

# Agenda



**Monday, 27 July 2020 7.00pm**

## Ordinary Meeting of Council

Olympia, Hawdon & Ibbott Rooms

Level 4, 1 Flintoff Street, Greensborough

## **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 6 July 2020*

## **Disclosure of Interests**

### **1. Urgent Business**

#### **REPORTS:**

### **2. Petitions**

Nil

### **3. People – Community Strengthening and Support**

- 3.1 Adopting a Diversity Statement for Banyule City Council ..... 5
- 3.2 Proposed New Lease with The Scouts Association of Australia (Victorian Branch) - Various Sites - Public Submission ..... 9

### **4. Planet – Environmental Sustainability**

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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 allow members of the community to view the meeting without requiring them to be physically present. To ensure compliance with the Government's new COVID -19 Stage 3 rules for gatherings, members of the public must not attend the meeting.*

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

*[www.banyule.vic.gov.au](http://www.banyule.vic.gov.au)*

*The next Ordinary Meeting of Council will be held on Monday, 17 August 2020.*



### **3.1 ADOPTING A DIVERSITY STATEMENT FOR BANYULE CITY COUNCIL**

Author: Gemma Boucher - Community & Social Planner, Community Programs

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#### **EXECUTIVE SUMMARY**

A Diversity Statement has been developed to capture Council's commitment to and value of diversity. A Diversity Statement ensures inclusion, access and equity are kept in the front of people's minds whilst conducting business. It acts as a vehicle by which Council can articulate the meaning of diversity and raise awareness of their commitment to diversity, to residents, communities, and customers. It also stimulates engagement with the Inclusion, Access and Equity Framework 2017-2021 further embedding it across the organisation.

In developing the wording of the Diversity Statement, Council's seven advisory committees were consulted. A proposed implementation plan of the Diversity Statement ( attachment 1) recommends a 12-month trial period, as well as the key areas of Council business the Diversity Statement should be implemented. It is proposed that at the end of the trial a review will be conducted and reported back to Council, which will contain recommendations for next steps.

#### **RECOMMENDATION**

That Council

1. Endorses the following Diversity Statement, which acknowledges value of diversity within our community and outlines Council's commitments.

*"Banyule is a diverse community, made up of people from different cultures, beliefs, abilities, bodies, ages, sexualities, genders and identities. Council is committed to inclusion, access and equity for everyone. These principles foster cohesiveness, empower people and improve the wellbeing of the Banyule Community."*

2. Endorse the use of the Diversity Statement for a trial period August 2020 to July 2021 and receives a further report on the findings and any recommendations from the evaluation.

#### **COUNCIL PLAN**

This report is in line with Banyule's Council Plan key direction to "Support a connected, inclusive and involved community" and "Communicate effectively with our community".

#### **BACKGROUND**

Diversity Statements are a short paragraph that captures, in a concise fashion, an organisations commitment to and value of diversity. The Diversity Statement can be used in a number of ways: such as on key documents, in email signatures, and most commonly at the start of events, meetings and workshops.

## **ADOPTING A DIVERSITY STATEMENT FOR BANYULE CITY COUNCIL cont'd**

The purpose of the Diversity Statement is to ensure that inclusion, access and equity are kept in the front of people's minds whilst conducting business and making decisions on behalf of the organisation. It also creates a marker of an organisation's cultural safety for staff, customers and visitors. This in turn provides accountability of those values and expected standards. It helps create a mindset where diversity and inclusion are at the centre of the organisation.

Banyule City Council has adopted the Inclusion, Access and Equity Framework 2017-2021. The development of a Diversity Statement is a mechanism to further embed the principals of the Inclusion, Access and Equity Framework across the organisation.

### **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. The Inclusion, Access and Equity Framework 2017-2021 cites the Victorian Charter of Human Rights as a key document that informs it. The Diversity Statement cites a number of protected attributes that are listed in the Equal Opportunity Act 2010 (Vic). Adopting a Diversity Statement is a significant way Council can enhance Human Rights.

### **ADVOCACY**

This project initiated from a discussion at the LGBTIQ+ Advisory Committee whereby members advocated that Council adopt a Diversity Statement. A key role the advisory committees play is to advocate on behalf of their community and provide advice and support to Council on matters important to them.

### **FUNDING IMPLICATIONS**

There are no funding implications at this stage of the project.

### **CONSULTATION**

Building on existing wording within the Inclusion, Access and Equity Framework, Council Officers developed a draft Diversity Statement. This was then sent to all of Council's advisory committees for consultation on the wording of the statement during August and October of 2019. This ensured that resident voices were captured when scoping the breadth of the definition of diversity, and the sentiment of the statement.

Additionally, the Banyule Aboriginal and Torres Strait Islander Advisory Committee were also consulted on the use of such a statement to the Acknowledgement of Country protocols.

LGBTIQ+ Advisory Committee initiated the conversation of Banyule adopted a diversity statement after receiving a presentation from Mind Australia on inclusive

## **ADOPTING A DIVERSITY STATEMENT FOR BANYULE CITY COUNCIL cont'd**

practices within that organisation, which included information on their Diversity Statement. The committee provided advice on what wording should be included in Council's definition of diversity to ensure this was inclusive.

Arts and Culture Advisory Committee responded positively to the Diversity Statement and were supportive of it, no other feedback.

Environment Advisory Committee were very positive about the Diversity Statement but had one comment on the long length being an issue.

Disability Advisory Committee were supportive of the Diversity Statement however there was some concern over using the word 'health' due to its negative connotations in the context of disability. This has since been removed.

Multicultural Advisory Committee agreed that the Diversity Statement was important for Council and were pleased to hear one was being developed. Overall members agreed it was well constructed.

Children, Youth and Families Advisory Committee had some conversations that were outside of the scope of the consultation by discussing the purpose of the statement. There was mixed feedback with some members supporting awareness raising and others wondering whether it was necessary.

Aged Friendly City Advisory Committee had a lot of competing opinions regarding the necessity of the Diversity Statement, but after some discussion the majority agreed about supporting the statement.

Aboriginal and Torres Strait Islander Advisory Committee responded positively and were supportive of the wording. In relation to Acknowledgement of Country protocol they advised was that, at all times, Council must ensure the Welcome to Country or Acknowledgement of Country come first in all contexts that the Diversity Statement is implemented, and that the Diversity Statement must be treated as a separate statement.

A broader community consultation was not considered necessary as the project aims to enhance the implementation of the Inclusion, Access and Equity Framework 2017-2021, which has already gone through an extensive engagement and consultation process prior to being endorsed by Council.

## **DISCUSSION**

The Diversity Statement has been updated to reflect the feedback from the committee consultations. Below is the proposed statement.

*"Banyule is a diverse community, made up of people from different cultures, beliefs, abilities, bodies, ages, sexualities, genders and identities. Council is committed to inclusion, access and equity for everyone. These principles foster cohesiveness, empower people and improve the wellbeing of the Banyule Community."*

It is proposed that there be a trial period, during which the statement would be introduced to specific areas of Council business. This includes:

## **ADOPTING A DIVERSITY STATEMENT FOR BANYULE CITY COUNCIL cont'd**

- To investigate being read out at Council meetings, after the Acknowledgment of the Traditional Custodians.
- To be read out at the start of Advisory Committee meetings, after the Acknowledgment of the Traditional Custodians.
- To explore being incorporated into the 'on hold' messages the community may hear when calling Council.
- To be placed on the Council website at the bottom of the first page, after the Acknowledgement of the Traditional Custodians.
- To be placed on the BRIAN internal intranet site – including information for staff regarding how to utilize and respond to the Diversity Statement.

These have been chosen as they touch on key areas of influence within the organization, strike a balance between communicating internally with staff and externally with community, and will not require many resources to implement.

### **TIMELINES**

The Implementation Plan (Attachment 1) advises the Diversity Statement should be trialled over a period of time, in specific areas of Council business. This would commence from August 2020 to July 2021. Once the trial has been completed a review will be conducted, with findings reported back to Council including recommendations for next steps.

### **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 proposed Diversity Statement will aim to keep inclusion, access and equity at the forefront of key Council business and act as a marker of cultural safety. The impact of the statement will then be evaluated at the end of the 12-month period which will inform the next steps. The implementation of a Diversity Statement provides an important opportunity for Banyule as a local government to continue to lead in this space.

### **ATTACHMENTS**

<b>No.</b>	<b>Title</b>	<b>Page</b>
1	Diversity Statement Implementation Plan	



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

Author: Gary Mills - Senior Property Officer, City Development

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#### **EXECUTIVE SUMMARY**

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

Under section 190 of *Local Government Act* 1989 ('the Act') Council is required to give notice of its intention to lease where the lease is to be for 10 years 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 *Local Government Act* 1989 ('the Act') by giving notice of Council's intention to enter a lease with Scouts has been completed.

Public notice was given in the Herald Sun newspaper on 6 June 2020. At the close of submissions on 6 July 2020, one written submission was received. The submitter has requested to be heard and appear in person in support of his submission.

The purpose of this report is for Council to receive, hear and consider the submission to the proposed lease. The submission has been separately provided to councillors.

A further report will be presented to Council on the 17 August 2020.

#### **RECOMMENDATION**

That

1. Council receive, hear and consider the verbal and written submission pursuant to section 223 of the *Local Government Act* 1989, in response to the public notice given of the proposed lease to The Scouts Association of Australia (Victorian Branch) for 10 scout hall sites.
2. A further report be submitted to Council at its meeting on 17 August 2020 to resolve on the lease.

#### **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".

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

**BACKGROUND**

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

The 10 lease sites are detailed in **Table 1**.

Yandell Reserve	37 St Helena Road Greensborough	1 <sup>st</sup> & 2 <sup>nd</sup> Greenhills
Rossi Park	48 Ford Street, Ivanhoe	10 <sup>th</sup> Ivanhoe
Chelswoth Park	18 Irvine Road, Ivanhoe	1 <sup>st</sup> 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 <sup>st</sup> Rosanna
Donaldson's Creek Reserve	49 Hawker Street, Ivanhoe	1 <sup>st</sup> Ivanhoe Sea Scouts
Petrie Park	16 Mountain View Road Montmorency	1 <sup>st</sup> Montmorency
Alma Play Park	10 Para Road, Lower Plenty	1 <sup>st</sup> Lower Plenty

**Table 1**

The proposed new lease is for a term of 5 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. 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 reasonable 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**

Since the lease is for a total of 10 years and the current market rental value of the ten sites exceeds \$50,000 per annum, section 190 of the Act is triggered. Whilst the new *Local Government Act 2020* has been enacted, sections relating to the leasing of Council land in the 1989 Act remain operational.

**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 - PUBLIC SUBMISSION 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. The submission period closed on 6 July 2020 and one written submission was received. The submitter has requested to be heard and appear in person in support of his submission.

### **Submission #1**

The submitter's primary issue is the proposed lease rental. The submitter considers the annual rental of \$1,200 plus GST (sic) for the 10 sites is an impost on the Scouts financial capacity and that a peppercorn lease of \$100 per annum would be more appropriate.

### **DISCUSSION**

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.

### **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.

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

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

**CONCLUSION**

The purpose of this report is for Council to consider the verbal and written submission received in respect to the Lease proposal.

A further report will be presented to Council on 17 August 2020 where Council will formally consider the granting of the Lease to the Scouts.

**ATTACHMENTS**

Nil

## **4.1 KOALA HABITAT IN BANYULE - INVESTIGATES SUITABLE HABITAT FOR BUSHFIRE EFFECTED KOALAS AND OTHER NATIVE ANIMALS WITHIN BANYULE**

Author: Chris Callahan - Bushland Management Coordinator, Assets & City Services

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### **EXECUTIVE SUMMARY**

This report is in response to a Council resolution calling for a report that investigates the feasibility of providing habitat for bushfire effected koalas and other native animals within the municipality and seeking advice as to the best way Council contribute to the koala habitat in the future.

The Black Summer bushfires that Australia experienced in the summer 2019/2020 saw millions of hectares of native fauna habitat destroyed across Australia, with thousands of koalas and millions of native faunas perishing in those fires. Many that survived the fires have been left injured and/ or displaced.

Now that the fires are over attention has been turned to koala and fauna rehabilitation and care. Relocation of native fauna is a complex, particularly when it comes to koalas and success rates vary. Koalas have very specific food needs and the only potential location in municipality for these animals is Banyule Flats as it contains 4 of the 5 preferred trees koalas feed on. However, the area does not have enough canopy cover to maintain even a small population of koalas.

As such, it has been found that the relocation of bushfire effected koalas would not be feasible within the municipality of Banyule. Similar considerations/ complexity is also associated with the relocation of other native fauna impacted on by the bushfires.

### **RECOMMENDATION**

That Council note this report and that no feasible habitat exists for the relocation of effected Koalas within Banyule.

### **COUNCIL PLAN**

This report is in line with Banyule's Council Plan key direction to "Protect and enhance our natural environment".

**KOALA HABITAT IN BANYULE - INVESTIGATES SUITABLE HABITAT FOR BUSHFIRE EFFECTED KOALA'S AND OTHER NATIVE ANIMALS WITHIN BANYULE cont'd**

**BACKGROUND**

This paper is in response to a Council resolution on 16<sup>th</sup> March 2020:

*That a report comes to Council that:*

- 1. Investigates the feasibility of providing habitat for bushfire effected koalas and other native animals within the municipality of Banyule; and*
- 2. Considers opportunities to provide habitat in Banyule and nearby locations that are not Council managed, such as Parks Victoria land.*
- 3. Seeking advice on how best council can contribute to the koala habitat in the future.*

The Black Summer bushfires that Australia experienced in the summer of 2019/2020 saw millions of hectares of habitat destroyed across Australia, with thousands of koalas and millions of native faunas perishing in the fires. Many that survived the fires have been left injured and/ or displaced; it is worth noting that displacement was also an issue prior to the fires due to the loss of habitat from land clearing and the effects of global warming.

Of all of the native fauna species in Australia, the koala is an iconic one, and images of injured koalas made headlines across the globe promoting many to take action to assist these animals such as Greenpeace and the World Wildlife Fund through donating campaigns. Wildlife rescue organisations and animal hospitals also provide much needed care and shelter for koalas and other injured wildlife.

**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.

**CURRENT SITUATION**

Now that the fires ceased attention has been turned to koala and fauna rehabilitation and care. The topic of relocating native fauna is a complex, particularly when it comes to koalas, and success rates have varied. Generations of koalas can live in the same area meaning they are very familiar with the area and the types of trees in that area, as a result they would need a similar habitat and food source if they were to be relocated. The trees that koalas feed on in Victoria are not necessarily what they would feed on in Queensland or New South Wales.

**KOALA HABITAT IN BANYULE - INVESTIGATES SUITABLE HABITAT FOR BUSHFIRE EFFECTED KOALA'S AND OTHER NATIVE ANIMALS WITHIN BANYULE cont'd**

For example, the preferred food source of wild koalas in Victoria are:

- River Red Gum;
- Southern Blue Gum;
- Yellow Box;
- Swamp Gum; and
- Manna Gum.

Of these five species there is a location in Banyule that is home to four of the five – Banyule Flat Reserve and the adjacent Parks Victoria land.

**FUNDING IMPLICATIONS**

There are no funding implications associated with this report.

**DISCUSSION**

In terms of the suitability of Banyule Flats and adjacent Parks Victoria land for koala relocation, there are a number of factors to consider Sustainability of Koala Populations

Koalas rely on a large range of area to sustain their daily browsing intake; their main source of water and nutrients is through eucalyptus leaves from tree canopies. Some of the adverse effects found within koala communities within Victoria is over browsing / grazing of tree canopies which reduces the trees ability to regenerate and would have a devastating impact on the survival rates to these trees, and by extension the koala population.

The canopy coverage percentage in Banyule Flats is estimated to be 60% and 70% in adjacent Parks Victoria land. Of this area, over 80% of the tree canopy is comprised of Red Gum canopy. What these percentages mean in terms of suitability for relocation habitat is that there is not enough canopy or species diversity to sustain even a small population of koalas in this location.

**Relocation Between States**

Koala like all animals have evolved to adapt to their environment, for example, the Victorian Koala is long haired, conditioned to colder climate and adapted to lower average inland rainfall, compared to that of the NSW koalas which are short haired and adapted to the more temperate NSW forests with a higher average rainfall. Some wildlife experts have claimed that due to the adaption of these species relocating NSW species to Victoria would be inhumane. In consideration of these factors it has been found that the relocation of bushfire effected koalas would not be feasible within the municipality of Banyule. Similar considerations/ complexity is also associated with the relocation of other native wildlife.

**Options for Assisting Bushfire Affected Wildlife & Creating Habitat**

Images of injured koalas and fauna running for their lives as fires blazed behind them has affected people all over the world with many wanting to assist in some way. There are numerous specialised wildlife organisations that are equipped to help rehabilitate these animals.

**KOALA HABITAT IN BANYULE - INVESTIGATES SUITABLE HABITAT FOR BUSHFIRE EFFECTED KOALA'S AND OTHER NATIVE ANIMALS WITHIN BANYULE 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.

**ATTACHMENTS**

Nil



## **5.1 PROPOSED DECLARATION OF SPECIAL CHARGE - ROSANNA VILLAGE SHOPPING CENTRE SPECIAL CHARGE SCHEME**

Author: Michelle Isherwood - Economic Development Officer, City Development

Ward: Ibbott

### **Previous Items**

Council on 6 April 2020 (Item 5.2 - Notice of Intention to Declare a Special Charge - Rosanna Village Shopping Centre)

Council on 15 June 2020 (Item 5.1 - Consideration of Submissions and Objections - Rosanna Village Shopping Centre Special Charge Scheme)

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### **EXECUTIVE SUMMARY**

Following the ordinary Council meeting held on 6 April 2020, and in accordance with the statutory process under the Local Government Act 1989 (“Act”) for the declaration of a special charge (“Special Charge” and “Scheme” and “Proposed Declaration”), a statutory public notice of Council’s intention to declare the Special Charge for the Rosanna Village Shopping Centre (“Shopping Centre”) was advertised in the “Herald Sun” newspaper on 14 April 2020, and placed on Council’s Internet website. Separate letters, advising of Council’s intention to declare the Special Charge were mailed by ordinary post, on 14 April 2020, to all of the owners and occupiers of the properties included in the proposed Scheme, together with a copy of the public notice.

The public notice advised that any person may make a written submission under sections 163A and 223 of the Act. The public notice further advised that any person who would be required to pay the Special Charge (whether an owner or an occupier of a property included in the Scheme) had a right to object to the Proposed Declaration, and could make a written objection to the Council under section 163B of the Act.

The closing date for submissions and objections was on 15 May 2020. Council received by this date a total of eleven written submissions under sections 163A and 223 of the Act. Five of the submissions were in support of the proposed Scheme for a variety of reasons. There were two persons who (on behalf of six properties) opposed the Scheme and these submissions, while submissions under section 223 of the Act, are also (and have been treated as) objections for the purposes of section 163B of the Act.

Council formally considered the written submissions and the objections at its ordinary meeting held on 15 June 2020, and resolved that, following what had been Council’s consideration of the submissions and objections, Council would proceed to make a final decision in relation to the Scheme at its ordinary meeting to be held on 27 July 2020.

This Report, following a consideration of the submissions and objections received by Council, recommends the declaration of a Special Charge for the Rosanna Village Shopping Centre, commencing on 1 July 2020 and ending on 30 June 2025.

**PROPOSED DECLARATION OF SPECIAL CHARGE - ROSANNA VILLAGE SHOPPING CENTRE SPECIAL CHARGE SCHEME cont'd**

**RECOMMENDATION**

That

1. Council, having considered all submissions received under section 223 of the Local Government Act 1989 (“Act”) and taken into account all objections lodged under section 163B of the Act and having complied with the requirements of sections 163A, 163B and 223 of the Act, and otherwise according to law, hereby declares a Special Charge under section 163(1) of the Act for the purposes of defraying expenses to be incurred by Council in providing funds to the incorporated body known and operating as the Rosanna Village Traders’ Association (“Traders Association”), which funds, administratively only and subject always to the approval, direction and control of Council, are to be used for the purposes of contracted support, promotional, advertising, marketing, business development and other incidental expenses, as approved by Council and agreed to from time to time between Council and the Traders’ Association, all of which are associated with the encouragement of commerce, retail and professional activity and employment in the Rosanna Village Shopping Centre (“Special Charge” and Declaration”).
2. The criteria which form the basis of the declaration of the Special Charge are the ownership of rateable land used, or reasonably capable of being used, for commercial, retail or professional purposes, which rateable land is situated within the geographical area in which the properties described in paragraphs 6 and 7 of this Declaration are included and further, the classification of those properties as receiving a special benefit.
3. In declaring the Special Charge, Council is performing functions and exercising powers in relation to the peace, order and good government of the municipal district of the City of Banyule, in particular the encouragement of commerce, retail activity and employment opportunities within the area for which the Special Charge is declared.
4. The total cost of the performance of the function and the exercise of the power by Council (in relation to activities associated with the encouragement of commerce, retail activity and employment opportunities in the area for which the Special Charge is declared) and also the total amount of the Special Charge to be levied by Council is referable to an amount of \$40,000, which amount will be levied in each year of the Scheme, and which in total, will raise an amount of \$200,000 over the 5 year period of the Scheme.
5. The period for which the Special Charge is declared and will remain in force is a period of 5 years commencing on 1 July 2020 and ending on 30 June 2025.
6. The area for which the Special Charge is declared is all of the land referred to as the Rosanna Village Shopping Centre, as identified and shown on the plan set out in the attachment forming a part of this Declaration (being [Attachment 1](#)).
7. The land in relation to which the Special Charge is declared is all that rateable land described in the listing of rateable properties set out in the attachment forming a part of this Declaration (being [Attachment 2](#)).

**PROPOSED DECLARATION OF SPECIAL CHARGE - ROSANNA VILLAGE SHOPPING CENTRE SPECIAL CHARGE SCHEME cont'd**

8. The contributions to the Special Charge, based on relevant property classifications will be declared and assessed in accordance with the Special Charge amounts set out alongside each property in the attachment forming a part of this Declaration (being [Attachment 2](#)).
9. The Special Charge will be levied by Council sending a notice of levy (“Notice”) in the prescribed form annually to the person who is liable to pay the Special Charge, which will require that the Special Charge be paid in the following manner –
  - (a) one annual payment to be paid in full by the due date fixed by Council in the notice, which will be a date not less than 30 days after the date of issue of the Notice; or
  - (b) by four instalments, to be paid by the dates which are fixed by Council in the notice.
10. Council will consider cases of financial and other hardship, and it may reconsider other payment options for the Special Charge. Council further records that at the 6 April 2020 ordinary meeting of Council, Council resolved of its intention to extend its support for businesses in light of COVID-19 pandemic, by providing additional funding for the Special Charge Scheme. No incentives will otherwise be given for payment of the Special Charge before the due date for payment in the Notice
11. Council considers that there will be a special benefit to the persons required to pay the Special Charge because there will be a benefit to those persons that is over and above, or greater than, the benefit that is available to persons who are not subject to the Special Charge, and directly or indirectly as a result of the expenditure proposed by the Special Charge, the viability of the Shopping Centre as a business, commercial, retail and professional area, and the value and the use, occupation and enjoyment of the properties and the businesses included in the Scheme area will be maintained or enhanced through increased economic activity.
12. Council further considers and formally determines for the purposes of sections 163(2)(a), (2A) and (2B) of the Act, that the estimated proportion of the total benefits of the Scheme to which the performance of the function or the exercise of the power relates (including all special benefits and community benefits) that will accrue as special benefits to all of the persons who are liable to pay the Special Charge is in a ratio of 1:1 (or 100%). This is on the basis that, in the opinion of Council, the total amount of the Special Charge to be levied and all of the services and activities to be provided from the expenditure of the Special Charge are marketing, promotion and advertising related and will accordingly only benefit the owners and occupiers of those properties and businesses included in the Scheme that are used, or reasonably capable of being used, for retail, commercial or professional purposes (in circumstances where there are no other special benefits or community benefits accruing from the Special Charge).
13. The Traders’ Association be authorised to administer the proceeds of the Special Charge on the express condition that the Traders’ Association enters

**PROPOSED DECLARATION OF SPECIAL CHARGE - ROSANNA VILLAGE SHOPPING CENTRE SPECIAL CHARGE SCHEME cont'd**

into a funding agreement with Council for the period of the Special Charge.

14. Notice be given to all owners and occupiers of properties included in the Scheme and all persons who have lodged a written submission of the decision of Council to declare and levy the Special Charge commencing on 1 July 2020, and the reasons for the decision.
15. For the purposes of paragraph 14, of this Declaration, the reasons for the decision of Council to declare the Special Charge are that –
  - (a) there are minimal objections to the Scheme and it is otherwise considered that there is a broad level of support for the Special Charge from all property owners and occupiers;
  - (b) Council considers that it is acting in accordance with the role, functions and powers conferred on it under the *Local Government Act 2020*, particularly in relation to the provision of good governance in its municipal district for the benefit and wellbeing of the Banyule municipal community, including in relation to the encouragement of commerce, retail activity and employment opportunities in and around the Scheme area;
  - (c) all persons who are liable or required to pay the Special Charge and the properties respectively owned or occupied by them will receive a special benefit in the form of an enhancement or maintenance in land values and/or a maintenance or enhancement in the use, occupation, and enjoyment of the properties; and
  - (d) the basis of the distribution of the Special Charge amongst those persons who are liable or required to pay the Special Charge is considered by Council to be fair and reasonable.
16. The Traders' Association be notified of the matters specified in paragraphs 1 and 13 of this resolution.

**COUNCIL PLAN**

This Report is in line with Banyule's Council Plan key direction to "Invest in and support activity centres and employment precincts".

**BACKGROUND**

The process to declare the Special Charge for the Rosanna Village Shopping Centre began with a pre-statutory phase of consultation and review in late 2019 and early 2020. Both the Traders' Association and Council were committed to a review of the performance of the current Scheme in order to accommodate future improvements and to assist with setting new directions should the Scheme be renewed. The consultation outcomes indicated a good level of positivity and optimism for the Scheme to continue. Hence, and as previously notified to Council, the Traders' Association made a formal request for Council to commence the statutory process to declare, by way of renewal, a new Special Charge Scheme.

## **PROPOSED DECLARATION OF SPECIAL CHARGE - ROSANNA VILLAGE SHOPPING CENTRE SPECIAL CHARGE SCHEME cont'd**

### **LEGAL CONSIDERATION**

Council requires the Rosanna Village Traders' Association (an incorporated association) (Traders' Association) to have a high level of financial and management accountability of funds.

This includes certain requirements identified in Council's standard funding agreement ("Funding Agreement") and other documentation that must be regularly submitted to Council for approval, including quarterly reports, a budget and an audited financial report at the conclusion of each financial year. Council will ensure that, under the Funding Agreement, the proceeds of the Special Charge are expended by the Traders' Association on behalf of Council, administratively only.

Council is, and remains, legally responsible for approving, directing and controlling the expenditure of the proceeds of the Special Charge in accordance with its obligations under the *Local Government Act 2020* and the *Local Government Act 1989*.

In accordance with section 185 of the Act, a person who is aggrieved by Council's decision to impose a Special Charge may apply to the Victorian Civil and Administrative Tribunal ("VCAT") for a review of the decision. Any application must be made within 30 days of the date of issue of the Notice levying the Special Charge. Further, in accordance with section 185AA of the Act, any person may apply to VCAT for a declaration concerning the validity of Council's decision.

### **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 of this Report does not raise any human rights issues.

### **LOCALITY PLAN**

A map showing the Scheme area is set out in Attachment 1 of the Declaration. A list of the participating properties in the Scheme (all of which are considered to receive a special benefit) are set out in Attachment 2 of the Declaration.

### **FUNDING IMPLICATIONS**

The Traders' Association has requested (and it is otherwise being recommended to Council) that the proposed Scheme raise an amount of \$40,000 per annum. Accordingly, based on a total of the 80 properties included in the Scheme, it is proposed that each property will be assessed for and levied with a Special Charge of \$500 per annum.

This amount will be supported by Council's contribution of \$39,000, in order to provide a total budget of \$79,000 per annum.

**PROPOSED DECLARATION OF SPECIAL CHARGE - ROSANNA VILLAGE SHOPPING CENTRE SPECIAL CHARGE SCHEME cont'd**

**CONSULTATION AND ENGAGEMENT**

Consultation and community engagement for this Scheme proposal has been extensive throughout the various stages of both the pre-statutory and statutory processes. Council's commitment to supporting a thorough review and consultation process (and also in adopting best practice approaches for its special rate and charge renewals), supports a clear, open and transparent process.

This fairly and openly allows for all owners and occupiers and other stakeholders to be informed of Council's intentions for the Scheme, their respective rights and obligations, and also the opportunity for them to provide comment and formal feedback through each stage of the proposal.

Following this Report, and if Council proceeds with the Declaration, all owners and occupiers will be advised of Council's decision to declare the Special Charge for the Rosanna Village Shopping Centre, and the reasons for doing so.

With respect to statutory consultation, the closing date for submissions and objections was on 15 May 2020. Council received by this date a total of eleven written submissions under sections 163A and 223 of the Act. Five were in support of the proposed Scheme for a variety of reasons.

There are two parties, representing a total of six properties (five of which are in the same ownership), who oppose the Scheme and these, while submissions under section 223 of the Act, have also been treated as objections for the purposes of section 163B of the Act.

One person in their written submission had requested that they appear in person before Council. In accordance with this request, the person was advised of the date and time for the Council ordinary meeting held on 15 June 2020, and was otherwise (because of COVID-19 restrictions) invited to provide a written statement to be read by an officer, or to provide a pre-recorded video, to be submitted in advance of the meeting. The submitter did not proceed with either of these options, and the questions and issues which the submitter wished to raise have been addressed separate to the meeting. The questions and issues did not directly relate to matters which were relevant to the proposed Special Charge Scheme.

Council formally considered the submissions and objections at its ordinary meeting on 15 June 2020 and resolved that, following a consideration of submissions and objections, to make a final decision in relation to the Scheme at its ordinary meeting to be held on 27 July 2020

**SUMMARY OF SUBMISSIONS AND OBJECTIONS RECEIVED**

As mentioned, Council, at its ordinary meeting held on 15 June 2020, considered the submissions and objections, which are again summarised below. Council is otherwise referred to the report and minutes for the Council meeting held on 15 June 2020, and to the copies of the submissions and the objections which were provided to each Councillor with their agenda papers for that meeting.

*Submissions Received in Support of the Scheme – 5 in total.*

**PROPOSED DECLARATION OF SPECIAL CHARGE - ROSANNA VILLAGE SHOPPING CENTRE SPECIAL CHARGE SCHEME cont'd**

**Submission 1**

This submission is on behalf of the Rosanna Village Traders' Association and its members, who for many years have seen the value which the Special Charge Scheme brings to the Village. Their submission mentions the extraordinary times we live in, and notes that in the view of the Association, the Village can only continue to implement its activities by having a Special Charge in place.

**Submission 2**

This submission is on behalf of a tenant of one of the properties/businesses in the Scheme, who supports the Special Charge Scheme over the period of the tenant's lease.

**Submission 3**

This submission notes the Special Charge Scheme (although it is not clear from the wording of the submission whether the person supports or opposes a renewal of the Special Charge), and identifies that they would like to be heard at the Council meeting. As mentioned, the person was advised of the date, time and place for this meeting, however, they did not elect to appear at the Council meeting on 15 June 2020, or take advantage of the special arrangements which Council had put in place on account of the COVID-19 pandemic in relation to their submission.

**Officer comment**

Confirmation has since been received that the person supports a renewal of the Special Charge, and all aspects of the submitter's concerns have otherwise been addressed.

**Submission 4**

This submission identifies that this trader has been an active member of the Rosanna Traders' Association for many years, and (as they believe) has seen how important the Special Charge Scheme has been, to have a cohesive Village that works together for the common good of the Centre, the locale and the community. The trader also cites the importance of having a Centre Marketing Manager, who can help prepare events and works in the Village, supervise and implement marketing strategies, as well as to liaise with Council and other local bodies, and reiterated that (as they believe) the Special Charge Scheme is even more important in periods of economic uncertainty.

**Submission 5**

This submission supports the Special Charge renewal, whilst still highlighting the current economic circumstances. The submitter acknowledged the new Rosanna Station, along with the current works to upgrade the Village, and notes that the Special Charge (in their view) is of benefit to bring life back to the Village. The submitter identifies that the Rosanna Traders' Association, along with Council, has helped to promote the services and businesses on offer to the local community.

*Submissions Received Opposing the Scheme (these also being objections under section 163B of the Act) – 2 submissions in total, representing 6 properties.*

**PROPOSED DECLARATION OF SPECIAL CHARGE - ROSANNA VILLAGE SHOPPING CENTRE SPECIAL CHARGE SCHEME cont'd**

**Submission/Objection 1**

This submission and objection states that the business conducted on the property does not derive any benefit from the Rosanna Traders' Association or the Special Charge. The property owner does not believe that any prior engagement has occurred to improve the Rosanna Village Shopping Centre. It is also noted that no business is currently being operated from the site, and so on this basis the property is not generating any income in the form of rent, and the owner is thereby experiencing hardship.

**Officer comment**

In response to Submission/Objection 1, a best practice approach has been adopted in consulting with stakeholders to ensure there is a broad level of understanding and support with what is being proposed and the process that will be undertaken. This includes, reviewing the current Scheme and facilitating genuine engagement with traders and property owners.

For the current Scheme, a survey was prepared and property owners were invited to a meeting of the Rosanna Traders' Association to review the Scheme and inform the Traders' Association's business plan, and the activities that the Scheme will fund. Correspondence has also been sent to property owners and occupiers to inform them of the Traders' Association's request to renew the Special Charge Scheme.

At the 6 April 2020 meeting, Council also resolved its intention to extend its support for businesses in light of the COVID-19 pandemic, by providing additional funding for the Special Charge Scheme. In acknowledgement of the State of Emergency that was declared in Victoria in relation to the COVID-19 pandemic, Council will pay the business contribution for the first two instalments in 2020/2021 should the Special Charge Scheme be declared by Council.

**Submission/Objection 2**

This submission and objection identifies that during this time both tenants and landlords of five rateable properties are experiencing significant financial hardship and do not believe that this Scheme will benefit the community at this time, but will instead hinder and add stress.

**Officer comment**

This objector appears to be contesting the Special Charge Scheme based on financial hardship, however it is considered that these businesses will nevertheless receive benefit (even if this may only be a future and/or indirect benefit), as the purpose of the Special Charge Scheme is to enhance the overall viability and vitality of the Rosanna Village.

As already noted, Council has also resolved its intention to extend its support for businesses in light of COVID-19 pandemic, by providing additional funding for the Special Charge Scheme.

For Council to declare a Special Rate or Charge Scheme, it must comply with the relevant provisions of the Local Government Act 1989. The legislative provisions do



**PROPOSED DECLARATION OF SPECIAL CHARGE - ROSANNA VILLAGE SHOPPING CENTRE SPECIAL CHARGE SCHEME cont'd**

not call for 'majority approval', but enable a submissions and objections process whereby a Scheme cannot proceed if more than 50% of objections are received from those persons liable or required to pay the Special Rate or Charge (section 163B(6)). That level of objection does not apply to this Scheme.

**DISCUSSION**

The submissions in support of the Scheme have highlighted the ongoing value and benefit of the Special Rate and Charge program to the Rosanna Village Shopping Centre over a number of years. There have been a variety of marketing, events and promotion outcomes identified which have stimulated business and community activity in the Shopping Centre.

The partnership approach with Council is highly valued in terms of the resources that are contributed to the Scheme, and the integrated approaches and working relationship that this stimulates.

The fact that there were minimal objections to the proposed Scheme is considered to be a very positive reflection on the past performance, success, outputs and future plans for the Rosanna Village Shopping Centre. It is also testament to the integrated partnership approach that Council adopts in managing these programs where collaboration is a key influence on positive economic outcomes.

It is otherwise considered that the submissions opposing the Scheme (or at least imposing Special Rate and Charge obligations on particular ratepayers and business owners) and the objections received do not raise any substantive issues which would prevent, limit or restrict Council from proceeding with the proposed Scheme, if that is what Council chooses to subsequently do.

Rosanna is in a period of positive change with significant developments underway and further growth is expected into the future. There is value in an activated and engaged Traders' Association who can collectively plan for future marketing and management, work with the local business community and support the prosperity and viability of the Rosanna Village Shopping Centre.

**TIMELINES**

The key developments in the statutory process for the declaration of a Special Charge to date have been as follows:

- 6 April – Council report – Notice of Intention to Declare a Special Charge;
- 14 April – Public Notice of Proposed Declaration advertised in the "Herald Sun";
- 14 April – A copy of the public notice with separate letter sent to all owners and occupiers advising of proposed Special Charge amount payable;
- 15 May – Submissions and Objections due;
- 15 June – Council report – Consideration of Submissions and Objection; and
- 27 July – Council report – Recommendation that decision be resolved.

