

Agenda of Ordinary Meeting of Council - Monday, 26 September 2022

commencing at 7.00pm

Nellie Ibbott Chambers, Ivanhoe Library and Cultural Hub, 275 Upper
Heidelberg Road, Ivanhoe 3079



FREEDOM OF INFORMATION STATUS EXEMPT (SECTION 38)

RELATING TO ITEMS IN RESPECT OF WHICH THE
MEETING MAY BE CLOSED TO MEMBERS OF THE PUBLIC

Acknowledgement of the Traditional Custodians

“Banyule City Council is proud to acknowledge the Wurundjeri Woi-wurrung people as traditional custodians of the land and we pay respect to all Aboriginal and Torres Strait Elders, past, present and emerging, who have resided in the area and have been an integral part of the region’s history.”

Inclusive Banyule Statement

“Our community is made up of diverse cultures, beliefs, abilities, bodies, sexualities, ages and genders. We are committed to access, equity, participation and rights for everyone: principles which empower, foster harmony and increase the wellbeing of an inclusive community.”

Apologies and Leave of Absence

Confirmation of Minutes

Ordinary Meeting of Council held 5 September 2022

Disclosure of Interests

1. Urgent Business

2. Petitions

Nil

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3. Our Inclusive and Connected Community

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4. Our Sustainable Environment

Nil

5. Our Well-Built City

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9. Sealing of Documents

Nil

10. Notices of Motion

Nil

11. General Business

Public Question Time

Closure of Meeting to the Public

That in accordance with Section 66(2)(a) of the *Local Government Act 2020*, Council close the Meeting to members of the public and adjourn for five minutes to allow the public to leave the Chamber prior to considering the following confidential matters:

12. Confidential Matters

- 12.1 Olympic Park Project Update
- 12.2 Watsonia Town Square Project - Purchase of Land
- 12.3 Potential Strategic Property Acquisition
- 12.4 Outcomes of CEO Employment Matters Committee Meeting - 12 September 2022

These matters have been designated as confidential pursuant to section 3(1) of the *Local Government Act 2020*. The specific designations and rationale are listed below.

- 12.1 Olympic Park Project Update – designated as confidential pursuant to s 3(1)(g) of the 2020 Act as the information within the report contains information relating to commercial information, being information provided by a business, commercial or financial undertaking and relates to either trade secrets and if released prematurely, could unreasonably expose the business, commercial or financial undertaking to disadvantage.
- 12.2 Watsonia Town Square Project – Purchase of Land – designated as confidential pursuant to s 3(1)(g) of the 2020 Act as the information within the report contains information relating to commercial information, being information provided by a business, commercial or financial undertaking and relates to either trade secrets and if released prematurely, could unreasonably expose the business, commercial or financial undertaking to disadvantage.
- 12.3 Potential Strategic Property Acquisition – designated as confidential pursuant to s 3(1)(g) of the 2020 Act as the information within the report contains information relating to commercial information, being information provided by a business, commercial or financial undertaking and relates to either trade secrets and if released prematurely, could unreasonably expose the business, commercial or financial undertaking to disadvantage.
- 12.4 Outcomes of CEO Employment Matters Committee Meeting – 12 September 2022 – designated as confidential pursuant to s 3(1)(f) of the 2020 Act as the information within the report contains personal information, being information which if released, would result in the unreasonable disclosure of information about the CEO and their personal affairs.

Matters Discussed in Camera

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

Closure of Meeting

Live Streaming of Council Meeting

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

The livestream will be available on Council's Facebook and website www.banyule.vic.gov.au

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

3.1 IVANHOE AQUATIC CENTRE STAGE 2 REDEVELOPMENT - CONSULTATION FEEDBACK AND REVISED CONCEPT DESIGN

Author: Nicole Maslin - Manager Healthy & Active Communities, Community Wellbeing

Ward: Griffin

Previous Items

Council on 11 April 2022 (Item 6.3 - Ivanhoe Aquatic Redevelopment Stage 2 - Concept Design)

Council on 5 September 2022 (Item 3.1 - Ivanhoe Aquatic Centre Stage 2 Redevelopment - Consultation Feedback and Revised Concept Design)

SUMMARY

1. On the 5 September 2022 the Council resolved to defer the Ivanhoe Aquatic Centre Stage 2 Redevelopment – Consultation Feedback and Revised Concept Plan (which was found at item 3.1 of that agenda), with the Council resolution being *That Council defer the item to the next Ordinary Council Meeting scheduled for 26 September 2022 to review viability options of the current Concept Plan.*
2. The Motion was moved by Cr Alida McKern and seconded by Cr Rick Garotti and Carried by Council.
3. In line with the implementation of the above Council decision, Officers reviewed the viability options of the current Concept Plan and recommend to Council no change to the Concept Plan and detailed Officer Report as originally presented to Council on 5 September 2022 Ordinary Council Meeting. As such, the below Report and Officer recommendation has been represented to Council for consideration without change.
4. The Ivanhoe Aquatic and Recreation Centre is a key leisure facility for the residents of the City of Banyule that is managed by Council.
5. A staged multimillion-dollar masterplan was developed in 2012 to bring the ageing facility up to standard. Stage one of the Masterplan was completed in 2016.
6. The Stage 2 redevelopment is focused on expanding and improving the aquatics spaces to meet increasing community requirements. The project will also deliver on Council's commitment to net zero through an all-electric, 5 Star Green Star accredited facility outcome.
7. Council endorsed the Ivanhoe Aquatic Centre Stage 2 concept plan for community consultation at its 11 April 2022 Council meeting, **Attachment 1**.
8. The consulted option - Ivanhoe Aquatic Centre Stage 2 (Option 1) has been preliminary costed at \$21.6 million.
9. The consultation feedback received on Option 1 strongly supports that a further expansion of the aquatics spaces is needed to meet future demand.
10. Based on this feedback, peer review of both concepts and industry benchmarking, a revised concept (Option 2), **Attachment 2**, has been developed and preliminary costed at \$28.7 million. This responds to the

**IVANHOE AQUATIC CENTRE STAGE 2 REDVELOPMENT - CONSULTATION
FEEDBACK AND REVISED CONCEPT DESIGN cont'd**

feedback to deliver increased water spaces for learn to swim, lap swimming and aquatics programming.

11. Both options have been independently analysed to assess the financial, economic, social and health impacts that will be stimulated.
12. Option 1 has been assessed as delivering a facility that will only address the short term, immediate needs of the centre. Option 2 has been assessed as delivering a facility that will address both the immediate demand and the long-term growth projections, delivering a centre that will service the needs of the community for the next 30-50 years.
13. Proceeding with detailed design on Option 2 is a commitment to keep the project progressing and becoming shovel ready.
14. The current budget allocation over three financial years is \$12.7 million. Council will be advocating for funding opportunities from external bodies throughout the design development process and refer any shortfall to future budget processes.
15. Council will receive a further report on the outcome of the funding strategy that presents options to respond to the project budget shortfall, to successfully deliver Stage 2.

RECOMMENDATION

That Council:

1. Note the community consultation feedback and analysis on Option 1.
2. Endorse the revised Concept Plan - Option 2, **Attachment 2**, to proceed to schematic design, noting that this has been assessed as delivering a facility that will address both the immediate demand and the long-term growth projections.
3. Note that Council has a current budget allocation of \$12.7million over the next 3 years for Ivanhoe Aquatic Centre Stage 2 re-development and a funding strategy is currently being planned.
4. Receive a further report on the outcome of a funding strategy, that presents options to respond to the project budget shortfall, to successfully deliver Ivanhoe Aquatic Centre Stage 2 re-development.

**IVANHOE AQUATIC CENTRE STAGE 2 REDVELOPMENT - CONSULTATION
FEEDBACK AND REVISED CONCEPT DESIGN cont'd**

COUNCIL PLAN

- This report is in line with Banyule's Council Plan strategy to "Promote active and connected living through a range of accessible and inclusive opportunities for all people of all ages through sport and recreation".

BACKGROUND

- At its meeting of 11 April 2022, Council resolved that Council:
 - Endorses the Ivanhoe Aquatic Redevelopment Stage 2 concept plan for community consultation in accordance with the Community Engagement Plan.
 - Notes this proposed project will deliver on Council's commitment to net zero through an all-electric, 5 Star Green Star accredited facility outcome.
 - Notes that Council will apply for funding from the Victorian Governments Local Sports Infrastructure Fund (LSIF) program when the next round of funding opens in 2023. Grants of up to \$2 million are available to support redevelopment of aquatic leisure centres.
 - Refers any funding shortfall to future budget processes.
 - Receives a further report at a future Council meeting to present consultation outcomes and endorsement of final concept for detailed design.
- Stage 2 is focused on addressing the remaining capacity constraints and ageing infrastructure primarily associated with the aquatic hall and responding to the increased community and member need for aquatics space to support growth in learn to swim, demand for better opportunities for lap swimming and other water-based programs such as aqua classes.

Project Objectives

- To ensure the Ivanhoe Aquatic Centre meets the needs of the members and community now and into the future.
- To complete the works with minimal disruption to current operations and programs.
- To achieve and provide a net zero emission, fully electric facility that meets contemporary standards.

KEY ISSUES

- The consulted concept (Option 1) whilst being prioritised and refined following the review of the 2012 masterplan, does not meet community aspirations and needs.
- The consulted option (Option 1) is preliminarily costed at \$21.6 million and can essentially deliver:
 - New warm water pool (10m x 10m – 1.1m depth).
 - New learn to swim pool adjoined to existing toddlers (12.5m x 10m).
 - Upgrade of the existing 25m pool and existing toddler's pool (fix leaks and new tiling).

**IVANHOE AQUATIC CENTRE STAGE 2 REDVELOPMENT - CONSULTATION
FEEDBACK AND REVISED CONCEPT DESIGN cont'd**

- Outdoor zero-depth water play space.
- Relocate spa and sauna.
- The consultation feedback strongly supports a further expansion of the aquatic spaces to meet future demand and fully realise the opportunity for Council. This was also supported by peer review analysis and benchmarking with other aquatic redevelopments, that highlighted shortfalls in the Option 1 concept along with potential missed opportunities.
- These additional opportunities were explored further with key stakeholders and the lead consultants to develop a revised and expanded concept that responds to this feedback (Option 2).
- The revised concept (Option 2) has been preliminary costed at \$28.7 million and delivers increased water spaces for learn to swim and programming with the following changes:
 - Increasing size of the warm water pool by 10m (10m x 20m – variable 1.1m-1.3m depth).
 - Separating the new learn to swim pool from existing toddlers (12.5m x 10m).
 - Remove the outdoor zero-depth play space and add water play features to the toddler's area.
 - Adding a steam room with the spa and sauna.
- A detailed assessment of the financial, economic, social and health impacts of the concept 1 and 2 redevelopment options was completed. The analysis confirms that Option 2 delivers the best net community benefit and addresses both the immediate demand and the long-term growth projections, to deliver a centre that will service the needs of the community for the next 30-50 years.
- The revised Option 2 has a preliminary cost of \$28.7 million compared to \$21.6 million – Option 1. There is currently a significant budget shortfall with only \$12.7 million allocated over 3 years.
- Endorsing revised Option 2 to detailed design, despite not having the total project construction funds in current budget, presents Council with an opportunity to commit to progressing the project to shovel ready. This would demonstrate the redevelopment vision to potential funding partners and present a strong advocacy case that positions Council to attract additional investment.

SUPPORTING REPORT DETAILS

Legal Consideration

- There are no direct legal implications arising from the recommendations 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 *Charter of Human Rights and Responsibilities Act 2006*.
- It is considered that the subject matter does not raise any human rights issues.

**IVANHOE AQUATIC CENTRE STAGE 2 REDVELOPMENT - CONSULTATION
FEEDBACK AND REVISED CONCEPT DESIGN cont'd**

Sustainable Procurement Outcomes

- As one of Council's major projects to be delivered, this project will contribute short and long-term sustainable procurement outcomes through its commitment to environmentally sustainable principles and local job creation.
- This project will ensure local and regional economic uplift through areas such as job creation during construction and increased operations.

Environmental Considerations

- The proposed design for the modernised Ivanhoe Aquatic Centre addresses a need for contemporary aquatic spaces to meet the needs of the community and a high-performance, environmentally sustainable design (ESD) aligned with Banyule City Council's Climate Action Plan.
- Key sustainability features of the design include:
 - Very high-performance building fabric, aligning with Passive House standard.
 - All electric building systems, including electric heat-pumps for hot water.
 - Significant rooftop PV system.
 - Retention of building primary structure, reducing embodied carbon.
 - Purchase of 100% Green Power for the site.
 - Strong daylight and views between the pool hall and the outside.

Financial Implications

- The current budget allocation over three financial years is \$12.7 million. The revised concept option 2 has been preliminarily costed at \$28.7 million.
- This project is listed as a key priority project in Council's advocacy strategy and officers continue to pursue opportunities for funding from Federal and State Governments and present options back to Council that respond to the project budget shortfall. Council can then consider these options and make decisions as part of future budget process.
- There are a number of State and Federal government funding opportunities that are being explored including electrification and local sports infrastructure – redeveloped aquatics.
- A financial budget commitment beyond the \$12.7 million to proceed from detailed design to the construction of this project will not be confirmed until the options are presented back to Council. Officers will continue to work on these throughout the design process.

Community Engagement

- There is widespread support for this redevelopment which has been earmarked since 2012 as part of Council's ongoing commitment to positive health and wellbeing outcomes for the community.
- Since 2012, Council has continued to inform members and community about the project and Stage 2 redevelopment as part of ongoing communications through newsletters and bulletins.

**IVANHOE AQUATIC CENTRE STAGE 2 REDVELOPMENT - CONSULTATION
FEEDBACK AND REVISED CONCEPT DESIGN cont'd**

- In 2020, targeted stakeholder engagement was undertaken to review the 2012 master plan and inform the development of a Draft Banyule Aquatic Strategy.
- Throughout 2021, several targeted workshops were held to address the scope of this next stage and exploration of ESD goals.
- Council endorsed the Ivanhoe Aquatic Centre Stage 2 concept plan for community consultation at its 11 April 2022 Council meeting.
- There has been positive community engagement, with 115 contributors to Shaping Banyule, staff workshops, three pop up sessions on site at Ivanhoe Aquatic Centre, as well as static displays and information for patrons to review and respond to.
- Key feedback includes:
 - Strong support for additional program pool to shift activities from the 25m pool and free up for lap swimming. High dissatisfaction from current lap swimmers regarding lack of available swimming lanes.
 - Very positive response to extra pool spaces for learn to swim. The program is currently at capacity in most timeslots and many customers are being turned away.
 - Older adults' members very excited about a warm water program pool to support rehabilitation activities, gentle aqua classes, water walking.
 - Majority of customers and staff would like to see a larger program pool than 10m, as they feel this is not big enough. 10m will not accommodate the much-needed extra use that a larger pool can support.
 - Strong support for the separation of different aquatic activities – options of the new Learn to Swim and program pool to reduce competing activities clashing.
 - New spa and sauna appreciated and request for a steam room to be included.
 - Mixed reaction on outdoor zero depth, many people questioning the value and use in Melbourne and would prefer the investment to be focused on addressing the priorities of indoor water space.
 - Fantastic support for zero emissions - a very positive element that community supports whole heartedly.
 - The community want to avoid Ivanhoe Aquatic Centre closing for redevelopment whilst Northcote Aquatic Centre is currently closed for renovation.
 - Mixed views about temperature and depths of program pool, can't be too hot for water classes and has to be the right height for activities.
 - Request to maximize the outdoor space – bring the outdoors in through the design. Appreciate the setting that Ivanhoe Aquatic Centre sits within and some expressed desire to take advantage of this.
- Other comments – (not in scope)
 - Indoor 50m pool
 - Outdoor 50m pool

**IVANHOE AQUATIC CENTRE STAGE 2 REDVELOPMENT - CONSULTATION
FEEDBACK AND REVISED CONCEPT DESIGN cont'd**

- Another 25m pool
- Upgrade to fitness areas
- Upgrade existing changeroom
- A peer review of the initial concept was also undertaken by Otium Consulting which has also been considered in defining the revised concept.

Collaboration

- Officers consulted with other councils that are currently planning or constructing aquatic spaces to obtain their feedback and opinions on the different program pool options.
- Members of the Banyule Leisure leadership team also undertook some site visits of centres to see and experience some other aquatic centres that had similar spaces to what Banyule is considering.

Work completed to date

- Officers have undertaken a series of feasibility reports, site investigations and options assessments to ensure rigorous and robust advice is being provided to Council about the proposed redevelopment. Over the two years, this work has included:
 - Revised Master Plan
 - Electrification feasibility study
 - Energy audit
 - Pool Plant Condition & Maintenance Audit
 - Sustainability approach to Green Star
 - Aquatics specification tech note
 - Traffic Investigations and preliminary Green Travel Plan
 - Land Surveying & Underground Services Scans
 - Geotechnical & Geochemical
 - Prior town planning permit conditions and overlays including research about car parking requirements
 - Electrical Existing Supply Investigations
 - 25m Pool Leak Investigations
 - Structural investigations (to support extension)

**IVANHOE AQUATIC CENTRE STAGE 2 REDVELOPMENT - CONSULTATION
FEEDBACK AND REVISED CONCEPT DESIGN cont'd**

Officer Declaration of Conflict of Interest

- The *Local Government Act 2020* requires members of Council staff, and persons engaged under contract who 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

No.	Title	Page
1	Ivanhoe Aquatic Centre Stage 2 - Concept Plan Option 1.	
2	Ivanhoe Aquatic Centre Stage 2 - Concept Plan Option 2.	

3.2 IVANHOE AQUATIC CENTRE STAGE 2 REDEVELOPMENT - CONTRACT VARIATION

Author: Joe Kelly - Senior Project Manager, City Development

Ward: Griffin

Previous Items

Council on 5 September 2022 (Item 3.2 - Ivanhoe Aquatic Centre Stage 2 Redevelopment - Contract Variation)

SUMMARY

1. On 5 September 2022 the Council resolved to defer the decision on the Ivanhoe Aquatic Centre Stage 2 Redevelopment – Contract Variation Report (Item 3.2 of that agenda) with the Council resolution being *That Council defers the decision on the Ivanhoe Aquatic Centre Stage 2 Redevelopment – Contract Variation to a future Council meeting when the officer report on the Ivanhoe Aquatic Centre Stage 2 Redevelopment Concept Plan is presented back to Council for consideration.*
2. The Motion was moved by Cr Alida McKern and Seconded by Cr Rick Garotti and Carried by Council.
3. In line with the implementation of the above Council decision, and in line with the Officer Report regarding Ivanhoe Aquatic Centre Stage 2 Redevelopment – Consultation Feedback and Revised Concept Plan as presented in this Agenda at Item 3.1 in the agenda, Officers now recommend to Council no change to the Officer Report as originally presented to Council on 5 September 2022 Ordinary Council Meeting regarding the Ivanhoe Aquatic Centre Stage 2 Redevelopment - Contract Variation, and such, the below Report and Officer recommendation has been represented to Council for consideration without change.
4. This report is to be considered in conjunction with the Ivanhoe Aquatic Centre Stage 2 Redevelopment – Consultation Feedback and Revised Concept Design Report listed as Item 3.1 in the agenda for the 26 September 2022 Ordinary Meeting of Council.
5. This report recommends a revised concept be endorsed for a design that expands on the original scope in order to meet the current and future needs of the community for the next 30 – 50 years.
6. Due to the proposed increase in project scope from the consulted concept plan to concept Option 2 (\$28.7 million), a variation in the architectural fees of \$334,000 is being sought to progress to detailed design.
7. The variation to the contract will exceed the CEO's delegation and this report seeks Council approval to delegate its power to the CEO to approve the variation under delegation.

IVANHOE AQUATIC CENTRE STAGE 2 REDEVELOPMENT - CONTRACT VARIATION cont'd

RECOMMENDATION

That Council:

1. Approves the \$334,000 (inc GST) variation to Contract number 1140-2021 to reflect the uplift in cost required for design services as a result of the revised scope and increase in overall project cost for Ivanhoe Aquatic Centre Stage 2 redevelopment;
2. Notes that the additional funds will be funded by the current budget allocation for the Ivanhoe Aquatic Centre Redevelopment;
3. Approves for the delegation to the CEO to sign all necessary documentation that approves the \$334,000 variation;
4. Notes that Haskell Architects will be advised of the decision to proceed to schematic and detailed design which represent project phases 2 and 3;
5. Notes that at this stage a request is being made for the additional funds for phases 2 and 3 only. If the project funding is realised, a separate report will come to Council for approval of Phases 4 and 5.

COUNCIL PLAN

- This report is in line with Banyule's Council Plan strategy to "Strategically plan, build and renew community assets and facilities that meet current and future service needs and instil a sense of civic pride".

BACKGROUND

- Haskell Architects were appointed to work on the Stage 2 redevelopment for Ivanhoe Aquatic Centre on 23 November 2021. Since then, they have prepared a couple of concept options, including Option 1 (costed at \$21.6 million). Council endorsed this concept plan for community consultation at its 11 April 2022 Council meeting.
- The consultation feedback received on this option strongly supports that a further expansion of the aquatics spaces is needed to meet future demand and deliver increased water spaces for learn to swim, lap swimming and aquatics programming.
- Based on this feedback, along with peer review of both concepts and industry benchmarking, a revised concept, Option 2, has been developed and the preliminary cost is \$28.7 million.
- While there is currently not enough budget allocated to proceed with Option 2, progressing with the detailed design is a commitment to get the project 'shovel ready' while officers continue to work on a funding strategy to respond to the budget shortfall.
- The report 'Ivanhoe Aquatic Centre Stage 2 Redevelopment – Consultation Feedback and Revised Concept Design' tabled at the 5 September 2022 Council meeting asks Council to endorse the Option 2 concept and provide agreement to proceed to detailed design.

