

Minutes of the Ordinary Meeting of Council



Held on the 29 May 2023

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

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The Meeting opened at 7.00pm.

Acknowledgement of the Traditional Custodians

The Mayor read an acknowledgement of the traditional custodians, the Wurundjeri Wo-wurrung people.

Inclusive Banyule Statement

The Mayor read Council's statement on its commitment to diversity and its principles.

Present

Mayor Cr Peter Castaldo, Deputy Mayor Cr Alida McKern, Cr Elizabeth Nealy, Cr Rick Garotti, Cr Alison Champion, Cr Peter Dimarelos, Cr Mark Di Pasquale, Cr Tom Melican.

Allison Beckwith – Chief Executive Officer, Marc Giglio – Director Corporate Services, Kath Brackett – Director Community Wellbeing, Natasha Swan – Director City Development, Darren Bennett – Director Assets & City Services, Krysten Forte – Governance Coordinator, Linda Chapple - Governance & Council Business Specialist, Fletcher Coburn - Governance Customer Support Officer, Joe Schipano - IT Service Desk Officer, Duncan Stephen - Jets Facility & Technical Office, Krishan Meepe - Jets Youth Programs Officer

Apologies

Cr Fiona Mitsinikos

Leave of Absence Motion**Councillor Nealy declared a material Conflict of Interest and left the Chamber at 7:07pm**

That Council grants a Leave of Absence for Cr Nealy for the period Monday 12 June 2023 to Friday 7 July 2023 (inclusive)

Moved: Cr Rick Garotti

Seconded: Cr Peter Dimarelos

CARRIED

Councillor Nealy returned to the Chamber at 7:08pm and was not present for the vote.**Confirmation of Minutes**

That Meeting minutes from the 8 May 2023 Ordinary Council Meeting be confirmed with minor formatting changes to ensure greater transparency for the Council and community
Ordinary Meeting of Council held 8 May 2023

Moved: Cr Rick Garotti

Seconded: Cr Peter Dimarelos

CARRIED

Disclosure of Interests

Cr Elizabeth Nealy declared a material Conflict of Interest for a Leave of Absence Motion and was not present for the vote.

Presentations

Nil

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

Pippa Griffith addressed Council in person and was FOR the officer recommendation. John Walkley from Friends of Eaglemont Village addressed Council in person and was FOR the officer recommendation.

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 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.

Resolution (CO2023/78)

That Council:

1. Receives and notes the petition.
2. Refers 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.

Moved: Cr Alida McKern

Seconded: Cr Peter Dimarelos

CARRIED

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

MINUTES ORDINARY MEETING OF COUNCIL**29 MAY 2023**

<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> <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</p>		

MINUTES ORDINARY MEETING OF COUNCIL**29 MAY 2023**

	Samira Liban Jeyarajah (Raj) Ramanathan Alaa Elzokm Albert Fatileh Ansum Sadik
Conflict of Interest:	Nil

3	Date of Meeting:	4 May 2023, 6pm
	Type of Meeting:	Banyule Arts and Culture Advisory Committee (BACAC)
	Matters Considered:	
	<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 	
	Councillors Present:	
	Cr Elizabeth Nealy	
	Staff Present:	
Georgie Meyer – <i>Manger Inclusive & Creative Communities</i> Hannes Berger – <i>Arts & Culture Coordinator</i> Hiroki Kobayashi – <i>Arts & Cultural Development Officer</i>		
Others Present:		
June Gassin 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:	
<ol style="list-style-type: none"> 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 		

	<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>Councillors Present:</p> <p>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</p>	
	<p>Staff Present:</p> <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> Jonathan Risby – <i>Manager Transport & Environment</i></p>	
	<p>Others Present:</p> <p>Nil</p>	
	<p>Conflict of Interest:</p>	<p>Nil</p>

