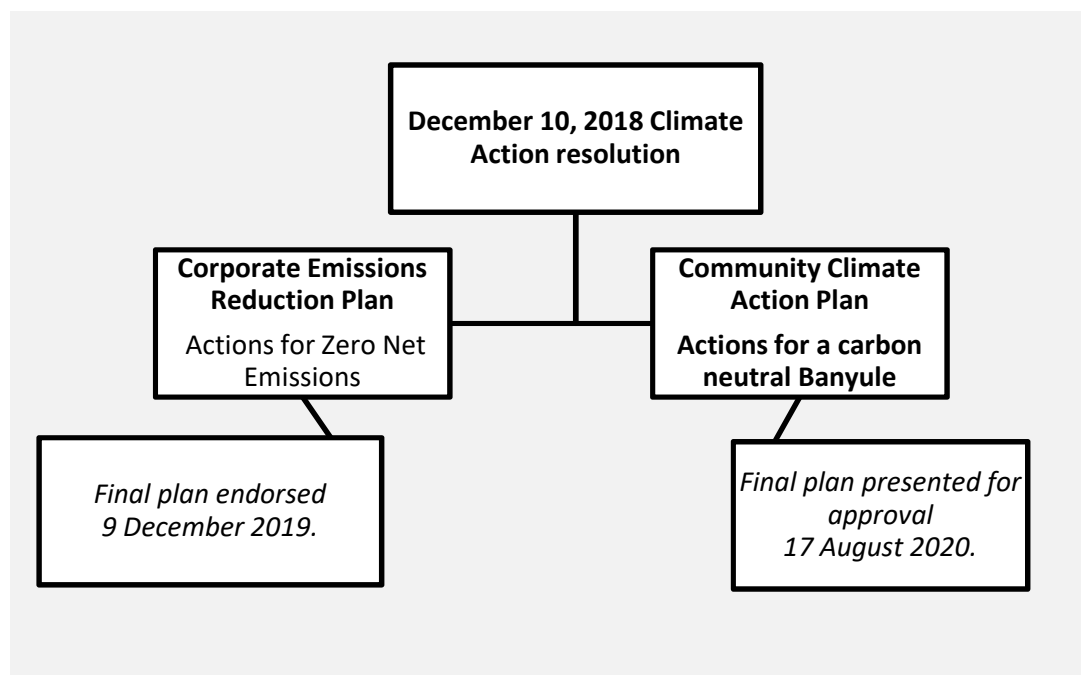
COUNCIL PLAN

This report is in line with Banyule's Council Plan key direction to "Lead in planning for, and responding to climate change".

BACKGROUND

Council's Climate Action decision on 10 December 2018 requested the investigation into how Banyule could support the community in working towards carbon neutrality and in turn, the establishment of a Plan in line with the C40 Climate Action Planning Framework.

The consequential Community Climate Action Plan (CAP) builds upon Council's recent endorsement of the Corporate Emissions Reduction Plan (CERP), which outlines key actions to work towards Banyule's corporate emissions reduction target of zero net emissions by 2028. The relationship between the two plans is shown diagrammatically below:



Several stages have been undertaken to inform development of the final CAP. These have included:

- Modelling of current and projected municipal emissions;
- The development of targets across key areas (i.e. existing buildings, transport, and other emission sources), to guide the identification of relevant actions;
- Internal consultation with key staff, to determine current priorities and identify complementary strategies;
- A four-week program of community engagement, to identify residential and business barriers to action; and
- A six- week public exhibition period, seeking further community input on the draft Plan.

COMMUNITY CLIMATE ACTION PLAN ADOPTION cont'd

LEGAL CONSIDERATION

There are no direct legal implications arising from the recommendation contained in this report.

HUMAN RIGHTS CHARTER

In developing this report to Council, the subject matter has been considered in accordance with the requirements of the Victorian Charter of Human Rights and Responsibilities.

It is considered that the subject matter does not raise any human rights issues.

FUNDING IMPLICATIONS

Many of the actions outlined within the Plan can be delivered via existing resources or budget allocations. Full implementation of the actions will however require additional funding to be allocated via future budget processes. Lead departments will be responsible for submission of funding bids each year, as program designs are investigated and refined, and in turn detailed costs and benefits are identified.

CONSULTATION

In total 34 responses were received via the recent public exhibition period on Shaping Banyule, as well as a small number of detailed submissions from individuals and local environmental groups.

Submissions commended the Banyule Council in declaring a Climate Emergency, and subsequently producing the Plan for community consultation. One comment noted:

- *the Plan appropriately identifies and targets different audience groups with designated actions. This clear and concise strategy allows an audience to easily identify which group/s and actions apply to them.*

Feedback on improvement opportunities was broad ranging and included:

- **Circular Economy:** Many comments related to the theme of waste, including the need for building and construction waste to be captured; for soft plastics to be recycled via the Council; for the costs of goods to capture cost of recycling; the use of transition town groups to assist in communicating the Plan; local food security issues to be rolled out via expansion of community gardens and support for urban farming.
- **Adaptation:** Many responses cited the need to build adaptation as a priority theme; the UFSP and need to strengthen protection of existing vegetation, including older and remnant vegetation; the need for planting with a variety of species and densities to support biodiversity outcomes.
- **Community partnership:** Feedback noted the need for community to own the Plan and a supporting Communications Plan to enable this; suggestion to create a new partnership focused committee, with key stakeholders and Council; importance of building municipal wide partnerships stressed.
- **General Comments:** General comments included the need for a vision to be established that will inspire community to do more, requests for short term SMART targets and timelines for carbon neutrality, including the use of 2030 as

COMMUNITY CLIMATE ACTION PLAN ADOPTION cont'd

the preferred date; the need to 'fast track' actions in the CERP and the need for greater granularity of emissions to inform action.

- Numerous changes have now been made to the CAP, to address the feedback. A summary of all changes to the Plan is provided at **Attachment One**. These include:
 - Clearer description of how the CAP and the CERP relate;
 - New planning, circular economy and adaptation focused actions, to strengthen these priority outcomes;
 - Introduction of interim 2024 targets to monitor progress;
 - Inclusion of information on the source of grid electricity in Victoria, by way of strengthening understanding of the need for renewables;
 - Greater clarity on the need to leverage local community groups to help drive change and provide community education, and
 - Inclusion of complementary social enterprise priority actions.

DISCUSSION

The Plan (**Attachment 2**) acknowledges that across the community, in homes, businesses and schools, Council does not have direct control over emissions like it does when they arise from its own operations.

As a result, the Plan outlines how as a Council, Banyule will support our residents, businesses and organisations to reduce emissions and adapt to the impacts of climate change.

Specifically, the Plan:

- Highlights the broader context in which action is occurring;
- Provides guidance and information to key stakeholders (such as residents, schools and business) in undertaking action;
- Identifies priorities for strengthening Banyule's adaptation response; and
- Highlights the actions that Council will take to support and accelerate progress for the municipality.

Through the Plan, Council will fulfil several roles:

- **a collaborator**, working in partnership with households, community groups and businesses in Banyule, as well as NAGA Councils and other levels of government;
- **an enabler**, facilitating others' action through training, grants and other financial assistance;
- **an educator**, providing information and advice, a trusted, third party that can help inform the choice of services and providers;
- **a broker** between players within and beyond the municipality;
- **an advocate**, to State and Federal governments for changes that are beyond our direct control and mobilising the community for support.

Notable actions include:

COMMUNITY CLIMATE ACTION PLAN ADOPTION cont'd

- Investigation of opportunities to broker a power purchasing agreement (PPAs) for Banyule businesses and households;
- Support for high energy commercial building owners to improve the efficiency of their buildings through facilitating access to low cost financing through Environmental Upgrade Finance (EUF);
- Trialling of environmental sustainable design (ESD) inspections to inform an understanding of current policy compliance levels.

Together, the actions outlined will provide the opportunity to create a thriving and responsive Banyule - one that is connected, inclusive and resilient.

OFFICER DECLARATION OF CONFLICT OF INTEREST

The *Local Government Act 2020* (Act) requires members of Council staff, and persons engaged under contract to provide advice to Council, to disclose any direct or indirect interest in a matter to which the advice relates.

Council officers involved in the preparation of this report have no conflict of interest in this matter.

CONCLUSION

The Community Climate Action Plan (CAP) has been developed following significant review and investigation into carbon abatement actions relevant to the Banyule municipality. The Plan is now presented to Council for endorsement.

ATTACHMENTS

No.	Title	Page
1	Summary of Changes to the CAP	
2	Community Climate Action Plan	

7.1 GOVERNANCE RULES (DRAFT)

Author: Vivien Ferlaino - Governance Coordinator, Corporate Services

EXECUTIVE SUMMARY

Pursuant to s 60 of the *Local Government Act 2020* (the Act), Council is required to adopt and apply Governance Rules which describe the way it will conduct Council meetings and make decisions.

The Rules outline the procedures for Council Meetings and set the rules of behaviour for those participating and present at the meeting. They also outline the process for the appointment of the Mayor and Deputy Mayor.

The Draft Governance Rules are designed to ensure good governance by Council through the performance of its role in accordance with the overarching governance principles and supporting principles of the Act.

The Draft Governance Rules will replace the Meetings Procedures Code 2015. The Governance Local Law No.2 is still in operation until 2025 unless amended or revoked sooner.

The Governance Rules must be adopted by 1 September 2020 in accordance with the requirements by the Act. Some provisions in the new Governance Rules such as Conflict of Interest processes will only come into operation once the relevant provisions in the *Local Government Act 1989* are repealed.

The Governance Rules must incorporate a council's Election Period Policy. Council last adopted its Election Period Policy on 7 October 2019 which is being updated to incorporate new 2020 references and requirements.

At its Ordinary Meeting held on 6 July June 2020, Council resolved to endorse the Draft Governance Rules for public exhibition via Shaping Banyule in the week commencing 7 July 2020. Public exhibition closed on the 4 August and two submissions were received and are detailed in this report. Council is now required to adopt the Governance Rules.

RECOMMENDATION

That Council:

1. Adopt the Governance Rules to take effect from 18 August 2020, noting some provisions are not fully operational until the *Local Government Act 1989* provisions are repealed.
2. Revokes the Banyule Meeting Procedures Code (2015) upon the Governance Rules taking affect.
3. Thank the submitters for their contributions.
4. Undertake a review of the current public participation processes in the new Council term (post the October 2020 Council elections) in consultation with the community.

GOVERNANCE RULES (DRAFT) cont'd

COUNCIL PLAN

This report is in line with Banyule's Council Plan key direction to "Provide good governance and be accountable".

BACKGROUND

In 2015 Council developed its Governance Local Law (No.2) and Meeting Procedures Code (2015). The new Governance Rules replace the Meeting Procedures Code. The Governance Local Law No. 2 provides for the use of the common seal and issuing of infringement notices in relation to offences incurred against the local law. It continues to operate until it is revoked or sunsets in 2025.

Section 60(1) of the 2020 Act provides that the Governance Rules must address the following:

- the conduct of Council meetings
- the conduct of meetings of delegated committees
- the form and availability of meeting records
- the election of the Mayor and the Deputy Mayor
- the appointment of an Acting Mayor
- an election period policy in accordance with section 69
- the procedures for the disclosure of a conflict of interest by a Councillor or a member of a delegated committee under section 130
- the procedure for the disclosure of a conflict of interest by a Councillor
- the disclosure of a conflict of interest by a member of Council staff when providing information in respect of a matter within the meaning of section 126(1)
- any other matters prescribed by the regulations.

Other requirements to be covered in the Governance Rules

- The Mayor may direct a Councillor, subject to any procedures or limitations specified in the Governance Rules, to leave a Council meeting if the behaviour of the Councillor is preventing the Council from conducting its business.

Further, the Governance Rules must provide for Council to:

- consider and make decisions on any matter being considered by the Council fairly and on the merits; and
- institute decision making processes to ensure that any person whose rights will be directly affected by a decision of the Council is entitled to communicate their views and have their interests considered.

LEGAL CONSIDERATION

The *Local Government Act 2020* came into operation on 25 March 2020. The new Act has a number of requirements which will be implemented over four stages.

Aspects of the 1989 Act are still in force and will cease to be in operation once the various stages are proclaimed and come into operation.

GOVERNANCE RULES (DRAFT) cont'd

The second stage of implementation includes a number of major requirements due by 1 September 2020, these are:

- Governance Rules (most of the Meeting Procedures Code and other requirements)
- Council Expense Policy (Councillor expenses and reimbursements)
- Delegated Committees and Asset Committees (not required at Banyule)
- Audit & Risk Committee Charter
- Public Transparency Policy (new)

The Governance rules are required under section 60 and must be adopted by the 1 September 2020.

HUMAN RIGHTS CHARTER

Council must balance all rights under the Victorian Human Rights and does so in line with the state government and other Councils guidelines. Conduct rules apply to Councillors, staff and members of the public in Council Meetings to allow for orderly proceedings of meetings.

Should members of the public feel that Council has breached their human rights, they may complain to the Victorian Ombudsman or the Victorian Equal Opportunity & Human Rights Commission.

The rights impacted by these rules originally formed part of the statement of compatibility for the Governance Local Law and Meeting Procedures Code. The rights are covered in the Human Rights Assessment and are attached to the Governance Rules.

GOVERNANCE RULES

The Draft Governance Rules

The Governance Rules are divided into an Introduction and seven (7) Chapters, and each Chapter has its own Rules.

Chapter 1 – Governance Framework

This Chapter references other documents it imposes obligations on those involved in decision-making, including members of Council staff acting under delegation.

Chapter 2 – Meeting Procedure for Council Meetings

This Chapter contains the Rules relating to meeting procedure at Council meetings. It includes provisions relating to the election of the Mayor and any Deputy Mayor, the appointment of any Acting Mayor and the form and availability of meeting records (in the form of minutes of Council meetings). The provisions from Council's current Meeting Procedures Code 2015 have been incorporated.

Chapter 3 – Meeting Procedure for Delegated Committees and Chapter 4 – Meeting Procedure for Community Asset Committees

Whilst Council does not currently have Delegated Committees or Community Asset Committees, Chapters 2 and 3 provide provisions should Council establish either Committee.

GOVERNANCE RULES (DRAFT) cont'd

Chapter 5 – Disclosure of Conflicts of Interest

This chapter outlines the process for the disclosure of a conflict of interest for Councillors.

Members of Council staff are also subject to disclosure obligations when exercising delegated power or performing a statutory function.

None of the Rules in this Chapter can become operative until Division 1A of Part 4 of the *Local Government Act 1989* is repealed. Until then (which is likely to be 24 October this year), the existing conflict of interest regime will continue and disclosure will be regulated by ss 79, 80A, 80B and 80C of the *Local Government Act 1989*. Rule 1 in this Chapter makes it clear that the following Rules in the Chapter only commence when these provisions in the *Local Government Act 1989* are repealed.

Chapter 6 – Miscellaneous

Other matters included:

- Records of informal meetings of Councillors (previously known as Assemblies of Councillors that no longer are covered in the new Act); and
- the Chief Executive Officer's designation of information as confidential information. (applies after s 77(2)(c) of the *Local Government Act 1989* is repealed).

Chapter 7 – Election Period Policy

Council's Election Period Policy must be included in the Governance Rules. The Policy was previously adopted 7 October 2019. This current Policy has been amended to incorporate new 2020 references and requirements.

PUBLIC EXHIBITION

The Draft Governance Rules were on public exhibition from 7 July to 4 August 2020 and made available on Council's online engagement form – Shaping Banyule. All regular council meeting attendees were sent an email advising of the opportunity to provide feedback. Advisory Committees were also sent the information to participate. A number of questions were posed on some specific areas and included:

1. Do you support our draft Governance Rules?
2. What do you believe is the optimal duration for a council meeting?
3. The current speaking times for councillors, is five (5) minutes for the councillor who introduces the motion and three (3) minutes for councillors speaking to the motion, is this too short, too long or perfect?
4. Would you like livestreaming of council meetings to continue into the future?
5. During a council meeting, would you like to hear from a senior officer who would provide an overview of the report presented to council?
6. Are the council reports easy to understand?
7. If no, what would make council reports easier to understand? (e.g. shorter length, less attachments etc)
8. Is there anything missing from our draft Governance Rules? Please comment
9. Any other comments you'd like to make in relation to our draft Governance Rules

Two submissions received and are attached in full in Attachment 2. Both submitters felt that the speaking time for Councillors was 'perfect' and supported live streaming into the future. It should be noted that the live streaming of Council meetings into the

GOVERNANCE RULES (DRAFT) cont'd

future (post COVID) is covered in the Banyule Public Transparency Policy. Commentary is provided on each submission:

Submitter One - Commentary

Submitter one requested that the Governance Rules be amended to accord with the Victorian Human Rights Charter based on a case published by the Victorian Ombudsman. Officers have been in contact with the Victorian Ombudsman to seek clarification on the case. The case details are not fully published, and the entire facts are not available. In this case a person was prevented from participating. Advice provided was that the rights of others can be limited in accordance with the Victorian Human Rights Charter.

Banyule provides for several forms of public participation in Council meetings. The request to speak and submission of public question processes are not prescribed within the Governance Rules. Rather, Banyule's rules allow participation within guidelines. The relevant clause 47 has been amended to reflect the current public participation processes.

Submitter one states that Council is 'ultra vires' (cannot legally act) to edit or censor speeches. Council's public participation rules are consistent with those of State Government i.e. Engage Victoria, and the Victorian Charter of Human Rights.

The Victorian Ombudsman has this to say in relation to public question time as quoted in their Investigation into transparency and decision making (2016):

"This investigation considers whether councils give proper consideration to the public's right to 'freedom of expression' and to 'take part in public life' when making decisions; whether they allow genuine public participation in and access to council decisions. Of course, these rights must be balanced with the need to respect the 'right to privacy and reputation'. Participation may also be influenced by the public's ability to access the decision-making process, which may also raise discrimination issues under section 8 of the Charter, 'recognition and equality before the law'. A range of other rights may be engaged. Of particular concern is that any limitation of a human right is demonstrably justifiable under the Charter."

"Councils also need to take care regarding restrictions on public question time. Unreasonable restrictions have the potential to be incompatible with not only the right to participate in public life, but the right to freedom of expression in section 15 of the Charter. For example, where councils require questions in writing prior to meetings, they should ensure there is appropriate assistance available to those who may have difficulty placing their question in writing. A number of councils mentioned they offered such assistance. Councils should also ensure that any restriction on the content of questions or submissions by members of the public at meetings which could be considered to limit their right to freedom of expression is appropriately balanced with any lawful restrictions reasonably necessary to respect the rights and reputation of other persons or national security, public order, public health or public morality." (page 147).

It is clear that Council must balance the right to freedom of expression against other rights and common respect for others, which it has done and continues to do.

GOVERNANCE RULES (DRAFT) cont'd

Submitter Two - Commentary

The submitter requests a change to the Rules to ensure no spoken or written submissions be altered or censored in any way. The rules for public participation are in the guidelines for request to speak and public question submissions and do not form part of the Governance Rules. The rules are consistent with State Government moderation rules. The Draft Governance Rules prepared by Local Government Victoria, and the legal templates all include provisions for disallowing content such as:

- relates to a matter outside the duties, functions and powers of Council
- is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance
- deals with a subject matter already answered
- is aimed at embarrassing a Councillor or a member of Council staff etc.