IVANHOE AQUATIC CENTRE STAGE 2 REDEVELOPMENT - CONTRACT VARIATION cont'd

KEY ISSUES

- The original Contract 1140-2021 was awarded to Haskell on 23 November 2021 for the design for refurbishment of Ivanhoe Aquatic Centre Stage 2. At the time the project budget provided to Haskell was \$15 million.
- For the majority of large infrastructure projects, the architectural fees are a percentage of the total construction budget.
- Option 2 presents an increase in the project scope and an increase in the construction budget (\$28.7 million), hence the architectural fees will increase accordingly.
- If Council agrees to endorse the Option 2 concept and proceed to detailed design, a variation to the Contract will be required as the total architectural fees will exceed the CEO delegation amount.

SUPPORTING REPORT DETAILS

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 *Charter of Human Rights and Responsibilities Act 2006*.
- It is considered that the subject matter does not raise any human rights issues.

Sustainable Procurement Outcomes

- Sustainable procurement outcomes were assessed when Haskell Architects were appointed and there are no sustainable procurement activities arising from the recommendation contained in this report.

Financial Implications

- The financial information detailing the increase cost to project scope is referenced at **Confidential Attachment 1 and 2**.
- The information within this attachment has been designated as confidential pursuant to section 3(1)(a) of the *Local Government Act 2020*.

IVANHOE AQUATIC CENTRE STAGE 2 REDEVELOPMENT - CONTRACT VARIATION cont'd

Officer Declaration of Conflict of Interest

- The *Local Government Act 2020* requires members of Council staff, and persons engaged under contract who 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

No.	Title	Page
1	Ivanhoe Aquatic Architectural Costs - CONFIDENTIAL	
2	Financial Implications Summary - CONFIDENTIAL	

3.3 *ADVISORY COMMITTEES REPORT - APRIL - AUGUST 2022*

Author: Jo Graham - Executive Assistant to the Director Community Wellbeing,
Community Wellbeing

SUMMARY

1. Advisory committees are made up of Councillors and Community members.
2. They have terms of references and meet to discuss relevant issues, advise Council on specific matters based on Committee's purpose and objectives, and oversee the implementation of Council's strategic plan for their respective focus.
3. Advisory Committees provide important linkages between Council, Community, State agencies and interest groups. Following each advisory committee meeting, a report is submitted to Council to note the minutes from the committee meetings held during April - August 2022 and draw attention to specific recommendations that each advisory committee wishes to bring to the attention of Council.
4. Where there have been actions requested or recommendations made by the committee, officer comments have been provided in the report.
5. The following minutes are presented to Council for noting:

Inclusive Banyule Advisory Committee – 30 June 2022

Reconciliation Action Plan Advisory Committee – 8 June 2022 and 13 July 2022

Arts and Culture Advisory Committee – 5 May 2022

Banyule Environment and Climate Action Committee – 9 June 2022

Multicultural Committee – 25 May 2022 and 17 August 2022

Banyule Disability and Inclusion Committee – 27 April 2022, 22 June 2022 and 24 August 2022

LGBTIQA+ Committee – 21 April 2022 and 18 August 2022

Age Friendly Committee – 23 June 2022

Disability and Inclusion, LGBTIQA+ and Multicultural Committee Meeting
(Combined Meeting) – 22 June 2022

ADVISORY COMMITTEES REPORT - APRIL - AUGUST 2022 cont'd

RECOMMENDATION

That Council:

1. Notes the following meeting minutes and reports:
 - a) Inclusive Banyule Advisory Committee – 30 June 2022
 - b) Reconciliation Action Plan (RAP) Advisory Committee – 8 June 2022 and 13 July 2022
 - c) Arts and Culture Advisory Committee – 5 May 2022
 - d) Banyule Environment and Climate Action Committee – 9 June 2022
 - e) Multicultural Committee – 25 May 2022 and 17 August 2022
 - f) Banyule Disability and Inclusion Committee – 27 April 2022, 22 June 2022 and 24 August 2022
 - g) LGBTIQA+ Committee – 21 April 2022 and 18 August 2022
 - h) Age Friendly Committee – 23 June 2022
 - i) Disability and Inclusion, LGBTIQA+ and Multicultural Committee Meeting (Combined Meeting) – 22 June 2022
2. Note that a recommendation was received from the Reconciliation Action Plan Advisory Committee and Council will receive a further report to consider the proposal for the renaming of Bolden Street Heidelberg.
3. Note that a recommendation was received from the LGBTIQA+ Advisory Committee and Council will receive a further report to consider the establishment of a memorial to the LGBTIQA+ community lost to discrimination.

COUNCIL PLAN

- This report is in line with Banyule's Council Plan key direction to "Promote community awareness and support a diverse, connected, and inclusive community that respects and celebrates different cultures, beliefs, abilities, bodies, ages, sexualities, genders and identities".

BACKGROUND

- Advisory committees are made up of councillors and community members. They have terms of references and meet to discuss issues, advise Council, and oversee the implementation of Council's strategic plan for their respective focus.
- Advisory committees provide important linkages between Council, community and state agencies and interest groups. Following an advisory committee meeting, a report is submitted to Council to note the minutes and consider any issue raised.

ADVISORY COMMITTEES REPORT - APRIL - AUGUST 2022 cont'd

KEY ISSUES

1.	<p>Report/Committee Name: Inclusive Banyule Advisory Committee</p> <p>The aim of the Inclusive Banyule Advisory Committee is to deliver on Council's ongoing and embedded commitment to social justice and inclusion. The Committee brings together policy, practice and lived experience to work cooperatively on social inclusion issues. The Committee identifies issues for advocacy and works with Council to identify future policy issues and addresses the ongoing impacts of COVID-19 on social inclusion and considers social justice and equity in the community.</p> <p>30 June 2022 Meeting: The Inclusive Banyule Advisory Committee met on 30 June 2022 online. The minutes from this meeting are in Attachment 1.</p> <p>The meeting was chaired by Cr Elizabeth Nealy and 11 committee members were in attendance.</p> <p>Shared priorities were reviewed and opportunities to uplift inclusion. An update was provided on Inclusive Banyule including consultation findings to date. The draft Inclusive Banyule Plan was circulated amongst committee members for comment.</p> <p>The Committee received a presentation regarding the Integrated Action Planning model for Inclusive Banyule. Opportunities for advocacy were discussed. The Committee were provided with an update regarding Inclusive Banyule Grants. Inclusive Banyule and Population Advisory Committee updates were received from the Reconciliation Action Plan and Age-Friendly committees. An update was also provided by the Local Employment Taskforce North Region representative.</p> <p>Actions/ Recommendations: There were no recommendations to Council arising from this meeting.</p>
2.	<p>Report/Committee Name: Reconciliation Action Plan Advisory Committee</p> <p>The aim of the Reconciliation Action Plan (RAP) Advisory Committee is to provide Council with advice and information on inclusion, access and equity issues facing Aboriginal and Torres Strait Islander communities and to oversee the development of Council's <i>Innovate</i> RAP between September 2020 and September 2022.</p> <p>8 June 2022 Meeting: The Reconciliation Action Plan Advisory Committee met on 8 June 2022 online and in person. A report of this meeting is in Attachment 2.</p> <p>The Meeting was chaired by Cr Peter Castaldo and 12 committee members attended.</p> <p>The Committee received a presentation regarding Inclusive Banyule. A briefing was provided by officers regarding the Inclusive Employment Program and opportunities for the Aboriginal Community. The Committee discussed the RAP Annual Report which was circulated prior to the meeting to committee members. The Committee endorsed the RAP Annual Report for submission to Reconciliation Australia and Council for tabling. The Committee acknowledged the work of Les Chessels, as First Nations Elder and his ongoing work in progressing reconciliation. The Sorry Day event was also reviewed</p> <p>Actions/ Recommendations: There were no recommendations to Council arising from this meeting.</p> <p>13 July 2022 Meeting:</p>

ADVISORY COMMITTEES REPORT - APRIL - AUGUST 2022 cont'd

	<p>The Reconciliation Action Plan Advisory Committee met on 13 July 2022 online and in person. A report of this meeting is in Attachment 3.</p> <p>The Meeting was chaired by Maddie Miller, Cr Peter Dimarelos was in attendance and 13 committee members attended.</p> <p>The minutes and actions from the previous meeting were confirmed. The newly appointed First Nations Lead officer introduced herself. The Committee discussed future RAP Development and Banyule Place Names Celebrating First Nations Culture.</p> <p>Actions/ Recommendations: There were no recommendations to Council arising from this meeting.</p> <p>10 August 2022 Meeting: The Reconciliation Action Plan Advisory Committee met on 10 August 2022 online and in person. A report of this meeting is in Attachment 4.</p> <p>The Meeting was chaired by Cr Peter Dimarelos and 14 committee members attended.</p> <p>The minutes and actions from the previous meeting were confirmed. The Committee received a presentation from an officer from the Spatial & Property Systems team on the naming of new streets. An officer from the Property & Valuations team presented on Banyule's review of the Naming Policy. The Committee discussed the naming of Banyule's new Human Resource Information System and received an update from the Sub Working Group.</p> <p>Actions/ Recommendations: The RAP Advisory Committee recommended the development of a renaming proposal for Bolden Street Heidelberg.</p> <p>Officer Comment: Noted that a report will be submitted to Council following consideration and investigation of the renaming proposal for Bolden Street Heidelberg by Council's Property and Valuations Team.</p>
<p>3.</p>	<p>Report/Committee Name: Arts and Culture Advisory Committee</p> <p>The aim of the Arts and Culture Advisory Committee is to provide a formal mechanism for Council to consult with key stakeholders, seek specialist advice and enable community participation in the strategic development of arts, culture and heritage planning, policy and development.</p> <p>5 May 2022 Meeting: The Arts and Culture Advisory Committee met on 5 May 2022 online. A report of this meeting is in Attachment 5.</p> <p>Cr Peter Dimarelos chaired the meeting and fifteen committee members were in attendance.</p> <p>The Committee completed a tour of the Ivanhoe Library and Cultural Hub. The Committee discussed Arts and Culture Grants 2022 Assessment Panel and an EOI and selection for committee members to join a Grants Working Group, is to be completed by July 2022. The Committee received an update on the Arts & Culture Strategic Plan and also discussed upcoming Arts events.</p> <p>Actions/ Recommendations: There were no recommendations to Council arising from this meeting.</p>
<p>4.</p>	<p>Report/Committee Name: Banyule Environment and Climate Action Advisory Committee</p>

ADVISORY COMMITTEES REPORT - APRIL - AUGUST 2022 cont'd

	<p>The aim of the Banyule Environment & Climate Action Advisory Committee is to provide feedback and advice to Council to support its work in developing and implementing long term environmental policy, goals strategies, and in commenting on the achievement of these.</p> <p>9 June 2022 Meeting: The Banyule Environment & Climate Action Advisory Committee met online 9 June. A report of this meeting is in Attachment 6.</p> <p>Cr Alida McKern chaired the meeting and Cr Peter Castaldo and Cr Tom Melican were in attendance. There were 14 committee members in attendance.</p> <p>The Committee discussed the Hurstbridge Rail Feasibility Study, the No Local Extinction Plan, Banyule Refuge Centres and the BCEG Energy Expo. The Committee also received a councillor update and were briefed on the following council reports: Yarra Strategic Plan, Ivanhoe Aquatic Centre Redevelopment Stage 2, and Elevating ESD Targets Stage 2.</p> <p>Actions/ Recommendations: It is noted that a recommendation from the Committee was made as follows: BECAAC recommends that any further investigation and new works regarding the Hurstbridge Line prioritises habitat, biodiversity and its value as a wildlife corridor.</p> <p>Officer Comment: Noted and recommendation has been provided to Transport Planning for consideration in future planning.</p>
5.	Report/Committee Name: Multicultural Committee
	<p>The aim of the Multicultural Committee is to provide Council with advice and information on the evolving context of multiculturalism, and on inclusion, access, equity and human rights issues, barriers and challenges facing, the opportunities available to, and the aspirations of, multicultural communities in Banyule.</p> <p>25 May 2022 Meeting: The Multicultural Committee met on 25 May 2022 online. A report of this meeting is in Attachment 7.</p> <p>Cr Fiona Mitsinikos chaired the meeting and 10 committee members attended.</p> <p>The Multicultural Data Report was tabled with the Committee. The Committee discussed consultation opportunities, Calendar of Significant Days, Refugee Week and received Council updates regarding vaccine mandates and the Women's Only Swim Night event.</p> <p>Actions/ Recommendations: The were no recommendations arising from this meeting.</p> <p>17 August 2022 Meeting: The Multicultural Committee met on 17 August 2022 online. A report of this meeting is in Attachment 8.</p> <p>Cr Fiona Mitsinikos chaired the meeting and nine committee members attended.</p> <p>The Committee discussed Banyule Waste Services Changes (FOGO), Inclusive Banyule endorsement and action plan, Collaborative Projects, the Advisory Committee Review, Inclusive Banyule Grants, Banyule Community Grants, Banyule Monthly Equipment Grants and Grants to support isolated and disadvantaged people at Christmas. The Committee also received an update on the Banyule Youth Summit Report Card, Inclusive Employment Program, and Census Data.</p> <p>Actions/ Recommendations: The were no recommendations arising from this meeting.</p>

ADVISORY COMMITTEES REPORT - APRIL - AUGUST 2022 cont'd

6.	Report/Committee Name: Banyule Disability and Inclusion Committee
	<p>The aim of the Disability and Inclusion Committee is to provide Council with disability, inclusion, access, equity and human rights advice and information on the evolving context of disability, and on the issues, barriers and challenges facing, the opportunities available to, and the aspirations of, people with disabilities in Banyule.</p> <p>27 April 2022 Meeting: The Disability and Inclusion Committee met on 27 April 2022 online and in person. A report of this meeting is in Attachment 9.</p> <p>Cr Rick Garotti and Cr Alison Champion chaired the meeting and 14 committee members attended.</p> <p>The Committee discussed the Population Plans Achievement Report, the National and Victorian State Disability Plan, Inclusive Banyule, AAA Sport and Recreation Grant and Program and the Inclusive Banyule Grant Program. The Committee received stakeholder updates from Merri Health - Carer Gateway Program, North East Citizen Advocacy Service, Araluen Strategic Planning.</p> <p>Actions/ Recommendations: The were no recommendations arising from this meeting.</p> <p>24 August 2022: The Disability and Inclusion Committee met on 24 August 2022 online and in person. A report of this meeting is in Attachment 10.</p> <p>Cr Rick Garotti chaired the meeting and 16 committee members attended.</p> <p>The Committee received a presentation on the Inclusion@Sport program by an officer from the Sport and Recreation Team. The Committee also received a presentation and were consulted about the East Ivanhoe Streetscape by an officer from the Strategic Planning and Urban Design Team. The Committee discussed Inclusive Banyule and the Year 1 Action Plan, the Collaborative Integrated Committee projects, Advisory Committee Review Recommendations and Inclusive Banyule projects. The Committee were provided with updates regarding the Inclusive Employment Program, Youth Report Card and Release of Census Data.</p> <p>Actions/ Recommendations: The were no recommendations arising from this meeting.</p>
8.	Report/Committee Name: LGBTIQ+ Advisory Committee
	<p>The aim of the LGBTIQ+ Committee is to provide Council with advice and information on inclusion, access and equity issues facing the LGBTIQ+ community, and on the implementation and review of Council's LGBTIQ+ Plan.</p> <p>21 April 2022 Meeting: The LGBTIQ+ Committee met on 21 April 2022 online. A report of this meeting is in Attachment 11.</p> <p>Cr Peter Castaldo chaired the meeting and Cr Alison Champion was in attendance. There were 11 committee members in attendance.</p> <p>The Committee were advised of the Social Infrastructure Framework which was open for comment on Shaping Banyule and Inclusive Banyule which was out for public consultation on Shaping Banyule from 10 May 2022. The Committee were asked to review the Achievements Report of the Inclusion, Access and Equity Framework 2017-2021 and provide feedback on LGBTIQ+ achievements. The Committee were briefed about the IDAHOBIT event scheduled for 17 May 2022.</p> <p>Actions/ Recommendations: There were no recommendations to Council arising from this meeting.</p>

ADVISORY COMMITTEES REPORT - APRIL - AUGUST 2022 cont'd

	<p>18 August 2022 Meeting: The LGBTIQ+ Committee met on 18 August 2022 online. A report of this meeting is in Attachment 12.</p> <p>Cr Peter Castaldo chaired the meeting and Cr Alison Champion was in attendance. There were 12 committee members in attendance.</p> <p>The Committee received an update about Inclusive Banyule 2022-26 and integrated action plan, Qwere Street event planning, Days of Significance Survey and next steps, Viewbank Tennis Club LGBTIQ+ Open Day, Yarra Civic Flag Policy and Diversity Council of Australia membership.</p> <p>The Committee received a presentation from an officer from Banyule Community Health Service Inclusive and Diversity Team. The Committee discussed the Advisory Committee Review Process and LGBTIQ+ supports for children in Banyule.</p> <p>Actions/ Recommendations: The Committee makes a recommendation to Banyule City Council to undertake a feasibility study on the establishment of a memorial to the LGBTIQ+ community lost to discrimination and to involve the LGBTIQ+ Committee in establishing the scope of the study.</p> <p>Officer Comment: Council officers will undertake a feasibility study on the establishment of a memorial to the LGBTIQ+ community lost to discrimination and provide a report to Council on the feasibility study findings.</p>
9.	Report/Committee Name: Age Friendly Committee
	<p>The aim of the Age-Friendly City Committee is to provide Council with advice on older adult issues and ageing well in Banyule. The Age-friendly Committee will oversee the relevant strategic plan and Council's involvement in the World Health Organisation's Global Network of Age-friendly Cities.</p> <p>23 June 2022 Meeting: The Age-Friendly City Committee met on 23 June 2022 online. A report of this meeting is in Attachment 13.</p> <p>Cr Tom Melican chaired the meeting and seven committee members attended.</p> <p>The Committee were provided with an update regarding the Aged Services structure, Age-Friendly projects programs and partnerships. The Committee received a presentation regarding Inclusive Banyule. A transport report was shared with the Committee on behalf of the Transport Planning team.</p> <p>Actions/ Recommendations: There were no recommendations to Council arising from this meeting.</p>
10.	Disability and Inclusion, LGBTIQ+ and Multicultural Committee Meeting (Combined Meeting)
	<p>A combined meeting was held with members of the Disability and Inclusion, LGBTIQ+ and Multicultural Committees on 22 June 2022 in person and online. A report of this meeting is in Attachment 14.</p> <p>The meeting was chaired by Cr Alison Champion and Cr Rick Garotti and Cr Fiona Mitsinikos were in attendance. The meeting was attended by 29 members from these three committees.</p>

ADVISORY COMMITTEES REPORT - APRIL - AUGUST 2022 cont'd

	<p>A recap of Inclusive Banyule and data from the Inclusive Banyule consultation was presented. The Draft Inclusive Banyule Action Plan was discussed. Committee members considered and voted on collaborative projects they would like to be involved in.</p> <p>Actions/ Recommendations: There were no recommendations to Council arising from this meeting.</p>
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SUPPORTING REPORT DETAILS

Legal Consideration

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

Human Rights Charter

- The Advisory Committees Report and the Committees themselves directly address the *Victorian Charter of Human Rights and Responsibilities 2008*. The Committees provide important linkages between Council, Community, State agencies and interest groups and their existence ensures equalities and inclusion are at the heart of everything that Council does, from daily operations through to collaborative relationships.
- This report relates to the following human rights and responsibilities:
 - Section 8 - The right to recognition and equality before the law.
 - Section 10 - The right to protection from torture and cruel, inhuman or degrading treatment.
 - Section 14 - The right to freedom of thought, conscience, religion and belief.
 - Section 19 - Cultural rights, including Aboriginal cultural rights.
- 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 Act 2006*.

Sustainable Procurement Outcomes

- There are no sustainable procurement activities arising from the recommendation contained in this report.

Financial Implications

- There are no direct financial implications arising from the recommendations contained in this report.

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

ADVISORY COMMITTEES REPORT - APRIL - AUGUST 2022 cont'd

ATTACHMENTS

No.	Title	Page
1	Minutes - Inclusive Banyule Advisory Committee - 30 June 2022	
2	Minutes - Reconciliation Action Plan (RAP) Advisory Committee Meeting - 8 June 2022	
3	Minutes - Reconciliation Action Plan (RAP) Advisory Committee Meeting - 13 July 2022.	
4	Minutes - Reconciliation Action Plan (RAP) Advisory Committee Meeting - 10 August 2022	
5	Minutes - Banyule Arts and Cultural Advisory Committee - BACAC - 5 May 2022	
6	Minutes - Banyule Environment and Climate Action Advisory Committee (BECAAC) - 9 June 2022	
7	Minutes - Multicultural Committee Meeting - 25 May 2022	
8	Minutes - Multicultural Committee -17 August 2022	
9	Minutes - Banyule Disability and Inclusion Advisory Committee - 27 April 2022	
10	Minutes - Banyule Disability and Inclusion Advisory Committee (BDIAC) - 24 August 2022	
11	Minutes - LGBTIQ+ Advisory Committee - 21 April 2022	
12	Minutes - LGBTIQ+ Advisory Committee - 18 August 2022	
13	Minutes - Age Friendly Committee Meeting - 23 June 2022	
14	Minutes - Banyule Disability and Inclusion Committee - LGBTIQ+ Advisory Committee - Multicultural Committee Meeting - 22 June 2022	

5.1 **44 & 72 TURNHAM AVENUE, ROSANNA - SUPERMARKET AND ROSANNA LIBRARY DEVELOPMENT (P1260/2015)**

Author: Jonathan Atkinson - Development Planning Team Leader, City Development

Ward: Ibbott

SUMMARY

- The proposal is to seek an amendment to the current planning permit for the development of a new supermarket adjacent to the proposed new Rosanna Library building.
- The current library is proposed to be demolished, with a new facility offering triple the floorspace to cater for various community needs, including maternal child health. The supermarket building would remain within the approved footprint on the southern part of the site, whilst extending further north to provide additional floorspace.
- The proposal includes removal a further 27 trees, including three high retention trees, and would expand on-site parking to 126 spaces to be shared by library users and shoppers.
- Two community drop-in sessions were held during the public notification period. 110 objections have been received at the time of report writing and concerns regarding traffic, parking, loss of vegetation, built form and the relationship between a council building and a commercial building have been raised.
- The redevelopment of the library enables the provision of social and physical infrastructure to support growing community needs. The proposal is designed for its accessible setting with an opportunity to revitalise Turnham Avenue through the design of a new streetscape plan to be finalised prior to commencement of development.
- The application should be supported subject to amended conditions, including conditions sought to be amended by the applicant and other new conditions appropriate to the amended proposal (see attachment).