**PROPOSED DECLARATION OF SPECIAL CHARGE - ROSANNA VILLAGE SHOPPING CENTRE SPECIAL CHARGE SCHEME cont'd**

**OFFICER DECLARATION OF CONFLICT OF INTEREST**

The *Local Government Act 2020* 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 and others involved in the preparation of this Report have no conflict of interest in this matter.

**CONCLUSION**

It is considered that all of the commercial properties in the Rosanna Village Shopping Centre will derive a special benefit from the expenditure of the proceeds of the Special Charge on promotional, advertising, marketing and other business development activities. It is further considered that the expenditure of the Special Charge funds on such activities will encourage commerce, retail and professional activity and employment in the Rosanna Village Shopping Centre.

The derived special benefit will not extend to other areas within the City of Banyule and, therefore, it is considered that the Declaration of the Special Charge should be confined to the area set out and in accordance with the amounts set out in the attachments to Council's Declaration of the Special Charge and that the Scheme should proceed.

**ATTACHMENTS**

<b>No.</b>	<b>Title</b>	<b>Page</b>
1	Attachment 1: Map of Participating Properties	
2	Attachment 2: List of Participating Properties	

## **5.2 PROPOSED DECLARATION OF SPECIAL RATE: THE BELL STREET MALL SHOPPING CENTRE SPECIAL RATE SCHEME**

Author: Daniela Ahimastos - Economic Development Officer, City Development

Ward: Olympia

### **Previous Items**

Council on 6 April 2020 (Item 5.1 Notice of Intention to Declare a Special Rate: The Bell Street Mall)

Council on 15 June 2020 (Item 5.2. Consideration of Submissions and Objection: The Bell Street Mall Special Rate Scheme)

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### **EXECUTIVE SUMMARY**

Following the Ordinary Council Meeting held on 6 April 2020, and in accordance with the statutory process under the *Local Government Act 1989* (“Act”) for the declaration of a special rate (“Special Rate” and “Scheme” and “Proposed Declaration”), a statutory public notice of Council’s intention to declare the Special Rate for The Bell Street Mall Shopping Centre (“Shopping Centre”) was advertised in the “*The Herald Sun*” newspaper on 14 April 2020, and placed on Council’s Internet website. Separate letters, advising of Council’s intention to declare the Special Rate were mailed by ordinary post, on 14 April 2020 to all of the owners and occupiers of the properties included in the proposed Scheme, altogether with a copy of the public notice.

The public notice advised that any person may make a written submission under sections 163A and 223 of the Act. The public notice further advised that any person who would be required to pay the Special Rate (whether an owner or an occupier of a property included in the Scheme) had a right to object to the Proposed Declaration, and could make a written objection to the Council under section 163B of the Act.

The closing date for submissions and objections was 15 May 2020. Council received by this date a total of four written submissions under sections 163A and 223 of the Act. All submissions were in support of the proposed Scheme for a variety of reasons. No objections were received under section 163B of the Act.

Council formally considered the written submissions at its ordinary meeting held on 15 June 2020 and resolved that, following what had been Council’s consideration of the submissions, Council would proceed to make a final decision in relation to the Scheme at its ordinary meeting to be held on 27 July 2020.

This Report, following a consideration of the submissions received by Council, recommends the declaration of a Special Rate for The Bell Street Mall Shopping Centre commencing on 1 July 2020 and ending on 30 June 2025.

**PROPOSED DECLARATION OF SPECIAL RATE: THE BELL STREET MALL SHOPPING CENTRE SPECIAL RATE SCHEME cont'd**

**RECOMMENDATION**

That

1. Council, having considered all submissions received under section 223 of the *Local Government Act* 1989 (“Act”) and having complied with the requirements of sections 163A, 163B and 223 of the Act, and otherwise according to law, hereby declares a Special Rate under section 163(1) of the Act for the purposes of defraying expenses to be incurred by Council in providing funds to the incorporated body known and operating as The Bell Street Mall Traders Association (“*Traders Association*”), which funds, administratively only and subject always to the approval, direction and control of Council, are to be used for the purposes of contracted support, promotional, advertising, marketing, business development and other incidental expenses, as approved by Council and agreed to from time to time between Council and the Traders’ Association, all of which are associated with the encouragement of commerce, retail and professional activity and employment in The Bell Street Mall Shopping Centre (“Special Rate and Declaration”).
2. The criteria which form the basis of the declaration of the Special Rate are the ownership of rateable land used, or reasonably capable of being used, for commercial, retail or professional purposes, which rateable land is situated within the geographical area in which the properties described in paragraphs 6 and 7 of this declaration are included.
3. In declaring the Special Rate, Council is performing functions and exercising powers in relation to the peace, order and good government of the municipal district of the City of Banyule, in particular the encouragement of commerce, retail activity and employment opportunities within the area for which the Special Rate is declared.
4. The total cost of the performance of the function and the exercise of the power by Council (in relation to activities associated with the encouragement of commerce, retail activity and employment opportunities in the area for which the Special Rate is declared) and also the total amount of the Special Rate to be levied by Council is referable to an amount of \$55,000 which amount will be levied in each year of the Scheme and which in total will raise an amount of \$275,000 over the 5 year period of the Scheme.
5. The period for which the Special Rate is declared and will remain in force is a period of 5 years commencing on 1 July 2020 and ending on 30 June 2025.
6. The area for which the Special Rate is declared is all of the land referred to as The Bell Street Mall, as identified and shown on the plan set out in the attachment forming a part of this Declaration (being [Attachment 1](#)).
7. The land in relation to which the Special Rate is declared is all that rateable land described in the listing of rateable properties set out in the attachment forming a part of this declaration (being [Attachment 2](#)).

**PROPOSED DECLARATION OF SPECIAL RATE: THE BELL STREET MALL SHOPPING CENTRE SPECIAL RATE SCHEME cont'd**

8. The contributions to the Special Rate, based on relevant property classifications will be declared and assessed in accordance with the Special Rate amounts set out alongside each property in the attachment forming a part of this Declaration (being [Attachment 2](#)).
9. The Special Rate will be levied by Council sending a notice of levy (“Notice”) in the prescribed form annually to the person who is liable to pay the Special Rate, which will require that the Special Rate be paid in the following manner –
  - (a) by one annual payment to be paid in full by the due date fixed by Council in the notice, which will be a date not less than 30 days after the date of issue of the notice; or
  - (b) by four instalments, to be paid by the dates which are fixed by Council in the Notice.
10. Council will consider cases of financial and other hardship, and it may reconsider other payment options for the Special Rate. (Council further records that at the 6 April 2020 ordinary meeting of Council, Council resolved of its intention to extend its support for businesses in light of COVID-19 pandemic, by providing additional funding for the Special Rate Scheme.) No incentives will otherwise be given for payment of the Special Rate before the due date for payment in the Notice.
11. Council considers that there will be a special benefit to the persons required to pay the Special Rate because there will be a benefit to those persons that is over and above, or greater than, the benefit that is available to persons who are not subject to the Special Rate, and directly or indirectly as a result of the expenditure proposed by the Special Rate, the viability of the Shopping Centre as a business, commercial, retail and professional area, and the value and the use, occupation and enjoyment of the properties and the businesses included in the Scheme area will be maintained or enhanced through increased economic activity.
12. Council further considers and formally determines for the purposes of sections 163(2)(a), (2A) and (2B) of the Act, that the estimated proportion of the total benefits of the Scheme to which the performance of the function or the exercise of the power relates (including all special benefits and community benefits) that will accrue as special benefits to all of the persons who are liable to pay the Special Rate is in a ratio of 1:1 (or 100%). This is on the basis that, in the opinion of Council, the total amount of the Special Rate to be levied and all of the services and activities to be provided from the expenditure of the Special Rate are marketing, promotion and advertising related and will accordingly only benefit the owners and occupiers of those properties and businesses included in the Scheme that are used, or reasonably capable of being used, for retail, commercial or professional purposes (in circumstances where there are no other special benefits or community benefits accruing from the Special Rate).
13. The Traders’ Association be authorised to administer the proceeds of the Special Rate on the express condition that the Traders’ Association enters into a funding agreement with Council for the period of the Special Rate.

**PROPOSED DECLARATION OF SPECIAL RATE: THE BELL STREET MALL SHOPPING CENTRE SPECIAL RATE SCHEME cont'd**

14. Notice be given to all owners and occupiers of properties included in the Scheme and all persons who have lodged a written submission of the decision of Council to declare and levy the Special Rate commencing on 1 July 2020, and the reasons for the decision.
15. For the purposes of paragraph 14, of this Declaration, the reasons for the decision of Council to declare the Special Rate are that –
  - (a) there is no objection to the Scheme and it is otherwise considered that there is a broad level of support for the Special Rate from all property owners and occupiers;
  - (b) Council considers that it is acting in accordance with the role, functions and powers conferred on it under the *Local Government Act 2020*, particularly in relation to the provision of good governance in its municipal district for the benefit and wellbeing of the Banyule municipal community, including in relation to the encouragement of commerce, retail activity and employment opportunities in and around the Scheme area;
  - (c) all persons who are liable or required to pay the Special Rate and the properties respectively owned or occupied by them will receive a special benefit in the form of an enhancement or maintenance in land values and/or a maintenance or enhancement in the use, occupation, and enjoyment of the properties; and
  - (d) the basis of the distribution of the Special Rate amongst those persons who are liable or required to pay the Special Rate is considered by Council to be fair and reasonable.
16. The Traders' Association be notified of the matters specified in paragraphs 1 and 13 of this resolution.

**COUNCIL PLAN**

This Report is in line with Banyule's Council Plan key direction to "Invest in and support activity centres and employment precincts".

**BACKGROUND**

The process to declare the Special Rate for The Bell Street Mall began with a pre-statutory phase of consultation and review in early 2020. Both the Traders' Association and Council were committed to a review of the performance of the current Scheme in order to accommodate future improvements and to assist with setting new directions should the Scheme be renewed. The consultation outcomes indicated a good level of positivity and optimism for the Scheme to continue. Hence, and as previously notified to Council, the Traders' Association made a formal request for Council to commence the statutory process to declare, by way of renewal, a new Special Rate Scheme.

**PROPOSED DECLARATION OF SPECIAL RATE: THE BELL STREET MALL SHOPPING CENTRE SPECIAL RATE SCHEME cont'd**

**LEGAL CONSIDERATION**

Council requires The Bell Street Mall Traders' Association (an incorporated Traders' Association) to have a high level of financial and management accountability of funds.

This includes certain requirements identified in Council's standard funding agreement ("Funding Agreement") and other documentation that must be regularly submitted to Council for approval, including quarterly reports, a budget and an audited financial report at the conclusion of each financial year. Council will ensure that, under the Funding Agreement, the proceeds of the Special Rate are expended by the Traders' Association on behalf of Council, administratively only.

Council is, and remains, legally responsible for approving, directing and controlling the expenditure of the proceeds of the Special Rate in accordance with its obligations under the *Local Government Act 2020* and the *Local Government Act 1989*.

In accordance with section 185 of the Act, a person who is aggrieved by Council's decision to impose a Special Rate may apply to the Victorian Civil and Administrative Tribunal ("VCAT") for a review of the decision. Any application must be made within 30 days of the Notice levying the Special Rate. Further, in accordance with section 185AA of the Act, any person may apply to VCAT for a declaration concerning the validity of Council's decision.

**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 of this Report does not raise any human rights issues.

**LOCALITY PLAN**

A map showing the Scheme area is set out in Attachment 1 of the Declaration. A list of the participating properties in the Scheme (all of which are considered to receive a special benefit) are set out in Attachment 2 of the Declaration.

**FUNDING IMPLICATIONS**

The Traders' Association has requested and it is otherwise being recommended to Council that the proposed Scheme raise an amount of \$55,000 per annum.

This amount will be supported by Council's contribution of \$50,000 in order to provide a total budget of \$105,000 per annum.

**CONSULTATION AND ENGAGEMENT**

Consultation and engagement for this Scheme proposal has been extensive throughout the various stages of both the pre-statutory and statutory processes. Council's commitment to supporting a thorough review and consultation process, and also in adopting best practice approaches for its special charge and rate renewals, supports a clear, open and transparent process.

**PROPOSED DECLARATION OF SPECIAL RATE: THE BELL STREET MALL SHOPPING CENTRE SPECIAL RATE SCHEME cont'd**

This fairly and openly allows for all owners and occupiers and other stakeholders to be informed of Council's intentions for the Scheme, their respective rights and obligations, and also the opportunity for them to provide comment and formal feedback through each stage of the proposal.

Following this Report, and if Council proceeds with the Declaration all owners and occupiers will be advised of Council's decision to declare the Special Rate for The Bell Street Mall Shopping Centre and the reasons for doing so.

With respect to statutory consultation, the closing date for submissions and objections was on 15 May 2020. Council received by this date a total of four written submissions under sections 223 of the Act. All four submissions were in support of the proposed Scheme for a variety of reasons.

No persons in their written submission requested that they appear in person before Council or be represented by a person specified in their submission.

Council formally considered the submissions at its Ordinary Meeting on 15 June 2020 and resolved that, following a consideration of submissions, to make a final decision in relation to the Scheme at its ordinary meeting to be held on 27 July 2020.

**DISCUSSION**

The submissions in support of the Scheme have highlighted the ongoing value and benefit of the Special Rate and Charge program to The Bell St Mall Shopping Centre over a number of years, particularly during a time of economic uncertainty brought on by the impacts of COVID-19.

The partnership approach with Council is highly valued in terms of the resources that are contributed to the Scheme, and the integrated approaches and working relationship that this stimulates.

The fact that there were no objections to the proposed Scheme is considered to be a very positive reflection on the past performance and success, as well as an indicator of the need for marketing support during a period of economic downturn. It is also testament to the integrated partnership approach that Council adopts in managing these programs where collaboration is a key influence on positive economic outcomes.

**TIMELINES**

The key developments in the statutory process for the declaration of a Special Rate to date have been as follows:

- 6 April – Council report – Notice of Intention to Declare a Special Rate;
- 14 April – Public Notice of Proposed Declaration advertised in newspaper and on Council's website;
- 14 April – A copy of the public notice with separate letter sent to all owners and occupiers advising of proposed Special Rate amount payable;
- 15 May – Submissions and Objections due;
- 15 June – Council report – Consideration of Submissions and Objection; and
- 27 July– Council report – Recommendation that decision be resolved.



**PROPOSED DECLARATION OF SPECIAL RATE: THE BELL STREET MALL SHOPPING CENTRE SPECIAL RATE SCHEME cont'd**

**OFFICER DECLARATION OF CONFLICT OF INTEREST**

The *Local Government Act 2020* 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 and others involved in the preparation of this Report have no conflict of interest in this matter.

**CONCLUSION**

It is considered that all of the commercial properties in The Bell Street Mall Shopping Centre will derive a special benefit from the expenditure of the proceeds of the Special Charge on promotional, advertising, marketing and other business development activities. It is further considered that the expenditure of the Special Charge funds on such activities will encourage commerce, retail and professional activity and employment in The Bell Street Mall Shopping Centre.

The derived special benefit will not extend to other areas within the City of Banyule and, therefore, it is considered that the Declaration of the Special Charge should be confined to the area set out and in accordance with the amounts set out in the attachments to Council's Declaration of the Special Charge and that the Scheme should proceed.

**ATTACHMENTS**

<b>No.</b>	<b>Title</b>	<b>Page</b>
1	Attachment One. Map of Participating Properties	
2	Attachment Two. List of Participating Properties	

### **5.3 PLANNING SCHEME AMENDMENT C159 ADOPTION - REMOVAL OF PARKING OVERLAY FROM THE GREENSBOROUGH ACTIVITY CENTRE**

Author: Faza Fauzi - Strategic Planner, City Development

Ward: Bakewell

#### **Previous Items**

Council on 07 Oct 2019 7.00pm (Item 5.3 - Greensborough Parking Plan - Adoption)

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#### **EXECUTIVE SUMMARY**

Planning Scheme Amendment C159 (C159) seeks to delete Schedule 1 of Clause 45.09 (Parking Overlay) from the Banyule Planning Scheme. The effect of this amendment will be to remove the now out-of-date car parking rates for the Greensborough Activity Centre and to default to the State Government car parking rates for activity centres which apply across all of metropolitan Melbourne. This outcome was a recommendation of the Greensborough Activity Centre Parking Plan adopted by Council in 2019.

Authorisation was sought from the Minister for Planning on 14 February 2020 to progress C159 under Section 19 (1B) of the Planning and Environment Act 1987. Authorisation to proceed was granted on 28 February 2020.

Public exhibition of C159, typically four weeks, was extended to a six-week period due to COVID-19 lockdown restrictions. This occurred between 22 April to 18 June 2020. No submissions were received.

Notice was not given in a 'local newspaper' due to the closure of the Leader Newspaper. However, Notice was given directly to affected landowners and occupants, and public authorities. Information was also published on Council's website and the Government Gazette.

It is considered that Council should now adopt Amendment C159 as exhibited and submit the amendment to the Minister for Planning for final approval.

#### **RECOMMENDATION**

That Council:

1. Adopt Banyule Planning Scheme Amendment C159 as exhibited;
2. Submit Banyule Planning Scheme Amendment C159 to the Minister for Planning for approval.

**PLANNING SCHEME AMENDMENT C159 ADOPTION - REMOVAL OF PARKING OVERLAY FROM THE GREENSBOROUGH ACTIVITY CENTRE cont'd**

**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**

On 7 October 2019, Council resolved to adopt the Greensborough Activity Centre Parking Plan (GACPP). The primary objective of the Parking Plan was to determine the existing parking supply and demand characteristics and provide recommendations for the provision of car parking within the activity centre for specific uses.

The GACPP assessed parking requirements in the Greensborough Activity Centre and found that the current parking rates specified in Schedule 1 of the Parking Overlay was excessive for an activity centre and recommended this schedule be deleted from the Planning Scheme. Once deleted, car parking requirements for new developments within the activity centre will default to the State standard requirement of Clause 52.06 (Car Parking).

Authorisation to prepare Amendment C159 to delete Schedule 1 of Clause 45.09 (Parking Overlay) was requested on 14 February 2020. The Minister for Planning granted authorisation to commence Amendment C159 on 28 February 2020.

Public exhibition of amendment C159 was conducted over six weeks between 22 April to 18 June 2020. No submissions were received.

**LEGAL CONSIDERATION**

Planning Scheme Amendments are governed by Part 3 of the *Planning and Environment Act 1987*. The content and recommendations contained in this report are in compliance with the Act.

**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.

**PLANNING SCHEME AMENDMENT C159 ADOPTION - REMOVAL OF PARKING OVERLAY FROM THE GREENSBOROUGH ACTIVITY CENTRE cont'd**

**Locality Plan**



**CURRENT SITUATION**

As no submissions were received, Council is now able to adopt the amendment as exhibited. No changes are required to the amendment.

**TECHNICAL CONSIDERATION**

The deletion of Clause 45.09s1 will reduce the overall car parking requirements for new dwellings, restaurants, restricted retail premises, and shops (other than the restricted retail premises) located within the Greensborough Activity Centre. The deletion of Clause 45.09s1 means that car parking requirements for these uses will default to the State standard requirement of Clause 52.06 (Car Parking). Overall, this will help to reduce the overall cost of development, support the use of alternative forms of transport in a highly accessible location and ensure a more efficient use of parking in line with activity centre policy.

**PLANNING SCHEME AMENDMENT C159 ADOPTION - REMOVAL OF PARKING OVERLAY FROM THE GREENSBOROUGH ACTIVITY CENTRE cont'd**

The table below shows the before and after effects of this amendment:

Use	Existing car parking requirements under Schedule 1 of Clause 45.09 (Proposed to be deleted)		State standard car parking requirements under Clause 52.06 (Column b of Table 1)	
	Number of car parking spaces	Measure	Number of car parking spaces	Measure
Dwellings	1	To each one and two bedroom dwelling, plus	1	To each one and two bedroom dwelling, plus (no change)
	2	To each three or more bedroom dwelling, plus	2	To each three or more bedroom dwelling, plus (no change)
	0.2	Visitor spaces to each dwelling	0	Visitor spaces to each dwellings
Restaurant	0.4	To each seat	3.5	To each 100 sq m of leasable floor area
Restricted retail premises	2.5	To each 100 sq m of leasable floor area	2.5	To each 100 sq m of leasable floor area (no change)
Shop other than restricted retail premises	4.6	To each 100 sq m of leasable floor area	3.5	To each 100 sq m of leasable floor area

**CONSULTATION**

Public exhibition occurred over 6 weeks between 22 April to 18 June 2020. Typically, exhibition would only occur for four weeks, however due to COVID-19 restrictions, the decision to extend the period, alongside additional direct notice, was considered reasonable in this instance. Notification measures during this period were as follows:

- Direct notice to landowners and occupiers;
- Direct notice to public authorities;
- Information on Council’s shaping Banyule website;
- Notice via the Government Gazette.

Due to the closure of the Leader Newspaper, exemption to give notice in the local newspaper was granted under Section 20(2) of the *Planning and Environment Act 1987*. Hard copy information was available on request only via post during the Covid-19 state of emergency.

No submissions were received.

**DISCUSSION**

As no submissions were received, Council is now in a position to adopt the amendment as exhibited. No changes are required to the amendment.

**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.

**PLANNING SCHEME AMENDMENT C159 ADOPTION - REMOVAL OF PARKING OVERLAY FROM THE GREENSBOROUGH ACTIVITY CENTRE cont'd**

**CONCLUSION**

Amendment C159 has been exhibited in accordance with Section 19 (1B). No submissions have been received. It is considered that Council should now adopt Amendment C159 as exhibited and submit the amendment to the Minister for Planning for approval.

**ATTACHMENTS**

Nil

## **5.4 43 BROWN STREET & 55-60 ROSANNA ROAD, HEIDELBERG - PROPOSED FOUR STOREY APARTMENTS - (P457/2020)**

Author: Chris McInnes - Development Planner, City Development

Ward: Griffin

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### **EXECUTIVE SUMMARY**

The proposal is for the development of the land for the construction of thirty-eight (38) dwellings, buildings and works on land subject to a Design and Development Overlay (DDO5), removal of vegetation and construction of a fence on land subject to a Vegetation Protection Overlay (VPO5) and alteration of access to a Road Zone, Category 1 (RDZ1) at 56–60 Rosanna Road and 43 Brown Street, Heidelberg. The proposed development is consistent with State and Local Planning Policies and complies with Clause 55 of the Banyule Planning Scheme.

It is noted that a permit for a similar outcome was issued in 2017 as a result of an approval by Council and mediation between Council, objectors and the applicant at the Victorian Civil and Administrative Tribunal. As the applicant has allowed this permit to lapse, a fresh permit is being sought for an outcome generally in accordance with the conditions set out in the lapsed permit.

Following public notification of the proposal, a total of 52 objections have been received.

As there are no changes in policy that would suggest that the first permit is now inappropriate, it is considered that the application should be supported with appropriate conditions.

### **RECOMMENDATION**

That Council having complied with Section 52, 58, 60, 61 and 62 of the Planning and Environment Act 1987, issue a Notice of Decision to Grant a Planning Permit in respect of Application No. P457/2020 for the development of the land for the construction of thirty-eight (38) dwellings, buildings and works on land subject to a Design and Development Overlay (DDO5), removal of protected vegetation and construction of a fence on land subject to a Vegetation Protection Overlay (VPO5) and alteration of access to a Road Zone, Category 1 (RDZ1) at 56–60 Rosanna Road and 43 Brown Street HEIDELBERG subject to the following conditions:

#### **Plans**

- 1 Before the development permitted by this permit starts, amended plans to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must

**43 BROWN STREET & 55-60 ROSANNA ROAD, HEIDELBERG - PROPOSED  
FOUR STOREY APARTMENTS - (P457/2020) cont'd**

be generally in accordance with the advertised plans prepared by GKA Architects Pty Ltd (rev M) dated 17 March 2020 but further modified to show:

- (a) Delete Tree #48 from the plans as it has been removed;
- (b) The position or design of bicycle parking facilities within the basement amended so that they are not path of vehicles reversing out from car spaces 22 and 23;
- (c) Provision of specifications for the car stacking systems utilised within the basement (Hercules Expanderpark '-2+1' and '-1+1');
- (d) The maximum gradient of all vehicular access ramps to comply with the relevant Australian Standard (AS2890.1);
- (e) A minimum of 20% of apartments designed to be compliant with Council's Liveable Housing Design Guidelines;
- (f) The Tree Preservation Fencing in accordance with Condition 8 of this permit;
- (g) Waste Management Plan amended to include the following changes:
  - (i) The waste collection frequency for each waste stream nominated as being a maximum of one (1) collection per week;
  - (ii) Capacity for residential storage of garden organics;
  - (iii) The roller door entrance to the bin store to be automated;
  - (iv) The width of the corridor between bins be wide enough to allow wheelchair access;
- (h) Any modifications necessary to the plans to accommodate changes required to the Waste Management Plan as per Condition (1) (g);
- (i) All sustainable design features indicated in the advertised Sustainable Design Management Plan prepared by ARC Enviroconcepts Pty Ltd dated 28 March 2020. Where sustainable design features outlined in the Sustainable Design Management Plan cannot be visually shown, include a notes table providing details of the requirements (i.e. energy and water efficiency ratings for heating/cooling systems and plumbing fittings and fixtures, etc);
- (j) Landscaping plan amended to show the location, details and cross section drawings of all Water Sensitive Urban Design features in accordance with the endorsed Sustainable Design Management Plan and STORM report, with reference to connection details on the engineering plans;
- (k) A notation on plans stating that all landscaping works for the development (as shown on the endorsed plans) must not alter the existing ground level or topography of the land within the TPZ of all retained/neighbouring trees outside of the approved building envelope;
- (l) Engineering plans showing a properly prepared design with computations for the internal drainage and method of disposal of stormwater from all roofed areas and sealed areas including:
  - (i) The use of an On-site Stormwater Detention (OSD) system;



**43 BROWN STREET & 55-60 ROSANNA ROAD, HEIDELBERG - PROPOSED  
FOUR STOREY APARTMENTS - (P457/2020) cont'd**

- (ii) The connection to the Council nominated legal point of discharge;
- (iii) All drainage plans must show for Trees #24, #51, #52 and #60:  
The Tree Number; The Structural Root Zone (SRZ) radius; and the Tree Protection Zone (TPZ) radius, each as detailed and calculated within the arborist report submitted with the application authored by Darrell Mcleod (revised March 2020);
- (iv) The integration, details and connections of all Water Sensitive Urban Design features in accordance with the advertised Sustainable Design Assessment and STORM report and include drainage details as a result of landscaping;

Please note the Engineering plans must show all protected and/or retained trees on the development site, on adjoining properties where tree canopies encroach the development site and along proposed outfall drainage and roadway alignments (where applicable) and every effort must be made to locate services away from the canopy drip line of trees and where unavoidable, details of hand work or trenchless installation must be provided.

**General**

- 2 The development as shown on the endorsed plans or described in the endorsed documents must not be altered or modified except with the written consent of the responsible authority.
- 3 Unless otherwise agreed in writing by the responsible authority the development permitted by this permit must not be commenced until the tree protection measures required by Condition 8 are installed to the satisfaction of the responsible authority.
- 4 Unless otherwise agreed in writing by the responsible authority the development permitted by this permit must not be occupied until the development has been completed to the satisfaction of the responsible authority in accordance with the permit and endorsed plans (including, but not limited to built form and layout, parking, landscaping, drainage, street numbering).

**Drainage**

- 5 Stormwater must not be discharged from the subject land other than by means of an underground pipe drain to a Council nominated point of discharge. The drainage system within the subject land must be designed to the requirements and satisfaction of the relevant Building Surveyor.

**NOTE:**

Any connection to Council's drainage system

- (a) within the road reserve must be carried out under a Memorandum of Consent for Works; and/or
- (b) Other than within a road reserve must be carried out under a Drainage Connection Permit;

This is to be carried out under Council supervision and to the satisfaction of the Responsible Authority

**43 BROWN STREET & 55-60 ROSANNA ROAD, HEIDELBERG - PROPOSED  
FOUR STOREY APARTMENTS - (P457/2020) cont'd**

**Urban Design / External Appearance**

- 6 The walls of the development on the boundary of adjoining properties must be cleaned and finished in a manner to the satisfaction of the responsible authority.

**Tree Protection / Landscaping**

- 7 Except with the further written consent of the responsible authority, no vegetation (other than that indicated on the endorsed plan, or exempt from planning permission under the provisions of the Banyule Planning Scheme) shall be damaged, removed, destroyed or lopped.
- 8 Unless otherwise agreed in writing by the Responsible Authority, prior to the commencement of works on the site Tree Preservation Zones must be established around Trees #24, #51, #52 and #60. At least 14 days prior to the commencement of works you must provide a 'Statement of Compliance' the suitably qualified project arborist (AQF **Level 5**) which must include photographic evidence of the below requirements. This correspondence must be sent to [enquiries@banyule.vic.gov.au](mailto:enquiries@banyule.vic.gov.au). Once installed to the satisfaction below the Tree Preservation Zones must be maintained until the conclusion of works to the satisfaction of the Responsible Authority, and must meet the following requirements:

(a) Extent

Tree Preservation Zones must be provided in the following trees:

**Neighbouring Trees #24, #51, #52 and #60:** to the extent of the calculated Tree Protection Zone (TPZ) where it occurs within the subject Land;

Where there are approved works within a TPZ, it may only be reduced to the required amount by an authorised person, only during approved construction within the TPZ and must be restored in accordance with the above requirements at all other times.

(b) Weed control

Any weeds located within the Tree Preservation Zone are to be removed and the area mulched with 100mm of composted coarse grade woodchips.

(c) Fencing

Protective fencing must consist of chain wire mesh panels held in place with concrete feet. Fencing must comply with Australian Standard AS 4687-2007 Temporary fencing and hoardings.

(d) Signage

Fixed signs are to be provided on all visible sides of the Tree Preservation Fencing, stating "Tree Preservation Zone – No entry without permission from the City of Banyule".

(e) Irrigation

**43 BROWN STREET & 55-60 ROSANNA ROAD, HEIDELBERG - PROPOSED  
FOUR STOREY APARTMENTS - (P457/2020) cont'd**

The area must be irrigated during the summer months with 10 litres of clean water for every 1 cm of trunk girth measured at the soil / trunk interface on a monthly basis during summer (or a percentage thereof equivalent to the percentage of TPZ area occurring within the subject site).

(f) Access to Tree Preservation Zone

- (i) No persons, vehicles or machinery are to enter the Vegetation Protection Zone except with the consent of the responsible authority;
- (ii) No fuel, oil dumps or chemicals are allowed to be used or stored within the Vegetation Preservation Zone and the servicing and re-fuelling of equipment and vehicles must be carried out away from the root zones;
- (iii) No storage of material, equipment or temporary building is to take place within the Vegetation Preservation Zone;
- (iv) Nothing whatsoever, including temporary services wires, nails, screws or any other fixing device, is to be attached to any tree.

(g) Ground Protection

A permeable membrane beneath a layer of mulch or crushed rock below rumble boards must be laid down where the tree protection zone occurs outside the fenced area detailed in Condition (8) (a). Rumble boards should be of a suitable thickness to prevent soil compaction and root damage. Ground protection must only be removed once all buildings and works have been completed.

**NOTE:**

Requests for consent of the Responsible Authority (City of Banyule) pursuant to this Condition should be directed to Council's Arborist – Development Planning on 9457 9808. Consent for the conduct of further works within a Tree Protection Zone, where granted, may be subject to conditions. Such conditions may include a requirement that:

- a) Any further works that are approved are to be supervised by the project arborist, and a written component may be required also;
- b) All root excavation be carried out by hand digging or with the use of 'Air-Excavation' techniques;
- c) Canopy and Limb protection is provided in accordance with the guidelines detailed in AS4970-2009 Protection of Trees on Development Sites.
- d) Or other conditions, as relevant, to ensure the ongoing health and stability of the subject tree/s.
- e) Any excessive impacts on the canopies and/or roots of trees located on or adjoining property may trigger the need for a Section 72 Amendment application in regard to the design of built-form and/or landscaping.

- 9 Any underground service installations within the calculated Tree Protection Zone of any retained tree must be bored to a depth of at least 600mm. Any excavation within the calculated TPZ of a retained tree required for the connection of services must be:

**43 BROWN STREET & 55-60 ROSANNA ROAD, HEIDELBERG - PROPOSED  
FOUR STOREY APARTMENTS - (P457/2020) cont'd**

- (a) Undertaken after written approval is received from the Responsible Authority; and,
  - (b) Undertaken by hand or by approved non-destructive techniques suitable in the vicinity of trees under the supervision of the project arborist.
- 10 Unless otherwise agreed in writing by the responsible authority, the landscaping areas shown on the endorsed plans must be used for landscaping and no other purpose and any landscaping must be maintained to the satisfaction of the responsible authority, including that any dead, diseased or damaged plants are to be replaced.

**Arborist supervision**

- 11 Prior to the commencement of works, the project arborist must determine the canopy impact to trees on or adjoining the subject site that are shown to be retained on the endorsed plans in regards to any pruning required to enable clearance from the proposed Buildings and Works (including any temporary scaffolding requirements), and advise council's Development Planning Arborists via email to [enquiries@banyule.vic.gov.au](mailto:enquiries@banyule.vic.gov.au) marked "Attention - Development Planner" and including the planning application number. Following written approval from the Responsible Authority, all tree pruning must then be carried out by the suitably qualified project arborist (AQF **Level 3**) in accordance with Australian Standard *AS4373-2007 Pruning of Amenity Trees*, and must be restricted to the removal of no greater than 15% of the total live canopy of individual trees unless otherwise agreed in writing by the Responsible Authority. Any requirement for excessive pruning may trigger the need for a Section 72 Amendment application in regard to the design of built-form or the retention of a tree.
- 12 Any root severance within a TPZ must be undertaken by a project arborist to their satisfaction using clean, sharp and sterilised tree root pruning equipment e.g. sharp handsaw, secateurs, pruners or specialised root pruning equipment, in accordance with Australian Standard *AS4373-2007 Pruning of Amenity Trees*. There must be no root pruning within the SRZ.
- 13 The project arborist must ensure that any root severance resulting from endorsed buildings and works does not adversely impact the health and or stability of any retained tree now or into the future.
- 14 All plant machinery and construction equipment must operate from outside a TPZ. There must be no works undertaken within a TPZ other than those endorsed by the Responsible Authority (RA).
- 15 The project arborist and builder must ensure that TPZ Fencing Conditions are being adhered to throughout the entire building process, including site demolition, levelling and landscape works.

**Waste Management**

- 16 Unless otherwise agreed in writing by the responsible authority, prior to the Certification of the Plan of Subdivision, the owner/s of the land at 56-60

**43 BROWN STREET & 55-60 ROSANNA ROAD, HEIDELBERG - PROPOSED  
FOUR STOREY APARTMENTS - (P457/2020) cont'd**

Rosanna Road and 43 Brown Street, Heidelberg must enter into an agreement with the responsible authority pursuant to Section 173 of the *Planning and Environment Act 1987* to the satisfaction of the responsible authority.

Such agreement shall require that all refuse and recycling collection for the property shall be provided internally by a private contractor at the expense of the owner of the land. A memorandum of the Agreement is to be entered on title and the cost of the preparation and execution of the Agreement and entry of the memorandum on title is to be paid by the owner.

**Construction Management Plan**

- 17 Before the development starts, a Construction Management Plan to the satisfaction of the responsible authority must be submitted to, and approved in writing by, the responsible authority. The Construction Management Plan must address the following issues:
- (a) measures to control noise, dust and water runoff;
  - (b) prevention of silt or other pollutants from entering into the Council's underground drainage system or road network;
  - (c) the location of where building materials are to be kept during construction;
  - (d) site security;
  - (e) maintenance of safe movements of vehicles to and from the site during the construction phase and on the surrounding road network;
  - (f) on-site parking of vehicles associated with construction of the development;
  - (g) wash down areas for trucks and vehicles associated with construction activities;
  - (h) cleaning and maintaining surrounding road and footpath surfaces.

The development must be undertaken in accordance with the approved Construction Management Plan unless otherwise approved in writing by the responsible authority.

**Vehicle crossings**

- 18 Vehicular access or egress to the subject land from any roadway or service lane must be by way of a vehicle crossing constructed in accordance with Council's Vehicle Crossing Specifications to suit the proposed driveway(s) and the vehicles that will use the crossing(s). The location, design and construction of the vehicle crossing(s) must be approved by the responsible authority. Any existing unused crossing(s) must be removed and replaced with concrete kerb, channel and naturestrip to the satisfaction of the Council prior to occupation of the building. All vehicle crossing works are to be carried out with Council Supervision under a Memorandum of Consent for Works which must be obtained prior to commencement of works.

**Department of Transport**

**43 BROWN STREET & 55-60 ROSANNA ROAD, HEIDELBERG - PROPOSED  
FOUR STOREY APARTMENTS - (P457/2020) cont'd**

- 19 Prior to the occupation of the building allowed by this permit, the redundant vehicle crossover to Rosanna Road must be removed and the area reinstated to kerb, channel, nature-strip and footpath to the satisfaction of and at no cost to the Head, Transport for Victoria.