5	<p>Date of Meeting:</p>	<p>15 May 2023, 6:30pm</p>
	<p>Type of Meeting:</p>	<p>Councillor Briefing</p>
	<p>Matters Considered:</p> <p>Councillor Briefing Presentation:</p> <p>1.1 Draft Banyule Heritage Strategy 2023-2033</p> <p>1.2 Unreasonable Customer Behaviour Policy</p> <p>1.3 Governance Rules Review - Stage 2 – Community Participation in Council Meetings</p> <p>Councillor Briefing Papers:</p> <p>2.1 Proposed Budget 2023-2027</p> <p>2.2 Customer Service Update</p> <p>2.3 Strategic Planning Update and VCAT Decision Summaries - February to March 2023</p> <p>2.4 Banyule Economic Development Strategy 2023 - 2028 - Community Engagement and Next Steps</p> <p>2.5 Banyule Art Collection and Recommendations for New Acquisitions 2022-2023</p>	
	<p>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	
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> 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>	
Others Present:	
Nil	
Conflict of Interest:	Nil

RECOMMENDATION

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

Resolution (CO2023/79)**RECOMMENDATION**

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

Moved: Cr Mark Di Pasquale

Seconded: Cr Elizabeth Nealy

CARRIED

Procedural Motion: En Bloc Motion

That Council move the following items 3.2, 3.3, 3.4 and 3.5 En Bloc.

Moved: Cr Tom Melican

Seconded: Cr Rick Garotti

CARRIED

3.2 INSTRUMENT OF DELEGATION FROM COUNCIL TO THE CHIEF EXECUTIVE OFFICER

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.
 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.
-

Resolution (CO2023/80)

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.
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.

Moved: Cr Tom Melican

Seconded: Cr Rick Garotti

CARRIED

3.3 INSTRUMENT OF DELEGATION FROM COUNCIL TO MEMBERS OF COUNCIL STAFF

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.

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.

Resolution (CO2023/81)

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.
-

Moved: Cr Tom Melican
Seconded: Cr Rick Garotti

CARRIED

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

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.
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.

Resolution (CO2023/82)

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.
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.

Moved: Cr Tom Melican
Seconded: Cr Rick Garotti

CARRIED

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

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;
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.

Resolution (CO2023/83)

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;
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.

Moved: Cr Tom Melican
Seconded: Cr Rick Garotti

CARRIED

3.6 PROPOSED BUDGET 2023-2027 - DECLARATIONS OF CONFLICTS INTEREST 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.

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.

Resolution (CO2023/84)

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.

Moved: Cr Rick Garotti

Seconded: Cr Peter Dimarelos

CARRIED

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

A written statement was read out on behalf of Lindsay Bell from Heidelberg Golf Club and was AGAINST the officer recommendation.

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.
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.

Resolution (CO2023/85)

That Council:

1. Note Council's Community Engagement Policy has been used to develop its integrated planning documents for the period 2023/24.
2. Note the legislative requirements followed, as applicable, are in accordance with the *Local Government Act 2020 and Local Government Act 1989*.
3. Note that Council has budgeted to deliver an operating surplus of \$16.96 million for the 2023/24 financial year
4. Acknowledge and note that Council commit to its financial sustainability principles and will target a reduction of the budgeted underlying deficit of \$5.72 million.
5. Acknowledge the continued support for the Banyule Community through its Rates Hardship Assistance Policy.
6. 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 with an amendment to Section 3.1, bullet point 4 on page 6 of the policy to note that: "Details on how to access financial

counselling services that operate on a pro-bono basis are found under section 7 policy.”

7. Exhibit the integrated planning documents on council’s website through Shaping Banyule.
8. Considers the adoption of the integrated planning documents at the meeting on 26 June 2023

Moved: Cr Rick Garotti

Seconded: Cr Mark Di Pasquale

CARRIED

3.8 QUARTERLY FINANCIAL MANAGEMENT REPORT - DECEMBER 2022

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.

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.

Resolution (CO2023/86)

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.

Moved: Cr Rick Garotti

Seconded: Cr Mark Di Pasquale

CARRIED

3.9 QUARTERLY FINANCIAL MANAGEMENT REPORT - MARCH 2023

Kevan Hill from Banyule Ratepayers Action Group Inc addressed Council in person and was AGAINST the officer recommendation.

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.

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.

Resolution (CO2023/87)

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.

Moved: Cr Rick Garotti

Seconded: Cr Elizabeth Nealy

CARRIED

3.10 PROPOSED SALE OF 78-80 HAWDON STREET, HEIDELBERG

Vassie Catalano from Studio V School of Dance (Heidelberg) addressed Council in person and was AGAINST the officer recommendation.

