

Agenda of Ordinary Meeting of Council - Monday, 29 May 2023

commencing at 7pm

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



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 Islander 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 8 May 2023

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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:

11. Confidential Matters

11.1 70 Yarra Street, Heidelberg – Alternative Outcome for Mixed Use Development (P583/2022)

This report is designated as confidential pursuant to s 3(1)(e) of the 2020 Act as the information within the report contains legally privileged information, being information to which legal professional privilege or client legal privilege applies and if released prematurely, could unreasonably expose the business, commercial or financial undertaking to disadvantage.

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 and 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, 26 June 2023

2.1 **PROVIDE A LOCAL PARK WEST OF THE EAGLEMONT VILLAGE ACTIVITY CENTRE**

Author: Amy Woollcombe - Council Business Officer, Executive

Ward: Griffin

SUMMARY

1. A petition with the title 'Council to Provide a Local Park West of the Eaglemont Village Activity Centre' was received and signed by 242 signatories in support of this petition.
2. The breakdown of the 242 signatories is set out in the table in the body of this report.
3. The Petition request is summarised as per below:
"We, the undersigned, petition or request Council to: Provide a LOCAL PARK west of the Eaglemont Village Activity Centre that is suitable for a range of play and recreation activities."

RECOMMENDATION

That Council:

1. Receives and notes the petition.
2. Refers to the petition to the Open Space Planning and Design Team in the City Development Directorate for action and consideration.
3. Advise the primary petitioner of this resolution.

- The petition request is as follows:

"We, the undersigned, petition, or request Council to: Provide a LOCAL PARK west of the Eaglemont Village Activity Centre that is suitable for a range of play and recreation activities."

- The signatories of this petition were from the following suburbs:

Suburb	Number of signatories
Alphington	1
Cape Paterson	1
Eaglemont	121
Eltham	1
Greensborough	2
Heidelberg	6
Heidelberg West	2

PROVIDE A LOCAL PARK WEST OF THE EAGLEMONT VILLAGE ACTIVITY CENTRE cont'd

Ivanhoe	85
Ivanhoe East	12
Kingsbury	1
Macleod	1
Montmorency	4
Plenty	1
Rosanna	1
Viewbank	2
Watsonia	1

DISCUSSION

- Upon receipt of the petition, the Open Space Planning and Design Team will further investigate the request for a Local Park west of the Eaglemont Village Activity Centre with the provision for play and recreational functions.
- The Vision of the Banyule Public Open Space Plan 2016-2031 for the municipality is “A green City that provides high quality, sustainable, accessible and well maintained public open space within 5 minutes’ walk of residents.” The Vision is supported by six objectives or pillars being:
 - Quantity (Is there enough?)
 - Quality (How good is it?)
 - Access & Connectivity (Can I get there to use it?)
 - Equitable distribution (It is available throughout Banyule?)
 - Diversity (Will it provide different experiences?)
 - Sustainably (Will it affect the environment & will it last?)
- We are mid-way through implementation of the 15-year Open Space Plan and there remains many initiatives to prioritise and implement over the coming 7-8 years.
- The Banyule Open Space Plan identifies the challenges raised by the petitioners stating:
 - *There are a number of areas within the south precinct that require improved access to public open space due to either distance or physical barriers such as major roads and the Melbourne-Hurstbridge Railway Line.*
 - *There is minimal public open space in and around the Ivanhoe Activity Centre, which may become a bigger issue given likely increases in residential density and population (page 29)*
- The Open Space Plan includes a number of recommendations and actions to address these challenges that must be prioritised against the open space needs of the rest of the municipality. Development of a new park west of the Eaglemont Village is not included in the Open Space Plan.

PROVIDE A LOCAL PARK WEST OF THE EAGLEMONT VILLAGE ACTIVITY CENTRE 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

Nil

3.1 RECORD OF COUNCILLOR MEETINGS

Author: Amy Woolcombe - Council Business Officer, Executive

SUMMARY

In accordance with section 60 of *the Local Government Act 2020*, Council at its meeting on 14 November 2022 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

1	Date of Meeting:	1 May 2023, 6:32pm
	Type of Meeting:	Councillor Briefing
Matters Considered:		
Councillor Briefing Presentation Papers:		
1.1 Housing and Neighbourhood Character Workshop		
1.2 Digital Transformation Update		
1.3 Community Infrastructure Plan Consultation Outcomes and Draft Actions		
1.4 Quarterly Financial Management Report - March 2023		
Councillor Briefing Papers:		
2.1 Rates Hardship Assistance Policy		
2.2 Revenue and Rating Plan		
2.3 Capital Works Quarterly Project Delivery Update		
2.4 People and Culture Quarterly Report		
3.1 Management and Operation of WaterMarc - Finalisation of 2023/2024 Budget and RFT Timelines		
Council Meeting Documents:		
2.1 Request to Have Traffic Measures To Be Put into Place along Gloucester Drive, Heidelberg		
3.1 Banyule City Council position on MAV State Council Motions		
3.2 Banyule Cemeteries Trust - Operations Report		
3.3 Banyule Cemeteries Trust - Financial Statement		
3.4 Banyule Cemeteries Trust - Fees 2023-2024		

RECORD OF COUNCILLOR MEETINGS cont'd

	<p>3.5 Banyule Cemeteries Trust - Operations Budget 2023-2024 and 10 Year Budget Forecast</p> <p>3.6 Record of Councillor Meetings</p> <p>5.1 Banyule Environment and Climate Action Advisory Committee Recommendation - ICLEI Membership</p> <p>6.1 50 Chapman Street, MACLEOD - New Macleod Park pavilion (P1238/2022)</p> <p>7.1 19A Stewart Terrace, Macleod - Proposed Sale of Land</p> <p>11.1 Proposed Sale of Land – Heidelberg</p>	
	<p>Councillors Present:</p> <p>Mayor Cr Peter Castaldo Deputy Mayor Cr Alida McKern Cr Alison Champion Cr Rick Garotti Cr Tom Melican Cr Fiona Mitsinikos Cr Elizabeth Nealy</p>	
	<p>Staff Present:</p> <p>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> Karen Leeder - <i>Manager City Futures</i> Emma Butterworth - <i>Senior Strategic Planner</i> Emily Harriss - <i>Strategic Planner</i> Fae Ballingal - <i>Strategic Planning & Urban Design Coordinator</i> Joty Singh – <i>Head of IT and Digital Transformation</i> Nicole Maslin - <i>Manager Healthy and Active Communities</i> Niki Efstratiou - <i>Community Infrastructure Planner</i> Megan Kemp - <i>Strategic Executive Assistant to CEO & Mayor</i> Tania O'Reilly - <i>Manager Finance & Procurement</i> Philip Ryan - <i>Revenue Services Coordinator</i></p>	
	<p>Others Present:</p> <p>Nil</p>	
	<p>Conflict of Interest:</p>	<p>Nil</p>

2	<p>Date of Meeting:</p>	<p>3 May 2023, 6pm</p>
	<p>Type of Meeting:</p>	<p>Multicultural Committee meeting</p>
	<p>Matters Considered:</p>	

RECORD OF COUNCILLOR MEETINGS cont'd

	<ol style="list-style-type: none"> 1. Information sharing from members 2. Population Committee updates 3. Harmony Day 4. Racism actions 5. Welcoming Cities commitment 6. Refugee Welcome Kit 7. Refugee Week 8. Council updates
	<p>Councillors Present:</p> <p>Cr Fiona Mitsinikos</p>
	<p>Staff Present:</p> <p>Jo Wilson – <i>Manager, Resilient & Connected Communities</i> Lisa King – <i>Community and Social Planner</i></p>
	<p>Others Present:</p> <p>Louisa Ong Ginger (Lan) Jiang Samira Liban Jeyarajah (Raj) Ramanathan Alaa Elzokm Albert Fatileh Ansum Sadik</p>
	<p>Conflict of Interest: Nil</p>

3	<p>Date of Meeting: 4 May 2023, 6pm</p> <p>Type of Meeting: Banyule Arts and Culture Advisory Committee (BACAC)</p>
	<p>Matters Considered:</p> <ol style="list-style-type: none"> 1. Welcome & Apologies 2. Advisory Committees term extension 3. Banyule Art Collection New Acquisitions 4. Creative Banyule 2030 (Arts & Culture strategic plan development) 5. Arts & Culture Grants 2023 – Working Group EOIs
	<p>Councillors Present:</p> <p>Cr Elizabeth Nealy</p>
	<p>Staff Present:</p> <p>Georgie Meyer – <i>Manger Inclusive & Creative Communities</i> Hannes Berger – <i>Arts & Culture Coordinator</i> Hiroki Kobayashi – <i>Arts & Cultural Development Officer</i></p>
	<p>Others Present:</p> <p>June Gassin</p>

RECORD OF COUNCILLOR MEETINGS cont'd

	Genelle Ryan Craig Eloranta Kate Hansen Leah Crossman Deb Lemcke Paul Higgins Caroline Wall
Conflict of Interest:	Nil

4	Date of Meeting:	8 May 2023, 5:34pm
	Type of Meeting:	Pre-Brief
	Matters Considered:	
	2.1 Request to Have Traffic Measures To Be Put into Place along Gloucester Drive, Heidelberg 3.1 Banyule City Council position on MAV State Council Motions 3.2 Banyule Cemeteries Trust - Operations Report 3.3 Banyule Cemeteries Trust - Financial Statement 3.4 Banyule Cemeteries Trust - Fees 2023-2024 3.5 Banyule Cemeteries Trust - Operations Budget 2023-2024 and 10 Year Budget Forecast 3.6 Record of Councillor Meetings 5.1 Banyule Environment and Climate Action Advisory Committee Recommendation - ICLEI Membership 6.1 50 Chapman Street, Macleod - New Macleod Park pavilion (P1238/2022) 7.1 19A Stewart Terrace, Macleod - Proposed Sale of Land	
	Councillors Present:	
	Mayor Cr Peter Castaldo Deputy Mayor Cr Alida McKern Cr Alison Champion Cr Mark Di Pasquale Cr Tom Melican Cr Fiona Mitsinikos Cr Elizabeth Nealy	
	Staff Present:	
	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> Linda Chapple - <i>Governance & Council Business Specialist</i> Jonathan Risby – <i>Manager Transport & Environment</i>	
	Others Present:	
	Nil	

RECORD OF COUNCILLOR MEETINGS cont'd

	Conflict of Interest:	Nil
5	Date of Meeting:	15 May 2023, 6:30pm
	Type of Meeting:	Councillor Briefing
	Matters Considered:	
	<p>Councillor Briefing Presentation:</p> <ul style="list-style-type: none"> 1.1 Draft Banyule Heritage Strategy 2023-2033 1.2 Unreasonable Customer Behaviour Policy 1.3 Governance Rules Review - Stage 2 – Community Participation in Council Meetings <p>Councillor Briefing Papers:</p> <ul style="list-style-type: none"> 2.1 Proposed Budget 2023-2027 2.2 Customer Service Update 2.3 Strategic Planning Update and VCAT Decision Summaries - February to March 2023 2.4 Banyule Economic Development Strategy 2023 - 2028 - Community Engagement and Next Steps 2.5 Banyule Art Collection and Recommendations for New Acquisitions 2022-2023 	
	Councillors Present:	
<p>Mayor Cr Peter Castaldo Deputy Mayor Cr Alida McKern Cr Fiona Mitsinikos Cr Tom Melican Cr Elizabeth Nealy Cr Mark Di Pasquale Cr Rick Garotti Cr Alison Champion</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> Linda Chapple - <i>Governance & Council Business Specialist</i> Carmel Rapacciuolo - <i>Governance Project Officer</i> Nicola Rooks – <i>Strategic Planner</i> Karen Leeder – <i>Manager City Futures</i> Fae Ballingall – <i>Strategic Planning & Urban Design Coordinator</i> Suzanne Sealey - <i>Customer Experience Strategy Coordinator</i> Joseph Linnestad - <i>Customer Exp & Business Improvement Manager</i></p>		
Others Present:		
Nil		
	Conflict of Interest:	Nil

RECORD OF COUNCILLOR MEETINGS cont'd

RECOMMENDATION

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

ATTACHMENTS

Nil

3.2 **INSTRUMENT OF DELEGATION FROM COUNCIL TO THE CHIEF EXECUTIVE OFFICER**

Author: Linda Chapple - Governance and Council Business Specialist, Executive

SUMMARY

1. Instruments of Delegation represent the formal delegation of powers by Council under Section 11 of the *Local Government Act 2020* and enable the business of Council to be carried out efficiently and in line with Council approved policies.
2. The current Instrument of Delegation from Council to the Chief Executive Officer, also known as s5 or Schedule 5, was adopted by Council on 5 December 2022 and executed on 6 December 2022.
3. There are no material changes proposed to the Instrument of Delegation from Council to the Chief Executive Officer since last executed on 6 December 2022.
4. Updating and reviewing the Instrument, along with other instruments of delegation Council prepares, is part of the Instrument of Delegation Review Project and supports the good governance, accountability, and transparency principles within the *Local Government Act 2020*.
5. At the 5 December 2022 Council resolved to ensure that the following provisions were reflected in the Instrument, and for transparency they have remained. These are detailed in the body of this Report.
6. Council subscribes to the Maddocks (Lawyers) Authorisations and Delegations In-Depth Service, which provides advice regarding legislative amendments and the provision of template instruments, which are then tailored to organisational requirements.
7. The proposed Instrument of Delegation from Council to the Chief Executive Officer (s5) is presented to Council for consideration as attached to this Report at **Attachment 1**. Changes have been tracked to demonstrate any changes made since it was last executed.

RECOMMENDATION

That Council in the exercise of the power conferred by s 11(1)(b) of the *Local Government Act 2020* (the Act), Banyule City Council (Council) resolves that:

1. There be delegated to the person holding the position, or acting in or performing the duties, of Chief Executive Officer the powers, duties and functions set out in the attached *Instrument of Delegation to the Chief Executive Officer (Attachment 1 to this report)* subject to the conditions and limitations specified in that Instrument.
2. The instrument comes into force immediately upon this resolution being made and is to be signed by the Council's Chief Executive Officer and the Mayor.

INSTRUMENT OF DELEGATION FROM COUNCIL TO THE CHIEF EXECUTIVE OFFICER cont'd

3. On the coming into force of the instrument all previous delegations to the Chief Executive Officer are revoked.
4. The duties and functions set out in the instrument must be performed, and the powers set out in the instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.

COUNCIL PLAN

- This report is in line with Banyule's Council Plan strategy to "Provide good governance, be accountable and make informed decisions based on sound evidence".

BACKGROUND

- Instruments of Delegation represent the formal delegation of powers by Council under the *Local Government Act 2020* (the Act) and enables the business of Council to be carried out efficiently, effectively and in line with Council approved policies.
- Delegations are assigned to positions within Council, rather than to natural people. When executing power under delegation, all staff are also limited and bound by Council policies and procedures.
- The revised Instrument of Delegation to Chief Executive Officer is based upon the previous Instrument considered by Council at its Ordinary Council Meeting on 5 December 2022.
- As per advice received from the Maddocks Delegation and Authorisation In Depth Service, the regular review of delegations, irrespective of changes, is important for the good governance of Council and ensures that Council regularly reviews their delegated powers, and that legislative reform and organisation restructures are captured.
- Regular review also promotes transparency and accountability to the community on the powers, duties, and functions of Council to all staff, including the Chief Executive Officer.
- The revised Instrument details the powers and matters bestowed upon the Chief Executive Officer, including conditions and limitations on what the Chief Executive Officer must not determine, action, or do.
- Examples of the conditions and limitations that are set out in the Instrument include, but are not limited to: the ability to enter into a contract exceeding the value of \$1,000,000 excl GST; appointing an Acting Chief Executive officer for a period exceeding 28 days; electing a Mayor or Deputy Mayor;; granting a reasonable request for leave under s 35 of the Act; making any decision in relation to the employment, dismissal or removal of the Chief Executive Officer; or approving and amendment of the Council Plan.

INSTRUMENT OF DELEGATION FROM COUNCIL TO THE CHIEF EXECUTIVE OFFICER cont'd

KEY ISSUES

- An important part of Council's effective decision-making framework is the ability to delegate its powers to members of Council Staff directly, and to the Chief Executive Officer, to ensure the continued transaction of Council business in a timely and efficient manner.
- Council subscribes to the Maddocks (Lawyers) Delegation and Authorisation In Depth Service which provides regular updates on legislation and assurance to local government. This Delegations update service mitigates the risks involved in oversight of the many reforms to legislation that govern the operations of Council.
- The Instrument of Delegation from the Council to the Chief Executive Officer (s5) is not the only the instrument of delegation Council can execute, or that the Chief Executive Officer or other officers can execute.
- A summary of other instruments is detailed below:
 - s6 - Instrument of Delegation from Council to Members of Council Staff
 - s7- Instrument of Sub - Delegation from the Chief Executive Officer to Members of Council Staff
 - s12- Instrument of Delegation and Authorisation from the Municipal Building Surveyor (MBS) under the Building Act 1993 and the Building Regulations 2018.
 - s13 – Instrument of Delegation from the Chief Executive Officer to Staff of CEO Powers.
 - s14 – Instrument of Delegation from the Chief Executive Officer to Staff (VicSmart Applications).
 - s16 – Instrument of Delegation from Council to staff -Bushfire Reconstruction Applications
 - s18 – Instrument of Sub-Delegation under the Environment Protection Act 2017.
 - s19A Instrument of Delegation from Municipal Fire Prevention Officer under the Country Fire Authority Act 1958.
 - s19B Instrument of Delegation from Municipal Fire Prevention Officer under the Fire Rescue Victoria Act 1958.
- Attached to this Report are the following documents:
 - the proposed Instrument of Delegation from Council to the Chief Executive Officer
- Officers have also been provided training from the Governance Department on understanding authorisations and delegations.

SUPPORTING REPORT DETAILS

Legal Consideration

- Reviewing Council's delegations ensures Council continues to comply with its obligations under various Acts and Regulations and enables the business of Council to be carried out efficiently.

INSTRUMENT OF DELEGATION FROM COUNCIL TO THE CHIEF EXECUTIVE OFFICER cont'd

- Updating and managing instruments of delegation ensures compliance with Section 11 of the *Local Government Act 2020*.
- Councils are required to maintain a register of all the instruments of delegation that are in force in accordance with S11 of the *Local Government Act 2020*.

Human Rights Charter

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


Financial Implications

- There are no financial implications associated with this report.
- Council's subscription to the Maddocks (Lawyers) Delegations and Authorisation In Depth Service is allocated in Council's operating budget.

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

N	Title	Page
0	.	
1	S5 - Instrument of Delegation from Council to the Chief Executive Officer  - Proposed	

3.3 INSTRUMENT OF DELEGATION FROM COUNCIL TO MEMBERS OF COUNCIL STAFF

Author: Linda Chapple - Governance and Council Business Specialist, Executive

SUMMARY

1. Instruments of Delegation represent the formal delegation of powers by Council under Section 11 of the *Local Government Act 2020* and enable the business of Council to be carried out efficiently and in line with Council approved policies.
2. Council subscribes to Maddocks (Lawyers) Delegations and Authorisations In-Depth Service which provides a range of schedules for Council to utilise and modify according to their organisational needs in line with relevant legislation.
3. One of the instruments that Maddocks structure and prepare in their service is the Instrument of Delegation from Council to Members of Council staff, also known as Schedule 6 or s6.
4. Council last adopted the s6 on the 5 December 2022 and it was executed on 6 December 2022. In January 2023 Maddocks released, via their In-Depth Service, amendments to the s6 and other instruments in accordance with legislative change and reform.
5. All changes made from the current s6 (adopted 5 December 2022) can be found via track changes in **Attachment 1** – proposed s6).
6. The s6 has been prepared for Council's consideration and provides a schedule of the legislation that only Council can delegate directly to Members of Council staff, and that the Chief Executive Officer is unable to sub delegate under the *Local Government Act 2020*.
7. Members of Council staff from across the organisation have been involved in the consultation process to inform the relevant positions within Council to be 'delegated' the right duties, powers, and functions under each respective piece of legislation to support the implementation of Council's decisions and transact the business of Council effectively and efficiently in line with the laws of the day.
8. Training has been provided to staff on delegations and authorisations to empower staff to understand the review process and allocating staff to specific duties, powers, and functions in line with their subject matter expertise and position description.
9. Details of key updates made to the s6 are detailed in the body of this Report.
10. Updating and reviewing the Instrument, along with other instruments of delegation Council prepares, is part of the Instrument of Delegation Review Project and supports the good governance, accountability, and transparency principles of the Act.
11. The revised Instrument of Delegation from Council to Members of Council Staff (s6) is presented to Council for consideration as attached to this Report.

INSTRUMENT OF DELEGATION FROM COUNCIL TO MEMBERS OF COUNCIL STAFF cont'd

RECOMMENDATION

That Council in the exercise of the powers conferred by the legislation referred to in the attached instrument (**Attachment 1**) of delegation, resolves that -

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

COUNCIL PLAN

- This report is in line with Banyule's Council Plan strategy to "Provide good governance, be accountable and make informed decisions based on sound evidence".

BACKGROUND

- Instruments of Delegation represent the formal delegation of powers by Council under the *Local Government Act 2020* (the Act) and enables the business of Council to be carried out efficiently, effectively and in line with Council approved policies.
- Delegations are assigned to positions within Council, rather than to natural people. When executing power under delegation, all staff are also limited and bound by Council policies and procedures.
- The s6 Instrument of Delegation from Council to Members of Council Staff is used by a Council to delegate to members of its staff those powers that are contained in legislation which have their own power of delegation (but no express power of sub-delegation).
- Where the Chief Executive Officer is listed means that position is also able to exercise these powers.
- The legislation that is captured in the s6 Instrument of Delegation from Council to Members of Council Staff includes the following legislation: *Cemeteries and Crematoria Act 2003, Domestic Animals Act 1994, Food Act 1984, Heritage Act 2017, Local Government Act 1989, Planning and Environment Act 1987, Residential Tenancies Act 1997, Road Management Act 2004, Cemeteries and Crematoria Regulations 2015, Planning and Environment Regulations 2015,*

INSTRUMENT OF DELEGATION FROM COUNCIL TO MEMBERS OF COUNCIL STAFF cont'd

Planning and Environment (fees) Regulations 2016, Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 2020, Road Management (General) Regulations 2016, and the Road Management (Works and Infrastructure) Regulations 2015.

- Where the powers under legislation are not required to be delegated, the column 'delegate' is populated with 'not delegated'.
- As per advice received from the Maddocks Delegation and Authorisation In Depth Service, the regular review of delegations, irrespective of changes, is important for the good governance of Council and ensures that Council regularly reviews their delegated powers, and that legislative reform and organisation restructures are captured.
- Regular review also promotes transparency and accountability to the community on the powers, duties, and functions of Council to all staff, including the Chief Executive officer.
- The Instrument of Delegation from Council to Members of Council Staff (s6) is attached to this report at **Attachment 1**.

KEY ISSUES

- An important part of Council's effective decision-making framework is the ability to delegate its powers to members of Council Staff directly, and to the Chief Executive Officer, to ensure the continued transaction of Council business in a timely and efficient manner.
- Council subscribes to the Maddocks (Lawyers) Delegation and Authorisation In Depth Service which provides regular updates on legislation and assurance to local government. This Delegations update service mitigates the risks involved in oversight of the many reforms to legislation that govern the operations of Council.
- The Instrument of Delegation from the Council Members of Council Staff (s6) is not the only the instrument of delegation Council can execute, or that the Chief Executive Officer or other officers can execute.
- A summary of other instruments is detailed below:
 - S5 - Instrument of Delegation from Council to the Chief Executive Officer
 - s7- Instrument of Sub - Delegation from the Chief Executive Officer to Members of Council Staff
 - s12- Instrument of Delegation and Authorisation from the Municipal Building Surveyor (MBS) under the Building Act 1993 and the Building Regulations 2018.
 - s13 – Instrument of Delegation from the Chief Executive Officer to Staff of CEO Powers.
 - s14 – Instrument of Delegation from the Chief Executive Officer to Staff (VicSmart Applications).
 - s16 – Instrument of Delegation from Council to staff -Bushfire Reconstruction Applications
 - s18 – Instrument of Sub-Delegation under the Environment Protection Act 2017.

INSTRUMENT OF DELEGATION FROM COUNCIL TO MEMBERS OF COUNCIL STAFF cont'd

- s19A – Instrument of Delegation from Municipal Fire Prevention Officer under the Country Fire Authority Act 1958.
- s19B – Instrument of Delegation from Municipal Fire Prevention Officer under the Fire Rescue Victoria Act 1958.
- Attached to this Report (**Attachment 1**) is the proposed Instrument of Delegation from Council to Members of Council Staff (s6) as prepared by Council Officers.
- There has been one change to the Cemeteries and Crematoria Act 2003 being:
 - Section 52 of the Act has been inserted relating to the duty to report annually to the Secretary.
- The following change has been made to the Planning and Environment Regulations 1987:
 - Section 25(a) and (b) of the Planning and Environment Regulations 1987 have been slightly amended by the Planning and Environment Amendment Regulations 2022, to refer to the public availability requirements.
- Team realignments, new positions or changes to position titles have been captured through the review process.

SUPPORTING REPORT DETAILS

Legal Consideration

- Reviewing Council's delegations ensures Council continues to comply with its obligations under various Acts and Regulations and enables the business of Council to be carried out efficiently.
- Updating and managing instruments of delegation ensures compliance with Section 11 of the *Local Government Act 2020*.
- Councils are required to maintain a register of all the instruments of delegation that are in force in accordance with S11 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.