**Development Infrastructure Levy**

- 20 Prior to the issue of a building permit for any building or any works approved by this permit, a Development Infrastructure Levy and a Community Infrastructure Levy must be paid to Banyule City Council. The amount of the levy for each charge unit must be calculated in accordance with Schedule 1 to the Development Contribution Plan Overlay.

**Time Limits**

- 21 In accordance with section 68 of the *Planning and Environment Act 1987*, this permit will expire if one of the following circumstances applies:
- (a) The development is not commenced within two years of the date of this permit;
  - (b) The development is not completed within four years of the date of this permit.

In accordance with section 69 of the *Planning and Environment Act 1987*, the responsible authority may extend the periods referred to if a request is made in writing:

- (c) Before the permit expires, or
- (d) Within six months afterwards, or
- (e) Within 12 months afterwards if the development started lawfully before the permit expired.

**PERMIT NOTES**

**A. Expiry of Permit**

In the event that this permit expires or the subject land is proposed to be used or developed for purposes different from those for which this permit is granted, there is no guarantee that a new permit will be granted. If a permit is granted then the permit conditions may vary from those included on this permit having regard to changes that might occur to circumstances, planning scheme provisions or policy.

**B. Building Permit Required**

Building Permit must be obtained prior to the commencement of any works associated with the proposed development.

**C. Building over Easements**

No structure, including sheds and water tanks shall be built over any easement on the subject land except with the consent of the relevant Responsible Authority.

**43 BROWN STREET & 55-60 ROSANNA ROAD, HEIDELBERG - PROPOSED  
FOUR STOREY APARTMENTS - (P457/2020) cont'd**

**D. Completion of Development**

Immediately upon completion of the development permitted by this permit, the owner or developer of the subject land must notify Council's Development Planning Section that the development is complete and complies with all requirements of the permit. The development will then be inspected to ensure compliance. An early inspection process will ensure that the subdivision approvals including the Statement of Compliance can be issued without delay.

**E. Street Numbering**

Please note that property addresses are allocated by Council. This is usually formalised at the time of the issue of a certified plan.

**F. Memorandum of Consent for Works**

Council's Construction Department must supervise all works undertaken on Council assets within private property, Council Reserves, easements, drainage reserves and/or road reserves, including connection of the internal drainage system to the existing Council assets. Prior to the commencement of any works, an application must be made and a permit received for:

- A "Memorandum of Consent for Works" for any works within the road reserve; and/or
- A "Drainage Connection Permit" for any works other than within a road reserve.

**G. Building Site Code of Practice**

All construction works must comply with the requirements of the 'Building Site Code of Practice – Banyule City Council'. A copy of the Code is available on the Banyule City Council website or at Council Service Centres.

**H. Department of Transport**

Separate approval under the Road Management Act 2004 for the crossover works to Rosanna Road is required from the Head, Transport for Victoria. Please contact the Department of Transport (Roads) prior to commencing any works.

<b>Planning Permit Application:</b>	P457/2020
<b>Development Planner:</b>	Mr Christopher McInnes
<b>Address:</b>	56–60 Rosanna Road & 43 Brown Street HEIDELBERG
<b>Proposal:</b>	Development of the land for the construction of thirty-eight (38) dwellings, buildings and works on land subject to a Design and Development Overlay (DDO5), removal of protected vegetation and construction of a fence on land subject to a Vegetation Protection Overlay (VPO5) and alteration of access to a Road Zone, Category 1 (RDZ1)
<b>Existing Use/Development:</b>	Three detached dwellings on three lots

**43 BROWN STREET & 55-60 ROSANNA ROAD, HEIDELBERG - PROPOSED  
FOUR STOREY APARTMENTS - (P457/2020) cont'd**

<b>Applicant:</b>	New Gen Designs Pty Ltd
<b>Zoning:</b>	Residential Growth Zone – Schedule 1
<b>Overlays:</b>	Significant Landscape Overlay – Schedule 1 Design and Development Overlay – Schedule 5 Development Contributions Plan Overlay – Schedule 1
<b>Notification (Advertising):</b>	Two signs on site and notices to surrounding properties
<b>Objections Received:</b>	52
<b>Ward:</b>	<b>Griffin</b>

The plans assessed in this report are the notified plans (received by Council on 23/04/2020) (D20/100590). A copy of these plans have been annexed to this report at Attachment 1. The proposal involves the redevelopment of three lots with a residential development comprising two banks of apartments up to 4 storeys in height with a basement garage.

The development will provide 38 new dwellings, comprising 5 x 1 bedroom and 33 two bedroom apartments. Secluded private open space provision for apartments varies from 8.11 to 78.62 square metres. Parking for 46 cars and 34 bicycles is provided in the basement. A number of the car parking spaces have been provided within mechanical car stackers and access to the basement garage is obtained from Brown Street. All required visitor car parking has also been accommodated within the basement.

<b>Dwelling Density</b>	1:54m <sup>2</sup>
<b>Site Coverage</b>	78.0%
<b>Permeability</b>	20.3%
<b>Garden Area</b>	Not applicable within the RGZ

**OFFICER DECLARATION OF CONFLICT OF INTEREST**

The *Local Government Act 2020* (the 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.

**BACKGROUND**

Council issued a Notice of Decision to Grant a Planning Permit on 14 November 2016 for the construction of a multi-dwelling development (apartment complex), construction of buildings and works, native vegetation removal and reduction in on-site visitor car parking.

Objectors to the application subsequently lodged a section 82 appeal against Council's decision with the Victorian Civil and Administrative Tribunal (VCAT), however a mediated outcome was achieved prior to a formal hearing being conducted. Subsequently, s Planning Permit was issued at the direction of VCAT on 19 April 2017.



**43 BROWN STREET & 55-60 ROSANNA ROAD, HEIDELBERG - PROPOSED FOUR STOREY APARTMENTS - (P457/2020) cont'd**

Plans were endorsed to the Permit on 22 May 2019.

Pursuant to Condition 16 of the Permit, development should have commence within two years of the date of issue (19 April 2019). In accordance with section 69 of the *Planning and Environment Act 1987*, the responsible authority may extend the periods referred to if a request is made in writing:

- a) Before the permit expires, or
- b) Within six months afterwards, or
- c) Within 12 months afterwards if the development started lawfully before the permit expired.

The permit applicant made an application for an extension of time on 13 November 2019, however as the request outside the timeframes specified by Clause 69 of the *Planning and Environment Act 1987*, Council did not have the ability to extend the permit.

As a result, the permit applicant had no choice but to lodge this fresh application for development on the site on 23 April 2020. The plans submitted and subsequently notified are very similar to those endorsed under the expired permit but with the following key changes:

- All required car parking for both residents and visitors now provided on site within the basement through the provision of mechanical car stackers for some of the spaces.
- Minor internal floor plan alterations on all levels, including the basement level.
- Minor change in the size of some balconies.
- Solar panels now located on the roof.
- Minor decrease in the setback to the east boundary adjacent to Unit 1.09.



**43 BROWN STREET & 55-60 ROSANNA ROAD, HEIDELBERG - PROPOSED  
FOUR STOREY APARTMENTS - (P457/2020) cont'd**

*Figure 1: Locality plan*

**SUBJECT SITE AND SURROUNDING AREA**

The site is located on the eastern side of Rosanna Road on the southern side of the junction with Brown Street. The site comprises three lots with each currently developed with a single detached single storey brick dwelling covered with a pitched roof. The easternmost lot abuts Heidelberg Park. The site slopes down from the park in an east to west direction with a fall of 7.31 metres. The combined landholding has an effective frontage to Rosanna Road of 39 metres, a sideage to Brown Street of 48.4 metres and site area of 2,059.44 square metres.

One of the lots currently has access to Rosanna Road with the other two having access to Brown Street. The combined landholding has a total of fifty eight trees with all except eight of the trees being exotic species.

**PUBLIC NOTIFICATION**

It was considered that the proposal may cause material detriment to surrounding properties, and as such public notification was conducted by means of erecting two signs on the site and posting notices to the owners and occupiers of surrounding properties. To date 52 objections have been received. Grounds of objection are summarised as follows:

- Increased traffic generation and congestion/vehicle and pedestrian safety at Brown Street/Rosanna Road intersection;
- Lack of car parking and development will result in additional cars being parked in surrounding streets;
- Inadequate setbacks to Brown Street and Rosanna Road;
- Building height and bulk out of character with the area;
- Will increase “rat running” in back streets;
- Removal of protected vegetation;
- Site not located within activity centre;
- Not suitable for family living;
- Stormwater management;
- Adverse impact upon wildlife and the adjoining park;
- Some dwellings should have 3 bedrooms;
- Overlooking;
- Overshadowing;
- Devaluation of property;
- Site coverage in excess of 60%;
- Local infrastructure such as schools already at capacity;
- Construction traffic and impact of building works on neighbouring dwellings;
- Increased risk of COVID-19 infections due to dwelling density

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**REFERRAL COMMENTS**

**EXTERNAL REFERRALS**

The application was referred to the Department of Transport (Roads) as the proposal involves alteration to existing access to Rosanna Road. The Department raised no objection to the proposal, subject to the inclusion of a standard condition and a note to any permit issued.

**TRANSPORT ENGINEERING SERVICES**

Council's Transport Engineering Section have reviewed the proposal and raised no major concerns. All required car and bicycle parking has been provided on site within the basement. Formal comments are available on file. Standard conditions relating to access, parking areas and drainage requested should be included on any approval issued.

**DEVELOPMENT PLANNING ARBORIST**

Council's Development Planning Arborist has assessed the proposal and notes the following:

- I have assessed all trees as listed in the planning referral, visited the subject site, reviewed the plans, read the arborist report and checked tree data.
- No vegetation is proposed for retention onsite.
- Under the SLO1 control, Trees #5, #8, #9, #10, #11, #16, #17, #19, #23, #26, #27, #29, #31, #32, #33, #35, #37, #38, #39, #40, #41, #42, #43, #44, #46, #47, #50, #53, #55, #56, #57, #58 and #59 all require separate planning permission for removal.
- No high retention value trees are proposed for removal.
- All vegetation proposed for removal onsite is appropriate and supported.
- The proposed design is unlikely to affect neighbouring trees (Tree #48 has since been removed from neighbouring property and should be removed from plans).
- No street trees are present along the frontage of properties.

**WASTE DEPARTMENT**

Council's Waste Department has assessed the proposal and makes the following comments in respect to the notified Waste Management Plan:

- The waste collection frequency for each waste stream should be a maximum of once (1) per week as the development contains less than 55 dwellings in total. The waste storage area must be sufficient for this volume.
- As the development contains private courtyards containing plants capacity for residential storage or garden organics is to be accommodated as a private gardener may not be able to access these locations.
- The proposed roller door entrance to the bin store will need to be automated to ensure access by persons with a disability and elderly.

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- Dimensions are not provided for the width of the corridor between bins but a minimum width to allow wheelchair access to the hard waste storage location must be provided.

These issues can be addressed by way of suitable conditions requiring amended plans and Waste Management Plan on any permit issued.

**PLANNING CONTROLS**

The site is located within the Residential Growth Zone – Schedule 1 within Precinct 1 – Yarra Valley Open Space of the Heidelberg Specialised and Major Activity Centre, within which the Neighbourhood Character Policy does not apply. Details of the relevant planning controls and State and Local Policy requirements are contained in Attachment 2 of this report. Table 1 summarises the relevant planning controls including those which trigger the need for planning permission.

<u>Control</u>	<u>Permit triggered?</u>
Residential Growth Zone (RGZ1)	Yes
Significant Landscape Overlay (SLO1)	Yes
Design and Development Overlay (DDO5)	Yes
Development Contributions Plan Overlay (DCPO1)	Yes
Clause 52.06: Car parking	Yes
Clause 52.17: Native Vegetation	No
Clause 52.29: Land Adjacent to a Road Zone, Category 1, or a Public Acquisition Overlay for a Category 1 Road	Yes
Clause 52.36: Integrated public transport planning	No

*Table 1: Planning controls*

**TECHNICAL CONSIDERATION**

**RESPONSE TO POLICY FRAMEWORK**

The proposed development is consistent with State and Local Planning Policies seeking urban consolidation and housing diversity in appropriate locations. It is important to note that the plans being considered by this application are virtually the same as those endorsed under the recently expired Planning Permit P554/2015, which was issued at the direction of VCAT as a result of a mediated outcome between Council and parties who objected to this previous application.

The proposed maximum building height will be 12 metres. It is noteworthy that whilst the proposal seeks a variation to the Design and Development Overlay – Schedule 5 (DDO5) which has a preferred height of 10 metres which applies to the site, it is well below the maximum height of 14.5 metres allowed on a sloping site under the Residential Growth Zone. A number of the setbacks are less than the preferred setbacks contained within same DDO5 control, however it is deemed that these reduced setbacks are acceptable given both the context of the site, and importantly given that these reduced setbacks were agreed to as part of the previously approved mediated outcome.

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The height and setback variations were considered appropriate by Council when the initial permit P554/2015, was approved.

**EXTENSION OF TIME PROVISIONS**

As noted above, in accordance with section 69 of the *Planning and Environment Act 1987*, the permit applicant could have applied to extend the life of Planning Permit P554/2015 up until 19 October 2019.

If such a request had been made in time, Council would have been required to consider the following:

<b>PLANNING SCHEME IMPLICATIONS</b>			
<b>Is the proposal still permissible under the zone provisions?</b>		Applicable	Proposed
	Garden Area Requirement	N/A	N/A
	Maximum height	12.19m (excluding services)	14.5m
<b>Extent of consideration under Significant Landscape Overlay</b>	On 24 February 2017 the Overlay was amended to require a planning permit for construction above 6m in height. The permit was issued on 19 April 2017, so the amendment of this Overlay has no implication on consideration of an Extension of Time application.		
<b>What is the probability of a permit being issued in its current form should a fresh application be lodged?</b>	Based on the assessment of the new proposal, It is suggested that a permit would be issued for the proposal in its current form should a fresh application be lodged, as there have been no significant change in planning policy.		
<b>Changes in planning policy</b>	<p>There have been no change to the planning controls and policies which would warrant refusal of the request. It is considered that the proposal would be approved if it were to be considered as a fresh application today.</p> <p>As the land has not been subdivided and a building permit has not been issued, the Developer Contributions Plan levy would have been captured through these processes.</p>		
<b>Changes in circumstance</b>	There have been no changes in the surrounding land use or development since the grant of the permit which would warrant refusal of the request.		

Table 2: Relevant decision guidelines for an extension of time request for Planning Permit P554/2015 if one had been made in time.

**BUILT FORM AND LANDSCAPE RESPONSE**

With the site being located within the Heidelberg Activity Centre, the residential character objectives for the site are contained in Clause 21.08 – Local Places of the

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MSS. The site is located within Precinct 1 – Yarra Valley Open Space of the Heidelberg Activity Centre. Broadly speaking, new buildings must be sensitive to the aesthetic and environmental attributes of the precinct.

The neighbourhood character objectives for the site are also identified in DDO5 and include built form objectives of respecting the preferred scale and character of the activity centre, incorporating a combination of articulation, materials and colours to create visual interest, providing building setbacks that create a sense of openness within the streetscape and maintain the amenity of peripheral residential areas and other sensitive uses and providing facade treatments that are sympathetic with nearby areas of parklands and vegetation.

As discussed above, the location of the site in the Residential Growth Zone envisages a preferred building height of up to 14.5 metres and recognises the contribution this site can make to fulfil the objectives of Plan Melbourne. On this basis, the proposed building height of 12 metres can reasonably be considered.

A detailed landscaping plan was submitted as part of the application.

**TREE REMOVAL**

The proposal involves the removal of all fifty eight trees from the site. Eight of these trees require planning permission for removal under the Significant Landscape Overlay as they are native trees. The remaining trees are exotic and are exempt from requiring planning permission for removal under the Overlay.

The broad policy framework for the site is to promote a more intensive use of the land but in a manner which is sensitive to the environmental qualities of the area and the Yarra River Valley.

The site is located at the foot of a ridge which rises up to the east to form an escarpment which effectively forms the edge of the river floodplain in this locality. This escarpment is well treed to the east of the site with a height to the east of the site boundary ranging from 37 to 39 metres AHD. The proposed development will have a maximum height to 39 metres AHD with the roof of the lift over run extending this by two metres to 41 metres AHD. This ensures that the proposed development is not only largely seen against the slope of the escarpment when viewed from the west but also below the ridge and below the tree canopy of the mature trees in Heidelberg Park.

Whilst the development will be clearly visible from within the park when viewed from the ridge immediately to the east of the site, the building will be cut in to the slope of the land and will present as a three storey structure. Views of the building will be filtered by existing mature trees in the park and in the context of an existing developed residential area.

The removal of the vegetation is considered acceptable in this instance and will not undermine the broader built form and landscape character policy objectives for the area. Importantly, Council's arborist has determined that the trees are not worthy of retention due to the condition or species, and removal of the same amount of vegetation was also considered appropriate as part of the mediated outcome that resulted in the issue of the recently expired Planning Permit P554/2015.

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**ABORIGINAL HERITAGE – CULTURAL HERITAGE MANAGEMENT PLAN**

The proposed site is within an area of cultural heritage sensitivity due to its proximity to the Yarra River and the proposal is classed as a high impact activity due to the number of dwellings proposed, therefore either an approved Cultural Heritage Management Plan (CHMP) is required to be submitted or sufficient evidence of significant ground disturbance must be demonstrated. The applicant has provided evidence of significant ground disturbance in the archaeological report prepared by Archaeology by Tardis dated 30 March 2020.

**OBJECTORS' CONCERNS**

Following an analysis of the objections and the addresses from which they originate, the following key points have been identified:

- Council has received 52 objections to this application. The previous application from 2015 (P554/2015) had 17 objections.
- The points of objection to P554/2015 were generally much the same as those raised against this current application.
- Seven parties who objected to this current application also objected to the issue of P554/2015. New concerns were raised about variations to preferred height and setback requirements of the DDO5 and detriment resulting from the provision of the raingarden within the north setback.
- A high number of objections originate from addresses within an approximate 2km radius of the subject site and some are from suburbs outside of Heidelberg and Banyule.

It is considered that the majority of objectors' concerns have been addressed by this report, however the following requires further discussion:

Increased traffic generation and congestion/vehicle and pedestrian safety at Brown Street/Rosanna Road intersection

The application was referred to Council's Transport Engineering Department who did not raise concerns with respect to traffic generation or congestion. The existing road network is considered to be suitable to service the proposed development and no objection has been raised.

Discussions were held with the Department of Transport (Roads) during the assessment of the previous application about whether it would be appropriate to provide access to the site from Rosanna Road. The Department has a general policy that where access can be obtained from a local road or arterial road, a local road takes preference. This doesn't mean that the Department cannot consider access from Rosanna Road but that it requires significant justification, for example, there is a bus stop on the local road that prevents access and it cannot be satisfactorily be relocated. In summary, it is considered that the less access points there are to an arterial road, the better.

With regard to a number of comments about the lack of car parking, it is noted that the proposal has space for all of the car parking for both residents and visitors on site within the basement. The previous application allowed for a reduction in the visitor rate. It is also noted that the site sits on the very edge of Principal Public Transport

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Network (PPTN), with the edge of this zone abutting the south boundary of the site as shown in Figure 2 below. Should the site been included within the PPTN, there would have been no requirement to provide any visitor car parking on site. The PPTN was not a consideration at the time of the previous assessment.



Figure 2: Proximity of site to the Principal Public Transport Network (PPTN)

Increased noise from residents and traffic

Increased noise from increased residential density and traffic movement is not a material reason for withholding planning permission.

Construction traffic and impact of building works on neighbouring dwellings

Construction traffic and amenity impacts are a short term issue that cannot be considered given that once a development has been completed, the issue is no longer relevant. Noise and dust in the short term are matters which are not controlled by the Planning Department and are policed by Council's Local Laws and Environmental Health Units and through the Building Regulations. Potential damage to neighbouring dwellings as a result of building works is also a matter addressed under the Building Regulations.

Devaluation of property

It is a long standing planning principle that the perceived loss of property value by objectors is not a matter which can be sustained when assessing an application for planning permit.

Increased risk of COVID-19 infections

Health advice from the State Government indicates that the risk factors surrounding COVID-19 in higher density living arrangements relate primarily to shared communal



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facilities, such as the communal laundries often found in older public housing developments. The proposal does not include any shared indoor communal facilities, and it is considered that adequate social distancing can be maintained within the common areas within the development such as hallways, the basement car park and any outdoor spaces.

**CONCLUSION**

The proposed development is consistent with State and Local Planning Policies and complies with Clause 55 of the Banyule Planning Scheme. Importantly, the proposal is generally in accordance with plans endorsed under a recently lapsed permit for the site which Council issued at the direction of the Victorian Civil and Administrative Tribunal (VCAT) following mediation between Council, objectors and the applicant. As such, the application should be supported with appropriate conditions.

**ATTACHMENTS**

<b>No.</b>	<b>Title</b>	<b>Page</b>
1	Advertised plans	
2	Planning Permit P554/2015	

## **5.5 37-63 BELL STREET & 45 LINDEN AVENUE IVANHOE - AMENDMENT TO MIXED USE MULTI LEVEL DEVELOPMENT (P635/2015)**

Author: Mark Sheehan - Major Developments Planner, City Development

Ward: Olympia

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### **EXECUTIVE SUMMARY**

At its meeting on 21 December 2015, Council resolved to issue a Notice of Decision to Grant a Permit for planning permit application P635/2015 for a mixed-use tower block at 37-63 Bell Street and 45 Linden Avenue, Ivanhoe. The applicant lodged a review against conditions with the Victorian Civil and Administrative Tribunal (VCAT) with objectors also lodging a review against Council's decision. A planning permit was ultimately granted at the direction of VCAT (by consent) following a VCAT Compulsory Conference held on 14 April 2016.

The Permit was subsequently amended by Council (at the direction of VCAT) on 7 August 2019 following another compulsory conference. Plans were endorsed under Condition 1 of the permit on 28 January 2020.

Further amendments have been sought and approved. In July 2020 a Section 72 Amendment (to plans only) approved changes to the dwellings located on levels 2-3 of Residential Building 2 (the lower scale apartment building in the southwest of the site fronting Myrtle Street). Included among the changes were a reduction in the number of dwellings from 249 to 245 and internal revisions to dwelling layouts.

The current application seeks to amend the permit (including the endorsed plans) by removing the childcare and aged care uses (100 beds and 84 independent living units respectively); increasing the number of dwellings from 249 to 494 (245 additional dwellings); undertaking an internal reconfiguration of Building 3 including the provision of an additional level of basement car parking to supply the additional dwellings; increasing the building height of Building 3 by an additional 5 storeys; increasing the setback of Building 3 from the south; provision of additional amenities for apartment residents; the addition of a food and drink premises; revised facade design and landscaping treatments; changes to the roof plant of Building 1; and changes to the permit preamble and permit conditions.

The proposal includes a number of positive attributes, including (subject to further change via permit conditions) a suitable mix of residential and commercial uses, a suitable diversity of apartment types, and an acceptable building form, scale and design.

It is considered that the proposal should be supported subject to conditions requiring further changes as discussed in this report

**37-63 BELL STREET & 45 LINDEN AVENUE IVANHOE - AMENDMENT TO MIXED USE MULTI LEVEL DEVELOPMENT (P635/2015) cont'd**

**RECOMMENDATION**

That Council having complied with Section 52, 58, 60, 61 and 62 of the Planning and Environment Act 1987, resolves to issue a Notice of Decision to Grant an Amended Planning Permit in respect of Application No.P635/2015 by allowing the following amendments:

- Substitute the child-care centre, aged care and independent living units previously shown in Building 3 for residential units (dwellings);
- Increase the number of residential dwellings from 249 to 494 dwellings i.e. remove the 84 independent living units and 100 aged care beds;
- Internally reconfigure the dwellings in Building 3 fronting the ground level internal courtyard to improve internal amenity;
- Provide an additional food and drink premises comprising 143sqm at the corner of Bell Street and Linden Avenue at ground and mezzanine levels;
- Increase the height of Building 3 (the tower at the corner of Bell Street and Linden Avenue) by 5 storeys bringing the overall building height to approximately 47.4m (an additional 16.6m from 119.3 AHD to 135.90 AHD);
- Internally reconfigure the basement car parking to facilitate the additional residential dwellings including an additional basement Level 5. Basement Level 3 is now proposed to be provided in Stage 2;
- Deletion of the communal open space at Level 6 previously provided to the independent living units, resulting in a reduction in the building 'break' between the upper forms of Buildings 1 and 3 along Bell Street from 20m to 6.5m (minus 13.63m);
- Alterations to the rear profile of Building 3 (to the south-east form) at the south-eastern interface with 43 Linden Avenue (plans variously shows increased/reduced setbacks);
- Provide additional communal residential facilities including gym, pool, art room, arcade room and workshop/tool shed;
- Revised façade design to Building 3 reflecting the changed land use mix;
- Subsequent revisions to the landscaping plan;
- Consequential revisions to the roof plant on Building 1;
- Modification of a number of permit conditions to align with the amended plans and staging of works associated with the development; and
- Modification to the permit preamble to reflect the changes in planning permissions required

Subject to inclusion of the following additional conditions, amendment of conditions numbered as noted and consequential renumbering of conditions:

**37-63 BELL STREET & 45 LINDEN AVENUE IVANHOE - AMENDMENT TO MIXED USE MULTI LEVEL DEVELOPMENT (P635/2015) cont'd**

New Conditions included:

Condition 38 – Development Contributions

Existing conditions that are being amended:

Conditions 1, 3, 9, 10, 13, 30, 31, 35 which require the following additional changes:

- Provision of a minimum 750 square metres of medical centre or other commercial floor space at ground level addressing the Bell Street frontage at the north-east corner of the site and provision of 3.5 metre floor to ceiling height.
- Provision of dedicated car parking spaces for the commercial floor space required
- The detailed allocation and documentation of all car spaces allocated to all component uses and notation of same on plans for information of future users
- Changes to the architectural treatment of the junction of the podium and upper levels
- Provision of wind barriers to accord with the requirements of wind modelling undertaken as part of the amendment process
- Changes to the architectural treatment of the interior northeastern wall elevation of the apartment building 3
- Additional screening requirements to further restrict southern views
- Further confirmation and clarification of prohibition of vehicle access from the southern side of the vehicle barrier on Linden Avenue
- Changes of timing of roadworks to accord with staging plans

Renumbering as required so that the permit conditions will read as per below:

1. Before the use and development permitted by this permit starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plan prepared by CHT Architects dated 13 March 2020 and 24 April 2020 comprised in Drawing Nos. TP03 – TP06, TP06A, TP07 – TP17, TP20 – TP23, TP30 – TP33 and TP40 but modified to show:
  - a) Provision of a minimum 750 square metres of medical centre or other commercial floor space at ground level addressing the Bell Street frontage at the north-east corner of the site.
  - b) The ground level must be shown and designed to incorporate minimum floor to ceiling heights of 3500mm.
  - c) The allocation and on-site provision of car parking spaces for the medical centre or other commercial land use as required in Condition 1a), at the rate set out in Schedule 2 to the Parking Overlay. The full quantum of the required spaces must be provided on-site and allocated from the surplus supply of residential car spaces.

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- d) The location, dimensions and design detail of all porous and non-porous wind barriers as per the recommendations set out in the report prepared by VIPAC Engineers & Scientists Ltd dated 12 March 2020, modified as necessary to reflect any additional changes to the development.
- e) Revised architectural treatment for the junction between the glazing at the top of the expressed podium and the bottom of the dark upper level form at the Bell Street frontage. This should see a continuation of the horizontal banding at this level with a discrete transition level, as occurs at the Linden Avenue frontage.
- f) The north-eastern wall of apartments 101C, 201C, 301C, 401C, 501C, 601C, 701C and 801C to include obscure glazed windows/glazed brickwork and addition of different colours and materiality to this wall to improve the view/outlook from the northern apartments
- g) Soft and hard landscaping to restrict vehicular access to Linden Avenue south west of the road closure including a low fence on Linden Avenue adjacent to the vehicular turning/ drop off zone with design detail to be provided on the plans. The low fence is to extend from the southern boundary of the site to the southern side of the vehicular access to the drop off zone and be setback from the frontage (behind landscaping) other than in the location of the hammerhead turning circle.
- h) A schedule of external building materials and colours, including details of cladding facing materials. The schedule is to be presented on a separate sheet and colour samples must be provided;
- i) Allocation of car parking spaces to all land uses;
- j) All changes necessary to provide bicycle parking, signage and end of trip facilities in accordance with Clause 52.34 of the Banyule Planning Scheme.
- k) Landscaping as required by Condition 9 of this permit;
- l) Engineering plans showing a properly prepared design with computations for the internal drainage and method for of disposal of stormwater from all roofed areas and sealed areas including:
  - (i) The use of an On-site Stormwater Detention (OSD) system;
  - (ii) The connection to the Council nominated legal point of discharge;
  - (iii) The integration, details and connections of all Water Sensitive Urban Design features in accordance with the endorsed Sustainable Management Plan and STORM report if relevant and include drainage details as a result of landscaping.

Please note the Engineering plans must show all protected and/or retained trees on the development site, on adjoining properties where tree canopies encroach the development site and along proposed outfall drainage and roadway alignments (where applicable) and every effort must be made to locate services away from the canopy drip line of trees and where unavoidable, details of hand work or trenchless installation must be provided.

- m) The Tree Preservation Fencing in accordance with Condition 12 of this permit;
- n) All changes necessary to avoid impact on trees on abutting sites as required by condition 9 of this permit;

**37-63 BELL STREET & 45 LINDEN AVENUE IVANHOE - AMENDMENT TO MIXED USE MULTI LEVEL DEVELOPMENT (P635/2015) cont'd**

- o) Measures to limit views into existing secluded private open space and habitable room windows of the adjoining dwellings at 43 Linden Avenue in accordance with ResCode Standard B22 or alternative treatment that meets the overlooking objectives of Clause 55.04-6 of the Banyule Planning Scheme. Balcony screening must avoid the use of solid devices that project beyond the balcony building envelope to the southeast and any landscape planter screening must be annotated as being 'maintained at all times in accordance with the endorsed landscape plan'. Balcony design should enable reasonable outlooks for occupants whilst avoiding unacceptable overlooking.
- p) An alternative and improved architectural treatment of the roof plant screen
- q) Improvements to the usability of tandem, spaces and spaces with overhead and full height storage cages.
- r) Implementation of all ESD Plan details required under Condition 13 of this permit;
- s) The columns in all basement levels revised to avoid encroaching into the required clear zone for car parking spaces
- t) Cross-section plans must be provided for height clearance and ramp grade assessments.
- u) Change in grade for ramp on upper ground level from Linden Avenue to meet the design standard 3 requirements of Clause 52.06.
- v) Additional spacing of 0.5m between the 5 tandem spaces provided in Basement 4 and these spaces allocated to 3-bedroom dwellings
- w) Provision of charging points for electric cars.
- x) All changes necessary so that a minimum of 20% of dwellings but not limited to 20% to comply with Banyule's Liveable Housing Guidelines.
- y) The drop off zone to be provided with one way circulation other than for access for emergency vehicles and designed to the satisfaction of the Responsible Authority.
- z) Any changes that might reasonably be required by the Responsible Authority in relation to the layout of the car parking spaces and access aisles.

**General**

- 2 The use and development as shown on the endorsed plans or described in the endorsed documents must not be altered or modified except with the written consent of the Responsible Authority.
- 3 Unless otherwise agreed in writing by the Responsible Authority, the use must not start and the development must not be occupied until the development of each stage has been completed to the satisfaction of the Responsible Authority in accordance with the permit and endorsed plans (including, but not limited to, built form and layout, parking, landscaping, drainage, street numbering, as applicable).
- 4 The development must be designed and constructed in accordance with the relevant sections of Australian Standard 1428 '*Design Rules for Access by the Disabled*' to the satisfaction of the Responsible Authority.

**Amenity**

- 5 The uses permitted by this permit must be conducted, and the appearance of the subject land must be maintained to the satisfaction of the Responsible Authority so as not to unreasonably adversely affect the amenity of the locality by reason of the processes carried on; the transportation of

**37-63 BELL STREET & 45 LINDEN AVENUE IVANHOE - AMENDMENT TO MIXED USE MULTI LEVEL DEVELOPMENT (P635/2015) cont'd**

materials, goods, or commodities to or from the subject land; the appearance of any buildings, works or materials; the emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, dust, waste water, waste products, grit, or oil; the presence of vermin, or otherwise.

- 6 Outdoor lighting must be designed, baffled and located to the satisfaction of the Responsible Authority such that no direct light is emitted outside the boundaries of the subject land and so that there is no unreasonable light spill into any residential properties. Any security lighting is to be connected to a sensor so that illumination of the site is not continuous.
- 7 Noise emissions from any equipment required for refrigeration, air-conditioning, heating, ventilation and the like must comply with State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No N-1 and/or Environment Protection (Residential Noise) Regulations 1997 and/or Environmental Protection Authority Noise Control Guidelines TG 302/92, as relevant.
- 8 Before any plans are endorsed pursuant to Condition 1 of this Permit, an acoustic report prepared by a suitably qualified acoustic engineer must be submitted to, and approved in writing by, the Responsible Authority. The report must assess likely noise impacts on future residents and users of the building, including, but not necessarily limited to the impact of:
  - (a) likely noise associated with the commercial use of the premises on other commercial uses within the building and the occupants of the residential apartments within the building;
  - (b) road noise on residential apartments that interface with Bell Street.The report must include any necessary recommendations for ameliorative measures to prevent unreasonable noise impacts on the occupants and such recommendations of the acoustic engineer must be fully implemented to the satisfaction of the Responsible Authority prior to the occupation of the development.

**Landscape Plan Condition**

9. Before the development starts, a landscape plan to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided. The landscaping plan must be generally in accordance with the landscape concept plan dated 15 November 2018 prepared by Jack Merlo Design and Landscape, except that the plan must show:
  - (a) a survey (including botanical names) of all existing vegetation to be retained and/or removed
  - (b) buildings and trees (including botanical names) on neighbouring properties within three metres of the boundary
  - (c) details of surface finishes of pathways and driveways
  - (d) a planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant
  - (e) landscaping and planting within all open areas of the site. This is to include, but not limited to, details of all furniture installation, paving and other treatments to the internal courtyard spaces to enhance on-site amenity;

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- (f) treatment of all above ground planting areas and planters, including but not limited to the minimum height and planting densities for balcony planters relied upon for privacy screening purposes;
  - (g) Any requirements of the Vegetation Protection Assessment in accordance with Condition 13;
  - (h) new landscaping within the public realm and within the property boundary and all street planting to be at no cost to the Responsible Authority;
  - (i) the design and height of all boundary fences;
  - (j) Screen planting and trees within the landscape buffer and street setbacks to be planted at a semi-mature height.
  - (k) the southern boundary fence to have a minimum height of 2.7m.
- All species selected must be to the satisfaction of the responsible authority. The landscape plan must also indicate that an in-ground irrigation system is to be provided to all landscaped areas.
- 10 Before the use/occupation of the development of each stage starts or by such later date as is approved by the responsible authority in writing, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the responsible authority.
- 11 The landscaping shown on the endorsed plans must be maintained to the satisfaction of the responsible authority, including that any dead, diseased or damaged plants are to be replaced.

**Vegetation Protection Assessment**

- 12 Any approved development at the site must not be commenced until an arboricultural impact assessment and tree protection plan regarding the protection of the trees and vegetation located within the site and on adjoining properties is endorsed by the Responsible Authority. The arboricultural impact assessment must be authored by a suitably qualified consulting arborist and prepared in accordance with *AS4970-2009 – Protection of Tree on Development Sites*, and must include the following:
- (a) An assessment of the construction impact on the root system of trees and vegetation within the site and on the adjoining property, including the impact of any site cuts, fill, or other works proposed beyond the building footprint;
  - (b) An assessment of the construction impact on the canopies of trees and vegetation within the site and on the adjoining property;
  - (c) Provision of vegetation protection measures including fencing, ground protection and canopy protection required throughout the construction process that is detailed in the report and is shown on an A3 tree protection plan; and
  - (d) The need for any subsequent planning approval for works affecting any vegetation within the site and on adjoining property as per *Vegetation Protection Overlay Schedule #5* in the Banyule Planning Scheme.

**Note:**

- Any design alterations required to suitably reduce the impact of construction on vegetation on adjoining property must be shown on construction plans before the tree protection plan will be endorsed.
- All tree protection measures required must be instated to the satisfaction of the Responsible Authority prior to the commencement of construction.



**37-63 BELL STREET & 45 LINDEN AVENUE IVANHOE - AMENDMENT TO MIXED USE MULTI LEVEL DEVELOPMENT (P635/2015) cont'd**

- Formal arboricultural advice must inform any design alterations required to protect vegetation located within the site as well as for any vegetation located on adjoining property even if the vegetation on adjoining property is not protected under the Banyule Planning Scheme.