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. P1260/2015 for use and development of the land for a supermarket and associated car parking, use of the land for car parking associated with a library, liquor licence (packaged liquor), reduction in parking, removal of native and other vegetation, display advertising signage and removal of easements subject to the following amendments:

1. Amend the permit preamble to include:

44 & 72 TURNHAM AVENUE, ROSANNA - SUPERMARKET AND ROSANNA LIBRARY DEVELOPMENT (P1260/2015) cont'd

- Use of the land for car parking associated with a library
 - Display advertising signage
 - Removal of easements
2. Delete Conditions 1(a), (i), (n), (o)
 3. Amend/re-number Conditions 1(b), (c), (d), (f), (g), (h), (k), (p), (q), 3 - 29
 4. Include new Conditions 1(m), (n), (o), (p), (q), (r), (s), (t), 3, 4, 5, 6, 7, 8, 9, 10(e), 13, 16, 17, 24, 38, 39 and 40

Condition 1(m)

Design to demonstrate that appropriate external shading has been provided consistently across the development to manage occupant thermal comfort. The following areas must be addressed to the satisfaction of the Responsible Authority:

- i. East facing "The Arch" glazing to Ground and to Level 1, and Level 2 glazing of the library to be provided with appropriate external shading to manage direct solar exposure and improve occupant comfort;
- ii. West facing glazing to Level 2 of the library to be provided with appropriate external shading to manage direct solar exposure and improve occupant comfort;
- iii. West facing glazing to the Woolworths shop front to appropriately manage afternoon sun;

Condition 1(n)

Additional planters to the east edge of the library terrace to provide natural screening;

Condition 1(o)

An amended Sustainability Management Plan in accordance with Condition 3 of this permit;

Condition 1(p)

An Environmentally Sustainable Development (ESD) Drawing in accordance with Condition 4 of this permit;

Condition 1(q)

A Water Sensitive Urban Design (WSUD) Drawing in accordance with Condition 5 of this permit;

Condition 1(r)

The location of the asset within the E-3 easement as identified in a level B drain survey;

Condition 1(s)

All changes so that buildings are setback from the edge of the E-3 asset identified through the level B drain survey to the satisfaction of Melbourne Water or otherwise agreed in writing and to the satisfaction of Melbourne Water. The setback required from the edge of the E-3 asset must take into account opportunity to access the asset in easements in favour of Melbourne Water to the east of the asset.

Condition 1(t)

44 & 72 TURNHAM AVENUE, ROSANNA - SUPERMARKET AND ROSANNA LIBRARY DEVELOPMENT (P1260/2015) cont'd

The location of Trees #19, #20, #21 and #22 in accordance with the original arboricultural construction impact assessment prepared by Greenwood Consulting Pty Ltd dated 22 March 2016.

Condition 3

Sustainability Management Plan (SMP)

Before the development permitted by this permit commences, an amended Sustainable Management Plan (SMP) must be submitted to and approved by the Responsible Authority. The SMP must be prepared by a suitably qualified environmental engineer or environmental consultant. The plan must be generally in accordance with the SMP prepared by Sustainable Design Consultants dated 07/07/2022 but modified to include:

- (a) A preliminary Energy Assessment Report, as per Green Star requirements for Credit 22, to demonstrate that the building's expected energy use is reduced by at least 10% compared to a reference building (30% for the Library);
- (b) An airtightness target and an airtightness test result of less than 5 m³/(hr m²) @ 50 Pa, with airtightness testing to be undertaken as proposed in Green Star Buildings V1.B Credit 3 following the commissioning process at the stages outlined including Schematic design, Design Development, Pre-Construction and Construction;
- (c) Details of the proposed all electric heating and cooling systems and minimum efficiency to be provided;
- (d) Details of the proposed all electric heating systems and minimum efficiency to be provided;
- (e) Charging capacity of EV charging infrastructure, to support a minimum Level 2, 7 kW (240V, 32A, single phase) car charging at each port;
- (f) Charging capacity of EV 'future installation' infrastructure and required electrical infrastructure (switchboards and cabling) to support a minimum Level 2, 7 kW (240V, 32A, single phase) car charging at each port;
- (g) Details confirming that the design of the End of Trip Facilities is integrated to allow for easy access to parking, lockers and changing to meet the credit requirements of Credit 27 of the Green Star guidelines, to the satisfaction of the Responsible Authority;
- (h) A Maintenance Schedule for the green walls to be developed and provided to the building operator at practical completion;

Condition 4

Environmentally Sustainable Development (ESD) Drawing

Before the development permitted by this permit commences, a set of Environmentally Sustainable Development (ESD) Drawings must be submitted to and approved by the Responsible Authority. The ESD Drawings must include all features nominated within the associated SMP prepared by Sustainable Design Consultants dated 07/07/2022 identified under Condition 3 to achieve a Green Star Buildings V1.B minimum 4 star rating to represent "Best Practice" design. This should include as a minimum, a drawing for each representative level of the

44 & 72 TURNHAM AVENUE, ROSANNA - SUPERMARKET AND ROSANNA LIBRARY DEVELOPMENT (P1260/2015) cont'd

proposed development. When approved the assessments and plans will be endorsed and form part of the permit.

Condition 5

Water Sensitive Urban Design (WSUD) Drawing

Before the development permitted by this permit commences, a Water Sensitive Urban Design (WSUD) Drawing must be submitted to and approved by the Responsible Authority. The WSUD Drawing must include:

- (a) All features nominated within the associated SMP and MUSIC Report identified under Condition 3, as follows:
 - i. The location and storage volume (Litres) of rainwater storage tank(s), pumps and connections to end-uses, such as toilets and laundry, as claimed;
 - ii. A roof plan demonstrating the portion of the roof diverted into the rainwater treatment/storage device;
 - iii. The location, area (m²) and sectional details of raingardens proposed for use in the stormwater drainage system. NB. Where in-ground raingardens or buffer strips are proposed, the grade of driveway must demonstrate that sufficient fall exists to connect to the device/s;
 - iv. The location and type of other proprietary devices employed to improve the quality or reduce the loads of stormwater run-off from the site;
- (b) A Maintenance Schedule for stormwater treatment devices such as rainwater tanks, toilet connections and raingardens, including responsibility, key serviceable components and frequency of maintenance;
- (c) A MUSIC model and report demonstrating that minimum pollutant load reductions are met;

When approved the assessments and plans will be endorsed and form part of the permit.

Condition 6

ESD Inspections

Pre-build

Prior to commencement of work, a site meeting is to be held with the council's ESD Adviser, ESD Consultant and Head Contractor to discuss the ESD features that must be adhered to on the subject site to achieve the Green Star Buildings V1.B minimum 4 Star rating to represent "Best Practice" design as awarded by the Green Building Council of Australia.

Condition 7

Mid-build

Prior to the 'lock-up' stage (prior to internal wall and ceiling finishes being applied), the builder/project manager must contact the Responsible Authority to organise at least one mid-build ESD inspection and implementation discussion on-site with the council's ESD Adviser.

Condition 8

44 & 72 TURNHAM AVENUE, ROSANNA - SUPERMARKET AND ROSANNA LIBRARY DEVELOPMENT (P1260/2015) cont'd

Final inspection

Prior to the issue of Statement of Compliance or Occupation (whichever comes first), the builder/project manager must notify Council's Development Planning section that the development is complete to allow for an inspection of ESD features as shown on the endorsed documents. Council will visit the site to inspect or require suitable evidence to be provided, to ensure ESD features have been installed, to the satisfaction of the Responsible Authority.

Condition 9

ESD Certification

Prior to the issue of Statement of Compliance or Occupation (whichever comes first), a report from the author of the Sustainable Management Plan (SMP) or a suitably qualified person must be provided to the satisfaction of the Responsible Authority. This report must confirm that all ESD features have been implemented in the development as approved.

This report must at a minimum include the following:

- (a) Photographic evidence of each ESD features;
- (b) Invoices/receipts and product specifications evidencing the energy ratings of appliances as claimed in the SMP;
- (c) Invoices/receipts and product specifications evidencing the Water WELS ratings of fixtures and appliances as claimed in the SMP;
- (d) Invoices/receipts and product specifications evidencing the R-Values of all building fabric insulation used on the project;
- (e) Product specifications evidencing the U-Values and SHGCs of windows, glazed doors and skylights as claimed in the approved NatHERS Energy Report or Section J Energy Efficiency Report to address the NCC;
- (f) Specifications demonstrating materials properties of low toxic and/or sustainably sourced materials (if applicable);

Condition 10(e)

A signage and line marking plan for all parking areas.

Condition 13

Level B Drain Survey

Prior to the endorsement of plans under Condition 1, a level B drain survey must be prepared and submitted to the satisfaction of Melbourne Water demonstrating the location of the assets within the E-3 easement on plan of subdivision PS703973P.

Condition 15

Construction Management Plan

Before the development starts, a Construction Management Plan must be submitted to the satisfaction of the Responsible Authority. Once approved, the plan must be implemented to the satisfaction of the Responsible Authority. Unless otherwise agreed in writing the plan is to be consistent with the City of Banyule General Local Law No. 1, particularly in relation to:

- a. Containment of building sites

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- b. Dust control
- c. Building site refuse
- d. Building works hours
- e. Construction, use and maintenance of vehicle crossings
- f. Occupation of, and obstructions on, roads and Council land
- g. Spoil on roads
- h. Unsightly land

Condition 16

Waste Management Plan

The Waste Management Plan (prepared by Ratio Consultants dated 5 July 2022) endorsed as part of this permit must be adhered to by the owner(s) and operator(s) of the development at all times unless otherwise approved in writing by the Responsible Authority.

Condition 23

Development Infrastructure Levy

Prior to the commencement of development, the permit holder must pay to Banyule City Council a development infrastructure levy in accordance with the amount specified in Table 6 of the *Banyule Development Contributions Plan 2016-17, September 2018*. The contribution amount payable in the table will be adjusted annually from 1 July 2017, each year to cover inflation, by applying the Consumer Price Index for Melbourne (All Groups) as published by the Australian Bureau of Statistics.

Condition 37

Tree Protection/Management Plan

Before the development permitted by this permit commences, a Tree Protection & Management Plan (TPMP) must be submitted to and approved by the Responsible Authority. The TPMP must be prepared by a suitably qualified arborist, including:

- (a) The management and maintenance of Trees 23, 24, 25, 26, 28, 29, 30, 31, 32, 45, 46, 47, 48, 49, 50, 51, 52, 53, 76, 79, 80, 81, 82, 83 and 84.
- (b) A management regime for all trees during the demolition, construction and post construction phases of the development must cite, include and consider all Tree Protection measures condition as part of planning permit P1260/2015.
- (c) A tree protection plan drawn to scale.
- (d) All tree protection zones and structural root zones to be indicated on the plan.
- (e) The design modifications and specific construction techniques set out in the Arborist Report by **Xylem Tree Care, March 2022**.
- (f) The types of footings used within tree protection zones which must also be indicated on the plans.
- (g) Details of how root systems of the trees to be impacted will be managed. This must detail any initial non-destructive trenching (if required) requirements

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regarding all excavations within TPZ's and pruning of any roots required which must be undertaken by the project arborist.

- (h) The location/design of tree protection fencing for retained trees, mulching/watering requirements and TPZ areas where ground protection systems will be used.
- (i) Tree removal methods for approved vegetation.
- (j) All remedial pruning works that are required to be performed. Details of the pruning must reference Australian Standard AS4373-2007 *Pruning of Amenity Trees* and include a detailed photographic diagram specifying what pruning will occur. Any proposed pruning must also consider any scaffolding requirements for construction of dwellings/units, all tree pruning must then be carried out by a suitably qualified Arborist (AQF Level 3, minimum) 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.
- (k) Details regarding site access by vehicles, machinery, and storage of any related building materials in relation to the TPZ of retained trees.
- (l) Details and location of all underground services in relation to the TPZ of retained trees. Plans must include notations that state all services will either be located outside TPZ's or bored under the tree protection zone unless written approval is received from the Responsible Authority.
- (m) Supervision timetable and certification (sign off sheet) of all tree management activities undertaken by the project Arborist to the satisfaction of the Responsible Authority.
- (n) Written confirmation from the project Arborist that the tree management works undertaken are satisfactory and are in accordance with the approved Tree Protection and Management Plan must be submitted to the Responsible Authority to its satisfaction.

Condition 38

Tree Protection

Unless otherwise agreed in writing by the responsible authority, prior to the commencement of building or demolition works on the land, a Tree Protection Zone (TPZ) must be established and maintained during and until completion of all buildings and works including landscaping, around all trees shown to be retained on endorsed plans, including Trees 23, 24, 25, 26, 28, 29, 30, 31, 32, 45, 46, 47, 48, 49, 50, 51, 52, 53, 76, 79, 80, 81, 82, 83 and 84 to the satisfaction of the Responsible Authority.

At least 14 days prior to commencement of works, you must submit a 'Statement of Compliance' (from a suitably qualified Arborist – AQF Level 5) which must include photographic evidence of the installed TPZ requirements. Submission must be made to enquiries@banyule.vic.gov.au referencing the address and planning permit number.

Tree protection zone measures are to be established in accordance with Australian Standard 4970-2009 as calculated within the arborist report submitted with the application authored by **Xylem Tree Care, March 2022**.

- (a) Tree protection zone measures are to be established in accordance with Australian Standard 4970-2009 and including the following:

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- i Erection of solid chain mesh or similar type fencing at a minimum height of 1.8 metres held in place with concrete feet.
 - ii Signage placed around the outer edge of perimeter fencing identifying the area as a TPZ. The signage should be visible from within the development, with the lettering complying with AS 1319-1994.
 - iii Mulch across the surface of the TPZ to a depth of 100mm and undertake supplementary watering in summer months as required.
 - iv No excavation, construction works or activities, grade changes, surface treatments or storage of materials of any kind are permitted within the TPZ unless otherwise approved within this permit or further approved in writing by the Responsible Authority.
 - v All supports, and bracing should be outside the TPZ and any excavation for supports, or bracing should avoid damaging roots where possible.
 - vi No trenching is allowed within the TPZ for the installation of utility services unless tree sensitive installation methods such as boring have been approved by the Responsible Authority.
 - vii Where construction is approved within the TPZ, fencing and mulching should be placed at the outer point of the construction area.
 - viii Where there are approved works within the TPZ, fencing and mulching should be placed at the outer point of the construction area.
 - ix Where there are approved works within the 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.
 - x For street trees, protection must be to the extent of the entire nature strip where the Calculated Tree Protection Zone (TPZ) occurs (not obstructing a footpath or cross-over).
 - xi For neighbouring trees, protection must be to the extent of the calculated Tree Protection Zone (TPZ) where it occurs within the subject Land.
 - xii Ground protection must be laid down where access is required through a TPZ outside the fenced area detailed in (a). It must consist of a permeable membrane beneath a layer of mulch or crushed rock with rumble boards on top. Rumble boards should be a suitable thickness to prevent soil compaction and root damage. Ground protection must only be removed once all buildings and works have been completed.
 - xiii Once installed a TPZ must be maintained until the conclusion of all works on site, including landscaping to the satisfaction of the responsible authority.
- (b) During the construction of any buildings or works, the following tree protection requirements must be carried out to the satisfaction of the responsible authority.
- i. A suitably qualified project Arborist (AQF Level 5) must ensure that any pruning, root severance or buildings and works within a TPZ does not adversely impact the health and stability of any retained tree now or into the future.
 - ii. Any tree pruning is to conform to AS4373-2007 Pruning of Amenity Trees, all work is to be performed by a suitably qualified Arborist (AQF Level 3, minimum) and must be restricted to the removal of no greater

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than 15% of the total live canopy of individual trees unless otherwise agreed in writing by the Responsible Authority.

- iii. Any root severance within a TPZ must be undertaken by a suitably qualified Arborist (AQF Level 3, minimum) in accordance with the Australian Standard AS4373-2007 *Pruning of Amenity Trees*, using sterilised, specialised tree root pruning equipment. There must be no root pruning within the SRZ of any tree. There must be no works undertaken within the TPZ other than those endorsed by the Responsible Authority.
- iv. The project arborist, site manager and builders must ensure that all conditions relating to Tree Protection Measures are being adhered to throughout the entire building process, including site demolition, levelling, and landscape works.

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.

Fencing

- (d) Protective fencing must consist of chain wire mesh panels held in place with concrete feet. Fencing must comply with Australian Standard AS4687-2007 Temporary fencing and hoardings. The fences must not be removed or relocated without the prior consent of the Responsible Authority. Canopy and Limb protection must be provided in accordance with the guidelines detailed in AS4970-2009 Protection of Trees on Development sites.

Signage

- (e) 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 1 litre of clean water for every 1 cm of trunk girth measured at the soil / trunk interface on a weekly basis.

Access to Tree Preservation Zone

- (g) No persons, vehicles or machinery are to enter the Vegetation 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 Vegetation 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 Vegetation Preservation Zone.
- (j) Nothing whatsoever, including temporary services wires, nails, screws or any other fixing device, is to be attached to any tree.

Condition 39

Signs Not Altered

The location and details of the sign(s) shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.

- 5. Amended plans including:
 - o Increase of the supermarket building footprint by 624m²

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- Reduction of the supermarket building height and changes to materials and finishes
- New three storey library building, including shared basement parking below
- Addition of advertising and identification signs to both buildings
- Provision of 126 car spaces across the entire site
- Removal of an additional 27 trees, including four which need a permit

PROPOSAL

Planning Permit Application:	P1260/2015
Development Planner:	Jonathan Atkinson
Address:	44 and 72 Turnham Avenue ROSANNA, and Melbourne Water land known as Reserve 1, Plan of Subdivision 9924 abutting the subject land
Proposal (new permit preamble):	Use and development of the land for a supermarket and associated car parking, use of the land for car parking associated with a library, liquor licence (packaged liquor), reduction in parking, removal of native and other vegetation, display advertising signage and removal of easements
Existing Use/Development:	Office and library
Applicant:	Urbis Pty Ltd
Zoning:	Commercial 1 Zone (C1Z) Mixed Use Zone (MUZ) Public Use Zone (PUZ6)
Overlays:	Vegetation Protection Overlay – Schedule 5 Development Contributions Plan Overlay – Schedule 1
Notification (Advertising):	Four signs on-site and notices to surrounding properties and past objectors (where possible)
Objections Received:	110
Ward:	lbbott

- An application has been lodged on behalf of Fabcot Pty Ltd to amend the buildings and works and the use of land allowed under Permit P1260/2015. The

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existing permit allows the use and development of a Woolworths supermarket and BWS bottle shop to the south of the existing Rosanna Library. It is now proposed to increase the area of the supermarket and to construct a new library with community facilities. The table below provides a summary of project details:

	Existing approval	Proposed approval
Supermarket floor area	2,845m ²	3,469m ²
Supermarket height	16.1m	14.45m, average height around 10m
Bottle shop	135m ²	142m ²
Library	No change	New library building proposed (permit not required) Car parking associated with a library not on land in a Public Use Zone
Car parking	86 car spaces	126 car spaces + 4 direct-to-boot pick up bays
Bicycle parking	4 spaces	59 spaces
Loading and access	Rear access via Douglas St. Left turn exit only. Loading bay to be acoustically treated.	Unchanged
Vegetation removal	Remove 24 trees 8 require a permit	Remove 51 trees 12 require a permit
Signs	Not considered	Internally illuminated, floodlit and business identification signs including: <ul style="list-style-type: none"> • New sign on west elevation for library • Woolworths and BWS logos on west elevation (internally-illuminated)
Hours of operation	Supermarket: 7am-12am daily Packaged liquor: 9am-10pm daily	Supermarket: 7am-12am daily Packaged liquor: 9am-10pm daily

Supermarket

- It is proposed to expand the ground floor of the supermarket to the north of the approved building footprint and re-locate the bottle shop to Turnham Avenue, with entry via the supermarket. No external modifications are proposed to the upper level which would still include stock, plant and staff amenities and offices.
- Materials and finishes are proposed to be amended to include some features utilised for the library, such as brown brick and vertical cladding. Business identification signs are also proposed to the Turnham Avenue façade.

Car parking

- The basement car park will be extended under the new library building to provide new parking for both land uses. The existing open-air car park adjacent to Douglas Street will be slightly modified to include bicycle parking. New grocery pick bays are proposed and the total number of parking spaces across the site will be increased.

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Vegetation

- It is proposed to remove an additional 27 trees, mostly from the existing library site. Of these, four require a permit for removal under the native vegetation provisions and one requires a permit under the Vegetation Protection Overlay.

Signs

- Approval is sought to display numerous signs throughout the development, including identification signs facing Turnham Avenue – see Attachment 4 for proposed signs.

Easement removal

- The proposal includes the removal of easements E-1, E-2, E-12, E-16 and E-17. These are either in favour of Council and/or Yarra Valley Water and it is submitted that these easements would have formally required removal to facilitate the approved development. No Melbourne Water easements are proposed for removal.