Financial Implications

- There are no financial implications arising from the recommendation contained in this report.
- Council's subscription to the Maddocks (Lawyers) Delegations and Authorisation In Depth Service is allocated in Council's Operating Budget.

Collaboration

- Council's Senior Management Teams were engaged through training and development, and integral in the preparation of the s6 Instrument of Delegation.

INSTRUMENT OF DELEGATION FROM COUNCIL TO MEMBERS OF COUNCIL STAFF cont'd

Each respective department was involved in providing input and advice on which positions within Council were required to be delegated certain powers, duties, and functions to enable the business of Council to be transacted.

- Collaboration and engagement are a key element of the review of Instruments of Delegation.

Key Considerations

- Delegating certain powers, duties and functions under the legislation as captured in Instruments creates the ability for Council to manage its business effectively and for technical experts employed to support the community to undertake their obligations within their position descriptions and achieve elements of the Council Plan and other key documents.
- Effective decision making in a local government context is the power to delegate and delegate effectively to support the outcomes for the Community.

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

N	Title	Page
o	.	
1	S6 - Instrument of Delegation from Council to Members of Council Staff - Proposed (<i>Under Separate Cover</i>)	

3.4 INSTRUMENT OF SUB -DELEGATION AND APPOINTMENT AND AUTHORISATION- ENVIRONMENT PROTECTION ACT 2017

Author: Linda Chapple - Governance and Council Business Specialist, Executive

SUMMARY

1. The *Environment Protection Act 2017* (the Act) and *Environment Protection Regulations 2021* (the Regulations) came into effect on 1 July 2021.
2. Under the new Act and Regulations, the scope of Council's role as a regulator has not changed however, there have been changes to the laws and powers of councils, including a new delegation of powers directly from the Environment Protection Authority Victoria (EPA) to councils.
3. Pursuant to section 437(1) of the Act, the EPA has issued an Instrument of Delegation dated 4 June 2021 directly to Council.
4. Following this, Maddocks (Lawyers) advised that Council should now sub-delegate these powers, as conferred by section 437(2) of the Act to Council officers.
5. The attached s18 - Instrument of Sub-Delegation from Council to Members of Council Staff reflects this advice and is presented to Council for adoption.
6. Team realignments, new positions or changes to position titles have been captured through the review process and updated accordingly.
7. It is important to note that the powers contained in the Instrument of Sub-delegation can only be delegated to council staff who are authorised under section 242(2) of the Act.
8. For this reason, both the s18 - Instrument of Sub-Delegation and the s11B - Instrument of Appointment and Authorisation are presented to Council for adoption (**Attachment 1 and Attachment 2**) to this report.

RECOMMENDATION

That Council In the exercise of the power conferred by s 437(2) of the *Environment Protection Act 2017* and the Instrument of Delegation of the Environment Protection Authority under the Act dated 4 June 2021, Banyule City Council (Council) resolves that:

1. There be delegated to the members of Council staff holding, acting in or performing the duties of the offices or positions referred to in the attached s18 Instrument of Delegation (**Attachment 1**) to members of Council staff the powers, duties and functions set out in that instrument, subject to the conditions and limitations specified in that Instrument.
2. The instrument comes into force immediately after the Council's Chief Executive Officer and the Mayor signature is affixed to the instrument.

**INSTRUMENT OF SUB -DELEGATION AND APPOINTMENT AND
AUTHORISATION- ENVIRONMENT PROTECTION ACT 2017 cont'd**

3. The duties and functions set out in the instrument must be performed, and the powers set out in the instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.
4. In the exercise of the power conferred by s 242(2) of the *Environment Protection Act 2017* and the Instrument of Delegation of the Environment Protection Authority under the Act dated 4 June 2021, resolves that:
 - a) The members of Council staff referred to in the instruments be appointed and authorised as set out in the s11B Instrument of Appointment and Authorisation (**Attachment 2**).
 - b) The instrument comes into force immediately the Council's Chief Executive Officer and the Mayor signature is affixed to the instrument and remains in force until Council determines to vary or revoke it.

COUNCIL PLAN

- This report is in line with Banyule's Council Plan strategy to "Provide good governance, be accountable and make informed decisions based on sound evidence".

BACKGROUND

- The *Environment Protection Act 2017* (the Act) and Environment Protection Regulations 2021 (the Regulations) came into effect on 1 July 2021.
- Council received formal notification from the EPA in June to advise that they had delegated new powers to councils under the Act. The delegation applies to the regulation of:
 - on-site wastewater management systems not exceeding 5000 litres on any day; and
 - noise from construction, demolition, and removal of residential premises.
- The EPA's Governing Board approved the Instrument of Delegation and the Instrument of Direction on 4 June 2021. These Instruments enable Council to take necessary steps to assume the new powers under the Act and the Regulations.
- There are no material changes to the current Instrument. Team realignments, new positions and changes to position titles have been captured through the review process and updated accordingly.

**INSTRUMENT OF SUB -DELEGATION AND APPOINTMENT AND
AUTHORISATION- ENVIRONMENT PROTECTION ACT 2017 cont'd**

KEY ISSUES

- By virtue of section 437(2) of the Act, Council has the power to sub-delegate the powers contained in the EPA's Governing Board approved Instrument of Delegation to members of Council staff.
- The powers, duties and functions described and summarised in the Schedule as attached to this report, are only delegated for the purpose of regulating:
 - onsite wastewater management systems with a design or actual flow rate of sewage not exceeding 5000 litres on any day; and
 - noise from the construction, demolition, or removal of residential premise.
- Where Council has sub-delegated EPA powers and functions under s437(2) of the Act, the members of Council staff must be authorised officers under s242(2) of the Act.
- As such, new Instruments of Appointment and Authorisation are included and attached to this report.
- Delegations are necessary to facilitate effective functioning of councils as they enable day-to-day decisions to be made in relation to routine administrative and operational matters.
- In granting delegations, Council is not granting unfettered power to Council staff or relinquishing its own powers.
- A delegate must comply with the conditions of delegation as well as any policies of Council and any legislative framework.
- Council can still exercise any delegated power, duty or functions itself by resolution in the Chamber.
- Further, authorised officers must exercise the powers in accordance with the EPA's approved Instrument of Direction.
- The attached s18 Instrument of Sub-Delegation (and s11B Instrument of Appointment and Authorisation) are recommended for the effective and efficient operations of Council's activities, as well as to enable routine and administrative tasks to be carried out with consistency and certainty.

SUPPORTING REPORT DETAILS

Legal Consideration

- This report has been prepared in line with the *Environment Protection Act 2017* (the Act) and *Environment Protection Regulations 2021* (the Regulations) came into effect on 1 July 2021.

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*.

**INSTRUMENT OF SUB -DELEGATION AND APPOINTMENT AND
AUTHORISATION- ENVIRONMENT PROTECTION ACT 2017 cont'd**

Financial Implications

- There are no financial implications associated with this report.
- Council's subscription to the Maddocks (Lawyers) Delegations and Authorisation In Depth Service is allocated in Council's operating budget.

Collaboration

- Council subscribes to the Maddocks Authorisations and Delegations In-Depth Service, which provides advice regarding legislative amendments and template instruments.
- Consultation with the relevant departments within the organisation has taken place in the preparation of the proposed Instruments.
- There have been no material changes made. Team realignments, new positions or changes to position titles have been captured through the review process.



Key Considerations

- By virtue of section 437(2) of the Act, Council has the power to sub-delegate the powers contained in the EPA's Governing Board approved Instrument of Delegation to members of Council staff.
- The powers, duties and functions described and summarised in the Schedule as attached to this Report are only delegated for the purpose of regulating:
 - onsite wastewater management systems with a design or actual flow rate of sewage not exceeding 5000 litres on any day; and
 - noise from the construction, demolition, or removal of residential premises.

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

N	Title	Page
0	.	
1	S18 - Instrument of Sub-Delegation EPA Act 2017 - Proposed 	
2	S11B - Instrument of Appointment and Authorisation EPA 2017 - Proposed 	

3.5 INSTRUMENT OF APPOINTMENT TO AUTHORISED OFFICERS UNDER THE PLANNING AND ENVIRONMENT ACT 1987

Author: Linda Chapple - Governance and Council Business Specialist, Executive

SUMMARY

1. The appointment of authorised officers enables appropriate staff within the organisation to administer and enforce various Acts, Regulations or Council local laws in accordance with the powers granted to them under legislation or a local law.
2. Instruments of Appointment and Authorisation are prepared based on advice from the Maddocks (Lawyers) Authorisations and Delegations In Depth Service, which Council subscribes to.
3. Whilst the appointment and authorisation of authorised officers under other relevant legislation is executed by the Chief Executive Officer under delegation (s11), Maddocks recommend that officers enforcing the *Planning and Environment Act 1987* and the *Environment Protection Act 2017* be authorised by Council resolution (s11A).
4. Maddocks recommends that Council execute the appointment and authorisation of authorised officers under the *Planning and Environment Act 1987* because these Acts place limitations on what powers can be sub-delegated, so by issuing the authorisation direct from Council, the risk of decisions being challenged on the basis that the authorisation was not appropriate is mitigated.
5. Authorisations are different to delegations whereby the appointment is made to a natural person that holds a statutory position giving the appointed officer the ability to undertake the necessary functions listed in the instrument. Delegations on the other hand are made to positions within Council.
6. The Instrument is presented regularly to Council for the purposes of authorising new staff members who have commenced, and their role requires them to do the things necessary as set out in the authorisation.
7. Officers that have also departed the organisation have been removed from the Instrument. No additional powers or duties or authorisations have been added to the Instrument template.

RECOMMENDATION

That Council in the exercise of the powers conferred by s 147(4) of the *Planning and Environment Act 1987*, resolves that:

1. The members of Council staff referred to in the instrument as attached at **Attachment 1** be appointed and authorised as set out in the instrument.

INSTRUMENT OF APPOINTMENT TO AUTHORISED OFFICERS UNDER THE PLANNING AND ENVIRONMENT ACT 1987 cont'd

2. The instrument comes into force immediately as it is signed by Council's Chief Executive Officer and remains in force until Council determines to vary or revoke it.

COUNCIL PLAN

- This report is in line with Banyule's Council Plan strategy to "Provide good governance, be accountable and make informed decisions based on sound evidence".

BACKGROUND

- Instruments of Appointment and Authorisation empower relevant staff to exercise the powers granted to authorised officers by legislation or a local law.
- The Instruments of Appointment and Authorisation prepared for Council's consideration are based on advice from the Maddocks Authorisations and Delegations In Depth Service.
- Maddocks recommend that officers enforcing the *Planning and Environment Act 1987* and the *Environment Protection Act 2017* be authorised by Council resolution and that Instruments of Appointment and Authorisation be refreshed on a regular basis.
- The Instrument of Appointment to Authorised Officers under the *Planning and Environment Act 1987* have been prepared by the Governance Team after consultation with the internal departments of Council.
- The Instruments of Appointment to Authorised Officers that do not relate to the *Planning and Environment Act 1989* will be executed by the Chief Executive Officer as per legislation.

KEY ISSUES

- There are no legislative changes to the authorisation under the *Planning and Environment Act 1989*.
- The instrument has been updated in line with the revised organisation structure.
- They are delegated to natural people and not positions.
- The instrument has been updated to reflect staff changes due to departures and new appointments.

SUPPORTING REPORT DETAILS

Legal Consideration

- Council subscribes to the Maddocks Authorisations and Delegations Service, and relevant advice has been considered in the preparation of this report.
- The report complies with Council's obligations under the *Planning and Environment Act 1987* and the *Local Government Act 2020*.

INSTRUMENT OF APPOINTMENT TO AUTHORISED OFFICERS UNDER THE PLANNING AND ENVIRONMENT ACT 1987 cont'd

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 preparation of this report and Council's subscription to Maddocks Delegations and Authorisations In-Depth Services is within Council's operating budget. There are no other financial considerations that are required in relation to the preparation of this report.

Collaboration

- This Instrument of Appointment and Authorisation has been prepared following feedback from relevant departments within Council.

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

N	Title	Page
o		
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1	S11A - Instrument of Appointment and Authorisation PE Act - Proposed	



3.6 PROPOSED BUDGET 2023-2027 - DECLARATIONS OF CONFLICTS INTEREST

Author: Krysten Forte - Governance Coordinator, Executive

SUMMARY

1. The Proposed Budget 2023-2027 has been prepared to deliver the overall strategic direction for Banyule.
2. Council's Budget comprises services, initiatives, and capital works across the municipality.
3. Consideration to adopt the Proposed Budget 2023-2027 to be released for public exhibition is included in this agenda.
4. The need for Councillors to disclose a conflict of interest where one exists in relation to any of the Budget services or capital works decision making process (proposed Budget and final Budget) requires that they be addressed separately as part of the Budget process.
5. Any item in which a Councillor discloses a conflict of interest are to be dealt with by separate resolution under this specified 'Budget Declarations' process.
6. If a Councillor declares a conflict of interest, they must outline the nature of the interest, the type of interest that they have (material or general) and leave the Chamber at the request of the Mayor/Chairperson.
7. The conflict of interest regime is prescribed under the *Local Government Act 2020* (the Act) and in the *Local Government (Governance and Integrity) Regulations 2020* (the Regulations). It is also set out in the Governance Rules.
8. Managing conflicts of interest is about ensuring the integrity and transparency of decision making and ensuring that a person's private interest does not impacting their public duty.
9. Providing the opportunity to declare before the adoption of proposed budget and final budget strengthens these principles.
10. Under the *Local Government Act 2020*, there are two (2) types of conflicts of interest that are defined, general conflict of interest (s 127) and material conflict of interest (s 128).
11. Once all disclosures have been made and the items which are the subject of any disclosure are determined by the Council, all Councillors are able to vote on the Proposed Budget 2023-2027.
12. This report provides an opportunity for Councillors to disclose any conflicts in relation to the Proposed Budget 2023 – 2027 prior to public exhibition.

**PROPOSED BUDGET 2023-2027 - DECLARATIONS OF CONFLICTS INTEREST
cont'd**

RECOMMENDATION

That:

1. The Mayor invite Councillors to disclose any conflicts of interest (material or general) in relation to adoption of the Proposed Budget 2023-2027 to be released for public exhibition describing the nature of the interest in accordance with the *Local Government Act 2020* and the Banyule Governance Rules.
2. Following each disclosure, Council consider and determine upon the relevant project and the associated funding in the Proposed Budget 2022-2027 prior to public exhibition.

COUNCIL PLAN

- This report is in line with Banyule's Council Plan strategy to "Provide good governance, be accountable and make informed decisions based on sound evidence".

BACKGROUND

- In developing the Proposed Budget 2023-2027, Council services and capital works have been considered for funding. Councillors who have a conflict of interest in any items to be considered are required to disclose the type and nature of the interest.
- Due to the wide-ranging nature of the services and capital works involved in the Budget, it is reasonably foreseeable that a Councillor may disclose a conflict and would otherwise be required to excuse themselves from the vote. As this would make the adoption of a proposed or an annual Budget unworkable in practice, *Local Government (Governance and Integrity) Regulations 2020* provides a mechanism for Councillors to vote on a Budget, by requiring the conflict-of-interest items to be considered and resolved separately.
- The Conflict of interest regime is prescribed under the *Local Government Act 2020* (the Act) and in the *Local Government (Governance and Integrity) Regulations 2020* (the Regulations).
- Managing conflicts of interest is about ensuring the integrity and transparency of decision-making. The conflict-of-interest provisions in the Act apply to a 'relevant person' and in the context of the Act, a Councillor is classified a relevant person and an affected person.
- A relevant person is defined as either a councillor, a member of a delegated committee who is not a councillor, a member of council staff (who is a member of a delegated or community asset committee who is providing advice to the council, a delegated or community asset committee, a staff member exercising a delegation; or exercising a delegated function or statutory power).
- Councillors are elected by their communities to make decisions on behalf of those communities. The obligation to disclose a conflict of interest is a personal

**PROPOSED BUDGET 2023-2027 - DECLARATIONS OF CONFLICTS INTEREST
cont'd**

responsibility and each relevant person must monitor their own circumstances and identify their conflicts of interests.

- There are two types of conflicts of interest that are defined under the *Local Government Act 2020* as stipulated in Division 2, s 127 and s 128.
- For the benefit of Councillors and the community, the following categories defined the types of conflicts of interest that can exist under the Act.
 - **General conflict of interest** - A general conflict of interest is less specific and direct than a material conflict of interest.
 - The Act states a relevant person will have a general conflict of interest in a matter if “*an impartial, fair-minded person would consider that the person’s private interests could result in that person acting in a manner that is contrary to their public duty*”.
 - There are three parts of a general conflict of interest which should all be considered: the private interest, the public duty, and what an impartial, fair-minded person would consider.
 - **Material conflict of interest** – a material conflict of interest involves specific relationships or situations that could result in a direct or indirect benefit or loss, pecuniary or non-pecuniary.
 - A relevant person has a material conflict of interest when “an affected person would gain a benefit or suffer a loss depending on the outcome of the matter.”
 - It is important to note that an “affected person” is a Councillor, and is also defined as:
 - A family member of the relevant person.
 - A body corporate where the relevant person or their spouse is a director or on the governing body.
 - The relevant persons employer unless it is a public body.
 - A business partner of the relevant person.
 - A person for whom the relevant person is a consultant, contractor, or agent.
 - A beneficiary under a trust or an object of discretionary trust of which the relevant person is a trustee.
 - Or a person from who the relevant person received a disclosable gift.
 - It is also important to note that a family member is a:
 - Spouse or domestic partner of the relevant person.
 - Parent, grandparent, sibling, child, grandchild, stepparent, stepsibling, or stepchild of the relevant person or their spouse; or
 - Any other relative that regularly residents with the relevant person.

**PROPOSED BUDGET 2023-2027 - DECLARATIONS OF CONFLICTS INTEREST
cont'd**

SUPPORTING REPORT DETAILS

Legal Consideration

- Councillors and staff are required to declare Conflicts of Interest in accordance with the *Local Government Act 2020* at Division 2 onwards, the *Local Government (Governance and Integrity) Regulations 2020* and as enshrined in the Banyule Governance Rules.
- Normally where a Councillor has a conflict of interest in an item on the agenda, they must declare the interest and must remove themselves from being involved in participating in the discussion or voting on the matter.
- with *Local Government (Governance and Integrity) Regulations 2020* a regulation 7(1)(r) states that a Councillor can be exempt from having to declare a conflict of interest in the overall budget process so long as the item(s) that a Councillor has a conflict of interest are considered and determined separately prior to the adoption. It is appropriate to do this for both the Proposed Budget and final Budget.
- With regard to the adoption of the Budget, provision has been made in the *Local Government (Governance and Integrity) Regulations 2020* (regulation 7, 1r) for exempting a Councillor from having to declare a conflict of interest in the overall Budget so long as the item/s that a Councillor has a conflict of interest in are considered and determined separately prior to adoption of the Proposed or Final Budget as a whole.
- Therefore, to ensure all Councillors are able to participate in the adoption of the Proposed Budget for public exhibition, any items included in the Proposed Budget in which a Councillor discloses a conflict of interest are to be dealt with by separate resolution under this 'Budget Declarations' process.
- Any Councillor declaring a conflict of interest would need to then follow the normal process and remove themselves from the Chamber for the discussion and vote on the matter/s.
- Once all disclosures have been made and the items which are the subject of any disclosure are determined by the Council, all Councillors will be able to participate in the consideration and adoption of the Budget as a whole package.
- 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.

**PROPOSED BUDGET 2023-2027 - DECLARATIONS OF CONFLICTS INTEREST
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

Nil

3.7 PUBLIC EXHIBITION - INTEGRATED PLANNING DOCUMENTS FOR THE PERIOD 2023/24

Author: Tania O'Reilly - Manager Finance & Procurement, Corporate Services

Previous Items

Council on 17 April 2023 (Item 4.4 - Community Consultation - Feedback recommendations for Council consideration on Budget 2023-27 and Council Plan 2021-2025 Year 3 actions)

SUMMARY

1. Council undertakes a process to review its integrated planning documents annually in line with the legislated requirement of the *Local Government Act 2020*.
2. The following integrated planning documents are planned for adoption by Council on 26 June 2023:
 - Council Plan 2021-2025, Year 3 Action Plan (2023/24)
 - Budget 2023-2027
 - Revenue and Rating Plan 2023-2027
3. This report is presented to enable Council to endorse the draft integrated planning documents for public exhibition prior to Council's formal consideration and adoption along with the draft Rates Hardship Assistance Policy 2023-2027.
4. The integrated planning documents have been prepared after having considered the outcomes of the community engagement feedback received and formally considered by Council at the Ordinary Meeting of Council on Monday, 17 April 2023 in alignment with the Community Engagement Policy of Council.
5. Community engagement occurred from mid-December 2022 to mid-March 2023 for the draft annual Capital Works and Initiatives Program Year 1 2023/24 and high-level financial principles.
6. The Council Plan 2021-2025, draft Year 3 Action Plan (2023/24) was out for community engagement from 16 February 2023 to 2 March 2023.
7. The integrated planning documents are now finalised and being presented to Council for public exhibition, with adoption to be considered by Council on 26 June 2023.
8. The period of public exhibition and opportunity to provide final feedback on the integrated planning documents will be from 30 May to 6 June 2023.

RECOMMENDATION

That Council:

1. Note Council's Community Engagement Policy has been used to develop its integrated planning documents for the period 2023/24.

PUBLIC EXHIBITION - INTEGRATED PLANNING DOCUMENTS FOR THE PERIOD 2023/24 cont'd

2. Note the legislative requirements followed, as applicable, are in accordance with the *Local Government Act 2020 and Local Government Act 1989*.
3. Endorse for public exhibition the
 - a) Proposed Budget 2023-2027
 - b) Council Plan 2021-2025 draft Year 3 Annual Action Plan 2023/24
 - c) draft Revenue and Rating Plan 2023-2027
 - d) draft Rates Hardship Assistance Policy 2023-2027
4. Exhibit the integrated planning documents on council's website through Shaping Banyule.
5. Considers the adoption of the integrated planning documents at the meeting on 26 June 2023.

COUNCIL PLAN

- This report is in line with Banyule's Council Plan strategy to "Provide an integrated approach to planning and community reporting aligned to the Banyule Community Vision 2041".

BACKGROUND

- Council undertakes a process to review its integrated planning documents annually in line with the legislated requirement of the *Local Government Act 2020*.
- The following integrated planning documents are planned for adoption by Council on 26 June 2023:
 - Council Plan 2021-2025, Year 3 Action Plan 2023/24
 - Budget 2023-2027
 - Revenue and Rating Plan 2023-2027
- This report is presented to enable Council to endorse the draft integrated planning documents for public exhibition prior to Council's formal consideration and adoption along with the Rates Hardship Assistance Policy 2023-2027.
- The integrated planning documents have been prepared after having considered the outcomes of the community engagement feedback received and formally considered by Council at the Ordinary Meeting of Council on Monday, 17 April 2023 in alignment with the Community Engagement Policy of Council.
- Community engagement occurred from mid-December 2022 to mid-March 2023 for the draft annual Capital Works and Initiatives Program Year 1 2023/24 and high-level financial principles.
- The Council Plan 2021-2025, draft Year 3 Action Plan was out for community engagement from 16 February 2023 to 2 March 2023.

PUBLIC EXHIBITION - INTEGRATED PLANNING DOCUMENTS FOR THE PERIOD 2023/24 cont'd

- The integrated planning documents are now finalised and being presented to Council for public exhibition, with adoption to be considered by Council on 26 June 2023.
- The public exhibition of these integrated planning documents will be made available on council's website, Shaping Banyule. The period of exhibition will be between 30 May 2023 to 6 June 2023 to compliment the earlier community consultation undertaken.
- The exhibition period will be another opportunity to provide feedback on the public's support for these integrated documents and any further consideration for Council to consider prior to their adoption.

KEY ISSUES

- The Council Plan 2021-2025, Draft Year 3 Annual Action Plan 2023/24 outlines initiatives and priority services Council will deliver to achieve strategies of the Council Plan.
 - The Council Plan objectives are directly aligned with the Banyule Community Vision themes.
 - The Council Plan is reviewed on an annual basis to ensure that it continues to meet the needs of the community. It is implemented through annual action plans, which reflect Council's decisions on the initiatives and priority services to be funded through the Budget each year.
- The Proposed Budget 2023-2027 provides a comprehensive outline of all income derived from rates, fees and charges, grants and other revenue and will ensure Council's finances remain sustainable and that appropriate resources are allocated to meet the services and capital requirements of the Council.
 - It has been prepared to deliver the draft Council Plan objectives, which set the overall strategic direction for Banyule.
 - This budget looks to balance competing demands on providing community services, maintaining, and renewing infrastructure with the community's capacity to pay for it within the current economic climates.
 - An underlying budget deficit is planned for 2023/24.
- The draft Revenue and Rating Plan 2023-2027 provides the framework for the setting of rates, statutory charges, service fees and charges and other income sources.
 - The plan provides a medium-term plan for how Council will generate income to deliver on the Council Plan and services and capital works commitments over a 4-year period
 - Council proposes to raise general rates by the maximum amount as allowed under the fair Go Rate Cap. This is 3.50% for 2023/24.
 - Public waste collection services and kerbside waste collection services were removed from general rates and levied as two separate waste service rates in 2022/23 and will continue to be charged as separate waste service rates for 2023-2027.