**ESD Report and Plan**

- 13 Before the use and development permitted by this permit starts, an amended Sustainable Design Assessment (SDA) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the SDA will be endorsed to form part of the permit. The amended SDA must be generally in accordance with the SDA submitted with the application, but modified to show:
- (a) 7 Star rating average across all apartments.
  - (b) The provision of two (2) rainwater storage tanks with minimum capacity of 100 kilolitres including location and a notation of the connections end use being used for toilets, commercial cleaning and irrigation
  - (c) An improvement on choice of energy efficient appliances
  - (d) An improvement on choice of water efficient appliances
  - (e) Gradient of pavement to demonstrate drainage of all areas into the raingarden can be achieved
  - (f) North facing façade designed in such a way to meet Clause 58 maximum cooling loads
  - (g) All proposed sustainable design features indicated in the submitted ESD Report. Where sustainable design features outlined in the report cannot be visually shown, include a notes table providing details of the requirements (i.e. energy and water efficiency ratings for heating/cooling systems and plumbing fittings and fixtures, etc.)

**Maintenance and Urban Design**

- 14 Any air-conditioning or cooling units, condensers and the like must not be located on external walls and, if located on balconies, must be screened, to the satisfaction of the Responsible Authority.
- 15 All pipes (except down-pipes), fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from external view to the satisfaction of the Responsible Authority.
- 16 Unless otherwise agreed in writing by the Responsible Authority, all telecommunications and power connections (where by means of a cable) and associated infrastructure to the land must be underground to the satisfaction of the Responsible Authority.
- 17 Unless otherwise agreed in writing by the Responsible Authority, the landscaping areas shown on the endorsed plans must be used for landscaping and no other purpose and any landscaping must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.

**Car Parking/Access**

- 18 Areas set aside for the parking of vehicles together with the aisles and access lanes must be properly formed to such levels that they can be utilised in accordance with the endorsed plans and must be drained and provided with an all-weather seal coat. The areas must be constructed, drained and maintained in a continuously useable condition to the satisfaction of the Responsible Authority.

**37-63 BELL STREET & 45 LINDEN AVENUE IVANHOE - AMENDMENT TO MIXED USE MULTI LEVEL DEVELOPMENT (P635/2015) cont'd**

- 19 Areas set aside for the parking and movement of vehicles as shown on the endorsed plan(s) must be made available for such use and must not be used for any other purpose.
- 20 The boundaries of all car spaces, access and egress lanes and the direction in which vehicles should proceed along the access lanes must at all times be clearly indicated on the ground to the satisfaction of the Responsible Authority.
- 21 Vehicular access or egress to the subject land from any roadway or service lane must be by way of a vehicle crossing constructed in accordance with Council's Vehicle Crossing Specifications to suit the proposed driveway(s) and the vehicles that will use the crossing(s). The location, design and construction of the vehicle crossing(s) must be approved by the Responsible Authority. Any existing unused crossing(s) must be removed and replaced with concrete kerb, channel and naturestrip to the satisfaction of the Responsible Authority prior to occupation of the development. All vehicle crossing works are to be carried out with Council Supervision under a Memorandum of Consent for Works which must be obtained prior to commencement of works.

**Public Works**

- 22 Unless otherwise agreed in writing, prior to the completion of Stage 1 of the development, a civil works plan prepared by a suitably qualified person must be submitted to and approved to the satisfaction of the responsible Authority including the materials, finishes and treatments of the footpath and nature strips along the three road frontages of the site.

**Waste Collection**

- 23 Before the development starts, a Waste Management Plan to the satisfaction of the Responsible Authority, must be submitted to, and approved in writing by, the Responsible Authority.  
The Waste Management Plan must be prepared by a suitably qualified person, specify that collection is to be by way of private contractor and detail:
  - (a) confirmation of a collection vehicle that can collect directly from the designated bin collection area;
    - a. how waste and recycling materials are to be managed within the site and collected from the subject site;
    - b. how fully laden bins will be taken to and from the collection point(s);
    - c. anticipated frequency, hours and duration of collection(s) having regard to the areas provided for bin storage and potential noise impacts to the surrounding neighbourhood;
    - d. how bin storage areas will be maintained to ensure there is no unreasonable emission of odour or noise;
    - e. details as to how prospective purchasers will be advised that all refuse and recycling collection for the property will be provided internally by a private contractor at the expense of the owner of the land.
    - f. indication of the accesses to be utilised on the basement plans by waste vehicles.
    - g. the type of vehicles which must be used for waste collection.

The approved Waste Management Plan must be adhered to by the owner(s), permit holder(s) and operator(s) of the development at all times unless otherwise approved in writing by the Responsible Authority.

**37-63 BELL STREET & 45 LINDEN AVENUE IVANHOE - AMENDMENT TO MIXED USE MULTI LEVEL DEVELOPMENT (P635/2015) cont'd**

- 24 The waste bin area must be provided before the development is occupied. The waste bin area must be maintained and used to the satisfaction of the Responsible Authority and must not be used for any other purpose.
- 25 No receptacles for any form of rubbish or refuse (other than public waste bins) may be placed or allowed to remain in view from a public road or thoroughfare except during collection. Odour must not be emitted from any such receptacle(s) so as to cause offence to any person(s) outside the subject land, to the satisfaction of the Responsible Authority.

**Construction Management Plan**

- 26 Before the development starts, a Construction Management Plan to the satisfaction of VicRoads and the Responsible Authority must be submitted to, and approved in writing by, the Responsible Authority. The Construction Management Plan must address the following issues:
- (a) measures to control noise, dust and water runoff;
  - (b) prevention of silt or other pollutants from entering into the Council's underground drainage system or road network;
  - (c) the location of where building materials are to be kept during construction;
  - (d) site security;
  - (e) maintenance of safe movements of vehicles to and from the site during the construction phase and on the surrounding road network;
  - (f) on-site parking of vehicles associated with construction of the development;
  - (g) wash down areas for trucks and vehicles associated with construction activities;
  - (h) cleaning and maintaining surrounding road and footpath surfaces.
- The development must be undertaken in accordance with the approved Construction Management Plan unless otherwise approved in writing by the Responsible Authority.

**Graffiti prevention measures**

- 27 Any walls or spaces accessible to the public must be treated in accordance with Safer Design and CPTED (Crime Prevention Through Environmental Design) Principles. Where appropriate the following measures must be implemented to the satisfaction of the Responsible Authority:
- (a) textured or rough services that make it difficult to apply graffiti;
  - (b) permeable fencing instead of solid walls;
  - (c) buildings with high-density, low absorbency materials;
  - (d) anti-graffiti coating to protect the surface when building or revitalising the walls (including façade);
  - (e) sensor lighting and/or enhanced surveillance to deter graffitiists;
  - (f) the break up of large surfaces to minimise the canvas available for graffitiists; and
  - (g) measures to make surfaces less liable to graffiti.

**Maintenance of property**

- 28 The permit holder/occupier must promptly remove or obliterate any graffiti on the subject site which is visible to the public and keep the site free from graffiti at all times to the satisfaction of the Responsible Authority.
- 29 Before the occupation of the development pau to the Responsible Authority an amount not exceeding \$100,000 to be applied by the Responsible

**37-63 BELL STREET & 45 LINDEN AVENUE IVANHOE - AMENDMENT TO MIXED USE MULTI LEVEL DEVELOPMENT (P635/2015) cont'd**

Authority towards the provision of urban art or similar on or immediately adjacent to the land.

**Section 173 Agreement**

30 Unless otherwise agreed in writing by the Responsible Authority, prior to the use commencing, the owner/s of the land at 37-63 Bell Street, 65 Bell Street, 67 Bell Street, 69 Bell Street, 45 Linden Avenue and 56 Myrtle Street IVANHOE must enter into an agreement with the Responsible Authority pursuant to Section 173 of the *Planning and Environment Act 1987* to the satisfaction of the Responsible Authority. This requirement may be waived should construction be completed prior to the issue of a Statement of Compliance. Such agreement shall require that:

- (a) No licensing will be sought for electronic gaming machines on the land.
- (b) There shall be no direct vehicle ingress or egress from the subject land to Linden Avenue south-west of the road closure.
- (c) There shall be no direct ingress or egress from the subject land to Myrtle Street south-west of the road closure.
- (d) No hotel activity shall be carried out on the subject land.
- (e) Occupants of the dwellings or commercial premises on the land have no entitlement to on-street or off-street parking by way of a resident or trader vehicle parking permit.

A memorandum of the Agreement is to be entered on title and the cost of the preparation and execution of the Agreement and entry of the memorandum on title is to be paid by the owner.

**VicRoads**

31 Before the development starts, amended plans must be submitted to and approved by the Roads Corporation. When approved by the Roads Corporation, the plans may be endorsed by the Responsible Authority and will then form part of the permit. The plans must be drawn to scale with dimensions and two copies must be provided. The plans must be generally in accordance with the plans, dated stamped by Banyule City Council on 30/09/2015 and annotated as but modified to show:

- Left turn deceleration lane on Bell Street leading to Linden Avenue in accordance with the Austroads Guidelines.
- A splitter island on Myrtle Street to prohibit traffic from turning right out of Myrtle Street onto Bell Street.

Before the use approved by this permit in Stage 2 commences, the left Turn Deceleration Lane must be completed at no cost to and to the satisfaction of the Roads Corporation'.

Before the use approved by this permit in Stage 1 commences, the Splitter Island, signage and line marking and associated works to restrict right turn movements from Myrtle Street onto Bell Street must be completed at no cost to and to the satisfaction of the Roads Corporation.

**Supervising Architects**

32 Unless otherwise agreed by the Responsible Authority, CHT Architects must be retained as the supervising architects for the development.

**Resident/Trader Parking Permits**

33 Prior to the occupation of the building, details shall be submitted to and approved in writing by the Responsible Authority as to how it will be brought to the attention of prospective purchasers that occupants of the dwellings or commercial premises on the land have no entitlement to on-street or off-street parking by way of a resident or trader vehicle parking permit.

**37-63 BELL STREET & 45 LINDEN AVENUE IVANHOE - AMENDMENT TO MIXED USE MULTI LEVEL DEVELOPMENT (P635/2015) cont'd**

**Green Travel Plan**

- 34 Prior to the commencement of the use, a Green Travel Plan for the development shall be prepared by a suitably qualified person/company and approved in writing by the Responsible Authority.

**Car Parking Management Plan**

- 35 Unless otherwise agreed in writing, prior to the commencement of the use hereby approved, a Car Park Management Plan must be prepared and approved to the satisfaction of the Responsible Authority. Such a plan must clearly identify, although is not limited to outlining:
- (a) Details of the appropriate number and location of visitor spaces, medical centre patient spaces and drop off spaces and appropriate phasing to the satisfaction of the Responsible Authority
  - (b) An allocation plan showing allocation of parking to specific uses.
  - (c) short term parking restrictions appropriately signed
  - (d) enforcement management plan
  - (e) accessible bays provided on the first two levels of the basement car park.

**Loading and Unloading**

- 36 Unless with the prior written consent of the Responsible Authority the loading and unloading of goods associated with the operation of the commercial premises must not occur outside of the hours of 7.00am to 9.00pm.

**Staging**

- 37 Before the development commences, a detailed staging plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided. The staging plan in the endorsed documents must not be altered or modified except with the written consent of the Responsible Authority.

**Development Contributions**

- 38 Prior to the issue of a building permit for any building or any works approved by this permit, a Development Infrastructure Levy and a Community Infrastructure Levy must be paid to Banyule City Council. The amount of the levy for each charge unit must be calculated in accordance with Schedule 1 to the Development Contribution Plan Overlay.

**Expiry**

- 39 In accordance with section 68 of the Planning and Environment Act 1987, this permit will expire if one of the following circumstances applies:
- The development is not commenced within two years of the date of this permit;
  - The development is not completed within four years of the date of this permit;
  - The use is not commenced within four years of the date of this permit; or
  - The use is discontinued for a period of two years.

**37-63 BELL STREET & 45 LINDEN AVENUE IVANHOE - AMENDMENT TO MIXED USE MULTI LEVEL DEVELOPMENT (P635/2015) cont'd**

<b>Planning Permit Application:</b>	P635/2015
<b>Development Planner:</b>	Mark Sheehan
<b>Address:</b>	37-63 Bell Street & 45 Linden Avenue, IVANHOE
<b>Proposal:</b>	Remove childcare use, aged care use (100 beds) and 84 independent living units; Increase from 249 to 494 dwellings; Internal reconfiguration of building 3 including additional level of basement car parking; Increase in building height of Building 3 by an additional 5 storeys; Increase setback of Building 3 from south; Provision of additional residents amenities; Addition of food and drink premises; Revised facade design and landscaping; Changes to roof plant of Building 1; Changes to permit preamble and conditions.
<b>Existing Use/Development:</b>	Approved Mixed Use Development under construction Sales Office
<b>Applicant:</b>	Tract Consultants Pty Ltd
<b>Zoning:</b>	Mixed Use Zone – Schedule 1 Residential Growth Zone – Schedule 1 General Residential Zone – Schedule 1
<b>Overlays:</b>	Vegetation Protection Overlay – Schedule 5 Design and Development Overlay – Schedule 5 Development Contributions Plan Overlay – Schedule 1 Parking Overlay – Schedule 2
<b>Notification (Advertising):</b>	Letters to adjoining and nearby owners/occupiers and signage on site
<b>Objections Received:</b>	29
<b>Ward:</b>	Olympia

**PROPOSAL**

It is proposed to amend the permit as follows:

Plans

- Substitute the child-care centre, aged care and independent living units previously shown in Building 3 for residential units (dwellings);
- Increase the number of residential dwellings from 249 to 494 dwellings i.e. remove the 84 independent living units and 100 aged care beds;
- Internally reconfigure the dwellings in Building 3 fronting the ground level internal courtyard to improve internal amenity;

**37-63 BELL STREET & 45 LINDEN AVENUE IVANHOE - AMENDMENT TO MIXED USE MULTI LEVEL DEVELOPMENT (P635/2015) cont'd**

- Provide an additional food and drink premises comprising 143sqm at the corner of Bell Street and Linden Avenue at ground and mezzanine levels;
- Increase the height of Building 3 (the tower at the corner of Bell Street and Linden Avenue) by 5 storeys bringing the overall building height to 47.4m (an additional 16.6m from 119.3 AHD to 135.90 AHD);
- Internally reconfigure the basement car parking to facilitate the additional residential dwellings including an additional basement Level 5. Basement Level 3 is now proposed to be provided in Stage 2;
- Deletion of the communal open space at Level 6 previously provided to the independent living units, resulting in a reduction in the building 'break' between the upper forms of Buildings 1 and 3 along Bell Street from 20m to 6.5m (minus 13.63m);
- Alterations to the rear profile of Building 3 (to the south-east form) at the south-eastern interface with 43 Linden Avenue (plans variously shows increased/reduced setbacks);
- Provide additional communal residential facilities including gym, pool, art room, arcade room and workshop/tool shed;
- Revised façade design to Building 3 reflecting the changed land use mix;
- Subsequent revisions to the landscaping plan; and
- Consequential revisions to the roof plant on Building 1.

Permit Preamble

It is proposed to amend the permit preamble as follows:

*'Use and development of the land for dwellings, food and drink premises, restricted recreational facility (gymnasium) and associated buildings and works, removal of easements and removal of vegetation'.*

Permit Conditions

It is proposed to amend permit conditions to reflect the proposed changes shown on the amended set of plans and the altered mix of land uses. Amendments to permit conditions are also sought in relation to the following:

- The introduction of pedestrian access to Linden Avenue (Condition 1a)
- The timing for the construction of the deceleration lane and splitter island treatments to Bell Street as required by VicRoads (Condition 31)

The publicly notified plans are included as **Attachment 1**.

Following public notice of the application to amend, and in response to concerns raised regarding the loss of employment generating uses, further revised amended discussion plans were submitted to Council showing the provision of 750 sqm of ground level commercial floor space fronting Bell Street in lieu of the proposed 12 single bedroom apartments in this location. These plans are included as **Attachment 2**. The plans are considered an improvement to address the issues raised, however there is scope for the provision of additional commercial floor space.

For clarity and ease of comparison, the current endorsed plans are included as **Attachment 3**.

**37-63 BELL STREET & 45 LINDEN AVENUE IVANHOE - AMENDMENT TO MIXED USE MULTI LEVEL DEVELOPMENT (P635/2015) cont'd**

**BACKGROUND**

Planning Permit P635/2015 was issued on 14 April 2016. The permit allows *'Use and development of the land for residential aged care units, independent living units, dwellings, child care centre, food and drink premises, restricted recreation facility (gymnasium) and associated buildings and works, removal of easements and removal of vegetation in accordance with the endorsed plans'* in relation to land at 37-63 Bell Street & 45 Linden Avenue, Ivanhoe.

The endorsed plans (prepared by CHT Architects dated 14/06/2019) show the above land uses within a twelve (12) storey mixed use building to a maximum height of 39 (119.3 AHD).

Stage 1 of the development is currently under construction.

**SUBJECT SITE AND SURROUNDING AREA**

The subject site is a large parcel within the Heidelberg Activity Centre. It has street frontages to Myrtle Street (to the north), Bell Street (to the east) and Linden Avenue (to the south). The site has a fall of approximately 8m from east to west and has a total site area of approximately 8,924m<sup>2</sup>.

Extensive excavations are currently being undertaken, with the site having been cleared of buildings and vegetation. A new sales office has been constructed on the eastern edge of the site (accessed from Linden Avenue).

In the immediate context, the site has the following interfaces:

- To the **north** is Bell Street, a 33m road reserve with 3 lanes of traffic in each direction. On its northern side is a series of low scale commercial buildings generally ranging between 1-2 storeys in height. Beyond is the residential hinterland of Heidelberg Heights which is generally of a low scale nature.
- To the **east**, is Linden Avenue, a 15m wide local road that is closed to through traffic adjacent to the subject site. Pedestrian access to Bell Street is enabled in this location.
- Adjoining the subject site to the **south-east** are four recently constructed double storey townhouses (43 Linden Avenue) with secluded private open spaces orientated to their north. Single dwellings and villa units are found nearby on the eastern side of Linden Avenue.
- To the **south-west**, are six older style single storey villa units with a common driveway on their northern side (54 Myrtle Street).
- To the **west**, is Myrtle Street, a 15m wide local road with a similar arrangement to Linden Avenue, being closed to through traffic adjacent to the subject site but open to pedestrian access. Adjacent is a recently vacated car dealership on the corner of Bell and Myrtle Streets (75 Bell Street).

The broader area is characterized by a mix of land uses and precincts. The Bell Street environs retain a commercial presentation to the east, west and north of the site with mixed use developments incorporating residential components also emerging.



**37-63 BELL STREET & 45 LINDEN AVENUE IVANHOE - AMENDMENT TO MIXED USE MULTI LEVEL DEVELOPMENT (P635/2015) cont'd**

**PUBLIC NOTIFICATION**

Formal notification of the application to amend the permit was undertaken in June 2020 via letters to surrounding landowners/residents and the placement of public notices on the subject site.

At the time of writing this report, twenty-nine (29) objections have been received. The main grounds of objection are summarised as follows:

- Agreements reached at VCAT to get the building setbacks and overall heights as currently approved are totally disregarded. Amending the permit makes a mockery of the VCAT process.
- An additional five storeys will be excessive for this Ivanhoe location – the additional building height and bulk will overwhelm the area.
- There will be additional overshadowing and privacy impacts to neighbouring properties to the south in Myrtle Street, Forster Street and Linden Avenue. Loss of sunlight will give rise to mental health issues.
- The amendment is not an amendment but a totally new proposal for the site. A new application should be required.
- The change in ownership of the property (twice) does not give the current developers the right to totally disregard the original plans (removal of child-care and aged care facilities and their replacement with 249 more apartments accommodated within 5 additional storeys).
- The approved aged-care and child-care components would provide needed services to the area. Consultant reports relied upon by the Applicant are incomplete as supporting data is not provided.
- The land uses being removed are employment generating uses – additional apartments do not generate additional employment.
- The additional 5 storeys and extra dwelling numbers, plus the food and drink premises will put unacceptable pressure on local streets for traffic and parking.
- The comparison of the proposed 5 storeys extension with the Caydon development at 443 Upper Heidelberg Road is not applicable as the Council informed the local residents that Caydon was a one off iconic and gateway building. The building at 443 Upper Heidelberg Road should not be considered a measure for buildings on Bell or Burgundy Streets.
- The traffic and parking assessment does not account for the likely demand from the 'ancillary' uses to the residential component of the proposal, nor from the additional resident occupants. It also does not appear to consider impacts on surrounding local streets.
- Unlike the development at 443 Upper Heidelberg Road, the construction on 37-63 Bell Street will have a significant visual impact on residences on both sides of Bell Street and on the residences for 360 degrees surrounding the high-rise complex.
- The proposal is not sustainable for the area and Council shows no real commitment to sustainability.
- There will be excessive noise from balconies – an issue already experienced in relation to the Caydon development.
- It is critical that the Banyule Planning Scheme maximum height (11 metres, 3 storeys) provisions for buildings in a General Residential Zone be preserved.
- Apartments are of substandard size and quality and will pose a risk to the health of occupants as highlighted during the COVID-19 pandemic.
- Inadequate communal open space is provided for the high-density apartments.

**37-63 BELL STREET & 45 LINDEN AVENUE IVANHOE - AMENDMENT TO MIXED USE MULTI LEVEL DEVELOPMENT (P635/2015) cont'd**

- The proposal does not meet ResCode Standards.
- The legal opinion provided by the Applicant's lawyers is both questionable and challengeable. At the very least, The Council should and must get their own legal advice on this.
- The proposal would set a precedent for future development proposals resulting in a huge and visually jarring change in the Ivanhoe, Heidelberg Heights and Heidelberg residential and commercial environments.

There should be no pedestrian access to the development from Linden Avenue. Such access will result in safety and traffic/parking concerns within Linden Avenue.

**REFERRAL COMMENTS**

The application was referred externally to VicRoads. The application was referred internally to Transport and Developments and Drainage, City Futures (Strategic Planning Department), and the Waste Department. External Urban Design advice has also been sought. Key advice is summarised below:

Transport for Victoria

The original application for permit was referred to Transport for Victoria (TFV) or Public Transport Victoria as it was then known. No objection was raised to the application for permit and no conditions were required. The application to amend has not been re-referred to TFV. A construction management plan and plans to the satisfaction of VicRoads to manage road operations during the construction phase of the development are already required by conditions on the permit. A condition will also be included requiring that during the construction phase, no disruption may occur to any public transport operations immediately adjacent the site unless with the further written consent of Transport for Victoria. A condition will also be included that any changes required to TFV infrastructure must be undertaken to the satisfaction of TFV.

VicRoads (Department of Transport)

The Department of Transport does not object to the amended permit condition as sought by the permit applicant.

Urban design

A detailed summary of the advice provided by Council's consultant Urban Design advisor is provided as **Attachment 4**. In brief, it has been advised that:

- The subject site is considered a Strategic Redevelopment Site under Clause 21.06 of the planning scheme
- The emerging built form context is an important factor in the assessment of the subject proposal, alongside its urban design merits and the guidance in the Banyule Planning Scheme
- The Building 3 profile (south-east) is appropriately recessive in relation to the residential interface at 43 Linden Avenue
- The built form siting of the proposal is generally supported, with some recommendations for enhancement.

**37-63 BELL STREET & 45 LINDEN AVENUE IVANHOE - AMENDMENT TO MIXED USE MULTI LEVEL DEVELOPMENT (P635/2015) cont'd**

- The proposed land uses are appropriate and effectively located, with some minor recommendations for enhancement.
- Proposed building heights are acceptable.
- The proposed building setback profiles to Bell Street are acceptable.
- The built form to Linden Avenue is acceptable, noting that the taller form is separated from the existing houses across Linden Avenue by the fenced 'break' in the street.
- The architectural expression of the proposal is generally supported.
- Overall, the proposal is considered acceptable from an urban design perspective, subject to several recommendations for design refinements.

Waste Services

Waste Services have advised that (as summarised):

- The submitted WMP does not comply with the current Better Practice Guidelines for Multi-Unit Developments and the design of the waste storage rooms is not consistent with the Guidelines and the objectives of the OHS Act Section 28.
- The development is sufficiently large to consider the use a single vacuum chute system for all towers to a common waste store with a compactor. This would reduce traffic requirements for waste and provide the proponent with alternate design options for the basement.

Engineering (Traffic, Transport and Drainage)

*Drainage*

Drainage and Development have advised that (as summarised):

- Confirmation of the extent of easements on title is required (it appears Building 3 is constructed over an easement)
- Confirmation of whether STORM rating and SDA Reports have been submitted is required
- Stormwater drainage runoff shall be collected in a complete and effective system of drains and directed to the Approved Stormwater connection point.

*Transport and Car Parking (Stages 1 & 2)*

The Transport team have advised that (as summarised):

- Based on the standard requirements of Clause 52.06 of the planning scheme, the mixed use development would require a total of 538 parking spaces. The provision of 649 car spaces exceeds these requirements. Further information is required on the allocation of car parking spaces, i.e. apartment numbers are to be labelled on the car parking plan.
- The relevant Design Standards have generally been met.

**37-63 BELL STREET & 45 LINDEN AVENUE IVANHOE - AMENDMENT TO MIXED USE MULTI LEVEL DEVELOPMENT (P635/2015) cont'd**

- Pedestrian access to car parking areas from the street should be convenient, with pedestrian routes through car parking areas to be clearly marked and separated from traffic in high activity parking areas.
- Adequate bicycle parking is provided.
- The development is expected to generation a high level of traffic as indicated by the traffic report prepared by Traffix Group. Given the site has restricted access to the adjacent residential streets, Linden Avenue and Myrtle Street, because of the existing road closures and a Section 173 agreement, traffic is directed to Bell Street. This is considered to be acceptable.

City Futures (Strategic Planning)

City Futures Department have provided the following comments in relation to the proposal:

- It is noted that there would be social benefit to the community with a mix of an aged care and childcare facility alongside the residential and commercial components previously supported.
- That the proposal now also seeks to increase the height of Building 3 by an additional 5 storeys and urban design advice should be sought in relation to this requested change. It is noted that the Heidelberg Structure Plan is in the early stages of a review.
- Providing land use diversity would improve the overall outcome, particularly given the increased residential density being requested through this proposal. This could be achieved through diversifying residential uses through consideration of affordable housing or introduction of commercial floor space.

Given the increased residential density being requested through this proposal, City Futures would strongly encourage negotiation with the applicant to secure an affordable housing component within the residential mix.

**PLANNING CONTROLS**

The planning controls applicable to the site are outlined in Table 1 below:

**Table 1: Applicable Planning Controls**

<b>Control</b>	<b>Clause</b>	<b>Permit Triggered</b>
Mixed Use Zone – Schedule 1	32.04	Yes
Residential Growth Zone – Schedule 1	32.07	Yes
General Residential Zone – Schedule 1	32.08	Yes
Vegetation Protection Overlay – Schedule 5	42.02	No
Design and Development Overlay - Schedule 5	43.02	Yes
Development Contributions Overlay – Schedule 1	45.06	Payment of contribution required
Parking Overlay - Schedule 2	45.09	No
Car Parking	52.06	No

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Land Adjacent to a Road Zone (category 1)	52.29	No
Bicycle facilities	52.34	No
Stormwater Management in Urban Development	53.18	No-but must be considered

**POLICIES CONSIDERED**

The relevant Planning Scheme Policies are outlined in Table 2 below:

**Table 2: Relevant Planning Scheme Policy**

Policy	Clause
<b>PPF</b>	
Settlement	11
Built Environment and Heritage (including sub clauses)	15
Housing (including sub clauses)	16
Economic Development	17
Transport	18
Vision and Strategic Framework	21.02
Land Use	21.04
Built Environment (Diversity area)	21.06
Transport and Infrastructure	21.07
Local Places	21.08
Reference Documents	21.09
Safer Design Policy	22.03
Environmentally Sustainable Development	22.05

**TECHNICAL CONSIDERATION**

There are three threshold issues that require consideration in assessing the amendment proposal. The first of these is whether a planning permit can be amended following a successful mediation and secondly (as a related consideration) is whether the proposal constitutes a transformation of the approved proposal. The third issue is whether the proposed building heights within the part of the site zoned GRZ can exceed the mandatory maximum building height of 11 metres and a maximum of 3 storeys. It is highlighted that these three threshold issues have been raised as matters of concern in the objections as summarised above.

**Attachment 5** addresses each of these three issues in detail having regard to VCAT case law. A summary of the conclusions reached is set out below:

Amending a Permit following successful mediation

The issue of a planning permit being amended following a successful mediation was considered by VCAT in *478 St Kilda Road Land Pty Ltd v Port Phillip CC (Red Dot)* [2016] VCAT 445 ('*478 St Kilda Road*').

Having regard to the guiding principles set out in the above case, it is relevant that four years have passed since the mediated outcome and that the ownership of the property has changed, with the new owners clearly not party to the 2016 mediation agreement. Along with the question of whether the proposal is transformative and whether the building can exceed 3 storeys and 11 metres height within the GRZ, this

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leaves an assessment of the planning merits of the proposal as the remaining issue for determination.

Whether the amendments being requested to the approved development are substantive in the context of the overall building scale and intensity and are within the parameters set by the current Planning Scheme provisions and expected to be achieved in this location is considered in detail below.

Is the proposal a Transformation of what has been approved?

Section 73 of the *Planning and Environment Act 1987* ('the Act') provides that Sections 47 to 62 of the Act apply to an s72 application to the responsible authority to amend a permit as if the application were an application for a new permit i.e. the responsible authority must process the Application in the same manner as a fresh permit application. This process has been followed in assessing the amendment proposal.

The distinction between an amendment application and the concept of transformation was considered in the VCAT decision of *Alkero Development Pty Ltd v Stonnington CC* (Red Dot) [2018] VCAT 1120 ('Alkero'). In that case, the Tribunal had before it an amendment application that sought to amend a permit allowing the development of an aged care facility to a development comprising dwellings. The permit applicant relies on *Alkero* (as per the submitted legal advice provided to it by Best Hooper Solicitors) in advancing the position that the proposal is not transformative.

In contrast to a complete or total change of land use proposed in *Alkero*, the proposal remains a mixed-use building comprising dwellings, food and drink premises, restricted recreational facility (gymnasium). The land use amendments are confined to removing uses which required planning permission, with some of the original land uses remaining. The built form changes include alterations to reflect changes to the land use mix (additional dwellings), an increase in the height of Building 3 (not on the part of the land contained in the GRZ), decreasing the separation between buildings comprising the development, and other internal reconfigurations (including the car park). There are minimal changes proposed to permit conditions and the built form is not considered to be completely different in scale, design and typology.

In summary, the proposal is properly to be considered as an amendment to an existing permit and not a transformation.

Maximum Building Height & Maximum Storeys in the GRZ

In respect of the mandatory maximum building height considerations, the southeast corner of the site is within the GRZ (land formerly known as 45 Linden Avenue). The proposed amendments seek to alter the rear profile of Building 3 on the GRZ1 land (to the south-east form) at the interface with four townhouses at 43 Linden Avenue, resulting in both increased and decreased setbacks for this elevation when compared with the endorsed plans. Relevantly, the current proposal exceeds 11 metres and 3 storeys in height on the GRZ land, however the approved development also exceeds 11 metres and 3 storeys in this location and no additional increase in height is being sought (to the extent of the GRZ land). This situation poses the question: Is there an accrued right under the permit that allows Council to consider this built form element of the proposal which would otherwise be prohibited?

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In answering the above question in the affirmative, the permit applicant relies on the legal opinion of Best Hooper Solicitors (forming part of the advertised documentation) which considers recent planning caselaw (*Ilex Holdings Pty Ltd v Port Phillip CC* (Corrected) [2019] VCAT 2047 (27 March 2020) ('the Ilex case')).

For the reasons set out in **Attachment 5**, it is considered that a building height (and number of storeys) can be considered in the GRZ land that would otherwise be prohibited, provided there is no (or substantial) additional increase in the height.

Changes to Planning Scheme since permit granted

Since the permit was granted on 14 April 2016, relevant changes to the VPP have been made under Amendments VC110 (27 March 2017, amending the MUZ, RGZ and GRZ provisions); VC134 (31 March 2017, introducing the new Metropolitan Planning Strategy and making corresponding updates to the then State Planning Policy Framework); VC136 (13 April 2017, introducing state-wide planning requirements for apartment developments); VC148 (31 July 2018, deleting the State Planning Policy Framework (SPPF) and replacing it with a new integrated Planning Policy Framework (PPF) in Clauses 10 to 19); and Amendment VC168 (11 February 2020). VC168 updated the Planning Policy Framework and Operational Provisions to reference the *Plan Melbourne 2017-2050: Addendum 2019* and introduced a new strategy and spatial framework at Clause 11.01-1R *Settlement-Metropolitan Melbourne*.

There has been no change to the zoning of the land since the grant of the permit and the VPO5 and DDO5 continue to apply without substantive changes to their respective provisions.

Subsequent the grant of the permit, the PO2 and DCPO1 were both applied (2017 and 2019 respectively).

As noted above, the provisions of the GRZ have undergone various amendments, including that the minimum garden area requirement of Clause 32.08-4 and the maximum building height and number of storeys requirements of Clause 32.08-9 introduced by Amendment VC110 now apply. It is highlighted however that minimum garden area requirements do not apply to an application to alter or extend an existing building that did not comply with the minimum garden area requirement of Clause 32.08-4 on the approval date of Amendment VC110.

The issue of the mandatory maximum building height and maximum number of storeys considerations has been addressed above.

There is no garden area requirement and no mandatory maximum building height within the MUZ or RGZ (the schedules to the MUZ and RGZ in this case do not prescribe a maximum height and there is a discretionary maximum building height of 13.5 metres for a dwelling or residential building within the RGZ).

Clause 58 *Apartment Developments* does not apply to this application as the original permit application was lodged before the approval date of Amendment VC136.

In assessing the proposal, the following specific considerations require discussion:

- Suitability of the changed land use for the site;
- Increased Building Height;

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- Alterations to Building Design;
- Varied Building Setbacks;
- Landscaping;
- Environmentally Sustainable Design;
- Off-site Amenity Impacts;
- Internal Amenity;
- Traffic impacts;
- Car parking.

The amended development is generally considered consistent with State, Regional and Local Planning Policies through the provision of a high density, mixed-use development within a designated activity centre. The application must be considered within the strategic context of the site location, impact of the changes relating to the amended building height, building appearance, number of dwellings and number of car parking spaces which are discussed below:

Land Use

The site is a large parcel on a major road within the Heidelberg Major Activity Centre. It is in an area identified in the planning scheme and the Heidelberg Structure Plan as suitable for increased residential and mixed-use development. Clause 21.06 *Built Environment* of the Banyule Planning Scheme establishes a Residential Areas Framework. This framework identifies a hierarchy of areas for development, and the subject site is located within a Diversity Area under this clause.

These areas are expected to accommodate the greatest increase in housing density across the municipality. Clause 21.08 *Local Places* identifies that the site is within the Heidelberg Activity Centre. Clause 21.08-2 provides a description of the Heidelberg Activity Centre and separates it into 7 precincts. The subject site is located within Precinct 5 – *Bell Street Peripheral retail*. The vision for Precinct 5 provides that *'The Bell Street Peripheral Retail Precinct will continue to provide a range of small to medium sized peripheral sales retailing for the regional market, with redevelopment to provide residential and medical service uses above street level.'*

Policy support for the site to be developed with a mix of commercial and residential uses and for development to be in the form of a multilevel mixed use and apartment building typology is strong and unambiguous.

*Removal of aged care and child-care facilities*

The permit applicant has advised that *'the proposed change in use has stemmed from an extensive design review and rationalisation process that responds to current market demand in regard to the provision of childcare and aged care facilities in the broader Ivanhoe area'*.

It is regrettable that these uses are proposed to be removed. Their inclusion at the time the Council considered the original permit application may have been a key factor in giving support to a built form that went beyond the preferred building envelope established by DDO5. On one view, their removal and replacement with additional dwellings reduces the true mixed-use nature of the proposal.

It is relevant however that land use planning is concerned with change and this includes issues of market conditions at a given point in time.



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In support of the permit applicant's position, an Aged Care Viability Assessment, prepared by *Amicum Aged Care and Retirement Living Specialists* has been submitted as part of the application documentation ('*Amicum Report*'). The Amicum Report concludes that conditions for a successful aged care development in the area have deteriorated due to an increase in competition and a price surge of 'Approved Places' (bed licences). The applicant asserts that Approved Places are required by the Department of Health for each resident and that without 100 Approved Places, the aged care facility will not receive recurrent Government Funding. The Amicum Report then concludes that the underlying demand and supply structure in the area will prohibit a successful allocation of 'Approved Places' from the Department of Health, hence the removal of this land use from the proposal.

Turning to the approved childcare centre, a supply and demand analysis undertaken by *M3 Property* has been submitted as part of the application documentation ('*M3 Property Report*'). The Applicant relies on the findings of the M3 Property Report that the broader area is currently in a situation of equilibrium in which supply is meeting the anticipated demand, thereby reducing the level of interest by childcare operators. This is said by the Applicant to be further hindered by the population demographic in the area which is characterised by a comparatively older population with approximately 17% of the population older than 64 years (compared to the State average of 15.6% and the National average of 15.8%).

