



# **Ordinary Meeting of Council**

**Tuesday, 26 May 2015 at 7.00pm**

**Agenda**

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# Ordinary Meeting of Council

Tuesday, 26 May 2015 at 7.00pm  
to be held at the Moonee Valley Civic Centre

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## TO:

**Members:** Cr Narelle Sharpe Mayor

Cr Cam Nation

Cr Jan Chantry

Cr Shirley Cornish

Cr Jim Cusack

Cr Paul Giuliano

Cr Nicole Marshall

Cr John Sipek

Cr Andrea Surace

**Officers:** Mr Neville Smith Chief Executive

Mr Tony Ball Director Community Services

Mr Henry Bezuidenhout Acting Director City Works & Development

Mr Carey Patterson Acting Director Corporate Services

Mr Anthony Smith Acting Director Environment & Lifestyle

Ms Yvonne Hansen Manager Governance & Local Laws

## Business:

### 1. Opening

### 2. Apologies

### 3. Confirmation of Minutes

Ordinary Meeting of Council held on Tuesday, 28 April 2015.

### 4. Declarations of Conflict of Interest

**5. Presentations**

- 5.1 Dick Reynolds Scholarship

**6. Petitions and Joint Letters**

**7. Public Question Time**

**8. Reports by Mayor and Councillors**

**File No.** FOL/12/1435

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That reports by the Mayor and Councillors be received.

**9. Reports**

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**NEVILLE SMITH**  
Chief Executive

## 8. REPORT BY MAYOR AND COUNCILLORS

### 8.1 Report by Mayor, Councillor Sharpe

12 April 2015	Attended public rally for “Enough is Enough”
13 April 2015	Chaired Councillor Budget Workshop
14 April 2015	Attended Victorian Major Projects Convention Chaired Councillor Briefing Session
15 April 2015	Attended Victorian Major Projects Convention Attended Clifton Park Advisory Group meeting
16 April 2015	Conducted Community Conversations at Ascot Vale Neighbourhood Centre  Attended briefing regarding Anzac Day event with Manager, Arts and Culture  Attended Municipal Association of Victoria (MAV) Mayors, MAV Representatives and Chief Executive Officer Forum and Dinner
17 April 2015	Attended on site meeting with resident regarding building issues  Attended meeting with resident regarding smart meters and telephone towers  Attended Flemington shopping strip for photo opportunity Attended official opening of St Andrews Anglican Kindergarten building
18 April 2015	Attended Boeing Reserve Community Day Attended information session at Five Mile Creek Reserve Officiated at Step Off event at Festival Hall
19 April 2015	Hosted Paddock to Plate event at Flemington Farmers Market  Participated in Keilor East RSL Commemorative service Attended ‘A tree for Gallipoli - Move the House’ event Officiated at Anzac Day Ecumenical Service and Ceremony at St Thomas’ Church, Moonee Ponds and afternoon tea in Queens Park
20 April 2015	Attended Audit Committee Meeting
21 April 2015	Conducted school presentation to Grade 5 at Essendon North Primary School  Chaired Councillor Workshop

22 April 2015	Chaired consultation briefing and meeting in relation to 33 Strelton Avenue, Strathmore Officiated at Citizenship Ceremony at Clocktower Centre
23 April 2015	Attended Victorian Local Government Association (VLGA) Rate Capping Forum Attended Anzac Day Commemoration Ceremony hosted by Flemington Primary School Attended VLGA Women Mayor's Event
24 April 2015	Attended portfolio meeting with Director Community Services Officiated at Light Up Crown Street Stables for Autism Awareness Officiated at Essendon Athletics presentation night at Windy Hill
25 April 2015	Officiated at Anzac Dawn Service at Keilor East RSL Attended Essendon Hockey Centre Anzac Day event
26 April 2015	Attended opening of new airline at Essendon Airport Attended Multicultural Harmony Festival hosted by Avondale Heights and East Keilor Residents Association Inc.
27 April 2015	Meeting with representatives from East Timor and Director Community Services Attended Probus Club of Essendon 25 <sup>th</sup> Anniversary Luncheon Attended Dean Street and Holmes Road, Moonee Ponds Local Area Traffic Management bus tour
28 April 2015	Attended Western Region Housing Forum at Newport hosted by Hobsons Bay City Council Media briefing with Chief Executive, Manager Communications & Corporate Planning and Leader journalist Chaired Ordinary Meeting of Council
29 April 2015	Attended Maribyrnong/Moonee Valley Community Cricket Club award nomination dinner
30 April 2015	Meeting with resident and Manager Governance & Local Laws regarding various issues
1 May 2015	Meeting with residents from Aberfeldie and Manager Building, Health & Property Services. Attended Young Achievers Awards Event at Docklands

3 May 2015	Attended Presentation Day and opening of new green at Maribyrnong Park Bowls Club
4 May 2015	Chaired Appointment of the Chief Executive Officer Special Committee Meeting
5 May 2015	Chaired Councillor Workshop

## **8.2 Report by Deputy Mayor, Councillor Nation**

8 April 2015 – 12 April 2015	Leave of absence from Council
13 April 2015	Attended Councillor Budget Workshop  Attended meeting with resident regarding visibility of planning application signage at Maribyrnong Road, Moonee Ponds
14 April 2015	Attended meeting with Cr Surace  Chaired Public Forum  Attended Councillor Briefing Session
15 April 2015	Attended planning application site visit with resident in Maribyrnong Road, Moonee Ponds
19 April 2015	Attended Anzac Day Ecumenical Service and Ceremony at St Thomas' Church, Moonee Ponds  Attended Anzac Day afternoon tea event in Queens Park, Moonee Ponds
21 April 2015	Attended Councillor Workshop
22 April 2015	Attended Citizenship Ceremony at Clocktower Centre  Attended meeting with resident regarding Buckley Street level crossing advocacy
23 April 2015	Attended Anzac Day Commemoration Ceremony hosted by Flemington Primary School  Chaired consultation briefing and meeting in relation to 13-15 Norwood Crescent, Moonee Ponds  Attended traffic issue site visit Epsom Road, Ascot Vale
24 April 2015	Attended planning application site visit in Mt Alexander Road, Ascot Vale  Attended planning application site visit, Waltham Street, Flemington  Attended planning application site visit, Holmes Road, Moonee Ponds  Attended planning application site visit,

	Hall Street, Moonee Ponds
25 April 2015	Attended Flemington/Kensington RSL Anzac Day Dawn Service at Flemington Cenotaph
	Attended East Keilor RSL Anzac Day Breakfast
26 April 2015	Attended resident complaint site visit in Pratt Street, Moonee Ponds
	Attended resident complaint site visit at Maribyrnong River Bridge, Ascot Vale
28 April 2015	Meeting with Cr Marshall, Cr Cusack, Manager Technical Services and Coordinator Transport regarding Myrnong Ward traffic and parking issues
	Attended Ordinary Meeting of Council
29 April 2015	Attended breakfast meeting with Cr Marshall, Cr Cusack and Union Road Traders Executive
	Attended meeting with Cr Marshall, Cr Cusack and Acting Director Environment & Lifestyle in relation to update on Racecourse Road/Pin Oak Crescent and Union Road projects
	Attended Dean Street, Moonee Ponds Local Area Traffic Management Meeting
30 April 2015	Attended Holmes Road, Moonee Ponds Local Area Traffic Management Meeting
4 May 2015	Attended appointment of the Chief Executive Officer Special Committee Meeting
5 May 2015	Attended Councillor Workshop

### **8.3 Report by Councillor Chantry**

10 April 2015	Officiated at Launch of 'Beg Borrow & Steal' Event at the Incinerator Gallery
13 April 2015	Meeting with resident of Strelton Avenue, Strathmore and Director City Works & Development
	Attended Councillor Budget Workshop
14 April 2015	Attended Public Forum and Councillor Briefing Session
19 April 2015	Attended Keilor East RSL Commemoration march and service
	Attended Anzac Day Ecumenical Service and Ceremony at St Thomas' Church, Moonee Ponds and afternoon tea in Queens Park
21 April 2015	Attended Councillor Workshop

22 April 2015	Attended Consultation briefing and meeting in relation to 33 Strelton Avenue, Strathmore
24 April 2015	Attended Theatre Performance “Take Five: The Dave Brubeck Story” at the Clocktower Centre
25 April 2015	Attended Anzac Dawn Service and Gunfire breakfast at Keilor East RSL  Attended Vietnamese Community in Australia – 40 <sup>th</sup> Anniversary Red Carpet Event
26 April 2015	Attended concert hosted by Essendon Symphony Orchestra
28 April 2015	Attended Arts and Culture Advisory – Expression of Interest meeting  Attended Ordinary Meeting of Council
3 May 2015	Attended on site meeting with resident in Strathmore
4 May 2015	Attended appointment of the Chief Executive Officer Special Committee Meeting
5 May 2015	Attended Councillor Workshop

#### **8.4 Report by Councillor Cornish**

8 April 2015 - 5 May 2015	Verbal Report
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#### **8.5 Report by Councillor Cusack**

10 April 2015	Attended Launch of “Beg Borrow & Steal” Event at the Incinerator Gallery
11 April 2015	Attended Taste of Union Road Event  Attended SMITH Theatre Production, Avondale Heights  Attended Youth Week 2015 – Live Music
13 April 2015	Attended Councillor Budget Workshop
14 April 2015	Attended Community Engagement and Learning Portfolio Meeting with Manager Communications  Attended Public Forum and Councillor Briefing Session
15 April 2015	Attended LeadWest Board Meeting  Attended Section 223 Submission Hearing for 1 and 3 Normanby Road and 142 Maribyrnong Road, Ascot Vale
16 April 2015	Attended site inspection with residents in relation to 61 Buckley Street, Moonee Ponds