PUBLIC EXHIBITION - INTEGRATED PLANNING DOCUMENTS FOR THE PERIOD 2023/24 cont'd

- The Plan outlines a reduction in the discount to the Capital Improved Value to an adjusted 'in-use' value over the four years of the Plan for the five properties charged under the Cultural and Recreational Lands Act.
- The draft Rates Hardship Assistance Policy 2023-2027 outlines the process of applying for and assessing hardship applications as well as the assistance available to ratepayers in hardship.
 - The existing policy has been in operation for the 2022/23 financial year and to the end of April has been used to assess 396 applications.
 - It is anticipated that hardship will increase in the community as interest rate increases continue to impact ratepayers.
 - It is proposed to make some minor changes to the policy to clarify eligibility, allowing for waivers for compassionate grounds and to re-enforce Council's desire for ratepayers in hardship to be seeking financial counselling.

SUPPORTING REPORT DETAILS

Legal Consideration

- Following the Council election in October 2020, Council prepared and adopted its current four-year Council Plan 2021-2025 in accordance with Section 90 of the *Local Government Act 2020*.
- Council is required under the Victorian *Public Health and Wellbeing Act 2008* to prepare a Municipal Public Health and Wellbeing Plan (MPHWP) every four years or include public health and wellbeing matters into its Council Plan, the latter being the approach Banyule Council has adopted.
- The *Local Government Act 2020* under *Section 94* requires Council to prepare a budget for each financial year and the subsequent 3 financial years.
- The *Local Government Act 2020* under *Section 93* requires Council to adopt a Revenue and Rating Plan by the next 30 June after a general election for a period of at least the next 4 financial years. This plan has been revised each year to align with the Budget.
- *Section 162(1)(b) of the Local Government Act 1989* allows a council to declare a service rate or service charge for the collection and disposal of refuse.
- Under s. 171A of the *Local Government Act 1989*, Council is able to waive rates after an application by the ratepayer due to financial hardship.
- Under s. 171B the minister for Local Government may issue guidelines relating to hardship which Council will be required to follow. It is not anticipated that these guidelines will impact the application of the Rate Hardship Assistance Policy.
- There are no direct legal implications arising from the recommendation contained in this report.

Gender Impact Assessment

- Officers have conducted a gender impact assessment as required by *Gender Equality Act 2020* and have determined that the implementation of the Rates Hardship Assistance Policy will assist in providing an equitable outcome for

PUBLIC EXHIBITION - INTEGRATED PLANNING DOCUMENTS FOR THE PERIOD 2023/24 cont'd

women and non-binary ratepayers. Women and non-binary ratepayers may be disproportionately impacted by hardship in the following ways:

- Pay-gaps that exist between genders
- Caring roles traditionally occupied by females that result in lower income
- Cultural norms or traditions that result in females having less access to financial information concerning their household
- The Rates Hardship Assistance Policy has been drafted with a view to allowing applications by women and non-binary ratepayers as individuals, irrespective of the relationship status of the ratepayer and also includes consideration of the impact of family violence on a ratepayers finances.

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*.
- The integrated community engagement approach seeks to provide meaningful and accessible engagement opportunities and enable the rights of people to participate in public life and decision making that affects them.
- The preparation and adoption of Council's Budget facilitates the protection of many of our communities' human rights as funding for many Council projects, programs and initiatives is directly related to protecting and enhancing the human rights of the community.
- When administering the Rates Hardship Assistance Policy, the right to privacy and reputation is impacted in that applicants are required to provide personal and financial information. This information is managed by restricting the information to only those officers who need to administer the policy and / or authorise rates assistance.
- Property rights are enhanced by aiding ratepayers in hardship which may reduce the likelihood of having to sell their property.

Sustainable Procurement Outcomes

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

Financial Implications

- The Council Plan is implemented through annual action plans, which reflect Council's decisions on the initiatives and priority services to be funded through the Budget each year.
- The Budget is closely linked with and support the achievement of the Council Plan and Community Vision.
- The Budget will ensure Council's finances remain sustainable and that appropriate resources are allocated to meet the services and capital requirements of the City.

PUBLIC EXHIBITION - INTEGRATED PLANNING DOCUMENTS FOR THE PERIOD 2023/24 cont'd

- The information provided in the Proposed Budget 2023-2027 is current at the time of its preparation and is a budget for the 2023/24 financial year and the subsequent 3 financial years.
- Surplus \$16.959 million (Underlying deficit \$5.716 million) in 2023/24
 - Total Income \$190.997 million (Rates \$116.401 million)
 - Total Expenditure \$174.038 million (Employee Costs \$79.158 million)
- The financial impact on the Proposed Budget 2023-2027 from the Integrated Planning feedback and supported by officers is:
 - 1-year impact: \$1.53m for specific budget requests made
 - 4-year impact: \$1.67m for specific budget requests made

Collaboration

- Council's compliance with the Fair Go Rate Cap is reported annually by the Commission.
- Officers have met with the Essential Services Commission to ensure Council's planned introduction of a waste rate is compatible with the principles of the Fair Go Rate Cap.

Community Engagement

- The approach to engagement aligns with the integrated strategic planning and reporting requirements in the *Local Government Act 2020*, and Banyule's Integrated Planning Framework.
- Community engagement occurred from mid-December 2022 to mid-March 2023 for the draft annual Capital Works and Initiatives Program Year 1 2023/24 and high-level financial principles. The draft Council Plan 2021 – 2025, Year 3 Action Plan was out for community engagement from 16 February to 2 March 2023.
- Feedback has been sought via Council's engagement platform, Shaping Banyule, two online information sessions on 13/14 December 2022 and two community drop-in sessions in February 2023.
- Eighty-six (86) pieces of feedback were received from sixty-eight (68) individuals and organisations on the financial principles being used by Council to develop the draft Budget 2023-2027, the draft Capital Works Program, and the draft Initiatives Program.
- The Councillor feedback forum on 7 March 2023 was undertaken as an opportunity for people that submitted feedback to have their feedback heard by Councillors, prior to Council formally considering all the feedback received at the 17 April Council meeting.
- The integrated planning documents have now been developed and are being made available for public exhibition prior to Council considering these documents for adoption on 26 June 2023.
- The period of public exhibition and opportunity to provide final feedback on the integrated planning documents will be from 30 May 2023 to 6 June 2023.
- During the public exhibition period feedback can be provided on the integrated planning documents via Council's website Shaping Banyule:

PUBLIC EXHIBITION - INTEGRATED PLANNING DOCUMENTS FOR THE PERIOD 2023/24 cont'd

- Draft Council Plan 2021-2025, Year 3 Action Plan 2023/24
- Proposed Budget 2023-2027
- Draft Revenue and Rating Plan 2023-2027

Key Considerations

- The adoption of each of the integrated planning documents is scheduled for the 26 June 2023 Ordinary Council Meeting.
- The draft documents to be considered for adoption by Council are:
 - Council Plan Action Plan 2021-2025, draft Year 3 Action Plan (2023/24)
 - Outlines initiatives and priority services Council will deliver to achieve strategies of the Council Plan.
 - Integrates with Banyule's Health and Wellbeing Priorities for 2021-2025 and Banyule's Climate Action Response
 - Is an initial draft which has been prepared based on organisational and service area strategic planning discussions during October 2021 – March 2022, which are closely linked to annual review of the Budget, Capital Works & Initiatives Programs.
 - Incorporates elements from key supporting plans and policies adopted by Council.
 - Proposed Budget 2023-2027
 - The Budget is aligned to the long-term strategies of Council and is in line with Council's commitment to sustainable budgeting and responsible financial management.
 - Council is slowly recovering from the financial impacts of COVID-19, and this recovery budget will continue to adapt its services to provide support to the community.
 - The budget outlines how resources will be allocated across initiatives, programs, services, and capital works, as well as financing and debt redemptions/servicing. It also provides a comprehensive outline of all income derived from rates, fees, and charges, grants, and other revenue. Ongoing services and programs are described in summary form and include prescribed indicators and measures of service performance.
 - Items may continue to be referred to the Proposed Budget 2023-2027 by Council until adoption of on 26 June 2023 and or other minor modifications.
 - Draft Revenue and Rating Plan 2023-2027
 - The Plan is reviewed annually to ensure that Council supports the rating principles used to levy rates and charges, in collaboration with determining the draft Budget 2023-2027.
 - Rates and charges contribute funds to address ageing infrastructure, improve the amenity and quality of community assets and deliver vital services across the breadth of the City.





PUBLIC EXHIBITION - INTEGRATED PLANNING DOCUMENTS FOR THE PERIOD 2023/24 cont'd

- Council proposes to increase rates by 3.50% in line with the State Government's Fair Go Rates System. Waste rates have been reviewed to align with the actual costs of delivering the services.
- Draft Rates Hardship Assistance Policy 2023/24
 - The draft policy maintains the existing points-based assessment of hardship, ensuring transparency and objectivity in assessing hardship.
 - Ratepayers are required to obtain a letter of support to access a partial waiver of rates after receiving a partial waiver in a preceding year.
 - A provision where a partial waiver can be approved by the Director Corporate Services on compassionate grounds outside the point-based framework has been introduced.
 - An applicant is no longer required to answer questions about how long it took them to complete the form, as this is recorded through the online application form.
 - The definition of substantial assets is further clarified by inserting a threshold for share ownership to be valued at greater than \$10,000 at the time of assessment.
 - Sections have been re-worded to make them simpler to understand.
- During the exhibition period, Council will promote the draft integrated planning documents through the Shaping Banyule platform.

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

N	Title	Page
○	.	
1	Council Plan 2021-25 Draft Year 3 Annual Action Plan 2023/24 	
2	Proposed Budget 2023-2027 (<i>Under Separate Cover</i>) 	
3	Draft Revenue and Rating Plan 2023-2027 	
4	Draft Rates Financial Hardship Assistance Policy 2023/24 	

3.8 QUARTERLY FINANCIAL MANAGEMENT REPORT - DECEMBER 2022

Author: Tania O'Reilly - Manager Finance & Procurement, Corporate Services

Previous Items

Council on 17 April 2023 (Item 4.1 - Minutes from the Audit & Risk Committee Meeting held 24 March 2023)

SUMMARY

1. The Quarterly Financial Management Report for December 2022 is presented in accordance with Section 97 of the *Local Government Act 2020* which requires a comparison of the actual and budgeted results to date and an explanation of any material variations.
2. The Quarterly Financial Management Report is for the period ended 31 December 2022 and provides assessment of the following:
 - Financial Performance - key operating income and expenditure results against Budget; includes operating and initiatives projects (refer to the attachment 'Quarterly Financial Management Report').
 - Capital Works Expenditure – summary of actual spend, budget, and forecast. Key projects per ward are provided in the Capital Works project delivery update (attached).
 - Investment activity – compliance against the current Investment Policy
 - Other key financial indicators – Rates Outstanding, Accounts Receivable, Balance Sheet and Cash Flow statements.

Financial Performance:

3. The 31 December 2022 full-year forecast is projected to be an operating surplus of \$13.58m compared to the adopted budget surplus of \$15.11m (\$1.53m unfavourable movement).
4. The 2022/23 underlying operating deficit is forecasted to be \$7.02m compared to a budgeted underlying deficit result of \$4.10m (\$2.92m unfavourable). The underlying result is determined after adjusting for non-recurrent capital grants and capital contributions.
5. Council's income continues to decline against budget, significantly increasing the underlying deficit. Management intervention to reduce expenditure throughout the period has assisted in mitigating further unexpected declines in the underlying results into 2023.

Capital Works Performance:

6. As of 31 December 2022, a total of \$10.72m has been spent on capital works (year-to-date Budget: \$15.99m).
7. The capital works expenditure is forecasted to be \$50.26m against the budget of \$61.55m.
8. Capital projects have been delayed (in part or full) due to various factors such as project complexities, revised project timing and internal resource gaps.

QUARTERLY FINANCIAL MANAGEMENT REPORT - DECEMBER 2022 cont'd

RECOMMENDATION

That Council note:

1. The Quarterly Financial Management Report for the period 31 December 2022 as submitted retrospectively.
2. The December 2022 forecast is for Council to deliver an operating surplus of \$13.58m against the adopted budget of \$15.11m for the year ended 30 June 2023.
3. The underlying operating deficit of \$4.10m is after adjusting for non-recurrent capital grants and capital contributions of \$20.59m.
4. Council officers are regularly monitoring and restricting discretionary expenditure to minimise expenditure and to maintain financial sustainability.
5. The Audit and Risk Committee's recommendation from its meeting held on 24 March 2023 that Council to continue to closely monitor its financial performance.

COUNCIL PLAN

- This report is in line with Banyule's Council Plan strategy to "Provide responsible management of resources to ensure the financial sustainability of Banyule Council".

BACKGROUND

- The 31 December 2022 Financial Management report comprises a review of the current performance against year-to-date budget, full year budget and full year forecast, and other key financial information.
- Material variances are explained in the attachment – refer notes (variances greater than \$0.500m are considered material).
- This report provides assessment of the following:
 - Key income and expenditure actual operating results against budget
 - Capital Works financial performance
 - Other key financial indicators

KEY ISSUES

Financial Sustainability

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

December 2022	Net Results	Underlying Results	Liquidity	Internal Financing	Indebtedness	Capital Replacement	Renewal Gap
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QUARTERLY FINANCIAL MANAGEMENT REPORT - DECEMBER 2022 cont'd

Forecast	7.48%	-4.36%	2.35	84.76%	17.78%	2.10	1.89
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- The Adjusted Underlying Results measures an entity's ability to generate surplus in the ordinary course of business.
- The 'red' Adjusted Underlying Results will be managed through continuing to maintain the operational returns and maximising revenue from commercial activities and property sales over the next few years. In a normal year, Council aims for 5% or greater against the ratio.
- The 'orange' Internal Financing result for 2022/23 is a medium financial risk. This ratio measures Banyule's ability to finance capital works using cash generated by operating cash flows. (100% or greater is financially sustainable).
- The financial performance is monitored by the Executive Management Team monthly.
- User Fees and Charges and Statutory fees and fines income continues to decline against budgets, significantly increasing the underlying deficit. Management intervention to reduce expenditure throughout the period has assisted in mitigating further unexpected declines in the underlying results into 2023.

SUPPORTING REPORT DETAILS

Legal Consideration

- Section 97 of the *Local Government Act 2020* requires a quarterly budget report to Council as soon as practical after the end of each quarter. A quarterly budget report must include a comparison of the actual and budgeted results to date, an explanation of any material variations, any other matters prescribed by the regulations.
- The Quarterly Financial Management Report for December 2022 was not presented to Council at the scheduled 28 February 2023 Council meeting and is now being presented to Council at its 29 May 2023 meeting along with the Quarterly Financial Management Report for March 2023.
- This report has been referenced to the Council Report 4.1 'Minutes from the Audit & Risk Committee meeting held 24 March 2023' where it states in the attachment 'unconfirmed minutes ARC 24 March 2023' that quarterly budget report has been tabled at an ordinary meeting of Council.
- The quarterly budget report had been prepared and presented at a Councillor Briefing on 30 January 2023, however, was inadvertently not reported to the next Council meeting.
- Management has immediately made steps to report the quarterly budget report as soon as practical once it was identified that the report had not yet been tabled at a Council meeting.

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*.

QUARTERLY FINANCIAL MANAGEMENT REPORT - DECEMBER 2022 cont'd

- 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 December forecast is projected to be a \$13.58m surplus compared to the adopted budget surplus of \$15.11m (a \$1.53m unfavourable movement).
- The 2022/23 underlying operating deficit is forecast to be \$7.02m compared to a budgeted underlying deficit result of \$4.10m (a \$2.92m unfavourable movement).
- As of 31 December 2022, a total of \$10.72m has been spent on capital works.
- The capital works expenditure is forecast to be \$50.26m (the adopted capital budget is \$61.55m).
- The December 2022 initiatives forecast expenditure is \$8.68m with YTD actuals of \$3.51m (the budget for initiatives is \$15.77m (including carry forward projects)).

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

N	Title	Page
•	.	
1	Quarterly Financial Management Report - December 2022 	
2	Capital Works Project Delivery Update - December 2022 	

3.9 QUARTERLY FINANCIAL MANAGEMENT REPORT - MARCH 2023

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

SUMMARY

1. The Quarterly Financial Management Report for March 2023 is presented in accordance with Section 97 of the *Local Government Act 2020* which requires a comparison of the actual and budgeted results to date and an explanation of any material variations.
2. The Quarterly Financial Management Report is for the period ended 31 March 2023 and provides assessment of the following:
 - Financial Performance - key income and expenditure actual operating results against budget; includes operating and initiatives projects (refer to the attachment 'Quarterly Financial Management Report').
 - Capital Works Expenditure – summary of actual spend, budget, and forecast. Key projects per ward are provided in the Capital Works project delivery update (attached).
 - Investment activity – compliance against the current Investment Policy
 - Other key financial indicators – Rates Outstanding, Accounts Receivable, Balance Sheet and Cash Flow statements

Financial Performance

3. The 31 March 2023 full-year forecast is projected to be an operating surplus of \$12.32m compared to the budget surplus of \$15.11m (\$2.79m unfavourable movement).
4. The 2022/23 underlying operating deficit is forecast to be \$5.56m compared to a budgeted underlying deficit result of \$4.10m (\$1.46m unfavourable). The underlying result is determined after adjusting for non-recurrent capital grants and capital contributions.
5. Council's income continues to decline against budget, significantly increasing the underlying deficit. Management intervention to reduce expenditure throughout the period has assisted in mitigating further unexpected declines in the underlying results into 2023.

Capital Works Performance

6. As of 31 March 2023, a total of \$20.92m has been spent on capital works (year-to-date budget \$32.88m).
7. Capital works expenditure is forecast to be \$42.72m against the budget of \$61.55m.
8. Capital projects have been delayed (in part or full) due to various factors such as project complexities, revised project timing and internal resource gaps.

QUARTERLY FINANCIAL MANAGEMENT REPORT - MARCH 2023 cont'd

RECOMMENDATION

That Council:

1. The Quarterly Financial Management Report for the period 31 March 2023.
2. The March 2023 forecast is for Council to deliver an operating surplus of \$12.32m against the adopted budget surplus of \$15.11m for the year ended 30 June 2023.
3. The underlying operating deficit of \$5.56m is after adjusting for non-recurrent capital grants and capital contributions of \$17.88m.
4. Council officers are regularly monitoring and restricting discretionary expenditure to minimise expenditure and to maintain financial sustainability.

COUNCIL PLAN

- This report is in line with Banyule’s Council Plan strategy to "Provide responsible management of resources to ensure the financial sustainability of Banyule Council".

BACKGROUND

- The 31 March 2023 Financial Management report comprises a review of the current performance against year-to-date budget, full year budget and full year forecast, and other key financial information.
- Material variances are explained in the attachment – refer notes (variances greater than \$0.500m are considered material).
- This report provides assessment of the following:
 - Key income and expenditure actual operating results against budget
 - Capital Works financial performance
 - Other key financial indicators

KEY ISSUES

Financial Sustainability

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

March 2023	Net Results	Underlying Results	Liquidity	Internal Financing	Indebtedness	Capital Replacement	Renewal Gap
Forecast	6.91%	-3.47%	2.51	101.39%	17.94%	1.72	1.54

- The Adjusted Underlying Results measures an entity's ability to generate surplus in the ordinary course of business.

QUARTERLY FINANCIAL MANAGEMENT REPORT - MARCH 2023 cont'd

- The current management focus is to improve the Adjusted Underlying Result ratio which has been significantly impacted by carried forward initiatives expenditure into 2022/23 from 2021/22 and from unfavourable movements in the income forecast against budget related, specifically user fees and charges.
- The financial performance is monitored by the Executive Management Team monthly.

SUPPORTING REPORT DETAILS

- **Legal Consideration** Section 97 of the *Local Government Act 2020* requires a quarterly budget report to Council as soon as practical after the end of each quarter. A quarterly budget report must include a comparison of the actual and budgeted results to date, an explanation of any material variations, any other matters prescribed by the regulations.
- 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



- The March forecast is projected to be a \$12.32m surplus compared to the adopted budget surplus of \$15.11m (a \$2.79m unfavourable movement).
- The 2022/23 underlying operating deficit is forecast to be \$5.56m compared to a budgeted underlying deficit result of \$4.10m (a \$1.46m unfavourable movement).
- As of 31 March 2023, a total of \$20.92m has been spent on capital works.
- The capital works expenditure is forecast to be \$42.72m (the adopted capital budget is \$61.55m).

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

QUARTERLY FINANCIAL MANAGEMENT REPORT - MARCH 2023 cont'd

N	Title	Page
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1	Quarterly Financial Management Report - March 2023	
		
2	Capital Works Project Delivery Update - March 2023	
		

3.10 PROPOSED SALE OF 78-80 HAWDON STREET, HEIDELBERG

Author: Lucy Rasdell - Manager Strategic Properties & Projects, City Development

Ward: Griffin

SUMMARY

1. Council has delivered a new multi-purpose Community Hub at Bellfield. The Hub opened in Oct 2022 and is used for a variety of purposes, including long day kinder, maternal and child health consultations, planned activity groups and by a variety of other community groups.
2. Users of other Council owned buildings have since been relocated to the Hub (e.g., Audrey Brooks pre-school) and are enjoying the accessible, modern, and functional layout of the building.
3. At the time that the Bellfield Hub was planned, Council contemplated relocation of other users into this new facility, with the subsequent sale of ageing buildings, many of which required considerable maintenance and not able to meet the requirements of current groups using the buildings. One of the buildings from which users were to be moved into the Bellfield Hub was the Hawdon Street Community Hall (Hawdon Hall).
4. The Community Wellbeing team has completed considerable work in identifying alternate location for users of the Hawdon Hall. Further details on this are provided in this report.
5. If agreed by Council, it is contemplated that the building will be sold in 2024, with proceeds from the sale to be invested into renewing existing community infrastructure, purchasing or construction of new infrastructure or delivery of community services.
6. Prior to sale of the building, Council will need to go through the statutory process of Notifying its Intent to Sell. The giving of public notice of Council's intention to sell does not compel Council to sell the Land. Council is merely complying with its statutory obligations under the *Local Government Act (2020)* to give public notice and to hear and consider written submissions on such a proposal before deciding, at a future meeting of the Council, whether or not to sell the Land.
7. If a decision is made to proceed with the sale, a sale strategy will be formulated and carried out in the best interests of the community, providing the best result, both financial and non-financial.

RECOMMENDATION

That Council:

1. Notes that Hawdon Hall, located at 78-80 Hawdon Street, Heidelberg is an ageing building and doesn't offer contemporary facilities to support a wide range of community uses.

PROPOSED SALE OF 78-80 HAWDON STREET, HEIDELBERG cont'd

2. Notes the current usage by community and commercial groups at the Hall and the availability of relocation options for these users in nearby Council or other facilities.
3. Endorses continued discussions with user groups to further understand their needs and the most suitable relocation options, noting Councils priority to accommodate not for profit community groups first and foremost, above the commercial users.
4. Notes that the *Heidelberg Structure Plan* (April 2023 - currently being exhibited as Amendment C172 to the Banyule Planning Scheme) and the draft *Community Infrastructure Plan 2023* have both identified the strategic need for investment and delivery of multi-purpose meeting spaces in the Heidelberg Activity Centre.
5. Notes that the draft *Community Infrastructure Plan* identifies investment priorities for the next 10 years, and that the delivery of these multi-purpose meeting spaces will be assessed at the appropriate time.
6. Receives a further report to commence the statutory process for sale of the land at 78-80 Hawdon Street, Heidelberg in accordance with section 114 of the *Local Government Act 2020*. This process will entail giving public notice of its intention to sell and undertake a community engagement process in accordance with Council's community engagement policy.

COUNCIL PLAN

- This report is in line with Banyule's Council Plan strategy to "Provide responsible management of resources to ensure the financial sustainability of Banyule Council".

BACKGROUND

- Council owns the land and improvements known as Hawdon Hall, 78-80 Hawdon Street, Heidelberg (refer to **Figure 1**).

PROPOSED SALE OF 78-80 HAWDON STREET, HEIDELBERG cont'd



Figure 1: 78-80 Hawdon Street, Heidelberg. Hawdon Hall shown shaded blue

- The land is identified as Lot 1 on LP 38617 Vol 8664 Folio 477 and Lot TP 400507 Bol 8664 Folio 467.
- Hawdon Hall has been used as a community centre since its purchase by Council in 1967, accommodating several different user groups. The Hall was originally established as a senior citizens venue but is now used more broadly as a community hall.
- While overall it's in good condition and has been well maintained, it's aging and doesn't offer contemporary facilities to support a wide range of uses. Although there are several different activities in the Hall, it's essentially a single purpose venue for hire so people only visit it for one reason.
- Contemporary community activity spaces are usually co-located or integrated into other facilities, such as a library or services Hub, providing multiple reasons for people to visit a facility, exposing them to a range of opportunities to interact and create social connections.
- The groups and their approximate weekly usage are listed in **Table 1** below.

Table 1: User Groups and Hours of Use for Hawdon Hall

User Group	Type of Use	Age Cohort	Hours per week			
			2016	2017	2021	2022
Warringal Senior Citizens	Community	Older Adults	15	18	7.5	7.0
Elsnaddai Church	Community	Mixed Ages			4	3
Ivanhoe Photographic Society	Community	Older Adults	2.5	2.5	2.5	2
Warringal Orchid Society	Community	Older Adults	4	4	4	4
Life Activities Club	Community	Older Adults	5	3	4.5	3
Heidelberg Over 50s Dance Group	Community	Older Adults	4	4	4	4
Melbourne PC Groups	Community	Mixed Ages			2	
TOTAL HOURS COMMUNITY USE			30.5	31.5	28.5	23

PROPOSED SALE OF 78-80 HAWDON STREET, HEIDELBERG cont'd

Studio V School of Dance	Commercial	Children and Teens	10.5	13.5	32.5	24.5
Marinda's Ballroom	Commercial	Mixed ages	3.5	3.5	3.5	3.5
TOTAL HOURS COMMERCIAL USE			14	17	36	28
TOTAL HOURS OF USE			44.5	48.5	64.5	51

- **Table 1** shows that community use was fairly consistent from 2016-2021 although has recently dropped, potentially as a consequence of the COVID 19 pandemic – this is particularly true for the Warringal Senior Citizens Group.
- The commercial users (dance schools) currently makes up over half of the hours that the Hall is in use.