Elements not requiring a planning permit

- For context, in addition to the elements that require a planning permit described above the overall development of the site will include a new library and community building as follows:
 - A new three storey community building is proposed near the location of the existing library. The entry is positioned to face towards the corner of Turnham Avenue and Douglas Street and wrap around an open forecourt area designed to maximise the retention of mature trees near the north-west corner of the site. The design incorporates materials such as brown brick and glazing which will match parts of the supermarket building and provide a complimentary future streetscape. It also includes design features such as planters and arches to reflect elements of the existing library.
 - It is expected the new building will incorporate library programs and facilities and also include maternal child health services, through the provision of additional space to support growing community needs.

BACKGROUND

- A planning permit for development of a supermarket was issued by the Victorian Civil and Administrative Tribunal (the Tribunal) in March 2017 (Curry v Banyule CC [2017] VCAT 430). In its decision, the Tribunal considered several planning issues, including the appropriateness of the land use for a supermarket and bottle shop, parking and traffic impacts, vegetation removal and drainage concerns. In summary:

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- The subject site is a large parcel forming part of the Rosanna Neighbourhood Activity Centre and the zone supports the supermarket land use.
- A statutory parking reduction was supported through rigorous cross-examination of the calculated parking demand and traffic surveys (para. 187, 188).
- Sale of liquor to 10pm meets the purpose of Clause 52.27 – Licensed Premises and is appropriate for an activity centre (para. 93).
- Whilst the vegetation approved for removal provides landscape and habitat value, offsets can be accommodated and removal “can be expected to occur to allow development in accordance with zoning and policy that apply” (para. 155).
- Flood modelling was reviewed by Melbourne Water who did not raise issue with the proposal, noting most works were beyond the overland flow path (para. 139, 144).
- At the Ordinary meeting of Council on 12 April 2021, it was announced that Council had entered into a “Heads of Agreement” with Woolworths to engage in a partnership project to deliver a new Rosanna Library on the existing site. It was resolved to support a multi-stage Community Engagement Plan to inform and discuss the vision for the new library, including aspects of design, internal use, a new streetscape plan for Turnham Avenue and opportunities for improving the Heidelberg Theatre.
- Community consultation was undertaken between April - June 2021 as part of the engagement plan. Concept plans were presented to generate discussion on how the new library should look and feel. Additionally, key stakeholders, including Yarra Plenty Regional Library, were also consulted.
- An update on the Community Engagement Plan was presented at the Ordinary meeting of Council on 19 July 2021 and it was resolved to proceed the statutory processes to sell part of the existing library site. Notice of intention under Section 114 of the *Local Government Act 2020* to sell part of the Council land by private treaty was given and public submissions were received at the ordinary meeting of Council on 30 August 2021.
- At the ordinary meeting of Council on 20 September 2021, it was resolved to sell the agreed portion of land to Fabcot Pty Ltd (wholly owned subsidiary of Woolworths Limited) in order to facilitate:
 - A larger Woolworths supermarket;
 - A new library constructed to a ‘warm shell’ to agreed specifications and at an agreed construction cost; and
 - A basement carpark at the cost of Fabcot Pty Ltd to be shared with Council under a Carpark Management Agreement.

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- Work has also begun on a Turnham Avenue Streetscape Concept Design Plan to continue and improve on works conducted as part of the Lower Plenty Road level crossing removal. Since the completion of that project, a new concept plan prepared by Hansen Partnership dated 31 March 2021 was published proposing changes to kerb and channel, lane widths, pedestrian crossings, footpath treatment and a boulevard concept of street trees. An additional concept plan prepared by Urbis dated 22 March 2022 has been submitted to account for the proposed library and supermarket development.
- The streetscape plan is a critical piece of work, identified in the original planning permit assessment, to respond to the different projects and maintain connectivity between the east and west of the activity centre. As already set out in the original planning permit, a final streetscape plan must be prepared to the satisfaction of Council prior to redevelopment of the supermarket commencing.

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SUBJECT SITE AND SURROUNDING AREA

Site area	6,244m ² approx.
Topography	The subject site has an approximate fall of 2 metres from the south, south-west to the centre of the site and the south-eastern corner of the car park area.
Existing and Neighbouring Vegetation	<p>A total of 76 trees have been recorded within the subject site, predominantly located forward of the buildings near the Turnham Avenue and Douglas Street interfaces.</p> <p>An array of new native trees have been planted to the west of Turnham Avenue adjacent to the new Rosann Railway Station. There are a few small and medium trees within property frontages along Turnham Avenue, including the Heidelberg Theatre Company, and Douglas Street near the subject site.</p>
Existing Buildings/Car parks	<p>The Rosanna Library is located near the north-west corner of the subject site. It is a single storey brick and masonry building with an under-croft car park.</p> <p>The former Rosanna Service Centre office building is located towards the south end of the site. It is a part three storey, light grey rendered building.</p> <p>There are two car parking areas on site, one to the rear of the library accessed via Douglas Street and one forward of the former service centre accessed via Turnham Avenue. Landscaping is provided around the car parks.</p>
Site Context	The most significant change to the surrounding area since the grant of the original planning permit is the completion of the Lower Plenty Road level crossing removal and new Rosanna Railway Station. Some subsequent streetscape works have occurred on Turnham Avenue opposite the station including new pedestrian crossings, modified on-street parking bays and additional landscaping.
Easements	Multiple easements are within the subject site, including sewerage, drainage, gas supply and carriageway easements.

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Locality Plan



PUBLIC NOTIFICATION

<p>Advertising Period</p>	<ul style="list-style-type: none"> • 8 July – 26 July 2022
<p>Advertising methods</p>	<ul style="list-style-type: none"> • Four signs on site • Letters were sent to past objector parties (where possible) and abutting properties. • Notification to Melbourne Water on 8 June 2022
<p>Consultation</p>	<ul style="list-style-type: none"> • Two drop-in community information sessions were held at the Rosanna Bowls Club on Tuesday 12 July and Thursday 21 July 2022. • Discussions with Melbourne Water in relation to existing permit conditions and asset protection.
<p>Objections received</p>	<ul style="list-style-type: none"> • 110 objections and 3 submissions of support • Grounds of objection are: <ul style="list-style-type: none"> • Provision of a supermarket • Lack of architectural difference between the supermarket and library

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	<ul style="list-style-type: none">• Increased traffic, noise and pollution• Inadequate parking• Tree removal• Truck deliveries• Hours of operation• Overlooking from library terrace• Conflict of interest• Removal of easements• Illuminated signs
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REFERRAL COMMENTS

- The application was referred to various internal and external departments and agencies. A full summary of advice can be found at **Attachment 3** to this report. Key advice includes:
 - Proposed easement removal supported by Yarra Valley Water as a Section 55 referral (determining referral authority);
 - The proposal can achieve “Best Practice” Green Star certification through various sustainability measures;
 - Tree removal is supported on balance subject to native offsets and new streetscape planting;
 - Proposed parking and demand analysis demonstrates suitable on-site parking and acceptable traffic impacts; and
 - Individual waste collection arrangements for both uses is appropriate.

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PLANNING CONTROLS

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

Table 1: Applicable Planning Controls

Control	Clause	Permit already granted	New permission triggered (Library)	New permission triggered (Supermarket)
Mixed Use Zone (MUZ)	32.04	Yes – land use Yes – buildings and works	Yes (use of land for car parking associated with a library)	No – already granted
Commercial 1 Zone (C1Z)	34.01	No – land use Yes – buildings and works	Yes (use of land for car parking associated with a library)	No – already granted
Public Use Zone (PUZ6)	36.01	Yes – land use Yes – buildings and works associated with a supermarket	No – Permit not required for library (building, works and land use)	No – already granted
Vegetation Protection Overlay – Schedule 5 (VPO5)	42.02	Yes (Street Tree 2)	Overlay does not apply to this parcel	Overlay does not apply to this parcel
Development Contribution Plan Overlay (DCPO1)	45.06	N/A	N/A	Applies
Easements, Restrictions and Reserves	52.02	No	Yes	Yes
Signs	52.05	No	No	Yes
Car Parking	52.06	Yes	Yes	Yes
Native Vegetation	52.17	Yes	Yes	Yes
Licensed Premises	52.27	Yes	Yes	Yes

- As the table above identifies, the additional permit triggers include use of the commercial and mixed use land for parking associated with the library, supermarket signs, and removal of easements. It is noted the new library building does not require a permit within the Public Use Zone.

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POLICIES CONSIDERED

Table 2: Relevant Planning Scheme Policy

Policy	Clause
Planning Policy Framework (LPPF)	
Settlement	11
Environmental and Landscape Values	12
Environmental Risks and Amenity	13
Built Environment and Heritage	15
Economic Development	17
Infrastructure	19
Vision and Strategic Framework	21.02
Cultural Heritage	21.03
Built Environment (Diversity area)	21.06
Outdoor Advertising Policy	22.01
Safer Design Policy	22.03
Environmentally Sustainable Design	22.05

KEY ISSUES

- Land use
- Built form, urban design and streetscape
- Environmentally Sustainable Design
- Vegetation removal
- Car parking
- Objector concerns

TECHNICAL CONSIDERATION

Land use

- The overall use of the land (approved supermarket and existing library) is proposed to remain to provide the mix of commercial activity and community facilities sought by the zones and planning policy. Together, these uses support a self-sustaining Rosanna centre suitable for multi-purpose trips in a very accessible location.
- Permission has been granted through the existing permit for buildings and works and use of the Public Use Zone land (existing library site) in association with the supermarket. Thus, this is not a new permit requirement, rather a consideration as to whether the changes sought by the amendment are appropriate through the overall combination of zones and policies. It is also notable that although the zone does not prohibit consideration of the amended proposal, the proprietor will be required to undertake future re-zoning from Public Use Zone to the Commercial 1 Zone for the relevant portion of land. This is a requirement in the Contract of Sale and a normal process for any land that moves out of public ownership.
- New permission is sought to use proposed car parking in the Commercial 1 Zone land in association with the library (Section 2 use) as the project does not segregate parking access. Car parking issues are discussed later in this report, however the outcome is acceptable and would be managed through a Carpark

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Management Agreement between the proprietor and Council. The new library building itself does not trigger a planning permit as it is within the Public Use Zone.

- It is noted that various permit conditions responding to amenity considerations continue to apply (and will apply to the modified supermarket footprint), including acoustic treatments to the eastern and southern boundaries and access and parking restrictions, including delivery and waste vehicles.

Built form, urban design and streetscape

Supermarket

- The revised supermarket design extends an additional 20 metres along the Turnham Avenue boundary and has a street wall height between 7 – 9.25 metres. The new design sits lower in the street than the previous design and the overall building height that extends further east into the site has also been reduced. The façade incorporates a mix of glazing, brown brick and pre-cast concrete panels which reflect existing materials within the streetscape and suit a commercial premises.
- The amended application seeks permission for various identification and direction signs for both the supermarket and library. The most prominent of these are three internally illuminated signs identifying 'Woolworths' and 'BWS' above the awning along the Turnham Avenue elevation. Three additional logo signs are also proposed to be visible when travelling north/south along Turnham Avenue. Other signs are internal to the site and have limited visibility from the public realm. Altogether, the signs are suitable for a commercial premises and will not clutter the façade.
- Various aspects of the original proposal would remain unchanged including the main entry off Turnham Avenue, location of loading and waste facilities, and access to the basement car park via Douglas Street, including a requirement for a 'left-only' turnout from the car park.

Streetscape

- A Landscape Concept Plan has been submitted to explore opportunities for new tree planting and other treatments along Douglas Street and Turnham Avenue abutting the subject site. The plan demonstrates 14 new trees to be provided to complement the nine trees retained in the library forecourt and other retained trees around the open car park, including a substantial English Oak tree. A final landscape plan will need to be consistent with the final Turnham Avenue Streetscape Design Plan which is yet to be finalised and this is to be maintained as a condition on any permit issued. As noted in the original Council report and the Tribunal decision, there is scope for new planting in the public realm to contribute to the landscape.

Environmentally Sustainable Design

- The amended proposal has been designed to meet the objectives of the policy framework, including Clause 22.05 – Environmentally Sustainable Development. Due to the significance of the project, it is proposed to achieve a "Best Practice" Green Star certification, with a particular focus on a future library building delivering net zero carbon emissions in operations.

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- A breakdown of key initiatives is provided in the table below.

• Library	• Supermarket
• 40kW solar PV system	• 99kW solar PV system
• 10kL rainwater tank capacity with connections to toilets and irrigation	• 20kL rainwater tank capacity with connections to toilets and irrigation
• 5m ² raingarden for balcony rainwater capture and filtration	• 28m ² raingarden for accessway/car park rainwater capture and filtration
• 100% reliance on renewable energy	• 100% reliance on renewable energy
• 20 bicycle spaces for visitors and 5 bicycle spaces for staff with end-of-trip facilities	• 18 bicycle spaces for staff with end-of-trip facilities and 16 bicycle spaces for visitors
• 7 electric vehicle charging points + capacity for future installation of 35 additional charging points	

- Overall, the proposal incorporates appropriate measures to create a sustainable outcome.

Vegetation removal

Permission required under	Already considered for removal (including high retention trees)	Further removal sought (including high retention trees)	Total removal as a result of the amendment (including high retention trees)
Tree not protected	15	23 (2)	38 (2)
Clause 42.02 – Vegetation Protection Overlay – Schedule 5	1 (1)	0	1 (1)
Clause 52.17 – Native Vegetation	8 (4)	4 (1)	12 (5)
Total	24 (5)	27 (3)	51 (8)

- The amended proposal seeks the removal of 51 trees, however only 13 are protected by the Banyule Planning Scheme. Of these, 9 already have a permit for removal and an additional 4 require a permit. Tree #55 – *Eucalyptus polyanthemos* – is the one new tree requiring a permit for removal that is recorded as having high arboricultural value. It is, however, noted there are other prominent trees to be removed in front of the existing library which represent significant specimens, including a Lemon-Scented Gum (Tree #56) and a She-oak (Tree #58).
- In assessing the original proposal, consideration was given to requiring a substantial street setback to retain 10 trees along Turnham Avenue. However, it was found this would be at odds with the strategic direction of the competing

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planning policies and the purpose of the zones, including street activation, connectivity, and surveillance.

- It is appropriate to apply the same consideration to the amended proposal. In the instance of Tree #55, its retention would require the library to be setback at least 10 metres from Turnham Avenue, substantially reducing the building footprint and reducing the number of car spaces in the basement.
- Wildlife and landscape corridors form an important part of Rosanna, particularly in and around the Rosanna Parklands to the north of Lower Plenty Road. The mature trees within the subject site and along Turnham Avenue provide various functions in contributing to these values. However, it is notable that trees within the subject site are not protected by an overlay which gives equal weight to other considerations set by the purposes of the Public Use Zone, the Commercial 1 Zone and the Mixed Use Zone.
- Nine trees are to be retained in the north-west corner to retain a strong green presence, particularly when traversing south along Turnham Avenue. Other trees are able to be planted in the street as part of the final streetscape design plan. Native vegetation offsets would be established in accordance with the existing permit condition and updated to reflect additional native vegetation removal. Conditions remain on the Planning Permit requiring Offset Planting to be undertaken in the Rosanna Parklands.

Car parking

- The proposed parking layout expands the on-site parking through a larger basement under the supermarket and library buildings and a revised open air car park. This results in a total of 126 car spaces to be shared through a Car Park Management Agreement.
- A statutory reduction of parking is sought under Clause 52.06 of the Planning Scheme which applies the following rates:
 - Supermarket – 173 spaces
 - Bottle shop – 4 spaces
 - Library – 18 spaces
- The original proposal was granted a parking reduction of 49 spaces through an applied parking rate of 3.18 spaces per 100m² for the commercial use. Applying the same rate would result in 112 spaces being required for the supermarket.
- Additional data has been submitted to convey how parking demands associated with the supermarket and the library would work in conjunction. This includes a review of a comparable supermarket's parking demand, a review and forecast of library patronage, and local parking surveys (sub-dot points). The data notes:
 - Ivanhoe Woolworths as a comparable supermarket generates a peak parking demand of 68 spaces on a weekday and 65 spaces on a weekend.
 - Together, the uses would generate a peak demand of 86 spaces on a weekday and 84 spaces on a weekend.
 - Parking surveys show on-street parking occupancy between 24-57% on a weekday and 18-42% on a weekend within the catchment (including Turnham Avenue, Douglas Street and Beetham Parade).

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- The analysis concludes the parking demand at peak times for the uses will be less than the on-site parking provision. This accounts for different peak use times for the supermarket and library and alternative transport options to driving. The analysis demonstrates that parking can be contained on-site, rather than relying on off-site overflow. Overall, the parking provision is appropriate and supported by Council's traffic engineers.
- Furthermore, the parking design and layout has been reviewed by Council's traffic engineers and satisfies the relevant design standards.

Objector concerns

- Some objector concerns have been addressed in this report, however the following are also considered.

Provision of a supermarket

- The supermarket and bottle shop use has already been established as an appropriate planning outcome in this location. A planning permit already exists for these uses.

Lack of architectural difference between the supermarket and library

- The buildings are designed to utilise existing materials and architectural expression within Turnham Avenue whilst providing individual identity. The clear height difference between the library and supermarket will assist in clearly identifying each building.

Increased traffic, noise and pollution

- Whilst the amended development would be expected to generate more traffic through a larger supermarket and larger library, the site is located within an activity centre and is easily accessible via multiple modes of transport. Policy encourages development to be concentrated in these areas and the project analysis demonstrates the proposal would not compromise the safety and functionality of the surrounding road network.
- The existing condition requiring a left-turn exit only from the car park into Douglas Street would be maintained.
- Existing permit conditions requiring various acoustic treatments as well as car park and trolley management would continue to apply.

Truck deliveries

- Existing permit conditions restricting delivery and waste collection vehicles site access would continue to apply.

Overlooking

- Overlooking from the library terrace to dwellings along Douglas Street will be limited due to the overall distance (>25 metres) and presence of vegetation. Additional planters could be provided along the eastern edge of the terrace to offer further screening and this can be addressed through a new permit condition.

Conflict of interest

- The application has been assessed by a Development Planning officer on its merits against the applicable planning controls and policies.

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SUPPORTING REPORT DETAILS

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 *Charter of Human Rights and Responsibilities Act 2006*.
- It is considered that the subject matter does not raise any human rights issues.

Officer Declaration of Conflict of Interest

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

CONCLUSION

- The amended proposal has been assessed against the relevant planning policy and consideration has been applied to the various issues including the land use, built form, streetscape, vegetation, and traffic and parking. Overall, the development is an acceptable outcome subject to amended conditions.

ATTACHMENTS

No.	Title	Page
1	Advertised Plans	
2	Amended Permit Conditions	
3	Referral Advice	
4	Summary of Proposed Amendments	

5.2 AWARD OF CONTRACT FOR OLYMPIC PARK PLAYING FIELDS STAGE 4

Author: Nick McKay - Senior Project Manager, City Development

Ward: Olympia

SUMMARY

1. Redevelopment of Olympic Park in Heidelberg West has been guided by a masterplan which was adopted by Council in 2017. To date, 3 stages of the plan have been substantially delivered. A tender has been undertaken for completion of both cricket and soccer pitches which are part of the stage 4 scope of works.
2. This report is to consider awarding of Contract No 1205-2202 for construction of these pitches. Subject to future funding, a subsequent tender will be let for the construction of a new pavilion which is also associated with this stage of the masterplan. Separate procurement processes for the provision of water for irrigation of the pitches and sewage upgrades for the pavilion, as well as refurbishment of the space currently used by Barrbunin Beek will also be undertaken.
3. The tender was advertised in the local government tender section of The Age newspaper on Saturday 28 May 2022 and closed on Wednesday 22 June 2022. Twenty-one (21) genuine prospective companies downloaded the tender document from Council's website and six (6) contractors submitted their tenders by the closing date. Three of the 6 submissions were assessed as conforming tenders.
4. Following an extensive tender and evaluation process, the Tender Evaluation Panel (TEP) has recommended awarding the contract to RMS Groundworks Pty Ltd in accordance with the tender and conditions as determined by Council.

RECOMMENDATION

That Council:

1. Agrees to award Contract No. '1205-2022' for 'Reconstruction of Olympic Park Sports Fields – Stage 4 at Olympic Park' to RMS Groundworks Pty Ltd for the contracted amount of \$3,923,368.57 (ex. GST).
2. Authorises the Director City Development to sign the contract and any other associated documents at the appropriate time.

**AWARD OF CONTRACT FOR OLYMPIC PARK PLAYING FIELDS STAGE 4
cont'd**

COUNCIL PLAN

- This report is in line with Banyule's Council Plan strategy to "Deliver well designed places and spaces that enable stronger connections and liveability to meet the diverse needs of our current and future community".

TENDER DETAILS

Contract Period	October 2022 - April 2023 (at which time fields are to be ready for play)
Contract Type	Lump Sum Contract
Advertising Period	Saturday 28 May 2022 to Wednesday 22 June 2022 in the Age
Tenders Closed	22 June 2022
Works/Project	<p>Sports fields:</p> <ul style="list-style-type: none"> • Two soccer pitches, lighting (200 lux) & irrigation • One cricket pitch, lighting (100 lux) & irrigation <p>Cricket practice nets Multi Use Court Landscaping and paths Decommissioning of existing pavilion</p> <p>A Planning Permit (P956 2019) was granted for these works on 3 February 2020.</p>
No. of tender documents downloaded	Twenty-one (21) genuine prospective companies downloaded the tender document from Council's website
Tender Evaluation Panel	<ul style="list-style-type: none"> • Senior Project Manager • Coordinator Capital Works • Sportsfields and Parks Assets Coordinator • Procurement Specialist – Capital Works (non-scoring member)
Tender Evaluation Criteria	<ul style="list-style-type: none"> • Tendered price; • Capacity and capability of Tenderer to undertake the services, including demonstrated previous experience, expertise, specialist knowledge, resources and qualifications; • Local and social sustainability, including economic and environmental; and • Existence of Accredited Management Systems and procedures Quality & OH& S; and • Capability, capacity and qualifications of nominated staff, including experience of nominated sub-contractors and CVs.