The submitter suggests invitations should be extended to local experts to talk to Council and give their opinion about matters that are raised from time to time, for example on issues such as planning matters, social housing, social employment and many other themes. The submitter also indicated they would like to see a return of the public forum prior to the commencement of the Council Meeting.

With Banyule moving to nine Councillors, it provides an opportune time to review Council meetings and public participation. This current Council is committed to a review.

Consultation with Councillors

Speaking times and overall Council meeting duration limits were discussed with Councillors.

It was considered that the newly elected Council should review the public participation and Council Meeting processes, including the meeting duration limits.

Changes to the Governance Rules since Public exhibition

Public participation processes are included in the Governance Rules and the wording in the previously numbered clause 47(1) of the Rules (as publicly exhibited now contained in Division 11 and clause 55) is currently the same wording as appears in the Banyule Meeting Procedures Code, i.e. there has been no change to the current provision. Given the comments from the submitters, additional wording is included to outline Council's current processes. The guidelines for both Request to Speak and Public Questions sit outside the Governance Rules.

The Local Government Victoria - Model Governance Rules include the suggested wording below in relation to community questions and submissions:

“As outlined in the purpose of these Governance Rules, Council Meetings are held for Council to make its decisions. Members of the public do not have a right to address Council, however provisions are made for Council to respond to questions from the community and for the public to make submissions to Council.”

GOVERNANCE RULES (DRAFT) cont'd

Introductory Text to the heading titled 'Public Participation' has been inserted into the Draft Governance Rules consistent with the LGV Draft Rules as follows:

"Council Meetings are held for Council to make its decisions. Members of the public do not have a right to address Council, however provisions are made for Council to respond to questions from the community, and in particular circumstances.

At each Ordinary Meeting there is an opportunity for members of the public to ask questions of the Council or speak to an item on the Agenda, participation includes:

- requesting to speak*
- talking about a public submission*
- submitting a question to public question time*
- presenting a petition.*

Guidelines for these processes are available on Council's website.

Members of the community may also seek to inform individual Councillors of their views by contacting them directly in advance of a Council Meeting"

OFFICER DECLARATION OF CONFLICT OF INTEREST

The *Local Government Act 2020* (Act) requires members of Council staff, and persons engaged under contract to provide advice to Council, to disclose any direct or indirect interest in a matter to which the advice relates.

Council officers involved in the preparation of this report have no conflict of interest in this matter.

CONCLUSION

The *Local Government Act 2020* has now commenced in stages. The first stage enacted the Overarching Governance Principles and five supporting principles.

The second stage requires Council to adopt Governance Rules, including an Election Period Policy, a Public Transparency Policy, Council Expenses Policy, and Audit & Risk Committee Charter by 1 September 2020.

The draft Governance Rules have been based on best practice model templates provided by Local Government Victoria, other benchmarked municipalities, and the advice of Council's lawyers.

In accordance with Section 60(8) of the Act, the Governance Rules will replace the Meeting Procedures Code (2015).

The Governance Rules set out how Council will conduct its meetings and make decisions.

ATTACHMENTS

No.	Title	Page
1	Governance Rules (Draft 2020)	
2	Governance Rules - Public Submissions	

7.2 **PUBLIC TRANSPARENCY POLICY (DRAFT)**

Author: Vivien Ferlaino - Governance Coordinator, Corporate Services

EXECUTIVE SUMMARY

The Banyule Public Transparency Policy supports Council in its ongoing drive for good governance, the importance of open and accountable conduct, and how Council information is to be made publicly available.

A key tenet of the Public Transparency Principles in the new *Local Government Act 2020* (the Act) is that Council information must be publicly available unless it is confidential by virtue of legislation or making it available would be contrary to the public interest.

The draft Policy is based on the Model Policy issued by Local Government Victoria (LGV), other Council draft policies, and discussions held with other councils and networks.

The draft Policy addresses each Public Transparency Principle:

- Council decision making processes must be transparent except when the Council is dealing with information that is confidential by virtue of this Act or any other Act;
- Council information must be publicly available unless—
 - the information is confidential by virtue of this Act or any other Act; or
 - public availability of the information would be contrary to the public interest;
- Council information must be understandable and accessible to members of the municipal community;
- Public awareness of the availability of Council information must be facilitated.

At its Ordinary Meeting held on 6 July June 2020, Council resolved to endorse the Draft Banyule Transparency Policy for public exhibition via Shaping Banyule in the week commencing 7 July to 4 August 2020. Public exhibition closed on 4 August and no submissions were received. The Policy must be adopted by Council by 1 September to comply with the new requirements of the Act.

RECOMMENDATION

That Council adopt the Banyule Public Transparency Policy.

COUNCIL PLAN

This report is in line with Banyule's Council Plan key direction to "Provide good governance and be accountable".

PUBLIC TRANSPARENCY POLICY (DRAFT) cont'd

BACKGROUND

The objective of Council's Public Transparency Policy is to formalise its support for transparency in its decision-making processes and the public awareness of the availability of Council information. This policy promotes:

- a) greater clarity in Council's decision-making processes;
- b) increased confidence and trust in the community through greater understanding and awareness;
- c) enhanced decision making by the community;
- d) improved Council performance;
- e) access to information that is current, easily accessible and disseminated in a timely manner;
- f) reassurance to the community that Council is spending public monies wisely.

This policy describes what council information is, provides information on transparency processes, and how information will be made available to the public. The requirement for a Public Transparency Policy is a new provision under the new *Local Government Act 2020*. The Policy and the associated processes will continue to develop and evolve as additional better practice guidance material is released. Council will strengthen delivering on the commitments in the policy while it works through implementation of the new Act.

LEGAL CONSIDERATION

Council must adopt and maintain a public transparency policy under section 57 of the Act. This policy gives effect to the *Public Transparency Principles* outlined in section 58 of the Act.

A public transparency policy must—

- give effect to the public transparency principles;
- describe the ways in which Council information is to be made publicly available;
- subject to section 58(b), specify which Council information must be publicly available, including all policies, plans and reports required under this Act or any other Act;
- include any other matters prescribed by the regulations.

There are no direct legal implications arising from the recommendation contained in this report.

PUBLIC TRANSPARENCY POLICY (DRAFT) cont'd

HUMAN RIGHTS CHARTER

The following rights are further assessed:

Right	Comments
Right to public life (18)	This Policy supports and encourages the community to access council services and information and participate in engagements or matters that impact them.
Right to privacy and reputation (section 13)	This Policy supports and protects the privacy of individuals where possible and within the FOI Act.

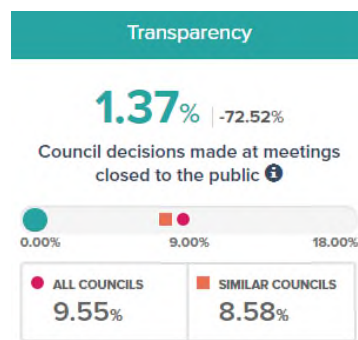
In developing this report to Council, the subject matter has been considered in accordance with the requirements of the Victorian Charter of Human Rights and Responsibilities.

Banyule Better Practice Process in relation to transparency

- Banyule was one of 12 councils reviewed as part of the Victorian Ombudsman’s 2016 report into Transparency of Decision Making in Local Government.
- Council committed to, and introduced, many improvements following the release of the Ombudsman’s report. These related to:

Confidential Reports – Council minimised the number of confidential reports being considered from 10% to 1.37%. The table shows how Council performs against other Councils (from Know your Council website).

Most of this work relates to contracts/tenders.



- Agendas being made available to the public at least five days before a council meeting: Council was able to make this change once it moved from fortnightly council meetings to every 3 weeks. Previously the Agenda was available from midday on the Friday prior to the meeting and is now available from Wednesday midday prior to the meeting. This has also provided Councillors with the agenda 10 days prior to the meeting (previously 4 days).
- Audio/Livestreaming: Council introduced audio recordings from the new term in late 2016. With COVID-19, Council has now been livestreaming. The new Ivanhoe Chambers will have all the required equipment for live streaming. This Policy makes a commitment to continue to livestream council meetings.
- Recording Public Questions in Council minutes: Council has been able to incorporate this since it changed to requiring questions in writing and in advance.

PUBLIC TRANSPARENCY POLICY (DRAFT) cont'd

Documents available for Inspection or viewing

A number of documents and policies are presently available on Council's website. Under the *Freedom of Information Act 1982*, all public agencies must publish a document called a "Part II Statement" which includes a number of statements designed to assist members of the public in accessing the information the organisation holds. The Public Transparency Policy outlines the current publicly available information that must be made available for inspection. Many of these documents are prescribed by other pieces of legislation ie Planning & Environment Act, Building Act.

The Policy also makes a commitment to new information that will be made available:

- Councillor Expense reimbursements
- Registers of gifts, benefits and hospitality offered/accepted by Councillors or Council Staff
- Register of Contracts Awarded by Council

The Councillor expense reporting will commence in the new Council term. Reporting on gifts, benefits and hospitality will occur once new policies are developed. The *Local Government Act 2020* requires separate policies for both Councillors and staff on gifts, benefits and hospitality, and these new requirements come into effect in the next stage of implementation of the Act. The Procurement Policy will need to be revised by mid-2020, and reporting on contracts awarded will be developed at this stage.

PUBLIC EXHIBITION

The Draft Banyule Public Transparency Policy rules were on public exhibition from 7 July to 4 August 2020 and made available on Council's online engagement form – Shaping Banyule. All regular council meeting attendees were sent an email advising of the opportunity to provide feedback. Advisory Committees were also sent the information to participate.

OFFICER DECLARATION OF CONFLICT OF INTEREST

The *Local Government Act 2020* (Act) requires members of Council staff, and persons engaged under contract to provide advice to Council, to disclose any direct or indirect interest in a matter to which the advice relates.

Council officers involved in the preparation of this report have no conflict of interest in this matter.

CONCLUSION

The draft Banyule Public Transparency has been based on the model template provided by Local Government Victoria and the policies of other benchmarked municipalities.

Council must adopt and maintain a Public Transparency Policy under section 57 of the Act. The Policy gives effect to the *Public Transparency Principles* outlined in section 58 of the Act. The Policy is required to be adopted by 1 September 2020.

PUBLIC TRANSPARENCY POLICY (DRAFT) cont'd

ATTACHMENTS

No.	Title	Page
1	Banyule Public Transparency Policy (draft)	

7.3 COUNCIL EXPENSE POLICY (DRAFT)

Author: Vivien Ferlaino - Governance Coordinator, Corporate Services

EXECUTIVE SUMMARY

The Council Expenses Policy has been developed according to the new *Local Government Act 2020* (the Act).

The Policy specifies the procedures to be followed in applying for reimbursement of Councillor expenses in compliance with Section 40 of the Act, including that:

- a. the claim is for bona fide expenses
- b. the expenses have been reasonably incurred in the performance of the role of councillor or member of a delegated committee, and
- c. the expenses are reasonably necessary for the councillor or delegated committee member to perform that role.

The Act also requires the Policy to:

- provide for the reimbursement of child care costs where the provision of child care is reasonably required for a Councillor or member of a delegated committee to perform their role
- give regard to expenses incurred by a Councillor who is a carer and in a caring relationship within the meaning of section 4 of the *Carers Recognition Act 2012*.

The Policy also takes into consideration:

- the new requirements of the Act
- VAGO report on Fraud & Corruption in Local Government 2019
- the Local Government Victoria (LGV) draft Policy; and benchmarking with other councils.

Whilst it is drafted as a new Policy, it does incorporate many of the current provisions of Council's existing Policy.

Section 41 of the Act requires Council to adopt an Expenses Policy by 1 September 2020 to apply from the new Council term.

RECOMMENDATION

That Council adopt the Banyule Council Expense Policy (Attached).

COUNCIL PLAN

This report is in line with Banyule's Council Plan key direction to "Provide good governance and be accountable".

COUNCIL EXPENSE POLICY (DRAFT) cont'd

BACKGROUND

The Council Expense Policy applies to Councillors and members of delegated committees (Banyule does not have delegated committees presently), provides guidelines for Councillors on the process for claiming expenses, and outlines the methods and standards for reporting and accountability.

This Policy sets out the requirements in relation:

- Expenses
- Councillor remuneration & reporting
- Support, resources & facilities
- Travel & Transport
- Communication Equipment
- Corporate Identity & Copyright
- Civic Representation & Engagement
- Professional Development

The Policy acknowledges:

- Diversity in participation and access to local representation contributes to well-informed decision making involving the community.
- Councillors need to be accessible to a wide range of constituents and to stay informed about issues in their communities is an important part of the role. Use of the Internet is now essential to facilitate access.
- The Victorian State Government guides and minimum toolkit on Mayor and Councillor entitlements.

Councillor expense reporting

Councillor expenses are currently reported in the Annual Report, and as an aggregate per Councillor in the Local Government Reporting Framework.

The new Act now requires reporting of all Councillor and delegated committee member expenses be provided to the Council's Audit and Risk Committee.

The Audit and Risk report will include:

- expenses incurred by Councillors during the quarter
- reimbursement claims made by Councillors during the quarter
- reimbursements paid to Councillors during the quarter.

As part of Council's commitment to open and transparent activities, details of support expenses incurred by the Mayor and Councillors are to be made public quarterly on Council's website, in accordance with the Banyule Public Transparency Policy.

COUNCIL EXPENSE POLICY (DRAFT) cont'd

Council Expense Policy

Changes from the current policy include:

Timeframe for claiming	<ul style="list-style-type: none">Monthly, to allow for accurate processing and public reporting
Use of private vehicles	<ul style="list-style-type: none">Where private vehicles are used, travel costs will be reimbursed at the higher rate prescribed by the Australian Tax Office rates as varied from time to time.In addition to costs associated with use of private vehicles, Councillors can claim for the use of Bicycles: 20 cents per kilometre.
Mayoral vehicle	<ul style="list-style-type: none">Use of Vehicle conditions now included in the Policy (Appendix 2)Policy includes provision for the Mayor who chooses not to take the Mayoral VehicleFurther clarification included on private use
Courses nearing end of Council Term	<ul style="list-style-type: none">Any professional development courses undertaken by a Councillor should provide a demonstrable benefit to the Banyule community. To reflect this commitment, all courses must be completed at least three months prior to the commencement of the election period for a general municipal election. For courses more than \$5,000, such as the Australian Company Directors course, to ensure benefit to the community, Councillors will only be able to undertake these courses in the first three years of each Council term.
Overseas/Interstate conference report	<ul style="list-style-type: none">Changed timeframe to submit report on conference for inclusion at the next practicable Ordinary Council Meeting.
IT guidelines	<ul style="list-style-type: none">Now incorporated into Policy (Appendix 1)

Victoria's Auditor-General's Office, (VAGO) report - 'Fraud and Corruption Control – Local Government 19 June 2019'

The report by VAGO primarily focused on expenditure and processes involving senior council staff and councillors and reviewed fraud and corruption controls and measures relating to:

- credit card and fuel card use
- reimbursements
- identifying and managing conflicts of interest
- responding to suspected incidents of fraud and corruption.

The VAGO report formed part of a self-assessment presented to the Audit & Risk Advisory Committee on 13 September 2019. The self-assessment against the VAGO recommendations found Council to be compliant in most areas, with further enhancements made in relation to the following:

- Vehicle mileage documentation
- Additional details required in reimbursement documentation
- Timing of lodging of reimbursement claims

COUNCIL EXPENSE POLICY (DRAFT) cont'd

These areas have accordingly been strengthened in the policy to align with VAGO's recommendations.

LEGAL CONSIDERATION

Section 41(2) of the *Local Government Act 2020* specifies the requirements for a Council Expenses Policy, which must:

- a. specify procedures to be followed in applying for reimbursement and in reimbursing expenses; and
- b. comply with any requirements prescribed by the regulations in relation to the reimbursement of expenses, and
- c. provide for the reimbursement of child care costs where the provision of child care is reasonably required for a Councillor or member of a delegated committee to perform their role; and
- d. have particular regard to expenses incurred by a Councillor who is a carer in a care relationship within the meaning of section 4 of the Carers Recognition Act 2012.

HUMAN RIGHTS CHARTER

Victoria's Charter of Human Rights and Responsibilities (the Charter) outlines the basic human rights of all people in Victoria. The Charter requires that governments, local councils and other public authorities comply with Charter and to consider relevant Charter rights when they make decisions.

Diversity in participation and access to local representation contributes to well-informed decision making involving the community.

It is important that the Councillor role attracts and retains a wide cross section of people, particularly those from under-represented groups such as women, young people, those with disabilities and those in primary caregiver roles (whether of children, the disabled, and the aged/infirm).

Your right to take part in public life (section 18)

The new amendments to the Act requires a Council Expense Policies to include:

- reimbursement of child care costs where the provision of child care is reasonably required for a Councillor or member of a delegated committee to perform their role and
- regard to expenses incurred by a Councillor who is a carer and in a caring relationship within the meaning of section 4 of the Carers Recognition Act 2012.

The current policy provides for the ability to reimburse for these items, the new policy has been strengthened further.

This Policy outlines access to resources and provides support in an equitable manner to cater for the full participation of all Councillors in council business and with their communities.

COUNCIL EXPENSE POLICY (DRAFT) cont'd

OFFICER DECLARATION OF CONFLICT OF INTEREST

The *Local Government Act 2020* (Act) requires members of Council staff, and persons engaged under contract to provide advice to Council, to disclose any direct or indirect interest in a matter to which the advice relates.

Council officers involved in the preparation of this report have no conflict of interest in this matter.

CONCLUSION

The Council Expense Policy is an important document which sets out the resources available to Councillors to assist them in effectively and diligently performing their duties in the best interest of the Banyule community.

The Policy is made in accordance with Section 41(2) of the *Local Government Act 2020* and must be adopted before 1 September 2020.

ATTACHMENTS

No.	Title	Page
1	Council Expense Policy (Draft) - July 2020	

7.4 **AUDIT & RISK COMMITTEE**

Author: Vivien Ferlaino - Governance Coordinator, Corporate Services

EXECUTIVE SUMMARY

The new *Local Government Act 2020* (the Act) was enacted on 6 April 2020 with a staged implementation and operation dates. Requirements in relation to the Audit and Risk Committee come into effect 1 September 2020.

There are five new requirements that Audit and Risk Committees must meet:

1. **Audit and Risk Charter**

Council must prepare and approve a committee charter and establish the committee (appoint members) by 1 September 2020.

2. **Reporting to Council**

The Committee must report to Council twice yearly, the report must include the Committee's findings and recommendations.

3. **Membership**

A majority of Committee members must be independent of Council; the Chair must not be a councillor, and members of council staff must not be committee members. Collectively, the Committee must include expertise in financial and risk management and experience in public sector management.

4. **Self-assessment**

The Committee must undertake an annual assessment of its own performance against the charter and report on this to Council.

5. **Workplan**

The Committee must adopt an annual workplan.

For Council to be compliant by 1 September 2020 it will need to:

- prepare and approve a committee charter and make appointments to the Committee (establish the Committee) on or before 1 September 2020.
- specify the functions and responsibilities of the Committee within the committee charter, and must include the following functions (s 54):
 - monitor the compliance of Council policies and procedures with the overarching governance principles and the Act, and any regulations and Ministerial directions
 - monitor Council financial and performance reporting
 - monitor and provide advice on risk management and fraud prevention systems and controls
 - oversee internal and external audit functions.