KEY ISSUES

- Both the *Heidelberg Structure Plan* (April 2023) and the draft *Community Infrastructure Plan 2023* have identified the strategic need for investment and delivery of multi-purpose meeting spaces in the Heidelberg Activity Centre. Opportunities to deliver these facilities will continue to be investigated at the time that they are required.
- The site is in a Commercial Zone – Schedule 1 (CZ1), however will adopt an ACZ1 zoning when the *Heidelberg Structure Plan* is incorporated into the Planning Scheme. The ACZ1 zone *‘encourages a mixture of uses and intensive development and a diversity of housing at higher densities*. The existing planning controls allow for a range of development outcomes at relatively high density.
- Council manages a range of community halls and facilities including Bellfield Hub which all provide viable options for relocation of the groups that are currently utilising Hawdon Street Hall. Council Officers have undertaken analysis of times, availability, space requirements and any other specific needs to determine best options for relocation which will be discussed with each group. Bellfield Hub and Old Shire Office can accommodate most of the community groups with some of our other community halls in Lower Plenty, Bundoora, and Montmorency as secondary options.
- Supporting the continued operation of the community groups is a priority and Council staff will work with these groups firstly to ensure their needs can continue to be met in a relocated facility. The commercial dance schools perform an important function – providing local dance classes and staff have identified some potential options for relocation of classes that may or may not be suitable.

SUPPORTING REPORT DETAILS

Legal Consideration

- Prior to selling land, Section 114 of the *Local Government Act 2020* (Act) provides that Council must give public notice of its intention to do so and obtain a valuation which is made not more than six months prior to the sale.
- Public notice is required to be given in accordance with Council Community Engagement Policy and Plans pursuant to section 55 of the Act.
- The Act provides that a person may, within 28 days of the date of publication of the public notice, lodge a written submission regarding land to be sold. If a person makes a written submission to Council requesting that they be heard in support of

PROPOSED SALE OF 78-80 HAWDON STREET, HEIDELBERG cont'd

their written submission, Council must permit that person to be heard before a meeting of Council, giving reasonable notice of the day, time, and place of the meeting.

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

- As previously indicated, the site will adopt an ACZ1 zoning when the *Heidelberg Structure Plan* is incorporated into the Planning Scheme. This zoning allows for a much higher and better use for the land.
- A better option would be to separately purchase space in a residentially zoned area (where the highest and best use for the zoning is lower, equating to a lower land value). As per the draft *Community Infrastructure Plan 2023*, multi-purpose meeting spaces will be required in the future and affordable options will be assessed at the time when the spaces are required.
- A valuation will be completed for the land based on its highest and best use. In accordance with the *Local Government Act (2020)*, this valuation cannot be prepared more than 6 months prior to sale of the land. The valuation will be prepared in late 2023 if, following the statutory process for sale, Council agrees to proceed with the sale.
- Sale proceeds from the site will be reinvested by Council into its Capital Works program and the provision of community services.

Community Engagement

- Communication has already commenced to provide user groups with pre warning and to lead into further discussions around group needs, required support, indicative timelines, and opportunities.
- A relocation plan, exploring different options is a joint Community Wellbeing Directorate effort between Healthy and Active Communities and Resilient & Connected Communities to ensure that needs can be matched with the right relocation option and all activities supported.
- There will also be a communication and engagement plan prepared by Community Wellbeing to includes all Hall users and the broader community.

Key Considerations

- Council could choose to keep Hawdon Hall for its current use, however this would render the site significantly underdeveloped given its zoning and not in accordance with the adopted *Heidelberg Structure Plan (April 2023 - currently being exhibited as Amendment C172 to the Banyule Planning Scheme)*.

PROPOSED SALE OF 78-80 HAWDON STREET, HEIDELBERG cont'd

- There are two Council facilities in reasonable proximity to Hawdon Hall which could accommodate additional uses: Old Shire Offices (Warringal Parkland – 1.8km away) and the new Bellfield Community Hub (2.6km away). There are also a range of other community halls that have capacity to accommodate additional use but distances from Hawdon Hall may be a barrier to existing users.
- Communication with impacted user groups has already commenced and further engagement and support will be provided by the Community Wellbeing Directorate to ensure that group needs can be met in any proposed location
- Priority for relocation will be on the not-for-profit community user groups and Council officers will play a lead role in enabling this. All efforts will be made to identify potential options for the commercial dance groups; however, the role of officers will be more focused on facilitation.
- The *Guidelines for the Sale and Exchange of Council Land (2009)*, provide that the sale of Council-owned land should be conducted through a public process, unless circumstances justify an alternative method of sale.
- If Council agrees to proceed with this statutory process, a separate report will be provided to Council at a meeting later this year requesting permission to proceed with public notification of the impending sale. This report can also present an update on status of relocation option discussions.
- An indicative timeline for potential sale of the land is proposed in **Table 3** below:

Table 3: Indicative timeline for the Hawdon Hall project

Indicative Date	Activity
May 2023	User groups advised of the proposed sale and their relocation options immediately prior to a report going public
May 2023	Report to Council to publicly advise and agree to commence the process to sell of the land
Before 1 Sept 2023	Negotiation and agreement with user groups for relocation sites
28 August 2023	Report to Council - Notice of Intention to Sell Land to be advertised
Sept 2023	Advertising period
9 October 2023	Report to Council – Hearing of Submissions
30 Oct 2023	Report to Council – Decision to Sell or Not Sell the Land
End Dec 2023	User groups to vacate
End Dec 2023	Removal/reclamation of any items from the building
Dec 2023	Appointment of selling agent (if Council agrees to sell the land)
Feb 2024-Mar 2024	Proposed marketing campaign
End March 2024	Proposed sale of land
By 30 June 2024	Proposed settlement

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.

PROPOSED SALE OF 78-80 HAWDON STREET, HEIDELBERG cont'd

ATTACHMENTS

Nil

3.11 AWARD OF CONTRACT NO. 1273-2023 - PANEL FOR CONSTRUCTION OF SPORTSFIELD AND CARPARK LIGHTING PROJECTS

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

SUMMARY

1. This report is to consider the awarding of Contract No. 1273-2023 – Panel for Construction of Sportsfield and Carpark Lighting Projects.
2. Tenders were received from 11 contractors.
3. The Tender Evaluation Panel (TEP) has recommended awarding the contract to:
 - a. High Profile Engineering Pty Ltd
 - b. Hilite Electrics Pty Ltd
 - c. High Access Cabling Pty Ltd
 - d. Harris HMC Electrics
 - e. Commlec Services Pty Ltdin accordance with the tender and conditions as determined by Council.
4. The contract will commence 14 August 2023. The Initial Contract Term shall be for an initial period of 1 year with the option to extend for further periods of any duration up to a maximum extension period of 3 years based on satisfactory performance and meeting Council objectives.

RECOMMENDATION

That Council:

1. Award Contract No. 1273-2023 – Panel for Construction of Sportsfield and Carpark Lighting Projects for the initial period of 1 year commencing on 14 August 2023 with the option to extend up to a maximum of 3 years to the following suppliers:
 - a) High Profile Engineering Pty Ltd
 - b) Hilite Electrics Pty Ltd
 - c) High Access Cabling Pty Ltd
 - d) Harris HMC Electrics
 - e) Commlec Services Pty Ltd
2. Authorise the Chief Executive Officer or delegate to sign the contract and any other associated documents.
3. Authorise the Chief Executive Officer or delegate to award extensions of this Contract, subject to review of the Contractor's performance and Council's business needs, at the conclusion of the initial 1-year contract term and extension periods.

AWARD OF CONTRACT NO. 1273-2023 - PANEL FOR CONSTRUCTION OF SPORTSFIELD AND CARPARK LIGHTING PROJECTS cont'd

COUNCIL PLAN

This report is in line with Banyule’s Council Plan 2021-2025 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	1 year with the option to extend for further periods of any duration up to a maximum extension period of 3 years via 3 x 1 year extensions.
Contract Type	Panel Contract
Advertising Period	11 March 2023 in The Age
Tenders Closed	5 April 2023
Works/Project	Various
No. of tender documents downloaded	Twenty Six
Tender Evaluation Panel	Coordinator Capital Works Team Leader Civil Project Engineer Procurement Officer (Non-Scoring)
Tender Evaluation Criteria	<ul style="list-style-type: none"> • Tendered price; • Qualifications and experience of nominated staff including experience of nominated sub-contractors and CV's; • Previous performance, experience, and reliability in the provision of similar types of projects and previous performance in delivery of contracts or purchase orders directly with Banyule City Council (if applicable), including referee feedback (Note that advice may be sought from any other person beyond that given by the nominated referees) • Sustainable Procurement Questionnaire.
Other Background	<ul style="list-style-type: none"> • Council sought Tenders from suitably qualified, capable, and experienced contractors to install sports floodlighting and carpark lighting at various locations within the City of Banyule, for projects worth up to \$700,000 (incl GST). • The scope of works generally includes but is not limited to: <ul style="list-style-type: none"> ➢ Civil works including foundations. ➢ Erection of poles including ancillary structural works. ➢ Supply and installation of lighting systems. ➢ All ancillary electrical works, permits and soil testing • Tenderers were asked to quote on a notional project, including a sample specification as part of the evaluation process. • A panel consisting of up to five (5) providers is proposed.

AWARD OF CONTRACT NO. 1273-2023 - PANEL FOR CONSTRUCTION OF SPORTSFIELD AND CARPARK LIGHTING PROJECTS cont'd

TENDER/QUOTATION EVALUATION

- Prior to receiving tenders, the tender evaluation panel convened to set the weightings for each of the evaluation criteria and establish how the tenders would be evaluated using the weighted evaluation matrix. A tender evaluation plan was developed and signed by all panel members.
- The tender submission includes a requirement for the contractor to complete a questionnaire which seeks clarifications on how they have included/considered 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
High Profile Engineering Pty Ltd	77.75
Hilite Electrics Pty Ltd	81.17
Tenderer C	70.66
Tenderer D	70.48
High Access Cabling Pty Ltd	82.47
Harris HMC Electrics	79.30
Tenderer G	75.03
Tenderer h	67.71
Commlec Services Pty Ltd	78.90
*Tenderer J	N/A
Tenderer K	74.56

* The TEP agreed based on the tendered costs that all tenders would be further assessed apart from Tenderer J who tendered the highest cost by a considerable margin.

- Following the tender evaluation process, the following five (5) tenderers have obtained the highest evaluation scores and considered to deliver the best value for money to Council.
 - High Profile Engineering Pty Ltd
 - Hilite Electrics Pty Ltd
 - High Access Cabling Pty Ltd
 - Harris HMC Electrics
 - Commlec Services Pty Ltd

AWARD OF CONTRACT NO. 1273-2023 - PANEL FOR CONSTRUCTION OF SPORTSFIELD AND CARPARK LIGHTING PROJECTS cont'd

• **SUPPORTING REPORT DETAILS**

Legal Consideration

- Section 109(1) of the *Local Government Act 2020* requires councils to comply with their Procurement Policy, which stipulates a public tender process is required for the procurement of goods, services or works where once-off or ongoing cumulative spend over the life of the contract is expected to exceed \$300,000 (including GST).
- The awarding of this contract complies with the tendering provisions of Section 109(1) 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 specific sustainable procurement activities arising from the recommendation contained in this report, however all recommended contractors tendered positively to the majority of the Sustainable Procurement Questionnaire.
- A separate RFQ and specification will be issued for each project to the panel. Council's standard is to use LED lighting for all sportsfield and carpark lighting projects. As part of the specification, Council will also seek pricing options for *Australian Made* where suitable products are available.

Financial Implications

- The total estimated value of the contract over the four-year period 2023/24 to 2026/27 is estimated at approximately \$2 million, with actual works to be funded via Council's annual Capital Works Program.

Additional information

- Attachment 1, as circulated in the confidential section of the agenda attachments. 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 being information provided by a business, commercial or financial undertaking that if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage.
- This item has been included in the public agenda to facilitate transparency and accountability in Council's decision making.

Banyule Procurement Policy

- Council's Procurement Policy is made under *Section 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.

AWARD OF CONTRACT NO. 1273-2023 - PANEL FOR CONSTRUCTION OF SPORTSFIELD AND CARPARK LIGHTING PROJECTS cont'd

- 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 tenders 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.

ATTACHMENTS

N	Title	Page
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1	1273-2023 - Tender Evaluation Matrix - CONFIDENTIAL	

4.1 OLDER ADULTS STRATEGIC PLAN 2017 - 2021 ACHIEVEMENTS REPORT

Author: Laura Cattapan - Community Connections Coordinator, Community Wellbeing

Previous Items

Council on 30 Oct 2017 7.15pm (Item 3.1 - Older Adults Strategic Plan 2017 - 2021 & Annual Action Plan)

SUMMARY

1. Banyule City Council has a proud history of supporting and celebrating older adults through the implementation and delivery of a range of age friendly initiatives.
2. At the 30 October 2017 Council meeting, Council adopted the Banyule City Council Older Adults Strategic Plan 2017 – 2021 and Action Plan. The Plan provided Council with a framework to support the health and wellbeing of older adults in Banyule.
3. The Older Adults Strategic Plan 2017 – 2021 expired in 2021. Since its cessation Council has undertaken a review of the Plan to consider its achievements and key learnings to determine the strategic approach for its next iteration.
4. Although the COVID-19 Pandemic impacted the outcomes of the Older Adult Strategic Plan 2017 – 2021, Council still achieved many positive outcomes under each of the goals within the Plan.
5. The participation of older people in both creating and implementing the Strategic Plan ensured it reflected the wants and needs of Banyule's older community. With a continued focus on community connections and engagement, Council will once again take a co-design approach to developing and implementing the new strategy.
6. The Actions delivered over the four-year duration of the Older Adult Strategic Plan have been considered with reflections on the strengths, challenges, learnings, and opportunities. These reflections will inform the development of the new age-friendly strategy including the ongoing impact of COVID-19, the national Aged Care Reforms, ageism, and the importance of social connection opportunities.
7. In 2021 Council adopted the Child and Youth Framework, for consistency Council will consider a similar framework be developed for older adults. It will be titled the Older Adults Framework 2030.
8. The planning and development of the Older Adults Framework will be undertaken in 2023. Council officers have commenced work on the plan.
9. A co-design working group will be established to provide advice and guidance on the development of the framework, and will comprise of Age Friendly Committee members, Age Friendly Champions, and other relevant stakeholders.

**OLDER ADULTS STRATEGIC PLAN 2017 - 2021 ACHIEVEMENTS REPORT
cont'd**

RECOMMENDATION

That Council:

1. Note the achievements of the Older Adults Strategic Plan 2017 – 2021, **Attachment 1**.
2. Acknowledge the contribution of members of the Age Friendly Committee, both past and present.
3. Support the community engagement plan outlined in the table under the Community Engagement section of this report. This includes the establishment of a co-design working group, targeted community consultations, an external stakeholder and service provider survey, consultations with Councillors and Council advisory committees, and engagement with key stakeholders.
4. Receives a further report in December 2023 detailing the draft Older Adults Framework 2030 document.

COUNCIL PLAN

- This report is in line with Banyule's Council Plan strategy to "Deliver a range of accessible services and programs for older people that support social connections and independent living".

BACKGROUND

- Banyule City Council has a proud history of supporting and celebrating older adults through the implementation and delivery of a range of age friendly initiatives.
- In November 2014, Council was accepted as a member of the World Health Organisation's (WHO) Global Network of Age Friendly Cities. This followed with the establishment of the Age Friendly Advisory Committee in December 2014 and the Age Friendly Champions program in 2015.
- At the 30 October 2017 Council meeting, Council adopted the Banyule City Council Older Adults Strategic Plan 2017 – 2021 and Action Plan. The Plan provided Council with a framework to support the health and wellbeing of older adults in Banyule and was aligned to both the Council Plan 2017 – 2021 objectives and the eight domains of the WHO Age Friendly Cities Framework.
- Both the Advisory Committee and Age Friendly Champions played an instrumental role in the development of the Older Adults Strategic Plan.

KEY ISSUES

- Council continues to be committed to identifying and addressing barriers to the wellbeing and participation of older adults in our community.

**OLDER ADULTS STRATEGIC PLAN 2017 - 2021 ACHIEVEMENTS REPORT
cont'd**

- The Older Adults Strategic Plan 2017 – 2021 expired in 2021. Since its cessation Council has undertaken a review of the Plan to consider its achievements and key learnings, and to determine the strategic approach for its next iteration.

This report captures achievements and reflections over four years of the Older Adults Strategic Plan and outlines the development of the next plan.

Older Adults Strategic Plan 2017 – 2021 Achievements

- Although the COVID-19 Pandemic impacted the outcomes of the Older Adult Strategic Plan 2017 – 2021, Council still achieved many positive outcomes under each of the goals set out in the Plan.
- The following section highlights an achievement under each Goal:

Goal 1. Older residents have opportunities to maintain and improve their health and wellbeing:

The Council's Older Adults Recreation Program (now known as Older Adults Community Connections Program) offered a range of exercise programs and opportunities for older residents, some of these included:

- Partnering with Watermarc to deliver a low-cost Tai Chi program
- Offering walking groups for seniors and their carers conducted in partnership with the Heart Foundation
- Partnering with Basketball Victoria and YMCA Macleod to deliver a six-week basketball program for older residents
- Partnering with the Council of the Ageing Victoria to deliver as part of Banyule Leisure, older adults specific exercise programs - Living Older, Living Stronger and Boomer programs
- Delivering a seasonal Falls Prevention Program through Banyule Leisure
- Conducting Come and Try sessions on Fridays at Ivanhoe Seniors Exercise Park with trained volunteers.

Goal 2. Older residents are encouraged to, and have opportunities to, participate in the community:

Banyule's Annual Seniors Festival supported, acknowledged, and celebrated older persons in Banyule, activities included:

- Supporting Banyule clubs and organisations to celebrate the Banyule Seniors Festival with come and try opportunities and other events
- Delivering the Great Hall Morning Tea as a Premier Event to launch the Banyule Seniors Festival
- Providing events online during COVID-19 lockdowns.

Goal 3. Older residents have community support and health services available to meet their needs:

Council's aged care services have been Rainbow Tick accredited since 2017. The aim is to ensure members of our Lesbian, Gay, Bisexual, Transgender, Intersex and Queer (LGBTIQ) community receive services that are inclusive and safe. Council have now embedded a range of actions and practices into the planning and delivery of Council's aged care services that meet the national quality framework and accreditation program.

Goal 4. Older residents are actively involved in the community:

**OLDER ADULTS STRATEGIC PLAN 2017 - 2021 ACHIEVEMENTS REPORT
cont'd**

The Banyule Age-Friendly Advisory Committee (now titled Age Friendly Population Committee) continued to be convened. The Committee advocated and provided advice on a range of Council plans, strategies, policies, projects, and services.

Goal 5. Older residents are valued and the community benefits from their contribution:

Council delivered the Age in Focus photographic exhibition with the focus of projecting positive images and illustrations of older people.

Goal 6. Older residents are able to easily access information about their community and services:

Banyule Age in Focus (AiF) newsletter continued to promote local services and programs. It was distributed to over 1000 individuals/ households, local community facilities and services and provided targeted information, advice, and support to older residents during COVID-19 lockdowns. It was provided in both a hard-copy and digital format.

Goal 7. Older residents have a range of housing options to meet their needs:

Older residents were supported by Council with their housing transition at Tarakan and Bella Bardia housing estates.

Goal 8. Older residents are able to easily move about Banyule to participate in community and have access to services:

A range of community transport options within Banyule were mapped and benchmarked as part of the Community Bus Feasibility study. The study recommended that Council consider operating a tailored community bus service for older residents and those with no alternative mode of transport. This was endorsed by Council with a trial community bus service being scheduled to be launched in 2023.

Goal 9. Older residents have access to pleasant, safe, and healthy environments:

Through the advocacy of the Age Friendly Committee, Council installed a Seniors Exercise Park in Ivanhoe Park in 2021. The park offers a range of equipment specifically designed to improve the strength, balance, flexibility, and mobility of older adults.

Older Adults Strategic Plan 2017 – 2021 Reflections

The Actions delivered over the four-year duration of the Older Adult Strategic Plan have been considered with reflections on the strengths, challenges, learnings, and opportunities. These reflections will inform the development of the next iteration of Banyule's age-friendly strategy including the ongoing impact of COVID-19, the national Age Care Reforms, ageism, and the importance of social connection opportunities.

The Achievements Report has demonstrated Council's commitment to making Banyule an age friendly community. The participation of older people in both creating and implementing the Strategic Plan ensured it reflected the wants and needs of

OLDER ADULTS STRATEGIC PLAN 2017 - 2021 ACHIEVEMENTS REPORT cont'd

Banyule's older community. With a continued focus on community connections and engagement, Council will once again take a co-design approach to developing and implementing the new framework.

In the interim time between the cessation of the Older Adult Strategic Plan and the planned development of the Older Adults Framework 2030, Banyule City Council has continued to achieve positive outcomes for its older adults. This has included continued planned community activities as well as the signing of the pledge to support the Every Age Counts campaign, which was a direct recommendation from the Age Friendly Population Committee.

The new strategy - Older Adults Framework 2030

In 2021 Council adopted the Child and Youth Framework. For consistency Council will consider a similar framework be developed for older adults. It will be titled the Older Adults Framework 2030.

The planning and development of the Older Adults Framework 2030 will be undertaken in 2023. The following actions will be delivered to develop the Framework:

- Demographic profile of older adults in Banyule
- Environmental scan of existing consultation and survey results
- Literature review and research
- Community engagement planning and delivery
- Draft framework public exhibition
- Final strategy submitted to Council for adoption

A co-design working group will be established to provide advice and guidance on the development of the framework, and will comprise of Age Friendly Committee members, Age Friendly Champions, and relevant internal stakeholders.

Council officers have commenced work on the demographic profiling of older residents, the literature review, and the community engagement plan.

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*. This pertains specifically to Section 8: Right to recognition and equality before the law; Section 9: Right to life; Section 14: Right to freedom of thought, conscience, and belief; Section 15: Right to freedom of expression; Section 18: Right to take part in public life; and Section 19: Cultural rights.

**OLDER ADULTS STRATEGIC PLAN 2017 - 2021 ACHIEVEMENTS REPORT
cont'd**

- It is considered that the subject matter supports the human rights of older people and in particular the Older Adults Strategic Plan 2017 – 2021 ensures the rights, needs and voice of older people are recognised, supported, and enhanced in Banyule.
- In addition, the Age Friendly Population Committee provides timely strategic advice and recommendations for Council to consider and ensures the voice of older adults is a significant consideration in the policy and decision making of Council.

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.

Community Engagement

- A Community Engagement Plan to support the co-design of the new Framework is in draft. The table below outlines the Framework's key actions and timelines.

Action	Detail	Timelines
Establish a co-design Older Adult Framework working group	Members to include Age Friendly Committee, Age Friendly Champions, internal stakeholders. The Co-design working group will be engaged at every stage of the development of the Framework.	June – November 2023
Targeted community consultation with seniors' groups	Consultations will take place via attendance at seniors group meetings/gatherings including Council's Social Support service users. Seniors' groups with diversity of backgrounds, cultures and lived experiences will be prioritised.	June – August 2023
Focus Group	Focus Group meeting will include Age Friendly Champion, Aged Care recipients, local community groups.	August 2023
Councillor engagement	A survey will be provided to Councillors.	August 2023
Council Population Committees	Consultations conducted at Committee meetings.	June – August 2023
Targeted external stakeholder survey	Hard and digital survey to be distributed to relevant service providers, community groups, and via Council networks.	July – August 2023

**OLDER ADULTS STRATEGIC PLAN 2017 - 2021 ACHIEVEMENTS REPORT
cont'd**

	(Hard copy surveys will be distributed due to the levels of digital literacy of the target cohort).	
Internal stakeholder engagement	Focus Group meeting with key internal stakeholders.	June 2023
Councillor engagement	Councillor Briefing on the draft Framework.	October 2023
Feedback on draft Older Adult Framework 2030	The draft Framework will be published on Shaping Banyule for feedback and in hard copy when requested.	November - December 2023

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

N	Title	Page
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1	Achievements Report - Older Adults Strategic Plan 2017-2022	

5.1 **NOMINATION FOR CLIMATE EMERGENCY AUSTRALIA EXECUTIVE**

Author: Ellie Hall - Environmental Sustainability Officer, City Development

SUMMARY

1. An opportunity has arisen for a Banyule representative to apply for a position on the Executive of Climate Emergency Australia (CEA)
2. CEA is a national network of local governments who have declared, recognised, or acknowledged a climate emergency. Council is an active participant in CEA forums.
3. CEA leads advocacy to the federal government, builds capacity, shares resources, and creates networks to accelerate and support the climate action work of local governments across Australia.

RECOMMENDATION

That Council:

1. Endorse Cr _____ to nominate for the Executive of Climate Emergency Australia.

COUNCIL PLAN

- This report is in line with Banyule's Council Plan strategy to "Demonstrate leadership in addressing climate change and take action to become a carbon neutral Council by 2028 and City by 2040".