Further, the analysis within the M3 Property Report found that the development will be positioned towards the middle of a catchment area which appears to vary in socio economic status and population demographics. This is identified by the Applicant as a challenge and level of risk for future centre operators to balance the appeal of those seeking more affordable childcare options and those seeking educational programs, which may incur higher operational costs. The above factors are said to have all contributed to a reduced level of interest from operators and investors in the area.

*Alternative employment generating land use*

In response to concerns raised, the permit applicant has submitted a 'without prejudice' ground floor plan showing the provision of 750 square metres of commercial floor space in the northeast corner of Building 3 in lieu of the twelve (12), single bedroom apartments currently proposed in that location. It is understood that the commercial space would be for medical use. Subject to the introduction of additional commercial floor space (and preferably the inclusion of a medical centre use to satisfy the clear land use directions for the Precinct as set out in Clause 21.08), it is considered acceptable for the child care and aged care uses to be removed from the proposal in the manner sought. To accommodate the commercial use of this floor space, minimum floor to ceiling heights of 3500mm will be required. This can be addressed by permit condition.

Despite that the provision of additional commercial floor space in the location shown on the sketch plan is an appropriate response to the key land use directions of the planning scheme, it is considered that Council could entertain requiring a similar response on the level above (i.e. a further 750 sqm. of commercial floor space) to ensure the proposal plays its part in providing meaningful employment generating uses within the precinct.

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In considering the alternate land use, it is highlighted that Medical centre is a Section 1 (as-of-right) use within the MUZ subject to gross floor area not exceeding 250 sqm. Office (other than Medical centre) is also a Section 1 use in this zone subject to the leasable floor area not exceeding 250 sqm. Under the above scenario, these uses would both be Section 2 (permit required) uses.

*Additional Dwellings*

A Dwelling is an as-of-right use within the MUZ, the RGZ and the GRZ. The discretion available is therefore limited to policy related considerations as to the intensity of development and broader built form and amenity considerations under the respective planning controls. It is also important to acknowledge that the proposed additional communal facilities are to be properly considered as ancillary to the dwelling use and not land uses in their own right.

As part of the discretionary considerations noted above, it is necessary to turn to local policy at Clause 21.08, together with the DDO5 provisions as they relate to the built form expectations for the site, including the treatment of the Bell Street and Linden Avenue frontages and the interface with the townhouses that adjoin to the south-east.

*Retail Premises*

The provision of an additional food and drink premises (café) use on the site is a Section 2 use (permit required) within the MUZ as the floor area exceeds 150 sqm. The provision of this use at the Bell Street/Linden Avenue corner is consistent with the purpose of the MUZ and assists with the activation of the site at ground level and in providing employment generation.

Considered in conjunction with the 'offer' to introduce some additional commercial floor space at ground level fronting Bell Street (as described above), it is considered that the land use mix is appropriate and provides for a suitable level of commercial activation at ground level whilst ensuring various residential living options are provided in a well serviced precinct within the Activity Centre.

Building Height

The suite of policy controls in Clause 21.08 and schedule 5 to the Design and Development Overlay (DDO5) provide guidance as to the preferred building heights within the area. The background document informing these controls is the Heidelberg Structure Plan. The Heidelberg Structure Plan and the controls are currently being reviewed in light of recent development trends throughout Metropolitan Melbourne. These trends include a move towards greater apartment density and taller building heights further out from the traditional inner-city core, including within designated Major Activity Centres.

DDO5 identifies seven different precincts, and pursuant to this clause, the subject site is located within the *Bell Street Peripheral Retail precinct*, which is numbered Precinct 5 under this clause. For Precinct 5, the DDO5 sets out a preferred height of no more than 16 metres above ground level (an equivalent of 5 storeys for a residential development). This accords with the heights envisaged for the site in the Heidelberg Structure Plan. This is further reinforced through Clause 21.08 *Local places* which translates the key directions of the structure plan into local policy.

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Clause 21.08 also identifies the precincts of the structure plan area and provides strategic direction on how each of these precincts should grow and develop. This clause identifies that the subject site is in the *Bell Street Peripheral Retail* precinct. The objectives for this precinct include “*It will continue to provide a range of small to medium sized peripheral sales retailing for the regional market, with redevelopment to provide residential and medical service uses above street level.*”

Importantly, the strategies to achieve this objective include:

*“Development at 443 Upper Heidelberg Road should provide the only dominant building that protrudes noticeably above the treed ridgeline to provide a landmark that makes a positive contribution to the identity of the activity centres”.*

Whilst there is no mandatory height restriction on the subject site (other than on the GRZ land), it is nonetheless necessary to consider whether the proposed height variations will achieve the outcomes sought by the Heidelberg Structure Plan as expressed in the DDO5 and Clause 21.08 provisions.

It is recognised that there has been a change in the planning system (introduction of Plan Melbourne) and an increase in the number of larger and taller apartment buildings throughout suburban Melbourne since the structure plan was originally released. There is now a much greater policy emphasis on maximising opportunities for mixed use development on sites such as this and underdevelopment of key sites should be avoided.

It is also recognised that some buildings have been approved within the structure plan area with heights in excess of the heights noted in the structure plan (e.g. the approved development on the subject site extends to 12 storeys; the approved mixed use development at 87-131 Bell Street Ivanhoe extends to a maximum of 18 storeys; and the constructed development at 443 Upper Heidelberg Road to 14 storeys (with additional architectural features to an approximate additional three storeys above this). For this reason, the structure plan and overlay controls are being reviewed with a likely increase in heights recommended to form the basis of a future planning scheme amendment.

Relevant examples of developments that exceed the DDO5 maximum preferred heights include:

- 37- 69 Bell Street, Ivanhoe (subject site) – 12 storeys;
- 443 Upper Heidelberg Road, Heidelberg Heights – 17 storeys;
- 87-131 Bell Street, Ivanhoe – 18 storeys;
- 12 Powlett & 9-11 Martin Street, Ivanhoe – 8 storeys;
- 245 Burgundy Street, Heidelberg – 8 storeys; and
- 294 Bell Street, Heidelberg West – 9-12 storeys.

As described above, the structure plan for the area identifies the site at 443 Upper Heidelberg Road as being a landmark site and suitable for the highest building in the precinct. The building that has been developed on that site has a height of 14 storeys above ground level, plus additional architectural features above. The level at the top of the building is shown as approximately 139.5 AHD to the top of the 14<sup>th</sup> storey and approximately 147 AHD to the top of architectural features on the endorsed plans.

As set out above, the advice provided to Council by its urban design consultant is that the proposed height is generally in accordance with the emerging local built form

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along Bell Street. The locality is one of big scale – roadway widths, infrastructure, built form, institutions such as the hospital, and it is reasonable to expect new development of significant scale. It has further been advised that the site is an appropriate location for mid-rise development which exceeds the DDO5 controls, rather than high-rise built form. The proposal constitutes a mid-rise development, albeit with a taller 'marker' form in the north-east part of the site, that part of the development which reaches 15 levels being relatively small.

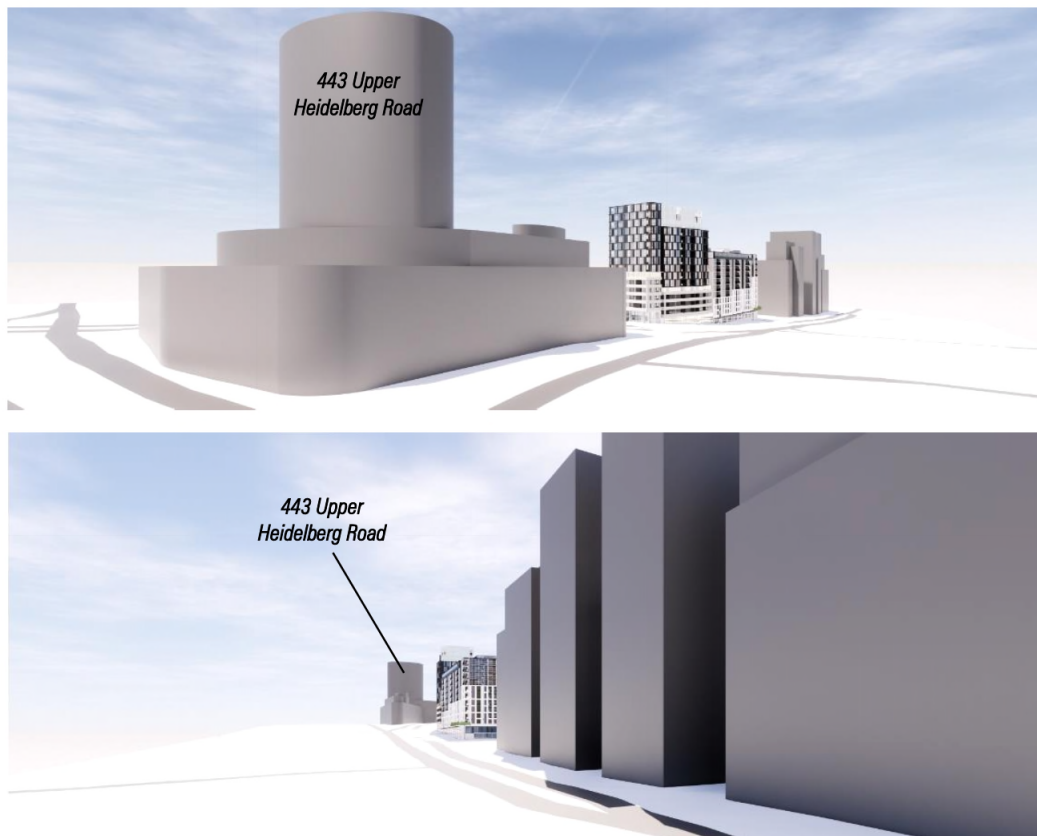
The urban design advice provided in support of the application also makes some pertinent observations. Considered in the round, the scale of the approved development on the subject site arguably lacks a sense of transition across the site when regard is had to its rising topography from Myrtle Street towards Upper Heidelberg Road. The lack of any transitional line across the Bell Street frontage leading to the Caydon building at 443 Upper Heidelberg Road is somewhat of an unusual response to the site condition when considered in the context of the subsequent approval of the higher development at 87-131 Bell Street. Along with the Caydon building, the approved development at 87-131 Bell Street incorporates both taller and more subordinate elements. In contrast, the approved development on the subject site has more of a 'squat' appearance.

The additional 5 storeys to the proposal to a height of 16 storeys at the Bell Street/Linden Avenue corner will enhance the sense of transition from 87-131 Bell Street to 433 Upper Heidelberg Road and is considered a logical response to the sloping urban form along Bell Street.

Importantly, the increased height of the proposal to 133.5 AHD will still remain 13.5m lower than the highest point of 443 Upper Heidelberg Road and will also sit slightly lower than the tallest element of the approved mixed use development to the west at 87-131 Bell Street (135.1 AHD).

Further, it is relevant that the inherently different site characteristics of the subject site (similar to those of 87-131 Bell Street) having a more traditional edge condition to Bell Street as opposed to the 'island site' condition of 443 Upper Heidelberg Road, will allow the proposal to continue to remain diminutive in the context of the landmark building at 443 Upper Heidelberg Road in the skyline. The rising nature of Bell Street to Upper Heidelberg Road situated on a ridgeline also assists in this regard.

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*View of the proposal in the context of 443 Upper Heidelberg Road*

In summary, it is considered that the proposal is consistent with the strategic thrust of the planning scheme, the height of the proposed buildings will remain lower than the height of the approved mixed use development at 87-131 Bell Street and lower than the height of that recently completed building at 443 Upper Heidelberg Road. An acceptable transition along this stretch of Bell Street will be achieved and the Caydon development situated on the Upper Heidelberg Road ridgeline will retain its primacy in the precinct.

Importantly, the independent urban design advice sought is supportive of the additional building height.

**Building Setbacks & Design**

*Public realm*

Aside from the issue of height, the form of the buildings has been assessed with regard to their appearance and contribution to the public realm. The buildings are designed with articulated and modulated forms and with materiality and a colour palette that provides visual interest to all elevations.

The main change is to reduce the building break of the upper forms along Bell Street between Buildings 1 and 3 from 20.13 metres to 6.5 metres.

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The proposal generally maintains the previously approved street wall along Bell Street, with the exception of the top three storeys which have been further set back, with the changes predominately focused on the external materiality and architectural expression of the building. The proposed façade has been designed to complement the façade of Buildings 1 and 2 which were amended at the direction of VCAT in August 2019. The Council's urban design advice is comfortable with the upper level setback response as:

- Bell Street is unlikely to become a pedestrian-friendly environment, and therefore will continue to have relatively little pedestrian activity. It is not imperative to require a lower-height street wall for that reason.
- The scale and traffic volumes/impacts on Bell Street mean that there is not a need to reduce the presence of taller mid-rise built form in the street corridor;
- As this frontage faces north, solar access to the Bell Street footpath is not affected by the development

Council's urban design advice concludes the proposal is designed as a composition of distinct elements, with distinct facade treatments and clear divisions between them and such approach is appropriate for a building of this scale. This is considered to effectively break down the overall building mass across the frontage into discrete elements.

The advice considers the expression to the Bell Street frontage as rectilinear and robust, reflecting an appropriate level of design consideration and resolution. The lower levels at the eastern end feature strong horizontal bands of ridged concrete with glazing in between and integrated edge-planting. Behind this horizontal emphasis, the vertical alignment of recessed balconies and protruding glazing creates a sense of layering, depth and vertical rhythm in the facades to Bell street and Linden Avenue.

The upper levels comprise a darker 'stretcher bond brickwork' façade pattern, which is visually distinct from the expressed base, and from the lighter, recessed uppermost levels. The broad, horizontal emphasis in this facade is considered appropriate given the course grain of the context, and the broad road environment in front of the site. The composition of horizontal base which wraps around the corner, full-height 'bookend' element, lower-height tower with continuous facade but vertical 'break' between it and the bookend form, and lighter, more recessive 'top' to the building, reflects an effective arrangement.

Despite the above, the urban design advice considers the junction between the glazing at the top of the expressed podium and the bottom of the dark upper level form, at the Bell Street frontage as 'unresolved and awkward', because of the heavy tower form is resting on glass. The advice considers it would be preferable for the horizontal banding to continue at this level, with a discrete transition level, as occurs at the Linden Avenue frontage. This can be addressed by condition of permit.

In respect of the Linden Avenue presentation, the Council's urban design advice considers the lower-scale frontage and horizontal expression an appropriate response to the side street interface close to Bell Street, while the vertical balcony recesses create a finer-grain expression to Linden Avenue. This is considered a distinct transition down in height at the southern end of this frontage, which 'turns the corner' into a terraced expression to the rear interface. This approach is supported.

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*Residential interfaces*

There is no change to the development as it interfaces with land at 54 Myrtle Street to the south-west. This is shown as the Stage 1 development that is currently under construction.

The critical assessment relates to the south-eastern interface to 43 Linden Avenue, specifically in relation to the proposed changes to the approved building envelope and the building's architectural expression and any additional off-site impacts such changes could impose upon the four adjoining double storey townhouses on this site.

Neither Clause 55 nor Clause 58 are called up in this case (as mandatory considerations), and whilst DDO5 does provide some clear guidance in relation to interface issues, it does not apply to the GRZ land.

As highlighted above, there is no change to the overall building height of the proposed building to the extent of the element of Building 3 sited on the GRZ land that adjoins 43 Linden Avenue. There are however changes to the building setbacks from the common boundary (they range between 5.3 and 14.2 metres), with some elements sited slightly closer to the common boundary. In the main however, the building setbacks are significantly increased, providing an improved response at this interface.

More particularly, Building 3 is set back 5.365m from the southern boundary interface to the Linden Avenue dwellings (to the outside edge of the balcony planters). The proposal utilises 1.7m high privacy screens to three ground floor dwellings, with the other three south-facing apartments set further back behind large balconies. This Ground Floor frontage continues through Levels 1 and 2. Building 3 (south portion) is 6-7 levels in height, but the two uppermost levels (Levels 5-6) are set back approximately 14.3m from the southern boundary (to the wall line), and 9.6m to the balcony edge at Level 5.

*Onsite amenity, accessibility and offsite amenity impacts*

An assessment in relation to onsite amenity, Council's Livable Housing Guidelines and offsite amenity impacts is set out in Attachment 6 and it is noted that:

- Recommendations set out in the Wind Impact Assessment report by Vipac Engineers & Scientists Ltd (VIPAC) should be addressed with permit conditions
- Given there is no additional overshadowing of the adjoining areas of SPOS at 43 Linden Avenue other than marginal increases at 11am for Unit 4 and at 12.00pm for Unit 2, the proposed changes are considered acceptable.
- All potential overlooking opportunities are managed from the lower levels of the building to ensure that no unreasonable overlooking occurs to the properties located to the south east of the site.

Landscaping

There are two key landscaping considerations arising from the amended proposal. The first relates to the detailed design of the proposed eastern courtyard space. As highlighted by the Council's urban design advice, the courtyard will be substantially

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(internally) overshadowed and the useability and amenity value of this space (by the future residential occupants of the development) will be dependent on the detailed design for the courtyard, including the placement of furniture, paving and planting treatments.

The second key issue relates to the treatment of the south-eastern balconies that interface with the townhouses at 43 Linden Avenue. Landscaping needs to perform varied roles in this regard, including a privacy screening role to restrict overlooking. The successful treatment of this interface, together with internal amenity considerations for future occupants of the apartments, will be influenced by the landscape design/plant selection and maintenance.

These matters can be addressed by permit conditions.

Environmental Sustainable Design

The application was supported with reports and documentation demonstrating that the development will still maintain compliance with the ESD requirements set out in the conditions of the permit.

Vegetation Impacts

Proposed amendments for the Stage 2 development do not increase the potential impacts on vegetation on neighbouring properties. A full vegetation impact assessment was previously undertaken as part of the approved development.

Transport

As described above, the application has been assessed by Council's Transport team. The findings are that the development has sufficient parking and a generally acceptable car parking layout. It has however been highlighted that traffic generation will be 'high'.

The submitted traffic report (Traffix Group) has included an analysis of traffic generation comparing the endorsed scheme and the changes proposed under the amendment application. It concludes that the total traffic impacts associated with the amended development scheme is 262 vehicle trip ends per hour. This represents an increase of 37 vehicle movements during each peak hour in comparison to the endorsed scheme.

Traffix Group suggest the increase equates to approximately 1 additional movement every 1.5 to 2 minutes during the peak hours. It is anticipated (as per the report) the increase in traffic volumes will primarily occur through the Linden Avenue access noting that the increase is associated with change in use from Aged Care and Independent Living Units to standard residential apartments. The access from Linden Avenue to Bell Street is restricted to a left in/left-out arrangement only.

Traffix Group is satisfied the traffic impacts associated with the amended scheme can be satisfactorily accommodated and will not have an unreasonable impact on the nearby road network, subject to the remedial works required under existing permit conditions (the timing of which is also sought to be amended under the proposal).



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Council's Transport team generally concur with the above assessment, noting all traffic will be directed onto Bell Street. This is controlled by a Section 173 agreement which applies to the land.

Car parking

The traffic and parking report has proceeded on the basis that the *'gym is provided as an ancillary facility for residents use only. As such, demands associated with this land use will have been already considered within the assessment of the residential land use'*. Based on this, it states the Stage 1 development provides 314 car spaces which exceed the parking requirements under Clause 52.06-5.

The end stage development must be assessed under the PO2 provisions which sets out the following statutory parking requirements in relation to the proposed uses:

- 0.8 spaces to each 1 or 2 bedroom dwelling (with studies or studios that are separate rooms counted as a bedroom)
- 1.0 space for visitors to every 10 dwellings or part for developments of 10 or more

A permit cannot be granted to reduce or waive the car parking requirement for the uses specified in part 3.0 of the schedule (relevantly set out above) unless car parking credits exist for the subject site. The schedule also sets parking requirements for a Medical Centre and a Supermarket which are not proposed in this case.

For any other use listed in Table 1 of Clause 52.06-5, the number of car parking spaces required for the use is calculated by using the Rate in Column B of Table 1 in Clause 52.06-5. These rates are to be applied to the proposed three-bedroom dwellings, café and other food and drink premises as follows:

- 2.0 spaces to each 3 bedroom dwelling
- 3.5 spaces per 100 sqm. of leasable floor area for food and drink premises

The development has a statutory parking requirement under Clause 52.06-5 of 538 car spaces, comprising of 472 resident spaces, 49 resident visitor spaces and 17 commercial spaces for the food and drink premises.

The provision and allocation of 649 car spaces exceed the requirements set out under the Planning Scheme (with a surplus of 111 residential car spaces). Accordingly, a car parking reduction is not required under Clause 52.06-7.

Implications of additional commercial floorspace

As discussed above, it is considered that additional commercial floorspace should be provided at ground floor along the Bell Street frontage. A 'without prejudice' ground floor plan has been submitted showing the provision of 750 square metres of commercial floor space in the northeast corner of Building 3 in lieu of the twelve (12), single bedroom apartments currently proposed. The removal of the 12 dwellings would 'free up' 12 car spaces for allocation to the additional commercial floorspace. It is understood that the commercial space would be for medical use.

As noted above, PO2 sets out a parking rate for a Medical Centre, being 5 spaces to the first person providing health services, plus 3 spaces to every other person

**37-63 BELL STREET & 45 LINDEN AVENUE IVANHOE - AMENDMENT TO MIXED USE MULTI LEVEL DEVELOPMENT (P635/2015) cont'd**

providing health services. The reallocation of the 12 spaces made available from the removal of the 12 apartments would only allow three staff providing health services which is far less than the likely number of the end providers given the area of the medical centre floor space.

Relevantly, the surplus pool of car parking (111 spaces) could potentially be drawn upon to satisfy the additional medical centre parking requirements, however it should not be assumed that the surplus spaces can simply be re-allocated for this purpose. It is common for surplus residential spaces to be sold to the purchasers of apartments who desire parking additional to the minimum requirements of the planning scheme and it is understood that is the intention with the proposal.

Under Clause 5.0 of Schedule 2 to the PO, a financial contribution of \$17,500 (ex GST) is required in lieu of each car parking space associated with a use other than residential dwellings (as required under Column B of Table 1 in Clause 52.06) being provided on-site. The financial contribution must be paid to the responsible authority and paid in full prior to the commencement of any use or development of the land, unless otherwise agreed in writing by the responsible authority.

Ultimately a permit condition would need to be framed in a way that requires the Medical Centre parking rate to be satisfied by either drawing upon the surplus pool of car parking (111 + 12 spaces = 123 spaces) and/or the payment of a cash in lieu payment for each medical centre car space not provided on site as set out in Schedule 2 to the overlay. This is made difficult as the intentions of the permit applicant are unknown, both as to the acceptance or otherwise of a requirement of up to 1500 square metres of medical centre/commercial floor space and the total end number of health service providers working from that space.

On balance, it is considered that parking requirements for the medical centre/commercial floor space should be satisfied on site by drawing on the pool of surplus unallocated car spaces.

Motorcycle parking

For all development requiring more than 20 car parking spaces, motor-cycle parking must be provided at a rate of 1 space for every 20 car spaces (prior to any dispensation of the car parking rate), unless the responsible authority is satisfied that a lesser number is sufficient. In this case no motorcycle parking is provided.

Bicycle parking

Clause 52.34 of the Planning Scheme specifies bicycle parking requirements for new developments and changes in use. The development has a statutory bicycle requirement of 151 bicycle spaces, including 101 staff/resident spaces and 50 visitor/customer spaces.

The development provides a total of 216 bicycle spaces across both stages.

A minimum of 20% of the bicycle parking requirement is provided as horizontal at-grade spaces in accordance with AS2890.3-2015. The dimensions of the bicycle parking will accord with the requirements of AS2890.2-2015 as required, including rail spacing, length and access aisle width.

**37-63 BELL STREET & 45 LINDEN AVENUE IVANHOE - AMENDMENT TO MIXED USE MULTI LEVEL DEVELOPMENT (P635/2015) cont'd**

Based on the minimum staff bicycle parking requirements (2 spaces) the development is not required to provide any end of trip facilities. The amended plans detail 3 shower/change rooms including 1 room located in Stage 1 - Basement 4 adjacent to the bicycle storage area and 2 shower/change rooms located in Basement 3 within the bicycle storage area.

Based on the above, the provision of bicycle parking and end of trip facilities in the development is acceptable and exceeds the relevant requirements.

Waste Management

Council's Waste Management Department have raised various concerns with the submitted Waste Management Plan. Given the extent of building and land use changes proposed by this application, it is considered that the Waste Management Plan should reflect contemporary requirements and practice. This can be addressed by permit condition.

Development Contributions

Schedule 1 *Banyule Development Contributions Plan* to the Development Contributions Plan Overlay applies (DCPO1). Pursuant to Clause 45.06-1, a permit granted must be consistent with the provisions of the relevant development contributions plan and include any conditions required to give effect to any contributions or levies imposed, conditions or requirements set out in the relevant schedule to this overlay.

The review site is located within Charge Area 18 as shown on Map 1 to the Schedule. The amendment proposal is not an exempt development as the proposal does generate a net increase in demand units.

**CONCLUSION**

Subject to the provision of an additional 750 sqm. (minimum) of commercial floor space and additional design refinements as set out in this report, the proposal is considered an acceptable planning outcome and a Notice of Decision to Amend a Planning Permit with additional changes to proposed permit conditions be granted

**ATTACHMENTS**

<b>No.</b>	<b>Title</b>	<b>Page</b>
1	37-63 Bell Street, IVANHOE Stamped Advertised Plans	
2	37-63 Bell Street Ivanhoe P635/2015 - Alternative Floorplan deleting 12 apartments	
3	Plans endorsed under Condition 1 as at 29 January 2020 37-65 Bell Street, IVANHOE P635/2015	
4	37-63 Bell Street IVANHOE - P635/2015 - Summary of Urban Design Advice for S.72 Amendment	
5	37-63 Bell Street IVANHOE - Consideration of Threshold Issues -VCAT Caselaw	
6	37-63 Bell Street, IVANHOE - Onsite amenity, accessibility and offsite amenity impacts	

## **5.6 3 WAVERLEY AVENUE, IVANHOE - 3 STOREY APARTMENT BUILDING DEVELOPMENT (P1246/2018)**

Author: Walla Idris - Development Planner, City Development

Ward: Griffin

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### **EXECUTIVE SUMMARY**

The proposal seeks approval for the construction of a development consisting of six 3-storey attached townhouses, four apartment dwellings and basement parking for 20 vehicles. Townhouses 1 and 2 have a frontage to the street and Townhouses 3 - 6 have pedestrian access via a common pathway along the western boundary. The apartments are accessed via a common lift and lobby area which is also located off the common pathway.

A total of 18 objections were received during the public notification process. Concerns were raised regarding tree removal, insufficient landscaping, insufficient setbacks, excessive site coverage, overshadowing, bulky design, noise and light pollution, additional traffic congestion, cladding and front fencing is out of character.

The subject site is located within the Ivanhoe Accessible Residential Area, adjacent to the Ivanhoe Activity Centre with good access to services, transport and shopping facilities.

The proposed development is considered to provide an appropriate response to the Ivanhoe Structure Plan and the character of the area offering a transition from the neighbouring mixed use 6-storey building under development on the corner of Upper Heidelberg Road and Waverley Avenue to the residential setting of the street.

The development proposes a variation to the rear setback requirements of the Design and Development Overlay which applies to the site. This variation is supported as the rear setbacks provide area for the planting of medium and small canopy trees which offers an improved landscaping outcome at the rear compared to established developments at 7 and 9 Waverley Avenue which have minimal rear setbacks.

The application was formally amended following a consultation meeting with objectors held on the 30 March 2020. The amended proposal is considered to have addressed issues raised by objector parties through the updated material schedule, additional screening, increased setbacks, altered window fenestration and increased landscaping. The proposal should be supported, subject to conditions.

**3 WAVERLEY AVENUE, IVANHOE - 3 STOREY APARTMENT BUILDING DEVELOPMENT (P1246/2018) cont'd**

**RECOMMENDATION**

That Council having complied with Section 52, 58, 60, 61 and 62 of the Planning and Environment Act 1987, issue a Notice of Decision to Grant a Planning Permit in respect of Application No. P1246/2018 for Development of a building comprising 6 townhouse dwellings and 4 apartment dwellings and removal of vegetation at 3 Waverley Avenue IVANHOE subject to the following conditions:

**Plans**

1. Before the development permitted by this permit starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions. The plans must be generally in accordance with the discussion plans submitted on 30 March 2020:
  - (a) Reinforced bathroom walls to Apartment 6 and 7 to allow for future grabrails near toilet and shower;
  - (b) Apartment 7 to provide a clear space in front of the shower that is 1200mm x 1200mm in width and length;
  - (c) Apartment 7 to provide a minimum 1000mm corridor width;
  - (d) The existing redundant crossing to be removed with the nature strip and kerb and channel to be reinstated to Council's satisfaction.
  - (e) The 2.5 metres garden bed along the exit lane from the frontage, to provide a clear view of pedestrians on the footpath of the frontage road with associated landscaping and mail box be less than 900mm in height;
  - (f) Elevations and sectional details of service location and mail boxes to illustrate the following:
    - (i) meter box enclosures to be sited behind the front building line of the development and be a maximum height of 1.5 metres
    - (ii) Gas and water meters to be sited or screened to minimise visibility from the public realm and neighbouring properties; and
    - (iii) the mail boxes located in accordance with Australia Post guidelines;
  - (h) A longitudinal section of driveway between the centre of Waverley Avenue and the basement. The design of the vehicle crossing and driveway gradients (including transition zones as required) must be designed in accordance with *AS2890.1-2004 Parking Facilities*;
  - (i) Corner splays on each side of the driveway in accordance with Design Standard 1 of Clause 52.06;
  - (j) A schedule of external building materials and colours, including details of cladding, roofing and driveway materials. Driveways must be finished in muted tones;

**3 WAVERLEY AVENUE, IVANHOE - 3 STOREY APARTMENT BUILDING DEVELOPMENT (P1246/2018) cont'd**

- (k) All sustainable design features indicated in the submitted Sustainable Design Assessment (SDA). Where sustainable design features outlined in the SDA cannot be visually shown, include a notes table providing details of the requirements (i.e. energy and water efficiency ratings for heating/cooling systems and plumbing fittings and fixtures, etc.);
- (l) The indicative location for any split system air conditioner units and/or hot water systems at ground level to minimise visibility from the public realm and neighbouring properties;
- (m) The installation of eaves or shading devices to all north-facing windows and balconies, designed to provide appropriate shading during summer and allow solar access during winter;
- (n) A Waste Management Plan in accordance with Condition 19 of this permit;
- (o) A Construction Management Plan in accordance with Condition 18 of this permit;
- (p) Landscaping as required by Condition 2 of this permit;
- (q) The Tree Preservation Fencing in accordance with Condition 13 of this permit;
- (r) Engineering plans showing a properly prepared design with computations for the internal drainage and method for of disposal of stormwater from all roofed areas and sealed areas including:
  - (i) The use of an On-site Stormwater Detention (OSD) system;
  - (ii) The connection to the Council nominated legal point of discharge;
  - (iii) The outfall drainage works necessary to connect the subject site to the Council nominated Legal Point of Discharge;
  - (iv) The integration, details and connections of all Water Sensitive Urban Design features in accordance with the endorsed Sustainable Design Assessment and STORM report and include drainage details as a result of landscaping;
- (v) All drainage plans must show for Trees #26, #27 & #28: The Tree Number; The Structural Root Zone (SRZ) radius; and the Tree Protection Zone (TPZ) radius, each as detailed and calculated within the arborist report submitted with the application authored by **Dean Simonsen September 2018.**

Please note the Engineering plans must show all protected and/or retained trees on the development site, on adjoining properties where tree canopies encroach the development site and along proposed outfall drainage and roadway alignments (where applicable) and every effort must be made to locate services away from the canopy drip line of trees and where unavoidable, details of hand work or trenchless installation must be provided.

**3 WAVERLEY AVENUE, IVANHOE - 3 STOREY APARTMENT BUILDING DEVELOPMENT (P1246/2018) cont'd**

2. The development permitted by this permit must not be commenced until a satisfactory detailed landscaping plan is submitted to and approved by the Responsible Authority. Such plan must be prepared by a person suitably qualified or experienced in landscape design and shall include:
- (a) Details of planting throughout the site;
  - (b) The identification of existing vegetation (which is not intended to be removed), and nomination of vegetation for removal throughout the site;
  - (c) Provision of formed garden beds with edging around the landscape zone within the front setback to prevent cars parking within those areas;
  - (d) Planting adjacent to driveways and within landscaping zones to consist of varying heights and species;
  - (e) Provision of replacement planting for vegetation that is to be removed including a minimum of six (6) medium canopy trees (mature height of at least 8m) planted at a semi-advanced state (minimum pot size 16 litre) and (16) small canopy trees (mature height of at least 5m) planted throughout the site;
  - (f) Shade tolerant small to medium shrub species planted along the south boundary;
    - i. *Raphiolepis*, *Choisya*, *Nandina* and some of the *Correas* i.e. *C. decumbens* and/or
    - ii. *C. bauerlenii* with ground covers such as *Goodenia hederaceae*, *Vinca minor* 'Alba', *Vinca minor* and *Acaenea-Novae Zelandiae*.
  - (g) Increase in ground cover quantities to the eastern garden strip;
  - (h) Reduction in the ground cover quantities to the two front garden beds;
  - (i) Clipped hedge to the garden planters to the west side of the vehicle access to be accurately labelled;
  - (j) An indigenous and/or drought tolerant planting theme;
  - (k) A schedule of all proposed trees, shrubs and ground cover, which includes the location and size at maturity of all plants, the botanical names of such plants and the location of all areas to be covered by grass, lawn or other surface material as specified;
  - (l) Tree species and planting locations should be carefully selected to avoid canopy or root conflicts with overhead wires, easements and existing trees;
  - (m) Location and details of paving, steps, retaining walls, water tanks, clotheslines, fence design details and other landscape works including cut and fill;
  - (n) Location, details and cross section drawings of all Water Sensitive Urban Design features in accordance with the endorsed Sustainable

**3 WAVERLEY AVENUE, IVANHOE - 3 STOREY APARTMENT BUILDING DEVELOPMENT (P1246/2018) cont'd**

Design Assessment/Sustainable Management Plan and STORM report, with reference to connection details on the engineering plans.

**General**

3. The development as shown on the endorsed plans or described in the endorsed documents must not be altered or modified except with the written consent of the Responsible Authority.
4. Unless otherwise agreed in writing by the Responsible Authority the development permitted by this permit must not be commenced until:
  - (a) The tree protection measures required by Condition 13 are installed to the satisfaction of the Responsible Authority.
  - (b) The necessary approvals and associated fee for the removal and replacement of the existing street tree(s) *Tree #1*, which is/are shown on the plans to be relocated, must be obtained and paid to the Responsible Authority (Banyule Tree Care Department).
5. Unless otherwise agreed in writing by the Responsible Authority the development permitted by this permit must not be occupied until the development has been completed to the satisfaction of the Responsible Authority in accordance with the permit and endorsed plans (including, but not limited to built form and layout, parking, landscaping, drainage, street numbering, replacement of street trees).

**Urban Design / External Appearance**

6. The walls of the development on the boundary of adjoining properties must be cleaned and finished in a manner to the satisfaction of the Responsible Authority.

**Car Parking / Access**

7. Areas set aside for the parking of vehicles together with the aisles and access lanes must be properly formed to such levels that they can be utilised in accordance with the endorsed plans and must be drained and provided with an all weather seal coat. The areas must be constructed, drained and maintained in a continuously useable condition to the satisfaction of the Responsible Authority.
8. Areas set aside for the parking and movement of vehicles as shown on the endorsed plan(s) must be made available for such use and must not be used for any other purpose.
9. Vehicular access or egress to the subject land from any roadway or service lane must be by way of a vehicle crossing constructed in accordance with Council's Vehicle Crossing Specifications to suit the proposed driveway(s) and the vehicles that will use the crossing(s). The location, design and



**3 WAVERLEY AVENUE, IVANHOE - 3 STOREY APARTMENT BUILDING DEVELOPMENT (P1246/2018) cont'd**

construction of the vehicle crossing(s) must be approved by the Responsible Authority. Any existing unused crossing(s) must be removed and replaced with concrete kerb, channel and nature strip to the satisfaction of the Council prior to occupation of the building. All vehicle crossing works are to be carried out with Council Supervision under a Memorandum of Consent for Works which must be obtained prior to commencement of works.

**Tree Protection / Landscaping**

No additional tree removal

10. Except with the further written consent of the Responsible Authority, no vegetation (other than that indicated on the endorsed plan, or exempt from planning permission under the provisions of the Banyule Planning Scheme) shall be damaged, removed, destroyed or lopped.
11. All and any excavations within the TPZ of retained trees must be undertaken by hand or by approved non-destructive techniques suitable in the vicinity of trees, and must be undertaken outside the calculated structural root zone of any tree unless otherwise approved.
12. Any root severance within the TPZ must be approved by the Responsible Authority and undertaken by the project arborist to their satisfaction using a clean sharp and sterilised tree root pruning equipment.

