

Minutes of the Ordinary Meeting of Council



Held on the 8 May 2023

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

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MINUTES

The Meeting opened at 7:00pm

Acknowledgement of the Traditional Custodians

The Mayor read an acknowledgement of the traditional custodians, the Wurundjeri Woiwurrung 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 Alison Champion, Cr Mark Di Pasquale, Cr Tom Melican, Cr Fiona Mitsinikos

Allison Beckwith – Chief Executive Officer, Darren Bennett – Director Assets & City Services, Kath Brackett – Director Community Wellbeing, Natasha Swan – Director City Development, Marc Giglio – Director Corporate Services, Krysten Forte – Governance Coordinator, Linda Chapple - Governance & Council Business Specialist, Duncan Stephen – Jets Facility & Technical Officer, Dandy Tyler – Jets Youth Programs Officer, Sukhpreet Sidhu - Technical Analyst

Apologies

Cr Rick Garotti

Cr Peter Dimarelos (Council granted Leave of Absence)

Leave of Absence

Nil

Confirmation of Minutes

That the following Minutes be confirmed:

Ordinary Meeting of Council held 17 April 2023

Moved: Cr Tom Melican

Seconded: Cr Alida McKern

CARRIED

Disclosure of Interests

Nil

Presentation

Nil

2. PETITIONS

2.1 REQUEST TO HAVE TRAFFIC MEASURES TO BE PUT INTO PLACE ALONG GLOUCESTER DRIVE, HEIDELBERG

Gary Ross addressed Council in person and spoke FOR the recommendation.
Richard Webb addressed Council in person and spoke AGAINST the recommendation.
Jonathan Buttery addresses Council in person and spoke FOR the recommendation.
Mark Gualano addressed Council in person and spoke AGAINST the recommendation.
A written statement was read out on behalf of Chris and was FOR the recommendation.
Marie Spangher spoke on behalf of Berkeley Ave and was AGAINST the recommendation.

SUMMARY

1. A petition titled "Request to Have Traffic Measures to be put Into Place Along Gloucester Drive, Heidelberg" has been received with 100 signatories in support. The petition is dated 23 March 2023.
2. Of the 100 signatories, ninety-six (96) are from Heidelberg, two (2) from Rosanna and two (2) from Greensborough.
3. An additional eight (8) signatures were received on 26 April 2023.
4. Of the eight (8) signatures, one (1) was received from Viewbank, three (3) from Rosanna and four (4) from Heidelberg.
5. The total of signatures in support of this petition is 108.
6. The petition is summarised as follows:

"We, the undersigned, petition Banyule City Council to:

- *uphold the principle that proposed traffic solutions be based on traffic engineer's advice, noting that safety is a considered component of that advice.*
- *reverse its 6/2/2023 decision to not proceed with the permanent closure of Bristol Street at its intersection with Berkeley Avenue. That is, to make this closure **permanent**.*
- *urgently revise the proposal for managing traffic in Gloucester Drive, should Council proceed with its decision to re-open Bristol Street. Without justification, the proposal includes fewer speed humps than the adjacent Berkeley Avenue.*
- *explain the Council's legal liability for any injuries related to re-opening Bristol Street without adequate safety measures in place."*

Resolution (CO2023/68)

That Council:

1. Receives and notes the petition.
2. Refer the matters that are raised in the petition to Council's Transport Department for consideration and response.
3. Advise the primary petitioner of this resolution.

Moved: Cr Fiona Mitsinikos
Seconded: Cr Alison Champion

CARRIED

3. OUR TRUSTED AND RESPONSIVE LEADERSHIP

3.1 BANYULE CITY COUNCIL POSITION ON MAV STATE COUNCIL MOTIONS

SUMMARY

1. The Municipal Association of Victoria (MAV) is the statutory peak body for local government in Victoria and should take a lead role in advocating to the State Government on a variety of issues of concern to local governments in Victoria.
2. The State Council is MAV's governing body and is made up of representation from each member council.
3. Cr Tom Melican was appointed Council's Councillor representative/delegate at the 7 November 2022 Statutory Council Meeting and attends the MAV State Council Meetings with support from Officers.
4. Members can submit business to be considered at the relevant State Council Meeting in accordance with MAV's Strategy 2021-2025.
5. All motions were required submitted to the MAV 60 days prior to the meeting.
6. At the Council Meeting on the 27 February 2023 Council endorsed to submit 7 motions to be submitted to the MAV in accordance with the MAV's Strategic Direction 2021-2025 found at **Attachment 1**. All of these motions that were accepted are in the Business Papers.
7. The MAV released the Business Papers for the 19 May 2023 State Council Meeting on Wednesday 19 April 2023 for councils to consider.
8. The MAV State Council Business Papers <https://www.mav.asn.au/who-we-are/governance/state-council> encompasses 98 motions from across the sector and includes 7 consolidated motions.
9. Council's approach to the MAV State Council Meeting is that the Councillor MAV representative/ delegate attends the MAV State Council Meeting and votes on each of the motions presented in the Business Papers in accordance with Council's endorsed position, on behalf of their Council.
10. **Attachment 2** provides for Council's officer recommended position on each Motion for Council to consider in preparation for Cr Melican to extend the vote for Banyule City Council.
11. Out of the 98 motions, officers recommend that Council support 86 of those motions.
12. Out of the 98 motions, the officer recommendation and suggested Council position is that Council do not support 12 of the motions.
13. The purpose of this report is for Council to consider the motions and provide Council's position on each, in preparation for the MAV State Council Meeting scheduled for Friday 19 May 2023.