19 April 2015	Attended Council's Paddock to Plate event at Flemington Farmers Market  Attended Keilor East RSL Commemorative March and Service  Attended Anzac Day Ecumenical Service and Ceremony at St Thomas' Church, Moonee Ponds and afternoon tea in Queens Park
20 April 2015	Attended committee meeting at Wingate Avenue Community Centre
21 April 2015	Attended meeting with Director Community Services regarding East Timor-Leste  Attended Councillor Workshop
24 April 2015	Attended Light Up Crown Street Stables for Autism Awareness
25 April 2015	Attended Anzac Dawn Service at Flemington/Kensington RSL
26 April 2015	Attended concert hosted by Essendon Symphony Orchestra
27 April 2015	Attended Liquica District Partnership Working Group Meeting
28 April 2015	Attended Meeting with fellow ward Councillors and Manager Technical Services regarding Flemington Hill and other ward issues  Attended Ordinary Meeting of Council
29 April 2015	Attended breakfast meeting with Union Road Traders  Attended Men's Health Awareness Forum  Attended Dean Street Local Area Traffic Management Meeting
30 April 2015	Attended Holmes Road Local Area Traffic Management Meeting
1 May 2015	Attended VicSuper Meeting in Collins Street, Melbourne
4 May 2015	Attended appointment of the Chief Executive Officer Special Committee Meeting
5 May 2015	Attended Councillor Workshop

## **8.6 Report by Councillor Giuliano**

8 April – 5 May 2015     Verbal Report

**8.7 Report by Councillor Marshall**

11 April 2015	Attended Taste of Union Road Event
13 April 2015	Attended Councillor Budget Workshop
14 April 2015	Chaired Early Years Reference Group Meeting Attended Public Forum and Councillor Briefing Session
15 April 2015	Attended Section 223 Submission Hearing for 1 and 3 Normanby Road and 142 Maribyrnong Road, Ascot Vale
16 April 2015	Attended Strategic Planning Advisory Committee Meeting
19 April 2015	Attended Council's Paddock to Plate event at Flemington Farmers Market Attended Anzac Day Ecumenical Service and Ceremony at St Thomas' Church, Moonee Ponds and afternoon tea in Queens Park
20 April 2015	Attended Audit Committee Meeting
21 April 2015	Attended Councillor Workshop
23 April 2015	Attended Anzac Day Commemoration Ceremony hosted by Flemington Primary School
24 April 2015	Attended Meeting with Principal of Moonee Ponds West Primary School
25 April 2015	Attended Anzac Dawn Service at Flemington/Kensington RSL
26 April 2015	Attended East West Link Community BBQ
28 April 2015	Attended meeting with fellow ward Councillors and Manager Technical Services regarding Flemington Hill and other ward issues Attended Ordinary Meeting of Council
29 April 2015	Attended breakfast meeting with Union Road Traders Attended meeting with Acting Director Environment & Lifestyle regarding Racecourse Road, Pin Oak Crescent and Union Road projects Attended Dean Street Local Area Traffic Management Meeting
30 April 2015	Attended Holmes Road Local Area Traffic Management Meeting
4 May 2015	Attended appointment of the Chief Executive Officer Special Committee Meeting
5 May 2015	Attended Councillor Workshop
Throughout reporting period	Meetings with residents regarding issues of concern, attendance at planning application sites

**8.8 Report by Councillor Sipek**

8 April – 5 May 2015     Verbal Report

**8.9 Report by Councillor Surace**

10 April 2015	Attended Jeanette Powell's retirement dinner in Shepparton
13 April 2015	Attended Councillor Budget Workshop
14 April 2015	Attended meeting with Deputy Mayor, Cr Cam Nation Attended Traffic and Transportation Portfolio Meeting Attended Public Forum and Councillor Briefing Session
16 April 2015	Attended Strategic Planning Advisory Committee Meeting
19 April 2015	Attended Keilor East RSL Commemorative March and Service  Attended Anzac Day Ecumenical Service and Ceremony at St Thomas' Church, Moonee Ponds and afternoon tea in Queens Park
21 April 2015	Attended Meeting with Acting City Works & Development Attended Councillor Workshop
22 April 2015	Attended Moonee Valley Interfaith Committee Meeting Attended Citizenship Ceremony at the Clocktower Centre
25 April 2015	Attended Anzac Dawn Service at Keilor East RSL
26 April 2015	Attended Multicultural Harmony Festival hosted by Avondale Heights and East Keilor Residents Association
27 April 2015	Attended Dean and Holmes Road Local Area Traffic Management bus tour
28 April 2015	Attended Arts and Culture Advisory – Expression of Interest Meeting  Attended Ordinary Meeting of Council
29 April 2015	Attended Council's Social Media Digital Workshop
4 May 2015	Attended appointment of the Chief Executive Officer Special Committee Meeting
5 May 2015	Attended Councillor Workshop

## REPORTS

- 9.1**                      **77-89 Military Road, Avondale Heights (Lot S2 PS 625869S) Use of the land for dwellings, staged subdivision, including subdivision of the land adjacent to a Road Zone Category 1, removal of native vegetation, construction of multiple dwellings and associated buildings and works.**

**File No:**                      MV/846/2014  
**Author:**                      Principal Town Planner  
**Directorate:**              City Works & Development  
**Ward:**                        Rose Hill

<b>Proposal</b>	<ul style="list-style-type: none"><li>• 135 dwellings (maximum height of 2 storeys)</li><li>• Provision for 381 car spaces</li><li>• Internal road network</li><li>• 3000 square metres of centrally located public open space</li></ul>
<b>Applicant</b>	Australand Property Group C/- Hollerich Town Planning Pty Ltd
<b>Owner</b>	Places Victoria
<b>Planning Scheme Controls</b>	Public Use Zone – Schedule 2 (PUZ2)
<b>Planning Permit Requirement</b>	<ul style="list-style-type: none"><li>• Clause 36.01-1 (Use of the land for dwellings)</li><li>• Clause 36.01-2 (Buildings and Works and Subdivision)</li><li>• Clause 52.17 (Removal of native vegetation)</li><li>• Clause 52.29 (Subdivide land adjacent to a Road Zone, Category 1)</li></ul>
<b>Car Parking Requirements (Clause 52.06)</b>	Required : 278 car spaces Provided : 363 car spaces
<b>Restrictive Covenants</b>	N/A

<b>Easements</b>	N/A
<b>Site Area</b>	4.064 hectares
<b>Number Of Objections</b>	343 objections (including a petition with 438 signatures)

### Executive Summary

- This application seeks planning approval for the use and construction of the land for dwellings, subdivision and provision for 3000 square metres of centrally located public open space.
- The site is zoned for Public Use (PUZ2) for the purpose of Education. The land is currently vacant following the demolition of tertiary buildings associated with the former Kangan Batman Institute of TAFE in 2006.
- This application represents the second attempt by Places Victoria and Australand to gain planning approval for a residential development on the land. An initial proposal that sought the development of up to 270 dwellings attracted considerable objection and was subsequently withdrawn in November 2010.
- The current application proposes a reduced dwelling yield of 135 dwellings with building heights limited to two storeys.
- The application was advertised and 343 objections were received. The concerns were primarily driven by two key community groups, Avondale Action and Voices of Avondale. Whilst there was much dispute regarding how the land should ultimately be developed, there was a general consensus that residential development on this site should not be entertained by Council. Further concerns related to built form and neighbourhood character, parking adequacy and traffic implications, open space and landscaping and strain on existing services and infrastructure were raised.
- The application was externally referred to VicRoads, Public Transport Victoria, City West Water, DownerTenix, Melbourne Water and Jemena who raised no objection subject to conditions. Internally, the application was referred to the Engineering Services Unit, Traffic and Transportation Unit, Strategic Planning Unit, Environmental Sustainable Development officer, Parks and Gardens, Open Space and Landscaping, Operations Unit, Property Services Unit and Council's Urban Design Officer. No objections were received subject to conditions.
- This assessment finds the proposal demonstrates an appropriate level of compliance with the relevant provisions of the Moonee Valley Planning Scheme. Conditions will be imposed to address various aspects including design detailing, landscaping, improved linkage with the adjacent Avondale Heights Community Precinct, traffic calming along with contributions towards the signalisation of the Military Road/Clarendon Street intersection and the development of the future adjacent piazza area associated with the Avondale Heights Community Precinct. Accordingly, it is recommended that the application be supported subject to conditions.



Figure 1 (Aerial view of the subject site)

### Recommendation

That Council issue a Notice of Decision to Grant a Permit in relation to Planning Permit Application No. MV/846/2014 for the use of the land for dwellings, staged subdivision, including subdivision of the land adjacent to a Road Zone Category 1, removal of native vegetation, construction of multiple dwellings and associated buildings and works at 77-89 Military Road, Avondale Heights (Lot S2 PS 625869S), subject to the following conditions;

1. Before the development starts, amended plans (three copies) must be submitted and approved to the satisfaction of the Responsible Authority. The plans must be drawn to scale, with dimensions, and be generally in accordance with the plans submitted and assessed with the application but modified to show;
  - a) Greater colour and/or material design variance along the western elevations of Dwellings 15-23 to promote improved visual interest;
  - b) Speed limiting devices such as road humps at the following locations;
    - i) Midway between Westminster Drive and the T intersection adjacent to dwellings 098 and 097;
    - ii) Adjacent to dwelling 100, 106, 017 and 013.
  - c) The provision of a stronger pedestrian access link to the future adjacent piazza associated with the Avondale Heights Community Precinct;
  - d) The retention of trees 38 and 103 as identified within the tree assessment prepared by Galbraith and Associates along with any required design modifications to the dwellings in accordance with Condition 34;

- e) The provision for sun shading/sun screening for habitable room windows facing north (i.e. eave overhangs or horizontal projecting screens), east and west (i.e. vertical screening) where appropriate;
- f) “No Through Road” signs to be installed in front of dwellings 19 and 89 and “Give way” signs to be installed at T intersections;
- g) A footpath to be provided for dwellings 010 to 023 and connected to the existing footpath on Clarendon Street;
- h) Internal garage doors to open outwards or to be sliding doors.