The new requirements were discussed at the Audit & Risk Advisory Committee on 19 June 2020, with the Committee endorsing the draft Charter for Council

AUDIT & RISK COMMITTEE cont'd

adoption. As Council is required to establish the new Committee; it is proposed to reappoint all existing Committee members for the duration of their current term.

RECOMMENDATION

That Council:

1. Establish the Audit & Risk Committee.
2. Reappoints the independent members Dr Irene Irvine and Dr Stuart Kells until their expiry of term.
3. Notes that recruitment is underway to appoint a third independent member.
4. Confirms Councillor appointments to the Audit & Risk Committee being Cr Garotti and Cr Melican for the balance of this current Council term.
5. Note the Audit & Risk Advisory Committee's endorsement of the draft Audit & Risk Committee Charter at the Committee's meeting 19 June 2020.
6. Adopt the Audit & Risk Committee Charter.

COUNCIL PLAN

This report is in line with Banyule's Council Plan key direction to "Provide good governance and be accountable".

BACKGROUND

Audit and Risk Charter

- A Charter has been drafted and reviewed against new requirements of the Act, the current charter, other Council Charters, the current charter, and other guides such as the:
 - Local Government Victoria's (LGV) Audit Committees: A guide to good practice for local government 2020
 - Internal Audit and Risk Management Policy for the NSW Public Sector - Audit and Risk Committee Charter at Annexure B
 - Australian National Audit Office, Better Practice Guide, Public Sector Audit Committees

Reporting to Council

There is a new requirement to report to Council twice a year. Section 54 outlines the new provisions:

An Audit and Risk Committee must—

- (a) prepare a biannual audit and risk report that describes the activities of the Audit and Risk Committee and includes its findings and recommendations; and
- (b) provide a copy of the biannual audit and risk report to the Chief Executive Officer for tabling at the next Council meeting.

This requirement has been added to the workplan.

AUDIT & RISK COMMITTEE cont'd

Membership

Section 53 of the Act requires Council to establish an Audit & Risk Committee. The new provisions require a majority of independent members.

An Audit and Risk Committee must—

- (a) include members who are Councillors of the Council; and
- (b) consist of a majority of members who are not Councillors of the Council and who collectively have—
 - (i) expertise in financial management and risk; and
 - (ii) experience in public sector management; and
- (c) not include any person who is a member of Council staff of the Council.

The current membership of the committee is four members:

- Two Councillors at least
- Two suitably qualified Independent Representatives.

To ensure compliance with the requirement for a majority of members who are not Councillors, Council advertised for an independent member on Saturday 7 July 2020 through The Age, Council's online recruitment portal (eRecruit), SEEK and on LinkedIn, with applications closing 17 July 2020. The new membership of the Committee will be:

- Two Councillors
- Three suitably qualified Independent Representatives.

OTHER CHANGES

Name of Committee

The 1989 Act required an Audit Advisory Committee be established. The 2020 Act requires an Audit & Risk Committee. The committee name will no longer have the word 'advisory' in its title, this has been removed from the 2020 Act.

Reporting to the Committee on reimbursement of expenses

- The Act will require mandatory reporting to the Committee on the reimbursement of expenses of Councillors and members of a delegated committee
- All details of reimbursement for out of pocket expenses made to Councillors and members of delegated committees (section 40) must be reported to the Audit and Risk Committee.

Audit & Risk Advisory Committee Meeting – 19 June 2020

The committee considered the draft Charter and the other required changes for Audit & Risk Committees.

The Committee required some changes to the draft Charter and the draft Charter was circulated to committee members after the meeting.

At the time of the June Committee meeting, LGV had not released a revised 2020 better practice guide. This was subsequently released on the 3 July 2020. The

AUDIT & RISK COMMITTEE cont'd

Charter was revised against the updated LGV Charter and recirculated to the Committee for comment. No further changes were required.

LEGAL CONSIDERATION

The *Local Government Act 2020* (the Act) requires all Councils to establish an Audit & Risk Committee and prepare and approve a committee charter.

The Charter must specify the functions and responsibilities of the committee, which are specified in section 54 of the Act

Section 54 of the Act also describes the work an Audit and Risk Committee must undertake.

For Council to be compliant, it must adopt a new Charter, implement workplan & reporting requirements and ensure the membership is made of more independent members by the 1 September.

HUMAN RIGHTS CHARTER

It is considered that the subject matter does not raise any human rights issues.

TIMELINES

The new requirements relating to Committee charters and membership for Audit & Risk Committees must be in place by 1 September 2020. The next Audit & Risk Committee meeting will be held 18 September 2020 and will operate under the new Charter and membership.

OFFICER DECLARATION OF CONFLICT OF INTEREST

The *Local Government Act 2020* (Act) requires members of Council staff, and persons engaged under contract to provide advice to Council, to disclose any direct or indirect interest in a matter to which the advice relates.

Council officers involved in the preparation of this report have no conflict of interest in this matter.

CONCLUSION

Council is well prepared to ensure compliance with the new legislative requirements for Audit & Risk Committees.

The Audit & Risk Advisory Committee at its meeting on 19 June 2020 endorsed the Charter pending some changes. It was then circulated to all Committee members after a review against Local Government Victoria's release of the 2020 Better Practice Charter.

The draft Charter now requires Council approval.

ATTACHMENTS

No.	Title	Page
1	Audit and Risk Committee Charter - 2020	

7.5 UPDATE OF DELEGATIONS

Author: Emily Outlaw - Council Business Team Leader, Corporate Services

EXECUTIVE SUMMARY

The *Local Government Act 2020* (the 2020 Act) is now enacted and will be implemented in four stages. The second stage includes a requirement to delegate Council's powers by 1 September 2020.

There are numerous statutes which confer a responsibility on councils to take action or determine matters, it is not practical for the Council or the Chief Executive Officer alone to exercise the many statutory powers bestowed on Council.

Section 11(1)(b) of the 2020 Act provides for Council to delegate its powers, duties and functions to the Chief Executive Officer (CEO) or a Delegated Committee; and no longer provides for Council to delegate directly to members of Council staff.

On 18 May 2020 Council resolved the Instrument of Delegation to the CEO.

Council subscribes to a delegation package by Maddocks Solicitors. An update is received twice a year and includes advice and changes to legislation.

Maddocks Solicitors have advised that there are a number of certain Acts that do not allow for sub-delegation from the CEO and can only be delegated directly from Council.

These Acts are the:

- Planning & Environment Act 1987
- Residential Tenancies Act 1997
- Food Act 1984
- Environmental Protection Act 1970
- Domestic Animals Act 1994
- Road Management Act 2004

As these Acts specifically require certain powers to be delegated directly from Council it is recommended that the powers continue to be delegated directly from Council by resolution to ensure compliance with said Acts.

The remaining powers that allow for it can be sub-delegated from the CEO as per s11 of the 2020 Act.

A delegation of a council power enables a member of Council staff to act on behalf of Council and allows for the effective day to day functioning of Council. A delegated decision, once made, is for all legal purposes a decision of the Council.

Delegations are reviewed regularly to ensure they remain current. There have been some title changes at Banyule since the most recent Delegations update of May 2019. This requires Council's Instruments of Delegation to be amended to ensure all relevant positions have the appropriate delegation in accordance with the correct title and the latest advice.

UPDATE OF DELEGATIONS cont'd

The update proposed for adoption by Council makes changes to officer titles in the delegations and removes references to the existing *Local Government Act 1989* which after 1 September will no longer be relevant for the following Acts and associated regulations: Domestic Animals, Environment Protection, Food, Planning, Residential Tenancies and Road Management.

There are no updates to the Chief Executive Officer (CEO) Instrument of Delegation, however, previous advice was that the Instrument of Delegation to the CEO will be re-made whether there are any changes or not.

RECOMMENDATION

In the exercise of the powers conferred by the legislation referred to in the attached Instruments of Delegation for the Chief Executive Officer and the following Acts and associated regulations: Domestic Animals, Environment Protection, Food, Planning, Residential Tenancies and Road Management, Council resolves that –

1. There be delegated to the members of Council staff holding, acting in or performing the duties of the offices or positions referred to in the attached *Instruments of Delegation to members of Council staff*, the powers, duties and functions set out in that instrument, subject to the conditions and limitations specified in that Instrument.
2. The instrument comes into force immediately the common seal of Council is affixed to the instrument.
3. On the coming into force of the instrument all previous delegations to members of Council staff are revoked.
4. The duties and functions set out in the instrument must be performed, and the powers set out in the instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.

COUNCIL PLAN

This report is in line with Banyule's Council Plan key direction to "Provide good governance and be accountable".

BACKGROUND

The *Local Government Act 2020* came into operation on 25 March 2020. The new Act has a number of requirements which will be implemented over four stages.

The second stage of implementation which includes Council Delegations are due by 1 September 2020.

Section 11(1)(b) of the 2020 Act provides for Council to delegate its powers, duties and functions to the Chief Executive Officer (CEO); and no longer provides for Council to delegate directly to members of Council staff.

UPDATE OF DELEGATIONS cont'd

Council resolved an Instrument of Delegation to the CEO at its meeting of 18 May 2020 under section 11.

A delegation of a council power enables a member of Council staff to act on behalf of Council and allows for the effective day to day functioning of Council. A delegated decision, once made, is for all legal purposes a decision of the Council.

There are numerous statutes which confer a responsibility on councils to take action or determine matters, it is not practical for the Council or the CEO alone to exercise the many statutory powers bestowed on Council.

LEGAL CONSIDERATION

Council subscribes to a delegation package by Maddocks Solicitors. An update is received twice a year and includes advice and changes to legislation.

Maddocks Solicitors have advised that whilst the 2020 Act provides that Council can no longer delegate directly to staff, only through sub-delegation via the CEO, it remains that certain Acts do not allow for sub-delegation from the CEO and can only be delegated directly from Council.

There Acts are the:

- Planning & Environment Act 1987
- Residential Tenancies Act 1997
- Food Act 1984
- Environmental Protection Act 1970
- Domestic Animals Act 1994
- Road Management Act 2004

As these Acts specifically require certain powers to be delegated directly from Council it is recommended that the powers continue to be delegated directly from Council by Council resolution to ensure compliance with said Acts.

The remaining powers that allow for it can be sub-delegated from the CEO as per s11 of the 2020 Act.

Council is not a natural person and therefore, on a practical level, must undertake its responsibilities through others, usually through Council officers. A delegation of a Council power enables a member of Council staff to act on behalf of Council and allows for the effective day to day functioning of Council.

It is important to note that a delegation is not:

- The performance of an administrative task; example – a function under a position description;
- An action of an authorised officer under section 224 of the Act; example – prosecuting an offender; or
- Decision making under a statutory appointment; example – making a decision as an appointed officer under the Freedom of Information Act 1982.

UPDATE OF DELEGATIONS cont'd

HUMAN RIGHTS CHARTER

In developing this report to Council, the subject matter has been considered in accordance with the requirements of the Victorian Charter of Human Rights and Responsibilities.

It is considered that the subject matter does not raise any human rights issues.

CURRENT SITUATION

Council's Health Department titles have undergone a review since the last delegations were approved by Council in May 2019 resulting in position title changes. As delegations are assigned to positions and not individuals, it is important that the Instruments of Delegations accurately reflect the current position titles.

The position titles that require updating in the Instruments of Delegations are:

- Public Health Protection Coordinator
- Public Health Protection Team Leader
- Community Programs Strategic Project Coordinator

The Instruments of Delegation have been updated to reflect title changes and incorporate all updates to the 2020 Act.

Council's lawyers have previously advised that it would be prudent for Council to update the Instrument of Delegation to the Chief Executive Officer every time delegations from Council direct to Officers are changed. Therefore, as part of this update (and every subsequent update to the delegations to Officers by Council) the Instrument of Delegation to the Chief Executive Officer will be re-made whether there are any changes or not. In this instance there are no changes to the CEO delegation.

OFFICER DECLARATION OF CONFLICT OF INTEREST

The *Local Government Act 2020* (Act) requires members of Council staff, and persons engaged under contract to provide advice to Council, to disclose any direct or indirect interest in a matter to which the advice relates.

Council officers involved in the preparation of this report have no conflict of interest in this matter.

CONCLUSION

Legal advice is that despite s11 of the *Local Government Act 2020* stating that all Council powers are to be sub-delegated by the CEO, to ensure that Council's delegations remain valid certain powers are still required to be delegated directly from Council.

It is proposed that Council endorse the latest update to the Instruments of Delegation which incorporate administrative changes to position titles and the current legislative requirements of each individual Act from which the powers are delegated. It is still proposed to re-make the CEO Instrument of Delegation even though there are no changes being made to the CEO's delegation.

UPDATE OF DELEGATIONS cont'd

ATTACHMENTS

No.	Title	Page
1	CEO Instrument of Delegation	
2	Domestic Animals Act Instrument of Delegation	
3	Environment Protection Instrument of Delegation	
4	Food Act Instrument of Delegation	
5	Planning & Environment Instrument of Delegation	
6	Residential Tenancies Act Instrument of Delegation	
7	Road Management Instrument of Delegation	

7.6 **AUDIT & RISK ADVISORY COMMITTEE MINUTES - 19 JUNE 2020**

Author: Paul Wilson - Audit Support Officer, Corporate Services

EXECUTIVE SUMMARY

The Audit & Risk Advisory Committee is an Advisory Committee and its role is determined by the *Local Government Act 1989*. The responsibilities and terms of reference of the Audit & Risk Advisory Committee are defined in the Committee's Charter.

With the introduction of the new *Local Government Act 2020 (Act)* new provisions have been legislated for Audit & Risk Committees which take effect on 1 September 2020. These changes include the requirement for a new committee charter, and changes to the membership compilation of these committees. The changes will be reported to Council later in the year.

The Minutes of the meeting of the Audit & Risk Advisory Committee are required to be reported to a Council Meeting.

Consequently, the Minutes of the meeting held on the 19 June 2020 are being circulated for noting by Council, though they are subject to confirmation by the Audit & Risk Advisory Committee at its meeting being held in 7 September 2020.

RECOMMENDATION

That Council note the Minutes of the Audit & Risk Advisory Committee meeting held on the 19 June 2020.

COUNCIL PLAN

This report is in line with Banyule's Council Plan key direction to "Provide good governance and be accountable".

BACKGROUND

As part of Council's governance obligations to its community, Council has constituted an Audit & Risk Advisory Committee to facilitate:

- The enhancement of the credibility and objectivity of internal and external financial reporting
- Effective management of Council's strategic risks and protection and control of Council assets
- Monitoring of Council's Business Continuity Plans and processes
- The efficiency and effectiveness of significant Council programmes
- Compliance with laws and regulations as well as use of Best Practice Guidelines
- The effectiveness of the audit functions.

AUDIT & RISK ADVISORY COMMITTEE MINUTES - 19 JUNE 2020 cont'd

LEGAL CONSIDERATION

There are no direct legal implications arising from the recommendation contained in this report.

HUMAN RIGHTS CHARTER

It is considered that the subject matter does not raise any human rights issues.

OFFICER DECLARATION OF CONFLICT OF INTEREST

The *Local Government Act 2020* (Act) requires members of Council staff, and persons engaged under contract to provide advice to Council, to disclose any direct or indirect interest in a matter to which the advice relates.

Council officers involved in the preparation of this report have no conflict of interest in this matter.

CONCLUSION

That Council note the Minutes, which are subject to confirmation, of the Audit & Risk Advisory Committee meeting which was held on the 19 June 2020.

ATTACHMENTS

No.	Title	Page
1	Unauthorised Minutes - Audit & Risk Advisory Comiittee - 19 June 2020	

7.7 APPOINTMENT OF INDEPENDENT CHAIRPERSON OF THE CEO EMPLOYMENT MATTERS COMMITTEE

Author: Gina Burden - Manager Governance & Communication, Corporate Services

EXECUTIVE SUMMARY

The *Local Government Act 2020* (the Act) sets out a number of provisions relating to the requirement to appoint a Chief Executive Officer (CEO), which includes the requirement for a Council to obtain independent professional advice in relation to the matters dealt within the Chief Executive Officer Employment and Remuneration Policy. This Policy is a new legislated provision and is required to be in place by 1 July 2021.

The Policy, when drafted, will outline:

- the recruitment and appointment process;
- provisions to be included in the contract of employment;
- performance monitoring;
- an annual review; and
- include any other matters prescribed by the regulations.

It is the practice throughout the public and private sector to establish a formal committee for the purposes of undertaking the above requirements related to the employment of a CEO. These committees usually include an independent expert to assist Councillors (or board members in the case of other public or private sector organisations) to fulfil the role of impartially reviewing the performance and employment of the CEO.

Council has since 24 October 2014, operated a Chief Executive Employment Matters Committee, with all Councillors appointed as members and which is chaired by an independent expert member. The appointment of the current Independent Chairperson, Ms Lydia Wilson, expires at the end of August 2020.

Consequently, in late May applications were formally invited from qualified persons to fill the position of Independent Chairperson of the CEO Employment Matters Committee.

Interviews with three shortlisted (3) applicants were recently held for the Chairperson position which included the current incumbent. This report recommends appointing Lydia Wilson as the Independent Chairperson for an initial period of 3 years commencing 1 September 2020, with an option to review annually for a further 2 years.

The Terms of Reference (ToR) for the Committee have also recently been reviewed and updated to reference changes resulting from the introduction of the new *Local Government Act 2020*. The updated ToR also needs to be endorsed by Council.

APPOINTMENT OF INDEPENDENT CHAIRPERSON OF THE CEO EMPLOYMENT MATTERS COMMITTEE cont'd

RECOMMENDATION

That Council:

1. Approve the appointment and engagement of Ms. Lydia Wilson as the Chairperson of Banyule's CEO Employment Matters Committee for an initial period of 3 years commencing 1 September 2020, with an option to review annually for a maximum five years.
2. Adopt the attached revised Terms of Reference for the Committee.

COUNCIL PLAN

This report is in line with Banyule's Council Plan key direction to "Provide good governance and be accountable".

BACKGROUND

All councils are required to appoint a natural person to the position of CEO, whose functions are outlined in the S46 of the Act. Banyule appointed Allison Beckwith as its CEO in December 2019, following the resignation of the previous long serving CEO, Simon McMillan.

Since 2014, the CEO performance reviews have been undertaken by the Chief Executive Officer Employment Matters Committee, which is made up of an Independent Chairperson and all Councillors. It generally meets twice a year.

The CEO Employment Matters Committee is advisory in nature, ie it has no delegated powers, and recommendations from the Committee are considered by the Council in a Council Meeting.

The role of Council in managing the position of CEO includes conducting an annual performance review, agreeing and setting Key Performance Indicators, negotiating contract terms; and considering the reappointment or otherwise of the CEO at the expiration of the contract. Last year it also included the responsibility for conducting the recruitment process to appoint a new CEO.

Banyule Council was one of the early adopters of setting up a Committee, chaired by an independent expert member, to oversee CEO employment matters. This has since been considered a best practice approach by the various integrity agencies, and other councils have followed suit.

LEGAL CONSIDERATION

The *Local Government Act 2020* outlines the functions of the CEO:

Section 46 - Functions of the Chief Executive Officer

- (1) A Chief Executive Officer is responsible for—
- (a) supporting the Mayor and the Councillors in the performance of their roles; and
 - (b) ensuring the effective and efficient management of the day to day operations of the Council.