A written statement was read out on behalf of Heeb El-Bay from the Alleyway Café & Aisle 17 and was AGAINST the officer recommendation.

A written statement was read out on behalf of Kirsty Eccles from the Studio V School of Dance and was AGAINST the officer recommendation.

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 (eg 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.
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 Council's 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.

Resolution (CO2023/88)

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.
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 Council's 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.
7. Sites within the Heidelberg area will continue to be assessed for their suitability as alternate meeting spaces and a summary provided to Council in due course.

Moved: Cr Rick Garotti

Seconded: Cr Peter Dimarelos

CARRIED

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

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 Ltd

in 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:
 1.
 - 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.

Resolution (CO2023/89)

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:
 2.
 - 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.

Moved: Cr Mark Di Pasquale

Seconded: Cr Rick Garotti

CARRIED

4. OUR INCLUSIVE AND CONNECTED COMMUNITY**4.1 OLDER ADULTS STRATEGIC PLAN 2017 - 2021 ACHIEVEMENTS REPORT 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.

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.
-

Resolution (CO2023/90)

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.

Moved: Cr Tom Melican

Seconded: Cr Alison Champion

CARRIED

5. OUR SUSTAINABLE ENVIRONMENT

5.1 NOMINATION FOR CLIMATE EMERGENCY AUSTRALIA EXECUTIVE

Kevin Biaggini addressed Council in person and was FOR the officer recommendation. A written statement was read out on behalf of Michele Linder and was FOR the officer recommendation.

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.

Resolution (CO2023/91)

That Council:

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

2. Receives a future report from the nominated Council delegate on the outcomes of the Executive for Climate Emergency Australia should they be successful in their Council nomination tonight.

Moved: Cr Rick Garotti

Seconded: Cr Tom Melican

CARRIED

6. OUR WELL-BUILT CITY

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

Winston Van Tang addressed Council in person and was AGAINST the officer recommendation.

Kevin Biaggini addressed Council in person and was FOR the officer recommendation.

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.

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).
- 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;

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.

7. Delete existing Condition 12

Resolution (CO2023/92)

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 Thursday 4pm-12am, Friday to Saturday 4pm-1am, and 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. The fence must also include the rear gate which is shown on the endorsed plan for the movement of rubbish bins (not for patron access);

2. Amend existing Condition 4 to read:

Venue Management Plan

Prior to the commencement of the extended operating hours as allowed by this amended permit, an amended Venue Management Plan must be submitted to and approved by the Responsible Authority. The amended Venue Management Plan 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).
- Identifying all noise sources associated with the premises likely to impact on adjoining residents (including, but not limited to, music noise, entries and exits 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;

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 – Thursday	4pm – 12am
Friday – 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.

7. Delete existing Condition 12.

Moved: Cr Alida McKern

Seconded: Cr Rick Garotti

CARRIED

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

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 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:
 - (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;
- (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 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

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
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pathways, car parks and other public areas and be baffled avoid light spill 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 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**,
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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;
 - xi. Ground protection must be laid down where access is required through a TPZ outside the fenced area detailed in (a). It must consist of a permeable membrane beneath a layer of mulch or crushed rock with rumble boards on top. Rumble boards should be of a suitable thickness to prevent soil compaction and root damage. Ground protection must only be removed once all buildings and works have been completed;
 - 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. 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:
 - (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.
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.

Resolution (CO2023/93)

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 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.
 - (l) Detail, size and the location of an interpretive sign identifying the site's former use as squash courts on the eastern external wall facing Marshall Street to the satisfaction of the Responsible Authority.

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:
 - (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;

- (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 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

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 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 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;
 - xi. Ground protection must be laid down where access is required through a TPZ outside the fenced area detailed in (a). It must consist of a permeable membrane beneath a layer of mulch or crushed rock with rumble boards on top. Rumble boards should be of a suitable thickness to prevent soil compaction and root damage. Ground protection must only be removed once all buildings and works have been completed;
 - 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 conform to AS4373-2007 *Pruning of Amenity Trees*, all work is to be performed by a suitably qualified Arborist (AQF Level 3, minimum) and must be restricted to the removal of no greater 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. 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:
- (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.
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.