Once approved these plans become the endorsed plans of this permit.

- 2. The layout of the site and the size, design and location of the buildings and works permitted must always accord with the endorsed plan and must not be altered or modified without the further written consent of the Responsible Authority.
- 3. Before a statement of compliance is issued, the owner of the land (or another person in anticipation of becoming the owner of the land) must enter into an agreement with the Responsible Authority under Section 173 of the Planning and Environment Act 1987 which provides for the following:
  - a) A 30% contribution of the total cost of the design, construction, installation and maintenance of traffic signals at the intersection of Clarendon Street and Military Road, to the Council’s satisfaction and VicRoads approval, at the completion of the works.
  - b) A \$130,000 contribution to the cost associated with the construction of the adjacent Piazza associated with the Avondale Heights Community Precinct, at the completion of the works.

The owner of the land, or other person in anticipation of becoming the owner of the land must pay all costs and expenses (including legal expenses) of, and incidental to, the agreement (including those incurred by the Responsible Authority).

- 4. Before the plan of subdivision is certified, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority.

The amended plans must be generally in accordance with the plans submitted and assessed with the application, but modified to show;

- a) A staging plan;
- b) All easements required by service authorities;
- c) Road reserves, splays at intersections and open space in favour of the Responsible Authority.

When approved these plans will be endorsed and will form part of this permit.

- 5. The layout of the proposed subdivision as shown on the endorsed plan, must not be altered or modified (whether or not in order to comply with any Statute, Statutory Rule Local Law or By-Law or for any other reason) without the prior written consent of the Responsible Authority.
- 6. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity and gas

services to each lot shown on the endorsed plan in accordance with that authority's requirements and relevant legislation at the time.

7. Before a Statement of Compliance is issued, the Responsible Authority must be provided with written advice in accordance with Section 20A of the *Subdivision Act 1988*.
8. The following plans must be submitted to and approved by the Responsible Authority:
  - a) Approval of Road and Drainage Construction Plans (prior to the commencement of road works, drainage and building construction works for each stage of the subdivision).
  - b) Approval of Landscape Plans (with the approval of the Construction Plans or by agreement with the Responsible Authority as outlined in Condition 10 of the permit).
  - c) Approval of Public Lighting Plans (prior to the commencement of road and drainage construction works).
  - d) Approval of Waste Services Plan (prior to occupation of any of the stages).
9. A minimum 30 days prior to commencement of any road and drainage construction works for this development or dwelling construction, a Construction and Site Management Plan must be submitted to and approved by the Responsible Authority. The Construction Management Plan must include, but not be limited to:
  - a) Hours of construction;
  - b) Methods for limiting escape of dust and litter from the land;
  - c) Parking and traffic movement of all workers vehicles and construction vehicles;
  - d) Scaffolding and hoarding for the site;
  - e) Allocated areas for loading and unloading;
  - f) Site evacuation plan and procedure;
  - g) Occupational health and safety policy;
  - h) Hazard identification and control;
  - i) Environmental management and waste minimisation;
  - j) Management of onsite stormwater and contamination: a statement or report outlining all construction measures to be taken to prevent litter, sediments and pollution from entering the stormwater systems;
  - k) Any impacts upon adjacent roads and pedestrian walkways and providing for adequate movement and circulation of vehicles and pedestrians adjacent to the land during the construction phase. This is to include a Dilapidation Report showing the condition of all access roads, paths and infrastructure prior to any works commencing;
  - l) Protection of surrounding roads from site contamination and damage including rumble grid and or wash down bay facility;
  - m) Chemical storage;
  - n) Noise and vibration;

- o) Risk assessment;
- p) Works timetable;
- q) Number of workers expected of work on the site at any one time.
- r) Proposed parking and standing locations for construction vehicles and construction workers vehicles;
- s) Temporary fencing works; and
- t) Safe Work Method Statements as required for construction activities complying with current Occupation Health and Safety Standards.

Once submitted and approved the works detailed by the Construction and Site Management Plan must be carried out to the satisfaction of the Responsible Authority.

10. Prior to the commencement of the landscape works, plans must be submitted to and approved by the Responsible Authority. The landscape plans must be assessed in conjunction with the road and drainage construction plans. If all of the hardscape proposals listed within this permit condition are shown on the submitted construction plans, the Responsible Authority may consider approval of a landscape plan after approval of the construction plans.

When endorsed, the plans will then form part of the permit. The landscape plans must be prepared by a suitably qualified person or firm and must show:

- a) The location and species of street trees (based upon the planting of advanced trees) and other soft landscaping planting treatments.
- b) Details regarding the design and location of street furniture including decorative lighting.
- c) Details regarding the design layout and type of hardscape treatments together with construction details.
- d) The location of and description of existing vegetation to be retained and any proposed treatments to ensure the ongoing health of such.
- e) A maintenance schedule.
- f) The provision for landscaping within the private areas.

Before a Statement of Compliance is issued for any stage of the development, the landscape works shown on the endorsed landscape plans must be provided to the satisfaction of the Responsible Authority.

11. Prior to the submission of road and drainage construction design plans, for the first stage of the development, a detailed Drainage Strategy for the whole development site must be submitted to and approved by the Responsible Authority showing:
- a) A drainage surcharge route/s, shown on a layout plan/s, to demonstrate overland flow paths in the event of a storm exceeding the underground minor system.
  - b) A drainage System incorporating a minor 1 in 10 year ARI (Average Recurrence Interval) underground piped system and a major 1 in 100 year ARI system with designed overland flow paths with lot finished surface freeboard clearances above 1 in 100 year ARI flood levels to the satisfaction of the

Responsible Authority and Melbourne Water. An underground drainage piped system may be designed where necessary to handle the 1 in 100 year ARI storm event for the critical storm duration.

12. Prior to the commencement of road works, drainage and building construction works for each stage of the subdivision, detailed construction engineering plans, showing road and drainage designs, must be submitted to and approved by the Responsible Authority. The construction plans must be prepared by a suitably qualified person. The construction plans must show and include;
- a) Design for full construction of all road pavements including parking bays, cycle paths, vehicle entrances, typical street reserve cross sections and kerb and channel design together with submitted computations for approval by the Responsible Authority.
  - b) The construction of the Clarendon Street roundabout connection including traffic island with pedestrian refuge.
  - c) Traffic control measures, as approved by the Responsible Authority.
  - d) Design catering or manoeuvrability of service vehicles such that waste collection vehicles shall not be required to reverse in order to travel in the opposite direction.
  - e) Where practicable, the development shall be in accordance with the Disability Discrimination Act.
  - f) A drainage system design, in accordance with the approved Drainage Strategy, prepared by a Civil/Hydraulics Engineer, together with submitted computations for approval by the Responsible Authority.
    - i) The drainage system design is to include provision for the discharge of storm water from the land controlled around its limits by means of a designed underground piped drainage system discharging to a legal point of discharge (for the development) as approved by the Responsible Authority and/or Melbourne Water to prevent any discharge onto any adjacent properties or streets.
    - ii) The drainage system design and layout is to address all minor and major stormwater runoff from the land to the satisfaction of the Responsible Authority i.e. 1 in 10 year ARI underground piped system and a major 1 in 100 year ARI system with designed overland and/or other approved major flow paths.
    - iii) The drainage system design and layout is to address and demonstrate that all minor storm water flows up to a 1 in 10 year ARI will be captured to drain via the underground drainage system to the satisfaction of the Responsible Authority.
    - iv) The drainage system design and layout is to show each lot with a separate drainage system and discharge point (legal point of discharge) capable of accepting stormwater flows to prevent any discharge onto adjacent properties.

- v) The drainage system design and layout is to address maintenance issues and including any required provision of a Gross Pollutant Trap/s (GPT/s), Sediment Ponds and other appropriate methods, where in accordance with the proposed Stormwater and Drainage Strategy approved by the Responsible Authority.
  - g) Footpath design and construction including details in the treatment of pedestrian and cycle access through the site.
  - h) A plan with appropriate road signs including speed signs and line marking for the entire development.
  - i) Full details and engineering design and certification of all retaining walls.
  - j) Bicycle/pedestrian shared path design and construction in accordance with the approved Development Plan.
  - k) Permanent survey marks.
  - l) Location of service conduits.
  - m) Water and sewerage reticulation plans showing all proposed water and sewer main locations and offsets and fire hydrant locations.
  - n) Street signs to Council's standard design.
  - o) Vehicle crossings construction design to Council's standards and requirements to access lots.
  - p) Appropriate mechanisms for protecting environmental and physical assets during the construction phase of the subdivision in accordance with Council requirements.
13. All existing service locations including storm water drains are to be verified by the designer/developer and minimum clearances between services are to be met at all times in accordance with AS3500.3.2 Section 7.2.7 or to the relevant Service Authority requirements. Council takes no responsibility for service's that are in conflict with the proposed construction or drainage alignments.
14. Prior to any construction works commencing, a pre-commencement meeting is to be held at the Moonee Valley City Council.
15. Before a Statement of Compliance is issued for any stage of the subdivision, road works, drainage and landscaping shall be provided in accordance with the approved engineering construction plans and landscape plans.
16. The developer may seek, to the satisfaction of the Responsible Authority, the issue of a Statement of Compliance but with deferment of completion of minor parts of the construction works shown on the approved engineering plans provided that the following requirements are met:
- a) The areas where works have been deferred must be safe for public access to the satisfaction of the Responsible Authority.
  - b) An estimate or tender copy showing all outstanding costs and an amount equivalent to 150% of the agreed estimated cost of the outstanding works is provided to the Responsible Authority as a security bond deposit.

- c) A works programme is provided setting out the proposed timing of completion of all outstanding works.