Resolution (CO2023/69)

That Council:

1. Endorse the proposed Council position on each of the 98 motions and 7 consolidated motions as presented in the MAV State Council Meeting Business Papers for the MAV State Council Meeting scheduled for Friday 19 May 2023 as found at **Attachment 2**, with amendments to the following motions that Council has determined to not support:

Motion #	Motion Topic	Council Position
C3	Reducing Harm from Electronic Gaming Machines	Support
30	Reducing Harm from Electronic Gaming Machines (C3)	Support
31	Reducing Harm from Electronic Gaming Machines in Victoria (C3)	Support

2. Whilst Council does not support Motion 62 in its entirety, approve for the Mayor to write to the Minister for Local Government in relation to continued support for the construction of a new website and reporting platform that replaces and enhances the Know Your Council website.

Moved: Cr Tom Melican
 Seconded: Cr Alida McKern

CARRIED

3.2 BANYULE CEMETERIES TRUST - OPERATIONS REPORT

SUMMARY

1. At its meeting of the 5 December 2022, Banyule Cemeteries Trust resolved as follows:

“That the Banyule Cemeteries Trust:

 1. *Cease holding separate Cemetery Trust meetings.*
 2. *Establish a new custom and practice where Officers present individual reports on the Cemetery Trust maintenance and performance to the Banyule City Council at an Ordinary Council meetings.*
 3. *The frequency of reporting to an Ordinary Meeting of Council on Cemetery Trust matters would be in accordance with the Manual for Victorian Class B Cemetery Trusts of a minimum of four (4) times per annum.*
 4. *Commence this change in the calendar year commencing January 2023.”*
2. The Operations Report provides an update on the operations of the cemeteries relating to burials and interments of cremated remains and any other issues, such as, grant applications, storm damage, irregular maintenance issues, etc., that may arise and require reporting.
3. The number of burials and ashes interments for the nine (9) months from 1 July 2022 to the 31 March 2023 has increased over the previous 2 years.
4. During the current financial year burials account for 47% of business (67% in 2021/22) and ashes purchases and interments 53% of business (33% in 2021/22).
5. This trend confirms that the interment of cremated remains has continued to improve with the easing of COVID-19 restrictions
6. The Banyule Cemeteries Trust Operations Report is now presented to the Banyule City Council for endorsement.

Resolution (CO2023/70)

That Council:

1. Endorse the Banyule Cemeteries Trust Operations Report; and
2. Notes the Operational Report details, including:
 - The number of burials and ashes interments for the first nine (9) months of this financial year has increased over the previous 2 years,
 - The interment of cremated remains (ashes) has continued to improve with the easing of COVID-19 restrictions.

Moved: Cr Alida McKern

Seconded: Cr Mark Di Pasquale

CARRIED

3.3 BANYULE CEMETERIES TRUST - FINANCIAL STATEMENT**SUMMARY**

1. At the Banyule Cemeteries Trust meeting of the 5 December 2022, Council resolved:
“That the Banyule Cemeteries Trust:
 1. *Cease holding separate Cemetery Trust meetings.*
 2. *Establish a new custom and practice where Officers present individual reports on the Cemetery Trust maintenance and performance to the Banyule City Council at an Ordinary Council meeting.*
 3. *The frequency of reporting to an Ordinary Meeting of Council on Cemetery Trust matters would be in accordance with the Manual for Victorian Class B Cemetery Trusts of a minimum of four (4) times per annum.*
 4. *Commence this change in the calendar year commencing January 2023.”*
2. As such, Council have now incorporated the Trust reports into Council's Ordinary Council Meeting.
3. The Financial Statement provides a quarterly update on the financial results of the cemeteries.
4. This report provides a financial update for the nine (9) months from 1 July 2022 to 31 March 2023.
5. The overall Operating Loss for the first nine (9) months is \$13,082.
6. The Trust had budgeted for an Operating Loss for the first nine (9) months of \$74,106.
7. The variance is \$61,024 or 82.35% better than budgeted.
8. The basis for the good result is primarily due to the sale of a grave in the first quarter of the financial year and the higher than budgeted interest on investments return.
9. The Banyule Cemeteries Trust Financial Statement is now presented to the Banyule City Council meeting for review and endorsement.