APPOINTMENT OF INDEPENDENT CHAIRPERSON OF THE CEO EMPLOYMENT MATTERS COMMITTEE cont'd

While there is no legal requirement for councils to establish a CEO Employment Matters Committee or to have an independent Chairperson of such a Committee, the new Local Government Act does for the first time require that councils develop (by 1 July 2021) a policy which guides the process of employing, remunerating and monitoring the performance of the CEO. Importantly, councils must obtain independent professional advice in relation to the matters dealt with in the policy.

It is expected that the establishment of committees similar to that of Banyule's which include an independent expert chairperson, will become common place in order to fulfil the new legislative obligations.

Section 45- Chief Executive Officer Employment and Remuneration Policy

- (1) A Council must develop, adopt and keep in force a Chief Executive Officer Employment and Remuneration Policy.
- (2) A Chief Executive Officer Employment and Remuneration Policy must—
 - (a) provide for the Council to obtain independent professional advice in relation to the matters dealt with in the Chief Executive Officer Employment and Remuneration Policy; and
 - (b) provide for the following—
 - (i) the recruitment and appointment process;
 - (ii) provisions to be included in the contract of employment;
 - (iii) performance monitoring;
 - (iv) an annual review; and
 - (c) include any other matters prescribed by the regulations.

HUMAN RIGHTS CHARTER

In developing this report to Council, the subject matter has been considered in accordance with the requirements of the Victorian Charter of Human Rights and Responsibilities.

It is considered that the subject matter does not raise any human rights issues.

FUNDING IMPLICATIONS

Council will pay a set fee, to be determined on an hourly or per meeting basis, to the Independent Chairperson as determined through the competitive procurement process. The amount of the fee has regard to the specific roles and responsibilities the chairperson will undertake and includes preparatory work and any other work that may be required outside of the formal meetings.

All applicants for the position were asked to submit their fees in their expressions of interest for the position.

Funds to cover the cost of the Independent Chairperson are contained within Council's operational budget.

APPOINTMENT OF INDEPENDENT CHAIRPERSON OF THE CEO EMPLOYMENT MATTERS COMMITTEE cont'd

DISCUSSION

The establishment of a CEO Employment Matters Committee has been very effective in structuring the important role of the Councillors in conducting regular performance reviews of the CEO and in developing performance criteria for the position. It has been particularly beneficial to have the assistance and advice of an independent expert Chairperson to guide councillors in this process, particularly so last year when Council was required to employ a new CEO following the resignation of the previous long-term incumbent, Simon McMillan. The Independent Chairperson was instrumental in supporting and guiding the Councillors through the extensive and ultimately successful recruitment process.

With the current term of the Independent Chairperson due to expire at the end of August, it was necessary to seek expressions from qualified and experienced persons to fill the role for the next three (3) year term on the Committee.

Invitation for applications

In May 2020 applications were invited via SEEK and LinkedIn inviting applications from suitably qualified persons for the role of Chairperson of the Chief Executive officer (CEO) Employment Matters Committee. The advertisement stated that the appointment by Council would be for an initial term of up to three years with an option to review annually, and that a remuneration fee paid for each meeting chaired by the Chairperson would be offered with the role.

The notice specified the selection criteria which applications would be assessed against, being:

- Ability to exhibit clear leadership.
- Ability to work effectively with Councillors and the CEO.
- Demonstrated human resource management skills, senior business experience and qualifications.
- Experience in senior performance management.
- Understanding of performance management processes and procedural fairness.
- Recognised ability in relation to performance management and development of Executive level staff.
- Previous experience in working with Executive Governance bodies or Boards on governance and strategic leadership matters.

Selection Process

At the close of applications on 5 June 2020, 30 applications for the position were received.

Applications were assessed and three shortlisted applicants were interviewed on Monday 20 July 2020. In accordance with the Terms of Reference the interview panel consisted of the Mayor - Cr. Alison Champion, Deputy Mayor Rick Garotti and Manager Governance & Communications – Gina Burden.

The current incumbent, Lydia Wilson, was one of the shortlisted applicants, and following the selection process is being recommended as the preferred applicant. Ms. Wilson's previous experience and knowledge of working with Banyule, her highly

APPOINTMENT OF INDEPENDENT CHAIRPERSON OF THE CEO EMPLOYMENT MATTERS COMMITTEE cont'd

successful and appreciated tenure as Council's incumbent Independent Chairperson, her background as a local government CEO and now Administrator, and her current consultancy work in this field, stands her in very good stead to competently continue to undertake the role for Banyule.

Terms of Reference

The terms of reference have been updated to reflect the new *Local Government Act 2020* requirements in relation to the CEO. These changes relate to the functions of the CEO, the requirement under S45 to have a Chief Executive Officer Employment and Remuneration Policy (this section comes into operation on the 1 July 2021).

A slight change has been made to the title of the committee removing the word 'advisory' as the Act no longer references advisory committees.

The updates also include provisions in relation to misuse of position as a member of the Committee (Section 123), confidential information (Section 125), and conflict of interest (Sections 126 to 131), and is consistent with the Audit & Risk Committee Charter.

OFFICER DECLARATION OF CONFLICT OF INTEREST

The *Local Government Act 2020* (Act) requires members of Council staff, and persons engaged under contract to provide advice to Council, to disclose any direct or indirect interest in a matter to which the advice relates.

Council officers involved in the preparation of this report have no conflict of interest in this matter.

It should also be noted that the CEO had no involvement in the recruitment process or recommendation relating to the appointment of the Independent Chairperson.

CONCLUSION

Banyule's CEO Employment Matters Committee has been in operation since late 2014, and in accordance with best practice is chaired by an independent expert chairperson.

The tenure of the current incumbent, Ms Lydia Wilson, is due to expire at the end of August 2020, and following a comprehensive expression of interest and recruitment process, it is being recommend that Ms. Wilson be appointed to the role for a subsequent new term as the Independent Chairperson commencing from 1 September 2020.

The Terms of Reference for the Committee has also been reviewed and updated to cite new provisions from the *Local Government Act 2020*, and Council is also required to endorse the updated Terms of Reference.

ATTACHMENTS

No.	Title	Page
1	CEO Employment Matters Committee Terms of Reference - 2020	

7.8 **FINANCIAL MANAGEMENT REPORT - PRELIMINARY JUNE 2020 PERFORMANCE**

Author: Michael Fan - Financial Performance & Planning Coordinator, Corporate Services

EXECUTIVE SUMMARY

The Quarterly Financial Management Report - Preliminary June 2020 Performance is the actual unaudited financial results for June 2020 against the adopted budget 2019/20.

This financial result is preliminary and is subject to change pending finalisation of year-end adjustments including assessment of:

- Accruals and prepayments
- Capital works completion
- Capitalisation of expenditure
- Depreciation and amortisation

The Audited Financial Report for the year ended 30 June 2020 will be presented to Council on 21 September 2020 and will include a note on the performance against budget (income, expenditure and capital works) in accordance with the *Local Government Act 1989* and the *Local Government (Planning and Reporting) Regulations 2014*.

Operating Surplus

The Adopted Budget 2019/20 Surplus is **\$5.988m**. The preliminary June 2020 Actual Operating Surplus for the year is **\$9.969m** and compares favourably to budget by **\$3.981m**.

The significant contributions to the favourable variance includes:

- **Income:** \$1.741m favourable to budget. Additional income of \$4.048m is from the Grants income streams including VGC prepayment. This is partially offset by the loss of revenue on Statutory and User Fees and Charges due to the impact from the COVID-19.
- **Expenditure:** \$2.240m favourable to budget mainly derived from a direct reduction in discretionary spending and postponement of projects whilst units assessed the situation and financial impact of the pandemic. Reduced working hours from COVID-19 impacted business areas, vacant positions unable to be filled during the year and reimbursed insurance claims and lower levies have all contributed to the favourable expenditure result.

The 2019/20 underlying operating surplus is \$2.546m and compares favourably to the budgeted underlying operating deficit of \$1.194m. This underlying result is determined after adjusting for non-recurrent capital grants and capital contributions.

Capital Works Performance:

Capital works expenditure is \$51.822m. This is \$12.523m lower than the adopted budget of \$64.345m. The amount of capital works expenditure to be carried

**FINANCIAL MANAGEMENT REPORT - PRELIMINARY JUNE 2020
PERFORMANCE cont'd**

forward to the 2020/21 financial year will be determined once the financial statements have been completed, including all accruals and prepayments.

RECOMMENDATION

That Council:

1. Note the Financial Management Report – Preliminary Performance for the period 30 June 2020.
2. Note the preliminary operating surplus of \$9.969m against the adopted budget of \$5.988m for the year ended 30 June 2020.

COUNCIL PLAN

This report is in line with Banyule's Council Plan key direction to "Provide responsible financial management and business planning".

**FINANCIAL MANAGEMENT REPORT - PRELIMINARY JUNE 2020
PERFORMANCE cont'd**

BACKGROUND

The Financial Management Report - Preliminary June 2020 Performance comprises a review of the full year (unaudited) actuals against annual budget and other key financial information.

Table 1: Income Statement

	Annual Actual \$000	Annual Budget \$000	Annual Variance \$000	Notes
Income				
Rates and charges	103,613	103,267	346	1
Grants - Operating	13,388	10,806	2,582	2
Grants - Capital	4,763	3,297	1,466	3
Statutory fees and fines	9,850	10,506	(656)	4
User fees and charges	17,746	19,656	(1,910)	5
Contributions	4,754	5,242	(488)	6
Interest	2,071	2,498	(427)	7
Rental	2,222	2,531	(309)	8
Net gain/(loss) on disposal of assets	258	165	93	
Other income	1,433	662	771	9
Share of net gains of associates	273	0	273	
Total income	160,371	158,630	1,741	
Expenses				
Employee costs	65,807	68,713	2,906	10
Materials and services	44,131	43,914	(217)	
Utility charges	3,968	4,568	600	11
Depreciation and amortisation	22,167	21,539	(628)	12
Borrowing costs	2,502	2,457	(45)	
Donations expenditure	886	623	(263)	
Contribution expense	9,094	9,015	(79)	
Other	1,847	1,813	(34)	
Total expenses	150,402	152,642	2,240	
Surplus for the year	9,969	5,988	3,981	
Grants – Non-recurrent Capital	3,087	2,315	772	13
Capital Contributions – Other Sources	4,336	4,867	(531)	14
Adj. Underlying Surplus	2,546	(1,194)	3,740	

**FINANCIAL MANAGEMENT REPORT - PRELIMINARY JUNE 2020
PERFORMANCE cont'd**

NOTES: Full Year Major Variances

The operating surplus for the year ended 30 June 2020 is \$9.969m. This is favourable to the budget by \$3.981m.

The significant contributions to the full year variance are:

1. Rates and charges - \$0.346m favourable to budget as a result of additional supplementary valuations and penalty interest income received to date.

Council adopted an Economic Relief Package (announced at the 6 April 2020 Council meeting) to support ratepayers who face financial hardship. Penalty interest on hardship applications will not be charged for the period of the deferral. To support the local business, Council is providing additional funding for the special rates and charges scheme by paying the business contribution for 2019/20 June quarter, resulting in no changes on special rates and charges income, but additional \$0.157m of expenditure to Council.
2. Grants – Operating: \$2.582m favourable to budget. This variance is mainly driven by The Victoria Grants Commission (VGC) grants paid in advance. 50% of 2020/2021 grants which include \$1.541m of general-purpose grant and \$0.509m of local road grant (Capital grant) are brought forward (paid in May). In addition, the receipt of unexpected additional funding (\$0.853m) for CHSP, funding was anticipated to cease in 2018/19 but has now been extended to include 2019/20.
3. Grants – Capital: \$1.466m favourable to budget as a result of:
 - Nets Stadium redevelopment grant partly budgeted in June 2020 has now been received (\$0.788m).
 - The local road grant from Victoria Grants Commission (VGC) \$0.509m. (refer Note 2)
 - Non-recurrent grants for seven preschool works, were budgeted in 2018/2019 and have been received in the current financial year (\$0.461m).
 - Unbudgeted VicRoads grants have been confirmed to support transport and traffic (\$0.109m Yando Street – speed and volume control and \$0.257m Haig Street – development of traffic management).
 - Roads to Recovery grant is \$0.192m more than budget. This includes an additional \$0.122m of funding from the government to bring the works forward and an accrued \$0.070m of income to comply with the new accounting standards AASB1058 Income for Not-for-Profit Entities.
 - The Olympic Park Program project which was paid and recognised at the end of 2018/19 and resulting in a \$1.200m unfavourable income variance to budget.

**FINANCIAL MANAGEMENT REPORT - PRELIMINARY JUNE 2020
PERFORMANCE cont'd**

4. Statutory fees and fines income is \$0.656m unfavourable to budget. The COVID-19 pandemic continues to have a significant impact on the economy and business including Banyule. As a result, various statutory fees including Parking Management – infringement have generated less revenue when compared Pre COVID-19 Period.
 - The revenue from both Development Planning and BPI are under budget by \$0.863m in total (including COVID-19 impact), and the unfavourable trend for BPI emerged before the COVID-19 due to less business activity and the Government building permit levy (\$0.305m) not required to be collected by the council.
 - Municipal Laws Fines: \$0.191m favourable to budget. It is driven by more fine revenues associated with municipal infringements (\$0.420m) generated from additional inspections partially offset by lower than expected municipal laws animal registration fees (\$0.229m).

5. User fees and charges are \$1.910m unfavourable to budget. This significant financial impact from the COVID-19, has reduced revenue within specific service areas:
 - Council's leisure centres were completely closed until the end of June 2020 to appropriately respond to the COVID-19 crisis. As a result, income reduction on annual membership and prepaid learn to swim classes has been reflected in the yearly actuals. (\$1.6461m from Banyule Leisure Centres and \$0.785m from WaterMarc Recreation Centre)
 - Early Childhood Services have experienced lower enrolments mainly at Morobe Street and Audrey Brooks over the period with an anticipated \$0.100m reduced income before the COVID-19. As an essential service, Banyule's childcare centres remained open. No further parents fee income was raised under the Federal government's \$1.6 billion COVID-19 childcare overhaul with a further \$0.346m income losses incurred as the centres continued to run without full funding through to June 2020.
 - As a result of coronavirus restrictions, \$0.148m of income from parking meters will not be raised.
 - The Transfer Station is experiencing a reduction in activity in the last quarter of 2019/20 with a reducing demand on commercial activities and 3-weeks closure for non-commercial activities. Although Council has a favourable variance of \$0.562m for the full year, compared to the pre-pandemic favourable variance (\$0.774m), the business suffered a reduction of \$0.212 from its revenue stream.
 - Home Care Service including Home Care, Social Support Groups, Property Maintenance and Home Modification departments have increased service delivery hours, generating an additional \$0.160m of associated user charge revenue.
 - Municipal Laws, occupational permits income favourable variance (\$0.125m) driven by higher volume than expected.

**FINANCIAL MANAGEMENT REPORT - PRELIMINARY JUNE 2020
PERFORMANCE cont'd**

6. Contributions income is \$0.488m unfavourable to budget. This variance is driven by:
 - Public Open Space contributions (\$0.526m) less than budget. Under the current situation, this unfavourable variance is reflecting the impact from COVID-19 outbreak on property development by having significantly less contribution in June than expected in forecast.
 - The budgeted \$0.110m capital contribution to Eaglemont tennis pavilion access work has been received during 2019/20. The club will be invoiced for this amount when construction works commence during 2020/21. This is offset by additional capital contributions (\$0.144m) to support the upgrades of St Marys and John Street, Ivanhoe tennis court surface and lighting.
 - The budgeted 2018/2019 and 2019/20 Emergency Management contribution from Manningham City Council (\$0.080m) has been recognised in the current financial year.

7. Interest income: \$0.427m unfavourable to budget. On 20 March 2020, the Reserve Bank of Australia (RBA) lowered the cash rate to 0.25% to respond to the effect of COVID-19 on businesses, which is the fifth reduction since June 2019. As a result, Council's actual return on investment was lower than budget.

8. Rental income: \$0.309m unfavourable to budget. The main reasons are:
 - Local businesses and community groups are receiving a total of \$0.125m of rental relief from Council's COVID-19 Economic Support Package.
 - \$0.090m of potential rental income for use of land by North East Link Program (NELP) is exempt from payment under the Major Transport Projects Facilitation Act.
 - The properties on Swanston Rd Heidelberg Height have not been available for rent for all of 2019/20 but budgeted \$0.060m.
 - To comply with AASB 16 lease, all lease contracts have been reviewed with \$0.040m of rental income received from the Telecommunication towers was unable to be recognised in 2019/20 financial year.
 - For one of Council's commercial properties, an unbudgeted 3-months of rent-free period is offered to sign new lease agreement – Council Meeting Monday 15 June 2020.

9. Other Income: \$0.771m favourable to budget, which is mainly driven from Workcover claim and insurance reimbursement for various projects. Claim income is not budgeted due to the high level of uncertainty.

**FINANCIAL MANAGEMENT REPORT - PRELIMINARY JUNE 2020
PERFORMANCE cont'd**

10. Employee Costs are \$2.906m favourable to budget as a result of a delay in filling vacant positions across Council (agency is used as a short-term solution and is approximately \$2 million above budget). The business units actual spend is thus below budget with vacancies during the year and the timing of recruiting for those vacancies, partially offset by the additional Agency cost.

The labour force required has also been reduced as some business operations have been classified as non-essential and were closed to the end of June 2020, due to the advice and restrictions introduced by the Australian and Victorian Governments. Banyule closed customer service centres, libraries, leisure centres, sporting club facilities, playgrounds and other community facilities to appropriately respond to the COVID-19 crisis.

- Workcover Levy savings for 2019/20 year are expected to be realised at the end of the financial year (\$0.844m). Workcover levy is determined by historical claim data and industry average performance.
- For the services closed up to the end of this financial year or partly reopened. Council is aiming to redeploy the staff who have been prevented from undertaking their regular duties into other service areas where possible and reopen the community services completely to the public once the COVID-19 restrictions are fully lifted.

11. Utility charges are \$0.600m under budget. The costs of electricity and gas are \$0.288m below budget due to the usage of solar panel, lower unit rate and closure of Council buildings to respond to the COVID-19. Water usage was significantly less than that budgeted, there was an actual reduction in usage across all sites, especially from reserves in which Council had invested to improve the stormwater system.

12. Depreciation and amortisation expenditure \$0.682m higher than YTD budget as a result of the implementation of the new accounting standard, AASB 16 Leases. All leased assets including gym, IT equipment, properties are now required to be recognised as Council's assets and amortised throughout the term of the lease. The lease cost was budgeted in the category of Other Expenditure.

Adjusted Underlying Surplus

13. Non-recurrent Capital grant was \$0.772m above budget due to the additional State government funding to support capital projects. Refer note 3.
14. Capital contributions was \$0.531m below budget mainly due to Public Open Space contributions.

COVID-19 impact on forecast

It is estimated that the net impact (unfavourable) on Banyule for the period to 30 June 2020 is approximately \$2.095m. Income has been directly impacted \$5.046m unfavourable and expenses \$2.951m favourable.