Moved: Cr Alida McKern
Seconded: Cr Tom Melican

CARRIED

6.3 EAST IVANHOE VILLAGE STREETScape UPGRADE - FINAL CONCEPT PLAN 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.
3. Note it will receive a separate Council report as part of the tender award at a future Council meeting.

Resolution (CO2023/94)

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

Moved: Cr Peter Dimarelos
Seconded: Cr Rick Garotti

CARRIED

6.4 VARIOUS PARKING MATTERS**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.

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.

Resolution (CO2023/95)

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.

Moved: Cr Rick Garotti

Seconded: Cr Elizabeth Nealy

CARRIED

7. OUR VALUED COMMUNITY ASSETS AND FACILITIES

7.1 BANYULE ART COLLECTION - RECOMMENDATION TO ACQUIRE NEW ART WORKS

Councillor Dimarelos left the Chamber at 9:06pm

Councillor Dimarelos returned to the Chamber at 9:10pm and was present for the vote.

Kevan Hill from Banyule Ratepayers Action Group Inc addressed Council in person and was AGAINST the officer recommendation.

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.

Resolution (CO2023/96)

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.

Moved: Cr Elizabeth Nealy
Seconded: Cr Alison Champion

CARRIED

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

Councillor Garotti left the Chamber at 9:22pm and was not present for the vote.
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.
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.

Resolution (CO2023/97)

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.
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.

Moved: Cr Tom Melican

Seconded: Cr Alison Champion

CARRIED

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

Cr Garotti was not present in the Chamber and was not present for the vote.

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.
 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.

Resolution (CO2023/98)

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.
 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.

Moved: Cr Alison Champion

Seconded: Cr Peter Dimarelos

CARRIED

8. OUR THRIVING LOCAL ECONOMY

8.1 PROPOSED ADOPTION OF BANYULE ECONOMIC DEVELOPMENT STRATEGY 2023 – 2028

Councillor Garotti returned to the Chamber at 9:25pm and was present for the vote.

Councillor Di Pasquale left the Chamber at 9:26pm.

Councillor Di Pasquale returned to the Chamber at 9:27pm and was present for the vote.

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.
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**).

Resolution (CO2023/99)

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.
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**).

Moved: Cr Alida McKern**Seconded: Cr Elizabeth Nealy****CARRIED****9. NOTICES OF MOTION****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****RECOMMENDATION****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 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.

Resolution (CO2023/100)

That Council:

Request 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 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.

Moved: Cr Alison Champion

Seconded: Cr Alida McKern

CARRIED

10. GENERAL BUSINESS**Banyule Youth Summit – 25 May 2023**

Cr Nealy reflected on the Banyule Youth Summit that was held on Tuesday 25 May 2023. The Summit was in its fifth year and was held at the Heidelberg Golf Club. 100 young people from across 17 secondary schools in and around Banyule participated to discuss issues identified by both themselves and their peers during pre-summit workshops coordinated by Council's Youth Services team.

Young people were given the chance to discuss topics they were passionate about, and to consider recommendations on how to make positive changes for themselves and their peers.

Some of the more popular topics identified by young people for discussion were mental health, neurodiversity, inclusion, climate change, body image, gender equality, LGBTIQ+ issues, cultural inclusion, positive masculinity, alcohol and other drugs, equal opportunities and youth voice.

The day concluded with the young people presenting these recommendations to MP's, Councillors and Community decision makers.

The Youth team will now work in partnership with young people and the wider community to realise these outcomes. A Youth Summit report card is planned for 2024 so we can share our successes and remain accountable to the young people of our community.

IDAHOBIT Day (International Day against Homophobia, Biphobia, Interphobia & Transphobia) – 17 May 2023

The Mayor Peter Castaldo and Cr Champion reflected on IDAHOBIT Day (International Day against Homophobia, Biphobia, Interphobia & Transphobia) and the IDAHOBIT Event that Council held on Wednesday 17 May 2023 in the Theatre at the Ivanhoe Library and Cultural Hub.

The event included powerful key note speakers, performances and a poetry recital and was very well attended by many.