Resolution (CO2023/71)

That Council:

1. Endorse the Banyule Cemeteries Trust Financial Statement for the six (6) months from 1 July 2022 to 31 December 2022; and
2. Notes that the Financial Statement indicates that:
 - The overall Operating Loss for the first nine (9) months is \$13,082,
 - The variance is \$61,024 or 82.35% better than budgeted,
 - The results detailed are due to the sale of a grave in the first quarter of the financial year and the higher than budgeted interest on investments return.

Moved: Cr Elizabeth Nealy

Seconded: Cr Mark Di Pasquale

CARRIED

3.4 BANYULE CEMETERIES TRUST - FEES 2023-2024**SUMMARY**

1. At its meeting of the 5 December 2022, Banyule Cemeteries Trust resolved as follows:
“That the Banyule Cemeteries Trust:
 1. *Cease holding separate Cemetery Trust meetings.*
 2. *Establish a new custom and practice where Officers present individual reports on the Cemetery Trust maintenance and performance to the Banyule City Council at an Ordinary Council meetings.*
 3. *The frequency of reporting to an Ordinary Meeting of Council on Cemetery Trust matters would be in accordance with the Manual for Victorian Class B Cemetery Trusts of a minimum of four (4) times per annum.*
 4. *Commence this change in the calendar year commencing January 2023.”*
2. The Department of Health has advised that the automatic increase in cemetery trust fees for the 2023/24 year will be CPI of 8.0%.
3. The CPI increase of 8.0% will be automatically applied to all the Trust fees above \$50 if the Department of Health does not receive a response from the Trust by the 9 June 2023.
4. A “Search of Records” fee has been incorporated into the current fee schedule. This fee would be required to be paid if a community member requested Officers to undertake a search for cemetery records and is a new fee that Council would charge.
5. Over the past 8 financial years, Banyule Cemeteries Trust has increased cemetery fees by a total of 43.18%.
6. Banyule Cemeteries Trust applied for a fee increase over and above the CPI in the last financial year 2022/23. This increase was 2.5% on top of the 2.5% CPI increase for the 2022/23 financial year.
7. Officers believe that it would be unlikely that the Department of Health would approve an application for a fee increase, on all products, over and above CPI due to the current economic climate.
8. The Banyule Cemeteries Trust Fees 2023-2024 Report is now presented to the Banyule City Council for adoption.

Resolution (CO2023/72)

That Council:

1. Adopt the fees recommended by the Department of Health and as reported in the Banyule Cemeteries Trust – Fees 2023-2024 report.
2. Notes the Fees 2023-2024 details, including:
 - The fees will increase by a CPI of 8.0% as from the 1 July 2023,
 - A “Search of Records” fee has been incorporated into the current fee schedule.

Moved: Cr Elizabeth Nealy

Seconded: Cr Alison Champion

CARRIED

3.5 BANYULE CEMETERIES TRUST - OPERATIONS BUDGET 2023-2024 AND 10 YEAR BUDGET FORECAST**SUMMARY**

1. At its meeting of the 5 December 2022, Banyule Cemeteries Trust resolved as follows:

“That the Banyule Cemeteries Trust:

- 1. Cease holding separate Cemetery Trust meetings.*
- 2. Establish a new custom and practice where Officers present individual reports on the Cemetery Trust maintenance and performance to the Banyule City Council at an Ordinary Council meetings.*
- 3. The frequency of reporting to an Ordinary Meeting of Council on Cemetery Trust matters would be in accordance with the Manual for Victorian Class B Cemetery Trusts of a minimum of four (4) times per annum.*
- 4. Commence this change in the calendar year commencing January 2023.”*
2. The Banyule Cemeteries Trust Operations Budget 2023-2024 and 10 Year Budget Forecast has been developed based on the recommended CPI fee increase of the Department of Health of 8.0%.
3. The largest costs to the budget and forward estimates are salaries and Banyule City Council corporate overhead.
4. The CPI increase of 8.0% will be automatically applied to all the Trust fees if the Department of Health does not receive a response from the Trust by the 9 June 2023.
5. The Budget provides \$15,000 towards a new cemetery database and mapping system and an additional 0.4EFT from January 2024 to support the database and mapping system upgrade.
6. The Banyule Cemeteries Trust Operations Budget 2023-2024 and 10 Year Budget Forecast must be considered in conjunction with the Fees 2023-2024 report.
7. The Banyule Cemeteries Trust Operations Budget 2023-2024 and 10 Year Budget Forecast Report is now presented to the Banyule City Council for adoption.