**FINANCIAL MANAGEMENT REPORT - PRELIMINARY JUNE 2020
PERFORMANCE cont'd**

COVID-19 – Economic Support Package

Council will provide strong financial assistance to the community during this current emergency. Council resolved on 6 April 2020 to implement Banyule's Economic Support Package for ratepayers, businesses and the local community to support those in need and complement the measures put in place by the Australian and Victorian governments.

The costs associated with the Economic Support Package for the period to 30 June 2020 are estimated to be \$0.347m

The Council Plan 2017-2021 (Year 4) and Budget 2020/21 has been revised to address new planning and budgetary considerations due to COVID-19, including the financial implications of Banyule's Economic Support Package of \$10.50 million.

Financial Sustainability

The current assessment of the Financial Sustainability of the Organisation is measured against the VAGO indicators.

June 2020	Net Results (5 Year Avg)	Indebtedness (1 Year)	Liquidity (1 Year)	Internal Financing (1 Year)	Capital Replacement (5 Year Avg)	Renewal Gap (5 Year Avg)
Actual						
Preliminary Estimate	10.06%	24.24%	3.59	67.19%	1.62	1.20

Note: The internal financing for 2019/20 measures Banyule's ability to finance capital works using cash generated by operating cash flows. The capital works expenditure to be funded from operating cash flow is 67.19% for 2019/2020 (75% or greater is financially sustainable).

The 'red' internal financing ratio is isolated to the current year and will be managed through continuing to maintain the operational returns and maximising revenue from commercial activities and property sales over the next few years.

The Budget 2020/21 has been re-cast for the significant financial implications arising from the impacts of services decisions made by Council and those imposed by the Australian and Victorian governments.

**Local Authorities Superannuation Fund Defined Benefit Plan (LASF DB) –
Vested Benefit Index (VBI)**

The latest estimated VBI is approx. 105% as at 31 May 2020 and satisfies APRA's Superannuation Prudential Standard 160 (SPS 160).

Under the superannuation prudential standards, no specific action is required when the VBI is above the fund's nominated shortfall threshold of 97% (or 100% during an actuarial investigation). Where the VBI falls below the relevant threshold, a restoration plan is required to restore VBI to 100% within 3 years.

**FINANCIAL MANAGEMENT REPORT - PRELIMINARY JUNE 2020
PERFORMANCE cont'd**

CAPITAL WORKS EXPENDITURE

Capital works current expenditure for the year is \$51.822m. This is \$12.523m lower than the adopted budget of \$64.345m. These results are preliminary pending capitalisation of labour and invoice accruals yet to be processed. Capital works expenditure to be carried forward into the 2020/21 financial year will be processed in the first quarterly report to Council - September 2020 financial management report.

	Annual Actual \$000	Annual Budget \$000	Annual Variance \$000
Infrastructure			
Roads, streets and bridges	6,658	9,368	2,710
Drainage	689	2,100	1,411
Parks and gardens	10,311	11,205	894
Playgrounds	658	755	97
Total infrastructure	18,316	23,428	5,112
Property			
Freehold land	110	1,000	890
Freehold buildings	28,685	31,826	3,141
Total property	28,795	32,826	4,031
Plant and equipment			
Motor vehicles	2,512	5,406	2,894
Plant and equipment	1,647	785	(862)
Furniture and fittings	188	385	197
Total plant and equipment	4,347	6,576	2,229
Other assets			
Intangible assets	333	1,500	1,167
Art collection	31	15	(16)
Total capital works expenditure	51,822	64,345	12,523

**FINANCIAL MANAGEMENT REPORT - PRELIMINARY JUNE 2020
PERFORMANCE cont'd**

Investment Activity

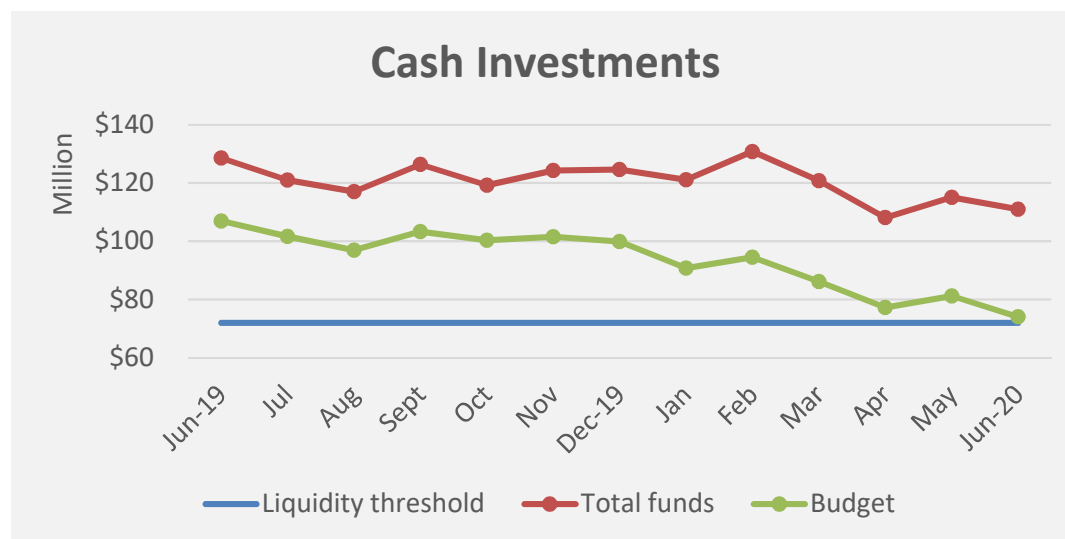
The current short-term term deposit interest rates held by Council are in the range of 1.30% to 1.70%. The current weighted average return, 1.46%, is expected to decrease in the future as a reflection of the RBA cash rate cuts to 0.25% on 20 March 2020.

The linear gap between budget and actual cash balance depicted in the graph below is the result of a higher cash opening balance than budget projections as at 30 June 2019. Most of this variance comprises allocated funds from 2018/19 carried over capital expenditure to 2019/20 after the budget was developed.

The yearly variance is driven by the rescheduling of capital works delivery and the favourable YTD operating results. The variance for the year is expected to be reduced as Council deliver the capital works program including the carry forward projects as scheduled in 2019/20.

On 6 April Council announced Banyule's Economic Support Package of targeted and immediate support to ratepayers, residents and businesses that are most impacted by the COVID-19 crisis. Currently the impact from the Economic Support Package upon the June cash flow has not been significant. The cashflow will be impacted in the 2020/21 year due to deferrals and waivers of rates, fees and other charges to ratepayers, community organisations and businesses.

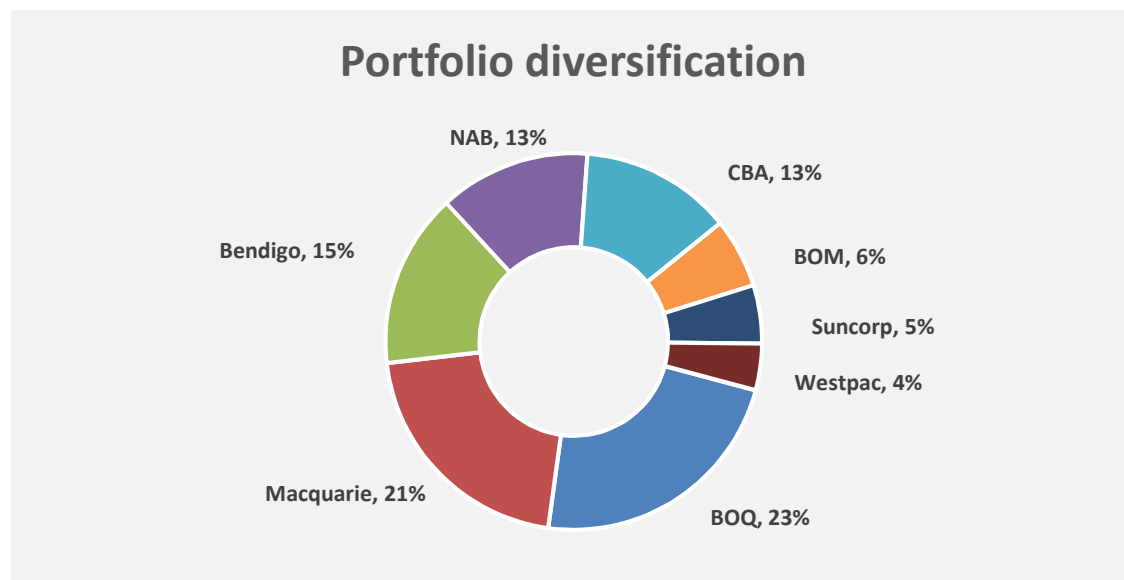
Rate instalment payment dates were in September, November, February & May.



Note: The Restricted/Allocated funds is estimated as per budget assumptions and represents a liquidity guidance through the financial year. The restricted funds include statutory reserves, refundable deposits and trust funds. The allocated funds include discretionary reserves, long serve leave provision, unexpended grants and contributions, and cash held to fund carried forward capital works.

**FINANCIAL MANAGEMENT REPORT - PRELIMINARY JUNE 2020
PERFORMANCE cont'd**

All cash investments are directly invested by Council in Australian financial institutions in accordance with our investment policy, using the Standard & Poors (S&P) short term credit rating. The portfolio diversification of investments is outlined in the chart below:



S&P rating	Banks	Investment portfolio	Maximum % holding in a single Financial Institution	Maximum % holding in a single credit rating level
A 1 +	CBA	13%	50%	
	NAB	13%	50%	
	BOM	6%	50%	
	Westpac	4%	50%	
Total A1+		36%		100%
A 1	Suncorp	5%	50%	
	Macquarie	21%	50%	
Total A1		26%		100%
A 2	BOQ	23%	30%	
	Bendigo	15%	30%	
Total A 2		38%		50%

The table above supports Council investments follows Council's current investment policy.

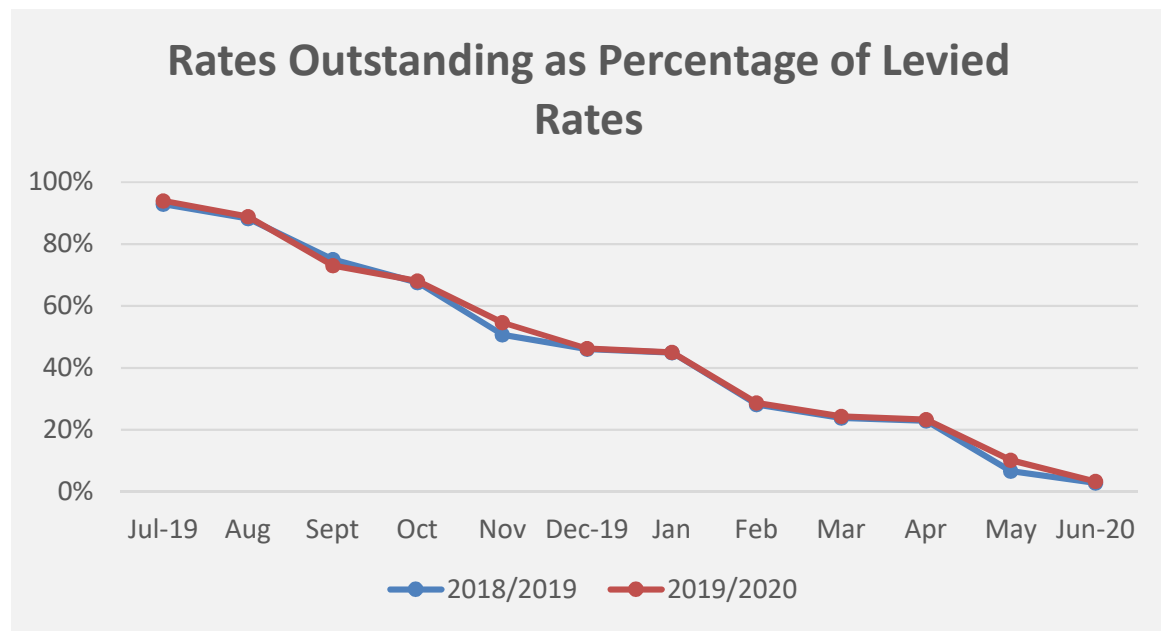
Rates Outstanding

For the year 2019/20 Banyule City Council has levied a total of \$104.74m in rates revenue (includes waste charges from the schedule of fees and charges and excludes the fire services property levy). The outstanding balance for the year as at 30 June 2020 is \$3.535m or 3.37% of the current year levied rate income, and total outstanding balance including arrears is \$5.284m.

Council is continuing to monitor the unfolding impacts of COVID-19 on ratepayers and the requests for the deferral of rates. As at the date of writing this report there

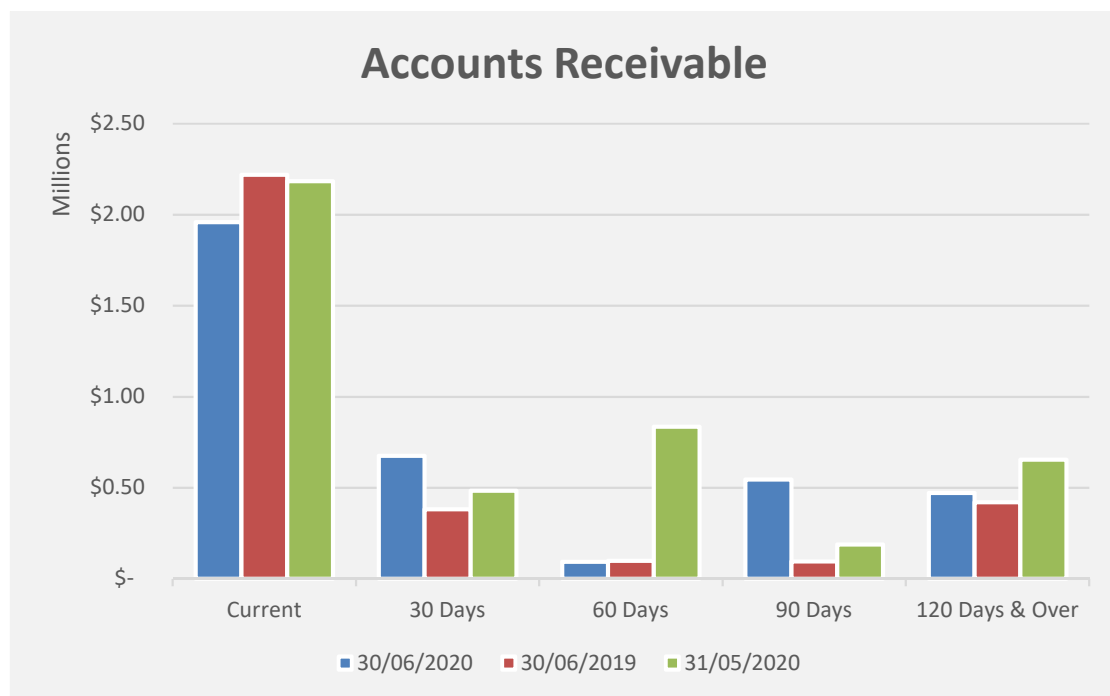
**FINANCIAL MANAGEMENT REPORT - PRELIMINARY JUNE 2020
PERFORMANCE cont'd**

were 529 approved deferral applications processed totalling \$0.604m and \$1.345m of 2019/20 and 2020/21 rate revenue respectively.



Accounts Receivable

The accounts receivable function of Council raises revenue and collects payments for Children's centres, Aged & Disability services, Health Department, Leisure bookings, Banyule BPI and sundry accounts. (This function does not include revenue for the Planning Department, Animal Registrations and Parking Infringements as these are currently decentralised).



As at 30 June 2020, the total outstanding debtors balance is \$3.746m.

**FINANCIAL MANAGEMENT REPORT - PRELIMINARY JUNE 2020
PERFORMANCE cont'd**

LEGAL CONSIDERATION

The Quarterly Financial Management Report - Preliminary June 2020 Result is presented to provide Council with an early assessment of the actual unaudited results for June 2020 against the adopted budget 2019/20.

The Financial Report for the year ended 30 June 2020 is scheduled to be presented to Council on 21 September 2020. This report will be audited and include a note on the performance against budget (income, expenditure and capital works) in accordance with the *Local Government Act 1989* and the *Local Government (Planning and Reporting) Regulations 2014*.

There are no direct legal implications arising from the issues contained in this report.

OFFICER DECLARATION OF CONFLICT OF INTEREST

Section 80C of the *Local Government Act 1989* (Act) requires members of Council staff, and persons engaged under contract to provide advice to Council, to disclose any direct or indirect interest in a matter to which the advice relates.

Council officers involved in the preparation of this report have no conflict of interest in this matter.

CONCLUSION

Banyule City Council has a preliminary (unaudited) June 2020 Operating Surplus for the year of \$9.969m. This preliminary financial result compares favourably to budget by \$3.981m (Adopted Budget: \$5.988m).

Income is unfavourable \$1.741 million and expenditure \$2.240 million favourable.

COVID-19 has significantly impacted the 30 June 2020 preliminary result with a loss of revenue from non-rate income such as fees and charges, statutory fees, rental, interest and contributions. The business has successfully reduced expenditure on discretionary spending and postponed other projects whilst it assesses the current situation and future financial impact.

The Audited Financial Report for the year ended 30 June 2020 will be presented to Council on 21 September 2020.

ATTACHMENTS

Nil

7.9 REPORT ON PROPERTY TRANSACTIONS FOR THE 6 MONTHS ENDING 30 JUNE 2020

Author: Amanda Allen - Property Coordinator, City Development

Ward: Hawdon

Previous Items

Council on 3 February 2020 (Item 7.2 - Report on Property Transactions for the Six Months Ending 31 December 2019)

EXECUTIVE SUMMARY

At its Ordinary Meeting on 11 July 2016, Council requested six monthly reports identifying all land acquired, disposed, transferred or exchanged by Council.

This report provides an update to the Council and the community where settlement of land and property transactions occurred in the six-month period from 1 January 2020 to 30 June 2020.

During this term one Council property was sold, which resulted from a requested road discontinuance process.

This information is presented to Council in February and August yearly.

RECOMMENDATION

That

1. Council notes this report which identifies the land and property acquired, transferred, exchanged or sold by Council in the preceding six months ending on 30 June 2020.

Land and property sold

Address	Zone	Description	Area m²	Price Incl. GST
Part road adjacent to 4/9 Paton Street, Montmorency	NRZ3	Road	112	\$42,000

2. A further report be presented to Council in February 2021 identifying the land and property acquired, disposed, transferred or exchanged by Council in the preceding six months ending 31 December 2020.

COUNCIL PLAN

This report is in line with Banyule's Council Plan key direction to "Provide responsible financial management and business planning".

REPORT ON PROPERTY TRANSACTIONS FOR THE 6 MONTHS ENDING 30 JUNE 2020 cont'd

BACKGROUND

Under section of the *Local Government Act 1989*, Council is required to give public notice of its intention to sell or exchange land. In doing so, it is also compelled to invite submissions from the public before exercising its power and making a decision.

Despite a track record of complete legislative compliance and transparent decision making, the public does not always keep up to date with Council land and property transactions. In response to this, Council at its meeting on 11 July 2016, resolved to receive a report identifying all land acquired, disposed, transferred or exchanged by Council every six months. The six-monthly reports highlighting such transactions, is aimed at offering improved openness of such property matters for interested persons. Eight reports have been tabled previously.