Volunteer Celebration Event – 17 May 2023

The Mayor, Peter Castaldo also highlighted the recent Volunteer Celebration Event that was held at the Ivanhoe Library and Culture Hub on Wednesday 17 May 2023, which coincided with National Volunteers Week that was held during the days of 15 – 21 May 2023.

Cr Castaldo reflected on the dedication and support and amazing work that volunteers across Banyule provide to the community.

Community Meeting 11 May 2023 and Heidelberg Historical Society Tour 17 May 2023

Cr McKern shared the success and insights from the Community Meeting that she facilitated for residents on the 11 May 2023 that was held in the meeting rooms at the Ivanhoe Library and Cultural Hub and reflected on the Heidelberg Historical Society Tour that was held on Saturday 17 May 2023.

Henry Street Pedestrian Crossing

Cr Di Pasquale reflected on the recent pedestrian changes at Henry Street, Greensborough and encouraged the community to be patient post the changes to ensure safety of pedestrians and those vehicles on the road.

PUBLIC QUESTION TIME

1	<p>Name & Suburb</p> <p>Anonymous</p>
	<p>Question:</p> <p>Given the recent cancellation of a drag storytime event at Eltham Library, what is Council doing to support Yarra Plenty Regional Library and ensure that events such as this can proceed in the future?</p>
	<p>Response:</p> <p>Council officers have been working in partnership with Yarra Plenty Regional Library (YPRL) to support and assist where appropriate with the management of Rainbow Storytime. Banyule City Council champions inclusion, diversity and tolerance of all people and continues to support Yarra Plenty Regional Library's inclusive programming in our libraries.</p> <p>Council's Inclusive Banyule Plan 2022-2026 acknowledges that the LGBTIQ+ community faces higher levels of discrimination than other members of the community. It is important that we continue to support and advocate for inclusion and visibility of LGBTIQ+ community in all aspects of community life, including libraries, books and storytimes.</p> <p>Banyule Council is proud to fly the progressive pride flag for the month of June and we hope this clearly signals our support and commitment to YPRL and the LGBTIQ+ community.</p> <p><i>Kath Brackett– Director Community Wellbeing</i></p>
2	<p>Name & Suburb</p> <p>Roger Fyfe Ivanhoe</p>
	<p>Question:</p> <p>The Council Car Park accessed from Ivanhoe Parade, North of Upper Heidelberg Road and connections through Bryant Reserve to Waterdale Road is well lit at night. Council supports improvements in safety in public spaces, especially for women. As this route is well used by pedestrians travelling in both directions day and night, including Waterdale Road East residents, is the current lighting compliant with Australian Standards for such spaces? To save having to submit a separate question it logically follows, that if the lighting is not fully compliant, what constraints prevent lighting being brought up to Australian Standards?</p>
	<p>Response:</p> <p>Council believes both Bryant Reserve and the carpark have adequate lighting but will arrange an assessment onsite to confirm.</p> <p>The assessment will be undertaken against the guidelines for pedestrian paths and carparks contained in AS 1158.3.1 by one of Council's Traffic Engineers.</p>

	<p>If it is determined that the lighting is not adequate, the upgrade of lighting will be referred to a future capital works program</p> <p><i>Natasha Swan – Director City Development</i></p>
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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 prior to considering the confidential matters in 11.1. 70 Yarra Street, Heidelberg – Alternative Outcome for Mixed Use Development (P583/2022).

This item was 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.

Moved: Cr Rick Garotti

Seconded: Cr Elizabeth Nealy

CARRIED

Closure of Meeting

The Meeting was closed to the public at 9:52pm.

The Confidential Meeting opened at 10:01pm in order to deal with item 11.1 - 70 Yarra Street, Heidelberg – Alternative Outcome for Mixed Use Development and closed at 10:05pm. The meeting did not re-open to the public.

Council resolved to not to release any of the information within the confidential report 11.1, including the resolution to the public until such time as detailed in the resolution, or only to those affected directly by, and as stated in, the resolution.


The information within the resolution, at the date of the Council resolution being made, relates to 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 if released.

Cr Peter Dimarelos and Cr Fiona Mitsinikos were not present when this item was discussed as they were apologies for this part of the meeting.

The next Ordinary Meeting of Council will be held on Monday, 26 June 2023

Minutes Confirmed: 26th Day of June 2023

Signed by: Cr Peter Castaldo

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