Resolution (CO2023/73)

That Council:

1. Adopt the Banyule Cemeteries Trust Operations Budget 2023-2024;
2. Approve the recommendation indexation of Trust fees over \$50 of 8.0% from 1 July 2023;
3. Note the 10 Year Budget Forecast; and
4. Receive a report when the next quarterly financial update is provided on initiatives to optimise the financial performance of the Trust.

Moved: Cr Mark Di Pasquale
 Seconded: Cr Alida McKern

CARRIED

3.6 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	Date of Meeting:	17 April 2023, 5:33pm
	Type of Meeting:	Pre-Brief
	Matters Considered:	
	<ul style="list-style-type: none"> • 3.1 Awarding of Contract - MAV ES8111 - ICT Professional & Leasing Services • 3.2 Award of Contract No. 1244-2022 Implementation of Microsoft Azure Middleware platform. • 3.3 Awarding of Contract No: 1234-2022 Provision of a Panel for Coaching, Facilitation, Capability and Compliance • 3.4 Councillor Professional Development Opportunities • 3.5 Record of Councillor Meetings • 4.1 Minutes from the Audit & Risk Committee Meeting held 24 March 2023 • 4.2 Advisory and Population Committees Report - February - March 2023 • 4.3 Development of an Aboriginal Action Plan • 4.4 Community Consultation - Feedback recommendations for Council consideration on Budget 2023-27 and Council Plan 2021-2025 Year 3 actions 	

	<ul style="list-style-type: none"> • 6.1 Hurstbridge Rail Feasibility Study - Implementation Plan • 6.2 Proposed Amendment C172 to the Banyule Planning Scheme (Implementation of the Heidelberg Major Activity Centre Structure Plan) • 6.3 North East Link - Central Package - Urban Design and Landscape Plan - Minister Endorsement • 6.4 Abandonment of Planning Scheme Amendment C107 - Treetop Adventure Park in Yarra Flats • 8.1 Notice of Intention to Declare a Special Rate and Charge - Ivanhoe Shopping Centre • 8.2 Notice of Intention to Declare a Special Charge - East Ivanhoe Village • 9.1 Public health concerns – The regulations concerning the retail of e-cigarettes and vapes and Council's advocacy options 		
	<p>Councillors Present:</p> <p>Mayor Cr Peter Castaldo Deputy Mayor Cr Alida McKern Cr Alison Champion – arrived 5:37pm Cr Peter Dimarelos Cr Mark Di Pasquale Cr Rick Garotti – stepped out at 6.01pm, returned 6.02pm Cr Tom Melican 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> Jonathan Risby - <i>Manager Transport & Environment</i> Linda Chapple - <i>Governance & Council Business Specialist</i></p>		
	<p>Others Present: Nil</p>		
	<table border="1" style="width: 100%;"> <tr> <td style="width: 35%;">Conflict of Interest:</td> <td>Nil</td> </tr> </table>	Conflict of Interest:	Nil
Conflict of Interest:	Nil		

2	Date of Meeting:	17 April 2023, 10:09pm
	Type of Meeting:	Briefing after Confidential Meeting
	Matters Considered:	
	<ul style="list-style-type: none"> • Strategic Property Opportunity 	
	Councillors Present:	
	Mayor Cr Peter Castaldo Deputy Mayor Cr Alida McKern Cr Peter Dimarelos Cr Mark Di Pasquale Cr Rick Garotti Cr Tom Melican Cr Elizabeth Nealy	
	Staff Present:	

Allison Beckwith - <i>Chief Executive Officer</i> Marc Giglio – <i>Director Corporate Services</i> Natasha Swan – <i>Director City Development</i> Krysten Forte – <i>Governance Coordinator</i> Linda Chapple - <i>Governance & Council Business Specialist</i>	
Others Present: Nil	
Conflict of Interest:	Yes – Cr Alison Champion – declared a material conflict and was not present for the briefing