BACKGROUND

- Climate Emergency Australia (CEA) is a national network of Australian councils that have declared, recognised, or acknowledged the climate emergency. Staff from over 60 councils, including Banyule, came together in 2019 and resolved to form this nationwide network.
- CEA exists to advocate on behalf of members and build the capacity of the Australian local government sector to govern in a climate emergency. The CEA Prospectus 2023-24 (**Attachment 1**) provides further information about CEA's purpose.
- CEA is overseen by an Executive, made up of senior representatives from five member councils.
- CEA is currently recruiting for its executive, which presents an opportunity for Banyule to actively shape and support the organisation's priorities at the national level.
- The offer to apply is open to all Councillors, and applications are open until 1st June 2023.

NOMINATION FOR CLIMATE EMERGENCY AUSTRALIA EXECUTIVE cont'd

- More than 100 councils around Australia have now declared or recognised the climate emergency. Together, these councils represent more than 11.4 million Australians calling for a rapid shift to a more resilient, zero-carbon society.

KEY ISSUES

- The particulars of the CEA Executive are outlined in the attached draft terms of reference (**Attachment 2**)
- The **purpose** of the CEA's executive is to:
 - set the strategic direction of CEA on behalf of members
 - ensure sound and effective decision-making
 - establish and monitor accountability processes for CEA and member councils
 - maintain effective communication and information exchange between member councils.
- The **role** of the Executive is to:
 - inform and authorise CEA's strategic planning and annual work plans
 - authorise and endorse funding submissions
 - identify advocacy issues and authorise advocacy submissions
 - oversee CEA's finances and endorse financial reports
 - ensure high level engagement with key stakeholders within current and potential member councils
 - promote CEA's activities and effectively communicate the benefits of membership to decision makers and other key stakeholders
 - ensure all CEA members have equitable access to resources and projects developed by and available to CEA
 - provide input into levels of staff resourcing, participate in recruitment, and provide guidance and direction to the coordinator in cooperation with the host council
 - meet and liaise with the coordinator and consider any recommendations from CEA working groups to ensure effective information exchange and facilitate efficient decision-making processes.
- A Banyule position on the CEA Executive represents an opportunity to accelerate Banyule's leadership, raise council's profile and drive advocacy.
- Subject to Council endorsement a CEA Executive Nomination Form (Attachment 3) would need to be submitted to CEA for any nominated Councillor by 1st June 2023.

SUPPORTING REPORT DETAILS

Legal Consideration

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

NOMINATION FOR CLIMATE EMERGENCY AUSTRALIA EXECUTIVE cont'd

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

- Banyule Council is already a member of CEA and therefore 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

N	Title	Page
•	.	
1	CEA Prospectus 2023/24 	
2	Climate Emergency Australia - Executive Terms of Reference - Final Draft - CONFIDENTIAL	
3	CEA Executive Nomination Form 	

6.1 180 UPPER HEIDELBERG ROAD IVANHOE - AMENDMENT TO AN EXISTING LICENSED PREMISES (P674/2018)

Author: Marcus Brooker - Development Planner, City Development

Ward: Chelsworth

SUMMARY

1. Planning Permit P674/2018 which was issued on 15 November 2018 for a licenced premises (Chei Wen bar) which currently operates from the subject site. The operator holds a current on-premises liquor licence.
2. Existing conditions on this permit limit the parts of the site from which liquor may be sold and consumed; the hours of operation; the hours when the outdoor space may be used; and the maximum number of patrons.
3. This is an application to amend the permit. The application seeks approval for the following amendments:
 - Extension of the existing red line area to incorporate the upper floor level;
 - Increase in the maximum patronage from 68 to 80; and
 - Extension of the existing trading hours and hours within which the outdoor space can be used by patrons.
 - The operating hours will extend to 1am closing at ground floor, new operating hours to include the first floor with closing times varying between 10pm and 1am, and the rear deck area to close at 11pm on Friday and Saturday and 10pm all other nights.
4. Consideration of the application is limited to potential amenity impacts of the proposed amendments only. It is not a matter of deciding whether the already approved land use is appropriate.
5. It is considered that the proposal, appropriately strikes a balance between the purpose of the zone and protecting amenity of adjoining residential uses and should be supported, subject to appropriate changes to permit conditions. These changes include:
 - Reinstatement of fencing around the rear outdoor area;
 - An amended Venue Management Plan including the requirement to submit an acoustic report from a suitably qualified independent acoustic consultant;
 - Inclusion of a condition requiring compliance with the Environment Protection Regulations 2021 to regulate noise levels.
6. During the application process consultation was conducted with objectors raising their concerns and the applicant given an opportunity to respond. The applicant has agreed to reduce the proposed closing hours of the rear deck, bringing the closing time forward by 1 hour, and have agreed to the proposed changes to permit conditions.

180 UPPER HEIDELBERG ROAD IVANHOE - AMENDMENT TO AN EXISTING LICENSED PREMISES (P674/2018) cont'd

RECOMMENDATION

That Council having complied with Section 52, 58, 60, 61 and 62 of the *Planning and Environment Act 1987*, resolves to issue a **Notice of Decision to Grant an Amended Planning Permit** in respect of Application No. P674/2018 allowing the following amendments and alterations to conditions:

- Extend the red line area to incorporate the front section of the internal upper floor level, this is to be reflected on plans only;
- Amend the existing condition regarding the maximum patronage on site at any one time to increase from 68 to 80.
- Amend the existing operating hours conditions to allow for the following operating hours:
 - Internal ground floor area: Monday to Saturday 4pm-1am, Sunday 2pm-12am
 - Internal first floor area: Tuesday to Thursday 4pm-12am, Friday 3pm-1am, Saturday 2pm-1am, Sunday 2pm-10pm
 - Rear deck area closing time: Monday to Thursday and Sunday 9pm, Friday to Saturday 10pm

1. Insert new Condition 1A to read:

Reinstatement of a minimum 25% permeable fence around the perimeter of the rear outdoor area and to be setback 1 metre from the rear boundary to provide a clear view of vehicles on the right-of-way;

2. Amend existing Condition 4 to read:

Venue Management Plan

An amended Venue Management Plan must be submitted to and approved by the Responsible Authority prior to the commencement of the use. The amended Venue Management Plan must be provided within 90 days after the date of this amended permit and must provide/address the following:

- The maximum number of patrons on the site at any one time.
- Hours of operation for all parts of the premises.
- Lighting within the boundaries of the site.
- Security lighting outside the premises.
- The method used to demonstrate that maximum patron numbers permitted on site at any one time are not exceeded.
- The training of staff in the management of the behaviour of patron/residents of the premises and Responsible Service of Alcohol (RSA).

180 UPPER HEIDELBERG ROAD IVANHOE - AMENDMENT TO AN EXISTING LICENSED PREMISES (P674/2018) cont'd

- Identifying all noise sources associated with the premises likely to impact on adjoining residents (including, but not limited to, music noise, entries and exists to the premises).
- An Acoustic Report prepared by a suitably qualified acoustic consultant which determines the maximum levels to which recorded music may be played within the venue while ensuring compliance with the Environment Protection Regulations 2021;
- A commitment to ongoing compliance with the recommendations of the Acoustic Report.
- Measures to be undertaken to address all noise sources identified, including on and off-site noise attenuation measures.
- Method of Patron Management to the entirety of the venue, including the movement of patrons to and from the venue.
- Method of Patron Management to the front footpath trading area to ensure that this is a no-standing space (patrons must be sat at tables and chairs).
- Location of signs in prominent locations within the premises exhorting patrons to respect the amenity of neighbours and the need to avoid causing noise and disturbance to neighbours and discomfort to passing pedestrians.
- Details of waste management (including storage and hours of collection for general rubbish and bottles associated with the licensed premises), bottle crushers, and delivery times associated with the licenses premises.
- Details of smoking areas (should any be approved by amendment to this permit) including location, noise controls, restriction of liquor and any acoustic fence details.
- The nomination of a person responsible for the behaviour of patrons and a telephone number for the said responsible person ('the Hotline') which must be available during operation hours and must be provided to residents and business proprietors.
- The method for linking the telephone number of complaints to the complaints register.
- The nominated person responsible for the behaviour of patrons to monitor congregation of patrons to avoid causing noise and disturbance to neighbouring property and discomfort to passing pedestrians.
- A complaint handling process to be in place to effectively manage complaints received from neighbouring and nearby businesses and local residents, including details of a complaints register to be kept at the premises. The register must include details of the complaint received, any action taken and the response provided to the complainant;

180 UPPER HEIDELBERG ROAD IVANHOE - AMENDMENT TO AN EXISTING LICENSED PREMISES (P674/2018) cont'd

The provisions, recommendations and requirements of the endorsed Noise and Amenity Action Plan must be implemented and complied with to the satisfaction of the Responsible Authority and shall not be changed or altered without the further consent of the Responsible Authority.

3. Amend existing Condition 6 to read:

The use of the site must not cause nuisance or be detrimental to the amenity of the neighbourhood by the emission of noise. Noise emissions from the land must comply with Environment Protection Regulations 2021.

At the Responsible Authority's request, the permit holder at their own expense, must engage a suitably qualified professional acoustic consultant to determine the extent of compliance with the Environment Protection Regulations 2021. A copy of the consultant's report must be submitted to the Responsible Authority. If the Environment Protection Regulations 2021 is being exceeded then the permit holder must carry out such structural alterations and/or management measures to achieve compliance to the satisfaction of the responsible Authority.

4. Amend existing Condition 8 to read:

Except with the prior written consent of the Responsible Authority, the use permitted by this permit may only operate between the following times:

Internal Ground Floor Area

Monday – Saturday 4pm – 1am

Sunday 2pm – 12am

Internal First Floor Area

Tuesday – Thursday 4pm – 12am

Friday 3pm – 1am

Saturday 2pm – 1am

Sunday 2pm – 10pm

5. Amend existing Condition 9 to read:

The rear outdoor area must be closed to patrons by 9pm on each Monday to Thursday and Sunday night, and 10pm on Friday and Saturday night, unless with the prior written consent of the Responsible Authority.

6. Amend existing Condition 10 to read:

The total number of patrons within the premises at any one time (including patrons in any outdoor seating area) must not exceed 80, except with the written consent of the Responsible Authority.

180 UPPER HEIDELBERG ROAD IVANHOE - AMENDMENT TO AN EXISTING LICENSED PREMISES (P674/2018) cont'd

7. Delete existing Condition 12.

Planning Permit Application:	P674/2018
Development Planner:	Marcus Brooker
Address:	180 Upper Heidelberg Road, IVANHOE
Proposal:	Amend the permit conditions to allow for increased patronage and amended operating hours and amend the red line area to incorporate part of the internal first floor level.
Existing Use/Development:	Bar
Applicant:	Sam Bramham
Zoning:	Commercial 1 Zone (C1Z)
Overlays:	Design and Development Overlay – Schedule 11 – Precinct 5 (DDO11-5) Heritage Overlay (HO90)
Notification (Advertising):	Two (2) signs on site and letters posted to neighbouring and nearby properties.
Objections Received:	Twenty (20)
Ward:	Chelsworth

PROPOSAL

- The applicant is seeking approval for amendments to the endorsed plans and conditions associated with the existing planning permit, as follows:
 - An increase in patron numbers from 68 to 80.
 - An increased red line area is proposed which incorporates a section of the internal upper level of approximately 49 square metres.
 - Alterations to the operating hours. The changes to the operating hours can be summarised as follows:

Day	Current	Proposed
Monday	Ground: 4pm-12am Upper: N/A Deck: 4pm-7pm	Ground: 4pm-1am Upper: N/A Deck: 4pm-10pm
Tuesday - Wednesday	Ground: 4pm-12am Upper: N/A Deck: 4pm-7pm	Ground: 4pm-1am Upper: 4pm-12am Deck: 4pm-10pm

180 UPPER HEIDELBERG ROAD IVANHOE - AMENDMENT TO AN EXISTING LICENSED PREMISES (P674/2018) cont'd

Thursday	Ground: 4pm-12am Upper: N/A Deck: 4pm-7pm	Ground: 4pm-1am Upper: 4pm-12am Deck: 4pm-10pm
Friday	Ground: 12pm-1am Upper: N/A Deck: 12pm-7pm	Ground: 4pm-1am Upper: 3pm-1am Deck: 4pm-11pm
Saturday	Ground: 12pm-1am Upper: N/A Deck: 12pm-7pm	Ground: 4pm-1am Upper: 2pm-1am Deck: 4pm-10pm
Sunday	Ground: 12pm-10pm Upper: N/A Deck: 12pm-7pm	Ground: 2pm-12am Upper: 2pm-10pm Deck: 2pm-10pm

- The applicant is seeking to extend the operating hours, patron numbers and red line area to expand the existing business operations.
- The rear deck area opens at the same time the venue opens, however, is proposed to have varied closing times. These closing times will be prior to the closing times of the rest of the venue.
- The alterations proposed to the trading hours seek a later closing time on all days of the week for the ground floor section and rear deck area, as well as changes to the conditions to allow for operating hours to include the new internal first floor red line area.
- The extension to the red line area to include the upper floor level does not include the entire upper floor level, the section closest to Upper Heidelberg Road will be incorporated only. The section of the upper level closest to the rear laneway and balcony will not be incorporated into the red line area.
- The proposal also seeks to make internal alterations to include a staircase at the front of the site to enable access from the ground floor red line area to the internal first floor red line area.
- There are no changes proposed to the built form and the proposal has no car parking implications.

BACKGROUND

- Details of previous planning applications for this site are as follows:

Planning Permit	Authorises:
P674/2018	This permit was issued on 15 November 2018 and allows the use of the land for the sale and consumption of liquor (on premise and packaged liquor licence), waiver of the car parking requirement, buildings and works, and display of signage within a heritage overlay.

- The COVID-19 State of Emergency provisions have been applied to this business with the rear deck area allowed to temporarily operate to 9pm on Friday and Saturday nights and 8pm on all other nights.

180 UPPER HEIDELBERG ROAD IVANHOE - AMENDMENT TO AN EXISTING LICENSED PREMISES (P674/2018) cont'd

- This exemption currently overrides Condition 9 of the existing permit.
- The temporary extension to the operating hours of the rear outdoor area is due to expire in October 2023.

SUBJECT SITE AND SURROUNDING AREA

Site area	181m ²
Topography	There is a slight slope across the site from north to south.
Existing and Neighbouring Vegetation	There are no existing trees on the site and there are a minimal number of trees located on adjoining property within the vicinity of the site. The apartment site to the rear of the subject site contains some vegetation along the right of way and its northern and southern boundaries. However, the majority of vegetation within this immediate area can be found on public land.
Existing Building	<p>The existing building is a red brick, double storey building which contains a bar at ground level and a first floor shop-top living arrangement. The upper level contains a balcony to the rear of the site and access to the upper level is via a staircase accessible through the right of way at the rear.</p> <p>Further to this, the rear outdoor area recently contained decking and a timber picket fence around the perimeter of the site and a roof canopy. This has been removed due to an unrelated compliance matter.</p>
Surrounding Area	The subject site is located centrally within the commercially zoned area. The commercial zone is within the Ivanhoe Major Activity Centre area and extends from the beginning of the Ivanhoe Shopping Precinct to the east at the Ivanhoe Library and extends on both sides of Upper Heidelberg Road to the intersection with Lower Heidelberg Road to the south. The Commercial 1 Zone extends to the south-east of the site down Westley Avenue until Norman Street and includes several licensed premises including, but not limited to, the Ivanhoe Hotel and Extracted. An apartment development to the rear of the site and is also within the Commercial 1 Zone.
Fencing	There is no existing fencing. A timber picket fence has recently been removed from the rear of the site.
Easements	There are no easements that affect the site.

Locality Plan

180 UPPER HEIDELBERG ROAD IVANHOE - AMENDMENT TO AN EXISTING LICENSED PREMISES (P674/2018) cont'd



PUBLIC NOTIFICATION

Advertising Period	Friday 10 February 2023 to Friday 24 February 2023
Advertising methods	Two (2) signs on site, one facing Upper Heidelberg Road, Ivanhoe and one facing the rear laneway (RW046). Letters were posted to neighbouring and nearby residents.
Objections received	Twenty (20)
Grounds of objections (summarised)	<ul style="list-style-type: none"> • Excessive noise caused by patrons who attend the venue and when they leave the venue, this will be exacerbated by the amended proposal. • Excessive noise created from the rear deck area. • Excessive loud music in the afternoon and evening. • Noise from cars and motorbikes leaving the venue in the morning is disruptive. • Extending the closing hours of the rear deck area is not good for the livelihood of residents in the apartment development to the rear. • The current Venue Management Plan is not adhered to. • The bar is out of place in this street. • The bar disturbs the amenity of the area.

180 UPPER HEIDELBERG ROAD IVANHOE - AMENDMENT TO AN EXISTING LICENSED PREMISES (P674/2018) cont'd

Consultation	<ul style="list-style-type: none"> A consultation meeting was held on Tuesday 28 March 2023. The objectors and Councillors were in attendance. A separate meeting with the applicant was held on Monday 3 April 2023. The key concerns of objectors raised in the meeting are summarised above and the applicant agreed to reduce the proposed operating hours of the rear deck and has agreed to particular conditions of permit to assist in addressing these concerns.
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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 Triggered
Commercial 1 Zone (C1Z)	34.01	No
Heritage Overlay – Schedule 90 (HO90)	43.01	No
Design and Development Overlay – Schedule 11 – Precinct 5 (DDO11-5)	43.02	No
Development Contribution Plan Overlay – Schedule 1 (DCPO1)	45.06	N/A
Signs	52.05	No
Car Parking	52.06	No
Licensed Premises	52.27	Yes
Land Adjacent to a Transport Zone – Schedule 2	52.29	No

POLICIES CONSIDERED

Table 2: Relevant Planning Scheme Policy

Policy	Clause
Local Planning Policy Framework (LPPF)	
Settlement	02.03-1
Safer Design	02.03-4
Settlement	11
Noise	13.05
Amenity, Human Health, and Safety	13.07
Built Environment and Heritage	15
Heritage Conservation	15.03-1L
Economic Development	17

TECHNICAL CONSIDERATION

- Council must consider the response to the amenity of the nearby area, including residential amenity, and the appropriateness of the intensification of this existing liquor licence.

180 UPPER HEIDELBERG ROAD IVANHOE - AMENDMENT TO AN EXISTING LICENSED PREMISES (P674/2018) cont'd

- It is acknowledged that the objectors' concerns relate to a variety of noise sources from the venue and amenity impacts.

Land Use

- The site is located within the Commercial 1 Zone and the bar is an as-of-right use.

Liquor Licence and Amenity

- It is important to recognise that the site is part of a commercial strip and is within a Major Activity Centre, and whilst the residential amenity of nearby residents is considered, it cannot be expected that the amenity for the immediately abutting apartments, which are also located within the Commercial 1 Zone will be the same as a site that is located within a residential zone.
- The proposed amendment seeks to extend the red line area to include the internal first floor area at the front (Upper Heidelberg Road) side of this space. Given the extension to the red line area is confined to the front section of the upper level only, and is completely internal, it is considered that this is unlikely to cause detrimental amenity impacts as the red line area will be situated toward Upper Heidelberg Road and not the residential apartments to the rear. This layout will ensure that there will be a buffer between the end of the red line area, the rear building line at the upper level and the apartment at the rear on the opposite side of the right of way.
- The proposed amendment to increase the patron numbers from 68 to 80 is considered appropriate. An additional 12 patrons will be spread across an additional 49 square metres of red line area, across two levels and three areas. This ensures that the increase in patrons is unlikely to cause detrimental amenity impacts as patrons are unlikely to be clustered to one section of the site.
- The proposed amendment to increase the operating hours of the site by extending the closing hours of the venue and staggering the closing times of each section of the venue is considered to be appropriate as this will ensure that the sections of the site which are closer to sensitive interfaces will close earlier whilst allowing the venue to keep operating during hours typical for this type of use in a Commercial 1 Zone. The effective increase for the ground level is to extend the closing hours by 1 hour on Monday-Thursday to 1am and 2 hours on a Sunday to 12am.
- Concerns were raised regarding the proposed extension of hours to the rear deck area. The application sought to close the deck area at 10pm on Monday to Thursday and Sunday and 11pm on Friday and Saturday. These hours were considered to be unacceptable due to the potential detrimental amenity impacts. The applicant has agreed to reduce the hours of the rear deck bringing the closing hours forward by 1 hour on each of these day to 9pm and 11pm respectively.
- It is important to acknowledge that the operating hours of the rear deck proposed have been 'tested' through the COVID-19 temporary exemptions outlined previously within this report. The exemptions allowed for the rear deck area to operate to 9pm on Friday and Saturday and 8pm on all other nights. Therefore, operating hours of the deck past 7pm have been temporarily operating for some time, with the exemption is due to expire in October 2023.

180 UPPER HEIDELBERG ROAD IVANHOE - AMENDMENT TO AN EXISTING LICENSED PREMISES (P674/2018) cont'd

- This change will maintain a reasonable level of amenity for adjoining residents on weeknights and weekends while allowing for reasonable use of the site for the associated business.
- It is noted that the rear deck will be the first section of the venue closed every night of the week to reduce the possibility of any adverse amenity impacts. A condition of permit requiring the reinstatement of the rear fence will also aid in ensuring that the amenity of the area is maintained as this will further restrict the movement of patrons.
- The proposed amendment appropriately ensures that the existing venue continues to contribute to creating a vibrant mixed use commercial centre as the applicant is seeking to expand the existing operations of the business. This will allow for growth of the business at a location appropriately setup for the type of operation sought which is in line with the purposes of the zone. The site is located centrally within the Commercial 1 Zone with the closest site within residentially zoned land located approximately 60 metres to the west, north-west on Waterdale Road. As such, it is imperative that an appropriate balance is struck between the need to ensure that the amenity of the nearby area is not compromised and the need to ensure that the intent of the Commercial 1 Zone is met. It is considered that this has been achieved.
- In order to assist in managing and enabling enforceability of the protection of residential amenity, a suite of conditions have been proposed by the planning department, and agreed to by the applicant, to be placed on any amended planning permit issued. These conditions would require the submission of:
 - An amended Venue Management Plan with more detailed requirements compared to the original permit;
 - The submission of an acoustic report demonstrating clear compliance with the Environment Protection Regulations 2021;
 - Reinstatement of fencing around the rear deck area to ensure that patrons cannot spill in and out of the site via the right of way; and
 - A reduction in the proposed extended operating hours of the rear deck.
- The purpose of the amended Venue Management Plan, and imposing conditions which require ongoing compliance with the Environment Protection Regulations 2021, is to ensure that the noise levels from the venue and the conduct of patrons within the venue can be appropriately managed given the proposed intensification of the use of the site.
- Overall, it is considered that the proposal appropriately strikes a balance between the purpose of the zone and protecting amenity and should be supported, subject to appropriate changes to permit conditions.

OBJECTORS CONCERNS

- It is considered that the objectors' concerns have been addressed in the Technical Consideration section of this report.

SUPPORTING REPORT DETAILS

180 UPPER HEIDELBERG ROAD IVANHOE - AMENDMENT TO AN EXISTING LICENSED PREMISES (P674/2018) cont'd

Legal Consideration

- There are no direct legal implications arising from the recommendation contained in this report.
- **Human Rights Charter** In developing this report to Council, the subject matter has been considered in accordance with the requirements of the *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

- 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.

CONCLUSION

- The proposed intensification of the existing use of the land, subject to permit conditions, is considered to strike an appropriate balance between protecting residential amenity in a commercially zoned area and encouraging the growth of local business. The proposed amendments to the existing permit are considered to contribute to the further enhancement of a vibrant commercial centre.

ATTACHMENTS

N	Title	Page
0	.	
1	Application Plans 	
2	Existing Permit 	

6.2 103 MARSHALL STREET, IVANHOE - CAFE, GYM, AND STORE IN EXISTING BUILDING (P765/2022)

Author: Adrian Mariniello - Development Planner, City Development

Ward: Chelsworth

SUMMARY

1. The proposal is for the use of the vacant two storey brick building, for a restricted recreation facility (gym), food and drink premises (café) and store. The building was previously used as the Ivanhoe Squash Courts.
2. The ground floor of the building will house the café, store and three internal carparking spaces. The first floor of building will house the gym. No alterations to the building footprint are proposed; however, external faces are proposed to be repainted and the Marshall Street setback to be paved and landscaped.
3. The proposal has been advertised and two objections were received regarding noise impacts, carparking and traffic and privacy. The objectors have been contacted regarding their concerns with a response provided outlining the proposed conditions to be included to assist in addressing their concerns
4. The proposed uses will activate the site which has remained vacant for some time and should be supported subject to permit conditions, including condition to address amenity impacts.

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. P765/2022 for Application is for a permit to:

- Use the land for a restricted recreational facility (gym), food and drink premises (café), and store; and
- Works associated with a Section 2 use in the Transport Zone 1 and within the Design and Development Overlay (Schedule 11)

at 103 Marshall Street IVANHOE subject to the following conditions:

Amended Plans

1. Before the development permitted by this permit commences, amended plans to the satisfaction of the Responsible Authority must be submitted to

**EAST IVANHOE VILLAGE STREETScape UPGRADE - FINAL CONCEPT PLAN
cont'd**

and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and be submitted in an electronic format acceptable to the Responsible Authority. The plans must be substantially in accordance with the plans submitted 22 December 2022 (*Shouman, TP001 – 202*) with the application but modified to show:

- (a) Deletion of the south facing servery window to the ground floor café;
- (b) Provision of baffled lighting to the Gym entry to clearly delineate the entrance and enhance the safety of users;
- (c) A sign that the internal parking area is for staff to the gym or café only;
- (d) Provision of outdoor café seating (up to four seats) in the landscaped areas of the Marshall Street setback, where possible to not conflict with the driveway access to the carpark;
- (e) A plan notation that all external walls of the site are to be cleaned and finished using an anti-graffiti coating;
- (f) A schedule of external building colours and finishes, including details of anti-graffiti coating; the schedule should be presented on a separate sheet and must include colour samples;
- (g) A Landscape Plan in accordance with Condition 3 of this permit;
- (h) A Tree Protection and Management Plan in accordance with Condition 4 of this permit;
- (i) An Acoustic Report in accordance with Condition 5 of this permit;
- (j) Tree Preservation Fencing in accordance with Condition 23 of this permit.
- (k) Any required amendments to ensure the plans meet the requirements of VicTrack in accordance with Conditions 35-39 of this permit.