Tree Preservation Zones

13. Unless otherwise agreed in writing by the Responsible Authority, prior to the commencement of works on the site Tree Preservation Zones must be established around Trees #1, #26, #27 & #28. At least 14 days prior to the commencement of works you must provide a 'Statement of Compliance' (from a suitably qualified Project Arborist) which must include photographic evidence of the below requirements. This correspondence must be sent to [enquiries@banyule.vic.gov.au](mailto:enquiries@banyule.vic.gov.au). Once installed to the satisfaction below the Tree Preservation Zones must be maintained until the conclusion of works to the satisfaction of the Responsible Authority, and must meet the following requirements:
  - a) Tree Preservation Zones must be provided in the following trees:
    - **Neighbouring Trees #26, #27 & #28**: to the extent of the calculated Tree Protection Zone (TPZ) where it occurs within the subject Land;
  - b) Any excavation greater than 1000mm for lower levels or retaining walls must not be battered. Excavation must be sequenced or staged with excavation 'cuts' made vertical, ensuring that no soil volume of the remaining TPZ is lost.

Weed control

- c) Any weeds located within the Tree Preservation Zone are to be removed and the area mulched with 100mm of composted coarse grade woodchips

**3 WAVERLEY AVENUE, IVANHOE - 3 STOREY APARTMENT BUILDING DEVELOPMENT (P1246/2018) cont'd**

Fencing

- d) Protective fencing must consist of chain wire mesh panels held in place with concrete feet. Fencing must comply with Australian Standard AS 4687-2007 *Temporary fencing and hoardings*.

Signage) Fixed signs are to be provided on all visible sides of the Tree Preservation Fencing, stating "Tree Preservation Zone – No entry without permission from the City of Banyule".

Irrigation

- f) The area must be irrigated during the summer months with 10 litres of clean water for every 1 cm of trunk girth measured at the soil / trunk interface on a monthly basis during summer (or a percentage thereof equivalent to the percentage of TPZ area occurring within the subject site).

Access to Tree Preservation Zone

- g) No persons, vehicles or machinery are to enter the Tree Protection Zone except with the consent of the Responsible Authority;
- h) No fuel, oil dumps or chemicals are allowed to be used or stored within the Tree Preservation Zone and the servicing and re-fuelling of equipment and vehicles must be carried out away from the root zones;
- i) No storage of material, equipment or temporary building is to take place within the Tree Preservation Zone;
- j) Nothing whatsoever, including temporary services wires, nails, screws or any other fixing device, is to be attached to any tree.

Ground Protection

- k) Ground protection in the form of rumble boards strapped over mulch or aggregate must be utilised where the tree protection zone of trees adjoining the subject site occurs outside the fenced area detailed in Condition (3)(a).

**NOTE:**

Requests for consent of the Responsible Authority (City of Banyule) pursuant to this Condition should be directed to Council's Arborist – Development Planning on 9457 9808. Consent for the conduct of further works within a Tree Protection Zone, where granted, may be subject to conditions. Such conditions may include a requirement that:

- Any further works that are approved are to be supervised by the project arborist, and a written component may be required also;
- All root excavation be carried out by hand digging or with the use of 'Air-Excavation' techniques;
- Canopy and Limb protection is provided in accordance with the guidelines detailed in AS4970-2009 Protection of Trees on Development Sites.

Or other conditions, as relevant, to ensure the ongoing health and stability of the subject tree/s.

Underground Services

**3 WAVERLEY AVENUE, IVANHOE - 3 STOREY APARTMENT BUILDING DEVELOPMENT (P1246/2018) cont'd**

14. Any underground service installations within the calculated Tree Protection Zone of any retained tree must be bored to a depth of at least 600mm. Any excavation within the calculated TPZ of a retained tree required for the connection of services must be:
- (a) Undertaken after written approval is received from the Responsible Authority; and,
  - (b) Undertaken by hand or by approved non-destructive techniques suitable in the vicinity of trees under the supervision of the project arborist.

Maintenance of landscaping

15. Unless otherwise agreed in writing by the Responsible Authority, the landscaping areas shown on the endorsed plans must be used for landscaping and no other purpose and any landscaping must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.

**Section 173 Agreement – Private Waste Collection**

16. Unless otherwise agreed in writing by the Responsible Authority, before the development permitted by this permit commences, the owner of the land at (3 Waverley Avenue) must enter into an agreement with the Responsible Authority pursuant to Section 173 of the *Planning and Environment Act 1987* to the satisfaction of the Responsible Authority and such agreement shall require that:
- (a) The owner acknowledge that all refuse and recycling collection will occur by way of a private contractor in accordance with the approved Waste Management Plan.
  - (b) Hard Waste Collection from the site is to be limited to no more than six communal collections in a calendar year, with each dwelling having access to no more than two such collections. Responsibility for the booking and allocation of collections is to be borne by the Body Corporate.

A memorandum of the Agreement is to be entered on title and the cost of the preparation and execution of the Agreement and entry of the memorandum on title is to be paid by the owner.

**Removal and replacement of Council Street Tree**

17. Prior to the commencement of development and removal of street tree ID #OGI-694 (Tree #1 in the submitted arborist report), the required fee for the planting of 2 new street tree/s must be paid to the Responsible Authority.

Note: The planting of a street trees will be carried out as part of Council's works schedule and only during the May to August planting season.

**Construction Management Plan**

**3 WAVERLEY AVENUE, IVANHOE - 3 STOREY APARTMENT BUILDING DEVELOPMENT (P1246/2018) cont'd**

18. Unless otherwise agreed, prior to the commencement of any works including demolition, a Construction Management Plan must be submitted to and approved by the Responsible Authority. Once approved, the plan must be implemented to the satisfaction of the Responsible Authority.

**Waste Management Plan**

19. Prior to the commencement of the development permitted by this permit, a **revised** Waste Management Plan prepared by a suitably qualified person must be submitted to and approved to the satisfaction of the Responsible Authority. When endorsed the Waste management plan will form part of this permit. The plan must be generally in accordance with the Waste Management Plan prepared by MGA Traffic dated 19 June 2019 but modified to include:
- (a) how waste and recycling materials are to be managed within the site and collected from the site without obstructing the public footpath or laneway;
  - (b) demonstrate that the waste collection vehicle will be able to enter and exit the waste collection point in a forwards direction at all times;
  - (c) anticipated frequency, hours and duration of collection(s);
  - (d) the size of the waste collection vehicle;
  - (e) minimum headroom clearance;

Once approved, this management plan must be adhered to by the owner(s), of the dwellings at all times unless otherwise approved by the responsible authority.

**Development Infrastructure Levy**

20. Prior to the issue of a building permit for any building or any works approved by this permit, a Development Infrastructure Levy and a Community Infrastructure Levy must be paid to Banyule City Council. The amount of the levy for each charge unit must be calculated in accordance with Schedule 1 to the Development Contribution Plan Overlay.

**Time Limits**

21. In accordance with section 68 of the *Planning and Environment Act 1987*, this permit will expire if one of the following circumstances applies:
- (a) The development is not commenced within two years of the date of this permit;
  - (b) The development is not completed within four years of the date of this permit.

In accordance with section 69 of the *Planning and Environment Act 1987*, the Responsible Authority may extend the periods referred to if a request is made in writing:

- Before the permit expires, or
- Within six months afterwards, or

**3 WAVERLEY AVENUE, IVANHOE - 3 STOREY APARTMENT BUILDING DEVELOPMENT (P1246/2018) cont'd**

- Within 12 months afterwards if the development started lawfully before the permit expired.

**PERMIT NOTES**

**(A) Expiry of Permit**

In the event that this permit expires or the subject land is proposed to be used or developed for purposes different from those for which this permit is granted, there is no guarantee that a new permit will be granted. If a permit is granted then the permit conditions may vary from those included on this permit having regard to changes that might occur to circumstances, planning scheme provisions or policy.

**(B) Additional approvals required**

Building Permit Required

A Building Permit must be obtained prior to the commencement of any works associated with the proposed development.

Drainage Plan Requirements

Please contact Council's Developments and Drainage Department via [enquiries@banyule.vic.gov.au](mailto:enquiries@banyule.vic.gov.au) for the Tc/Tso Values prior to the submission of stormwater drainage plans as required by the conditions of the permit.

Access to Council Reserve

No permission can be granted either temporary or otherwise by Council and/or its employees with respect to access to the adjacent Council owned land (including the road reserve) for any purposes relating to the proposal (e.g. parking of surplus vehicles, delivery of materials etc.), without application being made for the requisite permit (i.e. Local Law Permit).

Supervision of works undertaken on Council Assets

Council's Construction Department must supervise all works undertaken on Council assets within private property, Council Reserves, easements, drainage reserves and/or road reserves, including connection of the internal drainage system to the existing Council assets. Prior to the commencement of any works, an application must be made and a permit received for:

- A "Memorandum of Consent for Works" for any works within the road reserve; and/or
- A "Drainage Connection Permit" for any works other than within a road reserve.

Asset Inspection Fee

Prior to the commencement of building works on site in accordance with Local Law 1, a non-refundable Asset Inspection Fee is payable to Council for the inspection of existing Council assets. For further information in relation to this process and the relevant fee please contact Council's Construction Department on 9490 4222.

Construction Management Plan

**3 WAVERLEY AVENUE, IVANHOE - 3 STOREY APARTMENT BUILDING DEVELOPMENT (P1246/2018) cont'd**

Prior to the submission of the Construction Management Plan, please contact the Construction Management Assessment Officer to ensure the Plan is consistent with the Banyule City Council's General Local Law No. 1 2015.

**(C) Action on/for completion**

Completion of Development

Immediately upon completion of the development permitted by this permit, the owner or developer of the subject land must notify Council's Development Planning Section that the development is complete and complies with all requirements of the permit. The development will then be inspected to ensure compliance.

An early inspection process will ensure that the subdivision approvals including the Statement of Compliance can be issued without delay.

Street Numbering

Please note that property addresses are allocated by Council. This is usually formalised at the time of the issue of a certified plan, however it is Council's intention to number the proposed allotments as follows:

Dwelling 1 1/3 Waverley Avenue IVANHOE  
Dwelling 2 2/3 Waverley Avenue IVANHOE  
Dwelling 3 3/3 Waverley Avenue IVANHOE  
Dwelling 4 4/3 Waverley Avenue IVANHOE  
Dwelling 5 5/3 Waverley Avenue IVANHOE  
Dwelling 6 6/3 Waverley Avenue IVANHOE  
Dwelling 7 7/3 Waverley Avenue IVANHOE  
Dwelling 8 8/3 Waverley Avenue IVANHOE  
Dwelling 9 9/3 Waverley Avenue IVANHOE  
Dwelling 10 10/3 Waverley Avenue IVANHOE

Residential Noise (spa pump/pool pumps/air-conditioning unit/vacuum unit etc.)

The operation of spa pump/pool pumps/air-conditioning unit/vacuum unit etc. shall comply with the Environment Protection (Residential Noise) Regulations 1997. Prohibited times of use as specified by the Regulations are Monday to Friday before 7am and after 10pm & Weekends and public holidays before 9am and after 10pm (if audible from a habitable room of a neighbouring property).

The operation of the spa pump/pool pumps/air-conditioning unit/ vacuum unit etc. must not cause a Nuisance (as defined under the Health Act 1958). A Nuisance may include issues such as noise, odour or any other thing deemed to be a Nuisance under the Act. It is recommended that the spa pump/pool pumps/air-conditioning unit/ vacuum unit etc. is not located within close proximity to neighbouring properties and where practicable, enclosed.

**(D) Previous Planning Approvals**

This Planning Permit must be read in conjunction with previous permits that may affect the site.

**3 WAVERLEY AVENUE, IVANHOE - 3 STOREY APARTMENT BUILDING DEVELOPMENT (P1246/2018) cont'd**

**(E) Development Infrastructure Levy**

Please refer to Schedule 1 to the Development Contributions Plan Overlay for charge areas and levies payable. To request an invoice for payment, please email [DCPofficer@banyule.vic.gov.au](mailto:DCPofficer@banyule.vic.gov.au) including the address of the land that is being developed.

<b>Planning Permit Application:</b>	P1246/2018
<b>Development Planner:</b>	Walla Idris
<b>Address:</b>	3 Waverley Avenue IVANHOE
<b>Proposal:</b>	Development comprising 6 townhouse dwellings and 4 apartment dwellings and removal of vegetation
<b>Existing Use/Development:</b>	Single Dwelling
<b>Applicant:</b>	Melbourne Planning Solutions
<b>Zoning:</b>	General Residential Zone (GRZ1)
<b>Overlays:</b>	Vegetation Protection Overlay (VPO3) Design and Development Overlay (DDO12) Development Contribution Plan Overlay (DCPO1)
<b>Notification (Advertising):</b>	Sign on site Notices to surrounding properties
<b>Objections Received:</b>	18
<b>Ward:</b>	Griffin

**PROPOSAL**

Planning approval is sought for a townhouse and apartment development and vegetation removal as follows;

- The proposal involves the construction 10 townhouses and apartments, each containing 2 - 4 bedrooms. The maximum height is 10.9m or 3 storeys. A total of 9 trees on site require a planning permit for removal under the Vegetation Protection Overlay. Private Open Space areas provided comprise ground floor gardens and upper level balconies.
- Communal lift and stair access to the apartments is via the basement. The ground floor common walkway provides access to a lobby area accessing the apartments.
- Each townhouse is provided with 2 car parking spaces, storage and lift/stair access. A further 8 car parking spaces are provided for the apartments, along with 6m<sup>3</sup> of storage space to each car space.
- Vehicle access is proposed via 6.1m wide concrete crossing to Waverley Avenue. All parking spaces are provided in the basement garage with individual stairway and lift access to each dwelling.

**3 WAVERLEY AVENUE, IVANHOE - 3 STOREY APARTMENT BUILDING DEVELOPMENT (P1246/2018) cont'd**

- The proposed architecture is a contemporary, modern form incorporating flat roof profiles; framed elements; cantilevered front entries and varied fenestration. Materials include brick, stone look, render and metal finish. The upper level incorporate lightweight glazed balconies along the perimeter of each level.
- All site trees are proposed for removal. All of the low retention value trees except Tree #4 in the front setback which could be considered as having medium retention value.
- The landscaping plan includes 22 small - medium sized evergreen trees. The frontage is defined by two Eucalyptus scoparia 'White Gum' trees with a mature height of 10m. The rear setback is planted with four Tristaniopsis laurina 'Kanooka' trees with mature height of 8m. The proposal also includes a number of deciduous narrow evergreen trees in east and west setbacks and associated ground covers.
- The development plans were formally substituted in response to objector comments on 30 March 2020 (Attachment 1). Changes included the material schedule, increased screening, planting and setbacks and altered window fenestration.

**OFFICER DECLARATION OF CONFLICT OF INTEREST**

The *Local Government Act 2020* (the 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.

**SUBJECT SITE AND SURROUNDING AREA**

The subject site runs along the south of Waverley Avenue and is rectangular shaped with a 21m wide frontage. The lot is occupied by a single storey brick dwelling with tile roof and associated outbuildings. The site contains 28 trees and large shrubs. Pedestrian access is provided along the Waverley Avenue frontage. Vehicle access is provided via a single crossing on the east boundary and single driveway leading to a detached garage. The frontage is defined by a low brick fence. Side fences are constructed of timber.

The surrounding area is defined by well vegetated front gardens with medium - large trees in front setbacks. An existing church is located to the north of the site at 2-6 Waverley. The immediate area has already undergone a significant degree of change which includes a six storey mixed use development of 110 apartments currently under construction to the immediate east of the site at 25-35 Upper Heidelberg Road; a double storey heritage building to the immediate west (5 Waverley); and a double storey attached development of 5 dwellings to the west at 7 Waverley.



### 3 WAVERLEY AVENUE, IVANHOE - 3 STOREY APARTMENT BUILDING DEVELOPMENT (P1246/2018) cont'd

#### Locality Plan



#### PUBLIC NOTIFICATION

The public notification was conducted by means of posting notices to the owners and occupiers of surrounding properties. To date 18 objections have been received. Grounds of objection are summarised as follows:

- Neighbourhood Character – Site coverage, setbacks, visual bulk, materials and fencing;
- Tree removal and insufficient landscaping;
- Amenity impacts – overlooking, overshadowing, noise and light; and
- Traffic and car parking.

A consultation meeting was held on 13 November 2019 and attended by 6 objector parties. Following the meeting updated plans were submitted on 30 March 2020 (Attachment 1). These plans were circulated to attendees and included the following changes:

- Updated materials to replace stone with brick finish and incorporate darker tone;
- Additional screening;
- Increased setbacks;
- Window fenestration altered; and
- Increased landscaping areas.

#### REFERRAL COMMENTS

##### Internal referrals

**3 WAVERLEY AVENUE, IVANHOE - 3 STOREY APARTMENT BUILDING DEVELOPMENT (P1246/2018) cont'd**

<b>Department/ Officer</b>	<b>Conditions /Comments</b>
Developments & Drainage	Council's Developments & Drainage Section reviewed the proposal and raised no major concerns. Standard conditions relating to drainage requested are to be included on any approval issued.
Arborist	Council's Development Planning Arborist has advised that the proposal can be supported from an arboricultural perspective. Tree protection conditions are to be included on any approval issued
Traffic & Transport	Council's Traffic Engineering Section have reviewed the proposal and raised no major concerns. Standard conditions relating to access and parking areas are to be included on any approval issued.
Waste	A revised Waste Management Plan has been submitted. It is recommended that conditions be included requiring the submission of an amended waste management plan demonstrating this and a Section 173 Agreement be entered into requiring private waste collection be provided.
Heritage	The application was referred to Council's Heritage Advisor as the site adjoins two heritage protected properties to the west and south. The Design and Development Overlay – Schedule 12 seeks to ensure new developments adjacent to heritage buildings complement the form, siting, scale/height and proportions. The Heritage Advisor commented that the external colours were an improvement from the earlier proposal and that the front setbacks of TH2 allowed a transition from setback of the approved corner development on one side to the greater setback of the heritage building on the other side.
Landscape	The updated application was referred to landscape architect to confirm planting area and species were appropriate. Conditions will require updated species list and reduced shrub quantities.
ESD consultant	The application was referred to an ESD consultant who supported the application and recommend that some additional space in the carpark/amenities area be allocated for bike parking for residents of the apartments, a minimum of one space per dwelling.
Tree Care	The application was referred to Tree Care team. The removal of the existing street tree was supported subject to the replacement of two street trees either side of the proposed driveway.

**3 WAVERLEY AVENUE, IVANHOE - 3 STOREY APARTMENT BUILDING DEVELOPMENT (P1246/2018) cont'd**

**PLANNING CONTROLS**

The planning controls applicable to the site are outlined in Table 1 below:

Table 1: Applicable Planning Controls

<b>Control</b>	<b>Clause</b>	<b>Permit Triggered</b>
General Residential Zone 1 (GRZ1)	32.08	Yes
Vegetation Protection Overlay (VPO3)	42.02	Yes
Design and Development Overlay (DDO12)	43.02	Yes
Development Contribution Plan Overlay (DCPO1)	45.06	Yes
Car Parking	52.06	No

**POLICIES CONSIDERED**

Table 2: Relevant Planning Scheme Policy

<b>Policy</b>	<b>Clause</b>
<b>LPPF</b>	
Built Environment and Heritage	15
Housing	16
Built Environment ( <u>Accessible area</u> )	21.06
Residential Neighbourhood Character Policy (Garden Suburban 3 Precinct)	22.02
Safer Design Policy	22.03
Environmentally Sustainable Design	22.05
ResCode	55

**TECHNICAL CONSIDERATION**

Response to Policy Framework

The proposed development is consistent with the Planning Policy Framework seeking urban consolidation and housing diversity in appropriate locations.

Strategic Location of the site

The Residential areas framework plan within the Municipal Strategic Statement (Clause 21.06-2) identifies the site as 'Accessible' and is located within walking distance to the business core of an Activity Centre and to the highest priority sections of the Principal Public Transport Network. These areas provide for medium density living with some opportunities for higher density housing. This site, given its location close to the Ivanhoe Activity Centre, Ivanhoe and Darebin Train stations and other services provides an excellent opportunity to contribute to the variety of housing stock available and it is consistent with Council's policies to promote greater density living around activity centres and transport nodes.

Design and Development Overlay – Schedule 12 (DDO12)

It is recognised that the proposal seeks to introduce a new development typology in to Waverley Avenue, which includes three storey-built form in an apartment style building. The proposed development, whilst a new type of development within the

**3 WAVERLEY AVENUE, IVANHOE - 3 STOREY APARTMENT BUILDING DEVELOPMENT (P1246/2018) cont'd**

street, is considered appropriate with respect to the key requirements of the Design and Development Overlay – Schedule 12 as follows:

- The three storey built form provides an adequate transition between the six storey development to the east and double storey dwelling to the west.
- The rear setbacks, whilst a variation to the DDO12 setback standards, provides an opportunity for the planting of canopy trees and provides a greater landscaping opportunity to the rear when compared to the existing developments at 7 and 9 Waverley Avenue. The development at 7 Waverley Avenue includes sheer two storey walls with minimal setbacks for screen planting. Further the adjoining six-storey development to the immediate east is built along the rear boundary with no landscaping opportunities. In contrast the proposed development provides 16 small trees at side boundaries and four medium canopy trees at the site rear, which is considered to provide an enhanced landscaping outcome in the surrounding context.
- The east and west boundary side setback include variations to the DDO and ResCode standards. On the eastern side of the building a variation is required for balconies and parapet walls, this variation is supported due to the location adjacent to the large mixed use development which will have a negligible amenity impact. The side setback variations to the west is supported as it is for a small section of the upper level parapet located next to the driveway the adjoining property.
- The proposed site coverage at 77% exceeds the 75% preferred under the overlay. The slight variation is considered acceptable as the site is located adjacent to the Ivanhoe Activity Centre and provides an appropriate landscaping outcome.
- The design incorporates a graduated front setback that allows for medium tree planting within the front setback. The front elevation to Waverley Avenue provides a staggered built form with front setbacks varying from 6 metres at the east and increasing to 10 metres toward the western ground floor. The second floor increases from 7.4 metres east to 13.2 metres toward the west. The three storey scale and graduated setback provides an appropriate transition between the approved six storey development to the east which maintains a 6m frontage and the double storey dwelling to the west which has a 15 metre front setback.
- The development provides opportunity for screen planting along each side boundary which will soften the built form as viewed from the west and south.
- Access is provided from a single vehicle entry point along Waverley Avenue in the northern frontage. All car parking and waste storage/collection is within the basement.

Landscaping

The landscaping outcome maintains and strengthens the landscape setting and provides suitable screening opportunity to the adjoining sites. Landscaping opportunities have been significantly improved compared with the original notification design with six (6) medium trees provided in the front and rear setbacks and sixteen (16) small canopy trees to the side and rear of the building. The western boundary maintains a 3 – 3.6m setback which sufficient width for proposed small tree planting and common permeable pedestrian pathway. The rear setback maintains 100 sqm garden area which proposes 4 medium sized canopy trees in a horizontal

### **3 WAVERLEY AVENUE, IVANHOE - 3 STOREY APARTMENT BUILDING DEVELOPMENT (P1246/2018) cont'd**

arrangement parallel to the rear southern boundary. It is noted there is sufficient area for a single large tree however a large centrally located tree has potential to impede on usability of the secluded private open space therefore medium canopy trees are more appropriate here.

The development includes the removal of a single street tree. Two new street trees can be secured through permit conditions.

#### Vegetation Impacts and Removal

There are 24 trees on the site which are all proposed for removal. Nine of the trees proposed for removal require a planning permit (Trees #4, 5, 6, 9, 12, 13, 17, 18 & 25). Tree #4 in the front setback is considered as having medium retention value. All other trees requiring a permit which are proposed for removal are low retention value. The removal of all trees is supported subject to replacement planting.

Tree protection conditions for neighbouring Trees #26, #27 & #28 will be applied to any permit issued.

#### Internal and External Amenity

Offsite amenity impacts such as overlooking, overshadowing and noise have been designed in accordance with the ResCode standards. The proposal, subject to conditions, provides for appropriate internal amenity for future residents. There is a minor encroachment in the side setback requirements which has been discussed in the Design and Development Overlay assessment above. A detailed assessment of the internal and external amenity of the development is outlined in the attached Technical Consideration (Attachment 3).

#### Traffic and Parking

The proposal generates a standard car parking requirement of 20 car parking spaces which have been provided in the basement car park. The site is located within the Principal Public Transport Network and therefore no visitor car parking is required to be provided. The car park and vehicle access has generally been designed in accordance with the design requirements of the planning scheme.

#### Sustainability

The applicant has provided a Sustainable Design Assessment (including STORM calculations) which is considered acceptable, subject to conditions, and highlights the key initiatives for the reduction in greenhouse emissions. The included BESS score is 66% which exceeds best practice standards (50%).

#### Liveability

Ground floor apartments 7 and 8 have been specifically designed to meet Council's Liveable Housing Guidelines and provide housing choice for those with limited mobility. Conditions can require reinforced walls to allow for future grabrails near the toilet and shower to achieve full compliance with Banyule's Liveable Housing Guidelines.

#### Other objector concerns

The majority of the objector concerns have been addressed in this report and attachments, however further discussion is required regarding precedent. It is a long

**3 WAVERLEY AVENUE, IVANHOE - 3 STOREY APARTMENT BUILDING DEVELOPMENT (P1246/2018) cont'd**

standing planning principle that the perception of precedent (e.g. developments resulting in new future developments nearby) is not a matter which can be sustained when assessing an application for planning permit. Each application must be assessed on its own merits in context of its location.

**CONCLUSION**

The site provides a good opportunity for a development of this type, which is encouraged by the Design and Development Overlay – Schedule 12. The subject site is located within the Ivanhoe Accessible Residential Area, adjacent to the Ivanhoe Activity Centre and well located to transport options.

The proposed development is consistent with the Planning Policy Framework, including the Design and Development Overlay and complies with Clause 55 of the Banyule Planning Scheme. As such, the application should be supported with appropriate conditions.

**ATTACHMENTS**

<b>No.</b>	<b>Title</b>	<b>Page</b>
1	Amended Plans Lodged Post Notification	
2	Advertised Plans	
3	Technical Consideration	

## **6.1 DRAFT BANYULE COMMUNITY ENGAGEMENT POLICY 2020 - FOR PUBLIC EXHIBITION**

Author: Bridget Ruff - Integrated Planning Project Manager, Corporate Services

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### **EXECUTIVE SUMMARY**

The purpose of this paper is to seek Council approval to release the Draft Banyule Community Engagement Policy 2020, for a four-week public exhibition period, 28 July – 25 August 2020.

It is a requirement of the Local Government Act 2020 that councils develop and adopt a Community Engagement Policy, and in turn that the Community Engagement Policy is utilised to inform engagement plans that support the development of Council's key strategic and financial planning documents (at a minimum).

The Policy details Banyule's commitment to:

- the provision of quality and principled community engagement opportunities;
- empowering and strengthening our community and municipality through participation in community engagement; and
- the practice of evidence informed decision-making that reflects community needs and expectations.

Further to the extensive engagement that has been undertaken to date to inform the Draft Banyule Community Engagement Policy, it is hoped to now progress the passage of the draft document to public exhibition for further comment.

### **RECOMMENDATION**

That Council:

1. Endorses the Draft Banyule Community Engagement Policy 2020, at Attachment 1 to this report, for a four-week public exhibition period, 28 July – 25 August 2020.
2. Receives a further report detailing any feedback received on the Draft Banyule Community Engagement Policy 2020, during the public exhibition period, and presenting a final Draft Banyule Community Engagement Policy 2020 to Council for consideration.

### **COUNCIL PLAN**

This report is in line with Banyule's Council Plan key direction to "Engage meaningfully with our community and encourage participation".

**DRAFT BANYULE COMMUNITY ENGAGEMENT POLICY 2020 - FOR PUBLIC EXHIBITION cont'd**

**BACKGROUND**

Over the past 18 months work has been undertaken with a range of stakeholders to develop the Draft Banyule Community Engagement Policy (the Policy). The Policy been developed based on stakeholder input, along with research, subject matter expertise, consideration to industry standards, legislative requirements and community expectations.

The purpose of the Policy is to document and communicate Banyule's commitment to, principles for, and practice approach to the provision of high-quality community engagement that is valued by the community and stakeholders.

The Policy is applicable to strategic and statutory engagement (i.e. gathering information to inform decision making on projects, policy/strategy, service design etc). Day to day and transactional engagement (e.g. daily interactions, complaints, information provision, paying bills etc). is governed by other applicable Council policies, statements and processes e.g. Banyule Service Promise and Banyule's Customer Request Management system.

The Policy not only ensures principles and processes are in place to undertake quality and meaningful engagement planning, implementation, evaluation and utilisation, it also ensures Council has the components in place to demonstrate compliance with the Local Government Act 2020 and Victorian Auditor General's Office community engagement requirements.

**LEGAL CONSIDERATION**

Development and adoption of a Community Engagement Policy is a requirement of the Local Government Act 2020 (the Act).

**Part 3 – Council decision making**

**Division 1 – Community accountabilities**

Section 55 - Community engagement policy and

Section 56 - The community engagement principles

**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. The Community Engagement Policy enhances human rights by guiding how Council will engage with the community and consider barriers to people's participation. In particular, the Policy enhances the rights of people to participate in public life, and also cultural rights.

**CURRENT SITUATION**

The Banyule Community Engagement Policy 2020 will supersede the current Banyule Community Engagement Framework 2017 that has guided Council's work within the community engagement space for the past years.



**DRAFT BANYULE COMMUNITY ENGAGEMENT POLICY 2020 - FOR PUBLIC EXHIBITION cont'd**

**FUNDING IMPLICATIONS**

There are no funding implications at this stage of the project.

**POLICY IMPLICATIONS**

It is a requirement of the Local Government Act that councils adopt and utilise a Community Engagement Policy to guide the development of engagement plans that are used to inform key Council strategic and financial planning documents.

**CONSULTATION**

A comprehensive engagement program was undertaken to inform the development of the draft Community Engagement Policy 2020.

Community consultation as a component of the annual Council Plan Engagement Program in 2019, 2018 and 2017 was undertaken; involving interactive consultation stations at community events such as Malahang Festival, Carols by Candlelight and Movies on the Move, along with on line surveys on Shaping Banyule. Throughout these activities the views of over 3100 individuals were captured.

Consultation to inform the draft Community Engagement Policy 2020 also included councillor engagement, survey (internal); and internal workshops and working groups with key council officers.

It is proposed that the draft Community Engagement Policy 2020 is now made available for a four-week public exhibition period, 28 July – 25 August 2020. This will provide further opportunity for community to comment prior to the document being considered by Council for adoption. During public exhibition the draft Policy and supporting content will be publicly available 24/7 via Councils' online engagement platform Shaping Banyule and the opportunity to provide feedback widely promoted.

**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 purpose of the Banyule Community Engagement Policy is to document and communicate Banyule's commitment to, principles for and practice approach to the provision of high-quality community engagement that is valued by the community and stakeholders.

It is a requirement of the Local Government Act that councils develop and adopt a Community Engagement Policy by March 2021, and that the Policy is utilised to

**DRAFT BANYULE COMMUNITY ENGAGEMENT POLICY 2020 - FOR PUBLIC EXHIBITION cont'd**

inform engagement plans that support the development of Council's key strategic and financial planning documents.

The release of the Draft Banyule Community Engagement Policy is the final stage of community engagement essential to the development of the document prior to consideration for adoption.

**ATTACHMENTS**

<b>No.</b>	<b>Title</b>	<b>Page</b>
1	Draft Banyule Community Engagement Policy 2020	

## **7.1 PUBLIC PARTICIPATION IN COUNCIL MEETINGS - CHANGED PROCESSES DURING COVID 19 PANDEMIC**

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

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### **EXECUTIVE SUMMARY**

As the risk of contracting COVID-19 increases in an indoor setting, adjustments have been made to Council Meetings over the last few months, including shortening the duration of the meetings and introducing changes to the public participation components of the meetings, namely the Request to Speak and Public Questions processes.

With Metropolitan Melbourne (and Mitchell Shire) going into Stage 3 lockdown again from 8 July 2020 (due to escalating cases of COVID-19), it is timely to review public participation for the next few meetings until the election period (caretaker) and beyond, depending on the COVID situation.

There are only a few council meetings scheduled before Council enters the Election Period (caretaker period) at the end of September. The number of reports will continue to increase for these remaining meetings, which generally increases the number of speakers.

The main purpose of Council meetings is for Councillors to openly debate and discuss matters and make decisions. Reducing Councillor time to discuss and debate matters impacts on good decision making.

During COVID, Councillor speaking times have reduced to less than those of the public (2 minutes compared to 3 minutes for the public).

A further adjustment made when the public were no longer able to attend the meetings in person is that the statements of submitters have been read out by the Officers present. This has presented some challenges and is not as effective as hearing from the person themselves.

As the health and safety of Councillors and Staff attending the meetings is of paramount importance, ensuring meetings are held within two hours maximum or less; a number of options were considered at the Councillor Briefing on Monday 13 July 2020. These options include:

- Suspend Request to Speak and Public Questions for the duration of Council meetings until after the Election and it becomes safe to remove the COVID social distancing restrictions
- Speakers to provide Council with pre-recorded statements as well as written statements
- Limit Request to Speak for 30 mins out of the 2 hours
- Councillor speaking times be limited
- Virtual Council meetings

**PUBLIC PARTICIPATION IN COUNCIL MEETINGS - CHANGED PROCESSES DURING COVID 19 PANDEMIC cont'd**

- Make copies of Request to Speaks statements available to the councillors prior to the meetings and publish them on Council's website rather than reading them out or playing the recordings at the meeting.

By either placing additional limitations on, or suspending Request to Speak, neither option impinges on the community who will continue to have access to Councillors and the administration via the normal communication channels.

**RECOMMENDATION**

That Council:

1. Notes the escalating seriousness and incidence of COVID-19 infections in Victoria and endorses the changes that have been made to date to the Council meeting processes, including to the public participation components, live streaming of the meetings and reduction in Councillor speaking times, in order to limit potential exposure to the infection for those in attendance.
2. Commits to ensuring that Council meetings during the remainder of the COVID-19 period do not exceed a time limit of two hours in duration.
3. Temporarily amends the Request to Speak process to require speakers to submit pre-recorded videos of their statements (additional to the written statements). Speakers to be limited to a maximum of two (2) agenda items, with a speaking limit of two (2) minutes per each item; and the cut off time for submitting Request to Speak statements (pre-recorded and written) be changed from 12.00pm on the day of the Council meeting, to 10.00am on the meeting day.
4. Endorses the CEO's action in applying the changes to the public participation process from the meeting scheduled for 27 July 2020 and any subsequent meeting for the duration of the COVID-19 Pandemic restrictions.
5. Authorises the CEO, in consultation with the Mayor, to take any action or make further adjustments to the Council meeting processes as may be required in this quickly changing environment, to ensure public safety and improve the running of the meetings.

**COUNCIL PLAN**

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

**BACKGROUND**

As the risk of contracting COVID-19 increases in an indoor setting, adjustments have been made to Council Meetings over the last few months. This has included:

- Attempting to set a limit of 2 hours duration for the meetings
- Physical spacing of tables

**PUBLIC PARTICIPATION IN COUNCIL MEETINGS - CHANGED PROCESSES DURING COVID 19 PANDEMIC cont'd**

- No attendance of members of the public
- Livestreaming to support non-public attendance
- Statements submitted for request to speak
- Minimal staffing
- Public questions (and answers) not being read out, only minuted
- Reduced Councillor speaking times
- Reduced Agenda items (at the start of the pandemic)

Minimising the number of reports was only an interim measure and as the number of reports have increased, due to the few meetings left available before caretaker, the length of the meetings has increased in duration. There is no further ability to postpone certain reports prior to the Election Period.

During recent Council meetings the large number of speakers has meant that a significant proportion of the 2 hours limit set for the meeting has been used for reading out the Request to Speak submissions leading to the meetings extending beyond the time limit. The meeting on 6 July 2020 concluded at 10.21pm. Taking into consideration that the Councillors and attending Staff meet for up to one hour prior to the Council meeting in the pre-briefing, the length of meeting time for those persons was almost four and half hours, an unacceptably long time under the present circumstances.

The written Request to Speak statements have caused some issues as it has required scrutiny of the statements and the need to vet all written statements to remove defamatory, derogatory or offensive material in accordance with Council's policy.

**LEGAL CONSIDERATION**

**Local Government Act 2020**

The new *Local Government Act 2020* includes new overarching Governance Principles including supporting principles. The conduct and framework for the operation of council meetings is to be determined by each council and set in their Governance Rules. Banyule's Governance Rules are currently out for public consultation and must be adopted by 1 September 2020.

The Local Government Act does not address nor mandate the requirement for members of the public to address Council at its meetings

**Meeting Procedure Code**

The process for both Requests to Speak and Public Questions sits outside of the Governance Rules and the current Meeting Procedures Code.