3	Date of Meeting:	24 April 2023, 6:33pm
	Type of Meeting:	Councillor Briefing
	Matters Considered:	
	<ul style="list-style-type: none"> • Budget 2023-2027 Status update • Corporate Memberships and Affiliations • Loan Funding for Rosanna Library Project • Update on Malahang Reserve Bike Hut Expansion Feasibility • Climate Action Strategy Update and Roadmap • Windfall Gains Tax – Advocacy Update (All wards) 	
	Councillors Present:	
	Mayor Cr Peter Castaldo - left 9.04pm returned 9.07pm Deputy Mayor Cr Alida McKern - left 9.04pm returned 9.07pm Cr Alison Champion - left 7.50pm returned 7.54pm, left 9.05pm returned 9.09pm Cr Mark Di Pasquale - left 9.06pm returned 9.09pm Cr Rick Garotti - left 9.06pm returned 9.09pm Cr Tom Melican – left 9.02pm returned 9.09pm Cr. Mitsinikos – left 9.02pm returned 9.08pm Cr Elizabeth Nealy - left 7.03pm returned 7.06pm and 9.05pm returned 9.09pm	
	Staff Present:	
Allison Beckwith - <i>Chief Executive Officer</i> Marc Giglio – <i>Director Corporate Services</i> Natasha Swan – <i>Director City Development</i> Darren Bennett – <i>Director Assets & City Services</i> Kath Brackett – <i>Director Community Wellbeing</i> Linda Chapple - <i>Governance & Council Business Specialist</i>		
Others Present: Nil		
Conflict of Interest:	Nil	

Resolution (CO2023/74)

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

Moved: Cr Elizabeth Nealy

Seconded: Cr Alison Champion

CARRIED

4. OUR INCLUSIVE AND CONNECTED COMMUNITY

Nil

5. OUR SUSTAINABLE ENVIRONMENT**5.1 BANYULE ENVIRONMENT AND CLIMATE ACTION ADVISORY COMMITTEE RECOMMENDATION - ICLEI MEMBERSHIP**

Michelle Giovas from Friends of Banyule addressed Council in person and spoke AGAINST the recommendation.

SUMMARY

1. The Banyule Environment and Climate Action Advisory Committee (BECAAC) has recommended to Council that it pursue membership of International Council for Local Environmental Initiatives (ICLEI) - *Local Government for Sustainability Oceania* for a trial year in 2023/24.
2. Council noted the recommendation at its meeting on 17 April 2023 and also noted that a report would be brought to Council as the recommendation has a resource implication as there is no current funding for a membership.
3. The purpose of this report is to consider the recommendation of BECAAC. Council officer advice is also provided regarding the proposed membership.
4. International Council for Local Environmental Initiatives (ICLEI) Oceania supports local governments across Australia, New Zealand, and the Pacific to accelerate sustainable urban development and climate action.
5. It is noted that many of the opportunities provided by International Council for Local Environmental Initiatives (ICLEI) are accessible by Council currently in the absence of membership.

Resolution (CO2023/75)

That Council:

1. Apply for membership to the ICLEI - Local Government for Sustainability Oceania for a 12-month trial period.
2. Allocate funding for the membership fee of \$3510 in the 2023/2024 budget.
3. Appoint Cr Alida McKern as the Councillor delegate for ICLEI - Local Government for Sustainability Oceania.
4. Receive a report on the 12-month trial evaluating the membership.
5. Provide feedback to Banyule Environment and Climate Action Advisory Committee (BECAAC) on Council's decision.

Moved: Cr Alida McKern

Seconded: Cr Tom Melican

CARRIED

Cr Mark Di Pasquale called for Division after the motion was carried

FOR: Cr Tom Melican, Cr Peter Castaldo, Cr Elizabeth Nealy, Cr Alida McKern

AGAINST: Cr Mark Di Pasquale, Cr Alison Champion, Cr Fiona Mitsinikos

CARRIED

6. OUR WELL-BUILT CITY

6.1 50 CHAPMAN STREET, MACLEOD - NEW MACLEOD PARK PAVILION (P1238/2022)

SUMMARY

1. The application seeks approval for the demolition of the existing Macleod Park sports pavilion which is within the Heritage Overlay and construction of a new double storey sports pavilion in the same location.
2. The proposal includes the removal of two council owned trees located within the reserve.
3. The proposal does not require planning permission under the zoning of the land in accordance with Clause 52.31 - Local Government Projects. As such, the assessment of this application is limited to the provisions of the Heritage Overlay.
4. The application was also exempt from public notification under the provisions of this same clause.
5. It is considered that the proposed works involved in the demolition of the existing pavilion and construction of a new double storey pavilion and associated vegetation removal are appropriate in the context of the Planning Policy Framework and the objectives of the Heritage Overlay.
6. The proposed upgrade of the sports pavilion will provide a community benefit as it will ensure that the local sporting clubs and associations who use the facility will be provided with new female friendly change facilities and improved umpire facilities, social rooms, and public amenities.
7. The proposed development incorporates several initiatives to ensure a sustainable development is achieved in line with Council's commitments and advocacy for environmental sustainability.
8. The upgraded facilities support Council's Recreation Plan 2017-2021 by providing improved recreation opportunities for people to be "physically active, socially connected and healthy as possible".
9. It is considered that the proposed should be supported.