Upon practical completion of roads and drainage works including any deferred works to the satisfaction of the Responsible Authority, the Developer must lodge a maintenance bond to the value of 5 % of the cost of the works. The maintenance bond will be held and the defects liability period will continue for twelve (12) months from the date of the Responsible Authority's approval of practical completion of the works.

Upon practical completion of the landscape works to the satisfaction of the Responsible Authority, the developer must lodge a maintenance bond to the value of 10% of the cost of the landscape works. The maintenance bond will be held and the defects liability period will continue for twenty four (24) months from the date of the Responsible Authority's approval of practical completion of the works

- 17. The owner of the land must enter into an agreement with:
  - a) A telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and
  - b) A suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.
- 18. Before the issue of a Statement of Compliance for any stage of the subdivision under the *Subdivision Act 1988*, the owner of the land must provide written confirmation from:
  - a) A telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and
  - b) A suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.
- 19. A plan checking fee of 0.75% together with a construction supervision fee of 2.5% of the cost of the road and drainage and associated construction works must be paid to the Responsible Authority prior to the issue of a Statement of Compliance. The developer must also lodge a maintenance security bond to the value of 5% of the works. A fee proposal together with verification in the form of copy of tender documents or engineers estimate must be submitted to the Responsible Authority for approval and prior to payment. Upon approval of a fee proposal the Responsible Authority will forward an invoice for payment of fees.

20. The developer must maintain the subdivision road, drainage and associated civil construction works for a period of twelve (12) months with a 12 months defects liability period applying from the date of the Responsible Authority's approval of practical completion of the works. After a 12 month defects liability period, the developer must notify the Responsible Authority to enable an end of defect liability period (EDLP) inspection after which the maintenance security bond will be refunded subject to:
- a) The satisfaction of the Responsible Authority for acceptance of the works for future care and maintenance.
  - b) the Responsible Authority receiving "As Constructed" drawings in electronic format.

The developer must maintain the landscape works, including the open space area, for a minimum period of 24 months with a 24 months defects liability period applying from the date of the Responsible Authority's approval of practical completion of the works. After a 24 month defects liability period, the developer must notify the Responsible Authority to enable an end of defect liability period (EDLP) inspection after which the maintenance security bond will be refunded subject to the satisfaction of the Responsible Authority for acceptance of the landscape works for future care and maintenance.

21. A Public Lighting Plan for all new streets showing lighting provided with a power supply to each light underground. Street lighting is to be provided to the Australian Standard for residential street lighting. The Public Lighting Plan is to be approved prior to the commencement of civil road and drainage construction works and must be in accordance with the City of Moonee Valley's Sustainable Lighting Guidelines.
22. Road and Drainage Construction plans are to show bin collection and storage areas to the satisfaction of the Responsible Authority.
23. A minimum 30 days prior to any building or works commencing, all WSUD Design Details, such as cross sections and/or specifications, to assess the technical effectiveness of the proposed stormwater treatment measures, must be submitted to and be approved by the Responsible Authority.
24. A maximum 30 days following completion of the building or works, a WSUD Maintenance Program must be submitted to and approved by the Responsible Authority which sets out future operational and maintenance arrangements for all WSUD measures. The program must include, but is not limited to:
- a) Inspection frequency;
  - b) cleanout procedures;
  - c) as installed design details/diagrams including a sketch of how the system operates; and
  - d) a report confirming completion and commissioning of all WSUD Response initiatives by the author of the WSUD Response and STORM or MUSIC model approved pursuant to this permit, or similarly qualified person or company. This report must be to the satisfaction of the Responsible Authority and must confirm that all initiatives specified in the WSUD Response and STORM or

MUSIC model have been completed and implemented in accordance with the approved report.

The WSUD Maintenance Program may form part of a broader Maintenance Program that covers other aspects of maintenance such as a Builder User's Guide or a Building Maintenance Guide.

25. Floor levels shown on the endorsed plan(s) must not be altered or modified without written consent of the Responsible Authority.
26. All pipes, fixtures, fittings, ducts and vents servicing any building on the land, other than storm water down pipes and gutters above the ground floor storey of the building, must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.
27. The development must be provided with external lighting capable of illuminating access to each garage, car parking space and pedestrian walkways. Lighting must be located, directed and shielded and of limited intensity so that no nuisance or loss of amenity is caused to any person within or beyond the land.
28. All obsolete and unnecessary vehicle crossings must be removed and reinstated to footpath, nature strip and kerb and channel, to the satisfaction of the Responsible Authority.
29. Standard concrete vehicular crossing(s) must be constructed to suit the proposed driveway(s) in accordance with the Responsible Authority's standard specification and any vehicle crossing(s) no longer required must be removed and the land, footpath and kerb and channel replaced all to the satisfaction of the Responsible Authority. All vehicle access points must be located a minimum of 1.0 metre from any infrastructure including service pits. Alternatively, such assets may be incorporated into the crossover with the written consent of the Responsible Authority and the relevant servicing authority/agency. Subsequent works and costs in association with relocation and/or amendment must be incurred at the owner's cost, to the satisfaction of the relevant servicing authority/agency and the Responsible Authority.
30. The area set aside for the parking of vehicles, together with the associated access lanes as delineated on the endorsed plan(s) must be to the satisfaction of the Responsible Authority:
  - a) Be provided and completed prior to the commencement of the use hereby permitted;
  - b) Thereafter be maintained;
  - c) Be made available for such use at all times and not used for any other purpose;
  - d) Be properly formed to such levels that it can be used in accordance with the endorsed plan.
31. The site must be developed in accordance with the soil management protocol as identified within Section 11.2 of the Site Contamination Assessment prepared by Golder Associates dated 9 September 2014.
32. Existing street trees must not be removed or replaced without the prior written consent of the Responsible Authority. Any replacement tree planted must be to the satisfaction of the Responsible Authority. All costs associated with the removal and

replacement/replanting of the street tree must be borne by the permit applicant and the street tree replacement must be completed to the satisfaction of the Responsible Authority before the buildings approved by this permit are occupied.

33. The garden areas shown on the endorsed plan and schedule must only be used as gardens and must be constructed, completed and maintained in a proper, tidy and healthy condition to the satisfaction of the Responsible Authority. Any tree or shrub damaged, removed or destroyed must be replaced by a tree or shrub of similar size and variety to the satisfaction of the Responsible Authority.
34. Before the development starts, an arborist report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The arborist report be prepared by an arborist with suitable qualifications to the satisfaction of the Responsible Authority and must outline recommendations to be implemented to ensure the on-going health of the Trees 38 and 103, as identified within the tree assessment prepared by Galbraith and Associates, including modifications to the proposed development and/or use of tree protection measures during construction.

When approved, the arborist report will be endorsed and will form part of this permit.

The provisions, recommendations and requirements of the endorsed arborist report must be implemented and complied with to the satisfaction of the Responsible Authority.

35. All existing vegetation to be retained must be protected and retained including by means of suitable management and protection of retained vegetation during any construction stage to the satisfaction of the Responsible Authority.
36. The Sustainability Management Plan, prepared by 'Organica Engineering', dated 18 December 2014, amended to provide the following additional commitments to Materials;
  - a) In situ concrete mixes to have a minimum 20% content of industrial waste product to reduce embodied energy (subject to meeting structural requirements and project management constraints).
  - b) No unsustainably harvested rainforest timbers will be used in construction.
  - c) All feature timber will be from recycled or sustainably harvested sources.

Once submitted and approved the Sustainability Management Plan shall be implemented and appropriately managed during the construction of the proposed development.

#### Melbourne Water

37. Prior to the issue of a Statement of Compliance for the subdivision, the Owner shall enter into and comply with an agreement with Melbourne Water Corporation for the acceptance of surface and stormwater from the subject land directly or indirectly into Melbourne Water's drainage systems and waterways, the provision of drainage works and other matters in accordance with the statutory powers of Melbourne Water Corporation.
38. Pollution and sediment laden runoff shall not be discharged directly or indirectly into Melbourne Water's drains or waterways.

39. Prior to Certification, the Plan of Subdivision must be referred to Melbourne Water in accordance with Section 8 of the Subdivision Act 1988.
40. Prior to the issue of a Statement of Compliance for the subdivision, engineering and drainage plans of the subdivision (in electronic format) must be submitted to Melbourne Water for our records.
41. Stormwater runoff from the subdivision must achieve State Environment Protection Policy (Waters of Victoria) objectives for environmental management of stormwater as set out in the 'Urban Stormwater Best Practice Environmental Management Guidelines (CSIRO) 1999.
42. Prior to the issuing of a Statement of Compliance for the subdivision as constructed plans detailing any Water Sensitive Urban Design (WSUD) treatment measures must be submitted to Melbourne Water for our records.

City West Water

43. It is essential the owner of the land enters into an agreement with City West Water for the provision of water supply.
44. It is essential the owner of the land enters into an agreement with City West Water for the provision of sewage.

DownerTenix

45. The plan of subdivision submitted for certification must be referred to AusNet Services (Gas) in accordance with Section 8 of the Subdivision Act 1988.

Public Transport Victoria

46. The permit holder must take all reasonable steps to ensure that disruption to bus operation along Military Road is kept to a minimum during the construction of the development. Foreseen disruptions to bus operations and mitigation measures must be communicated to Public Transport Victoria fourteen (14) days prior.

End Public Transport Victoria condition

47. Within six (6) months from the date of issue of this permit, an application for rezoning to correspond to the permitted use must be made direct to the Minister for Planning in accordance with Section 20(4) of the Planning and Environment Act 1987, unless otherwise agreed to in writing by the Responsible Authority.
48. This permit will expire if one of the following circumstances applies:

Use and Development

- a) The development is not commenced within two (2) years from the date of issue of this permit; or
- b) The development is not completed and the use is not commenced within four (4) years from the date of issue of this permit.

Before the permit expires, or within six (6) months afterwards, the owner or occupier of the land may make a written request to the responsible authority to extend the expiry date.