LEGAL CONSIDERATION

There are no direct legal implications arising from the recommendation contained in this report. However, in undertaking land property related transactions, Council is required to comply with provisions in Sections 189 and 223 of the *Local Government Act 1989* (Act), relating to the giving of public notice, inviting and any considering submissions received.

HUMAN RIGHTS CHARTER

In developing this report to Council, the subject matter has been considered in accordance with the requirements of the Victorian Charter of Human Rights and Responsibilities.

It is considered that the subject matter does not raise any human rights issues.

Locality Plan

A locality plan for the property transacted can be found in **Attachment 1**.

CURRENT SITUATION

One land and property transaction was settled in the period 1 January 2020 to 30 June 2020. This sale resulted from a requested road discontinuance.

The following table details the address, zoning, status and area of the property and the date the matter was considered by Council.

Land and property sold

Address	Zone	Description	Area m ²	Considered by Council
Part road adjacent to 4/9 Paton Street, Montmorency	NRZ3	Road	112	7 October 2019 (CO2019/202)

The part road adjacent to 4/9 Paton Street, Montmorency was initiated via a request from that owner to discontinue the dead-end right of way (road) and sell the resultant land to that owner for the purpose of increasing their backyard space.

REPORT ON PROPERTY TRANSACTIONS FOR THE 6 MONTHS ENDING 30 JUNE 2020 cont'd

Further property transactions which are currently in progress will feature in the next relevant report.

OFFICER DECLARATION OF CONFLICT OF INTEREST

Section 80C of the *Local Government Act 1989* (Act) requires members of Council staff, and persons engaged under contract to provide advice to Council, to disclose any direct or indirect interest in a matter to which the advice relates.

Council officers involved in the preparation of this report have no conflict of interest in this matter.

CONCLUSION

During the preceding six months ending 30 June 2020, there was one property that was disposed of providing a net financial return to Council of \$42,000 (incl. GST). Further transactions remain in progress, which will be reported in the next six-monthly report.

It is intended that this six-monthly practice of reporting to Council will continue to complement Council's legislative practices and deliver higher levels of transparency.

ATTACHMENTS

No.	Title	Page
1	Locality Plan	

7.10 PROPOSED LEASES - PRESCHOOLS

Author: Andrea Turville - Property Officer, City Development

Previous Items

Councillor Briefing on 13 February 2020 (Item 2020/30 - Renewal of preschool leases (various Wards))

Councillor Briefing on 27 February 2020 (Item 2020/42 - Pre-School Lease Renewals)

EXECUTIVE SUMMARY

Council owns and leases the land and improvements at 23 preschools within the municipality. The leases, which did not provide an option for a further term, expired on 30 April 2020. It is now proposed that Council enter into new leases with 22 of the entities, noting that a new entity is presently being negotiated for management of the Fairy Hills Kindergarten service.

Under section 190 of the *Local Government Act 1989* ('the Act') Council is required to give notice of its intention to lease where the lease is to be for 1 year or more and where the current market rental value of the land is \$50,000 or more a year. The statutory procedures under sections 190 and 223 of the Act by giving notice of Council's intention to enter a lease with the preschools has been completed.

Public notice was given in the Herald Sun newspaper on Saturday 20 June 2020. At the close of the submissions period on 20 July 2020 no submissions had been received.

This report seeks Council's decision on the granting of leases for a term of five (5) years at the commencing rent of \$472.34 per annum plus GST and outgoings for one room preschools and \$680.42 per annum plus GST and outgoings for two room preschools.

RECOMMENDATION

That:

1. Having complied with sections 190 and 223 of the *Local Government Act 1989*:
 - a. by giving public notice in the "*Herald Sun*" on Saturday 20 June 2020;
 - b. by providing an opportunity to those who have requested to be heard at Council's Ordinary Meeting of 17 August 2020 to be heard at that meeting; and
 - c. by recording that no submissions were received;

Council grants to each of the 22 preschools a lease of the respective Council-owned land and improvements, for a term of five (5) years at the commencing rent of \$472.34 per annum plus GST and outgoings for one room preschools and \$680.42 per annum plus GST and outgoings for two room preschools.

PROPOSED LEASES - PRESCHOOLS cont'd

2. Council authorises the Director City Development to execute the Lease deeds on behalf of the Council.
3. Council commence a separate Notice of intention to lease process under sections 190 and 223 of the *Local Government Act 1989*, when a new entity for Fairy Hills Kindergarten is secured.

COUNCIL PLAN

This report is in line with Banyule's Council Plan key direction to "Preserve and improve Banyule as a great place to live, work and play".

BACKGROUND

Council owns the land and improvements at the 22 preschool sites listed below:

Entity	Council-owned Land	Preschool sites
Try Australia Children's Services	179 Nepean St, Greensborough 10 The Rameo, Bundoora	Grace Park Preschool Warrawee Park Preschool
Early Childhood Management Services Inc.	15 Delta Road, Greensborough 19 Interlaken Pde, Rosanna 5 Birdwood Avenue, Macleod 22 Wallowa Road, Eltham North 311 Yallambie Road, Yallambie 17-19 Ester St, Greensborough 37 St Helena Rd, Greensborough	Delta Road Preschool Interlaken Preschool * Macleod Kindergarten * St Helena Preschool Yallambie Park Preschool * Greensborough Preschool Greenhills Preschool
Young Mens Christian Association of Ballarat Inc	34 Glenauburn Road, Lower Plenty 1 King Street, Ivanhoe East	Lower Plenty Kindergarten East Ivanhoe Preschool
Apollo Parkways Preschool Inc	31 Plenty River Drive, Greensborough	Apollo Parkways Preschool
Briar Hill Preschool Association Inc.	118 Karingal Drive, Greensborough	Briar Hill Preschool
The Bundoora Preschool Association Inc.	20 Noorong Avenue, Bundoora	Bundoora Preschool
Panorama Heights Preschool Inc.	3 Mitchell Avenue, Montmorency	Panorama Heights Preschool *
Sherbourne Preschool Association Inc.	156 Sherbourne Road, Montmorency	Sherbourne Preschool.
Wahroongah Preschool Inc.	66 Wahroonga Crescent, Greensborough	Wahroongah Preschool
Watsonia North Preschool Inc.	68 Macorna Street, Watsonia North	Watsonia North Preschool
Viewbank Preschool Association Inc.	84 Duff Parade, Viewbank	Viewbank Preschool
Watsonia Preschool Association Inc.	19 Crellin Crescent, Watsonia	Watsonia Preschool
Winston Hills Preschool Association Inc.	24 Rohan Street, Viewbank	Winston Hills Preschool *
Yandell Kindergarten Inc.	37 St Helena Road, Greensborough	Yandell Kindergarten

* Denotes two room kindergarten

The existing leases, which did not provide for an option of a further term, expired on 30 April 2020.

PROPOSED LEASES - PRESCHOOLS cont'd

The permitted use under the existing leases allows for the operation of an education and care service, managed and administered by a non-profit community-based organisation, primarily for the benefit of the residents and ratepayers of the City of Banyule, including those who are socially and/or financially disadvantaged and people with special needs.

The entities are non-profit organisations offering an education and care service from the respective preschools; many having offered the service to the community for many years.

Whilst the notice of intention to lease included Fairy Hills Kindergarten, under management of Fairy Hills Kindergarten Association, it is understood that a new entity is currently being negotiated for management of this service. As such this service will be dealt with separately.

LEGAL CONSIDERATION

The proposal triggered the need to give public notice under sections 190 of the *Local Government Act 1989 (Act)*.

Public notice of the proposal was given in the "*Herald Sun*" on Saturday 20 June 2020, with the public invited to make submissions on the proposal in accordance with section 223 of the Act. The submission period closed at 5pm on 20 July 2020, with no submissions being received.

A separate notice of intention to lease Fairy Hills Kindergarten will be given at the appropriate time.

HUMAN RIGHTS CHARTER

In developing this report to Council, the subject matter has been considered in accordance with the requirements of the Victorian Charter of Human Rights and Responsibilities.

It is considered that the subject matter does not raise any human rights issues.

CURRENT SITUATION

The giving of public notice does not obligate Council to approve the proposal to grant the leases. It is merely an invitation to the public to make a submission in respect of the proposal.

Given that no submissions on the proposal were received it is now appropriate for Council to decide whether or not to grant leases to the abovementioned entities.

POLICY IMPLICATIONS

Council has acted in accordance with its *Lease and Licence Framework 2018* in dealing with this lease, together with its legislative obligations under the Act.

DISCUSSION

The proposed annual lease rental is \$472.34 per annum plus GST and outgoings for one room preschools and \$680.42 per annum plus GST and outgoings for two room

PROPOSED LEASES - PRESCHOOLS cont'd

preschools. Council adopted its lease and licence fee structure in 2018 as part of the Lease and Licence Framework which is based on the following key principles:

- **Community benefit**
Providing efficient use of Council facilities that support a range of community groups to provide benefit for the Banyule community.
- **Return to Council**
Maximising return on investment for commercial and residential properties and providing a fair and reasonable rate for community and not for profit entities.
- **Good governance and accountability**
Delivering an equitable, transparent and well documented process.
- **Sustainability**
Promoting sustainable practices and encouraging lessees to take an active role in environmental initiatives.

OFFICER DECLARATION OF CONFLICT OF INTEREST

The *Local Government Act 2020* (Act) requires members of Council staff, and persons engaged under contract to provide advice to Council, to disclose any direct or indirect interest in a matter to which the advice relates.

Council officers involved in the preparation of this report have no conflict of interest in this matter.

CONCLUSION

The proposal to grant to the entities a lease of the respective Council-owned land and improvements, for a term of five (5) years at the commencing rent of is \$472.34 per annum plus GST and outgoings for one room preschools and \$680.42 per annum plus GST and outgoings for two room preschools should be supported.

ATTACHMENTS

Nil

7.11 BELLFIELD PROJECT - EOI EVALUATION FOR DELIVERY OF BELLFIELD COMMUNITY HUB AND COMMUNITY GARDEN

Author: Jacqueline Stephenson - Senior Project Manager, Assets & City Services

Ward: Olympia

EXECUTIVE SUMMARY

This report is to inform Council of the outcome of the Expression of Interest (Eoi) for the delivery of Bellfield Community Hub and Community Garden.

Banyule Council is undertaking a redevelopment project to deliver a new Community Hub, relocated Community Garden and an integrated housing redevelopment, which includes both market and social housing. The location encompasses part of the former Banksia La Trobe Secondary College site, the existing Bellfield Community centre and community garden, and other properties fronting Oriel Road. The redevelopment of the site is known as the Bellfield project.

An Eoi was released to market on 30 May 2020 for suitably qualified and capable construction contractors for the delivery of the Bellfield Community Hub and Community Garden. Submissions were received on 24 June 2020 and assessed by the Evaluation Panel against selection criteria agreed prior to the release of the Eoi and as listed in the Eoi documents. A shortlist of respondents has been agreed by the Panel. A probity advisor has had overview of the entire Eoi process and will remain as probity advisor throughout the Request for Tender stage.

This report provides the results of the Eoi phase, including the shortlisted respondents agreed by the Panel (as a confidential appendix), details the next stage of the process to proceed to Tender, and outlines the timelines for the Bellfield Community Hub and Community Garden delivery.

RECOMMENDATION

That Council:

1. Supports the progression to Request for Tender for the Bellfield Community Hub and Community Garden by inviting the shortlisted respondents selected by the Evaluation Panel to participate in the Request for Tender process.
2. Notes the timeline to be followed for the selection of the preferred Construction Contractor, with the construction of Bellfield Community Hub and Community Garden to begin in early 2021.

BELLFIELD PROJECT - EOI EVALUATION FOR DELIVERY OF BELLFIELD COMMUNITY HUB AND COMMUNITY GARDEN cont'd

COUNCIL PLAN

This report is in line with Banyule's Council Plan key direction to *"plan and manage the systems and assets that support Council's service delivery"*.

BACKGROUND

The Bellfield Project consist of three distinct parcels of work which are all well underway. These include:

- Sale of land to property developer(s) for residential development as market housing;
- Delivery of social housing in partnership with a registered social/community housing provider; and
- Design and development of a new multi-purpose Community Hub and relocated Community Garden.

The Bellfield Community Hub will be an environmentally sustainable building bringing together many of the services Banyule City Council offers for babies, children, families and older adults, in one large integrated hub. The new hub will provide two kindergarten rooms with a large outdoor play area, two maternal child health rooms, one enhanced maternal child health suite, three large community rooms, two allied health consulting suites, three social support rooms for older adults, a social enterprise cafe, a large community garden, landscaping, car parking and a municipal road between Perkins Avenue and Banksia Street.

An Expression of Interest (Eoi) was advertised in the local government tender section of The Age newspaper and posted on Council's tender portal on Saturday 30 May 2020. It closed at 3pm on Wednesday 24 June 2020.

Thirty nine prospective companies downloaded the tender document from Council's website and twenty four contractors submitted their expressions of interest by the closing date.

The submissions were received and assessed by the Evaluation Panel against Evaluation Criteria determined prior to the release of the Eoi and as listed in the Eoi documents. The assessment process was overseen by a probity advisor and governed by the following key principles:

- Fairness and impartiality;
- Open and competitive process;
- Process transparency; security and confidentiality; and
- Identification and resolution of any conflicts of interest.

LEGAL CONSIDERATION

There are no direct legal implications arising from the recommendation contained in this report.

A probity advisor has been appointed to oversee the tender process for the Bellfield Community Hub and Community Garden. The advisor's role is to ensure both transparency and integrity are maintained and that probity principles are adhered to throughout all stages of the project. The advisor provided a probity plan and probity training for the Evaluation Panel prior to release of the Eoi. They reviewed and

BELLFIELD PROJECT - EOI EVALUATION FOR DELIVERY OF BELLFIELD COMMUNITY HUB AND COMMUNITY GARDEN cont'd

endorsed the evaluation plan and were present during the assessment and evaluation meetings. They have advised that all appropriate probity principles have been adhered to thus far. The probity advisor will now oversee the Request for Tender (RFT) stages of the procurement process.

BANYULE PROCUREMENT POLICY

Council's Procurement Policy is made under Section 186A of the *Local Government Act 1989*.

The purpose of this Policy is to:

- provide policy and guidance to the Council to allow consistency and control over Procurement activities;
- demonstrate accountability to ratepayers;
- provide guidance on ethical behaviour in public sector purchasing;
- demonstrate the application of elements of best practice in purchasing; and
- increase the probability of obtaining the right outcome when purchasing goods and services.

The Act and the Procurement Policy of Council are the primary reference points for how all procurement should be performed.

The process for inviting quotations and evaluation was undertaken in accordance with the Policy.

HUMAN RIGHTS CHARTER

In developing this report to Council, the subject matter has been considered in accordance with the requirements of the Victorian Charter of Human Rights and Responsibilities.

It is considered that the subject matter does not raise any human rights issues.

EXPRESSION OF INTEREST EVALUATION

The Evaluation Panel evaluated each submission using a weighted matrix based on experience and expertise, skills and availability, commercial viability and other criteria listed below in this report.

Prior to undertaking the assessment, all members of the Evaluation Panel completed and signed the Conflict of Interest and confidentiality declaration. No conflict was declared.

An evaluation matrix was prepared detailing the scores and weightings for each criteria for each of the twenty four submissions. The Evaluation Panel shortlisted five contractors to proceed to the RFT stage

The list of contractors who submitted an expression of interest and the shortlisted contractors is provided in a confidential appendix to this report.

BELLFIELD PROJECT - EOI EVALUATION FOR DELIVERY OF BELLFIELD COMMUNITY HUB AND COMMUNITY GARDEN cont'd

Evaluation Criteria

The following criteria was agreed to by the Evaluation Panel prior to the release of the EOI and was provided in the EOI documents.

Criteria
Experience and Expertise in Delivery of Community Buildings: Past experience of the respondent in executing similar size and type projects
ESD Building: Demonstrated Experience in Passive House / Green Building Australia / Equivalent Environmentally Sustainable Building Experience
Skills, Qualifications, Experience and Availability of nominated staff Project team: Skills, experience, expertise and availability of the respondent including example of past projects specific team members
Project Management Systems: Demonstration of strong Project Management systems in place within the company including use of contract management software
Documented and/or certified Quality System in accordance with the AS/NZS ISO 9001:2000, an Environmental Management System in accordance with AS/NZS ISO 14001:2004, and Occupational Health & Safety Management System in accordance with AS/NZS ISO 4801:2001. (Mandatory)
Demonstrated financial capacity of the respondent to execute the project, current projects, its financial commitments and location (independent financial checks will be performed on shortlisted contractors only)

As part of their EOI submissions, respondents were also required to complete the Social Procurement questionnaire, providing information pertaining to their organisations response and commitment to local jobs, sustainable procurement, sustainable building, economic sustainability and social sustainability. As part of the request for tender process, Social Procurement will be a weighted criteria.

TIMELINES

Tender documentation is nearing completion with advertising of the RFT on track to occur in early September. Following a detailed evaluation of the submissions, the preferred contractor will be presented to Council via a council report in late 2020 to allow for construction to begin onsite in early 2021.

FUNDING IMPLICATIONS

Council has allocated funding in the 2020/21 and will allocate funding in the 2021/22 budget for the Bellfield Community Hub and Community Garden. No commitment of payment is made during the EOI phase.

OFFICER DECLARATION OF CONFLICT OF INTEREST

The *Local Government Act 2020* (Act) requires members of Council staff, and persons engaged under contract to provide advice to Council, to disclose any direct or indirect interest in a matter to which the advice relates.

BELLFIELD PROJECT - EOI EVALUATION FOR DELIVERY OF BELLFIELD COMMUNITY HUB AND COMMUNITY GARDEN cont'd

Council officers involved in the preparation of this report have no conflict of interest in this matter.

CONCLUSION

An Expression of Interest (Eoi) for a suitable qualified Construction Contractor to deliver the Bellfield Community Hub and Community Garden was issued on 30 May 2020 and closed on 24 June 2020.

Twenty four submissions were received and, following assessment by the Evaluation Panel, a shortlist of five preferred contractors was generated. It is now considered that Council should continue with the Construction Tender for the Bellfield Community Hub and Community Garden, with the shortlisted respondents being invited to submit a Request for Tender for construction of the hub, with the view of beginning construction in January 2021.

ATTACHMENTS

No.	Title	Page
1	Expression of Interest outcome - CONFIDENTIAL	

7.12 BELLFIELD PROJECT: EOI EVALUATION FOR DELIVERY OF MARKET HOUSING (BANKSIA VILLAGE)

Author: Lucy Rasdell - Strategic Property Manager, City Development

Ward: Olympia

Previous Items

Council on 18 May 2020 (Item 5.2 - Bellfield Project Update: Delivery of Social Housing)

Council on 27 April 2020 (Item 5.4 - Bellfield Planning Scheme Amendment C153 - Panel Report and Adoption of Amendment)

Council on 27 April 2020 (Item 7.1 - Bellfield - Decision following Notice of Intention to Sell Land for a Residential Development and Notice of Intention to Lease Land for Social Housing)

EXECUTIVE SUMMARY

Banyule Council is undertaking a redevelopment project to deliver a new Community Hub, relocated Community Garden and an integrated housing redevelopment, which includes both market and social housing. The location encompasses part of the former Banksia La Trobe Secondary College site, the existing Bellfield Community centre and community garden, and other properties fronting Oriel Road. The redevelopment of the site is known as the Bellfield project.