Resolution (CO2023/76)

That Council having complied with Section 52, 58, 60, 61 and 62 of the *Planning and Environment Act 1987*, resolves to issue a **Planning Permit** in respect of Application No. P1238/2022 for Demolition of the existing Macleod Park Pavilion and Development of a new Pavilion, and tree removal in the Heritage Overlay (HO158) 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 with the application but modified to show:
 - (a) The results of Non-Invasive Root Investigation in accordance with Condition 9 of this permit or written consent from relevant railway authority agreeing to the removal of trees #4-9;
 - (b) Amendments to the design and/or layout of the development in accordance with the recommendations of the Non-Invasive Root Investigation, as necessary. Compliance with this condition is only required if consent to remove the trees is not obtained;
 - (c) The retention of trees #4-9 unless consent to remove the trees is obtained;
 - (d) An Amended Landscape Plan in accordance with Condition 3 of this permit;
 - (e) A Tree Protection and Management Plan in accordance with Condition 10 of this permit;
 - (f) Tree Preservation Fencing in accordance with Condition 11 of this permit.

Layout Not to Be Altered

2. The 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 development permitted by this permit commences, an amended Landscape Plan must be submitted to and approved by the Responsible Authority. The plan must be prepared by a suitably qualified landscape architect. The plan must be generally in accordance with the Landscape Plan prepared by **Avor Architecture Pty Ltd** received on **10 February 2023** but modified to include:
 - (a) 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) The proposed *Kunzea leptospermoides* substituted for *Callistemon* 'Kings Park' or similar to the satisfaction of the Responsible Authority;
 - (d) *Acacia implexa* or similar be planted within each garden bed to the satisfaction of the Responsible Authority;

- (e) The proposed Poa Labillardieri substituted for Lomandra longifolia 'Tanika' and Dianella Revoluta or similar to the satisfaction of the Responsible Authority;
- (f) Correa reflexa and Correa 'Dusky Bells' or similar to be substituted into the planting scheme to the satisfaction of the Responsible Authority;
- (g) An indigenous and/or drought tolerant planting theme;
- (h) 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;
- (i) Tree species and planting locations must be carefully selected to avoid canopy or root conflicts with overhead wires, easements and existing trees;
- (j) Location and details of paving, steps, retaining walls, water tanks, fence design details and other landscape works including cut and fill as applicable;
- (k) Location of the telecommunication tower and this must be included in the legend;

Urban Design

- 4. 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.
- 5. Outdoor lighting must be provided, designed, baffled and located to the satisfaction of the Responsible Authority such that no direct light is emitted outside the boundaries of the subject land.
- 6. Unless otherwise agreed in writing by the Responsible Authority, all telecommunications and power connections (where by means of a cable) and associated infrastructure to the land must be underground to the satisfaction of the Responsible Authority.

Non-Invasive Root Investigation

- 7. Before the development permitted by this permit commences, a Non-Invasive Root Investigation is to be undertaken and must be submitted to and approved by the Responsible Authority. The Non-Invasive Root Investigation must be conducted by a suitably qualified arborist and must:
 - (a) Identify the size and number of roots of Trees #4-9, to the depth of the planned works.
 - (b) Once works are completed, an Arboricultural report will need to be submitted to Council providing the results of the investigation. The report will need to include

advice and recommendations which demonstrate how the tree will remain viable if works were to go ahead under the current plans, to the satisfaction of the Responsible Authority.

Tree Protection & Management Plan

8. Before the development permitted by this permit commences, a Tree Protection & Management Plan (TPMP) must be submitted to and approved by the Responsible Authority. The TPMP must be prepared by a suitably qualified arborist, including:
- (a) The management and maintenance of the Trees #1, #4, #5, #6, #7, #8, #9 and #10 during the demolition, construction and post construction phases of the development;
 - (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 **Tim Chatfield** and dated **6 January 2023**;
 - (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 the 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;
- (m) 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.