Council has the flexibility to amend the processes for both.

Banyule has always prided itself on the Request to Speak process being one of only the few councils to have such a process.

**PUBLIC PARTICIPATION IN COUNCIL MEETINGS - CHANGED PROCESSES  
DURING COVID 19 PANDEMIC 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 may raise issues in relation to two of rights in the Charter, the *Right to Freedom of Expression* and the *Right to Participate in Public Life*.

The Victorian Ombudsman had this to say with regard to the *Right to Freedom of Expression* as it applies to public question time in their Investigation into Transparency and Decision Making in Local Government (2016).

*“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.”*

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.

The *Right to Participate in Public Life*, applies to a wide range of activities such as state and local politics and public administration. It might include being involved in politics or sharing your opinion in an election or referendum, attending a public forum to help make decisions on local issues, or attending a meeting of a local council. It could also be participating in a public debate or dialogue with a representative such as a member of your local council.

In some circumstances, one person's right may come into conflict with the right of another person or group. In these circumstances, it can be necessary to limit or restrict these rights. Under section 7(2) of the Charter, rights may be limited in certain circumstances, but it must be reasonable, necessary, justified and proportionate.

Given that all members of the public will continue to be able to have access to Council meetings during the COVID-19 via live streaming, and will also have the ability to contact their councillors and the administration via other available communication channels, it is considered that these rights are not being limited unreasonably with the proposed temporary changes to the Council Meetings Public Participation processes.

## **PUBLIC PARTICIPATION IN COUNCIL MEETINGS - CHANGED PROCESSES DURING COVID 19 PANDEMIC cont'd**

### **CONSULTATION**

Councillors were provided with the opportunity to consider the various options for temporary changes to the Public Participation process at the Councillor Briefing held on 13 July 2020.

The Community will be informed of the changes via Council's website, and regular contributors will be advised personally.

### **OPTIONS**

Option 1	Suspend Request to Speak until the Election and review following the elections depending on the COVID situation.
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This option is the most straight forward of the options. It means that public participation in the meetings will be limited to the written public questions and answers, which are minuted only during the COVID period.

Option 2	Amend request to speak (R2S) procedures to reduce speaking time per speaker. Submissions to be submitted by pre-recorded video along with the written statement now provided.
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- This option requires some changes to reduce the speaking times from 3 minutes to 2 minutes per speaker, in line with the reduced speaking time for Councillors.
- There is no suggested change to the number of items a speaker can speak to which would remain at a maximum of 2 items.
- Officers to cease reading out the written statements and instead the pre-recorded video statements of submitters will be played at the meeting. This worked quite successfully for the Special Council Meeting on 17 June 2020 to hear Budget and Council Plan submissions, though it required considerable logistical and technical support to ensure it all worked on the night.
- Written statements will still be required as these will be provided to Councillors prior to the meeting and will be available should there be any technical issues with the pre-recordings.
- Incorporating the pre-recording of public statements requires additional administrative and technical support and will considerably add to the preparation time for the meetings. This requires that the recordings and statements be received by 10.00am on the day of the meeting rather than the current 12.00pm deadline.

Option 3	<ul style="list-style-type: none"><li>• As per Option 2 and Limit Request to Speak to 30 minutes duration in total</li></ul>
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- A limit be applied to Request to Speak to ¼ of the time allocated to the meeting being 2 hours. This would equate to 30 minutes maximum.

**PUBLIC PARTICIPATION IN COUNCIL MEETINGS - CHANGED PROCESSES  
DURING COVID 19 PANDEMIC cont'd**

Option 4	Continue with written statements, however, they will not be read out at the meeting. All written statements to be published on Council's website during the week of the meeting and then removed. Statements to be distributed to all Councillors and discussed during the pre-briefing.
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- This option frees up the meeting to allow more speaking time for Councillors and for even shorter meetings. It still allows for Councillors to be made aware of the views of submitters and for these to be made available to the public.
- Any published statements would need to comply with Council's policy in relation to statements not being defamatory, derogatory, etc.
- All statements would be published on Council's website as they are received and will be made available until the end of the week of the Council Meeting
- The statements would not be read out.

Option 5	Virtual Council Meeting and either of the Options 2-5
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- This would involve Councillors attending the meeting online or a combination of some attending live and others online.
- Incorporating Public Participation will be difficult with this option and would need to be limited to option 4
- There are a number of logistical and technical challenges involved in conducting an online meeting that is live streamed at the same time.

**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 Request to Speak process is popular and well utilised.

The COVID-19 pandemic has now become significantly more serious in Victoria. As public health and safety is paramount, there is a need to conduct an immediate review to ensure Council meetings are limited to a maximum of 2 hours duration to limit the spread of this highly infectious disease. The Request to Speak has of recent times been taking up more than half of the 2-hour time limit, forcing the meeting to go on for much longer than is acceptable in the current environment.

Unless Council wishes to conduct its meetings totally online, which it is now permitted to do, and which will present numerous logistical and technical challenges, a number of options have been considered to be able to limit the duration of the



**PUBLIC PARTICIPATION IN COUNCIL MEETINGS - CHANGED PROCESSES  
DURING COVID 19 PANDEMIC cont'd**

meetings. These will all apply until the Council elections or the COVID 19 restrictions remain in place.

Apart from the option of suspending the public participation components of the meetings for the time being, the other options allow some form of limited participation to remain.

In determining an option Council needs to be mindful that the main objective of council meetings is for the elected councillors to have the opportunity to debate and discuss matters brought before them by the officers and to make decisions on those matters. The majority of the meeting time should therefore always be allocated for Councillor discussion and decision making.

**ATTACHMENTS**

Nil

## **7.2 REVIEW OF CENTRALISED AND ANNUALISED VALUATIONS**

Author: Amanda Allen - Property Coordinator, City Development

### **Previous Items**

Council on 19 Feb 2018 7.00pm (Item 11.1 - Changes to Valuation of Land Act - Centralisation of Valuation Provision)

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### **EXECUTIVE SUMMARY**

The *State Taxation Acts Further Amendment Act 2017* was passed on 14 December 2017 which included changes to the *Valuation of Land Act 1960*. This ultimately saw a move from biennial valuations undertaken by Council, to annualised valuations undertaken by the Valuer General (VG).

Council transitioned in to the new arrangement from 1 July 2018, however maintained the employment of the City Valuer, Valuer and Valuers Assistant through to the end of December 2018. The first cycle under the VG commenced in January 2019.

A temporary appointment was made in July 2019 for a Senior Valuation Officer to manage the contract with the VG, prepare supplementary valuations and undertake non-statutory functions to meet business needs.

This report reviews the financial impacts to Council over a full twelve-month period under this new arrangement, being 1 July 2019 to 30 June 2020.

### **RECOMMENDATION**

That Council:

1. Note the report which reviews the financial impacts to Council and compares the performance outcomes over the full twelve-month period under the new arrangements.
2. Writes to the Valuer General seeking an update on the finalisation of the Draft Memorandum of Understanding (MOU) with Council on the valuation service which has been on hold since November 2019.
3. Continues with an 'in-house' valuations position to manage the contract with the Valuer General, prepare supplementary valuations and undertake a range of non-statutory functions.

### **COUNCIL PLAN**

This report is in line with Banyule's Council Plan key direction to "Deliver best value services and facilities".

## **REVIEW OF CENTRALISED AND ANNUALISED VALUATIONS cont'd**

### **BACKGROUND**

In March 2017 the Victorian Government announced significant changes to the *Valuation of Land Act 1960*, subsequently passing the *State Taxation Acts Further Amendment Act 2017* on 14 December 2017. Amongst the changes was a move to an annualised valuation practice and centralising all valuation activities within the office of the Valuer General (VG).

Councils were not consulted on the legislative changes nor its impacts and the Bill met heavy resistance from Councils, including from Banyule. Ultimately the Government pushed ahead, and the legislation was passed.

Prior to 2019, Council employed a Valuations team of 2.6 EFT with the primary responsibility for conducting biennial valuations of all rateable assessments within the municipality of which there are more than 56,000. In addition to this, the team undertook a variety of non-statutory functions.

Transition options were presented to Council at its Ordinary Meeting of 19 February 2018 with the following Resolution (CO2018/30).

*That Council:*

1. *Subject to the Victorian Government's high level principles established in partnership with the Municipal Association of Victoria being honoured in totality, write to the Valuer General advising that it seeks to relinquish its general valuation responsibilities from 1 July 2018, in accordance with recent legislative changes.*
2. *Receive a future report which monitors financial impacts to Council over a full twelve month period under the new arrangements.*
3. *Preserve its right to opt-out of the new provisions each year up until June 2022 if it is found that it is financially impacted by the new legislation.*
4. *Note that Council's Enterprise Agreement will be utilised to determine the method of redeployment and redundancy pathway.*
5. *Seek full reimbursement from the State Revenue Office for any employee retraining costs associated with redundancy, redeployment, or any other entitlement.*
6. *Acknowledge its ongoing operational needs for specialist property advice.*

Redundancy for the Valuations team was finalised on 31 December 2018 and all non-statutory valuation functions to meet business needs were outsourced to private valuers. The first valuation cycle under the VG commenced in January 2019. All redundancy costs were paid for by the State Government.

Given difficulties managing the range of Council needs in regard to the valuation service, a temporary (2 year) appointment was made in July 2019 for a Senior Valuation Officer to manage the contract with the VG, prepare supplementary valuations and undertake the various non-statutory functions. The temporary appointment was to enable a review of the service to determine the adequacy of

## **REVIEW OF CENTRALISED AND ANNUALISED VALUATIONS cont'd**

resourcing to meet service expectations as the new valuation arrangements became embedded.

### **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.

### **CURRENT SITUATION**

MSV has a lump sum contract with the VG to complete the 2019, 2020 and 2021 General Valuation of all rateable land and non-rateable leviable land in Banyule.

A draft Memorandum of Understanding (MOU) between the VG and Council was issued in February 2019. Revised comments were provided to the VG in June 2019 and despite regular follow up, a revised deed is yet to be received. The last correspondence from the VG in November 2019 was that the MOU is on hold.

Council's contract valuer is Matheson Stephens Valuations (MSV). The contract valuer has desk space within the Property Services team to enable daily operational communication and provide better customer service to the Banyule community.

Since the new arrangements have been in place for a full twelve-month period, it is timely to report the financial impacts to Council and compare the performance outcomes and costs under the new regime.

### **DISCUSSION**

#### **Cost to Council**

For the six-month period January 2019 to June 2019, Council managed the transition within existing resources. All non-statutory valuation functions were outsourced to private valuers and no proactive supplementary valuation income generating activities were undertaken. The financial cost relating to this six-month period was as follows:

<b>Functions outsourced</b>	<b>Cost to Council</b>
Private Valuer –public open space valuations	\$13,600
Private Valuer –land and public open space valuations	\$8,393
Private Valuer - objections	\$23,280
<b>TOTAL</b>	<b>\$45,273</b>

In response to difficulties managing the range of Council needs in regard to the valuation service, a temporary (2 year) appointment was made in July 2019 for a Senior Valuation Officer.

**REVIEW OF CENTRALISED AND ANNUALISED VALUATIONS cont'd**

The Senior Valuation Officer has since managed the contract with the VG, undertaken various non-statutory functions and prepared supplementary valuations. During this time contract labour was procured to prepare building permits for the Contract Valuers to process via supplementary valuations.

The financial cost relating to the period July 2019 to June 2020 was as follows:

	<b>Cost to Council</b>
<b>Costs associated with in-house valuer</b>	
Salaries and on-costs	\$116,131
Contract labour	\$6,970
<b>Sub total</b>	<b>\$123,101</b>
<b>Costs associated with contract functions</b>	
MSV provision of supplementary valuations	\$64,150
MSV land tax objections	\$74,400
MSV Council valuation appeals	\$5,025
Reimbursements of land tax objections	-\$77,942
<b>Sub total</b>	<b>\$65,633</b>
<b>TOTAL</b>	<b>\$188,734</b>

If the valuation services were outsourced including proactive supplementary valuation income generating activities, the equivalent financial cost relating to this twelve-month period would be as follows:

	<b>Cost to Council</b>
<b>Costs associated with outsourcing to private valuer</b>	
Council land and building asset valuations <i>Lump sum fee</i>	\$25,000
Public open space valuations <i>85 valuations x \$500 per assessment</i>	\$42,500
Land and rental valuations <i>42 valuations x \$500 per assessment</i>	\$21,000
Supplementary valuations <i>1014 valuations x \$15 per property (measure) x \$15 per property (inspection) x \$60 per property (additional data elements)</i>	\$91,260
Adjusted rate exemptions <i>50 adjustments x \$50 per assessment</i>	\$2,500
<b>Sub total</b>	<b>\$182,260</b>
<b>Costs associated with contract functions (same as above)</b>	
MSV provision of supplementary valuations	\$64,150
MSV land tax objections	\$74,400
MSV Council valuation appeals	\$5,025
Reimbursements of land tax objections	-\$77,942
<b>Sub total</b>	<b>\$65,633</b>
<b>TOTAL</b>	<b>\$247,893</b>

In addition, Council would need to attend to their responsibilities under the 2020 Best Practice Guidelines and undertake the various contract management, administration and internal and external customer service activities.

## **REVIEW OF CENTRALISED AND ANNUALISED VALUATIONS cont'd**

### **Performance**

The relationship between the appointed contract valuers and Council has been working well, assisted by the contract valuer having access to desk space and the knowledge and assistance of the Senior Valuation Officer.

The contractor's role is to undertake various functions related only to the revaluation process and they are completing this according to their contract with the Valuer General.

Additional work requested of the contractor incurs a cost to Council, including responding to objections. The fee schedule is set by MSV for property related professional consultation. Due to the nature of the contract between the VG and MSV, there is some concern that the work has been under-resourced.

Previous to the current arrangement, Banyule had one of Victoria's lowest volumes of valuation objections. For example, in the 2018 General Valuation cycle, 19 objections were received by Council. Only 8 were changed and 11 disallowed. This objection rate is typical of previous years also. However, for the 2019 Valuation cycle, under the new regime, 140 objections were received, 88 were changed and 52 were disallowed.

Any statutory valuations that are reduced as a consequence of an objection have a direct financial impact on Council's rate income. For example, two objections were lodged at the Victorian Civil Administrative Tribunal, which left Council out of pocket by approximately \$8,700.

### **TIMELINES**

MSV contract with the VG covers the 2019, 2020 and 2021 General Valuation cycles. At the conclusion of this contract it is likely that another contract will be made, however there is no guarantee that MSV will be re-engaged by the Valuer General.

The Senior Valuation Officer temporary (2 year) appointment concludes in July 2021.

### **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**

It is important to continue to invest in the relationship with MSV, working in collaboration to audit, monitor and maintain accurate data sets.

With foreseeable financial pressures including recovery from COVID-19 and rate capping limited to CPI, Council should also continue to ensure appropriate income opportunities are maintained.

**REVIEW OF CENTRALISED AND ANNUALISED VALUATIONS cont'd**

Both of these functions are best achieved through the permanent 'in-house' valuation resources.

**ATTACHMENTS**

Nil

## 7.3 **PROPOSED BUDGET 2020/21 DECLARATIONS**

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

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### **EXECUTIVE SUMMARY**

The Proposed Budget 2020/21 (Budget) has been prepared to deliver the Proposed Council Plan 2017-2021 (Year 4) objectives, which set the overall strategic direction for Banyule. The Budget comprises services, initiatives and capital works across the municipality.

Consideration to adopt the proposed Budget 2020/21 with or without amendment is included in this agenda.

The need for Councillors to disclose a conflict of interest where one exists in relation to any of the Budget services or capital works requires that they be addressed separately as part of the Budget process.

Any item in which a Councillor discloses a conflict of interest are to be dealt with by separate resolution under this 'Budget Declarations' process.

Once all disclosures have been made and the items which are the subject of any disclosure are determined by the Council, all Councillors are able to vote on the Budget 2020/21.

This report provides an opportunity for Councillors to disclose any conflicts in relation to the Budget.

### **RECOMMENDATION**

- (1) The Mayor invite Councillors to disclose any conflicts of interest in relation to adoption of the Proposed Budget 2020/21 by classifying the type and describing the nature of the interest in accordance with the *Local Government Act 1989*.
- (2) Following each disclosure, Council consider and determine upon the relevant project and the associated funding in the Proposed Budget 2020/21.

### **COUNCIL PLAN**

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

### **LEGAL CONSIDERATION**

Councillors and staff are required to declare Conflicts of Interest in accordance with the Act. Normally where a Councillor has a conflict of interest in an item on the agenda, he/she must declare the interest and must remove themselves from being involved in participating in the discussion or voting on the matter.

With regard to the adoption of the Council Budget, provision has been made in the Act for exempting a Councillor from having to declare a conflict of interest in the



## **PROPOSED BUDGET 2020/21 DECLARATIONS cont'd**

overall Budget. The exemption applies so long as the item/s that a Councillor has a conflict of interest in are considered and determined separately prior to adoption of the Budget as a whole.

Therefore, to ensure all Councillors are able to participate in the adoption of the Budget, any items included in the Budget in which a Councillor discloses a conflict of interest are to be dealt with by separate resolution under this 'Budget Declarations' process. Any Councillor declaring a conflict of interest would need to then follow the normal process and remove themselves from the Chamber for the discussion and vote on the matter/s.

Once all disclosures have been made and the items which are the subject of any disclosure are determined by the Council, all Councillors will be able to participate in the consideration and adoption of the Budget as a whole package.

## **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.

In developing this report to Council, the subject matter has been considered in accordance with the requirements of the 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**

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**

In developing the Proposed Budget 2020/21, Council services and capital works have been considered for funding. Councillors who have a conflict of interest in any items to be considered are required to disclose the type and nature of the interest.

## **ATTACHMENTS**

Nil

## **7.4 ADOPTION OF BANYULE CITY COUNCIL'S BUDGET 2020/2021**

Author: Tania O'Reilly - Manager Finance & Procurement, Corporate Services

### **Previous Items**

Special Council on 4 May 2020 (Item 6.2 - Banyule City Council Proposed Budget 2020/2021 - For Public Exhibition)

Special Council on 17 June 2020 (Item 6.1 - Proposed Budget 2020/2021 & Proposed Council Plan 2017-2021 (Year 4) - Hearing of Public Submissions)

Council on 6 July 2020 (Item 7.3 - Proposed Council Plan and Budget - Consideration of Submissions Received)

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### **EXECUTIVE SUMMARY**

This report is presented for the adoption of Banyule City Council's Budget for 2020/21 in accordance with the *Local Government Act 1989* (the Act) and *Local Government (Planning and Reporting) Regulations 2014* (the Regulations) and to declare the amount which the Council intends to raise by general rates and charges.

Council has prepared its Proposed Budget 2020/21 focusing on long term financial sustainability. The Budget will ensure Council's finances remain sustainable and that appropriate resources are allocated to meet the services and capital requirements of the City. This Budget, having considered public submissions and other information (including COVID-19 impacts) works to provide a range of high-quality services, programs and initiatives that meet community needs, and to achieve Council's Vision for the community.

With the COVID-19 pandemic creating uncertainty and changing day by day, the proposed Budget 2020/21 has been updated as a result of the need to support external and internal influences. Council is proud of the way they and the community are responding to the COVID-19 crisis, galvanising to support one another through these challenging times. Council is rolling out a \$10.5 million Economic Support Package in 2020/21 to provide targeted support to those most affected by the pandemic. The package aims to protect staff health and wellbeing; minimise Council service disruption; maintain financial sustainability; support the local community; and support the local economy.

The Budget will ensure Council's finances remain sustainable and that appropriate resources are allocated to meet the services and capital requirements of the City and Council will continue to adapt its services to prevent the spread of COVID-19 and do all it can to provide support to the community as the virus impacts our way of life.

Following the public exhibition period changes have been incorporated into the Proposed Budget 2020/21 (attached). The changes are based on the outcome of Council's consideration of public submissions to the exhibited Proposed Budget at a Council Meeting on Monday, 6 July 2020 and attention of items that have been referred for inclusion in the Proposed Budget 2020/21 within the interim period (i.e. prior to Council adopting the Proposed Budget).

## ADOPTION OF BANYULE CITY COUNCIL'S BUDGET 2020/2021 cont'd

### RECOMMENDATION

#### That

1. Council having considered all submissions received and having complied with the requirements of sections 127, 129 and 130 of the *Local Government Act 1989*, adopt the attached Proposed Budget 2020/21 with the following amendments:
  - a. The outcomes of Council's consideration of public submissions for the Proposed Budget 2020/21
  - b. Items that have been referred to the Proposed Budget 2020/21 by reports to Council which require additional funding not considered during the budget development process.
  - c. Other modifications including changes to service delivery, capital works and initiative costings and revision of fees & charges.
2. In accordance with sections 158 and 161 of the *Local Government Act 1989*, Council declare the Rates, Levies and Annual Service Charges for the 2020/21 rating year commencing 1 July 2020 and ending 30 June 2021 as detailed in the Proposed Budget 2020/21.
3. Council will defer interest penalties that would be imposed in accordance with Section 172 (2) of *Local Government Act 1989* until 8 October 2020, at that date penalty interest will be calculated from the day that interest was last imposed for all previous year debts and from the due date of the 1<sup>st</sup> instalment for current year debt.
4. Council will hold all planned increases in non-statutory fees and charges as outlined in the 2020/21 Schedule of Fees and Charges until 1 January 2021.
5. Council write to all organisations funded in the budget regarding the funding they will receive.
6. Council give public notice of the adoption of the Budget 2020/21 in accordance with section 130 (2) of the *Local Government Act 1989*.
7. A copy of the adopted Budget 2020/21 be provided to the Minister for Local Government in accordance with section 130 (4) of the *Local Government Act 1989*.

### COUNCIL PLAN

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

### BACKGROUND

#### BUDGET DEVELOPMENT PROCESS

The Proposed Budget 2020/21 has been prepared to deliver the Proposed Council Plan 2017-2021 (Year 4) objectives, which set the overall strategic direction for Banyule.

## **ADOPTION OF BANYULE CITY COUNCIL'S BUDGET 2020/2021 cont'd**

The Proposed Budget 2020/21 has been prepared with a focus on responsible financial management and in accordance with *the Local Government Act 1989* (the Act) and *Local Government (Planning and Reporting) Regulations 2014* (the Regulations), and *Accounting Standards*.

The Proposed Budget 2020/21 is for the Year 1 July 2020 to 30 June 2021.

The financial statements included in the Proposed Budget 2020/2021 have been prepared for the year ended 30 June 2021 in accordance the *Local Government Act 1989*, *Local Government (Planning and Reporting) Regulations 2014* and are consistent with the annual financial statements which are prepared in accordance with applicable Australian Accounting Standards.

The Proposed Budget 2020/21 also includes information about the rates and charges to be levied, the capital works program to be undertaken, the human resources required to deliver Council services, and other financial information required for Council to make informed decisions about its financial future.

## **CONSULTATION**

The Proposed Budget 2020/21 is developed within Council's overall strategic planning framework. This framework guides the Council with information that aids in identifying community needs and aspirations over the long-term, converting these into medium (Council Plan) and short-term (Annual Budget) objectives, key directions, initiatives, activities and allocates resources in a considered manner with this information.

Accountability to our community is ensured through Audited Financial and Performance Statements (containing our key performance indicators) within the statutory annual report to the community. Council also presents regular financial reports and performance updates to the community throughout the year.

Essential in the planning and allocation of Council's resources is the critical link to the community. Banyule undertakes an ongoing and iterative process of engagement across all parts of the community and uses detailed demographics and industry benchmark information to stay informed about the needs of the community.

Consultation on the Rating Strategy and Schedule of Fees and Charges was undertaken to inform the community of the Strategy and Councils proposed fees and charges and to ensure the support of the community. The consultation was undertaken through the Shaping Banyule section on Council's website.

The Rating strategy was then adopted at the Council meeting on 16 March 2020 and later revised at the Council meeting on 6 July 2020 to allow for the waiving of rates specific to COVID-19 hardship applications. The rate waivers are being funded in the proposed Budget 2020/21 through Council's \$10.5 million Economic Support Package.

To further support ratepayers, businesses and the community during the COVID-19 pandemic the increases in non-statutory fees and charges (as per the schedule of fees and charges in the proposed Budget 2020/21) will become effective from 1 January 2021 (not the date of the adoption of the Budget).

## **PUBLIC NOTICE PROCESS**

Notice was given to the public of Council's intention to formally:

1. Adopt the budget.
2. Declare differential rates, service charges and any municipal charge.

## **ADOPTION OF BANYULE CITY COUNCIL'S BUDGET 2020/2021 cont'd**

3. Require interest to be charged on unpaid rates and charges.

The notice included Council's intention to adopt this Budget at a meeting of Council on Monday 27 July 2020. In response to the Coronavirus (COVID-19) pandemic and in accordance with the provisions of the *Local Government Act 1989*, the Minister for Local Government has approved an extension of the date by which councils must adopt their Budgets and Strategic Resource Plans (SRP) for financial year 2020-21. Councils must now adopt their Budgets and SRP by 31 August 2020.

In accordance with Section 129 of the Act, the Proposed Budget 2020/21 was made available to the public for a minimum of 28 days after publication of the notice. This period commenced from Thursday, 7 May 2020 and concluded on Thursday, 4 June 2020.

During the key consultation stage from Thursday, 7 May 2020 to Thursday, 4 June 2020, the Proposed Budget 2020/2021 and Council Plan 2017-2021 (Year 4) were available via Council's website. This year due to the Coronavirus pandemic and the closure of Customer Service Centres all requests received regarding the proposed Budget 2020/21 were managed as and when a request was received.

A summary of submissions received was included in the report to Council at its meeting on 17 June 2020 (Item 6.1 – Proposed Budget 2020/21 & Proposed Council Plan 2017-2021 (Year 4) – Hearing of Public Submissions). Officer comments and recommendations were included in the report to Council at its meeting on 6 July 2020 (Item 7.3: Proposed Council Plan and Budget – Consideration of Submissions Received).

Following the public exhibition period, a total of forty (40) submissions were received in relation to the Proposed Budget and Proposed Council Plan. The submissions received by Council cover a wide and varied range of community proposals, both in support and in addition to the Proposed Budget and Council Plan.

The Special Council meeting on 17 June 2020 and Council meeting on 6 July 2020 provided an opportunity for Council to receive, hear and consider submissions in respect of Council's intention to adopt the Council Plan 2017-2021 (Year 4) and Budget 2020/21 at a Council Meeting on 27 July 2020.

### **CONSIDERATION OF SUBMISSIONS**

As part of Council's continued strong focus on transparency and commitment to the strategic direction for the benefit of the community, Council and Senior Officers have worked together to review and refine the submissions process for the Budget 2020/21 and Council Plan 2017-2021 (Year 4).

Key improvements to the submissions process this year included an additional meeting so that Council could firstly 'hear' submissions received at a Special Council Meeting on 17 June 2020 and then 'consider' the submissions at a subsequent Council meeting on 6 July 2020 (dedicated to the consideration and determining outcomes for the submissions).

The outcome of Council's consideration of the forty (40) submissions is documented in the Council report (Item 7.3 – Proposed Council Plan and budget – Consideration of Submissions Received).

## **ADOPTION OF BANYULE CITY COUNCIL'S BUDGET 2020/2021 cont'd**

### **DISCUSSION**

#### **PROPOSED BUDGET 2020/2021 HIGHLIGHTS**

The Proposed Budget 2020/21 works in line with the directives of the Proposed Council Plan 2017-2021 (Year 4). Councillors and staff are committed to achieving these medium and long-term objectives that ensure we are building a better Banyule.

During the preparation on this Budget, great care has been taken to ensure Council can demonstrate responsible financial management and governance. It looks to balance competing demands on providing community services, maintaining and renewing infrastructure with the community's capacity to pay for it.

Council will continue delivering quality and inclusive services to the community that offer value for money and respond to community needs; lead on environmental sustainability; invest in infrastructure and community facilities that service our community today and for future generations; plan for our growing City addressing development, transport, open space and diversity; and maintain our public and open spaces and preserve neighbourhood character.

To help us to deliver on these main focus areas and important initiatives above Council will work in partnership with the community; engage with our community to ensure they are well informed and represented and meaningfully involved in decision making; encourage community participation and inclusion to provide opportunities for all; and advocate for our community to improve services, infrastructure and social outcomes.

The Proposed Budget 2020/21 focuses on strengthening the long-term financial sustainability of Banyule even whilst working through the challenges associated with COVID-19. Council's financial position remains strong and Banyule will continue to be resourceful and look for efficiencies to manage and deliver the highly-valued services and facilities for the benefit of the community.

During the preparation on this Budget, great care has been taken to ensure Council continues delivering relevant services to the community while renewing and upgrading infrastructure. Some of Council's main focus areas and important initiatives that are planned to be funded in the Banyule Council Proposed Budget 2020/21 include:

- COVID-19 Economic Support Package to Ratepayers, Community and Businesses.
- Climate Action Package to help us achieve our goal of zero carbon emissions for the Organisation by 2028
- North East Link Advocacy to lesson impacts and achieve better outcomes for the community.
- Maintaining and upgrading roads, buildings, drains and footpaths.
- Delivering vital services and support programs across the municipality,
- Protecting and nurturing open spaces, parklands and street trees,
- Redeveloping recreational centres, sportsgrounds and club pavilions.
- Implementing environmentally friendly practices, solar power and water saving initiatives,

## **ADOPTION OF BANYULE CITY COUNCIL'S BUDGET 2020/2021 cont'd**

- Encouraging diverse and inclusive communities.

### **2020/21 Rating Strategy**

Banyule City Council's Rating Strategy is reviewed annually to ensure that Council supports the rating principles used to levy rates and charges, in collaboration with determining the Proposed Budget 2020/21.

Rates and charges contribute funds to address ageing infrastructure, improve the amenity and quality of community assets and deliver vital services across the breadth of the City.

Council, through the adoption of the 2020/21 Rating Strategy has resolved to increase rates by 2% in line with the State Government's Fair Go Rates System.

The costs associated with landfill and recycling of waste have, within this budget, been partially absorbed through operational innovation and prudent cost management. The remaining costs are reflected within the increased transfer stations fees and charges unit pricing to ensure cost recovery principles are effectively maintained. These increased costs will become effective from 1 January 2021.

Council do not currently have a separate waste charge but continue to be exposed to the significant changes in legislation surrounding waste management. It will be necessary each year to monitor and assess the rising costs and Council's ability to manage waste costs within the rate cap.

### **General Rates**

Rates are used to fund ageing infrastructure, improve the amenity and quality of community assets and deliver vital services across the breadth of the City.

The COVID-19 pandemic has created a unique situation where there is widespread financial hardship impacting many ratepayers in Banyule. In recognition of this situation Council has put in place a significant economic support package, designed to support business trading in Banyule, community and ratepayers who have been impacted by the COVID-19 pandemic.

As part of this Economic Support Package Council has resolved to allow general rate waivers that will directly assist ratepayers who are facing financial hardship as a result of the COVID-19 pandemic and have put in place a mechanism to defer rate payments for up to fifteen months from 11 March 2020 to 30 June 2021.

The cost to Council to provide rate waivers for the financial year from 1 July 2020 to 30 June 2021 is expected to far exceed the increase in rates of 2.00% in line with the State Government's Fair Go Rates System and will provide targeted relief to those ratepayers that need it most.

The general rates, service charges and municipal charge must be paid by four instalments on or before dates fixed under Section 167 of the *Local Government Act 1989*. Council will, subject to Section 172 of the *Local Government Act 1989*, require a person to pay interest on any rates and charges which that person is liable to pay and which have not been paid by the dates specified for their payment.

The penalty interest rate is 10% per annum as set by the Attorney-General under the *Penalty Interest Rates Act 1983*, effective from 1 February 2017.

For 2020/21 the penalty interest on overdue instalments has not been charged since 11 March 2020 whilst the Economic Support Package relief options to Ratepayers

## **ADOPTION OF BANYULE CITY COUNCIL'S BUDGET 2020/2021 cont'd**

was being developed and agreed by Council. Interest penalties that would be imposed in accordance with Section 172 (2) of *Local Government Act 1989* has been deferred until 8 October 2020 to allow time for ratepayers to make an application under the COVID-19 Hardship Policy and not be further disadvantaged if financial hardship is applicable. For those ratepayers that have not made an attempt to pay or make an application to have their rates deferred will be charged on the arrears backdated from the 11 March 2020 and any penalty interest on the current outstanding balance would be charged from the due date of the first instalment.

### **Fees and Charges**

Statutory fees and charges are fixed by statute and can only be increased in line with the annual increases announced by State Government. The balance of fees and charges are discretionary in that Council can levy the amount it believes is equitable for each service/item (user fees).

Council has over 800 user fees (excludes statutory fees). Of these, 34% are considered by Council as community fees. These community fees are where no competition for the service exists. The services provided aim to strengthen capacity and connections to build healthy and strong communities.

Commercial fees represent 66% of Council's user fees. The fees for these services are predominately provided to commercial clients, or for the services operating under a commercial environment.

Council aims to ensure that it listens to the community and that the services provided by Council are affordable. Council in its determination of user fee increases has taken into consideration the needs and accessibility of the community; demand for the service, pricing and cost to sustain a viable service. Further to this, and in the current economic climate, Council will only increase the non-statutory fees and charges from 1 January 2021. This is an additional 5 months of fees, earmarked for increase in 2020/21, that will be now frozen at 2019/20 fees and charges.

Council has, through the development of the proposed Budget 2020/21, and were feasible:

- kept 73% of its community fees at 2019/20 pricing. By keeping these fees low Council aim to encourage greater participation across the municipality and maintain sustainable community affordability.
- maintained Commercial fees increases to 2% to reflect the rate cap maximum increase. The increase is necessary to balance cost recovery, competitive pressures and council's financial sustainability objectives.

Council will continue to annually review fees and charges considering the affordability of the services, costs to provide the services and market conditions as appropriate.



## **ADOPTION OF BANYULE CITY COUNCIL'S BUDGET 2020/2021 cont'd**

### **Investing in infrastructure and initiatives**

The proposed Budget 2020/21 has an allocation of \$63.55 million to deliver capital works projects and \$5.60 million to deliver Council initiatives (includes \$14.84 million and \$0.96 million carried forward from 2019/20 respectively).

The proposed Budget 2020/2021 includes our commitments to fund:

- Banyule's Economic Support Package – to provide immediate support to ratepayers, residents, community groups and businesses that are most impacted by the COVID-19 crisis.
- Council's Climate Action Package with specific actions to plan for a carbon neutral Banyule Council by 2028
- the Inclusive Employment Program which has been successful in creating more local jobs for those who experience disadvantage and building partnerships with social enterprises
- improvements to transport infrastructure and advocacy (including North East Link)
- digital transformation to enhance significantly our customer service initiatives.

Capital Works funded by the Proposed Budget include:

- Property and art collection \$40.27 million
- Parks & gardens and playgrounds \$7.83 million
- Roads, footpaths and bridges \$8.09 million
- Plant and equipment (and intangible assets) \$5.72 million
- Drainage and irrigation \$1.65 million

Of the total capital works budget \$27.53 million is invested into asset renewal and \$22.24 million towards asset upgrade.

There is significant investment into our parks, gardens, playgrounds and shared paths; upgrade to sporting grounds, facilities and pavilions; whilst continuing to invest in the maintaining of our roads, bridges and drainage.

### **Delivery of Core Services**

Council's Services and initiatives are categorised within the Proposed Council Plan 2017-2021 (Year 4) and funded (net expenditure) within the Proposed Budget 2020/21 as follows:

- People: \$20.41 million - Strong, Healthy and Inclusive Communities.
- Planet: \$2.63 million - Environmental Sustainability.
- Place: \$13.38 million - Great Places and Spaces.
- Participation: \$3.60 million - Engagement and Advocacy.
- Performance: \$21.93 million - Efficiency and Good Governance.

A major focus of Council is to promote and support good health for people of different ages, life stages and backgrounds.

## **ADOPTION OF BANYULE CITY COUNCIL'S BUDGET 2020/2021 cont'd**

Council assists local businesses and shopping precincts to thrive, while the neighbourhood houses and libraries continue to connect people and offer a vast array of learning opportunities.

Council provides a range of popular community events and activities, and investing in recreation, leisure and arts, helping to support a vibrant, connected community.

### **CHANGES TO THE PROPOSED BUDGET 2020/21**

The Proposed Budget 2020/21 has been amended to reflect the following:

- Additional COVID-19 Economic Support Package Responses:
  - a. Rate Waivers – financial outcomes of Council's support for ratepayers as outlined in the report to Council at its meeting on 16 June 2020 (Item 3.3: - Council's support for ratepayers suffering hardship as a result of the Coronavirus Pandemic).
  - b. Community and Business Support – financial outcomes of Council's support for community and businesses as outline in the report to Council at its meeting on 6 July 2020 (Item 5.3 COVID-19 Response – community and Business support Package 2020-2021).
  - c. Shovel ready capital works projects – financial outcomes of Council's support to stimulate the economy as outlined in the report to Council at its meeting on 6 July 2020 (Item 5.6 COVID-19 Stimulus Opportunities).
- Submissions – financial outcomes of Council's consideration of public submissions as outlined in the report to Council at its meeting on 6 July 2020 (Item 7.3: Proposed Council Plan and Budget – Consideration of Submissions Received).
- Other - modifications since the budget development process including:
  - Council Resolutions
  - Other Operational Adjustments
  - Capital Works and Initiatives Program – savings, other changes due to emerging issues or identified community need, clarifications
  - Fees and Charges - statutory increases and other amendments
- Other minor formatting, notes disclosures and commentary have been incorporated as appropriate to enhance the report. These changes have no financial impact.