At the 16 March 2020 Council Meeting it was decided to commence the process for the sale and development of residential land for market housing through an Expression of Interest (Eoi) followed by a Request for proposal (RfP) phase. The sale of the land is contingent on Planning Scheme Amendment C153 which is currently with the Minister for Planning for his consideration and approval.

With the support of a property agent, Colliers International, the Eoi was issued on 4 May 2020 and widely marketed via newspaper, digital and social media. As part of the marketing campaign the market housing site was named 'Banksia Village'.

Submissions were received on 9 June 2020 and assessed by the Evaluation Panel against selection criteria agreed by Council at the meeting on 16 March 2020. A shortlist of respondents has been agreed by the Panel. A probity advisor has had overview of the process and evaluation assessment.

This report provides the results of the Eoi phase, including the shortlisted respondents agreed by the Panel (as a confidential attachment), and details the next stage of the process to select a developer for the land through an RfP process.

The Bellfield project continues to be a high priority for Council. Despite COVID 19, the demand for market housing in optimal locations, such as Bellfield, remains. The building construction industry plays a critical role in economic recovery. A project such as Banksia Village will provide crucial employment to hundreds of people and provide economic stimulus to the local Bellfield/Heidelberg West community.

BELLFIELD PROJECT: EOI EVALUATION FOR DELIVERY OF MARKET HOUSING (BANKSIA VILLAGE) cont'd

RECOMMENDATION

That Council:

1. Notes that while Ministerial approval for Planning Scheme Amendment PSA C153 is pending, the process for the sale of the Bellfield land ('Banksia Village') for market housing will continue on the basis that a favourable outcome is anticipated.
2. Notes the outcome of the Expression of Interest (Eoi) process for the sale of the Banksia Village land at Bellfield for residential development as market housing and the shortlist of respondents which have been selected by the Evaluation Panel.
3. Supports the progression of sale of the Banksia Village land to the Request for Proposal (RfP) phase by:
 - a. Offering the land for sale in its entirety to the shortlisted preferred respondents;
 - b. Including a conditional Contract of Sale and a draft Section 173 Agreement, which outlines key deliverables for the development, as part of the RfP documentation; and
 - c. Inviting the shortlisted respondents selected by the Evaluation Panel to participate in the RfP process.
4. Notes the timeline to be followed for the selection of the preferred property developer, with the Contract of Sale being awarded at a Council meeting in early 2021.
5. Agrees to the demolition of the building at 98/98A Oriol Road, Bellfield prior to the end of 2020.

COUNCIL PLAN

This report is in line with Banyule's Council Plan key direction to "Preserve and improve Banyule as a great place to live, work and play".

BACKGROUND

The Bellfield Project consist of three distinct parcels of work which are all well underway. These include:

- Sale of land to property developer(s) for residential development as market housing;
- Delivery of social housing in partnership with a registered social/community housing provider; and
- Design and development of a new multi-purpose Community Hub and relocated Community Garden.

Progress of the project is shown in Attachment 1.

BELLFIELD PROJECT: EOI EVALUATION FOR DELIVERY OF MARKET HOUSING (BANKSIA VILLAGE) cont'd

The market housing redevelopment project at Bellfield is located on land bordered by Oriel Road, Banksia Street, Perkins Avenue and the Waratah School. This land includes part of the former Banksia La Trobe Secondary College as well as Council owned land located at 96, 98, 98A and 100 Oriel Rd. Development of the market housing is guided by the Council approved Urban Design Guidelines (UDG) 2020.

As previously reported, a Planning Scheme Amendment (PSA C153) was prepared to ready the land for sale. C153 was adopted by Council on 27 April 2020 and submitted to the Minister for Planning for approval on 4 May 2020. Despite not yet being approved, the process to sell the land has continued anticipating a favourable outcome. The Amendment process is therefore being run concurrently with the sale of the land.

The Expression of Interest (Eoi) issued in May 2020 for 'Banksia Village' is the first of a two-phase process to select a developer to deliver market housing on the land. Respondents were asked to lodge a submission detailing an indicative price for the land as well as details on their development proposal, approach, capacity, experience and demonstrated leadership in residential developments of the scale and density sought in the UDG 2020. The aim of the Eoi is to shortlist developers who score well against the agreed Evaluation Criteria.

The four parcels shown in the locality plan below were offered for sale. The Eoi was structured such that proponents had the option to make offers to purchase and develop a single land parcel or multiple land parcels, depending on their business parameters and development capacity. They could also bid on all four parcels together. There is no requirement to structure the RfP in the same way. The decision on whether to offer all or individual parcels as part of the RfP is at Council's discretion.

The submissions were received and assessed by the Evaluation Panel against Evaluation Criteria previously agreed by Council on 16 March 2020. The assessment process was overseen by a probity advisor and governed by the following key principles:

- Fairness and impartiality;
- Open and competitive process;
- Process transparency; security and confidentiality; and
- Identification and resolution of any conflicts of interest.

LEGAL CONSIDERATION

There are no direct legal implications arising from the recommendation contained in this report.

A probity advisor has been appointed to oversee the Eoi/RfP processes for the Bellfield project. The advisor's role is to ensure both transparency and integrity are maintained and that probity principles are adhered to throughout all stages of the projects. The advisor was present for a period of time during the assessment stage of the Eoi submissions by the Evaluation Panel and has advised that all appropriate probity principles have been adhered to thus far.

BELLFIELD PROJECT: EOI EVALUATION FOR DELIVERY OF MARKET HOUSING (BANKSIA VILLAGE) cont'd

HUMAN RIGHTS CHARTER

In developing this report to Council, the subject matter has been considered in accordance with the requirements of the Victorian Charter of Human Rights and Responsibilities.

It is considered that the subject matter does not raise any human rights issues.

Locality Plan



The land for sale for the development of market housing consists of four contiguous parcels, giving a total area of land of approximately 22,000m² or 2.2 hectares (ha):

- 232 Banksia St – 12,481m²
- 96 Oriel Rd – 4,453m²
- 98/98A Oriel Rd – 3,149m²
- 100 Oriel Rd – 2,026m².

The site boundaries shown are approximate only as is the location of the North-South Road (eastern boundary of the site) which will be constructed by Council during the development of the Community Hub in 2021.

CURRENT SITUATION

Planning Scheme Amendment

Planning Scheme Amendment C153 sought a number of outcomes including:

- Rezoning land at 96, 98, 98A and 100 Oriel Rd from Public Use Zone Schedule 6 (PUZ6) and Schedule 1 to General Residential Zone (GRZ1) to Schedule 2 to the Residential Growth Zone (RGZ2) to enable high density development;

BELLFIELD PROJECT: EOI EVALUATION FOR DELIVERY OF MARKET HOUSING (BANKSIA VILLAGE) cont'd

- Application of a Development Plan Overlay (DP08) across 96, 98, 98A and 100 Oriel Rd and 232 Banksia St to correspond with the objectives of the Bellfield UDG;
- Removal of a covenant on title associated with 98 Oriel Rd which states that only a building '*designed for or in connection with a sheltered workshop or workshops for handicapped persons*' is permitted; and
- Making associated changes to the Banyule Planning Scheme, including local provisions maps and minor working changes.

Following adoption by Council, the Amendment was lodged with DEWLP on 4 May 2020 for approval by the Minister for Planning. The latest update from DEWLP indicates that the Amendment is still awaiting approval by the Minister, however the process for sale of the Bellfield land can continue on the basis that a favourable outcome is anticipated. Any changes to the Amendment as part of the Minister's approval will be accommodated as part of the on-going sale process.

It should be noted that 232 Banksia Street, identified as the neighbourhood precinct in the UDG 2020, supporting townhouse development, could be disposed of immediately if agreed as the land is already zoned Residential Growth Zone.

Valuation

A valuation was completed in May 2020 to provide a point of reference for the Evaluation Panel. This has been appended as a confidential attachment (**Attachment 2**). The valuation was not based on a potential development yield for the land given the absence of a development plan. An additional valuation will be sought prior to awarding any Contract of Sale.

Expression of Interest (Eoi)

The submissions received for Banksia Village were assessed by the Evaluation Panel against the following criteria:

- Financial return (purchase price, terms and conditions)
- Experience and market leadership (benchmark projects)
- Approach and capacity (working with Council, financial/operational capacity)
- Development proposal (concept plan, adherence to UDG)
- Environmental, economic and social sustainability (positive economic, community and environmental excellence outcomes)

Further details on the submissions and shortlisted respondents is provided as a confidential attachment (**Attachment 3**).

In terms of the next steps, the shortlisted respondents will be invited to submit a final proposal (via an RfP process) in response to a Contract of Sale and Section 173 Agreement.

BELLFIELD PROJECT: EOI EVALUATION FOR DELIVERY OF MARKET HOUSING (BANKSIA VILLAGE) cont'd

DISCUSSION

Confidential **Attachment 3** provides a detailed discussion of the evaluation of the Eoi submissions by the Evaluation Panel and includes a framework of the proposed RfP to be issued to the shortlisted respondents and contractual documents including the:

- Contract of Sale, which will be appended to the RfP
- Draft Section 173 Agreement, also to be appended to the RfP

Demolition of on-site buildings

The Eoi indicated that the demolition of current on-site buildings (i.e former Hi City/Bedford workshop, the Bellfield Community Centre and the community garden sheds and infrastructure) would be carried out by Council in a timely way to accommodate development. Respondents were asked to confirm whether they wanted any of the buildings retained. None of the respondents indicated they wished to keep any of the infrastructure as site or sales offices during construction works.

While the Bellfield Community Centre and the community garden will be relocated to the newly constructed Community Hub following completion of the building in early 2022, the former Hi City/Bedford workshop (located at 98/98A Oriel Rd) should be demolished immediately. It is considered that the process for demolition of this building prior to the end of 2020 should commence immediately.

Current users of the Bellfield Community Centre and the community garden at 96 Oriel Rd will continue to use these premises until relocation to the new Community Hub is possible. An agreement to continue to use the buildings can be negotiated with the preferred bidder as part of the Contract of Sale.

TIMELINES

Advertising of the RfP is expected to occur in early September, with an expected eight week turnaround. The submissions will be evaluated by the Evaluation Panel over December 2020 and January 2021 and a preferred developer selected. Council can then consider execution of a Contract of Sale at its first meeting in February 2021.

Commencement of the construction of the market housing will not be known until assessment of the RfPs have been completed and a preferred developer appointed. Further, a Development Plan and Planning Permit cannot be considered until Amendment C153 has been approved by the Minister for Planning, except for the 'Neighbourhood Precinct' which is already within a Residential Growth Zone.

OFFICER DECLARATION OF CONFLICT OF INTEREST

The *Local Government Act 2020* (Act) requires members of Council staff, and persons engaged under contract to provide advice to Council, to disclose any direct or indirect interest in a matter to which the advice relates.

Council officers involved in the preparation of this report have no conflict of interest in this matter.

BELLFIELD PROJECT: EOI EVALUATION FOR DELIVERY OF MARKET HOUSING (BANKSIA VILLAGE) cont'd

CONCLUSION

Planning Scheme Amendment (C153) is currently sitting with the Minister for Planning for his consideration and approval. It is expected that Ministerial approval will be received shortly hence the process to sell the land is continuing assuming this favourable outcome.

An Expression of Interest (Eoi) to sell Council owned land at Bellfield was issued on 4 May 2020 with Council enlisting the services of a property agent to market the land to a wide range of property developers.

A number of submissions were received and, following assessment by the Evaluation Panel, a shortlist of preferred developers was generated. It is now considered that Council should continue with sale of the land, with the shortlisted respondents being invited to submit a Request for Proposal (RfP) for purchase of the site, with the view of awarding the Contract of Sale in February 2021.

There are a number of Council-owned buildings on the sale land. It is considered that the former Hi City/Bedford site, which is currently vacant, should be demolished prior to the end of 2020. The other buildings housing the Bellfield community centre and community garden will remain operational until tenants can be relocated to the new Community Hub in early 2022. Continued occupation of these premises can be negotiated as part of the Contract of Sale.

ATTACHMENTS

No.	Title	Page
1	Bellfield Project Tracking Map	
2	Bellfield Valuation Report - CONFIDENTIAL	
3	Eoi shortlist results - CONFIDENTIAL	

7.13 CONTRACT 1036-2020 – SUPPLY AND DELIVERY OF ONE 6X4 HIGH PRESSURE AND VACUUM DRAIN CLEANING TRUCK

Author: David Walczak - Fleet Co-ordinator, Assets & City Services

EXECUTIVE SUMMARY

This report is to consider the awarding of Contract No 1036-2020 for "Supply and Delivery of One 6x4 High Pressure and Vacuum Drain Cleaning Truck".

Council advertised the tender for Contract No 1036-2020 for "Supply and Delivery of One 6x4 High Pressure and Vacuum Drain Cleaning Truck on 2 May 2020. The tender closed on 27 May 2020 with 6 submissions and 7 separate options being received for consideration.

The Tender Evaluation Panel has recommended awarding the contract to Bell Environmental for the supply and delivery of (1) Isuzu FXY240/350 – Bell Combi 64i - Euro 5, 6x4 High Pressure and Vacuum Drain Cleaning Truck with Cassette Suction Boom for the lump sum price of \$664,000 excluding GST, registration costs, stamp duty and spare parts, all in accordance with the tender and conditions as determined by Council.

RECOMMENDATION

That:

1. Contract No. '1036-2020' for 'Supply and Delivery of One 6x4 High Pressure and Vacuum Drain Cleaning Truck' be awarded to Bell Environmental for \$664,000 excluding GST, registration costs, stamp duty and spare parts.
2. The Director of Assets and City Services be authorised to sign the contract and any other associated documents.

COUNCIL PLAN

This report is in line with Banyule's Council Plan key direction to *"plan and manage the systems and assets that support Council's service delivery"*.

BACKGROUND

Council cleans stormwater drains across the city using high pressure jetting as well as suction cleaning. The high pressure and vacuum drain truck used by Council has now come to the end of its useful life and needs to be replaced.

Council advertised the tender for Contract No 1036-2020 for "Supply and Delivery of One 6x4 High Pressure and Vacuum Drain Cleaning Truck on 2 May 2020. Tenders

CONTRACT 1036-2020 – SUPPLY AND DELIVERY OF ONE 6X4 HIGH PRESSURE AND VACUUM DRAIN CLEANING TRUCK cont'd

were advertised in *The Age* and on Council's website. The tender closed on 27 May 2020 with 6 submissions and 7 separate options being received for consideration.

The purpose of this Tender was to seek submissions from drain truck manufacturers and cab-chassis sub-contractors for the supply and delivery of One 6x4 High Pressure and Vacuum Drain Cleaning Truck. The scope of the tender also included the supply of spare parts and servicing for the life of the vehicle purchased under this contract.

LEGAL CONSIDERATION

Section 186 of the *Local Government Act 1989* (Act) requires councils to undertake a competitive process to test the market by giving public notice and invite tenders before entering into a contract when the value of the contract is equal to or greater than:

- \$150,000 (including GST) for contracts for the purchases of goods or services; or
- \$200,000 (including GST) for contracts for the carrying of works.

These thresholds have been set in alignment with the thresholds that apply to State Government and are reviewed from time to time. The threshold for the 'carrying out of works' was set by Ministerial Direction by order in Council dated 5 August 2008.

The awarding of this contract complies with the tendering provisions of Section 186 of the *Local Government Act 1989*.

Additional confidential information is contained in Attachment 1, as circulated in the confidential section of the agenda attachments. The information is designated as Confidential Information in accordance with Section 77(2)(c) of the *Local Government Act 1989* and Section 66(2)(a) of the *Local Government Act 2020* (as amended); as it contains confidential information relating to private commercial information being information provided by a business, commercial or financial undertaking that if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage.

This item has been included in the public agenda to facilitate transparency and accountability in Council's decision making.

BANYULE PROCUREMENT POLICY

Council's Procurement Policy is made under Section 186A of the *Local Government Act 1989*.

The purpose of this Policy is to:

- provide policy and guidance to the Council to allow consistency and control over Procurement activities;
- demonstrate accountability to ratepayers;
- provide guidance on ethical behaviour in public sector purchasing;
- demonstrate the application of elements of best practice in purchasing; and
- increase the probability of obtaining the right outcome when purchasing goods and services.

CONTRACT 1036-2020 – SUPPLY AND DELIVERY OF ONE 6X4 HIGH PRESSURE AND VACUUM DRAIN CLEANING TRUCK cont'd

The Act and the Procurement Policy of Council are the primary reference points for how all procurement should be performed.

The process for inviting quotations and evaluation was undertaken in accordance with the Policy.

HUMAN RIGHTS CHARTER

In developing this report to Council, the subject matter has been considered in accordance with the requirements of the Victorian Charter of Human Rights and Responsibilities.

It is considered that the subject matter does not raise any human rights issues.

TENDER/QUOTATION EVALUATION

The Tender Evaluation Panel (TEP) evaluated each quotation using a weighted matrix based on financial, technical, commercial and sustainable procurement principles discussed further in this report.

An evaluation matrix was prepared detailing the weightings and scores for each criterion from the 7 separate submissions.

The following table shows the tenders submitted and the weighted score from the evaluation:

Table 1 – Tenders received and weighted scores	
Contractor	Weighted Score
Tenderer A – Bell Environmental	79.26%
Tenderer B	51.98%
Tenderer C	69.63%
Tenderer D	55.26%
Tenderer E	56.29%
Tenderer F	67.95%
Tenderer G	49.55%

In undertaking the assessment, all members of the TEP completed and signed the Conflict of Interest and confidentiality declaration.

Tender Evaluation Criteria

Council conducted an extensive evaluation process which included on paper assessment as well as discussions with current owners and users. Spreadsheets were prepared to compare the 7 submissions with detailed notes and financial costs as well as considering:

- the overall operating cost to Council over the life of the trucks

CONTRACT 1036-2020 – SUPPLY AND DELIVERY OF ONE 6X4 HIGH PRESSURE AND VACUUM DRAIN CLEANING TRUCK cont'd

- any modifications which would need to be carried out to the trucks to ensure operational requirements were met
- OHS and physical considerations for drivers and operators
- the non-conformances in the submissions

Following an initial evaluation, the Evaluation Team shortlisted Tenderers A, C and F and requested clarification of the equipment which had been tendered.

Tenderer A had the final highest weighted score and was subsequently requested to provide a Best and Final Offer (BAFO) to include specific accessories and modifications as requested by Council. Bell Environmental submitted a revised lump sum tender price of \$664,000 excluding GST, rego and stamp duty.

Council also undertook independent financial and reference checks on the contractors after which the Evaluation Team carried out a further evaluation, using the weighted evaluation matrix.

Bell Environmental has obtained the highest score and will deliver best value for money to Council.

FUNDING IMPLICATIONS

Council has allocated \$721,000 in the current capital works budget for the purchase/supply of this truck.

OFFICER DECLARATION OF CONFLICT OF INTEREST

The *Local Government Act 2020* (Act) requires members of Council staff, and persons engaged under contract to provide advice to Council, to disclose any direct or indirect interest in a matter to which the advice relates.

Council officers involved in the preparation of this report have no conflict of interest in this matter.