If the development commences before the permit expires, within twelve (12) months after the permit expires, the owner or occupier of the land may make a written request to the Responsible Authority to extend the expiry date.

### Subdivision

This permit will expire if any of the following circumstances applies;

- a) The Plan of Subdivision for Stage 1 is not certified within two years of the issue date of this permit; or
- b) The Plan of Subdivision for each subsequent stage is not certified within two years of the Plan of Subdivision for the previous stage being certified; or
- c) The registration of any stage of the subdivision is not completed within five years of the date of certification of that plan of subdivision.

The Responsible Authority may extend the time to certify the plan of subdivision if a request is made in writing prior to expiry of the permit or within six (6) months afterwards.

### **Permit Notes**

- This is not a building permit under the Building Act. A separate building permit is required to be obtained for any demolition or building works.
- Before commencement of the development occurs, the applicant should contact the Moonee Valley City Council's Engineering Services Unit regarding legal point of discharge, new crossings, building over easements, erection of hoarding etc.
- No on street parking permits will be provided to the occupiers of the subject site.
- All works undertaken within any existing road reserves must accord with the requirements of the Moonee Valley City Council's Engineering Services Unit and to the satisfaction of the Responsible Authority.

### **City West Water Note**

- The applicant should be made aware that a sewer main extension is required to be constructed to service the proposed development. The applicant will be required to engage a City West Water accredited Engineering Consultant in order to have these works constructed. A list of accredited Engineering Consultants can be obtained from our website [www.citywestwater.com.au](http://www.citywestwater.com.au)

### **Melbourne Water Note**

- If further information is required in relation to Melbourne Water's permit conditions shown above, please contact Melbourne Water on 9679 7517, quoting Melbourne Water's reference 183625.

## **1. Introduction**

### **1.1 Subject Site and Surrounds**

The subject site has an irregular shape and measures approximately 4ha in area. The subject site is currently vacant, with the former redundant buildings demolished.

The site is currently served by four existing crossovers two from Westminster Drive to the north, one from Military Road to the east and one towards the eastern end of the southern boundary onto Clarendon Street.

The subject site is predominately surrounded by land situated in the General Residential Zone (GRZ1). To the north, along Westminster Drive, the site faces conventional residential dwellings. Houses are typically single storey, constructed of brick with tile roofs.

To the immediate south east of the site is the Avondale Heights Community Precinct (AHCP). The land is zoned Public Use (PUZ2 - Education) and is located at the corner of Military Road and Clarendon Street and contains a library and learning centre, an early years centre and a multi-purpose gymnasium. Car parking is provided along approximately 100 metres of the abuttal to the development site, with access options via both Military Road and Clarendon Street.

Further to the south, the site faces the Avondale Heights Kindergarten and the Avondale Primary School. The School is zoned Public Use (PUZ2 – Education) whereas the Kindergarten is located in the General Residential Zone (GRZ1).

Surrounding the school and kindergarten are conventional residential dwellings, some of which have a rear interface with the strip of Military Road between Clarendon Street and Canning Street, which supports a neighbourhood shopping centre including a Coles Supermarket and typical local services / strip shopping, and is zoned Commercial 1 (C1Z). This includes a McDonalds Restaurant located on the corner of Military Road and Clarendon Street.

On the opposite side of Military Road (to the east), the subject site faces similar conventional residential dwellings, where again houses are typically single storey, constructed of brick and tile roofs. There are intermittent two storey dwellings.

To the immediate west, the site has a direct interface with the Ron Conn Nursing Home which provides aged persons accommodation in single storey, residential style units. Modern materials are used including a variety of brick, timber cladding and corrugated iron. The land is zoned Public Use (PUZ2 – Education).

## **1.2 Proposal**

The application proposes to construct 135 double storey dwellings of varying sizes with provision for a centrally located public green space. The development will be serviced via an internal road network providing connection to Westminster Drive and Clarendon Street.

The proposal represents a partnership arrangement between Places Victoria and Australand. Key features of the proposal are highlighted below:

**Table 1**

No of dwellings	135 dwellings; <ul style="list-style-type: none"><li>• 3 x 1 bedroom dwellings;</li><li>• 16 x 2 bedroom dwellings;</li><li>• 56 x 3 bedroom dwellings;</li><li>• 41 x 4 bedroom dwellings;</li><li>• 19 x 5 bedroom dwellings;</li></ul>
Subdivision	Lot sizes ranging from 76 to 420 square metres. Smaller lots to be generally concentrated within the eastern part of the site with the larger lots within the western half.
Road Network	Two vehicle entry points to the site – Westminster Drive and Clarendon Street.
No of car spaces	363 car spaces including; <ul style="list-style-type: none"><li>• 221 car spaces within private lots in a garage or carport;</li><li>• 88 car spaces within private lots in driveways;</li><li>• 29 indented car spaces (publically accessible)</li><li>• Opportunities for up to 25 on street spaces within the development.</li></ul>
Max Building Height	Two storeys
Public Open Space	3000 square metres of central open space featuring; <ul style="list-style-type: none"><li>• An open lawn/kick about space;</li><li>• A creek bed/swale feature;</li><li>• Boardwalk connection to link with the future piazza;</li><li>• Garden beds/canopy tree planting;</li><li>• A shade structure and various bench seating.</li></ul>

Refer **Appendix A** Plans (separately circulated)

## 2. Background

### 2.1 Relevant Planning History

- The site was previously owned by Skills Victoria, a division of the Department of Innovation, Industry and Regional Development (DIIRD) and was formerly used as an educational facility being the Avondale High School and then the Kangan Batman Institute of TAFE.

The TAFE was closed in the early 1990s and all buildings and structures associated with the former education use were subsequently demolished in 2006.

- The westernmost part of the former TAFE site was sold in 2001 and was developed as the Wintringham Ron Conn Nursing Home and aged care facility.
- In 2003 a large parcel of land in the south east corner of the previous TAFE site was granted to Council for development as the Avondale Heights Community Precinct (AHCP). Over the past few years a library and learning centre and a kindergarten have been constructed by Council in this Community Precinct. Further development of the precinct is continuing and is envisaged to occur in accordance with a master plan (Avondale Heights Community Precinct – Vision and Master Plan) adopted by Council at its Planning and Citizens meeting held on 5 June 2012. Future stages of the precinct include signalisation of the Military Road and Clarendon Street intersection (Stage 2B), the Library Community Foyer extension and centrally located Piazza (Stage 3) and a Youth Outdoor Space and Multi-purpose Community facility mezzanine extension (Stage 4).
- Planning Permit Application MV/21274/2010 was lodged with Council in August 2010 which sought the redevelopment of the land for the purpose of 270 dwellings. The development included buildings of varying height ranging from single storey and two storey dwellings to apartment style complexes reaching a maximum height of five storeys along Military Road.

Following considerable objection, the application was withdrawn at the request of the permit applicant in November 2010.

Shortly following the withdrawal of the development application, the Victorian Government issued a statement on 6 April 2011 outlining design and development guidelines for the site stating:

*“A new proposal will halve the number of dwellings to around 130, and at a reduced height, to better meet the expectations of the local community. No homes will be more than two storeys.”*

### 2.2 Planning Policies & Decision Guidelines

#### State Planning Policy Framework

Clause 11	Settlement
Clause 15	Built Environment and Heritage
Clause 16	Housing
Clause 18	Transport

Clause 19        Infrastructure

Local Planning Policy Framework

Clause 21.01    Municipal Profile – Moonee Valley Today

Clause 21.03    Vision – Moonee Valley Tomorrow

Clause 21.04    Sustainable Environment

Clause 21.05    Housing

Clause 21.06    Built Environment

Clause 21.09    Transport and Access

Clause 21.10    Social and Physical Infrastructure

Clause 22.02    Public Open Space Contribution

Clause 22.03    Stormwater Management (Water Sensitive Urban Design)

Zoning

Clause 36.01    Public Use Zone (PUZ2 – Education)

Overlays

N/A

Particular Provisions

Clause 52.01    Public Open Space Contribution and Subdivision

Clause 52.06    Car Parking

Clause 52.17    Native Vegetation

Clause 52.29    Land Adjacent to a Road Zone, Category 1

Clause 52.36    Integrated Public Transport Planning

Clause 55        Two or More Dwellings on a Lot

Clause 56        Residential Subdivision

General Provisions

Clause 65        Decision Guidelines

Clause 66        Referral and Notice Provisions

**2.3 Referrals**

External

- VicRoads  
No objection
- Public Transport Victoria  
No objection, subject to a condition to ensure minimal disruption to existing bus operations along Military Road.
- City West Water  
No objection, subject to standard conditions

- DownerTenix  
No objection, subject to standard conditions
- Melbourne Water  
No objection, subject to standard conditions
- Jemena  
No response

Internal

- Engineering Services Unit  
No objection subject to standard conditions including requiring the submission of road and drainage construction plans, landscape plans and provision of a public lighting plan.
- Traffic and Transportation Unit  
No objection subject standard conditions and following additional conditions;
  - The permit holder must enter into a Section 173 Agreement to contribute 30% of the total cost of the design, construction, installation and maintenance of Traffic signals at the intersection of Clarendon Street and Military Road, to the Council's satisfaction and VicRoads approval, at the completion of the works;
  - Submission of detailed construction plans for the Clarendon Street roundabout, speed limiting devices throughout the development, provision for footpaths and tactile ground surfaces at pram crossings.
  - Strategic Planning Unit  
The following comments were received;
    - The subject site is not included within a Neighbourhood Character Precinct Profile, however is directly adjacent to, and surrounded by, Garden Suburban 7 (GS7). An assessment against these guidelines should be undertaken.
    - The amount of open space proposed is considered suitable and in accordance with the policy at Clause 22.02 (Public Open Space Contribution) and the schedule to Clause 52.01 (Public Open Space Contribution and Subdivision), given that the density proposed for the site is quite low.
    - The existing Public Use Zone doesn't prohibit the use or development of the land for residential purposes. However the proposal clearly doesn't meet the purpose of this zone. Given the applicant has chosen not to apply for a combined planning scheme amendment and permit application under Section 96A of the Planning and Environment Act 1987, it is considered that they should apply

for rezoning of the site, following any approval of their proposed development, as a matter of urgency.