Layout Not to Be Altered

- 2. The use and development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.

Landscape Plan

- 3. Before the use and development permitted by this permit commences, a Landscape Plan must be submitted to and approved by the Responsible Authority. The plan must be prepared by a suitably qualified landscape architect, including:

**EAST IVANHOE VILLAGE STREETScape UPGRADE - FINAL CONCEPT PLAN
cont'd**

- (a) Any amendments required by condition 1 of this permit;
- (b) The identification of existing vegetation (which is not intended to be removed), and nomination of vegetation for removal throughout the site;
- (c) Provision of formed garden beds with edging along the front property boundary and within the front setback to prevent cars parking;
- (d) Planting adjacent to driveways and within landscaping zones to consist of varying heights and species;
- (e) A plan notation indicating that no building works or facilities are to be provided within the dedicated landscape areas;
- (f) An indigenous and/or drought tolerant planting theme;
- (g) A schedule of all proposed trees, shrubs, and ground cover, which includes the location and size at maturity of all plants, the botanical names of such plants and the location of all areas to be covered by grass, lawn or other surface material as specified;
- (h) Tree species and planting locations must be carefully selected to avoid canopy or root conflicts with overhead wires, easements, and existing trees;
- (i) Location and details of paving, steps, retaining walls, water tanks, clotheslines, fence design details and other landscape works including cut and fill;

Tree Protection & Management Plan

4. Before the plans required by Condition No. 1 of this permit are endorsed, a Tree Management & Protection Plan (TMPP) to the satisfaction of the responsible authority, must be submitted to, and approved in writing by, the responsible authority. The TMPP must be prepared by a suitably qualified and experienced Arborist in relation to the management and maintenance of the Trees #1, #2 and #3.

The Tree Management & Protection Plan must include (but not be limited to):

- (a) 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 conditioned as part of planning permit **P765/2022**;
- (b) A tree protection plan drawn to scale;
- (c) All tree protection zones and structural root zones to be indicated on the plan;

**EAST IVANHOE VILLAGE STREETScape UPGRADE - FINAL CONCEPT PLAN
cont'd**

- (d) The design modifications and specific construction techniques set out in the Arborist Report by Gum and Maple Consulting, August 2022;
- (e) The types of footings used within tree protection zones. Which must also be indicated on the plans;
- (f) 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 regarding all excavations within TPZ's and pruning of any roots required which must be undertaken by a project Arborist;
- (g) The location/design of tree protection fencing for retained trees, mulching/ watering requirements and TPZ areas where ground protection systems will be used;
- (h) Tree removal methods for approved vegetation;
- (i) 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;
- (j) Details regarding site access by vehicles, machinery, and storage of any related building materials in relation to the TPZ of retained trees;
- (k) 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;
- (l) Supervision timetable and certification (sign off sheet) of all tree management activities undertaken by the project Arborist to the satisfaction of the responsible authority;

The approved Tree Management Plan must be implemented to the satisfaction of the responsible authority. Written confirmation from the project Arborist that the tree management works undertaken are satisfactory and are in accordance with the approved Tree Management Plan must be submitted to the responsible authority, to its satisfaction.

Acoustic Report

5. Before the plans required by Condition No. 1 of this permit are endorsed, an Acoustic Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The provisions, recommendations and requirements of the endorsed Acoustic Report must

**EAST IVANHOE VILLAGE STREETScape UPGRADE - FINAL CONCEPT PLAN
cont'd**

be implemented and complied with to the satisfaction of the Responsible Authority

Occupation of Development

6. Unless otherwise agreed in writing by the Responsible Authority the development permitted by this permit must not be occupied until the development has been completed to the satisfaction of the Responsible Authority in accordance with the permit and endorsed plans (including, but not limited to built form and layout, parking, landscaping, drainage, street numbering, replacement of street trees).

Amenity

7. The amenity of the area must not be detrimentally affected by the development and/or use, through:
- (a) The transport of materials, goods, or commodities to or from the land;
 - (b) The appearance of any building, works or materials;
 - (c) The emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil;
 - (d) The presence of vermin;
 - (e) Any other way, to the satisfaction of the Responsible Authority.

Hours of Operation (General)

8. The use must operate only between the hours of:

Restricted Recreation Facility (Gym)

Monday to Friday 6:00AM to 9:00PM
Saturday to Sunday 7:00AM to 7:00PM

Food and Drink Premises (Café)

Monday to Sunday 6:00AM to 3:00PM

Except with the further written consent of the Responsible Authority.

Hours of Operations (Goods Delivery)

9. The delivery of goods to the premises must only be made during the hours of:

Monday to Friday 7:00AM to 7:00PM
Saturday to Sunday 8:00AM to 7:00PM

**EAST IVANHOE VILLAGE STREETScape UPGRADE - FINAL CONCEPT PLAN
cont'd**

Except with the further written consent of the Responsible Authority.

Hours of Operation (Rubbish Collection)

10. No rubbish is to be collected from the site or deliveries be made to the site before 7.00am or after 7:00pm Monday to Saturday and 10.00am to 7:00pm on Sunday.

Patron Capacity

11. Without the further consent of the Responsible Authority, the capacity of the restricted recreation facility (Gym) must not exceed 30 at any time.

Number of Seats

12. Without the further consent of the Responsible Authority no more than 12 seats shall be made available to patrons of the Food and Drink Premises (café), inclusive of up to four outdoor seats.

Number of Employees

13. Without the further consent of the Responsible Authority no more than eight (8) persons shall work on or from the premises, including maximum of four staff to the Restricted Recreation Facility (Gym) and Food and Drink Premises (Café) respectively.

Operation of Store

14. The store component of the premises is for personal use or the use of the Restricted Recreation Facility (Gym) and Food and Drink Premises (Café) only and must not be used for any other commercial purposes.

No External Sound System or Amplified Equipment

15. Without the prior written consent of the Responsible Authority no form of public address system or sound amplification equipment shall be used on the premises so as to be audible outside the premises.

Compliance with State Environment Protection Regulations 2021

16. The development and use of the site must not cause nuisance or be detrimental to the amenity of the neighbourhood by the emission of noise. Noise emissions from the land must comply with *State Environment Protection Regulations 2021*.

Exterior Lighting Development

17. Exterior lights must be installed in such positions to effectively illuminate all pathways, car parks and other public areas and be baffled avoid light spill

**EAST IVANHOE VILLAGE STREETScape UPGRADE - FINAL CONCEPT PLAN
cont'd**

into adjoining properties to the satisfaction of the Responsible Authority.

Garbage Receptacles

18. No receptacles for any form of rubbish or refuse (other than public waste bins) may be placed or allowed to remain in view from a public road or thoroughfare, and odour must not be emitted from any such receptacle(s) so as to cause offence to any person(s) outside the land.

Property Appearance

19. The subject land must be kept neat and tidy at all times and its appearance must not, in the opinion of the Responsible Authority, adversely affect the amenity of the locality.
20. All external walls of the site must be cleaned and finished using an anti-graffiti coating.

Public Address System

21. Except with the further consent of the Responsible Authority no form of public address system shall be used on the premises so as to be audible outside the building.

Background Music

22. Entertainment only in the form of pre-taped background music may be provided for the benefit of patrons of the premises. Highly amplified music must not be played.

No Storage Outside Buildings

23. No goods or packaging materials must be stored or left exposed outside the building so as to be visible to the public from a road or other public place.

Tree Protection Zone

24. Unless otherwise approved in writing by the Responsible Authority, prior to the commencement of any building and 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 #1, #2 and #3 to the satisfaction of the Responsible Authority:
 - (a) 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

**EAST IVANHOE VILLAGE STREETScape UPGRADE - FINAL CONCEPT PLAN
cont'd**

Permit number.

- (b) 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 **Gum and Maple Consulting, August 2022.**
- 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, 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);
 - x. For neighbouring trees, protection must be to the extent of the calculated Tree Protection Zone (TPZ) where it occurs within the subject Land;

**EAST IVANHOE VILLAGE STREETScape UPGRADE - FINAL CONCEPT PLAN
cont'd**

- xii. Once installed a TPZ must be maintained until the conclusion of all works on site, including landscaping to the satisfaction of the responsible authority;
- (c) 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 or stability of any retained tree now or into the future;
 - ii. 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;
 - 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;

Specific Tree Protection Measures

- 25. 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) Where the driveway/paved area is within the TPZ of Tree #1, it must be constructed at the existing soil grade using porous materials that allows water to penetrate through the surface and into the soil profile.

**EAST IVANHOE VILLAGE STREETScape UPGRADE - FINAL CONCEPT PLAN
cont'd**

There must be no excavation or grade change within the TPZ, and no roots are to be cut or damaged during any part of the construction process

No Damage to Vegetation

26. Except with the further written consent of the Responsible Authority, no vegetation (other than that indicated on the endorsed plan, or exempt from planning permission under the provisions of the Banyule Planning Scheme) shall be damaged, removed, destroyed or lopped.

Vegetation Retention

27. All existing vegetation shown on the endorsed plans for retention must be suitably marked and adequately protected before any development starts on the site and that vegetation must not be removed, destroyed, or lopped without the prior written consent of the Responsible Authority.

Car Park

28. Areas set aside for the parking of vehicles together with the aisles and access lanes must be properly formed to such levels that they can be utilised in accordance with the endorsed plans and must be drained and provided with an all-weather seal coat. The areas must be constructed, drained, and maintained in a continuously useable condition to the satisfaction of the Responsible Authority.
29. Areas set aside for the parking and movement of vehicles as shown on the endorsed plan(s) must be made available for such use and must not be used for any other purpose.
30. Vehicular access or egress to the subject land from any roadway or service lane must be by way of a vehicle crossing constructed in accordance with Council's Vehicle Crossing Specifications to suit the proposed driveway(s) and the vehicles that will use the crossing(s). The location, design, and construction of the vehicle crossing(s) must be approved by the Responsible Authority. Any existing unused crossing(s) must be removed and replaced with concrete kerb, channel, and nature strip to the satisfaction of the Council prior to occupation of the building. All vehicle crossing works are to be carried out with Council Supervision under a Memorandum of Consent for Works which must be obtained prior to commencement of works.
31. Before the use allowed by this permit starts, areas set aside for parking vehicles, loading bays, access lanes and paths as shown on the endorsed plans must be:

**EAST IVANHOE VILLAGE STREETScape UPGRADE - FINAL CONCEPT PLAN
cont'd**

- (a) Constructed to the satisfaction of the Responsible Authority;
- (b) Line-marked to indicate each car space, loading bay and all access lanes and, if necessary, the direction in which vehicles are to travel to the satisfaction of the Responsible Authority;
- (c) In accordance with any Council adopted policy and guidelines for the construction of car parks including vehicle crossings.

Loading and Unloading

- 32. The loading and unloading of goods from vehicles and the delivery of goods must at all times be carried out within the boundaries of the subject land.

External finishes

- 33. All external surfaces of the building elevations must be finished in accordance with the schedule on the endorsed plans and maintained in good condition to the satisfaction of the Responsible Authority.

No Polluted Drainage

- 34. Effluent or polluted drainage must not be allowed to discharge beyond the boundaries of the subject land onto other land or any street or road or directly or indirectly into any watercourse or stormwater drainage system.

Signs

- 35. Prior to the completion of development and/or commencement of use, all existing signs on the building must be removed to the satisfaction of the Responsible Authority.
- 36. This permit relates only to the use and/or development of the land and does not comprise an approval for the erection of any advertising signs. The location and details of any advertising signs to be erected on the land shall be the subject of a separate application.

VicTrack

- 37. No entry to railway land is permitted without the written consent of the Rail Operator and VicTrack.
- 38. At all times the common boundary with the railway land must be fenced with a 1.8m paling or black chain mesh fence and must be repaired and maintained, all at no cost to VicTrack to prohibit unauthorised access to the rail corridor.
- 39. Any replacement, repair, or reconstruction of any fence on the boundary to railway land must be in accordance with VicTrack's requirements.

**EAST IVANHOE VILLAGE STREETScape UPGRADE - FINAL CONCEPT PLAN
cont'd**

40. No drainage, effluent, waste, soil, or other materials must enter, be stored, or be directed to the railway land.
41. Red, green, or yellow colour schemes or shapes capable of being mistaken for train signals must not be used on elevations facing railway land.

Expiry of Permit

42. In accordance with section 68 of the *Planning and Environment Act 1987*, this permit will expire if one of the following circumstances applies:
- (a) The development is not commenced within two (2) years from the date of permit issue;
 - (b) The development is not completed within four (4) years from the date of permit issue.
 - (c) The use is not commenced within four years of the date of this permit;
or
 - (d) The use is discontinued for a period of two years.
43. The use approved by this permit will expire within five (5) years from the date of permit issue.

Planning Permit Application:	P765/2022
Development Planner:	Adrian Mariniello
Address:	103 Marshall Street IVANHOE
Proposal:	<ul style="list-style-type: none">• Use the land for a restricted recreational facility, food and drink premises and store• Works associated with a Section 2 use in the Transport Zone 1 and within the Design and Development Overlay (Schedule 11)
Existing Use/Development:	Vacant Building. Previously Ivanhoe Squash Courts.
Applicant:	Shouman
Zoning:	Transport Zone 1
Overlays:	Design and Development Overlay (Schedule 11, Precinct 4) Vegetation Protection Overlay (Schedule 3)

EAST IVANHOE VILLAGE STREETScape UPGRADE - FINAL CONCEPT PLAN cont'd

	Development Contributions Plan Overlay (Schedule 1)
Notification (Advertising):	Two signs Letters to adjoining property owners and occupiers
Objections Received:	Two
Ward:	Chelsworth

- The proposal is for the use of the vacant two storey brick building, for a restricted recreation facility (gym), food and drink premises (café) and store.
- The café will occupy the south-eastern corner of the building and will primarily operate as a takeaway business. The café will operate between the hours of 6am-3pm Monday to Sunday. The café will have internal seating for eight patrons and is expected to have four staff. A 'hole in the wall' servery window to the south is proposed.
- The gym will operate between 6am-10pm Monday to Friday and 7am-7pm Saturday and Sunday. The patron capacity is 30 and is expected to have four staff.
- The store will be an open plan area on the ground floor and is to be used by the building owner, gym, and café. The store is not accessible to the public and will not be used commercially.
- Car parking is provided inside the building with access to the Ivanhoe Train Station access road. Three spaces are proposed which will be used by staff.
- No alterations to the footprint of the building are proposed, however, the external finishes and windows will be made good and other works include paving and landscaping of the forecourt to Marshall Street.

BACKGROUND

- The site was previously used as the Ivanhoe Squash Courts, however, since the previous use ceased, the vacant building has become a target for vandalism and graffiti.
- The site has garnered criticism and numerous complaints to Council regarding the amount of vandalism to the building and its impacts on commuter safety perceptions. The site is passed by many public transport users walking to Ivanhoe Train Station from Marshall Street.
- Concerns have been raised by Council Officers since 2014 that lack of activation of the site would see it become a magnet for anti-social behaviour and impact on community confidence and safety of public transport users.
- In 2022 the site became a Victoria Police hotspot after observations of antisocial and risk-taking behaviour such as squatting, binge drinking and drug usage

**EAST IVANHOE VILLAGE STREETScape UPGRADE - FINAL CONCEPT PLAN
cont'd**

inside the building which would impact on commuters, many of whom were young people travelling to and from school via train/bus interchange.

SUBJECT SITE AND SURROUNDING AREA

Site Area	686m ²
Frontage x Depth	11.6m wide x 62.7m deep
Existing and Neighbouring Vegetation	There are two large <i>Corymbia maculata</i> to the east and west of the building and a smaller <i>melaleuca styphliodies</i> to the west.
Existing building	The existing building is a two-storey brick building formally use as squash centre.
Surrounding Area	The site is located within the Ivanhoe Activity Centre and adjoins the Hurstbridge Railway Line to the North and the Ivanhoe Train Station carpark to the west and south. Beyond the carpark to the south are residential properties along Toora Street. The site across Marshall Street (162 Maltravers Road) is currently being developed with a four-storey apartment building.

EAST IVANHOE VILLAGE STREETScape UPGRADE - FINAL CONCEPT PLAN
cont'd

Locality Plan



Figure 1: Aerial image of subject site and surrounds. Subject site denoted by yellow star.

PUBLIC NOTIFICATION

Objections received	Two (2)
Grounds of objections (summarised)	<ul style="list-style-type: none"> • Noise impacts • Lack of detail regarding gym use and storage area • Car parking and traffic impacts • Privacy/Overlooking • Lack of signage to Gym entry
Consultation	<ul style="list-style-type: none"> • Objectors were contacted on 28 April 2023 with a response to the concerns raised. One objector has responded to date.

**EAST IVANHOE VILLAGE STREETScape UPGRADE - FINAL CONCEPT PLAN
cont'd**

REFERRAL COMMENTS

External	Section	Objection	Conditions Required
Department of Transport	-	-	Public land manager consent provided on 3 October 2022.
VicTrack	52	No	Conditions have been provided ensuring retention of access and no impacts to the Railway corridor.

Department/ Officer	Conditions /Comments
Development Planning Arborist	Council's Development Planning Arborist has advised that the proposal is acceptable subject to the submission of a Tree Management Plan (TMP) as a permit condition.
Traffic and Transport	Council's Traffic and Transport Department have reviewed the proposal and comments regarding the provision of parking within the site were provided. This is discussed in the Technical Consideration section below.

PLANNING CONTROLS

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

Table 1: Applicable Planning Controls

Control	Clause	Permit Triggered
Transport Zone – Schedule 1 (TPZ1)	36.04	Yes
Vegetation Protection Overlay – Schedule 3 (VPO3)	42.02	No
Design and Development Overlay – Schedule 1, Precinct 4 (DDO11)	43.02	Yes
Development Contribution Plan Overlay – Schedule 1 (DCPO1)	45.06	N/A
Signs	52.05	No
Car Parking	52.06	No

EAST IVANHOE VILLAGE STREETScape UPGRADE - FINAL CONCEPT PLAN cont'd

POLICIES CONSIDERED

Table 2: Relevant Planning Scheme Policy

Policy	Clause
Settlement	Clause 02.03-1
Natural Environment	Clause 02.03-2
Safer Design	Clause 02.03-4
Economic Development	Clause 02.03-6
Settlement	Clause 11
Environmental and Landscape Values	Clause 12
Stormwater Management in Urban Development	Clause 52.18

TECHNICAL CONSIDERATION

- Council must consider this application within the strategic context of the site location, the response to the land use, amenity of the area, traffic and car parking and vegetation impacts.

Land Use

- The proposal is considered to accord with the purposes of the Transport Zone 1 as it repurposes a previous squash court facility that is currently vacant. No new buildings are proposed, and it will not impact transport services or facilities.
- The proposed uses will re-activate the vacant brick building and is considered to enhance pedestrian activity and experience of the Ivanhoe Train Station precinct. This is considered to result in a net community benefit to the local area.
- Conditions of permit are proposed to restrict the land use to a temporary period to allow for further strategic work to occur.

Amenity

- The proposal is considered to respect the amenity of the surrounding residential area as both the restricted recreation facility (gym) and food and drink premises (café) are relatively minor in scale and will be accommodated within an existing and established building with only minor modifications and works required.
- External modifications to the building include repainting while works are limited to paving and landscaping of the Marshall Street setback. These will improve the appearance of the building in the streetscape and accord with the objectives of the DDO11 for which a permit is required.
- The uses are likely to be short term and not cause detriment to surrounding residential areas, particularly in the context of the Ivanhoe Train Station. Further, the site has been vacant for some time and considered a positive reactivation of the site.

**EAST IVANHOE VILLAGE STREETScape UPGRADE - FINAL CONCEPT PLAN
cont'd**

- An acoustic report will be required by condition to mitigate potential noise impacts from the gym. The condition will require any amendments to the building or gym that arise from the recommendations of the acoustic report. This will assist in addressing noise concerns raised by the objectors in Toora Street.
- A further condition will also require the gym to close at 9pm on Weekdays instead of 10pm as proposed.
- The storage area is unlikely to generate amenity concerns given it will not be used for commercial purposes. This will be restricted by a permit condition.
- A condition will require deletion of the hole in the wall serving to the café as concern has been raised regarding potential pedestrian conflict and arising safety issues. The café will be accessed from a door leading to the Marshall Street forecourt.
- A condition will also require illumination of the gym entry to enhance safety of users.

Car Parking

- The proposal provides three spaces within the building, including a disabled space. These spaces, including a disabled space, will be used by staff members (to be confirmed by condition).
- Pursuant to Clause 52.06, the food and drink premises requires 3.5 spaces to each 100sqm of leasable floor areas. Parking rates to the restricted recreation facility is to the satisfaction of the Responsible Authority – resultantly, a rate of 0.045 spaces per sqm is applied, consistent with parking reviews.
- The proposal, therefore, generates a parking requirement of one space for the food and drink premises and 18 spaces for the gym use.
- The parking provision is considered to be acceptable for the following reasons:
 - The site has never had any carparking and was previously used as squash courts (minor sports and recreation facility). This is a similar use to the proposed use of the site as a gym.
 - The building is adjoining the Ivanhoe Train Station and is likely to attract local and public transport users on multi-purpose trips.
 - The proposed use of the site as a gym and café is intended to be temporary, with a condition requiring end of the use after a five year period.
 - The building is currently unoccupied and use of the site as a gym/café will activate the building and improve safety, resulting in a net community benefit.
- The car parking area generally meets Clause 52.06-9 Design Standards; however, pedestrian visibility splays will be required by condition.

EAST IVANHOE VILLAGE STREETScape UPGRADE - FINAL CONCEPT PLAN cont'd

Vegetation Impacts

- The proposal does not seek the removal of any trees protected pursuant to the Vegetation Protection Overlay (Schedule 3).
- The submission and review of a Tree Management Plan will be requested by condition to ensure development impacts on the three trees within the subject site are appropriately addressed and managed.

Landscaping

- A landscape plan will be a condition of permit to ensure the Marshall Street setback is well landscaped and activated with café seating. This will improve the appearance of the site within the streetscape.

Signs

- The application does not propose any signage associated with the use and development. Any future signage would be required to be submitted through a subsequent application and be subject to an assessment of the Clause 52.05 provisions.
- All existing signage on the building is proposed to be removed including promotional signage. Council records indicate no permits have been approved for the display of signage on the site.

OBJECTORS CONCERNS

- The majority of objectors' concerns have been addressed in the Technical Consideration section of this report and attachments, however the following require further discussion:

Noise

- A permit condition will require submission of an Acoustic Report and implementation of any recommendations arising from that report. Standard conditions relating to noise would also be included on any permit; including a requirement to ensure background music cannot be heard outside of the premises and compliance with the State Environment Protection Regulations 2021.
- The applicant has advised that an operator has not yet been found for the proposed gym, however, it is anticipated that normal activities to a gym would be carried out (i.e. strength training/cardio/personal training).

Opening Hours

- A condition will require an earlier closing time of 9pm to the gym on weeknights.

EAST IVANHOE VILLAGE STREETScape UPGRADE - FINAL CONCEPT PLAN cont'd

Privacy

- Privacy is not a consideration of the planning assessment as the proposed building will not be used for residential purposes. However, it is noted that the south facing windows are approximately 18m from Toora Street properties, which is well beyond the 9m arc typically considered in overlooking assessment.

Storage Area

- The applicant has advised that the storage area is for personal use and will not be used commercially. This would be confirmed by permit condition.

Gym Entrance

- A condition will require the gym entrance to be well signposted and illuminated for safety purposes.

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

- 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.

CONCLUSION

- The proposed use of the site as a gym, café, and store, subject to permit conditions, is considered to be appropriate as it will activate a vacant building and result in a net community benefit, improving pedestrian and user experiences of the Ivanhoe Train Station Precinct. Local amenity impacts have been addressed by permit conditions.

ATTACHMENTS

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1 Application Plans



6.3 EAST IVANHOE VILLAGE STREETScape UPGRADE - FINAL CONCEPT PLAN

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

Ward: Griffin

Previous Items

Council on 27 February 2023 (Item 6.3 - East Ivanhoe Streetscape Delivery)

SUMMARY

1. Community consultation on the Council endorsed preliminary concept plan for East Ivanhoe Village Streetscape Upgrade is now complete.
2. The consultation included four future options for the Burton Crescent parklet. The survey results show the preferred option is to retain the parklet, with no change to traffic movement.
3. The updated Concept Plan will underpin the set of landscape design plans and proposed scope of works for construction.
4. At its meeting on 27 February 2023, Council received a report outlining financial constraints and draft design options against different budget scenarios.
5. Council endorsed the recommended option noting that the funding shortfall would be considered through the 23/24 budget process.
6. The project is on track for completion of detailed design, obtaining relevant approvals from external parties, and the tendering and procurement process so that works can commence in late 2023/early 2024.
7. The project team will continue liaising closely with key stakeholders to minimise disruptions through the construction stage.

RECOMMENDATION

That Council:

1. Note the community preferred option for Burton Crescent is to retain the parklet and no change to traffic movement.
2. Approve the final Concept Plan for the East Ivanhoe streetscape upgrade project as the basis for the detailed design.