CONCLUSION

As a result of the tender evaluation, the Tender Evaluation Panel recommends that Council award Contract No. 1036-2020, to Bell Environmental for the supply and delivery of (1) Isuzu FXY240/350 – Bell Combi 64i, 6x4, High Pressure and Vacuum Drain Cleaning Truck with Cassette Suction Boom for the lump sum price of \$664,000 excluding GST, registration costs (estimated at \$2000), stamp duty (estimated at \$17,000) and spare parts, all in accordance with the tender and conditions as determined by Council

ATTACHMENTS

No.	Title	Page
1	RFT 1036-2020 Evaluation Matrix - CONFIDENTIAL	

7.14 CONTRACT NO 1042-2020 FOR "SUPPLY AND DELIVERY OF WELDING AND FABRICATION SERVICES".

Author: David Walczak - Fleet Co-ordinator, Assets & City Services

EXECUTIVE SUMMARY

This report is to consider the awarding of Contract No 1042-2020 for "Supply and Delivery of Welding and Fabrication Services".

Council advertised the tender for Contract No 1042-2020 for "Supply and Delivery of Welding and Fabrication Services" on 2 May 2020. The tender closed on 27 May 2020 with 4 submissions received for consideration. After a detailed analysis of all submissions, 2 tenderers were shortlisted. The final scoring showing one tenderer as being the most suitable to provide these services to Council.

The Tender Evaluation Panel (TEP) has recommended awarding the contract to the highest scoring and lowest priced tenderer, Simford Welding Services, all in accordance with the tender and conditions as determined by Council.

RECOMMENDATION

That:

1. Contract No. 1042-2020 for Supply and Delivery of Welding and Fabrication Services be awarded to Simford Welding Services as per the schedule of rates for an estimated \$588,362 (ex. G.S.T) over a 5-year period.
2. The Director of Assets and City Services be authorised to sign the contract and any other associated documents.

COUNCIL PLAN

This report is in line with Banyule's Council Plan key direction to "*plan and manage the systems and assets that support Council's service delivery*".

BACKGROUND

Council sought Tenders for the appointment of a suitably qualified and specialist Contractor for the provision of welding and fabrication works for a number of Council's operational areas including Waste Recovery Centre, Fleet Workshop, Parks and Open Space and Road Construction areas involving bridgeworks, fleet and various street furniture repairs.

Tender was advertised in the local government tender section of The Age newspaper on Saturday 2 May 2020 and closed on Wednesday 27 May 2020.

CONTRACT NO 1042-2020 FOR "SUPPLY AND DELIVERY OF WELDING AND FABRICATION SERVICES". cont'd

A total of eighteen (18) prospective companies downloaded the tender document from Council's website and four (4) contractors submitted their tenders by the closing date.

LEGAL CONSIDERATION

Section 186 of the *Local Government Act 1989* (Act) requires councils to undertake a competitive process to test the market by giving public notice and invite tenders before entering into a contract when the value of the contract is equal to or greater than:

- \$150,000 (including GST) for contracts for the purchases of goods or services;
- or
- \$200,000 (including GST) for contracts for the carrying of works.

These thresholds have been set in alignment with the thresholds that apply to State Government and are reviewed from time to time. The threshold for the 'carrying out of works' was set by Ministerial Direction by order in Council dated 5 August 2008.

The awarding of this contract complies with the tendering provisions of Section 186 of the *Local Government Act 1989*.

Additional confidential information is contained in Attachment 1, as circulated in the confidential section of the agenda attachments. The information is designated as Confidential Information in accordance with Section 77(2)(c) of the *Local Government Act 1989* and Section 66(2)(a) of the *Local Government Act 2020* (as amended); as it contains confidential information relating to private commercial information being information provided by a business, commercial or financial undertaking that if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage.

This item has been included in the public agenda to facilitate transparency and accountability in Council's decision making.

BANYULE PROCUREMENT POLICY

Council's Procurement Policy is made under Section 186A of the *Local Government Act 1989*.

The purpose of this Policy is to:

- provide policy and guidance to the Council to allow consistency and control over Procurement activities;
- demonstrate accountability to ratepayers;
- provide guidance on ethical behaviour in public sector purchasing;
- demonstrate the application of elements of best practice in purchasing; and
- increase the probability of obtaining the right outcome when purchasing goods and services.

The Act and the Procurement Policy of Council are the primary reference points for how all procurement should be performed.

CONTRACT NO 1042-2020 FOR "SUPPLY AND DELIVERY OF WELDING AND FABRICATION SERVICES". cont'd

The process for inviting quotations and evaluation was undertaken in accordance with the Policy.

HUMAN RIGHTS CHARTER

In developing this report to Council, the subject matter has been considered in accordance with the requirements of the Victorian Charter of Human Rights and Responsibilities.

It is considered that the subject matter does not raise any human rights issues.

TENDER/QUOTATION EVALUATION

A Tender Evaluation Panel (TEP) evaluated each quotation using a weighted matrix based on financial, technical, commercial and sustainable procurement principles as discussed further in this report.

An evaluation matrix was prepared detailing the weightings and scores for each criteria from the 4 submissions.

The following table shows the tenders submitted and the weighted score from the evaluation:

Table 1 – Tenders received and weighted scores	
Contractor	Weighted Score
Tenderer A	82.60
Tenderer B – Simford Welding Services	86.00
Tenderer C	64.13
Tenderer D	74.78

In undertaking the assessment, all members of the TEP completed and signed the Conflict of Interest and confidentiality declaration.

Tender Evaluation Criteria

- Tendered price;
- Previous performance, experience and reliability of Tenderer to provide the works;
- Capacity, capability and qualifications of Tenderer to provide the works;
- Demonstration of social and economic procurement sustainability;
- Existence of Accredited Management Systems and procedures (Quality, Environmental & O H &S); and
- Any other information which the Council may deem to be relevant.

The TEP shortlisted the two highest scoring and lowest priced Tenderers (A and B) and conducted site visits to their business premises. Reference checks were undertaken and the method of service delivery by each of the two tenderers as well as OHS practices were assessed. Council also undertook independent financial and reference checks.

CONTRACT NO 1042-2020 FOR "SUPPLY AND DELIVERY OF WELDING AND FABRICATION SERVICES". cont'd

The weighted scores by Tenderer B (Simford Welding Services) indicate that this tender will deliver best value for money to Council.

Sustainable Procurement Requirements

Simford Welding have provided both Environment and Waste Minimisation statements as part of their tender submission.

They are dedicated to ensuring the minimisation, recycling and reporting on waste streams generated through their activities. They have procedures in place to identify reuse opportunities for waste products, disposal of waste responsibly, plan jobs to minimise metal scrap and minimise emissions that pollute the environment. To this, they are currently undertaking re-certification of ISO 14001 Environmental Management.

FUNDING IMPLICATIONS

Council has allocated funding in the operational budget for the purchase/supply of welding and fabrication services.

OFFICER DECLARATION OF CONFLICT OF INTEREST

The *Local Government Act 2020* (Act) requires members of Council staff, and persons engaged under contract to provide advice to Council, to disclose any direct or indirect interest in a matter to which the advice relates.

Council officers involved in the preparation of this report have no conflict of interest in this matter.

CONCLUSION

As a result of the tender evaluation, the Tender Evaluation Panel recommends that Council award Contract No. 1042-2020, to Simford Welding Services for the supply of Welding and Fabrication Services as per the schedule of rates. (estimated cost of \$588,362 ex. G.S.T, over a 5-year period based on current needs)

ATTACHMENTS

No.	Title	Page
1	Welding and Fabrication Works Evaluation Matrix - CONFIDENTIAL	

7.15 EAGLEMONT TENNIS CLUB CAPITAL WORKS PROJECT - REQUEST FOR ADDITIONAL FUNDS

Author: Alvin Lau - Project Engineer, Assets & City Services

EXECUTIVE SUMMARY

The Eaglemont Tennis Club capital works project was allocated funding in the 19/20 budget for an amount of \$237,000 (\$127,000 - Council and \$110,000 - Club) for the construction of a timber viewing deck, access ramps and landscaping works.

Initially quotes were sought through Councils panel members where all submissions received were over budget. It was decided to test the market and go to open market to see if costs could be reduced through a more competitive market. Following both a panel and public tender process the budget allocation has a shortfall of \$233,650 to complete the project.

In recognition of this shortfall Eaglemont Tennis club have committed to contribute a further \$80,650. If the project was to be delivered this would require an additional \$153,000 from Council.

It has been identified that there is funding available within Councils Community Facility Access Budget. It is considered this fund could be utilised to provide the additional funds for this project as it falls within the criteria of an initiative that will support better access and inclusion to the community.

RECOMMENDATION

That:

1. Council approve an additional project expenditure of \$153,000 to undertake the access, landscaping and amenity works planned for Eaglemont Tennis Club.
2. The funds be allocated from the Community Facility Access Fund in the 2020/2021 financial year.

COUNCIL PLAN

This report is in line with Banyule's Council Plan key direction to "Deliver best value services and facilities".

EAGLEMONT TENNIS CLUB CAPITAL WORKS PROJECT - REQUEST FOR ADDITIONAL FUNDS cont'd

BACKGROUND

The Eaglemont Tennis Club presented to Council Officers a strong business case and subsequent formal budget submission to Council for consideration in the 19/20 budget for the construction of a timber viewing deck, access ramps and landscaping works.

A budget allocation of \$127,000 with a \$110,000 contribution from the Club was confirmed to provide a total budget of \$237,000. A key outcome of the project is the provision of a more inclusive clubhouse for everyone with the removal of access barriers and improved amenities.

The project was initially tendered using Council's approved tender panel however the prices received were all significantly higher than the available budget. It was agreed with the club to undertake a public tender to try and achieve a lower price.

Council received 11 tender submissions, however they were all significantly over the allocated budget. Council officers accessed these tenders and looked at value management options, which the club supported, to try and reduce the final contract sum.

Based on initial assessments, including the value management options, the revised project budget is now approximately \$470,650 (including design costs). This would result in a budget shortfall of \$208,360.

To address this shortfall Eaglemont Tennis Club have confirmed that they can contribute an additional \$80,650 to bring their total contribution amount to \$190,650.

This would require Council to allocate an additional \$153,000 in 20/21 budget to complete the project. This would bring Council's total allocation to \$280,000 for this project.

LEGAL CONSIDERATION

There are no direct legal implications arising from the recommendation contained in this report.

HUMAN RIGHTS CHARTER

In developing this report to Council, the subject matter has been considered in accordance with the requirements of the Victorian Charter of Human Rights and Responsibilities.

It is considered that the subject matter does not raise any human rights issues.

ADVOCACY

The Eaglemont Tennis Club is one of Banyule's largest and successful tennis clubs and their significant budget contribution to deliver a project in partnership with Council is testament to their members resolve to improve this Council facility.

They have been working in partnership with the Sport and Leisure team in the initial concept and more recently with Capital Works to ensure that the project outcomes

EAGLEMONT TENNIS CLUB CAPITAL WORKS PROJECT - REQUEST FOR ADDITIONAL FUNDS cont'd

meet expectations, will improve access and address the needs of the club and community well into the future.

FUNDING IMPLICATIONS

Based on initial assessments, including the value management options, the revised project budget is now approximately \$470,650 (including design costs). This would result in a budget shortfall of \$208,360.

Eaglemont Tennis Club have confirmed that they can contribute an additional \$80,650 to bring their total contribution amount to \$190,650. If the project was to proceed this would require Council to allocate an additional \$153,000 in 20/21 budget bringing Council's total allocation to \$280,000 for this project.

Council has a budget item in its Capital Works program for Community Facility Access Improvement which could be utilised given this tennis project meets the criteria of improving access and is ready for construction.

The contribution from the Club is significant in terms of a club contribution for a Council facility and this funding is confirmed. See attachment for confirmation of funds.

TIMELINES

- Tender evaluation completed/Award – August 2020
- Construction commences – November 2020 TBC
- Construction concludes – May 2021 TBC

OFFICER DECLARATION OF CONFLICT OF INTEREST

The *Local Government Act 2020* (Act) requires members of Council staff, and persons engaged under contract to provide advice to Council, to disclose any direct or indirect interest in a matter to which the advice relates.

Council officers involved in the preparation of this report have no conflict of interest in this matter.

CONCLUSION

Eaglemont Tennis Club is a great example of a strong local community driven club that is well governed and strategic in its approach to its future and growth. Their financial contribution to the project is significant and given this Council can deliver a great outcome for a community sports facility at a reduced capital cost.

The responsibility of the additional expenditure required to complete the project can be shared with Council contributing an additional \$153,000 and the Club \$80,650. There is also an option of utilising funds from the Community Facility Access Improvement budget to negate impact on overall capital program expenditure.

ATTACHMENTS

Nil

7.16 ASSEMBLY OF COUNCILLORS

Author: Ellen Kavanagh - Governance Officer, Corporate Services

EXECUTIVE SUMMARY

Assembly of Councillors were previously required by the Local Government Act 1989, this section has now been repealed.

Council at its meeting on 15 July 2020 resolved to continue to consider reports of Councillor attendance at Briefings and Advisory Committee meetings until such time as the new requirements are provided for in the adoption of the new Governance Rules.

RECORD OF MEETINGS

1	Date of Meeting:	20 July 2020 6.30pm
	Type of Meeting:	Councillor Briefing – Virtual
	Matters Considered:	
	<ol style="list-style-type: none"> 1. Local Government Act 2020 2. North East Link Project 3. Capital Works & Initiatives Program 2019/2020 	
	Councillors Present:	
	Peter Castaldo Alison Champion Mark Di Pasquale Rick Garotti Craig Langdon Tom Melican	
Staff Present:		
Allison Beckwith - <i>Chief Executive Officer</i> Kath Brackett – <i>Director Community Programs</i> Geoff Glynn – <i>Director Assets & City Services</i> Marc Giglio – <i>Director Corporate Services</i> Scott Walker – <i>Director City Development</i> Gina Burden – <i>Manager Governance & Communication</i> Vivien Ferlaino – <i>Governance Coordinator</i> Kerry Woods – <i>Executive & Councillors Team Leader</i>		
Others Present:		
Nil		
Conflict of Interest:	Nil	

ASSEMBLY OF COUNCILLORS cont'd

2	Date of Meeting:	20 July 2020 6.30.pm
	Type of Meeting:	Councillor Briefing – Virtual - Confidential
	Matters Considered:	
	Confidential Matters considered	
	<ul style="list-style-type: none"> • Contractual matters 	
	Councillors Present:	
Peter Castaldo Alison Champion Mark Di Pasquale Rick Garotti Craig Langdon Tom Melican		
Staff Present:		
Allison Beckwith - <i>Chief Executive Officer</i> Kath Brackett – <i>Director Community Programs</i> Geoff Glynn – <i>Director Assets & City Services</i> Marc Giglio – <i>Director Corporate Services</i> Scott Walker – <i>Director City Development</i> Kerryn Woods – <i>Executive & Councillors Team Leader</i>		
Others Present:		
Nil		
Conflict of Interest:	Nil	

3	Date of Meeting:	23 July 2020 5.30pm
	Type of Meeting:	Submissions Meeting – Virtual
	Matters Considered:	
	<ul style="list-style-type: none"> • 37-63 Bell Street Ivanhoe – Planning Application P635/2015 pt9 	
	Councillors Present:	
	Peter Castaldo Alison Champion Tom Melican Wayne Philips	
Staff Present:		
Allison Beckwith - <i>Chief Executive Officer</i> Marc Giglio – <i>Director Corporate Services</i> Scott Walker – <i>Director City Development</i> Kerryn Woods – <i>Executive & Councillors Team Leader</i> Joel Elbourne – <i>Manager Planning & Building</i> Mark Sheehan – <i>Major Developments Planner</i>		

ASSEMBLY OF COUNCILLORS cont'd

Liz Fleming – <i>Team Leader Development Planning</i>	
Others Present: Community Members: Marnie Sier, Brooke Stewart, Josh Stewart Kellie Jasper Tom Brownlee Martyn Wild, Simon Frisby, Mary Mascara Lea Kivivali, Paul, Lewis Ray Jasper, David Carbotti, Edward Heyworth Tract: Andrew Crack & Jess Noon	
Conflict of Interest:	Nil

4	Date of Meeting:	27 July 2020 5.21pm
	Type of Meeting:	Councillor Briefing
	Matters Considered: Items on the Council Agenda for the Ordinary Meeting of 27 July 2020 (excluding confidential items) as listed below: 3.1 Adopting a Diversity Statement for Banyule City Council 3.2 Proposed New Lease with The Scouts Association of Australia (Victorian Branch) - Various Sites - Public Submission 4.1 Koala Habitat in Banyule - Investigates suitable habitat for Bushfire effected Koala's and other native animals within Banyule 5.1 Proposed Declaration of Special Charge - Rosanna Village Shopping Centre Special Charge Scheme 5.2 Proposed Declaration of Special Rate: The Bell Street Mall Shopping Centre Special Rate Scheme 5.3 Planning Scheme Amendment C159 Adoption - Removal of Parking Overlay from the Greensborough Activity Centre 5.4 43 Brown Street & 55-60 Rosanna Road, Heidelberg - Proposed Four Storey Apartments - (P457/2020) 5.5 37-63 Bell Street & 45 Linden Avenue IVANHOE - Amendment to Mixed Use Multi Level Development (P635/2015) 5.6 3 Waverley Avenue, Ivanhoe - 3 Storey Apartment Building Development (P1246/2018) 6.1 Draft Banyule Community Engagement Policy 2020 - For Public Exhibition 7.1 Public Participation in Council Meetings - Changed processes during COVID 19 Pandemic 7.2 Review of Centralised and Annualised Valuations 7.3 Proposed Budget 2020/21 Declarations 7.4 Adoption of Banyule City Council's Budget 2020/2021 7.5 Adoption of Banyule's Council Plan 2017-2021 (Year 4) 7.6 Assembly of Councillors 7.7 Contract No 1049-2020 Construction of Darebin Creek Trail Upgrade Stage 1 10.1 Vale Larry Stephens	

ASSEMBLY OF COUNCILLORS cont'd

Councillors Present: Peter Castaldo Alison Champion Mark Di Pasquale <i>arrived at 5.35pm</i> Rick Garotti <i>arrived at 5.45pm</i> Craig Langdon Tom Melican Wayne Philips <i>arrived at 5.35pm</i>	
Staff Present: Allison Beckwith - <i>Chief Executive Officer</i> Marc Giglio – <i>Director Corporate Services</i> Scott Walker – <i>Director City Development</i> Gina Burden – <i>Manager Governance & Communication</i> Vivien Ferlino – <i>Governance Coordinator</i> Emily Outlaw – <i>Council Business Team Leader</i> David Pascolo – <i>IT Technical Analyst</i> Duncan Stephen – <i>Jets Sound Engineer / Program Assistant</i> Simon Eszeky – <i>Youth Services Inclusion Officer</i> Neale Lawrence – <i>Youth Outreach & Program Worker</i> David Crowe – <i>Jets Intake & Program Support Officer</i>	
Others Present: Nil	
Conflict of Interest:	Cr Craig Langdon declared a conflict in item 5.5 and left the room at 6.01pm
Meeting Recessed:	The meeting recessed at 6.13pm and resumed at 6.47pm. Cr Wayne Phillips was not in attendance and returned at 6.49pm

RECOMMENDATION

That the Record of Councillor meetings report be received.

ATTACHMENTS

Nil