- It is considered justifiable to expect the developer to enter into a Section 173 Agreement with Council for the provision of a contribution towards infrastructure as a consequence of the development.
- Urban Designer  
No objection
- ESD  
No objection subject to the following conditions;
  - Sunshading/sunscreening for all habitable windows facing north (i.e. eave overhangs/horizontal projecting screens), east & west (i.e. vertical screening).
  - The Sustainable Management Plan amended to include additional commitments towards building materials.
- Parks and Gardens  
The following comments were received;
  - The biodiversity impact statement has noted that there will be impacts on local fauna such as red rump parrots and possibly microbats. I would argue that the removal of these trees will be significant to these species meaning that these species are not able to persist in the area.
  - It would be preferable to see some of the better specimen trees retained within the parkland or streetscape.
- Open Space and Landscaping  
No objection, subject to a condition requiring a stronger access link to the adjacent piazza area.
- Operations Unit  
No objection
- Property Services Unit  
No objection

## **2.4 Public Notification of the Application**

Pursuant to Section 52 of the Planning and Environment Act 1987 the application was advertised by mail to adjoining and surrounding properties, with three notices erected on site for a minimum of 14 days. In addition, notification of the proposal was included on Council's website and associated social media along with a notice in the Moonee Valley Leader.

As a result 343 objections were received from the properties contained within **Appendix B** of this report. Further, a petition containing 438 signatures was submitted to Council.

A response to the objections is provided within Section 3.13 of this report.

## **2.5 Information Sessions**

As part of the notification process, two community drop-in sessions were held at the Avondale Heights Library and Learning Centre on Monday 23 February 2015. The sessions provided an opportunity for the residents to gain a better understanding of the proposal and to provide feedback to Council representatives.

Australand representatives were also present and it is estimated that up to 100 residents passed through over the course of the two sessions.

It is also noted that Australand held informal an information session at the Centre in the lead up to the formal lodgement of the application with Council.

## **3. Discussion**

### **3.1 State Planning Policy Framework**

The proposal is considered to comply with the relevant provisions of the State Planning Policy Framework.

Clause 11.02 (Urban Growth) seeks to ensure that there is a sufficient supply of urban land for a range of land uses. Strategies for urban growth require the identification of opportunities for the consolidation, redevelopment and intensification of existing urban areas. In this regard, the site comprises a number of favourable attributes that support the redevelopment of the land for residential purposes. These include;

- Walking distance to an existing neighbourhood centre which accommodates a full-line supermarket, shops and other local services;
- Located on a major road thoroughfare with access to bus services;
- Unconstrained large site with multiple road frontages;
- Within close proximity to kinder and primary school facilities; and
- Within close proximity to passive and active recreational facilities.

Clause 11.03 (Open Space) supports an integrated network of open space. The Clause dictates that land for recreational use should be set aside in residential areas and should provide pedestrian and bicycle links to other facilities where possible. The application includes provision for a centrally located recreational space that seeks to integrate with Council's envisage piazza in the adjacent community precinct. This approach accords with the relevant objectives of the Clause.

Clause 15.01-2 of the State Planning Policy Framework (Urban Design Principles) provides the main assessment tool for residential development not covered by Clause 55 (ResCode). The objective of the Clause is:

- To achieve architectural and urban design outcomes that contribute positively to local urban character and enhance the public realm while minimising detrimental impact on neighbouring properties.

It is considered that the proposal generally complies with the objectives and strategies as contained within the design principles of Clause 15.01-2. The majority of these design principles are further expanded in Section 3.2 (Local Planning Policy Framework).

The proposal appropriately responds to Clause 16.01 as it relates to increasing the supply of housing in existing urban areas by facilitating increase housing yield in appropriate locations, including under-utilised urban land and to provide for a range of housing types to meet increasingly diverse needs. Clause 16.01-3 (Strategic redevelopment sites) promotes various strategies to identify strategic redevelopment sites for large residential development in Metropolitan Melbourne. The subject land is in the order of 4 hectares, is located on a main road context and sits beside an existing neighbourhood centre identified under relevant local policy provisions. As such, it is submitted the site is located within an area where relevant housing policies provide strong encouragement for residential development to occur thus assisting to achieve the urban consolidation objectives of State policy.

Clause 18.01-2 includes a strategy to encourage higher land use densities and mixed use developments near principal bus routes. Military Road caters for bus services (Route 406) which provides links to Keilor East and Footscray Train Station. As such, the site is considered a suitable candidate for residential development at the density proposed.

Overall, it is submitted that the proposal demonstrates a high degree of compliance against the relevant State policy provisions.

### **3.2 Local Planning Policy Framework**

The proposal is considered to comply with the relevant provisions of the Local Planning Policy Framework.

#### **Sustainable Environment**

The proposal complies with Clause 21.04, in particular with Ecologically Sustainable Development at Clause 21.04-3 via the use of ecological sustainable design principals as highlighted within the submitted Sustainable Management Plan (SMP). Council's ESD officer has extensively reviewed the proposal and has raised no objection subject to the inclusion of conditions which will require adjustments to the SMP. The SMP was prepared by Organica Engineering and demonstrates best practice sustainability benchmarks via the use of the STEPS tool and the Green Star Communities tool. The development has taken into consideration passive solar orientation through applying the Six Star energy rating standard. The Six Star standard requires that northern glazing is encouraged and southern, and unshaded east and west glazing is minimised. Openable windows have been provided to all dwellings on opposite sides of the buildings to encourage cross ventilation through each dwelling. Additional energy principles include;

- The average energy star rating of the building envelopes are to be 6 stars.
- The hot water system to be Gas boosted solar < 80% Solar Contribution.

- For passive clothes drying, there will be outside clothes lines provided to the majority of the development.

In addition, the layout of the proposal provides for backyard spaces and a local recreational area that provide opportunities for increased on-site vegetation and improved overall amenity for the site.

Clause 21.04-6 (Potentially Contaminated Land) sets out strategies to ensure that potentially contaminated land is identified, appropriately tested and remediated to a standard suitable for the intended use. The application was accompanied by a Site Contamination Assessment, prepared by Golder Associates. The report provides a preliminary site assessment outlining that the use history of the development site, coupled with subsequent soil sampling has confirmed that the site has a low potential for contamination and therefore a Statutory Environmental Audit is not required to support the residential use of the development site. Notwithstanding, the report recommends that a general soil management protocol be adopted during the development of the site. This aspect has been addressed via the inclusion of condition 31.

The proposal accords with objectives of Clause 21.04-7 (Waste) as it relates to encouraging the use of recycling and achieving best practice in waste minimization. The application seeks all waste and recycling services to be provided by Council via kerbside pickup. Capability has been provided for kerbside storage of two bins per lot on pickup days with sufficient provision for on-site waste storage. In addition, sufficient road widths have been provided within the internal road network capable of accommodating Council waste collection vehicles.

### Housing

The proposal complies with the objectives and strategies of Clause 21.05 (Housing) by increasing housing opportunities to meet growing population needs, providing a diversity of housing choice in a well-established area with access to public transport options and local/community services. Under the policy considerations the site is within an area deemed appropriate to accommodate 'Slight to Moderate Intensification'

Council's Housing Strategy seeks to encourage housing within the Municipality which not only accommodates population projections, but also addresses a variety of specific housing needs and issues related to affordability, household size, diversity of choice, impact on urban character, environmentally sustainable design and access to services and facilities. The proposal contributes to the objective of housing diversity by providing a mix of dwelling sizes in various configurations which will cater for the increasingly diverse needs of future residents.

### Built Environment

It is submitted that the proposed development appropriately responds to the objectives and strategies contained at Clause 21.06 (Built Environment). With regard to Neighbourhood Character the relevant objective seeks to ensure that new development responds to the preferred character of each residential precinct as outlined within the Neighbourhood Character Precinct Profiles 2012. As the site is located within a Public Use Zone, it is not included within

a specific precinct profile. Notwithstanding, the surrounding residential area is located within the Garden Suburban 7 (GS7) precinct. A response against the precinct profile is provided within Section 3.3.

The applicant has submitted that the proposal has placed particular focus on its response to the character of Westminster Drive streetscape. Westminster Drive is one of the main residential interfaces between the subject site and surrounding neighbourhood character. In this regard, the proposal provides detached double storey dwellings with slight variances in both front and side setbacks. The open space between and around these dwellings (Dwellings 24-43) is considered appropriate and will not detract from the appearance and amenity of the streetscape. With regard to the Dwellings 44-49, the attached nature and form is considered acceptable given the proximity to the corner intersection with Military Road. These dwellings also share an interface with medium to high brick fencing associated with the side profile of an existing dwelling fronting Military Road.

The second residential interface comprises Military Road. In this regard, the proposal has sought to orientate the dwellings in a side way manner given the main road context. This has enabled substantial breaks between the building forms that provide for vehicle access, pedestrian connectivity to Military Road and extensive landscaping. In addition, a mix of solid masonry fencing and landscaped buffers are to align along the main road front boundary. Overall, the approach to Military Road is considered appropriate.

The location of the community precinct and Avondale Primary School to the south and Wintringham Ron Conn facility to the west mean that these interfaces are less defined by the underlying character of the wider area. In addition, those areas internal to the subject site are well removed from the surrounding neighbourhood character and can reasonably be expected to focus on establishing a new character in manner that is respectful of the existing context. It is submitted that the proposal has responded appropriately to these interfaces. Some modification will be required, however, to improve the visual outlook from the adjoining nursing home. This aspect will be discussed further below.