TENDER/QUOTATION EVALUATION

- Prior to receiving the tenders, the Tender Evaluation Panel (TEP) 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.
- The tender submission includes a requirement for the contractor to complete a questionnaire which seeks clarifications on how they have included/considered

**AWARD OF CONTRACT FOR OLYMPIC PARK PLAYING FIELDS STAGE 4
cont'd**

sustainable procurement aspects of the contract which covers, Environmental, Economic and Social Sustainability. The TEP assesses this information as part of the weighted score for each tenderer and this forms part of the overall evaluation and recommendation for awarding of the contract.

- The TEP 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:

Table 1 – Tenders received and weighted scores	
Contractor	Weighted Score
Tenderer A	82.09
Tenderer B	Non-Compliant submission
Tenderer C	Non-Compliant submission
Tenderer D	76.63
Tenderer E	84.83
Tenderer F	Non-Compliant submission

NON-CONFORMING TENDER

- Tenderers B and F were deemed to be non-conforming because Schedules were not completed. Tenderer C was deemed to be non-compliant, due to the departures tendered, including not confirming item quantities and a price validity of 30 days.
- Council officers also undertook independent financial and reference checks on the contractors following which the Evaluation Team confirmed their scoring, using the weighted evaluation matrix.

Table 2 below shows the final score of the preferred contractors.

Table 2 Final TEP scores for respondents

Contractor	Weighted Scores
RMS Groundworks PTY LTD	84.83
Tenderer A	82.09
Tenderer B	Non-Compliant submission
Tenderer C	Non-Compliant submission
Tenderer D	76.63
Tenderer F	Non-Compliant submission

- The above weighted scores demonstrate that RMS Groundworks PTY LTD has obtained the highest score and will deliver best value for money to Council.

AWARD OF CONTRACT FOR OLYMPIC PARK PLAYING FIELDS STAGE 4 cont'd

SUPPORTING REPORT DETAILS

Legal Consideration

- Section 108 of the *Local Government Act 2020* 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 \$300,000 (including GST) for contracts for the purchases of works, goods or services.
- The awarding of this contract complies with the tendering provisions of Section 108 of the *Local Government Act 2020*.

Human Rights Charter

- 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 Act 2006*.
- It is considered that the subject matter does not raise any human rights issues.

Sustainable Procurement Outcomes

- There are no sustainable procurement activities arising from the recommendation contained in this report.

Financial Implications

- Council has allocated \$ 4,350,000 in its 2021/22 Capital Works budget for the purchase/supply of the new pitch construction at Olympic Park.
- Current project budget is available to cover the construction of the new pitches (this tender) including the installation of lighting to 200 lux. This is over and above the lux level stipulated in the masterplan (which was 100 lux) and is being installed to future proof the grounds for higher grade matches expected to be played at the facility. The extra cost for 200 lux lighting is approximately \$120,530 ex. GST.
- Additional funding is required for the remainder of the Stage 4 works which includes construction of a new pavilion, provision of utilities to the new building and finalisation of some previous work elements. These items are part of the committed scope identified in the funding agreements and to key stakeholders. These include:
 - accommodation of the social space for the cricket club who currently occupy part of the building shared by Barrbunin Beek;
 - accommodation for the cricket club and football club (soccer) change space currently being catered for within the pavilion being demolished as part of these works;
 - upgrades to utility services to provide facilities for future building works; and
 - finalisation of previous stages of works such as provision of a slip lane from Southern Road.

**AWARD OF CONTRACT FOR OLYMPIC PARK PLAYING FIELDS STAGE 4
cont'd**

- Further details regarding the overall program budget to complete Stage 4 is included in the confidential section of this agenda, *Item 12.1 Olympic Park Project Update*.

Additional information

- **Attachment 1** is the tender submission summary which provides details of the TEP scoring for each respondent. The information is designated as Confidential Information in accordance with Section 66(2)(a) of the *Local Government Act 2020* (as amended) as it contains confidential information relating to private commercial information (i.e. 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 108 of the Local Government Act 2020*. The *Local Government Act 2020* and Councils Procurement Policy are the primary reference points for how all procurement should be performed.
- The Policy specifies the principles, processes and procedures applying in respect of the purchase of goods and services by the Council
- The process for inviting quotations and evaluation was undertaken in accordance with the Policy.

Officer Declaration of Conflict of Interest

- The *Local Government Act 2020* requires members of Council staff, and persons engaged under contract who 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.
- In undertaking the assessment, all members of the TEP completed and signed the Conflict of Interest and confidentiality declaration, and no conflicts were declared.

Community Engagement

- The development of the scope of this project has been done in consultation with the relevant sporting clubs, state sporting association representative and funding partners.

Collaboration

- Multiple stages of this project, inclusive of this stage (Stage 4), have been undertaken in collaboration with the Victorian State Government Department of Jobs, Precincts and Regions. The funding of these stages is contingent upon certain deliverables and timeframes. Based on current funding allocations, these cannot be met in full.

**AWARD OF CONTRACT FOR OLYMPIC PARK PLAYING FIELDS STAGE 4
cont'd**

- Further collaboration with key stakeholders will be undertaken to assess these deliverables and opportunities to deliver these.

Key Considerations

- The award of this contract is considered time critical based on the optimal time of the year for turf establishment of the playing surfaces which is during the summer/autumn seasons.

ATTACHMENTS

No.	Title	Page
1	1205-2022 - Summary of Submissions for Sports Fields - Olympic Park - CONFIDENTIAL	

5.3 PLANNING SCHEME AMENDMENT C107 - TREETOPS ADVENTURE PARK IN YARRA FLATS - EXTENSION TO LAPSE DATE

Author: Fae Ballingall - Strategic Planning & Urban Design Coordinator, City Development

Ward: Griffin

Previous Items

Council on 04 Oct 2021 7.00pm (Item 5.2 - Banyule Planning Scheme Amendment C107 (Treetop climbing facility) at 340 -680 The Boulevard, Ivanhoe East)

Council on 01 Mar 2021 7.00pm (Item 5.4 - Planning Scheme Amendment C107 - Treetops Adventure Park in Yarra Flats - Exhibition Outcome)

Council on 07 Oct 2019 7.00pm (Item 5.4 - 340-680 The Boulevard, Ivanhoe East - Amendment C107 combined S96a amendment and planning permit - Outdoor recreation facility)

SUMMARY

1. Banyule Planning Scheme Amendment C107 (C107) facilitates the use and development of Parks Victoria land in Yarra Flats Park, Ivanhoe East for an outdoor recreation facility (Treetops Adventure Park).
2. C107 was requested by the proponent, Ecoline, who seeks to operate the facility under a lease from Parks Victoria. Parks Victoria chose the site for the proposed activity and is the sponsor of the proposal.
3. Council considered the Panel Report at the Ordinary Council Meeting of 4 October 2021 and resolved to adopt the amendment, subject to satisfactory progress being made with the Wurundjeri Woi wurrung Cultural Heritage Aboriginal Corporation (WWCHAC) around the need for a cultural heritage management plan (CHMP).
4. C107 is due to lapse on 29 October 2022 in accordance with Section 30 of the *Planning and Environment Act 1987*. Council can request the Minister for Planning to extend the lapse date.
5. Ecoline have advised Council that a meeting is scheduled with the WWCHAC on 2 November 2022. The meeting was unable to take place prior to the lapse date due to resourcing constraints of the WWCHAC.
6. To allow for this meeting, and any further work that may result, the proponent has requested an extension to the lapse date.
7. A request for an extension of time is largely a procedural matter. A further report to Council will be necessary, subject to resolution of cultural heritage matters, for final adoption and approval request to the Minister for Planning.

RECOMMENDATION

That Council submit a request to the Minister for Planning for a 12-month extension to the lapse date for Banyule Planning Scheme Amendment C107.

PLANNING SCHEME AMENDMENT C107 - TREETOPS ADVENTURE PARK IN YARRA FLATS - EXTENSION TO LAPSE DATE cont'd

COUNCIL PLAN

- This report is in line with Banyule's Council Plan strategy to "Provide and maintain public parks and open spaces for a range of uses for all ages and abilities".

BACKGROUND

- Amendment C107, was requested by the proponent, Ecoline, who seeks to operate the facility under a lease from Parks Victoria. Parks Victoria chose the site for the proposed activity and is the sponsor of the proposal.
- The amendment was exhibited between 29 October and 10 December 2020 and received 217 submissions. Council resolved to refer the submissions to an independent Planning Panel on 1 March 2021.
- The Planning Panel was held over five days from 5-9 July 2021. The Panel Report provided clear, reasoned and justified support for the amendment and recommended C107 be adopted subject to conditions. A key condition was for discussions to occur with the WWCHAC to determine whether an appropriate outcome can be achieved on cultural heritage matters.

KEY ISSUES

- Under section 30 of the *Planning & Environment Act 1987* an amendment will lapse within two years of notice of exhibition unless it has been adopted. Amendment C107 is due to lapse on 29 October 2022 as it has not been finally adopted and submitted to the Minister for Planning for approval.
- Despite endeavours by both Parks Victoria and Ecoline, progress on matters of cultural heritage with the WWCHAC has been limited to date. There are significant resourcing and capacity issues within the Wurundjeri organisation which may have impacted their ability to actively engage or participate in this process.
- Ecoline, with the support of Parks Victoria, has requested Council to make a request for an extension to the lapse date to the Minister for Planning. This will provide further time for Ecoline to work with the WWCHAC towards an agreed cultural heritage outcome. Ecoline has advised that a meeting is scheduled between representatives of their organisation and the WWCHAC on 2 November 2022 to discuss a possible cultural heritage management plan.
- An extension is considered appropriate to allow sufficient time for cultural heritage matters to be thoroughly canvassed in line with the Panel recommendation.
- A request for an extension of time is primarily a procedural matter. A further decision on the Amendment is still required, subject to the resolution of cultural heritage matters, for final adoption of C107 and approval request to the Minister for Planning.

PLANNING SCHEME AMENDMENT C107 - TREETOPS ADVENTURE PARK IN YARRA FLATS - EXTENSION TO LAPSE DATE cont'd

SUPPORTING REPORT DETAILS

Legal Consideration

- Under section 30 of the *Planning and Environment Act 1987* an amendment lapses at the end of two years after notice of exhibition is published in the Government Gazette unless Council adopts the amendment, or the Minister allows a longer period for the adoption of the amendment.

Human Rights Charter

- 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 Act 2006*.
- It is considered that the subject matter does not raise any human rights issues.

Sustainable Procurement Outcomes

- There are no sustainable procurement activities arising from the recommendation contained in this report.

Financial Implications

- There are no financial implication arising from the recommendation contained in this report.

Officer Declaration of Conflict of Interest

- The *Local Government Act 2020* requires members of Council staff, and persons engaged under contract who 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

5.4 1 KING STREET, EAST IVANHOE - KINDERGARTEN REDEVELOPMENT (P809/2022)

Author: Shi Yang - Development Planner, City Development

Ward: Griffin

SUMMARY

1. This application is associated with the redevelopment Council's East Ivanhoe Kindergarten to continue the use as a kindergarten, the reduction of one (1) car park and removal of one (1) protected tree (Tree #7).
2. The use of the site as a kindergarten benefits from existing use rights as the existing kindergarten has been operating for greater than 15 years. As the building is proposed to be replaced, a planning permit is required to continue the kindergarten use under Clause 63.10 of the Banyule Planning Scheme.
3. As a local government project under Clause 52.31 the demolition of the existing building and construction of the replacement kindergarten does not require planning permission.
4. The application has been publicly advertised and one objection was received during the public notification period raising concerns with safety, after hours car parking and disorderly behaviour. It has been agreed to install a gate to the carpark to restrict after hours access and improve security.
5. It is considered that the continuation of the kindergarten use, proposed car parking reduction and tree removal is appropriate in the context of the Planning Policy Framework and the planning controls applying to the site. Furthermore, the proposal is considered appropriate due to the community benefit that will be obtained through the upgrade of this community facility.
6. On this basis, it is considered that the proposal should be supported.

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 a Planning Permit** in respect of Application No. P809/2022 for the continuation of the use of the land as a kindergarten pursuant to Clause 63.10, reduction of one (1) car parking space and removal of one (1) protected tree at 1 King Street EAST IVANHOE subject to the following conditions:

General

1. The development and use 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.

Tree Protection Measures

2. Unless otherwise approved in writing by the Responsible Authority, prior to the commencement of any building and/or demolition works on the land, a

**1 KING STREET, EAST IVANHOE - KINDERGARTEN REDEVELOPMENT
(P809/2022) cont'd**

Tree Protection Zone (TPZ) must be established and maintained during and until completion of all buildings and works including landscaping, around all trees shown to be retained on endorsed plans, including Tree #1, 3-4, 8-10, 13-14, and 16 -17 to the satisfaction of the Responsible Authority:

At least 14 days prior to commencement of works, you must submit a 'Statement of Compliance' (from a suitably qualified Arborist - AQF Level 5) which must include photographic evidence of the installed TPZ requirements. Submission must be made to enquiries@banyule.vic.gov.au referencing the address and planning permit number.

Tree protection zone measures are to be established in accordance to Australian Standard 4970-2009 as calculated within the arborist report submitted with the application authored by **Arboricultural Assessment and Report prepared by STEM Arboriculture, dated 14th June 2022** as follows:

- a) Tree protection zone measures are to be established in accordance to Australian Standard 4970-2009 and including the following:
 - (i) Erection of solid chain mesh or similar type fencing at a minimum height of 1.8 metres held in place with concrete feet.
 - (ii) Signage placed around the outer edge of perimeter fencing identifying the area as a TPZ. The signage should be visible from within the development, with the lettering complying with AS 1319.
 - (iii) Mulch across the surface of the TPZ to a depth of 100mm and undertake supplementary watering in summer months as required.
 - (iv) No excavation, constructions works or activities, grade changes, surface treatments or storage of materials of any kind are permitted within the TPZ unless otherwise approved within this permit or further approved in writing by the Responsible Authority.
 - (v) All supports, and bracing should be outside the TPZ and any excavation for supports or bracing should avoid damaging roots where possible.
 - (vi) No trenching is allowed within the TPZ for the installation of utility services unless tree sensitive installation methods such as boring have been approved by the Responsible Authority.
 - (vii) Where construction is approved within the TPZ, fencing and mulching should be placed at the outer point of the construction area.
 - (viii) Where there are approved works within the 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.
 - (ix) For street trees, protection must be to the extent of the entire nature strip where the Calculated Tree Protection Zone (TPZ) occurs (not obstructing a footpath or cross-over).

**1 KING STREET, EAST IVANHOE - KINDERGARTEN REDEVELOPMENT
(P809/2022) cont'd**

Once installed a TPZ must be maintained until the conclusion of all works on site, including landscaping to the satisfaction of the responsible authority.

3. During the construction of any buildings or works, the following tree protection requirements must be carried out to the satisfaction of the responsible authority.
 - a) A suitably qualified project Arborist (AQF Level 5) must ensure that any pruning, root severance or buildings and works within a TPZ does not adversely impact the health and or stability of any retained tree now or into the future.
 - b) Any tree pruning is to confirm to AS4373-2007 *Pruning of Amenity Trees*, all work is to be performed by a suitably qualified Arborist (AQF Level 3, minimum) 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.
 - c) Any root severance within a TPZ must be undertaken by a suitably qualified Arborist (AQF Level 3, minimum) in accordance with the Australian Standard AS4373-2007 *Pruning of Amenity Trees*, using sterilised, specialised tree root pruning equipment. There must be no root pruning within the SRZ of any tree. There must be no works undertaken within the TPZ other than those endorsed by the responsible authority.
 - d) The project arborist, site manager and builders must ensure that all conditions relating to Tree Protection Measures are being adhered to throughout the entire building process, including site demolition, levelling and landscape works.
4. Except with the further written consent of the Responsible Authority, no vegetation (other than that indicated on the endorsed plans or exempt from planning permission under the provisions of the Banyule Planning Scheme) shall be damaged, removed, destroyed or lopped.

Time Limits

5. 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 use is not continued within two years of the date of this permit;
 - b) The development is not commenced within two years of the date of this permit;
 - c) 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

**1 KING STREET, EAST IVANHOE - KINDERGARTEN REDEVELOPMENT
(P809/2022) cont'd**

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

Planning Permit Application:	P809/2022
Development Planner:	Ms Shi Yang
Address:	1 King Street East Ivanhoe
Proposal:	Continuation of the use of the land as a kindergarten pursuant to Clause 63.10, reduction of one (1) car parking and removal of one (1) protected tree
Existing Use/Development:	Kindergarten
Applicant:	Banyule City Council
Zoning:	General Residential Zone (GRZ2)
Overlays:	Vegetation Protection Overlay (VPO3) Development Contributions Plan Overlay (DCPO1)
Notification (Advertising):	Three signs on site Letters to abutting property owners and occupiers
Objections Received:	One
Ward:	Griffin

PROPOSAL

- The use of the site as a kindergarten benefits from existing use rights as the existing kindergarten has been operating for greater than 15 years. As the building is proposed to be replaced, a planning permit is required to continue the kindergarten use under Clause 63.10 of the Banyule Planning Scheme.
- The new kindergarten will provide for a total of 52 child places (an increase of 27 children) across the two rooms with a maximum of six staff onsite at any one time. Operating hours will remain 8:30am – 4:30pm across Monday-Friday inclusive.
- The existing building will be demolished to allow for the construction of a new building with two classrooms. Noting no planning permit is required for either demolition or construction of the new building.
- A new parking area is to be located at the rear of the building with access from Burton Crescent. Four car parking spaces, including a DDA compliant car space will be provided.

**1 KING STREET, EAST IVANHOE - KINDERGARTEN REDEVELOPMENT
(P809/2022) cont'd**

- The children's play area will be located within the front setback to Lower Heidelberg Road as per the current arrangement.
- It is proposed to remove one VPO3 protected tree (Tree #7) and three weed species trees to facilitate the development. Tree #7 is in a poor health with low retention value.

PERMIT REQUIREMENTS

- A planning permit is required to continue the use of site as a kindergarten under Clause 63.10 as the existing building will be demolished.
- A planning permit is required for the reduction of one parking space from the statutory car parking rates.
- A planning permit is required for the removal of the VPO3 protected tree (Tree #7).

BACKGROUND

- Planning Permit P710/2007 was issued on 28 November 2007 for an extension of the building.

SUBJECT SITE AND SURROUNDING AREA

- The site is located on the south side of King Street at the intersection with Lower Heidelberg Road, in East Ivanhoe. The site has two immediate residential abutments, 307 Lower Heidelberg Road and 38 Burton Crescent.
- The site is 1156m² in area, irregular in shape, with frontage of approximately 27 metres to Lower Heidelberg Road and sideage to both King Street and Burton Crescent. The land falls from front to rear (east to west) by approximately 4 metres.
- The site is presently occupied by a single storey brick building that accommodates the East Ivanhoe Pre-School (kindergarten) and rooms previously used for a Maternal and Child Health Centre. Both services are run by Banyule City Council.
- Several large trees are located within the subject site and adjoining properties. The entrance to the building is located approximately midway along King Street.
- No existing car parking is provided on site.

**1 KING STREET, EAST IVANHOE - KINDERGARTEN REDEVELOPMENT
(P809/2022) cont'd**

Locality Plan



PUBLIC NOTIFICATION

Advertising Period	Friday 12 August 2022 to Tuesday 30 August 2022
Advertising methods	Public notices were sent to owners and occupiers of properties abutting the site. Three public notice signs were displayed on the site with one sign facing Burton Crescent, King Street and Lower Heidelberg Road respectively.
Objections received	One (1) from 38 Burton Crescent East Ivanhoe (south-west adjoining property)
Grounds of objections (summarised)	<ul style="list-style-type: none"> Proposed car parking location with no gate will allow for after hours parking and disorderly behaviour, creating a safety issue Location of a carriageway between Burton Crescent and the proposed car park and the proposed crossover is located on the property boundary where the objector's pedestrian gate is located.

**1 KING STREET, EAST IVANHOE - KINDERGARTEN REDEVELOPMENT
(P809/2022) cont'd**

	<ul style="list-style-type: none"> The existing common boundary fence between the kindergarten and the objector's property is 2m and reduction of the height will create safety issue.
Consultation	<ul style="list-style-type: none"> Informal consultation has been undertaken with the objecting party. The applicant and consultant have confirmed the following solutions/improvement could be achieved which are included on the amended site plan received 13 September 2022 (Attachment 1): <ol style="list-style-type: none"> Install a lockable gate across driveway, to be kept closed after hours to prevent car parking. The gate will be a bar type arrangement gate (approx. 1.5m) Increase height of shared boundary fence to 2m, with rails on south side as requested.

REFERRAL COMMENTS

Department	Conditions /Comments
Development Planning Arborist	Council's Developments Planning Arborist has reviewed the proposal and advised that the application can be supported, subject to conditions.
Developments and Drainage	Council's Developments and Drainage team has reviewed the proposal and advised that the application can be supported.
Traffic and Transport	Council's Traffic and Transport Department have reviewed the proposal and advised that the application can be supported.