Tree Protection Zone

9. 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, #4, #5, #6, #7, #8, #9 and #10 to the satisfaction of the Responsible Authority:

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

Tree protection zone measures are to be established in accordance to Australian Standard 4970-2009 as calculated within the arborist report submitted with the application authored by **Tim Chatfield** and dated **6 January 2023** or as follows:

- (a) Tree protection zone distances:
 - i. Tree #1- 6.6 metre radius from the centre of the tree base;
 - ii. Tree #4- 2.4 metre radius from the centre of the tree base;
 - iii. Tree #5- 3.6 metre radius from the centre of the tree base;
 - iv. Tree #6- 2 metre radius from the centre of the tree base;
 - v. Tree #7- 2 metre radius from the centre of the tree base;
 - vi. Tree #8- 7.8 metre radius from the centre of the tree base;
 - vii. Tree #9- 3.48 metre radius from the centre of the tree base;
 - viii. Tree #10- 8.88 metre radius from the centre of the tree base.
- (b) Tree protection zone measures are to be established in accordance to Australian Standard 4970-2009 and including the following:
 - i. Erection of solid chain mesh or similar type fencing at a minimum height of 1.8 metres held in place with concrete feet;

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- 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
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- 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;

No Damage to Vegetation

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

Vegetation Retention

11. 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.

Drainage General

12. The whole of the subject land, including landscaped and paved areas, must be graded and drained to the satisfaction of the Responsible Authority so as to prevent the discharge of stormwater from the subject land across any road or footpath or onto adjoining land.

Approved Drainage Outlet

13. Stormwater must not be discharged from the subject land other than by means of an underground pipe drain to a Council nominated point of discharge. The drainage system within the subject land must be designed to the requirements and satisfaction of the relevant Building Surveyor.
 - (a) Any connection to Council's drainage system:
 - (i) Within the road reserve must be carried out under a Memorandum of Consent for Works;
 - (ii) Other than within a road reserve must be carried out under a Drainage Connection Permit.
 - (b) This is to be carried out under Council supervision and to the satisfaction of the Responsible Authority.

Car Park

14. 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.

Expiry of permit

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

Moved: Cr Tom Melican

Seconded: Cr Elizabeth Nealy

CARRIED

7. OUR VALUED COMMUNITY ASSETS AND FACILITIES**7.1 19A STEWART TERRACE, MACLEOD - PROPOSED SALE OF LAND****SUMMARY**

1. Council owns the parcel of land known as 19A Stewart Terrace, Macleod highlighted in Figure 1 ('the Land'). The Land is currently occupied by the owners of 19 Stewart Terrace, Macleod.
2. The Land described as Lot C on TP7887A and contained on Certificate of Title Volume 11159 Folio 144 is situated at the rear of 19 Stewart Terrace, Macleod.
3. It is proposed to sell the Land to the owners of 19 Stewart Terrace, Macleod by private treaty.
4. Council has undertaken statutory procedures pursuant to sections 55 and 114 of the *Local Government Act 2020* ('the Act') giving notice of its intention to sell the Land by private treaty.
5. There were no public submissions received.
6. Council has completed statutory procedures under section 114 of the *Local Government Act 2020* ('the Act') regarding the proposal and can now decide whether or not to sell the Land.
7. The owners of 19 Stewart Terrace, Macleod have agreed to purchase the Land at valuation.

Resolution (CO2023/77)

That Council:

1. Having not received any written submissions to the proposal, resolves to sell the Council Land known as 19A Stewart Terrace, Macleod described as Lot C on TP7887A and contained on Certificate of Title Volume 11159 Folio 144 to the owners of 19

Stewart Terrace, Macleod by private treaty, in accordance with sections 114 and 55 of the *Local Government Act 2020*.

2. Authorises the Chief Executive Officer or their delegate to execute all associated documents to affect the transfer of the Land.

Moved: Cr Tom Melican

Seconded: Cr Alison Champion

CARRIED

8. OUR THRIVING LOCAL ECONOMY

Nil

9. NOTICES OF MOTION

Nil

10. GENERAL BUSINESS

Community Meeting Thursday 11 May 2023 at Ivanhoe Library

Cr McKern invited fellow residents to attend the upcoming community meeting which will be this Thursday at 6:15pm. Cr McKern advised that this will be a great opportunity for residents to potentially have their Council related questions and concerns answered. Tea and coffee will be provided on the night.

Darebin Parklands Association

Cr McKern acknowledged the history of the Darebin Parklands Association which was innovated by the Rockbear Park Conservation in 1973. A campaign was created and went all the way to the state premier (at the time) Mr Dick Hamer to secure funding to support the future of 34 hectares of Bushland.

Cr McKern also shared that on Sunday 30 April 2023 attended the 50th anniversary celebrating 50 years of Darebin Parklands Association. Cr McKern highlighted the book written by Sarah Mirrums which is a history of the campaigns and the parklands.

Thomas Mayo Uluru Statement From the Heart

On Thursday 4 May 2023 Cr Nealy attended the discussion for Uluru Statement from the Heart presented by Kaurareg Aboriginal and Kalkagal, Erubamle Torres Strait Islander Thomas Mayo and Shelley Ware a proud Yankunytjatjara and Wirangu woman.