The application complies with the objectives and strategies contained at Clause 21.06-3 (Safety, Health and Wellbeing). The layout of the development provides for active street frontages in a manner that maximises natural surveillance. Additionally, the open space area provides opportunities for social interaction both internally and adjacent to the site with the Avondale Heights Community Precinct.

It is submitted that the proposal meets the objective of Clause 21.06-4 (Urban Design) as it relates to achieving contemporary development that is innovative, legible and designed in a manner that responds to its location and context. In a general sense, the development provides for an appropriate degree of visual interest and design articulation. It creates visual and physical links to the adjoining streets and responds appropriately to the green open space area by providing passive surveillance through the siting and layout of Dwellings 128-135.

Notwithstanding the above, it is considered that the western elevations of Dwellings 15-23 will require some refinements. The rear elevations of these dwellings share an outlook with the Wintringham Ron Conn nursing facility and consist of face brickwork at ground level with rendering at first floor levels. Whilst the setbacks of these dwellings comply with the relevant B17 provisions of ResCode, it is considered that further design variance is required in order to break up the monotonous profile of the dwellings and promote visual interest. A condition of approval will require improved detailing on this aspect.

#### Public Open Space Contribution

With regard to the provision of open space, it is submitted that the application has responded positively. The amount of open space proposed is also considered suitable and in accordance with the policy at Clause 22.02 (Public Open Space Contribution) and the schedule to Clause 52.01 (Public Open Space Contribution and Subdivision). Although the site is located within an area where land contributions would not necessarily be sought, given the size of the land, and the context in relation to being adjacent to the Avondale Heights Community Precinct, it is considered more beneficial to provide land in this case.

#### Stormwater Management

Subject to conditions, the proposal achieves best practice against the provisions of Clause 22.03 (Stormwater Management – Water Sensitive Urban Design). The application has been accompanied by MUSIC assessment as part of Infrastructure Servicing Report which details the provision of WSUD measures including the provision for landscape biofilter to be incorporated within the open space area of the development.

### **3.3 Neighbourhood Character Guidelines**

Although not technically covered under the Neighbourhood Character Precinct Profiles, the site is directly adjacent to and surrounded by Garden Suburban 7. As such, it is submitted that any infill development in this location should respond to the Preferred Character Statement of this precinct, as set out below;

- “New developments will contribute to the character of this area with established gardens, simple design details, low front fencing and consistent siting to ensure they do not dominate the streetscape.
- Buildings will be articulated with recesses, porch areas, large windows and setbacks to complement the pattern of the traditional dwellings. The use of brick, timber or weatherboard will maintain the existing palette of materials. Buildings will be located from the front boundary at a distance similar to those on adjoining properties, while consistent side setbacks will allow space for landscaping and planting. Low or permeable front fences will provide views of the vegetation in gardens from the street”.

The applicant submits the proposal meets the preferred character statement by way of the following features;

- All dwellings are two storeys in height;

- The form of new dwellings fronting the majority of Westminster Drive has focused on providing hip or sloping roofs and detached building forms with setbacks to both sides;
- Dwellings internal to the site or opposite the primary school are often provided in an attached or terrace format and with flat roofs;
- The architectural style of the development is clearly contemporary but in a manner that acknowledges built forms and styles in the surrounding area through window height, spacing, roof forms, building height and use of materials.
- Front façades throughout the development are provided with a high level of articulation and recessed porch features are large windows;
- A range of materials and finishes are proposed, with a focus on providing elements of brickwork throughout;
- Front gardens can be established across much of the site aside from the more fine-grained elements of the proposal internal to the site. In particular, dwellings fronting Westminster Drive are provided with large front gardens.
- All garages are sited behind the front elevation of the dwellings, in particular those dwellings fronting Westminster Drive;
- Front fences are not proposed which will allow landscaping to dominate the frontage setbacks.

The response against the design guidelines of the Precinct is considered appropriate for this large infill site.

### **3.4 Compliance with Clause 36.01 (Public Use Zone)**

The purpose of the of the Public Use Zone is to recognise public land use for public utility and community services and facilities and to provide for associated uses that are consistent with the intent of the public land purpose. In the case of the subject land, the purpose of the public use is reserved for Education. As highlighted, the site has been used for this purpose up until the former Kangan Batman TAFE Institute ceased operation in the late 1990s. Since then, Council have been advised by the Department of Education that the land is surplus to their requirements and as such, the land was ultimately sold to Places Victoria with the intent that it be developed for residential purposes. Whilst it remains clear that the proposal does not accord with the purpose of the current land zoning, the redevelopment for residential purposes is not prohibited. The underlying zone within the wider surrounds is the General Residential Zone. As such, it is considered that the proposal is in keeping with the current settlement pattern of the area. Finally, the application was referred to the Strategic Planning Unit who raised no objection to the application with the recommendation that the land be rezoned to the General Residential Zone following any development approval. This has been addressed via Condition 47. In light of the above considerations, it is submitted that the proposal is appropriate within the current neighbourhood context.

### 3.5 Compliance with Clause 52.01 (Public Open Space Contribution and Subdivision)

Clause 52.01 prescribes that a person who proposes to subdivide land must make a contribution to the Council for public open space in an amount specified within the Schedule to the Clause (being a percentage of the land used for residential purposes or a percentage of the site value, or a combination of both).

Under the Schedule, a requirement of 5% applies. In the case of the subject application, the applicant has elected to provide in the order of 3000 square metres of public open space within the centre of the site. The amount of open space provided equates to 7% of the development site, thus exceeding the requirements of the clause.

### 3.6 Compliance with Clause 52.06 (Car Parking)

The parking requirements applicable to the development are set out below;

**Table 2**

Use	Required	Provided
Dwellings <ul style="list-style-type: none"><li>• 3 x 1 bedroom dwellings;</li><li>• 16 x 2 bedroom dwellings;</li><li>• 56 x 3 bedroom dwellings;</li><li>• 41 x 4 bedroom dwellings;</li><li>• 19 x 5 bedroom dwellings;</li></ul>	251 car spaces	309 car spaces
Residential Visitors	27 car spaces	54 car spaces
Total	278 car spaces	363 car spaces

As highlighted above, the proposal provides in excess of the parking requirements prescribed under the Clause. In addition, the applicant has identified further parking opportunities for up to 18 car spaces along the southern side of Westminster Drive immediately adjacent to the subject land. These additional opportunities, in combination with the on-site provisions, will assist to minimise parking overspill into the surrounding road network.

Council's Traffic and Transportation Unit have raised no issue with the on-site parking provision.

The proposal complies with the remainder of the design standards contained at Clause 52.06. A condition of any approval issued will require internal garage doors to be modified to open outwards in order to provide unencumbered garage spaces in accordance with the requirements of Design Standard 2 (Car parking spaces).

### **3.7 Compliance with Clause 52.17 (Native Vegetation)**

Pursuant to Clause 52.17-2 a planning permit is required to remove native vegetation unless one of the exemptions outlined at Clause 52.17-7 is applicable.

The applicant commissioned Ecology and Heritage Partners Pty Ltd to provide advice in relation to the removal of vegetation and determine the presence of any significant flora and fauna species.

Based on the assessment it was identified that a number of trees scattered throughout the development site were planted around 35 years ago in association with the previous education use and as such met the exemption (planted vegetation) outlined within Clause 52.17-7. Notwithstanding, the report identified a number of low quality areas of native grasses that trigger the requirement for a permit under the Clause.

The assessment revealed the following results;

- No National or State listed significant flora or fauna species were recorded within the study area; The extent of remnant vegetation within the study area has substantially deteriorated to a point where none of the existing vegetation is considered to meet the condition thresholds to qualify as a remnant patch;
- The deterioration of the site is further illustrated by the fact that no specimens of Kangaroo Grass were recorded across the entire study area during the current assessment, whereas this species was observed to be present, albeit in very low numbers, in an assessment conducted in 2009. Likewise, native chenopod species, such as Noddling Saltbush and Berry Saltbush, which were scattered throughout the site in 2009, are now effectively restricted to peripheral areas of the site underneath existing trees. As the study area contains no remnant patches of native vegetation and all scattered indigenous trees are considered planted and therefore exempt from offsets, a Permitted Clearing Assessment and associated specific-general offset test as per the 'Biodiversity Assessment Guidelines' (Department of Environment and Primary Industries, September 2013) is not required. Having regard to the above conclusions, it is submitted that the proposed extent of native vegetation removal is acceptable and does not compromise the purpose of Clause 52.17.

With respect to the scattered trees throughout the site, an assessment was prepared by Galbraith and Associates (Tree consultants) which identified a total of 106 trees.

The application seeks the removal of all the trees on site with the exception of Tree 69 (Spotted Gum) which will be retained within the public open space area. This tree was given a relatively high rating (5) in terms of worthiness of retention.

Whilst the assessment generally indicates that all trees were previously planted, there were two trees, Trees 38 and 103, that were given a higher rating (6) in terms of their worthiness of retention. Both trees have been

identified as Red River Gums with Tree 38 located within the front yard area associated with Dwelling 57 and Tree 103 located in between Dwellings 28 and 29. The trees have been identified as representatives of species indigenous to the area.

Council's arborist has inspected the trees and has indicated their retention is warranted based on their current health and structure along with their Safe Useful Life Expectancy (SULE).

In light of the above, conditions of approval will require the siting of the dwellings to be altered in order to ensure the trees can be successfully retained.

### **3.8 Compliance with Clause 52.29 (Subdivision adjacent to a Road Zone, Category 1)**

Pursuant to Clause 52.29 a planning permit is required to subdivide land adjacent to a Road Zone, Category 1.

As required, the application was referred to VicRoads for comment. This Authority raised no objection to the proposed development.

It is noted that the application does not seek to create any new vehicle access to Military Road.

### **3.9 Compliance with Clause 52.36 (Integrated Public Transport Planning)**

As the application comprises a residential development of more than 60 dwellings, a referral to Public Transport Victoria was required.

The Authority raised no objection to the application, subject to a condition requiring the permit holder to ensure minimal disruption to bus operation along Military Road during construction.