PLANNING CONTROLS

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

Table 1: Applicable Planning Controls

Control	Clause	Permit Triggered
General Residential Zone – Schedule 2 (GRZ2)	32.08	No
Vegetation Protection Overlay – Schedule 3 (VPO3)	42.02	Yes
Development Contribution Plan Overlay – Schedule 1 (DCPO1)	45.06	No
Car Parking	52.06	Yes
Damaged or Destroyed Buildings or Works	63.10	Yes

**1 KING STREET, EAST IVANHOE - KINDERGARTEN REDEVELOPMENT
(P809/2022) cont'd**

POLICIES CONSIDERED

Table 2: Relevant Planning Scheme Policy

Policy	Clause
Local Planning Policy Framework (LPPF)	
Settlement	11
Environmental and Landscape Values	12
Built Environment and Heritage	15
Transport	18
Infrastructure	19
Land Use	21.04
Natural Environment	21.05
Built Environment (Incremental Area)	21.06
Residential Neighbourhood Character Policy (Garden Suburban Precinct 3)	22.02
Safer Design Policy	22.03
Environmentally Sustainable Design	22.05
Car Parking	52.06
Local Government Projects	52.31
Extent of Existing Use Rights	63.01

TECHNICAL CONSIDERATION

- The consideration of this application is limited to the continuation of the use of site as a kindergarten, car parking and vegetation removal which is discussed below:

Use the site as a kindergarten

- A kindergarten (Child Care Centre) in the General Residential Zone requires a planning permit as a Section 2 Use.
- As the current building has been used as a kindergarten for greater than 15 years the site benefits from existing use rights and a permit is not required for its use, however as the building is proposed to be demolished a permit is required to continue the use under Clause 63.10.
- The continuation of the use is considered acceptable as the proposed use would not have an unreasonable impact on the amenity of the area and is consistent with planning policy that encourages small scale non-residential uses in residential areas.

Car Parking

- There is no car parking provided onsite for the existing kindergarten (25 children) which results in an existing deficiency of 5 car parking spaces as per Clause 52.06 of Banyule Planning Scheme (0.22 car parking spaces to each child).
- The proposed children numbers create an additional statutory demand of five car parking spaces for the additional 27 children.
- Four new spaces are provided on site (including one DDA compliant space). Therefore, there will be a shortfall of one space.

**1 KING STREET, EAST IVANHOE - KINDERGARTEN REDEVELOPMENT
(P809/2022) cont'd**

- A Parking Impact Assessment Report has been prepared by EB Traffic Solutions dated 21 June 2022. Parking surveys were conducted which indicate ample on-street parking is available for users of the kindergarten.
- The application was referred to Council Traffic and Transport Team who confirmed that the car parking onsite is acceptable.

Vegetation Removal & Protection

- The removal of the one protected tree (Tree #7) is supported due to its low retention value, being in poor health with only fair structure and form.
- Removal of other trees is supported as these trees are listed weeds.
- Replacement planting is proposed on the site.
- Tree protection conditions are proposed to be included as part of the permit to manage impacts on trees surrounding the perimeter of the subject site including the street trees.

OBJECTORS CONCERNS

- The objectors' concerns have been addressed below:

Location of car park and crossover

- The proposed vehicle crossover and driveway has been located so as to avoid impacting the street trees, as well as to create maximum separation distance from the intersection of King Street and Burton Crescent.

Safety issues

- The applicant has agreed to install a 1.5m gate to avoid after hours parking and keep the existing 2m timber fence to avoid people climbing over the fence into objector's property which are included on the amended site plan received 13 September 2022 (Attachment 1).

SUPPORTING REPORT DETAILS

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 *Charter of Human Rights and Responsibilities Act 2006*.

Officer Declaration of Conflict of Interest

- The *Local Government Act 2020* requires members of Council staff, and persons engaged under contract who 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.

**1 KING STREET, EAST IVANHOE - KINDERGARTEN REDEVELOPMENT
(P809/2022) cont'd**

CONCLUSION

- It is considered that proposed continuation of kindergarten use, car parking reduction and removal of vegetation is associated with replacement of a kindergarten align with the policy objectives of strengthening local community and childcare facilities. It is considered that the proposal should be supported subject to the conditions.

ATTACHMENTS

No.	Title	Page
1	Development and Use Site Plan	

6.1 **STREET LIGHTING PROGRAM - UPGRADE TO LED**

Author: Mathew Deayton - Capital Works Coordinator, Assets & City Services

SUMMARY

1. Council allocated funds as part of its 2021/22 Capital Works Budget towards the replacement of inefficient lighting in open space, sports field and street lighting with energy efficient LED as part of Council's 2028 zero net emissions target.
2. A consultant was engaged in 2021 to undertake audits & prepare a business case on the replacement of street lighting (unmetered) and open space/reserve (metered) public lighting across Banyule.
3. The consultant reports also consider the use of smart control technology for public lighting. The key findings of the business case reports are summarised in this report.
4. Having regard for the new information now available, a revised scope and timeframe for this project delivery is proposed.

RECOMMENDATION

That Council:

1. Endorse the revised scope and timeframe for this project delivery, which includes:
 - a. Prioritising upgrades to lighting in open space (metered) in 2022/23, as it is anticipated that both AusNet and Jemena may fund upgrades to unmetered lights in the coming years.
 - b. Implement smart control technology for open space (metered) lighting in conjunction with these upgrades and rectify any unmetered lighting in council open space to metered.
 - c. Unspent project funds in 2021/22 (approximately \$1.5 million) be returned to the *Asset Renewal Reserve*, use planned 2022/23 & 2023/24 budget for delivery and allocate the returned *Reserve* funding to year three (2024/25) of the capital works program.
 - d. Pursue AusNet's offer to replace MV street lights with LED's.

COUNCIL PLAN

- This report is in line with Banyule's Council Plan strategy to "Develop community assets and facilities that are environmentally sustainable, innovative, safe and continue to be of appropriate standard".

STREET LIGHTING PROGRAM - UPGRADE TO LED cont'd

BACKGROUND

- Council allocated funds as part of its 2021/22 Capital Works Budget towards the replacement of inefficient lighting in open space, sports field and street lighting with energy efficient LED as part of Council's 2028 zero net emissions target.
- A consultant was engaged in 2021 to undertake audits & prepare business cases on the replacement of street (unmetered) and open space (metered) public lighting across Banyule.
- The following provides a summary of the findings of these two audits and business cases.

KEY ISSUES

Street Lighting (Unmetered) – Key Findings

- There are 11,962 street lights across Banyule LGA on the AusNet and Jemena network.
- 3,735 of these street lights require upgrading to LED's, excluding the T5 type fluorescent. Among these lights, 1,506 (40%) are along arterial roads, of which operating costs are shared between the Department of Transport (DoT) and Council (60:40).
- The cost of replacing all these street lights is estimated at \$4.5 million, and only replacing street lights on council roads is estimated to cost \$2.5 million.
- DoT has indicated that they are currently unable to secure funding to contribute upfront towards the replacement of lights along arterial roads, however DoT may be able to reimburse Council over time through operational savings.
- Replacement of inefficient street lights on council roads only would result in :
 - Reduction of greenhouse gas emissions by 987 tonnes CO2 per annum
 - Energy saving of 1031 MWh per annum
 - Cost saving to Council of approximately \$333,000 per annum
 - payback period of 9 years for replacement of lights only.
- AusNet recently announced a program to fund replacement of all Mercury Vapor (MV) and some High Pressure Sodium (HPS) lighting to LED's in its network. This includes 101 MV lights within AusNet's network. At this stage Jemena has not announced a similar program.
- In the coming years, it is understood that AusNet and Jemena may fund/co-fund councils to replace all inefficient lighting in their respective networks with LED lighting.
- There were 137 unmetered public lights found on various council open space, which are maintained and billed to council by AusNet and Jemena.

Open Space / Reserve Lighting (Metered) – Key Findings

- There are 1,813 public lights across council's open space.
- 299 of these lights across 112 sites has been identified for replacement with energy efficient LED lighting.
- The implementation of this LED upgrade program is estimated to cost council \$248,300. This would result in:

STREET LIGHTING PROGRAM - UPGRADE TO LED cont'd

- Reduction of greenhouse gas emissions by 278 tonnes CO₂ per annum
- Energy saving of 283,721 kWh per annum
- Cost saving to Council of approximately \$52,000 per annum
- payback period of 6 years for replacement of lights only.
- As previously mentioned, there are 137 unmetered lights in council public open space. As a result, there is often confusion at the time of faults as to who owns and repairs these lights, delaying resolution to faults or resident complaints. It often also results in costs to Council to convert these to metered lights at the time of any repairs. It is therefore sensible that council take ownership of these lights. These works would include rewiring of the sites to convert them to a metered supply, which at this stage is estimated to cost \$100,000.

Smart Lighting

- The consultant also included details in their reports regarding the use of smart control technology, within the concept of Smart Cities, which would allow council to better manage public lighting in real time. Savings arise from the ability to use dimming and trimming (including maintaining a constant light output) to further reduce the energy usage of public lighting.
- Smart controls are not yet approved for use on the AusNet network, while smart controls are approved for use on the Jemena network as a non-standard product. At this time, no Distribution Network Service Provider (DNSP) in Victoria currently has an established Central Management Software (CMS) for smart lighting, and no council has implemented a smart control pilot project with Jemena.
- There are risks associated with choosing smart control on the distributors (unmetered) assets due to the fact they have not adopted this technology yet. It could take some time to be enabled even if smart control hardware is installed on the replaced lights.
- Adopting smart controls on council's open space (metered) lighting will be comparatively easy to manage as these assets are owned and maintained by council itself, and offer a range of benefits:
 - Allow council officers to know the operational status of each light within our open space areas (automatically reporting faults),
 - Provide asset management and maintenance data,
 - Automatically or remotely dim or brighten lighting, to improve energy efficiency.
 - Reduced lighting complaints as officers could proactively repair lights when notified by the system, giving better customer service to the community.
 - Reduce officer time investigating lighting enquiries from the public.
- The preliminary cost estimate for the purchase of smart technology (over and above the cost to convert the 299 metered lights to LED) is estimated at \$100 per light, or \$30,000.
- There is opportunity to integrate the Smart Lighting initiative into Council's existing Smart Cities project and software platform (AlphaX). A trial by Council's current vendor is being planned to establish the suitability of the current system.

STREET LIGHTING PROGRAM - UPGRADE TO LED cont'd

- The upgrade of existing LED park lighting to smart control technology should also be considered where appropriate.

Business Case Outcomes

- Having regard for the new information now available, a revised scope and timeframe for this project delivery is proposed, including:
 - Open space (metered) lighting upgrades as a priority for implementation in 2022/23, as it is anticipated that both AusNet and Jemena may fund upgrades to unmetered lights in the coming years.
 - Implement the provision of smart control technology for open space (metered) lighting as part of the lighting upgrade.
 - Unmetered lighting in Council's open space be rewired and transferred to open space lighting assets as lighting upgrades are undertaken in each park to remove these legacy arrangements.
 - Pursue AusNet's offer to replace MV streetlights to LED, engaging a consultant to project manage AusNet's MV streetlights replacement program using funding from Street Lighting Program.
 - Postpone the upgrade of any other street lighting until further clarity from DNSP's is provided with respect to their upgrade / smart lighting programs.
 - Hold further discussion with DoT with respect to the upgrade of cost-shared (unmetered) lighting along arterial roads, to determine potential for future external funding contribution.

SUPPORTING REPORT DETAILS

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 *Charter of Human Rights and Responsibilities Act 2006*.
- It is considered that the subject matter does not raise any human rights issues.

Sustainable Procurement Outcomes

- The recommendations of this report contribute to Council's 2028 net zero emissions target.

STREET LIGHTING PROGRAM - UPGRADE TO LED cont'd

Financial Implications

- The following table outlines the current project budget for the Street Lighting Upgrade Program.

2021/22	2022/23	2023/24
\$1,200,000	\$500,000	\$1,000,000

- A further \$432,388 was carried forward from the 2020/21 financial year and the expenditure for 2021/22 was approximately \$150,000.
- The upgrade of the remaining inefficient open space lighting to LED (including upgrade to smart technology), as well as conversion of unmetered to metered, can be undertaken in 2022/23 and within the current budget allocation of \$500,000.
- It is recommended that Council reallocate the unspent project funds in 2021/22 (approximately \$1.5 million) to the 2024/25 Capital Works budget to facilitate the continued delivery of the Street Lighting Upgrade program.

Officer Declaration of Conflict of Interest

- The *Local Government Act 2020* requires members of Council staff, and persons engaged under contract who 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

7.1 'IN PRINCIPLE' APPROVAL OF THE FINANCIAL STATEMENTS AND PERFORMANCE STATEMENT FOR THE YEAR ENDED 30 JUNE 2022

Author: Stephen Coulthard - Financial Accounting Co-ordinator, Corporate Services

SUMMARY

1. In line with *Local Government Act 2020 ('The Act')* section 98-100, Council is required to complete its Annual Report as soon as practicable after the end of the financial year.
2. The Council must pass a resolution giving its 'in principle approval' to the performance and financial statements before officially submitting to the auditor for reporting.
3. The performance and financial statements, in their final form (after any changes recommended or agreed by the auditors), must be certified by two Councillors authorised by the Council, the Chief Executive Officer and the Principal Accounting Officer.
4. The Financial Statements and Performance Statement are subject to external audit by the Victorian Auditor General or their contracted agent. The detailed audit of the Financial Statements and Performance Statement for the year ended 30 June 2022 was undertaken by an agent of the Victorian Auditor General during August 2022.
5. The Audit and Risk Committee will hold its meeting on 21 September 2022 to review the Financial Statements and Performance Statement for the year ended 30 June 2022.
6. The Audit and Risk Committee will consider, following audit clearance, its recommendation to Council to approve 'in principle' the Financial Statements and Performance Statement pursuant to Section 99(2) of the Act, prior to formal presentation to the Auditor General.
7. Once the final audit opinion has been received from the Victorian Auditor General's Office, the finalised annual report will be presented to the public at the subsequent Council Meeting.

'IN PRINCIPLE' APPROVAL OF THE FINANCIAL STATEMENTS AND PERFORMANCE STATEMENT FOR THE YEAR ENDED 30 JUNE 2022 cont'd

RECOMMENDATION

That Council:

1. Approve 'in principle' the Financial Statements and the Performance Statement for the year ended 30 June 2022.
2. Authorise its Councillor representatives on the Audit and Risk Committee and in their absence any other Councillor as substitute, to sign the Financial Statements and Performance Statement for the year ended 30 June 2022 in their final forms, after any changes recommended or agreed to by the Victorian Auditor-General, have been made.
3. Upon receipt of the Victorian Auditor General's Audit Reports on the Financial Statements and Performance Statement, a report be prepared as soon as is practicable to adopt and present the Annual Report 2021/22, inclusive of the Report of Operations, Financial Statements and Performance Statement at the Special Council Meeting.

COUNCIL PLAN

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

BACKGROUND Annual Report

- Council prepares a report for the community annually on the activities and financial performance of the organisation and is required by the *Local Government Act 2020* to prepare this Annual Report.
- The Annual report comprises:
 - **Report of Operations** - information about the operations of the Council.
 - **Performance Statement** - audited results achieved against the prescribed performance indicators and measures.
 - **Financial Statements** - audited financial statements prepared in accordance with the Australian Accounting Standards.
- The report of operations is a key section of the Annual Report whereby Council makes itself accountable to the community and contains information about the performance of the Council for the financial year.
- The Financial Statements and Performance Statement are subject to external audit by the Victorian Auditor General.
- Section 98-100 of the *Local Government Act 2020* and the Local Government (Planning and Reporting) Regulations 2020 require Council to:
 - 1) Pass a resolution giving its approval, 'in-principle', to the Financial Statements and Performance Statement before they are submitted to the Auditor General.
 - 2) Authorise two Councillors, the Chief Executive Officer and the Principal Accounting Officer to certify the Financial Statements and Performance

'IN PRINCIPLE' APPROVAL OF THE FINANCIAL STATEMENTS AND PERFORMANCE STATEMENT FOR THE YEAR ENDED 30 JUNE 2022 cont'd

Statement in their final form, after any changes recommended, or agreed to, by the Auditor have been made.

- The Performance Statement reports the audited results for 2021/22 for the prescribed indicators. In addition to the audited Performance Statement, the results for a range of other indicators are reported in the Report of Operations as part of the Annual Report.
- The Financial Statements and Performance Statement are required to be audited by the Victorian Auditor General. The bulk of the audit work was undertaken by the Victorian Auditor General's contractor during August 2022.
- The annual report must contain the provisions set out in Section 98 of *Local Government Act 2020* in respect of the financial year reported on.

Audit and Risk Committee

- The Audit and Risk Committee will hold its meeting on 21 September 2022, to review the Report of Operations, Financial Statements and Performance Statement.
- Representatives from the agent of the Victorian Auditor General's Office will attend the Audit Committee meeting on 21 September 2022 to provide the Audit Committee members with an overview of the audit to date and answer questions regarding the external audit.
- Subject to draft reports and responses by the Victorian Auditor General's Office agent, the Audit Committee will provide its recommendation to Council to approve the Financial Statements and Performance Statement 'in principle'.

KEY ISSUES

- The Financial Statements and Performance Statement have each been:
 1. prepared by Council staff
 2. reviewed by the Victorian Auditor General's Agent; and
 3. presented to the Audit and Risk Committee.
- Following the Audit and Risk Committee's review and recommendation, Council is required to approve 'in principle' the Financial Statements and Performance Statement for the year ended 30 June 2022 which form part of Council's Annual Report prior to submission to the Auditor-General.

'IN PRINCIPLE' APPROVAL OF THE FINANCIAL STATEMENTS AND PERFORMANCE STATEMENT FOR THE YEAR ENDED 30 JUNE 2022 cont'd

SUPPORTING REPORT DETAILS

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 *Charter of Human Rights and Responsibilities Act 2006*.
- It is considered that the subject matter does not raise any human rights issues.

Sustainable Procurement Outcomes

- There are no sustainable procurement activities arising from the recommendation contained in this report.

Financial Implications

- There are no financial implications arising from the recommendation contained in this report.

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

ATTACHMENTS

No.	Title	Page
1	Draft Annual Report 2021-2022 - Part One - Report of Operations (<i>Under Separate Cover</i>)	
2	Draft Annual Report 2021-2022 - Part Two - Performance Statement (<i>Under Separate Cover</i>)	
3	Draft Annual Report 2021-2022 - Part Three - Financial Report (<i>Under Separate Cover</i>)	

7.2 PROPOSED DECLARATION OF A SPECIAL CHARGE - WATSONIA SHOPPING CENTRE

Author: Daniela Ahimastos - Senior Economic Development Officer, City Development

Ward: Bakewell

Previous Items

Council on 9 May 2022 (Item 7.1 - Notice of Intention to Declare a Special Charge - Watsonia Shopping Centre)

Council on 15 August 2022 (Item 7.2 - Consideration of Submissions - Watsonia Special Charge)

Council on 5 September 2022 (Item 7.2 - Support for Banyule Retail Centres - Review)

SUMMARY

1. Following the Ordinary Council Meeting held on 9 May 2022, 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 Watsonia Shopping Centre was advertised in the “*The Herald Sun*” newspaper on 17 May 2022, and placed on Council’s website.
2. Separate letters, advising of Council’s intention to declare the Special Charge were mailed by ordinary post, on 18 May 2022 to all owners and occupiers of the properties included in the proposed Scheme, with a copy of the public notice.
3. 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.
4. The closing date for submissions and objections was 17 June 2022. Council received by this date a total of six written submissions in support of the proposed Scheme and no objections.
5. Council formally considered the written submissions at its ordinary meeting held on 15 August 2022 and heard one speaker in support of the scheme and resolved to proceed to make a final decision in relation to the Scheme at its ordinary meeting to be held on 26 September 2022.

RECOMMENDATION

That Council:

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

PROPOSED DECLARATION OF A SPECIAL CHARGE - WATSONIA SHOPPING CENTRE cont'd

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 Watsonia Traders Association ("**Traders Association**"), for the purposes of:

- (a) Collective marketing and promotion of the precinct as a whole, which will assist in raising the profile of the area, including what it has to offer to the community and its customers,
 - (b) A resourced and supported Traders Association that coordinates the daily management of activities and drives the overall strategic direction of the precinct with the support of Council, and
 - (c) Enhanced property values and improved use, enjoyment and occupation of properties and overall business goodwill within the Shopping Precinct.
2. The period for which the Special Charge is declared and will remain in force is a period of five years commencing on 1 July 2022 and ending on 30 June 2027.
3. Based on the 69 rateable assessments included in the Scheme, an amount of \$44,850 per annum will be raised for a period of five years. This amount will be supplemented by Council's contribution of a further \$26,827 per annum to provide a total annual budget to \$71,677.
4. The area for which the Special Charge is declared is the land referred to as The Watsonia Shopping Centre, as identified in **Attachment 1**.
5. 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 **Attachment 2**.
6. 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) 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 quarterly instalments.
7. Council will consider cases of financial and other hardship, and it may reconsider other payment options for the Special Charge. No incentives will be given for payment of the Special Charge before the due date for payment in the Notice.
8. Subject to paragraph 9 of this proposed Declaration, the Traders' Association be authorised on behalf of the Council, administratively only and subject always to the supervision, direction and control of the Council, to administer the proceeds of the Special Charge on the express condition that the Traders' Association first enter into a funding agreement with the Council for the period of the Special Charge ("**Funding Agreement**").

PROPOSED DECLARATION OF A SPECIAL CHARGE - WATSONIA SHOPPING CENTRE cont'd

9. The Funding Agreement must be approved by the Chief Executive Officer and will include the suite of reforms that were endorsed by Councillors at the Council Meeting on the 5 September 2022.
10. The new Funding Agreement must contain a condition which replaces Condition 6 of the funding agreement previously entered into between the Council and the Traders' Association for the previous Special Charge. This new condition was agreed to by Council last year in the renewal of the Heidelberg Central Special Charge Scheme.

The New Condition 6 must –
 - (a) give the Council the legal right, in its absolute and unfettered discretion (and without first requiring any recourse to the Traders' Association), to unconditionally terminate the Funding Agreement for any reason which the Council considers to be relevant and appropriate by way of the Council first giving the Traders' Association 7 days' written notice of the Council's decision to terminate the Funding Agreement; and
 - (b) following such termination, allow the Council, by utilising the Council's own staff or any contracted third party, to assume ongoing responsibility for the administration of the Special Charge."
11. 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 2022, and the reasons for the decision.
12. The Traders' Association be notified of the matters specified in paragraphs 1 and 10 of this resolution.