**Council Resolutions** - adjustments since the budget development process:

Nature of change to proposed Budget 2020/21	Financial implication
Sleep and Settling Initiative Grant (CO2020/60 – Council meeting 27 April 2020) The funding component is inclusive of staffing resourcing requirements associated with delivering the program.	Additional staffing resource - fully funded (part time MCH nurse and a part time project officer) \$149,164 increase re-current operational grant funding \$129,000 increase in employee benefits expenditure

**ADOPTION OF BANYULE CITY COUNCIL'S BUDGET 2020/2021 cont'd**

**Other** - operational adjustments since the budget development process:

Nature of change to proposed Budget 2020/21	Financial implication
Changes related to reassessment of COVID-19 operations - income and expenditure	\$101,165 increase in recurrent grants \$44,121 decrease in Fees and Charges (Youth Services) \$31,157 increase in Employee Costs (Youth Services) \$294,300 decrease in Materials, Contracts & Services Expense (Development Planning)

**Capital Works and Initiatives Program** - adjustments since the budget development process:

The changes within the Capital Works Schedule for 2020/21 is \$1.52 million and **includes additional projects due to the consideration of public submissions of \$0.80 million**, projects fully funded by Government Grants of \$0.62 million and projects where the budget costs and timing have been revised due to further information provided of \$0.10 million (the changes have resulted in both savings and additional costs for additional projects).

Nature of change to proposed Budget 2020/21	Financial implication
	Net costs \$1.524 million (\$803,000 relates to public submissions and \$618,000 relates to 100% externally funded – Federal Grant).
Capital Project updates (various reasons)	Council Cash \$1.52 million decrease Capital Grants \$0.62 million increase Contribution Income \$0.62 million decrease Capital Works Program \$1.52 million
– Aquatic & Leisure Centres	\$450,000 additional costs
– Pavilions	\$140,000 savings
– Fit-out & Refurbishments	\$259,000 savings
– Painting	\$30,000 savings
– Major Facilities	\$985,000 additional costs
– Parks Bridges	\$200,000 savings
– Synthetic sports Pitches	\$250,000 additional costs
– Park Fencing	\$80,000 savings
– Park Pathways	\$600,000 savings
– Parks Lighting	\$477,000 additional costs
– Parks Other	\$30,000 additional costs
– Roads bicycle	\$50,000 additional costs
– Footpaths	\$258,000 additional costs
– Localised Traffic Infrastructure	\$160,000 additional costs
– Area Wide Treatments	\$278,000 additional costs
– Rehabilitation works	\$130,000 savings
– Sustainable Transport	\$25,000 additional costs

## ADOPTION OF BANYULE CITY COUNCIL'S BUDGET 2020/2021 cont'd

The \$10.50 million Economic Support Package initially reported in the initiatives budget unallocated of \$8.93 million has now been fully allocated across various income and cost centres within the Comprehensive Income Statement based on specific reports to Council during June 2020 and July 2021.

**Fees and Charges - statutory** increases or decreases in fee units and penalty units as follows:

Fees & Charges - Description	Initial Proposed Fee	Amended Proposed Fee
Child Care Centre Fees - Full Time:		
– Joyce Avenue & St Hellier Street	527.30	517.00
– Morobe Street	468.00	459.00
Child Care Centre Fees - Daily Care:		
– Joyce Avenue & St Hellier Street	121.00	119.00
– Morobe Street	105.11	103.50

## PROPOSED RATES AND CHARGES

The Rates, Levies and Annual Service Charges for the 2020/21 rating year are contained within the attached Proposed Budget 2020/21 and are formally declared by Council within the report recommendation.

There have been no material changes from the proposed rates and charges as endorsed by the Council for public exhibition (Council meeting on 4 May 2020) for the following general valuations:

- o estimated total value of each type or class of land
- o the estimated total value of land; and
- o the rate in the dollar to be levied as general rates

In accordance with Section 7AD of the *Land Act 1960* the general value is deemed to be true and correct. The Valuer General has noted that auditing throughout the valuation cycle has shown that the general valuation of all rateable land and non rateable land in Banyule City Council has been made in accordance with the 2019 Valuation Best Practice Specifications Guidelines.

## LEGAL CONSIDERATION

Under Sections 127, 129 and 130 of the *Local Government Act 1989*, Council is required to prepare, exhibit and adopt an annual budget for each financial year.

In accordance with the provisions of Section 223 of the Act, Council considered public submissions to the exhibited Proposed Budget 2020/21 on Monday, 6 July 2020 prior to considering adoption of the Proposed Budget 2020/21 on Monday, 27 July 2020.

## **ADOPTION OF BANYULE CITY COUNCIL'S BUDGET 2020/2021 cont'd**

In accordance with S79C (2) to (4) of the Act, if a Budget or Council Plan to be approved by a Council includes funding for a matter in respect of which a Councillor has a conflict of interest the Councillor is taken to not have a conflict of interest for the purposes of approving the Budget or Council Plan if the:

- Council previously approved the matter for inclusion; and
- Councillor disclosed the nature of the conflict of interest under section 79 when the decision in respect of the matter was previously considered and made.

## **HUMAN RIGHTS CHARTER**

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

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.

In developing this report to Council, the subject matter has been considered to determine if it raises any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited restricted or interfered with by the recommendations contained in this report. It is considered that the subject matter does not raise any human rights issues.

The preparation and adoption of Council's Budget actually facilitates the protection of many of our communities' human rights as funding for many Council projects, programs and initiatives is directly related to protecting and enhancing the human rights of the community. Council continues to work on behalf of its community to ensure the upholding of human rights for all.

## **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**

Having considered the public submissions received adjustments have been made to the Proposed Budget 2020/21 to incorporate valuable feedback received and which respond to identified community needs.

This Proposed Budget 2020/21 meets the requirements of Section 127 of the *Local Government Act 1989* which requires Council to prepare a budget for each financial year.

The information in the budget includes:

- Banyule's budgeted financial statements;
- A description of services and initiatives to be funded in the budget;
- A statement about how these services and initiatives will contribute to achieving the strategic objectives specified in the Council Plan;
- Major initiatives, being initiatives identified by Council as priorities;

**ADOPTION OF BANYULE CITY COUNCIL'S BUDGET 2020/2021 cont'd**

- Service performance measures, indicators and targets;
- The declaration of rates and charges.
- The intention to charge interest on unpaid rates and charges.
- Rates payable on rateable lands in accordance with the *Cultural and Recreational Lands Act 1963*.
- Other information required under Section 158 of the *Local Government Act 1989* and the *Local Government (Planning and Reporting) Regulations 2014*

To ensure compliance with legislative disclosure requirements the compliance checklist provided in the Local Government Better Practice guide - Model Budget 2020/21 - has been completed.

The Proposed Budget for 2020/21 is aligned to the long-term strategies as outlined in the Proposed Council Plan 2017–2021 (Year 4) and is in line with Council's commitment to sustainable budgeting and responsible financial management.

Following adoption, copies of the Budget will be sent to the Minister for Local Government and will be made available to the public at Customer Service Centres, when re-opened and on Council's website.

**ATTACHMENTS**

<b>No.</b>	<b>Title</b>	<b>Page</b>
1	Banyule City Council's Proposed Budget 2020/2021 ( <i>Under Separate Cover</i> )	

## **7.5 ADOPTION OF BANYULE'S COUNCIL PLAN 2017-2021 (YEAR 4)**

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

### **Previous Items**

Special Council on 4 May 2020 (Item 6.1 - Banyule City Council - Council Plan 2017-2021 (Year 4) - For Public Exhibition)

Special Council on 17 June 2020 (Item 6.1 - Proposed Budget 2020/2021 & Proposed Council Plan 2017-2021 (Year 4) - Hearing of Public Submissions)

Council on 6 July 2020 (Item 7.3 - Proposed Council Plan and Budget - Consideration of Submissions Received)

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### **EXECUTIVE SUMMARY**

This report is presented for the adoption of Banyule's Council Plan 2017-2021 (Year 4), which strives to achieve Council's Vision for its community of: *'Banyule, a green, sustainable and vibrant place for a healthy, connected and inclusive community.'*

The Proposed Council Plan 2017-2021 (Year 4) outlines the strategic direction and priorities for Banyule City Council under the objectives of People, Planet, Place, Participation and Performance. It sets the policy platform for Council and helps guide the services Council provides to the community. The attached Council Plan contains the Strategic Resource Plan for the next 4 year period.

The Plan is based on comprehensive consultation with the community, Councillors and staff, and is framed through a legislative context. Feedback has helped Council to plan specific key initiatives and priorities for the Council Plan, which encompasses the 2020/21 financial year.

Submissions received to the proposed Council Plan (and Budget 2020/21) have been formally 'heard' by Council at a Special Council Meeting on 17 June 2020 and 'considered' by Council at a Council meeting on 6 July 2020.

Having considered the submissions made, minor adjustments have been made to the proposed Council Plan to incorporate valuable feedback received and which respond to identified community needs.

Council is required to meet all legislative requirements and through this proposed Council Plan aims to best reflect the strategic direction and priorities of Council over the next 12 months, based on information known at the time of preparation of the proposed Council Plan.

Following Council's endorsement at the Special Council Meeting on 4 May 2020, Council has written to the Minister for Local Government in May 2020 to inform him that Council will consider adoption of adjustments to the Council Plan at its meeting on 27 July 2020, noting that this is an extension to the due date of 30 June 2020. This has enabled annual review of the Council Plan to integrate closely with the Budget and SRP review processes.

## **ADOPTION OF BANYULE'S COUNCIL PLAN 2017-2021 (YEAR 4) cont'd**

With the COVID-19 pandemic requiring Council to be adaptable, the proposed Council Plan has been updated as a result of the need to support external and internal influences.

Council is proud of the way they and the community are responding to the COVID-19 crisis, galvanising to support one another through these challenging times. To provide targeted support to those most affected by the pandemic, Council is rolling out a \$10.5 million Economic Support Package to help ratepayers, residents, community groups and businesses. The package aims to protect staff health and wellbeing; minimise Council service disruption; maintain financial sustainability; support the local community; and support the local economy. Council will continue to adapt its services to prevent the spread of COVID-19 and do all it can to provide support to the community as the virus impacts our way of life.

### **RECOMMENDATION**

That:

1. Council, having considered all submissions received and having complied with the requirements of sections 125 and 126 of the *Local Government Act 1989*, adopt the Council Plan 2017-2021 (Year 4) as attached to this report.
2. In accordance with the *Local Government Act 1989*, a copy of Banyule's Council Plan 2017-2021 (Year 4) be provided to the Minister for Local Government.

### **COUNCIL PLAN**

This report is in line with Banyule's Council Plan key direction to "Deliver best value services and facilities".

### **BACKGROUND**

Banyule's Proposed Council Plan 2017-2021 (Year 4) is prepared in accordance with the requirements of Section 125 of the *Local Government Act 1989 (the Act)*. The Plan contains Council's Proposed Strategic Resource Plan 2020–2024 in response to section 126 of *the Act*.

The Council Plan forms Council's key strategic platform for the delivery of services to its Community, including areas of focus for advocacy. It is reviewed annually to ensure emerging community needs and aspirations continue to be captured.

This is the final year of Council's four year Council Plan 2017-2021, prepared following the Council election in October 2016.

It sets a solid foundation for the development of Council's next four year Council Plan 2021-2025, following the Council election to be held in October 2020.

### **CONSULTATION**



## **ADOPTION OF BANYULE'S COUNCIL PLAN 2017-2021 (YEAR 4) cont'd**

### **Consultation and Research**

Many sources of information have helped shape the development of this Council Plan. This includes information gathered through an extensive community engagement and planning process, research and data, industry knowledge and expertise, ongoing review and improvement of our services, and relevant legislation and policy context.

The current four year Council Plan 2017-2021 was adopted by Council on 26 June 2017 after a comprehensive review process. This included planning sessions and workshops with Councillors and staff, and an extensive community engagement process.

The Shaping Banyule website has increased opportunities for the community to engage with Council and provide comment and help shape a range of initiatives and plans.

### **Consultation for Year 4 of the Council Plan**

Much of the information utilised for the development of the Council Plan 2017-2021 remains current for the development of Year 4 of the Council Plan. In planning for the last year of our current Council Plan, we were keen to hear from the community about how they think we have gone with delivering against our Year 3 commitments and what they would like to see us focus on for the next twelve months. Over an 8 week period the community put forward their thoughts and ideas.

Further to this, Council again provided an additional consultation opportunity regarding the development of the annual budget. This focused on the Fees and Charges Schedule and Rating Strategy, two key components of the annual budget.

Together all of this information has helped shape our Council Plan key initiatives for 2020/21 and the Budget 2020/21. A copy of the *'What You Said 2020 - Our Consultation Program for the Council Plan 2017-2021 (Year 4)'* report, containing full details of this year's consultation and engagement, is also available on Council's website.

The Consultation Engagement Program undertaken to inform the development of Year 4 of the Council Plan 2017-2021 occurred an 8 week period from 17 November 2019 to 17 January 2020.

The Program consisted of place based consultations, an online survey on Shaping Banyule, intercept surveys, voting pods, 'dotmocracy' boards, chat boards and idea drawings.

A total of 1,649 written ideas and views were gathered throughout the community engagement program:

- 825 votes were cast to select the areas Council had performed well in over the last 12 months
- 117 people told us their favourite thing in Banyule from the past 12 months
- 460 votes were cast to select the areas Council should focus on in Year 4 of the Council Plan
- 209 written ideas and priorities for Year 4 of the Council Plan were received and

## **ADOPTION OF BANYULE'S COUNCIL PLAN 2017-2021 (YEAR 4) cont'd**

- 38 children and young people provided their feedback by drawing their ideas.

This input is in addition to, and builds upon, the input provided by the 1,191 individuals who participated in Year 1 consultations, the 320 individuals in Year 2, and 1,179 individuals participating in Year 3 consultations. This totals over 4,300 respondents helping to shape the Banyule Council Plan over a 4 year period.

Internal consultation was also undertaken with Councillors and Council staff to inform the development of both the annual Budget and Council Plan. This included consideration of key emerging issues, priorities and resource requirements to enable continued implementation of the Council Plan.

### **Submissions**

In accordance with the requirements of the Act, formal submissions were called for in relation to the Budget and Council Plan. Copies of the proposed Budget 2020/21 and proposed Council Plan 2017-2021 (Year 4) were made available for community comment from 7 May 2020 to 4 June 2020 on Council's website.

The overall total number of submissions received as at the time of preparing this report was forty (40).

These submissions were firstly 'heard' by Council at the Special Council Meeting on 17 June 2020 and then 'considered' by Council at the subsequent Council meeting on 6 July 2020.

### **COUNCIL PLAN 2017-2021 (YEAR 4)**

The purpose of Banyule's Council Plan 2017-2021 is to set the strategic direction for Council. It outlines priorities and helps guide the services that Council provides to the community, and it sets the policy platform for Council. The Council Plan is informed by and used by Councillors, Council staff, community members, relevant stakeholders, agencies, the State Government, and residents. It is reviewed and updated each year.

The Objectives as described in Banyule's Proposed Council Plan 2017-2021 (Year 4) are:

**PEOPLE: STRONG, HEALTHY AND INCLUSIVE COMMUNITIES**  
Support and strengthen the health and wellbeing of the Banyule community.

**PLANET: ENVIRONMENTAL SUSTAINABILITY**  
Protect and care for the natural environment.

**PLACE: GREAT PLACES AND SPACES**  
Maintain and enhance our public spaces, buildings and infrastructure.

**PARTICIPATION: ENGAGEMENT AND ADVOCACY**  
Engage meaningfully and advocate for the broader interest of the community.

**PERFORMANCE: EFFICIENCY AND GOOD GOVERNANCE**

## **ADOPTION OF BANYULE'S COUNCIL PLAN 2017-2021 (YEAR 4) cont'd**

Manage our resources wisely to achieve Council's strategic objectives.

The focus of the year 4 review of the Plan has included ongoing work with Councillors, staff and community, in particular:

- Checking in with the Community to see how people think Council is progressing with the Plan and things to consider for the final year
- Continuing to implement the Council Plan framework and refreshing the key initiatives to reflect activity resourced through Council's annual Budget
- Making minor changes that may be required based on feedback and the review process
- Updating the Strategic Resource Plan to reflect the next four years (2020-2024) as required by Section 126 of the *Local Government Act 1989*.
- Reviewing the strategic indicators used to measure achievements against the Council Plan objectives.

The Council Plan framework continues to provide a solid foundation to address key sector influences and emerging challenges, including:

- Responding to the COVID-19 crisis by providing an Economic Support Package to help ratepayers, residents, community groups and businesses
- Environment
- Urban Development and Transport (eg. the North East Link project)
- Responding to externally driven reforms (such as changes to the *Local Government Act*)
- Advocacy and engagement
- Employment Pathways and Social Enterprise
- Major Projects and Project Management
- Other emerging issues, eg changes in the recycling industry.

The Year 4 Plan includes changes to particular focus areas to strengthen the following key directions: '1.6 Stimulate business, employment and investment opportunities', '2.1 Protect and enhance our natural environment', '2.2 Conserve water and improve stormwater management', '2.3 Lead in planning for, and responding to, climate change', and '5.4 Provide good governance and be accountable'

### **LEGAL CONSIDERATION**

In preparing the Council Plan 2017-2021 (Year 4), Council has followed the legislative requirements in accordance with the *Local Government Act 1989*.

In response to the COVID-19 pandemic and in accordance with the provisions of the *Local Government Act 1989*, the Minister for Local Government approved an extension of the date by which councils must adopt their Budgets and Strategic Resource Plans (SRP) for financial year 2020-21. Councils must now adopt their Budgets and SRP by 31 August 2020.

Following Council's endorsement at the Special Council Meeting on 4 May 2020, Council has written to the Minister for Local Government in May 2020 to inform him that Council will consider adoption of adjustments to the Council Plan at its meeting on 27 July 2020, noting that this is an extension to the due date of 30 June 2020.

## **ADOPTION OF BANYULE'S COUNCIL PLAN 2017-2021 (YEAR 4) cont'd**

This has enabled annual review of the Council Plan to integrate closely with the Budget and SRP review processes.

### **HUMAN RIGHTS CHARTER**

In developing this report to Council, the subject matter has been considered to determine if it raises any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited, restricted or interfered with by the recommendations contained in this report. It is considered that the subject matter of the Council Plan does not raise any human rights issues but enhances the human rights of our community.

As a part of Council's community engagement program for the Council Plan, the plan has been developed through extensive consultation and engagement. This process of community involvement has promoted and facilitated specific rights outlined in the Charter, namely the right to take part in public life and the right to freedom of expression.

Council utilises the advice of committees that consist of members from underrepresented and marginalised sections of our community to ensure a stronger voice for these groups in the public life process.

### **ADVOCACY**

Council also relies on a wide range of partnerships and shared resources to provide services to the community. Key partnerships with the community, other levels of government and agencies are very important to enable Council to deliver on the key directions. Council works closely with partners to advocate for improved services, infrastructure and social outcomes. Council also seeks opportunities for equitable funding and service arrangements.

### **CONSIDERATION OF SUBMISSIONS**

Forty (40) submissions were received. Of the submission themes, ten (10) specifically commented on the proposed Council Plan.

Having considered the submissions made, a number of minor adjustments have been made to the proposed Council Plan to incorporate valuable feedback received and which respond to identified community needs.

The adjustments primarily relate to:

- Additions to key initiatives within the following key directions:
  - People objective: *in key direction '1.4 Develop and promote safety and resilience in our community'*
    - to include the following reference: 'Continue to monitor traffic speed and volume via scheduled traffic counts to improve road safety and our local road network.'
    - to include reference to 'Gleeson Drive, Bundoora, and parking conditions in Adeline Street, Greensborough' in the 'Implement traffic and road safety improvements' initiative.
  - Place objective: *in key direction '3.2 Renew and maintain Banyule's public assets and infrastructure'*

## **ADOPTION OF BANYULE'S COUNCIL PLAN 2017-2021 (YEAR 4) cont'd**

- to include reference to De Winton Park sports field lighting, in the 'Deliver a program of facility improvements' initiative.
- Place objective: *in key direction '3.4 Provide great public and open spaces'*
  - to include reference to Rosanna Tennis Club, in the 'Maintain and improve equipment for sporting facilities' initiative
  - to include the following reference: 'Commence delivery of the Stage 1 of the Ford Park Masterplan in partnership with the North East Link Authority.'
  - to include the following reference: 'Review the Rosanna Parklands masterplan through localised community consultation, including the consideration of amenities such as a BBQ, picnic table, and shelter.'
- Changes to the Strategic Resource Plan to reflect amendments to the Proposed Budget

## **FUNDING IMPLICATIONS**

The attached Council Plan contains the Proposed Strategic Resource Plan (SRP) 2020-2024 for Banyule City Council. The SRP is included in Banyule's objective of 'Performance – Efficiency and good governance'.

The SRP outlines how Council will manage its financial and non-financial resources, including human resources, over the next four years to achieve its strategic objectives. It is prepared in accordance with the requirements of the *Local Government Act 1989* and the *Local Government (Planning and Reporting) Regulations 2014*.

The Annual Budget represents the first year of the Strategic Resource Plan. It works to deliver the strategic directions of the Council Plan, to provide a range of high quality services, programs and initiatives that meet community needs, and to achieve Council's Vision.

The Proposed Council Plan includes a set of strategic indicators to measure achievements against our objectives over a four-year period. These indicators help us to assess our efficiency and indicate effectiveness and quality of the services we provide. The indicators have been reviewed as part of Banyule's annual review process.

## **POLICY IMPLICATIONS**

The purpose of Banyule's Council Plan 2017-2021 is to set the strategic direction for Council over four years. It outlines priorities and helps guide the services that we provide to the community, and it sets the policy platform for Council.

Each of our strategic objectives is underpinned by a range of current supporting policies, strategies and plans.

Council has developed its strategic planning process to deliver service outcomes for the Community and to meet requirements of the *Local Government Act 1989 (the Act)*.

## **ADOPTION OF BANYULE'S COUNCIL PLAN 2017-2021 (YEAR 4) cont'd**

Council refers to the Local Government Planning and Reporting Better Practice Guide, which is designed to assist councils to best meet requirements under the *Local Government Act 1989* as they relate to the planning and accountability framework. It provides councils with relevant and practical information to assist in the development of key planning and reporting documents. This includes the Council Plan, Strategic Resource Plan, Annual Budget and Annual Report.

### **The Council Plan's Relationship with the Municipal Public Health and Wellbeing Plan**

The Council Plan and the Banyule People: Health and Wellbeing Framework meet Banyule's obligation for the provision of a Municipal Public Health and Wellbeing Plan under the *Victorian Public Health and Wellbeing Act 2008*.

This Council Plan documents our commitment to, and strategic plan for, enhancing health and wellbeing outcomes for our community.

The Council Plan is reviewed on an annual basis with a further lens relating to the health and wellbeing outcomes of our community. This is done to ensure compliance under the *Victorian Public Health and Wellbeing Act 2008* and to help improve health outcomes.

Council reviews its strategic indicators to ensure continued alignment with Council's objectives and priorities. As part of this ongoing process, Council will continue to strengthen, consolidate and align its methodology for measuring performance with the Victorian Public Health and Wellbeing Outcomes Framework.

### **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 Proposed Council Plan has been developed following a comprehensive planning process based on Councillor, Staff and Community engagement.

This four year plan is based on an evolution of Council's previous strategic framework and direction, one that has been developed together with the community over many years. It maintains and builds on the framework of the People, Planet, Place, Participation and Performance objectives.

This is the final year of the plan of the elected Council, which has been reviewed on an annual basis.

Council continues to demonstrate through this Plan, its comprehensive framework of integrated objectives, key directions, focus areas and key initiatives which are being implemented for the benefit of the community.

**ADOPTION OF BANYULE'S COUNCIL PLAN 2017-2021 (YEAR 4) cont'd**

Having considered the public submissions received, a number of minor adjustments have been made to the proposed Council Plan to incorporate valuable feedback received and which respond to identified community needs.

The Proposed Council Plan 2017-2021 (Year 4) continues to provide a roadmap for Council to follow. Underpinned by the vision and values, the Plan's objectives give Council clear areas of focus for the four-year period. It works together with the Budget to achieve Council's vision for its community of: *'Banyule, a green, sustainable and vibrant place for a healthy, connected and inclusive community'*.

**ATTACHMENTS**

<b>No.</b>	<b>Title</b>	<b>Page</b>
1	Proposed Council Plan 2017-2021 (Year 4) <i>(Under Separate Cover)</i>	

## 7.6 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	<b>Date of Assembly:</b>	13 May 2020
	<b>Type of Meeting:</b>	Banyule Disability and Inclusion Advisory Committee Online Advisory Committee Meeting
	<b>Matters Considered:</b>	<ul style="list-style-type: none"> <li>• Council response to pandemic lockdown</li> <li>• BDIAC response to lockdown</li> <li>• Recent work on disability from Community and Social planning</li> <li>• Discussion on impact of meeting online</li> </ul>
	<b>Councillors Present:</b>	
		Craig Langdon Tom Melican
	<b>Staff Present:</b>	
		Theonie Tacticos - <i>Coordinator Community &amp; Social Planning</i> Michael Uniacke - <i>Community &amp; Social Planner</i>
	<b>Others Present:</b>	Banyule Disability and Inclusion Advisory Committee members: Nick Bamford James Fahey Heidi Everett Barbara Brook Luke Nelson
<b>Conflict of Interest:</b>	Nil	

2	<b>Date of Assembly:</b>	4 June
	<b>Type of Meeting:</b>	LGBTIQ – Working Group Meeting
	<b>Matters Considered:</b>	



**ASSEMBLY OF COUNCILLORS cont'd**

	<ul style="list-style-type: none"> <li>• Inclusive Employment Program/Inclusive Employment Strategy</li> <li>• IDAHOBIT 2020 Review</li> <li>• Updating the Rainbow Flag- using the Philadelphia Pride Flag</li> </ul>
	<p><b>Councillors Present:</b> Craig Langdon</p>
	<p><b>Staff Present:</b> Kath Brackett – <i>Director Community Programs – Virtual</i> Gemma Boucher – <i>Community &amp; Social Planner</i> Lisa Raywood – <i>Manager Public Health Protection, Aged &amp; Community Planning</i> Kate Baker – <i>Inclusive Employment &amp; Volunteering Team Leader</i></p>
	<p><b>Others Present:</b> Lara Hunter Ilias Katis (Austin) Lachlan Harris Claire Flynn Paul Byrne-Moroney Ashleigh Keenan Megan Burke Michelle McNamara (TGV)</p>
	<p><b>Conflict of Interest:</b> Nil</p>

<b>3</b>	<b>Date of Assembly:</b>	29 June 2020
	<b>Type of Meeting:</b>	Councillor Briefing
	<b>Matters Considered:</b>	
	<ul style="list-style-type: none"> <li>• NELP – General Discussion</li> <li>• Major Festivals Program – as a result of COVID-19</li> <li>• Draft Community Engagement Policy</li> <li>• Community Satisfaction Survey</li> <li>• Northern Health Navigator</li>   <li>• COVID – 19 – General update -</li> </ul>	
	<b>Councillors Present:</b>	
	<p>Peter Castaldo Alison Champion Mark Di Pasquale Rick Garotti Craig Langdon Tom Melican</p>	

**ASSEMBLY OF COUNCILLORS cont'd**

<b>Staff Present:</b>	
Allison Beckwith - <i>Chief Executive Officer</i> Kath Brackett – Director Community Programs – Virtual Marc Giglio – <i>Director Corporate Services</i> Scott Walker – <i>Director City Development</i> Kerryn Woods – <i>Executive &amp; Councillors Team Leader</i> Nicole Maslin – <i>Manager Leisure, Recreation and Culture Services</i> Lisa Raywood – <i>Manager Public Health Protection, Aged &amp; Community Planning</i> – Virtual Presentation Clarissa Crupi – <i>Festivals Officer</i> Bridgett Ruff – <i>Interim Integrated Planning Project Manager</i>	
<b>Others Present:</b>	
Nil	
<b>Conflict of Interest:</b>	Cr Rick Garotti – Matter:. Northern Health Navigator (Item 5)

<b>4</b>	<b>Date of Assembly:</b>	6 July 2020
	<b>Type of Meeting:</b>	Councillor Briefing
	<b>Matters Considered:</b>	
Items on the Council Agenda for the Ordinary Meeting of 6 July 2020 (excluding confidential items) as listed below:		
2.1 Petition for Zero Rate Rise for the 2020/2021 Financial Year 3.1 Draft Social Enterprise Strategy - for Public Exhibition 3.2 Draft Inclusive Local Jobs Strategy - for Public Exhibition 5.1 Planning Scheme Amendment C117 and C119 to make additions to the Significant Tree and Vegetation Register (ESO4) 5.2 101 Burgundy Street, HEIDELBERG - Alternative outcome for Mixed Use Development (P8/2019) 5.3 COVID - 19 Response - Community and Business Support Package 2020-2021 5.4 Land at Rear of 7A Curzon Street, Ivanhoe - Proposed Sale of Land 5.5 Bell Bardia and Tarakan Estates Renewal Project Masterplan 5.6 COVID-19 Stimulus Opportunities 6.1 Responding to the Federal Government's proposed Religious Discrimination Bill 7.1 2020 Council Elections Arrangements 7.2 Budget Submissions Declarations 7.3 Proposed Council Plan and Budget - Consideration of Submissions Received		

**ASSEMBLY OF COUNCILLORS cont'd**

7.4	New Local Government Act 2020 - Implementation - Draft Governance Rules and Draft Public Transparency Policy - Commence Public exhibition
7.5	Adoption of Revised 2020/2021 Rating Strategy
7.6	Adoption of Revised Hardship Assistance Policy
7.7	Assembly of Councillors
7.8	Award of contract for contract no. 1055-2020 for construction of landscape and paving at Ivanhoe precinct redevelopment
<b>Councillors Present:</b> Alison Champion Mark Di Pasquale Craig Langdon Tom Melican Wayne Philips	
<b>Staff Present:</b> 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 &amp; Communication</i> Emily Outlaw – <i>Council Business Team Leader</i> Paul Wilson – <i>Audit Support Officer</i> Luca Verduci – <i>Senior Digital Communications Officer</i> Neale Lawrence – <i>Youth Outreach &amp; Program Officer</i> Simon Eszeky – <i>Youth Services Inclusion Officer</i> Duncan Stephen – <i>Jets Sound Engineer/Program Assistant</i>	
<b>Others Present:</b> Nil	
<b>Conflict of Interest:</b>	Cr Wayne Phillips – Item 5.4 Land at Rear of 7A Curzon Street, Ivanhoe - Proposed Sale of Land

**RECOMMENDATION**

That the Record of Councillor meetings report be received.

**ATTACHMENTS**

Nil

## **7.7 CONTRACT NO 1049-2020 CONSTRUCTION OF DAREBIN CREEK TRAIL UPGRADE STAGE 1**

Author: Conrad Borja - Project Engineer, Assets & City Services

Ward: Olympia

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### **EXECUTIVE SUMMARY**

This report is to consider the awarding of Contract No 1049-2020 for Construction of Darebin Creek Trail Upgrade Stage 1.

Council sought Tenders from suitably qualified and capable contractors to undertake the construction of Darebin Creek Trail from Dougharty Road to Southern Road. The extent of this Contract includes works necessary for the construction of the trail including concrete footpath construction and associated works.

Tenders were received from thirteen (13) contractors prior to the closing date.

The Tender Evaluation Panel (TEP) has recommended awarding the contract to Citywide Service Solutions Pty Ltd. for the lump sum price of \$ 726,166.98 (ex GST) in accordance with the tender and conditions as determined by Council.

### **RECOMMENDATION**

That:

1. The Contract No 1049-2020 for Construction of Darebin Creek Trail Upgrade Stage 1 be awarded to Citywide Service Solutions Pty Ltd for the lump sum price of \$726,166.98 (excluding. GST).
2. The Director of Assets & City 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 "Renew and maintain Banyule's public assets and infrastructure".

### **BACKGROUND**

This report is to consider the awarding of Contract No 1049-2020 for Construction of Darebin Creek Trail Upgrade Stage 1.

**CONTRACT NO 1049-2020 CONSTRUCTION OF DAREBIN CREEK TRAIL  
UPGRADE STAGE 1  
cont'd**

The Tender was advertised in the local government tender section of The Age newspaper on Saturday 8 May 2020 and closed on Wednesday 10 June 2020.

The scope of works includes but is not limited to construction activities involving:

- Site establishment, preliminaries and traffic management including service location.
- Construction of the identified concrete path as per the staging identified in the documents.
- Ensure works are undertaken in accordance with the Arborist report.
- Ensure works are undertaken in accordance with Cultural Heritage Management Plan Number 15366
- Trimming and/or removal of trees and revegetation including maintenance and establishment period for 52 weeks following the issue of Practical Completion.
- Construct fence and retaining walls
- Construct under pavement drainage
- Install signage and line marking
- Cut and fill to required levels as shown on the construction drawings.
- Top soil and seed batters
- Clean site and remove any rubbish to the satisfaction of the superintendent.

Sixty-six (66) prospective companies downloaded the tender document from Council's website and thirteen (13) 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.

**CONTRACT NO 1049-2020 CONSTRUCTION OF DAREBIN CREEK TRAIL  
UPGRADE STAGE 1  
cont'd**

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* for this contract.

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.

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 EVALUATION**

All tenders were evaluated using the following evaluation criteria, which was listed in the tender document:

**CONTRACT NO 1049-2020 CONSTRUCTION OF DAREBIN CREEK TRAIL  
UPGRADE STAGE 1  
cont'd**

- Tender Price.
- Previous performance, experience and reliability in the provision of similar types of projects and previous performance in delivery of contracts or purchase orders directly with Banyule City Council (if applicable);
- Qualifications and experience of nominated staff including experience of nominated sub-contractors.
- Existence of an accredited management system and procedures; covering quality and OH&S.
- Recycled Material Content.
- Sustainable Procurement Questionnaire.
- Any other information which the Council may deem to be relevant.

The tenders were evaluated by the Tender Evaluation Panel (TEP) comprising of officers from Capital Projects and Procurement Units.

Prior to receiving the tenders, the tender evaluation panel convened to set the weightings for each of the evaluation criteria and establish how the tenders would be evaluated using the weighted evaluation matrix. A tender evaluation plan was developed and signed by all panel members.

As part of the tender evaluation documents there is a requirement for tenderers to complete a questionnaire regarding Sustainable Procurement which includes the following Environmental, Economic and Social Sustainability. This forms part of the overall evaluation criteria and is included as part of the weighted score for each tenderer.

During the initial opening of tenders, the seven highest priced submissions were excluded from further consideration. Based on all tendered prices and with the agreed weightings structure they would not have a realistic chance of success. The Tender Evaluation Plan contains provision to shortlist tenderers based on price.

The tender evaluation panel individually scored the tenders and then a tender evaluation panel meeting was held to agree on the consensus scores. The weighted score for the tender was:

<b>Table 1 – Tenders received and weighted scores</b>	
<b>Contractor</b>	<b>Weighted Score</b>
Citywide Service Solutions Pty Ltd	85.50
Tenderer B	74.73
Tenderer C	72.29
Tenderer D	72.17
Tenderer E	68.36

**CONTRACT NO 1049-2020 CONSTRUCTION OF DAREBIN CREEK TRAIL  
UPGRADE STAGE 1  
cont'd**

Tenderer F	68.00
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In undertaking the assessment, all members of the TEP completed and signed the Conflict of Interest and confidentiality declaration.

Based on the initial scores the TEP shortlisted Citywide Service Solutions Pty Ltd only, as the lowest priced and highest scoring tender.

A post tender interview was held with Citywide Service Solutions Pty Ltd on Wednesday 1 July 2020 where further clarifications were sought and received to the satisfaction of the TEP

An independent financial assessment of the preferred tenderer was conducted by Corporate Scorecard which delivered a "strong/very strong" rating.

**FUNDING IMPLICATIONS**

Council has allocated funding in its 2020-21 Capital Works Programme to undertake the construction of the Darebin Creek Trail Upgrade Stage 1.

**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 quotation evaluation, the Tender Evaluation Panel recommends that Council award Contract No. 1049-2020, the Construction of Darebin Creek Trail Upgrade Stage 1 to Citywide Service Solutions Pty Ltd for the lump sum price of \$ 726,166.98 (excluding GST)

**ATTACHMENTS**

No.	Title	Page
1	1049-2020 Tender Evaluation Sheet - <b>CONFIDENTIAL</b>	