EAST IVANHOE VILLAGE STREETScape UPGRADE - FINAL CONCEPT PLAN cont'd

3. Note it will receive a separate Council report as part of the tender award at a future Council meeting.

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".

BACKGROUND

- The East Ivanhoe streetscape project was identified as part of the capital works program for streetscape renewal works several years ago.
- The project commenced in early 2022, with much of the past year dedicated to community consultation and the preparation of concept plans.
- The key purpose of the East Ivanhoe streetscape upgrade (the Project) is to improve accessibility, broaden appeal of the centre, prioritise places for people to meet and connect, and encourage a greater range of uses all of which provide increased reasons for community members to visit and stay in the area, and support the economic activity of the centre.
- In 2022, the East Ivanhoe community shared what they valued most about the East Ivanhoe Village. The responses helped shape a community vision for the Village:

'East Ivanhoe Village will continue to be the green and attractive heart of a vibrant, welcoming community with a unique cultural heritage, providing places for people to shop, meet, connect and celebrate'.

- This vision informed the East Ivanhoe Village Preliminary Concept Plan (the draft Plan).
- At its meeting on 27 February 2023, Council received a report outlining financial constraints and design options against different budget scenarios.
- Council endorsed the recommended option noting that the funding shortfall would be considered through the 23/24 budget process.

KEY ISSUES

- Subject to Council decision of the attached draft Concept Plan, the project will progress to the detailed design phase.
- Contractors have been appointed to undertake design engineering and services investigation based on the proposed scope of works.
- Works to be completed this year includes completion of detailed design plans, and procurement of a builder so that works can commence in late 2023/early 2024. Timeframes have been planned so as to minimise impacts on traders, residents and visitors, especially during the busy trade periods.
- It also allows time for the relevant third-party approvals to be obtained, including from the Department of Transport and Planning.

EAST IVANHOE VILLAGE STREETScape UPGRADE - FINAL CONCEPT PLAN cont'd

- Planning approval is also required, due to part of the streetscape being in the Beauview Estate Heritage Overlay (HO91). Preliminary advice from Council's Heritage Advisor has been received and this is guiding the detailed landscape design.

SUPPORTING REPORT DETAILS

Legal Consideration

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

Human Rights Charter

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

Sustainable Procurement Outcomes

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

Financial Implications

- Indicative costing of early draft concept plans indicated the required works far exceeded the scope of the original budget allocated to the project.
- The increased costs associated with capital delivery have been especially impacted by a number of external factors, including the pandemic, supply chain issues, materials shortages and escalating contractor costs.
- The delivery budget is a working estimate only and final costs will be known once the project is tendered later in the year. A separate Council report will be prepared as part of the tender award.

Community Engagement

- Extensive and detailed community engagement has been undertaken since the project formally started in early 2022. The first stage was focused on identifying and understanding what the community valued most, and what potential improvements could be made to revitalise and better connect the Village.
- A Community Reference Group also provided valuable input for the Project Team, which informed the preliminary concept plans. The Final CRG meeting was held on 11 April 2023.
- The early engagement also captured opportunities outside of this streetscape upgrade. As part of Banyule's commitment to an integrated, place-based approach, these have been shared with relevant internal units to progress, including Transport and Traffic, City Assets, Urban Forest, and Strategic Planning teams.
- The latest round informed the community of the preliminary Concept Plan and invited feedback on the four Burton Crescent options.
- The Shaping Banyule page was updated, with a link to the online survey. The campaign also included social media posts, hand delivery of 500 postcards,

EAST IVANHOE VILLAGE STREETScape UPGRADE - FINAL CONCEPT PLAN cont'd

installation of signs and, 1700 letters mailed to residents and traders. All material included QR code link to Shaping Banyule page.

- As the project now shifts fully into the Detailed Design stage, the Shaping Banyule platform will continue to provide updates to the community with relevant plans, time frames and work schedules.
- Key stakeholders, including the school, traders, church, and nearby residents will be kept informed to ensure minimum disruption during construction.

Key Considerations

Burton Crescent

- In 2022, one side of Burton Crescent was temporarily transformed into a parklet. The footpath on the other side was permanently widened, improving pedestrian access, and providing more outdoor dining space for two local businesses. This was funded through the Victorian Government's COVID19 Outdoor Activation fund.
- Based on previous community input and results of traffic analysis, four options for the future of Burton Crescent were included with the preliminary Concept Plan.
- The community was asked to select their preferred option through a survey:
- A total of 420 survey responses were received, both electronic and hard copy. The results were:
 - Return Burton Crescent to what it was 27.62 %
 - Retain the parklet, and no change to traffic movement (two-way) 35.48%
 - Retain and widen the parklet, and make section of Burton Crescent one-way (northbound) 30.24%
 - Make it Hybrid, retain a section of the parklet, create a disabled parking bay and make a section of Burton Crescent one-way (northbound) 6.67%
- Based on the results, the preferred option is to retain the parklet, and no change to traffic movement. This has been incorporated into the updated Concept Plan.

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

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1	East Ivanhoe Village Draft Concept Plan May 2023	

**EAST IVANHOE VILLAGE STREETScape UPGRADE - FINAL CONCEPT PLAN
cont'd**

6.4 VARIOUS PARKING MATTERS

Author: Jonathan Risby - Manager Transport, City Development

Previous Items

Council on 20 March 2023 (Item 6.2 - Banyule Residential Parking Permit Policy)

SUMMARY

1. Council at its meeting of 20 March 2023, adopted the Banyule Residential Parking Permit Policy 2023. As part of the consultation a number of other parking related matter were raised.
2. The matters included the construction of new swimming pools and consideration of parking, the management of parking of various vehicle types being mainly non-passenger in residential streets, private hire or car share vehicles parking in residential streets, the eligibility of short stay accommodation for residential parking permits and the installation of hockey stick line marking in all residential streets where parking restrictions apply.
3. The construction of a residential swimming pool is considered through both planning and building permit applications for swimming pools. A permit or a dispensation is required if a pool impacts onsite parking, and the required number is not provided on the site.
4. The parking of trucks, heavy vehicles, motor homes, caravans, boats, machinery or equipment, trailers or any vehicle or machinery that is designed or modified to be towed by another vehicle is currently controlled by either the Victoria Road Safety Road Rules 2017 (Road Rules) or Banyule General Local Law 1 (2015). It is recommended that Council continues to manage any concerns over the parking of trucks, heavy vehicles, motor homes, caravans, boats, machinery or equipment and trailers using our powers under the Road Rules or our local laws and that no changes to any policy is required.
5. A number of car share vehicles are currently parking in unrestricted parking areas in Ivanhoe, Eaglemont, Rosanna, Heidelberg and Macleod. There is current no arrangement with them, and none is required. Banyule's Integrated Transport Strategy encourages the use of car share. Council doesn't currently have a policy on the operation of car share, and it is recommended that a policy be established which can consider where these vehicles should park.
6. Council currently doesn't have a list of short stay accommodation facilities that operate within the municipality. Council could consider implementing a Local Law requiring registration during the next review of General Local Law 1 which is due before 15 April 2025. If a registration process is implemented, consideration could them be given to whether or not these facilities should be eligible for residential parking permits.
7. Hockey Stick line marking is a guidance line which is installed either side of crossovers to guide motorists on where to park. The installation of hockey stick line marking is given considerations where there is a history of illegal parking behaviour. The costs per hockey stick is approximately \$65. To install them at every crossover in streets that are eligible for parking permits would cost approximately \$900,000. It is recommended that Council continue to manage the installation of hockey stick line marking on a case by case basis and through Council's current operational practices.

VARIOUS PARKING MATTERS cont'd

RECOMMENDATION

That Council:

1. Note that the construction of a new swimming pools requires a building permit and, in some instances, also a planning permit and that onsite car parking is considered as part of both application processes.
2. Continues to manage any concerns over the parking of trucks, heavy vehicles, motor homes, caravans, boats, machinery or equipment and trailers on roads or Council land using our powers under the Victoria Road Safety Road Rules or the Banyule General Local Law 1 (2015).
3. Reviews the On Street Parking Management Framework and includes a policy on the parking of car share within the municipality. The review is to occur, and a report present to Council by June 2024.
4. Considers implementing a local law requiring the registration of short stay rental accommodation as part of the next review of General Local Law 1.
5. Notes the high cost to install hockey stick line marking either side of every crossover in a timed restricted parking zone and continues to manage the installation of hockey stick line marking on a case by case basis.

COUNCIL PLAN

- This report is in line with Banyule's Council Plan strategy to "Lead on the use of sustainable modes of transport, and encourage walking, cycling and use of public transport".

BACKGROUND

- Council at its meeting of 20 March 2023, adopted the Banyule Residential Parking Permit Policy 2023. As part of the consultation, on the policy, several other parking related matter were raised, and Council resolve to receive a report on the issues raised.
- The issues raised are as follows:
 - Implications that new swimming pools can have in diminishing the opportunities for onsite car parking and how this can be considered in Swimming Pool Planning Permit Applications.
 - The parking of trucks, heavy vehicles, motor homes, caravans, boats, machinery or equipment, trailers or any vehicle or machinery that is designed or modified to be towed by another vehicle in residential streets and how this can be better addressed and managed.
 - The use of public street car parking by private hire car vehicle operator and how this can be managed.

VARIOUS PARKING MATTERS cont'd

- The use of public street car parking by customers of residential properties that are being operated for profit as short stay accommodation and how this can be managed.
- The use of “hockey stick” line markings on either side of cross-overs to support the unimpeded entry and egress from residential properties in timed parking zones and in areas where parking is limited. The report could consider the implications, including funding, of maintaining and increasing “hockey stick” line markings.

KEY ISSUES

Onsite Parking and Swimming Pools

- New swimming pools require a building permit and, in some limited instances, also a planning permit.
- The availability of on-site parking is considered through both planning and building permit applications for residential swimming pools. The Banyule Planning Scheme specifies car parking requirements for a dwelling. If the parking requirements are not able to be provided on site or are being impacted by proposed development a planning application is required to reduce or waive the requirements. Similarly, a building dispensation through the building permit process is required if car parking is not provided on site.
- It would not be appropriate or possible to manage on site car parking on private property through a local law.

The management of parking of trucks, heavy vehicles etc in residential streets.

- The parking of trucks, heavy vehicles, motor homes, caravans, boats, machinery or equipment, trailers or any vehicle or machinery that is designed or modified to be towed by another vehicle is currently controlled by either the Victoria Road Safety Road Rules 2017 (Road Rules) or Banyule General Local Law 1 (2015).
- The Road Rules sets rules for the parking of long (a vehicle that, together with any load or projection, is 7.5 metres long, or longer) and heavy (gross vehicle mass of more than 4.5 tonnes) vehicles in a built-up area. Rule 200 (2) allows these vehicles to park for up to 1 hour. There is an exception to this if a sign indicates a long or heavy vehicle can park for longer or they are engaged in dropping off, or picking up, goods.
- Local Law 5.15 deals with the storage of vehicles.
 - 5.15 Storage of Vehicles
A person must not store any caravan, trailer, boat or disabled motor vehicle on any road or Council Land.
- In this law, trailer has the same meaning as in the Road Safety Act 1986 being a vehicle that is built to be towed, or is towed, by a motor vehicle, but does not include a motor vehicle that is being towed.
- Local Law 5.8 deals with obstructions on road which would include machinery or equipment in part (c) of the law.
 - 5.8 Obstructions on Roads and Council Land
A person must not, without a permit, leave or allow to be left any:

VARIOUS PARKING MATTERS cont'd

- (a) Bulk Rubbish Container, storage, or shipping container (pods), skip bin or trailer skip on;
 - (b) store a Trade Waste Hopper or Bin on; or
 - (c) other thing that encroaches on, obstructs the free use of, reduces the breadth of, or confines the limits of;
a road, footway, or Council Land.
- Council is authorised to issue infringement notices in accordance with Road Rules and the General Local Law No. 1 (2015).
 - It is recommended that Council continues to manage any concerns over the parking of trucks, heavy vehicles, motor homes, caravans, boats, machinery or equipment and trailers using our powers under the Road Rules or our local laws and that no changes to any policy is required.

Private Hire Cars

- Council is aware that one private hire car company, also known as car share, has a number of vehicles parking in unrestricted parking areas in Ivanhoe, Eaglemont, Rosanna, Heidelberg and Macleod.
- There is currently no arrangement, commercial or otherwise, with them, however Officers have met with them to discuss their current and future plans.
- Previously a 12-month trial was conducted with four fixed and signed car locations in Ivanhoe and Heidelberg from October 2013 to October 2014. The trial did not continue at that time as the operator indicated that performance of the service was not viable or sustainable.
- Banyule's Integrated Transport Strategy encourages the use of car share.
- The management of on-street parking is currently managed in accordance with Council's On Street Parking Management Framework. It provides a transparent mechanism to ensure a consistent, equitable and balanced approach to the management of on-street car parking through the Municipality.
- Council doesn't currently have a policy on the operation of car share. It is recommended that a policy be established which can consider where these vehicles should park and included in Council's On Street Parking Management Framework.

Short Stay Accommodation

- The use of public street car parking by customers of residential properties that are being operated for profit as short stay accommodation and how this can be managed.
- Council currently doesn't have a list of short stay accommodation facilities that operate within the Municipality and haven't been made aware of any facilities that are causing parking problems. Vehicles associated with these facilities would need to park in accordance with the Road Rules and currently may be eligible for parking permits.
- Some other Councils have implemented a Local Law requiring the registration of short stay rental accommodation. Council could consider implementing a similar

VARIOUS PARKING MATTERS cont'd

Local Law during the next review of General Local Law 1 which is due before 15 April 2025.

- If a registration process is implemented, consideration could then be given to whether or not these facilities should be eligible for residential parking permits.

Hockey Stick Line Marking

- The use of hockey stick line markings on either side of crossover to support the unimpeded entry and egress from residential properties in timed parking zones and in areas where parking is limited has been considered including the implications of funding, maintaining, and increasing hockey stick line markings.
- Hockey Stick linemarking is a guidance line which is installed either side of crossovers to guide motorists on where to park. They are often installed in streets where there have been concerns reported of vehicles overhanging crossovers and obstructing access and sight visibility issues for vehicles exiting the driveway.
- Council's current practice is that we do not typically install 'hockey stick' line markings as the primary form of parking management as they cannot be enforced.
- Residents facing concerns with vehicles parking partly or fully across their crossover are advised to report the illegally parked vehicle to Council to request parking enforcement. The installation of hockey stick linemarking is given considerations where there is a history of illegal parking behaviour incidents reported. In such an instance, if the installation of hockey stick linemarking does not resolve the parking behaviour, then the process for the installation of parking restrictions is commenced in accordance with Council's On-Street Parking Management Framework.
- Recent quotations have indicated that it costs approximately \$65 per hockey stick to be installed onsite. Considering that there are approximately 6,600 properties in Banyule that are eligible for parking permits across approximately 236 roads with parking restrictions, it is estimated that an initial budget of \$900,000 will be required to facilitate the hockey stick installation across both sides of the property driveways. It is also anticipated that the costs associated with maintenance of linemarking, which would be required every 2 to 5 years and the resurfacing of roads would increase.
- In addition, further funding will be required for new linemarking locations, as further parking restrictions are installed in streets due to the anticipated rise in on-street parking demand.
- It is recommended that Council continue to manage the installation of hockey stick linemarking on a case by case basis and through Council's current operational practices.

SUPPORTING REPORT DETAILS

Legal Consideration

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

VARIOUS PARKING MATTERS cont'd

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 review of both the On Street Parking Management Framework and the General Local Law will be funded from operational budgets. If additional funding is required beyond current budget this will be considered as part of a future initiatives budget.

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 BANYULE ART COLLECTION - RECOMMENDATION TO ACQUIRE NEW ART WORKS

Author: Steph Neoh - Art Curator, Community Wellbeing

Previous Items

Council on 20 Nov 2017 7.15pm (Item 3.1 - Banyule Art Collection Policy Renewal)

SUMMARY

1. The Banyule Art Collection is a unique and valuable asset for the City, which is governed by a policy that aims to develop and maintain a visual art collection of national significance for the Banyule community that stimulates discussion, thinking and debate about current, social and cultural issues.
2. The *Banyule Art Collection Policy 2017-2021* (policy currently under review) describes the guidelines, criteria, and procedure for acquiring new works of art into the Collection. Council allocates \$30,000 annually in the capital expenditure budget towards purchasing new acquisitions, and maintenance and storage requirements of the Collection.
3. As per the Policy's acquisition guidelines, the Banyule Art Collection Working Group met in April 2023 to consider art works, mainly selected from the current and previous exhibitions at Art Gallery 275, for accession into the City's Art Collection.
4. Eight art works were considered worthy of acquisition and presented to the Banyule Arts & Culture Advisory Committee on 4 May 2023 who voted unanimously to recommend Council purchase the works for acquisition.

RECOMMENDATION

That Council:

1. Endorse the Arts & Culture Advisory Committee's recommendation to acquire the eight art works listed in this report, at a total cost of \$27,000, to further develop the significance of the Banyule Art Collection.
2. Note the purchasing process will be undertaken in accordance with procurement policies and best practice arts industry standards.

COUNCIL PLAN

- This report is in line with Banyule's Council Plan strategy to "Manage Council's commercial assets, leases and contracts to deliver sustainable, accessible and inclusive outcomes for the community".
- This recommendation forms part of the Annual Action Plan 2022/2023 – Action 4.5.6: "In conjunction with the Banyule Art Collection Working Group, research, document, and acquire new works for the Banyule Art Collection".

50 BANYULE ROAD, ROSANNA (BANYULE PRIMARY SCHOOL) - PROPOSED PART ROAD DISCONTINUANCE AND SALE OF LAND cont'd

BACKGROUND

- The Banyule Art Collection is a unique and valuable asset for the City. It was formed after the amalgamation of the Diamond Valley Art Collection and the Heidelberg Art Collection in 1994 following Municipal amalgamations.
- It is governed by the *Banyule Art Collection Policy 2017 – 2021*, **Attachment 1** which aims to develop and maintain a visual art collection of national significance for the Banyule community that stimulates discussion and debate about current, social and cultural issues. The *Banyule Art Collection Policy 2017 – 2021* is currently under review and a revised draft will be presented to a future council meeting.
- The Collection currently comprises over 500 works, valued in 2016 at \$1.5 million.
- Objectives of the Art Collection Policy include:
 - To collect and selectively commission works of art which foster an understanding, enjoyment, and appreciation of the visual arts among the Banyule community and members of the general public.
 - To enrich the existing collection by maintaining its growth and development through an ongoing program of acquisitions.
 - To develop, manage, conserve, and display the collection to the highest museum standards possible for the benefit of the present and future Banyule community.
- The Policy describes the guidelines, criteria, and procedure for acquiring new works of art into the Collection, through a formal process of consideration and recommendation by the Banyule Art Curator, the Art Collection Working Group, and the Banyule Arts & Culture Advisory Committee (BACAC).
- Council allocates \$30,000 annually in the capital expenditure budget towards purchasing new acquisitions, and maintenance and storage requirements of the Collection.

KEY ISSUES

- The exhibition program for Art Gallery 275 is curated up to two years in advance by Council's Art Curator. Exhibited art works are often considered for acquisition into the city's Art Collection as these exhibitions are curated to explore key themes and contemporary ideas, showcasing exemplary artworks by professional artists from wider Melbourne.
- The exhibition program in Art Gallery 275 serves to increase Banyule's reputation within the arts sector and among the art-going public; provide inspiration and be a resource for our local artists; as well as educating and enriching our community.
- In April 2023, the Art Collection Working Group met to consider 4 artworks proposed for acquisition or commission by the Art Curator. In addition, consideration was given to suitable art works exhibited in Art Gallery 275 – a showcase of Banyule ceramic arts – for acquisition in the City's Art Collection.
- The current Banyule Art Collection Working Group is made up of the Banyule Art Curator, Art & Collections Coordinator Darebin City Council, a representative of

50 BANYULE ROAD, ROSANNA (BANYULE PRIMARY SCHOOL) - PROPOSED PART ROAD DISCONTINUANCE AND SALE OF LAND cont'd

the Australian Museums and Galleries Association Victoria and a Banyule councillor representative.

- The Working Group considered eight artworks worthy of acquisition against the relevant policy criteria and, in line with the acquisition guidelines, these were presented to the Banyule Arts and Culture Advisory Committee (BACAC) on 4 May 2023 for consideration. The Committee voted unanimously on the recommendation that Council purchase the eight artworks and accession them into the Banyule Art Collection.
- The 8 recommended art works have been identified in accordance with selection criteria outlined in the Art Collection Policy, including art works that:
 - Contribute to the ‘most recent ideas and theories’ in contemporary art practice.
 - Consolidate and enrich the existing collection as a whole or which expand the range of representation of art forms or artists within the collection.
 - Are of quality and innovation including emerging and innovative art forms will be considered.

Summary of Recommended Acquisitions in 2023

Acquisition from Artists:

	Title of Artwork	Artist	Medium	Price
1	<i>Forest Edge</i>	Kathy Fahey	Collage, using acrylic paint on Stonehenge Paper, torn, reassembled	\$4,900
2	<i>Wild Things II</i>	Irianna Kanellopoulou	Ceramic Sculpture (1 of 2) Ceramic, custom glaze, multi-fired	\$1,900
3	<i>Wild Things III</i>	Irianna Kanellopoulou	Ceramic Sculpture (2 of 2) Ceramic, custom glaze, multi-fired	\$1,900
4	<i>Mr Bucket & Co.</i>	Irianna Kanellopoulou	Ceramic, custom glaze, multi-fired	\$1,900
5	<i>Natural Earth Pedestal Bowl</i>	Mim Johnson	Stoneware, glaze	\$220
6	<i>Scribbles and Shapes vase – large</i>	Mim Johnson	Stoneware, glaze	\$180
			TOTAL	\$11,000

Commission from Artists:

	Title of Artwork	Artist	Medium	Price
7	<i>“Re-Considering the Land” - Artwork Commission 1</i>	Jo Scicluna	Photography, archival print	\$8,000
8	<i>“Re-Considering the Land” - Artwork Commission 2</i>	Peta Clancy	Photography, archival print	\$8,000
			TOTAL	\$16,000

50 BANYULE ROAD, ROSANNA (BANYULE PRIMARY SCHOOL) - PROPOSED PART ROAD DISCONTINUANCE AND SALE OF LAND cont'd

TOTAL EXPENDITURE: \$27,000

- See **Attachment 2: Recommendations for Acquisition into Art Collection 2022-23** – for full details of these artists, artworks, and their alignment to the policy's selection criteria.

Recommendation

- In line with the Banyule Art Collection Policy's acquisition procedural guidelines, the Banyule Arts and Cultural Advisory Committee has made a recommendation to Council to purchase and accession the eight nominated art works into the City's Collection.
- This is an opportunity to acquire works of art that have undergone a lengthy and rigorous selection process and that will raise the profile of the Banyule Art Collection.

SUPPORTING REPORT DETAILS

Legal Consideration

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

Human Rights Charter

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

Sustainable Procurement Outcomes

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

Financial Implications

- Council has allocated \$30,000 in the 2022-2023 Capital Expenditure budget towards the acquisition of new Art Works into the Banyule Art Collection.

Community Engagement

- Consultation has been conducted through the expertise of the Banyule Art Collection Working Group and Banyule Arts & Culture Advisory Committee.

Officer Declaration of Conflict of Interest

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

ATTACHMENTS

50 BANYULE ROAD, ROSANNA (BANYULE PRIMARY SCHOOL) - PROPOSED PART ROAD DISCONTINUANCE AND SALE OF LAND cont'd

N	Title	Page
o	.	
1	Recommendations for Acquisition into Art Collection 2023	

7.2 50 BANYULE ROAD, ROSANNA (BANYULE PRIMARY SCHOOL) - PROPOSED PART ROAD DISCONTINUANCE AND SALE OF LAND

Author: Gary Mills - Senior Property Officer, City Development

Ward: Hawdon

SUMMARY

1. Banyule Primary School occupies part of the adjacent road reserve to its property known as 50 Banyule Road, Rosanna.
2. The Department of Education is seeking to acquire the occupied land from Council at valuation.
3. Statutory procedures under sections 206 and 223 of the *Local Government Act* 1989 and section 114 of the *Local Government Act* 2020 giving notice of the proposal have been completed.
4. Two written submissions were received, but subsequently withdrawn upon explanation of the proposal.
5. The purpose of this report is for Council to determine whether to proceed with the road discontinuance and sale of land proposal.

RECOMMENDATION

That Council:

1. Having complied with sections 206 and 223 of the *Local Government Act* 1989 (Act) and section 114 of the *Local Government Act* 2020:

- a. by giving public notice on Council's website and onsite on 3 April 2023; and
- b. by recording that two submissions were received, but subsequently withdrawn;

forms the view that the section of road adjoining 50 Banyule Road, Rosanna is no longer reasonably required for general public use for the following reasons:

- the proposal will not impact traffic or pedestrian movement in the vicinity of the area.
- Council and service authority assets will be protected.

50 BANYULE ROAD, ROSANNA (BANYULE PRIMARY SCHOOL) - PROPOSED PART ROAD DISCONTINUANCE AND SALE OF LAND cont'd

2. Authorises the publication of its resolution in the Victorian Government Gazette.
3. Acknowledges that upon publication of the resolution in the Victorian Government Gazette, the section of road be discontinued, and the land sold to the Minister for Education by private treaty.
4. Authorises the amendment of Council's Road Register to reflect the discontinuance of the section of road, following publication of the resolution in the Victorian Government Gazette.
5. Authorises the Chief Executive Officer or delegate, to execute all necessary land transfer documentation.