COUNCIL PLAN

- This report is in line with Banyule's Council Plan key direction to "Create distinctive, appealing and thriving shopping centres and industrial precincts that have a local identity and contribute to a strong sense of place".

BACKGROUND

- The process to declare the Special Charge for Watsonia Shopping Centre began with a pre-statutory phase of consultation and review in early 2022. 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.
- The Watsonia Trader Association requested that Council increase the levy by \$8,000 to raise \$44,850 annually. This moderate increase in budget reflects; the increasing cost of services and inflation; the addition of two properties that now fall within and satisfy the scheme criteria; and the concerted effort that will be

PROPOSED DECLARATION OF A SPECIAL CHARGE - WATSONIA SHOPPING CENTRE cont'd

required by the Association to see through the imminent disruptions caused by construction of the North East Link and new Watsonia Town Square.

KEY ISSUES

- Watsonia traders have a challenging period ahead as they not only emerge from the significant economic impacts of COVID-19 but are faced with the uncertainty of North East Link disruptions to the centre as well as imminent disruptions caused by the construction of the Watsonia Town Square. An online survey of Watsonia traders in May 2021 (*North East Link Impacts*) found that more than 90% of the current businesses in the Watsonia Shopping Centre doubt their business will survive the period ahead unless investments are made to attract more people to the centre.
- The Watsonia Traders Association and Council believe that the Special Charge Scheme will proactively encourage commerce and business activity within Watsonia Shopping Centre, enhancing visitation and trader survival at a time when they need it the most. The Special Charge will aim to support businesses via joint promotion, marketing and business development activities.
- The Trader Association have asked Council to enhance its support of the Watsonia Traders Association by endorsing their Budget Bid in 2022 for additional funding towards advocacy as well as marketing and promotions related to the North East Link Project.
- Council received a copy of each submission and objection verbatim at the Council Meeting on 15 August 2022. 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.
- Council recently undertook an extensive review into the way it manages its eleven shopping precincts with a Special Rate and Charge program, including the Watsonia Shopping Centre. The review looked at ways to strengthen the program to ensure transparency and accountability to satisfy Council's auditing requirements and the new *Local Government Act 2020* obligations.
- Council is piloting a suite of changes for a two-and-a-half-year period commencing October 2022 and the new Funding Agreement between the Watsonia Traders Association and Council will reflect these changes that were endorsed by Council at its meeting on the 5 September 2022.

SUPPORTING REPORT DETAILS

Legal Consideration

- Council requires the Watsonia 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 (inclusive of KPI outcome reporting, itemised bank statements and income and expenditure reports), a budget and an audited financial report at the conclusion of each financial year. Council will ensure that, under the Funding Agreement, the

PROPOSED DECLARATION OF A SPECIAL CHARGE - WATSONIA SHOPPING CENTRE cont'd

proceeds of the Special Charge are expended by the Traders' Association on behalf of Council, administratively only.

- As part of the process for preparing this report, Council sought legal advice on new funding agreement inclusions including the termination clause. This clause was agreed to by Council in the renewal of the Heidelberg Central Special Charge renewal in 2021 and its inclusion in the new funding agreement ensures consistency and gives Council the adequate flexibility should the agreement need to be terminated.
- 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 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 *Charter of Human Rights and Responsibilities Act 2006*.
- It is considered that the subject matter does not raise any human rights issues.

Sustainable Procurement Outcomes

- There are no sustainable procurement activities arising from the recommendation contained in this report.

Financial Implications

- The Traders' Association has requested to Council that the proposed Scheme raise an amount of \$44,850 per annum. This request is supported by Council officers responsible for assessing and administering the Special Charge Schemes.
- This amount will be supported by Council's contribution of \$26,827 in order to provide a total budget of \$71,677 per annum.

Community 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.
- 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.

PROPOSED DECLARATION OF A SPECIAL CHARGE - WATSONIA SHOPPING CENTRE cont'd

- 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 Watsonia Shopping Centre and the reasons for doing so.
- With respect to statutory consultation, the closing date for submissions and objections was on 17 June 2022. Council received by this date a total of six written submissions in support of the proposed Scheme and no objections.
- Council formally considered the submissions at its Ordinary Meeting on 15 August 2022 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 26 September 2022.

Key Considerations

- The submissions in support of the Scheme have highlighted the ongoing value and benefit of the Special Charge program to Watsonia Shopping Centre over a number of years, particularly during a time of economic uncertainty brought on by the impacts of COVID-19.
- 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 and the prolonged disruptions that have commenced as a result of the North East Link Project.

Timelines

- The key developments in the statutory process for the declaration of a Special Charge to date have been as follows:
 - 9 May – Council report – Notice of Intention to Declare a Special Rate;
 - 17 May – Public Notice of Proposed Declaration advertised in the “*The Herald Sun*” newspaper and on Council's website;
 - 18 May – A copy of the public notice with separate letter sent to all owners and occupiers advising of proposed Special Charge amount payable;
 - 17 June – Submissions and Objections due;
 - 15 August – Council report – Consideration of Submissions and Objection;
 - 26 September– Council report – Recommendation that decision be resolved.

PROPOSED DECLARATION OF A SPECIAL CHARGE - WATSONIA SHOPPING CENTRE 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 involved in the preparation of this report have no conflict of interest in this matter.

ATTACHMENTS

No.	Title	Page
1	Participant Map	
2	Participating Properties and Annual Charge	

7.3 PROPOSED DECLARATION OF A SPECIAL CHARGE - MACLEOD VILLAGE SHOPPING CENTRE

Author: Daniela Ahimastos - Senior Economic Development Officer, City Development

Ward: Ibbott

Previous Items

Council on 9 May 2022 (Item 7.2 - Notice of Intention to Declare a Special Charge - Macleod Village Shopping Centre)

Council on 15 August 2022 (Item 7.4 - Consideration of Submissions - Macleod Special Charge)

Council on 5 September 2022 (Item 7.2 - Support for Banyule Retail Centres - Review)

SUMMARY

1. Following the Ordinary Council Meeting held on 9 May 2022, 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 Macleod Shopping Village was advertised in the “*The Herald Sun*” newspaper on 17 May 2022, and placed on Council’s website.
2. Separate letters, advising of Council’s intention to declare the Special Charge were mailed by ordinary post, on 18 May 2022 to all owners and occupiers of the properties included in the proposed Scheme, with a copy of the public notice.
3. 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.
4. The closing date for submissions and objections was 17 June 2022. Council received by this date a total of two written submissions in support of the proposed Scheme and no objections.
5. Council formally considered the written submissions at its ordinary meeting held on 15 August 2022 and resolved to proceed to make a final decision in relation to the Scheme at its ordinary meeting to be held on 26 September 2022.

RECOMMENDATION

That Council:

1. Council, having considered all submissions received under section 223 of the *Local Government Act 1989* (“**Act**”) and having complied with the

PROPOSED DECLARATION OF A SPECIAL CHARGE - MACLEOD VILLAGE SHOPPING CENTRE cont'd

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 Macleod Traders Association ("**Traders Association**"), for the purposes of:

- (a) Collective marketing and promotion of the precinct as a whole, which will assist in raising the profile of the area, including what it has to offer to the community and its customers,
 - (b) A resourced and supported Traders Association that coordinates the daily management of activities and drives the overall strategic direction of the precinct with the support of Council, and
 - (c) Enhanced property values and improved use, enjoyment and occupation of properties and overall business goodwill within the Shopping Precinct.
2. The period for which the Special Charge is declared and will remain in force is a period of five years commencing on 1 July 2022 and ending on 30 June 2027.
3. Based on the 43 rateable assessments included in the Scheme, an amount of \$19,170 per annum will be raised for a period of five years. This amount will be supplemented by Council's contribution of a further \$18,400 per annum to provide a total annual budget to \$37,570.
4. The area for which the Special Charge is declared is the land referred to as The Macleod Shopping Village, as identified in **Attachment 1**.
5. 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 **Attachment 2**.
6. 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) 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 quarterly instalments.
7. Council will consider cases of financial and other hardship, and it may reconsider other payment options for the Special Charge. No incentives will be given for payment of the Special Charge before the due date for payment in the Notice.
8. Subject to paragraph 9 of this proposed Declaration, the Traders' Association be authorised on behalf of the Council, administratively only and subject always to the supervision, direction and control of the Council, to administer the proceeds of the Special Charge on the express condition that the Traders' Association first enter into a funding agreement with the Council for the period of the Special Charge ("**Funding Agreement**").

PROPOSED DECLARATION OF A SPECIAL CHARGE - MACLEOD VILLAGE SHOPPING CENTRE cont'd

9. The Funding Agreement must be approved by the Chief Executive Officer and will include the suite of reforms that were endorsed by Councillors at the Council Meeting on the 5 September 2022.
10. The new Funding Agreement must contain a condition which replaces Condition 6 of the funding agreement previously entered into between the Council and the Traders' Association for the previous Special Charge. This new condition was agreed to by Council last year in the renewal of the Heidelberg Central Special Charge Scheme.

The New Condition 6 must –
 - (a) give the Council the legal right, in its absolute and unfettered discretion (and without first requiring any recourse to the Traders' Association), to unconditionally terminate the Funding Agreement for any reason which the Council considers to be relevant and appropriate by way of the Council first giving the Traders' Association 7 days' written notice of the Council's decision to terminate the Funding Agreement; and
 - (b) following such termination, allow the Council, by utilising the Council's own staff or any contracted third party, to assume ongoing responsibility for the administration of the Special Charge."
11. 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 2022, and the reasons for the decision.
12. The Traders' Association be notified of the matters specified in paragraphs 1 and 10 of this resolution.

COUNCIL PLAN

- This report is in line with Banyule's Council Plan key direction to "Create distinctive, appealing and thriving shopping centres and industrial precincts that have a local identity and contribute to a strong sense of place".

BACKGROUND

- The process to declare the Special Charge for Macleod Shopping Village began with a pre-statutory phase of consultation and review in early 2022. 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 A SPECIAL CHARGE - MACLEOD VILLAGE SHOPPING CENTRE cont'd

KEY ISSUES

- The Macleod Traders Association and Council believe that the Special Charge Scheme will proactively encourage commerce and business activity within Macleod Shopping Village, enhancing visitation and trader survival at a time of economic recovery. The Special Charge will aim to support businesses via joint promotion, marketing and business development activities.
- Council received a copy of each submission and objection verbatim at the Council Meeting on 15 August 2022. 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.
- Council recently undertook an extensive review into the way it manages its eleven shopping precincts with a Special Rate and Charge program, including the Macleod Village Shopping Centre. The review looked at ways to strengthen the program to ensure transparency and accountability to satisfy Council's auditing requirements and the new Local Government Act 2020 obligations.
- Council is piloting a suite of changes for a two-and-a-half-year period commencing October 2022 and the new Funding Agreement between the Macleod Village Traders Association and Council will reflect these changes that were endorsed by Council at its meeting on the 5 September 2022.

SUPPORTING REPORT DETAILS

Legal Consideration

- Council requires the Macleod 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 (inclusive of KPI outcome reporting, itemised bank statements and income and expenditure 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.
- As part of the process for preparing this report, Council sought legal advice on new funding agreement inclusions including the termination clause. This clause was agreed to by Council in the renewal of the Heidelberg Central Special Charge renewal in 2021 and its inclusion in the new funding agreement ensures consistency and gives Council the adequate flexibility should the agreement need to be terminated.
- 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 Notice levying the Special Charge. Further,

PROPOSED DECLARATION OF A SPECIAL CHARGE - MACLEOD VILLAGE SHOPPING CENTRE cont'd

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 *Charter of Human Rights and Responsibilities Act 2006*.
- It is considered that the subject matter does not raise any human rights issues.

Sustainable Procurement Outcomes

- There are no sustainable procurement activities arising from the recommendation contained in this report.

Financial Implications

- The Macleod Village Traders' Association has requested to Council that the proposed Scheme raise an amount of \$19,170 per annum. This request is supported by Council officers responsible for assessing and administering the Special Charge Schemes. Accordingly, based on a total of 43 properties included in the Scheme, it is proposed that each property will be levied a Charge the same as the current Scheme which is as follows:

Primary Benefit Area

- The area of Aberdeen Road located from property street numbers 34 to 94 be recognised to be located in a primary benefit area of Macleod Village and that those properties contribute \$480 per annum.

Secondary Benefit Area

- The area of Aberdeen Road located from property street numbers 20 to 30 (some of these properties front onto Erskine Road) be recognised to be located in a secondary benefit area of Macleod Village and contribute \$375 per annum.
- The inclusion of properties in either a primary benefit area or a secondary benefit area on the basis proposed is considered to equitably reflect different levels of special benefit applying to each of the properties in each of the areas and also to reflect a basis of distribution of the Special Charge that is fair and reasonable amongst all of the persons who are liable or required to pay the Special Charge, having regard to the nature and characteristics of the properties and businesses included in each of the two areas.
- Based on the 43 rateable assessments included in the Scheme, this will raise an amount of \$19,170 per annum for a period of five years, providing a total levy of \$95,850 over the five-year period of the Scheme.

Community 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,

PROPOSED DECLARATION OF A SPECIAL CHARGE - MACLEOD VILLAGE SHOPPING CENTRE cont'd

and also in adopting best practice approaches for its special charge and rate 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 Macleod Shopping Village and the reasons for doing so.
- With respect to statutory consultation, the closing date for submissions and objections was on 17 June 2022. Council received by this date a total of two written submissions in support of the proposed Scheme and no objections.
- Council formally considered the submissions at its Ordinary Meeting on 15 August 2022 and resolved to make a final decision in relation to the Scheme at its ordinary meeting to be held on 26 September 2022.

Key Considerations

- The submissions in support of the Scheme have highlighted the ongoing value and benefit of the Special Charge program to Macleod Shopping Village over a number of years, particularly during a time of economic uncertainty brought on by the impacts of COVID-19.
- 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.
- Council considers that all of the commercial properties in the Macleod Shopping Village will derive a special benefit from the expenditure of the proceeds on promotional, advertising, marketing and other business development activities. Council further considers that the expenditure of the Special Charge funds on such activities will encourage commerce, retail and professional activity and employment in the Macleod Shopping Village.

Timelines

- The key developments in the statutory process for the declaration of a Special Charge to date have been as follows:
 - 9 May – Council report – Notice of Intention to Declare a Special Rate;
 - 17 May – Public Notice of Proposed Declaration advertised in the “*The Herald Sun*” newspaper and on Council's website;
 - 18 May – A copy of the public notice with separate letter sent to all owners and occupiers advising of proposed Special Charge amount payable;
 - 17 June – Submissions and Objections due;
 - 15 August – Council report – Consideration of Submissions and Objection; and
 - 26 September– Council report – Recommendation that decision be resolved.

PROPOSED DECLARATION OF A SPECIAL CHARGE - MACLEOD VILLAGE SHOPPING CENTRE 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 involved in the preparation of this report have no conflict of interest in this matter.

ATTACHMENTS

No.	Title	Page
1	Participant Map	
2	Participating Properties and Annual Charge	

7.4 PROPOSED DECLARATION OF A SPECIAL CHARGE – GREENSBOROUGH TOWN CENTRE

Author: Daniela Parisella - Economic Development Officer, City Development

Previous Items

Council on 9 May 2022 (Item 7.4 - Notice of Intention to declare Special Rate and Charge – Greensborough Town Centre)

Council on 15 August 2022 (Item 7.1 - Consideration of Submissions - Greensborough Town Centre Special Rate and Charge)

Council on 5 September 2022 (Item 7.2 - Support for Banyule Retail Centres - Review)

SUMMARY

1. Following the Ordinary Council Meeting held on 9 May 2022, 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 Greensborough Town Centre was advertised in the “*The Herald Sun*” newspaper on 17 May 2022 and placed on Council’s website.
2. Separate letters, advising of Council’s intention to declare the Special Charge were mailed by ordinary post, on 18 May 2022 to all owners and occupiers of the properties included in the proposed Scheme, with a copy of the public notice.
3. 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 or 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.
4. The closing date for submissions and objections was Friday, 17 June 2022. Council received by this date a total of seven written submissions in support of the proposed Scheme and no objections.
5. Council formally considered the written submissions at its ordinary meeting held on 15 August 2022 and heard one speaker in support of the scheme and resolved to proceed to make a final decision in relation to the Scheme at its ordinary meeting to be held on 26 September 2022.

RECOMMENDATION

That Council:

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 Charge under section 163(1)

PROPOSED DECLARATION OF A SPECIAL CHARGE – GREENSBOROUGH TOWN CENTRE cont'd

of the Act for the purposes of defraying expenses to be incurred by Council in providing funds to the Greensborough Chamber of Commerce ("**Traders Association**"), for the purposes of:

- (a) Collective marketing and promotion of the precinct as a whole, which will assist in raising the profile of the area, including what it has to offer to the community and its customers,
 - (b) A resourced and supported Traders Association that coordinates the daily management of activities and drives the overall strategic direction of the precinct with the support of Council, and
 - (c) Enhanced property values and improved use, enjoyment and occupation of properties and overall business goodwill within the Shopping Precinct.
2. The period for which the Special Charge is declared and will remain in force is a period of five years commencing on 1 July 2022 and ending on 30 June 2027.
3. Based on the 373 rateable assessments included in the Scheme, an amount of \$180,000 per annum will be raised for a period of five years. This amount will be supplemented by Council's contribution of a further \$105,000 per annum to provide a total annual budget to \$285,000.
4. The area for which the Special Charge is declared is the land referred to as Greensborough Town Centre, as identified in **Attachment 1**.
5. 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 **Attachment 2**.
6. 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) 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 quarterly instalments.
7. Council will consider cases of financial and other hardship, and it may reconsider other payment options for the Special Charge. No incentives will be given for payment of the Special Charge before the due date for payment in the Notice.
8. Subject to paragraph 9 of this proposed Declaration, the Traders' Association be authorised on behalf of the Council, administratively only and subject always to the supervision, direction and control of the Council, to administer the proceeds of the Special Charge on the express condition that the Traders' Association first enter into a funding agreement with the Council for the period of the Special Charge ("**Funding Agreement**").

PROPOSED DECLARATION OF A SPECIAL CHARGE – GREENSBOROUGH TOWN CENTRE cont'd

9. The Funding Agreement must be approved by the Chief Executive Officer and will include the suite of reforms that were endorsed by Councillors at the Council Meeting on the 5 September 2022.

10. The new funding agreement must contain a condition which replaces Condition 6 of the funding agreement previously entered into between the Council and the Traders' Association for the previous Special Charge. This new condition was agreed to by Council last year in the renewal of the Heidelberg Central Special Charge Scheme.

The New Condition 6 must –

(a) give the Council the legal right, in its absolute and unfettered discretion (and without first requiring any recourse to the Traders' Association), to unconditionally terminate the Funding Agreement for any reason which the Council considers to be relevant and appropriate by way of the Council first giving the Traders' Association 7 days' written notice of the Council's decision to terminate the Funding Agreement; and

(b) following such termination, allow the Council, by utilising the Council's own staff or any contracted third party, to assume ongoing responsibility for the administration of the Special Charge."

11. 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 2022, and the reasons for the decision.

12. The Traders' Association be notified of the matters specified in paragraphs 1 and 10 of this resolution.

COUNCIL PLAN

- This report is in line with Banyule's Council Plan key direction to "Create distinctive, appealing and thriving shopping centres and industrial precincts that have a local identity and contribute to a strong sense of place".

BACKGROUND

- The process to declare the Special Charge for Greensborough Town Centre began with a pre-statutory phase of consultation and review in early 2022. 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 and Charge Scheme.

PROPOSED DECLARATION OF A SPECIAL CHARGE – GREENSBOROUGH TOWN CENTRE cont'd

- In their letter to the CEO that prompted that statutory process, the Greensborough Chamber of Commerce requested that Council raise the annual levied amount by \$20,00 per annum and that Council raise its capped contribution from \$105,00 to \$200,00 per annum.
- The Chamber were advised in writing and at subsequent meetings that Council resolved on 23 April 2012 to cap its contributions at the 2011-12 levels for all of the eleven special rate and/or charge schemes operating within the Council's municipal district (including the Greensborough Shopping Centre). Accordingly, Council's contribution to the Shopping Precinct's Special Charge Scheme renewal has remained at \$105,000 per annum for the life of the Scheme subject to Council's annual budget process.
- Council further advised the Chamber following a review of the Income and Expenditure report, the projected budget and projected surpluses and an absence of justification for the increase, that Council did not support an increase to the levy. Accordingly, the levy remains unchanged.

KEY ISSUES

- The economic impact of COVID-19 on our retail centres has been significant. The Special Charge Scheme will proactively encourage commerce and business activity within Greensborough Town Centre at a time when businesses continue to recover from COVID – 19 impacts and will need the support to do so.
- The Greensborough Chamber of Commerce and Council believe that the scheme will assist the entire shopping precinct to attract visitation back to the shopping precinct as well as support business through the transition via joint promotion, marketing and business development activities. A Special Charge can play a critical role in helping to fund these activities.
- Council received a copy of each submission per verbatim at the Council Meeting on 15 August 2022. The fact that there were no objections to the proposed Scheme is considered to be a positive reflection on the past performance and success, as well as an indicator of the need for marketing support.
- Council recently undertook an extensive review into the way it manages its eleven shopping precincts with a Special Charge program, including the Greensborough Town Centre. The review looked at ways to strengthen the program to ensure transparency and accountability to satisfy Council's auditing requirements and the new *Local Government Act 2020* obligations.
- Council is piloting a suite of changes for a two-and-a-half-year period commencing October 2022 and the new Funding Agreement between the Greensborough Chamber of Commerce and Council will reflect these changes that were endorsed by Councillors at the Council Meeting on the 5 September 2022.

SUPPORTING REPORT DETAILS

Legal Consideration

- Council requires Greensborough Chamber of Commerce 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

PROPOSED DECLARATION OF A SPECIAL CHARGE – GREENSBOROUGH TOWN CENTRE cont'd

regularly submitted to Council for approval, including quarterly reports (inclusive of KPI outcome reporting, itemised bank statements and income and expenditure 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 and Charge are expended by the Traders' Association on behalf of Council, administratively only.