Condolence Motion – Vale Balin Menzies

The Mayor, Cr Castaldo read out a condolence motion regarding the tragic passing of Balin Menzies.

The following is an exact copy of the condolence statement:

“I would like to take a moment to acknowledge the tragic passing of Balin Menzies.

Balin was in Year 10 at Greensborough College and was a beloved member of the Banyule community.

Amongst a host of other things he enjoyed such as basketball, he was also an active participant in Banyule Youth Services ‘New Hope’ program, where he volunteered his time to create community murals alongside his peers.

Balin's engaging personality, humour, dedication to his art and commitment to giving back to his community were admirable traits that will be remembered by all who knew him. His artistic contributions to Malahang Reserve Bike Hut, the Greensborough skate park, Jets Studios, and BANSIC Foodhub are a testament to his talent and passion for using art as a means of connecting with others.

On behalf of the Banyule Council, we extend our deepest sympathies to the Menzies family and Balin's loved ones during this difficult time. We know that his passing is a great loss to the community and we join you in mourning. May Balin's memory live on through his art and the positive impact he had on the lives of those who knew him".

PUBLIC QUESTION TIME

1. Name & Suburb

David Maurice Gentle,
Representative of Banyule Residents for Integrity and Democracy in Government.
Ivanhoe East

Question:

My question to Council is: Why did Cr Castaldo not support Cr McKern's motion (MOTION 2) to defer the decision to approve Treetops until the Wurundjeri had been sufficiently consulted?

Response:

In line with their democratic right, Councillors can vote any which way that they choose on any items presented to Council in accordance with the Governance Rules. It is acknowledged that Mr. Gentle has asked this question of Cr Castaldo and Cr Castaldo has previously provided a response detailing the rationale to his vote.

For further information on how each Councillor voted on this item, Mr. Gentle is encouraged to review the meeting from the 4 October 2021 which can be reviewed 34m 49.sec and 18m.08sec timestamps mark on the livestream. The live stream link will be included in the meeting minutes for reference and ease.

<https://www.banyule.vic.gov.au/News-items/Council-meeting-live-stream-4-October-2021>

Krysten Forte – Governance Coordinator

2. Name & Suburb

Anonymous

Question:

From late 2019 through to April 2023 Banyule City Council spent tens, or more likely hundreds of thousands of dollars of ratepayers' funds on its attempt to get Amendment C107 "Treetops" approved. These funds include costs of Council officers and of Maddox Lawyers for the panel hearing.

Meanwhile Council's Community Consultation process yielded 192 submissions against the Amendment and only 13 in favour.

Lastly, Banyule Council exists for the betterment of Banyule citizens.

Question: Why did Banyule Council pursue Amendment C107 "Treetops" so vigorously given the massive vote against the project as provided by the Community Consultation process?

Response:

The Amendment C107 underwent a standard statutory process, including public exhibition of the proposal and the Minister for Planning appointed an independent Planning Panel to consider unresolved submissions made during the exhibition period. After considering the subsequent Panel Report recommendations, Council made its decision to adopt C107 only on the condition that the support of the Wurundjeri was obtained by the Ecoline.

Council was also guided by ongoing discussions with Wurundjeri, who indicated they were open to meeting with the proponent in response to the Panel Report. As soon as the final position of the Wurundjeri was confirmed, Council resolved to abandon the Amendment.

Natasha Swan – Director of City Development

Closure of Meeting to the Public

That in accordance with Section 66(2)(a) of the *Local Government Act 2020*, That Council close the Meeting to members of the public prior to considering the confidential matters detailed at 11.1. Proposed Sale of Land - Heidelberg.

This item was designated as confidential pursuant to s 3(1)(g) of the *Local Government Act 2020* as the information within the report contains information relating to commercial information, being information provided by a business commercial or financial undertaking or related to trade secrets and if released prematurely, could have unreasonably exposed the business, commercial or financial undertaking to disadvantage.

Moved: Cr Fiona Mitsinikos

Seconded: Cr Elizabeth Nealy

CARRIED

Closure of Meeting

The Meeting was closed at 8:23pm.

The Confidential Council Meeting opened at 8:32pm in order to deal with item 11.1 - Proposed Sale of Land - Heidelberg and closed at 8:58pm. The meeting did not re-open to the public.

Council resolved to not 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.

The information within the resolution, at the date of the Council resolution being made, relates to commercial information would still unreasonably expose the business, commercial or financial undertaking to disadvantage if released.

Cr Rick Garotti and Cr Peter Dimarelos were not present when this item was discussed as they were apologies.

The next Ordinary Meeting of Council will be held on Monday, 29 May 2023