COUNCIL PLAN

- This report is in line with Banyule's Council Plan strategy to "Provide responsible management of resources to ensure the financial sustainability of Banyule Council".

BACKGROUND

- The Banyule Primary School at 50 Banyule Road, Rosanna occupies part of the adjacent road reserve along its northern boundary and has landscaped and fenced the subject land.
- Council previously entered into a licence agreement with the Department of Education to occupy the land for a term of five years on the basis that Council would undertake a road discontinuance and sale of land statutory process.
- **Locality Plan**

50 BANYULE ROAD, ROSANNA (BANYULE PRIMARY SCHOOL) - PROPOSED PART ROAD DISCONTINUANCE AND SALE OF LAND cont'd

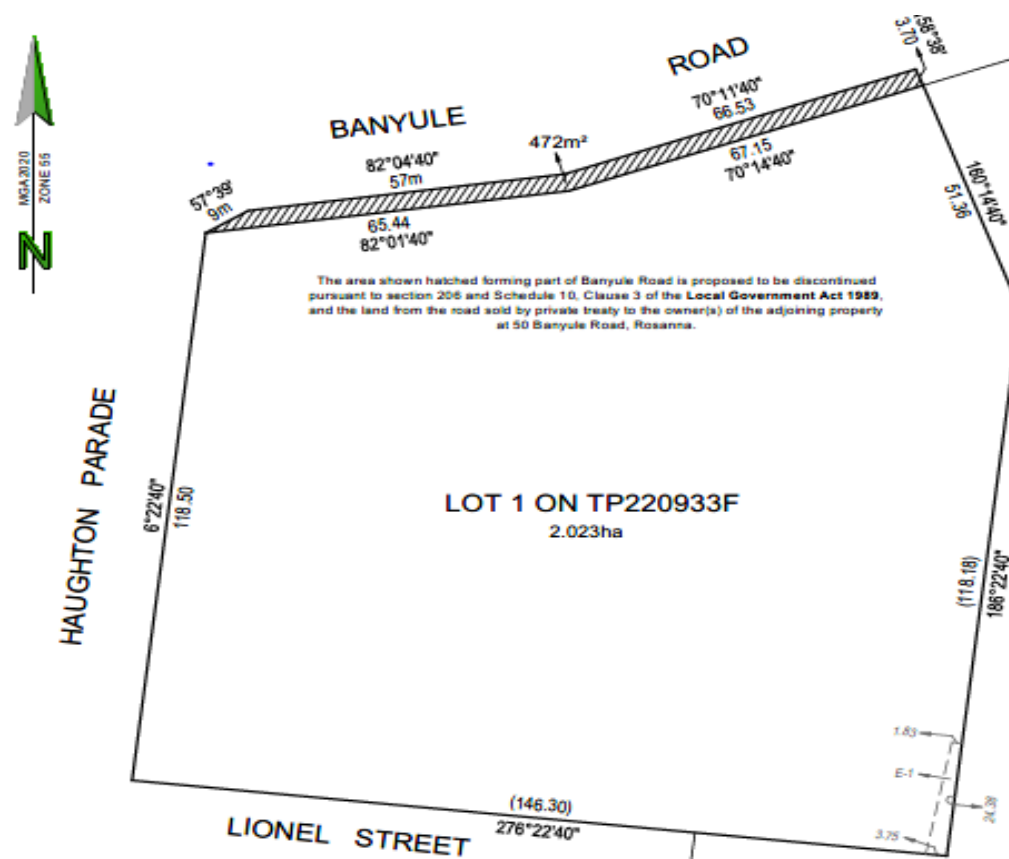


Figure1: Part of road reserve shown hatched adjacent to 50 Banyule Road, Rosanna (Banyule Primary School)

SUPPORTING REPORT DETAILS

Legal Consideration

- Council is acting in accordance with sections 206 and clause 3 of Schedule 10 of the *Local Government Act 1989* (Act) and section 114 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.

50 BANYULE ROAD, ROSANNA (BANYULE PRIMARY SCHOOL) - PROPOSED PART ROAD DISCONTINUANCE AND SALE OF LAND cont'd

Financial Implications

- A valuation of \$95,000 excl GST has been determined for the subject land. The valuation has been agreed between Council's valuer and the Valuer General-Victoria.
- Council will recoup all associated costs to affect the road discontinuance and land transfer from the Purchaser.

Community Engagement

- Community engagement has been undertaken in accordance with Council's Community Engagement Policy and Plans.
- Statutory procedures commenced on 3 April 2023 by giving notice on Council's website and a notice at Banyule Primary School and submissions invited in accordance with section 223 of the Act.
- The submission period closed on 2 May 2023. Two written submissions were initially received, but subsequently withdrawn upon further explanation of the proposal.

Key Considerations

- Consultation with relevant Council departments and external service authorities reveals that there is a Council drain in the north-east section of the road reserve and an APA gas pipe contained within the whole section of road reserve.
- Easements will be created in favour of Council over part of the land and in favour of the APA Group over the whole of the land.

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

7.3 **PROPOSED DISCONTINUANCE OF ROAD (PART RW223) AND SALE OF LAND**

Author: Andrea Turville - Property Officer, City Development

Ward: Olympia

SUMMARY

1. RW223 is an unconstructed 'road', part of which is located at the rear of 139 and 2/141 Waiora Road, Heidelberg Heights.
2. In December 2021, the owner of 2/141 Waiora Road Heidelberg Heights ('the Applicant'), requested Council consider a part road discontinuance and sale to extend their property boundary.
3. In accordance with section 206 and 223 of the *Local Government Act 1989* (Act) and section 114 of the *Local Government Act 2020*, public notice of the proposal was provided on 24 March 2023 on Council's website and onsite notice.
4. The submission period closed on 22 April 2023. No written submissions were received.
5. The purpose of this report is for Council to determine whether to proceed with the discontinuance and sale of the section of road or retain the section of road for municipal purposes.

RECOMMENDATION

That Council:

1. Having complied with sections 206 and 223 of the *Local Government Act 1989* (Act) and section 114 of the *Local Government Act 2020*:
 - a. by giving public notice on Council's website on 24 March 2023,
 - b. by giving public notice with a notice at the entrance to RW223 on 24 March 2023; and
 - c. by recording that no submissions were received.

forms the view that the section of road adjoining 139 and 2/141 Waiora Road, Heidelberg Heights is no longer reasonably required for general public use for the following reasons:

- the proposal will not impact traffic or pedestrian movement in the vicinity of the area.
- Council's and service authority assets will be protected.
- the proposal will not adversely affect adjoining neighbours and is not currently used by neighbouring properties.

2. Authorises the publication of its resolution in the Victorian Government Gazette.

**PROPOSED DISCONTINUANCE OF ROAD (PART RW223) AND SALE OF LAND
cont'd**

3. Acknowledges that upon publication of the resolution in the Victorian Government Gazette, the section of road be discontinued, and the land sold to the owner of 2/141 Waiora Road, Heidelberg Heights by private treaty.
4. Authorises the amendment of Council's Road Register to reflect the discontinuance of the section of road, following publication of the resolution in the Victorian Government Gazette.
5. Authorises the Chief Executive Officer or delegate to execute all necessary land transfer documentation.

COUNCIL PLAN

- This report is in line with Banyule's Council Plan key direction to "Manage Council's commercial assets, leases and contracts to deliver sustainable, accessible and inclusive outcomes for the community".

BACKGROUND

- The section of road known as RW223 abuts the rear of 139 and 2/141 Waiora Road, Heidelberg Heights and 112 and 4/110 Porter Road and 137 Waiora Road, Heidelberg Heights (refer **Figure 1**).
- The owner of 2/141 Waiora Road, Heidelberg Heights approached Council to purchase the land at the rear of their property, together with the land behind 139

PROPOSED DISCONTINUANCE OF ROAD (PART RW223) AND SALE OF LAND cont'd

0Waiora Road for the purpose of extending their backyard. The adjoining property owners have indicated their support for the proposal.

- The section of road (Part RW223) will be sold at market value, less relevant discounting for rear land and encumbrances, with the applicant to cover all additional costs relating to the discontinuance and sale.

Locality Plan

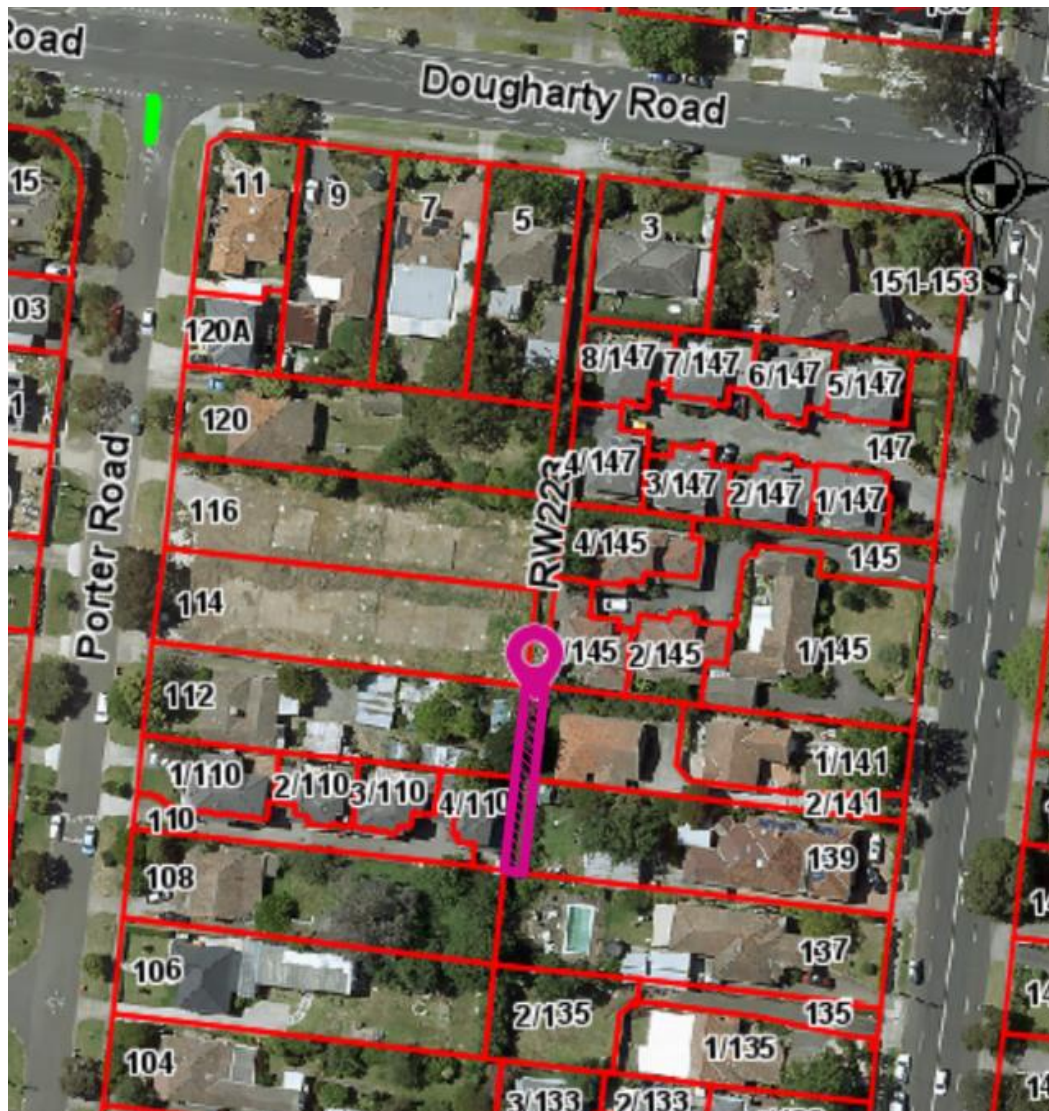


Figure 1: Proposed section of road (Part RW223) shown highlighted in pink.

KEY ISSUES

- Part RW223 is considered surplus to Council and community needs and not reasonably required for public use. It is proposed that Part RW223 be discontinued and sold to the owner of 2/141 Waiora Road, Heidelberg Heights by private treaty.
- Having completed statutory notice procedures to discontinue the Part RW223 adjoining rear of 139 and 2/141 Waiora Road Heidelberg Heights, it is now

**PROPOSED DISCONTINUANCE OF ROAD (PART RW223) AND SALE OF LAND
cont'd**

appropriate that Council decide whether or not to discontinue the road and sell the resultant land to the Applicant by private treaty.

- Banyule's Land Transactions Framework (2019) stipulates that Council will sell landholdings from discontinued roads to an abutting property owner provided the proposal does not have a detrimental effect on other property owners.

SUPPORTING REPORT DETAILS

Legal Consideration

- The power to discontinue a road and sell the resultant land is conferred on Council pursuant to section 206 and Schedule 10 Clause 3 of the Act.

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*.
- *Victoria's Charter of Human Rights and Responsibilities* (the Charter) outlines the basic human rights of all people in Victoria. The Charter requires that governments, local councils, and other public authorities comply with the Charter and to consider relevant Charter rights when they make decisions.
- Section 20 provides that "A person must not be deprived of his or her property other than in accordance with the law".
- 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 obtained a valuation of \$27,500 (plus GST) for the Land comprising approximately 93m². The Applicant has agreed to purchase the Land at valuation plus Council's expenses in facilitating the road discontinuance and sale.

Community Engagement

- Statutory procedures were undertaken in accordance with Council's Community Engagement Policy and section 223 of the Act. Public notice was given on Council's website and onsite notice, inviting public submissions.
- No written submissions were received.
- All abutting property owners have provided signed approval for the proposal.

Key Considerations

- Consultation with relevant Council departments and external service authorities revealed that drainage and water authority assets are contained within the Land. Easements will be required in favour of Council and Yarra Valley Water.

**PROPOSED DISCONTINUANCE OF ROAD (PART RW223) AND SALE OF LAND
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

Nil

8.1 PROPOSED ADOPTION OF BANYULE ECONOMIC DEVELOPMENT STRATEGY 2023 - 2028

Author: Erica Hardie - Economic Development Coordinator, City Development

Previous Items

Council on 27 February 2023 (Item 8.1 - Draft Banyule Economic Development Strategy 2023 - 2028 - Public Exhibition)

SUMMARY

1. The purpose of this report is to consider feedback from the recent Banyule Economic Development Strategy (EDS) public consultation period and seek adoption of the final EDS.
2. Community consultation for the draft EDS was carried out from 1 March – 31 March 2023. A summary of the consultation and minor changes that have been made to the final strategy are contained in this report.
3. The EDS sets out Council's vision, priorities, and actions to support economic activity and sustained growth in Banyule over the next five years.
4. A thorough and considered approach was taken in developing the strategy over the past 18 months in collaboration with the community including a designated EDS Project Reference Group, comprised of key industry leaders.
5. The Strategy is structured into six key themes and strategic directions:
 - A Dynamic & Supported Business Community
 - Workforce Growth, Attraction & Diversity
 - A Prosperous National Employment and Innovation Cluster (La Trobe NEIC)
 - Thriving & Vibrant Activity Centres
 - A Desirable Destination for Visitors
 - An Environmentally Sustainable Local Economy
6. The EDS presents an opportunity for Council to guide Banyule's economy in a holistic and proactive manner, that prioritises sustainable and inclusive growth in the post COVID-19 recovery period.

RECOMMENDATION

That Council:

1. Acknowledges the feedback received from the recent community consultation period from 1 March – 31 March, including the meeting of the Economic Development Strategy Project Reference Group.

**PROPOSED ADOPTION OF BANYULE ECONOMIC DEVELOPMENT STRATEGY
2023 - 2028 cont'd**

2. Endorses the minor changes made to the Economic Development Strategy in response to the recent community consultation feedback.
3. Notes there are no financial implications for the implementation of the EDS for the 2023/ 2024 financial year, however key items in subsequent years will be referred to relevant budget processes.
4. Formally thanks the Project Reference Group for their valuable contributions in Shaping the Economic Development Strategy over the past 18 months.
5. Resolves to adopt the final Economic Development Strategy (**Attachment 1**).

COUNCIL PLAN

- This report is in line with Banyule's Council Plan strategy to "Stimulate and support a vibrant and resilient local economy to encourage business, employment and investment opportunities".

BACKGROUND

- The Banyule Economic Development Strategy (EDS) is a five-year plan to support economic activity and sustained growth for the municipality. The document provides long-term economic development strategies and objectives, aligning with the Banyule 2041 Community Vision, as well as short-term deliverables for Council to implement.
- The Banyule economy was in a fragile position as it emerged from the significant economic, social and health impacts associated with the COVID-19 pandemic. As such, economic recovery and sustainable growth are both important elements of the EDS.
- The major economic influences that were taken into consideration in developing the EDS were:
 - COVID-19 and business recovery
 - Growing demand for health care
 - Remote and flexible working arrangements
 - Workforce shortages
 - Manufacturing
 - Demand for co-working spaces
 - Transition of retail
 - Environmental sustainability and circular economy
 - Renewable Energy.
- The EDS is included in **Attachment 1** of this report.
- The EDS outlines six key themes and strategic directions for the Banyule economy. They have been used to identify opportunities and future actions for Council to achieve desired outcomes and are as follows:

**PROPOSED ADOPTION OF BANYULE ECONOMIC DEVELOPMENT STRATEGY
2023 - 2028 cont'd**

- A Dynamic & Supported Business Community
- Workforce Growth, Attraction and Diversity
- A Prosperous National Employment and Innovation Cluster (La Trobe NEIC)
- Thriving & Vibrant Activity Centres
- A Desirable Destination for Visitors
- An Environmentally Sustainable Local Economy

KEY ISSUES

- The Banyule economy was in a fragile position as it emerged from the significant economic, social and health impacts associated with the COVID-19 pandemic. During the pandemic Council contributed significant resources to the local economy as part of its Economic Support Package. As some of this financial support is concluding it is important that Council continues to play an active role in the economic recovery and sustainable growth of the municipality.
- The EDS builds on existing strengths while presenting an ambitious new agenda that takes the major economic influences and stakeholder feedback into consideration. The new agenda has the capacity to transform Banyule's Economic Development service to a holistic, proactive, and evidence-based approach that prioritises high impact initiatives. Some of the key medium – long term initiatives are currently unfunded (e.g., visitor economy and workforce strategy) and will be presented to Councillors for further consideration as part of future budget bid processes.

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 final EDS makes provision for supporting procurement activity that generates, social, economic, and environmental outcomes as detailed in Strategic Direction 2.3.

**PROPOSED ADOPTION OF BANYULE ECONOMIC DEVELOPMENT STRATEGY
2023 - 2028 cont'd**

Financial Implications

- There are no financial implications for the implementation of the EDS for the 2023/ 2024 financial year, however key items in subsequent years will be subject to budget bids.

Community Engagement

- The EDS was developed over an 18-month period by consultants Urban Enterprise. The information in the Strategy is informed by independent research and analysis, as well as consultation with industry representatives, community groups, businesses, Council, and other Government stakeholders.
- A Project Reference Group (PRG) was established and comprised of representatives from a diverse group of industries including retail, construction, food service, government, education and training, professional services, health care, social assistance, arts, and performance. The PGR was chaired by Councillors Garotti and Dimarelos and four meetings were held during the initial consultation period.
- Targeted interviews were held with subject matter experts including government, businesses, community members and Council staff.
- An initial online survey was conducted on Shaping Banyule, from which Council received over 70 contributions.
- The culmination of the initial research and engagement efforts resulted in the production of the EDS Background Report that was made available on Shaping Banyule.

Final Draft EDS Community Feedback

- Following the production of the EDS Background Report and the initial consultation, the draft EDS was produced and exhibited for 31 days in the month of March 2023. In addition to Shaping Banyule submissions, a meeting was held with the PRG to seek feedback.
- The final draft EDS feedback is detailed below:

Shaping Banyule Survey Responses

Do you support the draft Economic Development Strategy?	Response
Yes	18 (67%)
No	9 (33%)
Total	27

- Many of the survey responses that support the draft EDS included observations and suggestions to improve the EDS. Some of the themes that have arisen from the comments are as follows:

**PROPOSED ADOPTION OF BANYULE ECONOMIC DEVELOPMENT STRATEGY
2023 - 2028 cont'd**

- The EDS allocated amount for business grants (\$20,000 total funding pool) is likely to provide limited value to a business or a return to ratepayers. Other councils have budgeted five times that amount for business grants.
 - Workforce growth and attraction presents issues relating to Banyule's capacity and capability. Skills shortages are being experienced nationally and internationally meaning that Council, even with the best intentions, is likely to have limited influence on the challenge.
 - Improving transport infrastructure and community infrastructure.
 - Greater focus on sustainable / social procurement.
 - Further strategy or activity around Council supporting the workforce participation of older adults.
 - Need to include streetscape renewal activity in commercial precincts as part of the EDS.
- Some of the themes that emerged from the comments in survey responses that do not support the EDS are as follows:
 - The environment needs to be elevated as a top priority.
 - Initiatives and programs are required to mitigate impact of large shopping centres on small retail strips and precincts.
 - Reluctance to support visitor economy given the impact on the environmental amenity.
 - Too much emphasis on building business not communities.
 - Consideration should be given to economic indicators as they relate to the wellbeing / liveability of residents.
- Finally, the following themes emerged during the Project Reference Group meeting held on 23 March 2023:
 - The Project Reference Group members supported the draft EDS.
 - The Heidelberg West Business Park (HWBP) is poorly serviced by public transport. Council should seek funding from State Government to fund a shuttle service pilot project to assist HWBP companies to fill vacancies.
 - More food warehousing capacity is needed in HWBP.
 - Vertical indoor farming may be a suitable focus for investment attraction focus, given the lack of height restrictions in HWBP.
 - La Trobe National Employment and Innovation Cluster is a major opportunity that Council needs to continue advocating for.

Proposed Amendments

- The feedback obtained throughout the EDS consultation process was rich and valuable and will be considered in planning the delivery of key actions outlined in the EDS.
- In addition, the following minor amendments will be made to the EDS:
 - Increase the biennial Banyule Business Grants pool to \$40,000 in line with endorsed draft operating budget for 23/24 (Theme 1).

**PROPOSED ADOPTION OF BANYULE ECONOMIC DEVELOPMENT STRATEGY
2023 - 2028 cont'd**

- Strengthen the action relating to the procurement policy review, to include sustainable / social procurement (Theme 2).
 - Include reference to food warehousing as part of action 3.3 Facilitate the Growth of the Health and Food Industries (Theme 3).
 - Streetscape renewal program to be referenced in the EDS alongside the placemaking program (Theme 4).
 - Reference to the liveability assessment as a monitoring tool (Theme 4).
- Further strategy or activity around Council supporting the workforce participation of older adults including volunteering can be considered as part of the future planning associated with Council's Community wellbeing functions.

Officer Declaration of Conflict of Interest

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

ATTACHMENTS

N	Title	Page
○	.	
1	Banyule Economic Development Strategy (<i>Under Separate Cover</i>)	



9.1 PEST ANIMAL MANAGEMENT - CONTROL OF FOXES WITHIN THE CITY OF BANYULE AND EXPLORATION OF OPTIONS TO MINIMISE IMPACT TO BIODIVERSITY WITHIN AN URBAN CONTEXT

Author: Cr Alison Champion

TAKE NOTICE that it is my intention to move:

A report be presented to Council on or before 30 September 2023 detailing the current process and regulations regarding:

- Council's obligations under legislation and the regulations for the management of red fox - Vulpes within Banyule, and Council's current practice in meeting those obligations.
- Council's current role advocating to relevant state and federal governments, agencies, and peak organisations regarding the issue of fox management in the community and beyond; and
- What further action Council could take to better protect wildlife now and for future generations through the management and eradication of red fox in Banyule.

Explanation

- The purpose of this Notice of Motion is for Council to more fully understand the legislative and regulative framework that guides pest animal management in Victoria and how this impacts the Banyule municipality.
- It is intended that the Notice of Motion report will identify what role Council can play and its legislative requirements to control pest animals, including foxes on public land under the *Catchment and Land Protection Act 1994 (CaLP Act)*.
- The broader and overwhelming fox population across the greater Melbourne area has a significant impact on the effectiveness of fox control within the Banyule catchment.
- Recent surveys indicate there are as many as 16 foxes per km² in Melbourne, while in temperate agricultural areas, fox densities are estimated at 4–8 individuals per km² (Stats - Department Energy Environment and Climate Action 2023).
- Council's current approach to fox management is detailed in the Banyule Biodiversity Plan actions, which is guided by the Eastern Region Pest Animal Strategy 2020 – 2030.

PEST ANIMAL MANAGEMENT - CONTROL OF FOXES WITHIN THE CITY OF BANYULE AND EXPLORATION OF OPTIONS TO MINIMISE IMPACT TO BIODIVERSITY WITHIN AN URBAN CONTEXT cont'd

- Council is somewhat limited in its approach to controlling foxes on private land. Further investigation is required to understand those limitations and how Council can better educate and advocate for private landowners to undertake fox control on their properties.
- The Community has raised concerns about the significant impacts of foxes on private property, and the extent to which foxes harm or kill local wildlife, and the harassment or killing of domestic pets and livestock.
- The full extent of the impact foxes have on biodiversity in Banyule's, public open spaces, including parks, reserves, and conservation areas.
- A report responding to the matters raised in the motion will inform Council of the current fox management practice and their control outcomes and will identify gaps and opportunities for further actions that may better reduce the impacts of foxes on Banyule's local wildlife.

Legal Implications

- The *Catchment and Land Protection Act 1994 (CaLP Act)* is the principle legislation regulating the management of pest animals in Victoria

CR ALISON CHAMPION
Sherbourne Ward

ATTACHMENTS

Nil