- As part of the process for preparing this report Council sought legal advice on new funding agreement inclusions including the termination clause. This clause was agreed to by Council in the renewal of the Heidelberg Central Special Charge renewal in 2021 and its inclusion in the new funding agreement ensures consistency and give Council the adequate flexibility should the agreement need to be terminated.
- Council is, and remains, legally responsible for approving, directing and controlling the expenditure of the proceeds of the Special Rate and 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 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 *Charter of Human Rights and Responsibilities Act 2006*.
- It is considered that the subject matter does not raise any human rights issues.

Sustainable Procurement Outcomes

There are no sustainable procurement activities arising from the recommendation contained in this report.

Financial Implications

- The Traders' Association has requested to Council that the proposed Scheme raise an amount of \$180,000 per annum. This request is supported by Council officers responsible for assessing and administering the Special Charge Schemes.
- This amount will be supported by Council's contribution of \$105,000 in order to provide a total budget of \$285,000 per annum.

Community 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 A SPECIAL CHARGE – GREENSBOROUGH TOWN CENTRE 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 Charge for Greensborough Town Centre and the reasons for doing so.
- With respect to statutory consultation, the closing date for submissions and objections was on 17 June 2022. Council received by this date a total of seven written submissions in support of the proposed Scheme and no objections.
- Council formally considered the submissions at its Ordinary Meeting on 15 August 2022 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 26 September 2022.

Key Considerations

- The submissions in support of the Scheme have highlighted the ongoing value and benefit of the Special Rate and Charge program to Greensborough Town Centre over a number of years, particularly during a time of economic uncertainty brought on by the impacts of COVID-19.
- The fact that there were no objections to the proposed Scheme is considered to be a 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.

Timelines

- The key developments in the statutory process for the declaration of a Special Charge to date have been as follows:
 - 9 May 2022 – Council report – Notice of Intention to Declare a Special Rate and Charge;
 - 17 May 2022 – Public Notice of Proposed Declaration advertised in “*The Herald Sun*” newspaper and on Council's website;
 - 18 May 2022 – A copy of the public notice with separate letter sent to all owners and occupiers advising of proposed Special Charge amount payable;
 - 17 June 2022 – Submissions and Objections due;
 - 15 August 2022 – Council report – Consideration of Submissions and Objection; and
 - 26 September 2022– Council report – Recommendation that decision be resolved.

PROPOSED DECLARATION OF A SPECIAL CHARGE – GREENSBOROUGH TOWN CENTRE 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 involved in the preparation of this report have no conflict of interest in this matter.

ATTACHMENTS

No.	Title	Page
1	Map of Participating Properties	
2	List of Participating Properties and Annual Charge	

7.5 **PROPOSED DECLARATION OF A SPECIAL CHARGE – EAGLEMONT VILLAGE**

Author: Daniela Parisella - Economic Development Officer, City Development

Previous Items

Council on 9 May 2022 (Item 7.3 - Notice of Intention to declare Special Charge – Eaglemont Village)

Council on 15 August 2022 (Item 7.3 - Consideration of Submissions – Eaglemont Village Special Charge)

Council on 5 September 2022 (Item 7.2 - Support for Banyule Retail Centres - Review)

SUMMARY

1. Following the Ordinary Council Meeting held on 9 May 2022, 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 Eaglemont Village Shopping Precinct was advertised in the “*The Herald Sun*” newspaper on 17 May 2022, and placed on Council’s website.
2. Separate letters, advising of Council’s intention to declare the Special Charge were mailed by ordinary post, on 18 May 2022 to all owners and occupiers of the properties included in the proposed Scheme, with a copy of the public notice.
3. 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.
4. The closing date for submissions and objections was Friday 17 June 2022. Council received by this date a total of nine written submissions in support of the proposed Scheme and no objections.
5. Council formally considered the written submissions at its ordinary meeting held on 15 August 2022 and resolved to proceed to make a final decision in relation to the Scheme at its ordinary meeting to be held on 26 September 2022.

RECOMMENDATION

That Council:

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 Charge under section 163(1) of the Act for the purposes of defraying expenses to be incurred by Council

**PROPOSED DECLARATION OF A SPECIAL CHARGE – EAGLEMONT VILLAGE
cont'd**

in providing funds to the Eaglemont Village Traders Association ("**Traders Association**"), for the purposes of:

- (a) Collective marketing and promotion of the precinct as a whole, which will assist in raising the profile of the area, including what it has to offer to the community and its customers,
 - (b) A resourced and supported Traders Association that coordinates the daily management of activities and drives the overall strategic direction of the precinct with the support of Council, and
 - (c) Enhanced property values and improved use, enjoyment and occupation of properties and overall business goodwill within the Shopping Precinct.
2. The period for which the Special Charge is declared and will remain in force is a period of five years commencing on 1 July 2022 and ending on 30 June 2027.
3. Based on the 25 rateable assessments included in the Scheme, an amount of \$15,000 per annum will be raised for a period of five years. This amount will be supplemented by Council's contribution of a further \$12,500 per annum to provide a total annual budget to \$27,500.
4. The area for which the Special Charge is declared is the land referred to as The Eaglemont Village Shopping Precinct, as identified in **Attachment 1**.
5. 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 **Attachment 2**.
6. 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) 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 quarterly instalments.
7. Council will consider cases of financial and other hardship, and it may reconsider other payment options for the Special Charge. No incentives will be given for payment of the Special Charge before the due date for payment in the Notice.
8. Subject to paragraph 9 of this proposed Declaration, the Traders' Association be authorised on behalf of the Council, administratively only and subject always to the supervision, direction and control of the Council, to administer the proceeds of the Special Charge on the express condition that the Traders' Association first enter into a funding agreement with the Council for the period of the Special Charge ("**Funding Agreement**").

**PROPOSED DECLARATION OF A SPECIAL CHARGE – EAGLEMONT VILLAGE
cont'd**

9. The funding agreement must be approved by the Chief Executive Officer and will include the suite of reforms that were endorsed by Councillors at the Council Meeting on the 5 September 2022.
10. The New Funding agreement must contain a condition which replaces Condition 6 of the funding agreement previously entered into between the Council and the Traders' Association for the previous Special Charge. This new condition was agreed to by Council last year in the renewal of the Heidelberg Central Special Charge Scheme.

The New Condition 6 must –
 - (a) give the Council the legal right, in its absolute and unfettered discretion (and without first requiring any recourse to the Traders' Association), to unconditionally terminate the Funding Agreement for any reason which the Council considers to be relevant and appropriate by way of the Council first giving the Traders' Association 7 days' written notice of the Council's decision to terminate the Funding Agreement; and
 - (b) following such termination, allow the Council, by utilising the Council's own staff or any contracted third party, to assume ongoing responsibility for the administration of the Special Charge."
11. 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 2022, and the reasons for the decision.
12. The Traders' Association be notified of the matters specified in paragraphs 1 and 10 of this resolution.

COUNCIL PLAN

- This report is in line with Banyule's Council Plan key direction to "Create distinctive, appealing and thriving shopping centres and industrial precincts that have a local identity and contribute to a strong sense of place".

BACKGROUND

- The process to declare the Special Charge for Eaglemont Village Shopping Precinct began with a pre-statutory phase of consultation and review in early 2022. 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 A SPECIAL CHARGE – EAGLEMONT VILLAGE
cont'd**

KEY ISSUES

- The economic impact of COVID-19 on our retail centres has been significant. The Special Charge Scheme will proactively encourage commerce and business activity within Eaglemont Village Shopping Precinct at a time when businesses continue to recover from COVID – 19 impacts and will need the support to do so.
- The Eaglemont Village Traders Association and Council believe that the scheme will assist the entire shopping precinct to attract visitation back to the shopping precinct as well as support business through the transition via joint promotion, marketing and business development activities. A Special Charge can play a critical role in helping to fund these activities.
- Council received a copy of each submission per verbatim at the Council Meeting on 15 August 2022. The fact that there were no objections to the proposed Scheme is considered to be a positive reflection on the past performance and success, as well as an indicator of the need for marketing support.
- Council recently undertook an extensive review into the way it manages its eleven shopping precincts with a Special Rate and Charge program, including Eaglemont Village. The review looked at ways to strengthen the program to ensure transparency and accountability to satisfy Council's auditing requirements and the new *Local Government Act 2020* obligations.
- Council is piloting a suite of changes for a two-and-a-half-year period commencing October 2022 and the new Funding Agreement between the Eaglemont Village Traders Association and Council will reflect these changes that were endorsed by Councillors at the Council Meeting on the 5 September 2022.

SUPPORTING REPORT DETAILS

Legal Consideration

- Council requires Eaglemont Village 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 (inclusive of KPI outcome reporting, itemised bank statements and income and expenditure 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.
- As part of the process for preparing this report Council sought legal advice on new funding agreement inclusions including the termination clause. This clause was agreed to by Council in the renewal of the Heidelberg Central Special Charge renewal in 2021 and its inclusion in the new funding agreement ensures consistency and give Council the adequate flexibility should the agreement need to be terminated.
- 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*.

**PROPOSED DECLARATION OF A SPECIAL CHARGE – EAGLEMONT VILLAGE
cont'd**

- 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 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 *Charter of Human Rights and Responsibilities Act 2006*.
- It is considered that the subject matter does not raise any human rights issues.

Sustainable Procurement Outcomes

- There are no sustainable procurement activities arising from the recommendation contained in this report.

Financial Implications

- The Traders' Association has requested to Council that the proposed Scheme raise an amount of \$15,000 per annum. This request is supported by Council officers responsible for assessing and administering the Special Charge Schemes.
- This amount will be supported by Council's contribution of \$12,500 in order to provide a total budget of \$27,500 per annum.

Community 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.
- 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 Eaglemont Village Shopping Precinct and the reasons for doing so.
- With respect to statutory consultation, the closing date for submissions and objections was on 17 June 2022. Council received by this date a total of nine written submissions in support of the proposed Scheme and no objections.
- Council formally considered the submissions at its Ordinary Meeting on 15 August 2022 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 26 September 2022.

**PROPOSED DECLARATION OF A SPECIAL CHARGE – EAGLEMONT VILLAGE
cont'd**

Key Considerations

- The submissions in support of the Scheme have highlighted the ongoing value and benefit of the Special Charge program to Eaglemont Village Shopping Precinct over a number of years, particularly during a time of economic uncertainty brought on by the impacts of COVID-19.
- The fact that there were no objections to the proposed Scheme is a 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.

Timelines

- The key developments in the statutory process for the declaration of a Special Charge to date have been as follows:
 - 9 May 2022 – Council report – Notice of Intention to Declare a Special Charge;
 - 17 May 2022 – Public Notice of Proposed Declaration advertised in “*The Herald Sun*” newspaper and on Council’s website;
 - 18 May 2022 – A copy of the public notice with separate letter sent to all owners and occupiers advising of proposed Special Charge amount payable;
 - 17 June 2022 – Submissions and Objections due;
 - 15 August 2022 – Council report – Consideration of Submissions and Objection; and
 - 26 September 2022– Council report – Recommendation that decision be resolved.

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

ATTACHMENTS

No.	Title	Page
1	Map of Participating Properties	
2	List of Participating Properties and Annual Charge	

8.1 RECORD OF COUNCILLOR MEETINGS

Author: Amy Woollcombe - Council Business Officer, Executive

SUMMARY

In accordance with section 60 of *the Local Government Act 2020*, Council at its meeting on 17 August 2020 adopted the Banyule Governance Rules. The Governance Rules, Chapter 6 Miscellaneous requires the Chief Executive Officer to ensure that a summary of the matters that are discussed, meet the following definition:

If there is a meeting of Councillors that:

1. Is scheduled or planned for the purposes of discussing the business of Council or briefing Councillors;
2. Is attended by at least one member of Council staff; and
3. Is not a Council meeting, Delegated Committee Meeting or a Community Asset Committee Meeting

Are tabled at the next convenient Council Meeting and are recorded in the meeting minutes of that Council meeting.

Record of Meetings

RECORD OF COUNCILLOR MEETINGS cont'd

1	Date of Meeting:	24 August 2022
	Type of Meeting:	Banyule Disability and Inclusion Advisory Committee
	Matters Considered:	
	<ul style="list-style-type: none"> • Consultation – Inclusion@Sport • Consultation - East Ivanhoe Streetscape • Inclusive Banyule and Year 1 Action Plan • Collaborative Integrated Committee Meetings • Advisory Committee Review and Recommendations • Inclusive Banyule Projects • Council Updates • General Discussion 	
	Councillors Present:	
	Cr Rick Garotti	
Staff Present:		
<p>Vicki Martinez – <i>Community and Social Planner</i> Jo Wilson – <i>Manager Resilient and Connected Communities</i> Laura Mannix - <i>Team Leader – Community and Social Planning</i></p>		
Others Present:		
<p>Sarah Hockey Donna Prichard Allan Leenaerts Parvin Ahadi Laila Fernandez Ros Melling Dani Stramandinoli Elizabeth Parry Alicia Rotella</p>		
Conflict of Interest:	NIL	

RECORD OF COUNCILLOR MEETINGS cont'd

2	Date of Meeting:	29 August 2022
	Type of Meeting:	Councillor Briefing
	Matters Considered:	
	<ul style="list-style-type: none"> • School Crossing Supervision Program - System Redesign • Mid Term Councillor Induction Program: Topic 2: Gifts, benefits, hospitality, fraud and corruption • Website design update • Planning Scheme Amendment C107 - Treetops Adventure • Park in Yarra Flats - Extension to Lapse Date • Consultant Cost Report - 2021/22 	
	Councillors Present:	
<p>Cr Elizabeth Nealy Cr Alison Champion Cr Alida McKern Cr Fiona Mitsinikos Cr Mark Di Pasquale Cr Peter Castaldo Cr Peter Dimarelos Cr Rick Garotti Cr Tom Melican</p>		
Staff Present:		
<p>Allison Beckwith - <i>Chief Executive Officer</i> Darren Bennett – <i>Director Assets & City Services</i> Marc Giglio – <i>Director Corporate Services</i> Natasha Swan – <i>Director City Development</i> Kath Brackett – <i>Director Community Wellbeing</i> Krysten Forte – <i>Governance Coordinator</i> Megan Kemp - <i>Executive & Councillors Team Leader</i> Shawn Neilson – <i>Communications, Advocacy and Engagement Coordinator</i> Luca Verduci – <i>Senior Digital Communications Officer</i> Linda Chapple – <i>Strategic Procurement Coordinator</i> Fae Ballingal – <i>Strategic Planning & Urban Design Coordinator</i> Jonathan Risby – <i>Manager Transport and Environment</i> Showkat Akber - <i>School Crossing Team Leader</i></p>		
Others Present:		
<p>Kate Oliver – <i>Maddocks Lawyers</i></p>		
Conflict of Interest:	NIL	

RECORD OF COUNCILLOR MEETINGS cont'd

3	Date of Meeting:	1 September 2022
	Type of Meeting:	Advisory Committee Meeting (eg Councillor Briefing, Advisory Committee Meeting)
	Matters Considered:	
	<ul style="list-style-type: none"> • Welcome & Apologies • Empire Music Studios Tour • Arts & Culture Strategic Planning Update • Placemaking Discussion 	
	Councillors Present:	
	Cr Elizabeth Nealy Cr Alida McKern Cr Tom Melican	
Staff Present:		
Kath Brackett – <i>Director Community Wellbeing</i> Cheree Hunter – <i>Manger Inclusive & Creative Communities</i> Hannes Berger – <i>Arts & Culture Coordinator</i>		
Others Present:		
Kate Hansen June Gassin Janelle Dunstan Genelle Ryan Paul Higgins Amy Stephenson Caroline Wall		
Conflict of Interest:	NIL	

RECORD OF COUNCILLOR MEETINGS cont'd

4	Date of Meeting:	5 September 2022
	Type of Meeting:	Pre-Council Meeting Briefing
	Matters Considered:	
<ul style="list-style-type: none"> • 3. Our Inclusive and Connected Community • 3.1 Ivanhoe Aquatic Centre Stage 2 Re development - Consultation Feedback and Revised Concept Design • 3.2 Ivanhoe Aquatic Centre Stage 2 Redevelopment - Contract Variation • 3.3 Inclusive Banyule • 3.4 Banyule Youth Summit Recommendations 2022 Report Card • 3.5 Review of Council's Advisory and Population Committees • 5. Our Well-Built City • 5.1 157-163 Lower Heidelberg Road, Ivanhoe - Proposed 5 Storey Retirement Village (P779/2022) • 5.2 Hurstbridge Rail - Landscape and Active Transport Feasibility Study - Final • 5.3 Tree Removal associated with Redmond Court Wetlands Reserve Upgrade - P641/2022 • 7. Our Thriving Local Economy • 7.1 Inclusive Employment Program 2021/22FY - End of Program Update • 7.2 Support for Banyule Retail Centres - Review • 8. Our Trusted and Responsive Leadership • 8.1 Council Meeting Dates 2023 • 8.2 Draft Governance Rules • 8.3 Audit & Risk Committee - Bi-Annual Report and Charter Review • 8.4 Awarding of Contract No: 1202-2022 for the Provision of Internal Audit Services • 8.5 Procurement Australia (PA 2406-0713) IT Services Contract • 8.6 Record of Councillor Meetings 		
Councillors Present:		
<p>Cr Elizabeth Nealy Cr Alison Champion Cr Alida McKern Cr Mark Di Pasquale Cr Peter Castaldo Cr Peter Dimarelos Cr Rick Garotti Cr Tom Melican</p>		
Staff Present:		

RECORD OF COUNCILLOR MEETINGS cont'd

Allison Beckwith - <i>Chief Executive Officer</i> Darren Bennett – <i>Director Assets & City Services</i> Marc Giglio – <i>Director Corporate Services</i> Natasha Swan – <i>Director City Development</i> Kath Brackett – <i>Director Community Wellbeing</i> Gina Burden – <i>Manager Governance & Communication</i> Krysten Forte – <i>Governance Coordinator</i> Daniel Fantin – <i>Major Property Projects Coordinator</i> Lucy Rasdell – <i>Manager Strategic Properties & Projects</i> Jonathan Risby – <i>Manager Transport & Environment</i> Amy Woollcombe – <i>Business Services Officer</i> Karen Leeder – <i>Manager City Futures</i> Dani Ahimastos – <i>Senior Economic Development Officer</i>	
Others Present: NIL	
Conflict of Interest:	NIL

RECORD OF COUNCILLOR MEETINGS cont'd

5	Date of Meeting:	12 September 2022
	Type of Meeting:	LaTrobe University City of the Future Briefing
	Matters Considered:	
	<ul style="list-style-type: none"> • Presented on University City of the Future 	
	Councillors Present:	
	Cr Elizabeth Nealy Cr Alison Champion Cr Alida McKern Cr Peter Castaldo Cr Tom Melican	
Staff Present:		
Allison Beckwith - <i>Chief Executive Officer</i> Darren Bennett – <i>Director Assets & City Services</i> Natasha Swan – <i>Director City Development</i> Megan Kemp - <i>Executive & Councillors Team Leader</i>		
Others Present:		
Gerard Blood (LaTrobe) Mary (LaTrobe) Simon Barnes (LaTrobe) Nicole (LaTrobe) Chris Robinson (Capire) Trearda (LaTrobe)		
Conflict of Interest:	NIL	

RECORD OF COUNCILLOR MEETINGS cont'd

6	Date of Meeting:	12 September 2022
	Type of Meeting:	Councillor Briefing
	Matters Considered:	
	<ul style="list-style-type: none"> • State of the construction Industry – Master Builders Association of Victoria • Capital Quarterly Update • Olympic Park Project Update • Watsonia Town Square • Confidential Property Acquisition Matter • Audit and Risk Committee update – meeting schedule 	
	Councillors Present:	
	<p>Cr Elizabeth Nealy Cr Alison Champion Cr Alida McKern Cr Mark Di Pasquale Cr Peter Castaldo Cr Peter Dimarelos Cr Rick Garotti Cr Tom Melican</p>	
Staff Present:		
<p>Darren Bennett – <i>Director Assets & City Services</i> Marc Giglio – <i>Director Corporate Services</i> Natasha Swan – <i>Director City Development</i> Krysten Forte – <i>Governance Coordinator</i> Greg Gale – <i>Manager Delivery & Assets</i> Lucy Rasdell – <i>Manager Strategic Properties & Projects</i> Joe Kelly – <i>Senior Project Manager</i> Matthew Deayton – <i>Capital Works Coordinator</i> Nick McKay – <i>Senior Project Manager</i> Tania O'Reilly – <i>Manager Finance & Procurement</i></p>		
Others Present:		
<p>Megan Peacock – External presenter- Master Builders Association of Victoria</p>		
Conflict of Interest:	NIL	

RECORD OF COUNCILLOR MEETINGS cont'd

7	Date of Meeting:	12 September 2022
	Type of Meeting:	CEO Employment Matters
	Matters Considered:	
	<ul style="list-style-type: none"> • CEO KPI Review • CEO Score card • Remuneration Benchmarking data of local government CEO's • The CEO's remuneration and associated review • Meeting dates for the upcoming CEO Employment Matters Committee meetings – February 2023 and August 2023 	
	Councillors Present:	
	Cr Elizabeth Nealy Cr Alison Champion Cr Mark Di Pasquale Cr Peter Castaldo Cr Peter Dimarelos Cr Rick Garotti Cr Tom Melican	
	Staff Present:	
Allison Beckwith - <i>Chief Executive Officer</i> (only present during the discussions relating to remuneration and KPIs when invited. There were 'in camera' sessions with just Committee Members and the CEO was not present in those discussions.		
Others Present:		
Mr Allan Bawden – Independent Advisor		
Conflict of Interest:	NIL	

RECOMMENDATION

That Council receives and notes the Record of Councillor Meetings report.

ATTACHMENTS

Nil