This requirement has been included within the recommendation

As highlighted earlier, existing bus service Route 406 currently operates along Military Road providing links to Keilor East to the north and Footscray Train Station to the south east. The service operates at daily intervals of 20 minutes and offers connections to various services including Milleara and Highpoint Shopping Centres and Victoria University (Student Village and Footscray Park Campus).

Two bus stop options are available with pick up/drop off points located to the north at the intersection with Military Road and Macey Street and to the south proximate to the Coles Supermarket.

An additional bus service, Route 407, operates within 100 metres of the site, on Lancaster Avenue and Rogerson Street. The service generally runs parallel to Route 406, however, it follows along the more suburban road network at daily intervals of 35 minutes.

### **3.10 Compliance with Clause 55 (Two or More Dwellings on a Lot)**

Given the Public Use zoning of the land, an assessment against Clause 55 is not required. Notwithstanding, given the residential nature of the proposal an assessment against the provisions is considered appropriate. It is submitted that the proposal achieves an acceptable level of compliance against the

standards and objectives of the Clause. The degree of compliance against each element is provided in **Appendix C**.

Areas of non-compliance are detailed below;

**Table 3**

Res Code Standard	Response
Clause 55.03-1 Standard B6 (Street Setback)	<p><u>Westminster Drive</u></p> <p>The minimum front setback requirement along Westminster Drive is 3 metres.</p> <p>Whilst Dwellings 44-49 provide ground floor setbacks of 4.52 metres, the first floors are setback 2.8 metres as a consequence of the balcony projections.</p> <p>It is submitted these setbacks are appropriate given these dwellings are proximate to the corner with Military Road. Further, the balcony projections assist to provide articulation with the predominant form of the dwellings in compliance with the standard.</p> <p>The remainder of the dwellings along Westminster comply with the front setback requirements.</p> <p><u>Military Road</u></p> <p>The minimum front setback requirement along Military Road is 2 metres as the dwellings have a side address to the street.</p> <p>The proposal provides side setbacks of 4.57 metres for Dwellings 50, 58, 59, 66, 67 and 74 which all exceed the standard.</p> <p><u>Clarendon Street</u></p> <p>The minimum front setback requirement along Clarendon Road is 3 metres as Dwellings 1-9 front the street.</p> <p>These dwellings will be setback a minimum of 2 metres at ground level with cantilevered first floors setback 0.96 metres from the street. Whilst in isolation these setbacks may be interpreted as minimal, the context and interface within this section is quite different to that of Westminster Drive. Dwellings 1-9 are located adjacent to the Avondale Heights Early Years centre to the east and Avondale Heights Primary school opposite to the south. It is also noted that the road reservation adjacent to the dwellings is wide thus</p>

	<p>creating a sense of openness within the context of the streetscape. Given these features, it is considered that the setbacks are acceptable.</p> <p>Dwelling 10 which features a side setback of 3 metres to Clarendon St exceeds the minimum required 2 metre side setback.</p> <p><u>Internal front setbacks</u></p> <p>Internally, the front setback requirements are 4 metres.</p> <p>The proposal generally adheres to the standard with the exception of Dwellings 79-88 which are setback 3.1 metres at ground level and 2.3 metres at first floor level.</p> <p>Given the internal location and new built form character to be established, the setbacks are deemed acceptable within this portion of the site.</p>
<p>Clause 55.03-8 Standard B13 (Landscaping)</p>	<p>Landscape plans, prepared by Urban Edge Landscape Architects, were submitted with the application which provide for detailing within the public areas of the development site.</p> <p>The plans indicate extensive areas for landscaping, including provision for new street trees within Westminster Drive and along both sides of the new internal road network. In addition, the plans detail the landscaping provisions within the public open space area including the retention an existing Spotted Gum.</p> <p>Areas to the east along the pedestrian laneways and along Military Road will feature mulch garden beds and a mix of both deciduous and evergreen tree planting.</p> <p>Council's landscape architect has reviewed the proposed species list and raised no objection.</p> <p>Conditions of approval will require the submission of additional plans to detail landscaping within the private areas of the dwellings.</p> <p>In addition, further conditions of will require the retention of two highly valued trees as identified within the arboricultural assessment provided by Galbraith and Associates.</p>
<p>Clause 55.05-4 Standard B29</p>	<p>Dwellings 44-49 which have a frontage to Westminster Drive are each provided with a first floor balcony accessed from the living area. Each</p>

(Private Space)	Open	<p>balcony is at least 5.9 square metres in area and has a minimum dimension of 1.8 metres. Although the proposed balconies are smaller than the recommendations of the Standard, they are north facing and will provide a high level of amenity to future residents, functioning as part of a single living space.</p> <p>Dwellings 54-58, 63-66 and 71-74, located in the east region of the site, are all provided with ground level secluded private open space which range in size from 16.3 square metres to 60.3 square metres. The smaller areas of open space are associated with the single bedroom dwellings with all larger (three bedroom) dwellings having at least 24.4 square metres of secluded private open space.</p> <p>Open spaces to these dwellings have been purposely designed to be north-facing and to function in association with the living spaces. Therefore, while some of these spaces technically do not meet Standard B28, they clearly meet the objective in providing a functional open space area suitable to the needs of the future resident.</p> <p>It is also noted that all dwellings are afforded with the central open space area which provide for additional recreational opportunities.</p>
Clause 55.05-5 Standard B30 (Solar Access to Open Space)		<p>There are a small number of terrace lots where the open spaces will be impacted by walls to the north of Dwellings 36 to 43 and 108 to 115 that do not comply with the Standard.</p> <p>This is considered an acceptable response when considering the integrated nature of the proposed development.</p>
Clause 55.06-1 Standard B31 (Design Detail)		<p>As highlighted within Section 3.2, areas that require modification relate to the western elevations of Dwellings 15-23.</p> <p>Subject to conditions the development accords with the objective of the standard.</p>

### 3.11 Compliance with Clause 56 (Residential Subdivision)

As with Clause 55, an assessment against the provisions of Clause 56 is not required under the Public Use Zone. Nevertheless, an assessment against the various provisions has been undertaken.

It is submitted that the proposal achieves an acceptable level of compliance against the provisions of Clause 56.

A more consolidated response against the provisions is provided below;

- Subdivision Site and Context Description and Design Response (Clause 56.01) & Policy Implementation (Clause 56.02) The application has been provided with sufficient documentation that clearly sets out the site and context description along with justification against relevant policies set out within the Moonee Valley Planning Scheme.
- Liveable and Sustainable Communities (Clause 56.03) Relevant objectives seek to establish compact neighbourhoods that are orientated around easy walking distances to activity centres, schools and community facilities, public open space and public transport.

In this regard the development site sits on the edge of nominated neighbourhood activity centre (Military Road) as identified within Clause 21.07 (Activity Centres). The land is within close proximity to range of commercial and community services as described throughout the body of this report. Residential subdivision within this mixed use and main road context is considered appropriate. Excellent pedestrian access is also accommodated to Military Road and the nearby bus stops.

The proposal accords with Standard C4 (Planning for community facilities objective) through provision for a centrally located public green space that will provide connectivity with the future urban piazza to be developed on the adjoining community precinct site.

The objectives contained at Standard C5 (Built Environment) and Standard C6 (Neighbourhood Character) are met as previously described.

- Lot Design (Clause 56.04) A broad range of lots sizes has been proposed to facilitate a broad range of housing types, including traditional terrace, semi-detached and detached housing, as well as more terrace style dwellings adjacent to Military Road. The diversity of housing types is evidenced by the range of dwelling sizes and number of bedrooms provided to each dwelling. There is also a diversity of dwelling layout proposed, including some dwellings with living areas at first floor in response to various site features.

All lots are located within 400 metres walking distance of bus stops on Military Road. Most lots, in particular the smaller lots, are located within 400 metres walking distance of the neighbourhood activity centre on Military Road to the south of the development site.

The combined development and subdivision application demonstrates compliance with the building envelope provisions and ensures that approved building envelopes are not necessary as part of any approved planning permit.

Lots are typically arranged with an east-west or north-south orientation, with all lots complying with the solar orientation requirements of Standard C9.

All lots front onto a street, public walkway or public open space. In particular, a high level of interaction is proposed between the future dwellings and the public open space. A number of dwellings front directly onto the public open space, providing a high level of interaction with and passive surveillance over the public open space. There is potential for some of these dwellings to be provided with living areas at first floor to further enhance this relationship.

Where not fronted directly by dwellings, the public open space is surrounded by streets, with dwellings opposite oriented to the public open space.

No common areas are proposed as part of the development (only public).

Objectives contained at the Clause seek to provide attractive and continuous landscaping in streets and public open spaces that contribute to the character and identity of new neighbourhoods and urban places.

A landscape scheme was submitted by Urban Edge which is considered to be acceptable. The proposal will feature extensive street tree planting and a public open space area that will complement the development and add value to the surrounding context.

While full details of the integrated water management are to be resolved at detailed design phase in accordance with planning permit conditions, provision for features has been identified in the public open space and potentially within road reserves.

- Access and Mobility (Clause 56.06)

Council's Traffic and Transportation Unit have extensively reviewed the internal road and pedestrian network and have raised no objection subject to the inclusion of conditions.

The proposed mobility network provides good connectivity for pedestrians and cyclists, enabling easy access to the surrounding road, footpath and bicycle path network. In order to improve pedestrian connectivity along the main Access Street, conditions of approval will require the inclusion of additional footpaths for Dwellings 10-23. Whilst Council's Traffic Engineers requested an additional footpath for Dwellings 122-127 it is submitted that this is not warranted given there is to be a footpath immediately opposite and adjacent to the public green space. Further, the inclusion of a footpath for these dwellings would result in a loss of street tree planting – an outcome that is viewed as more desirable in this instance.

A wider review reveals that the proposed footpaths throughout the development also provide connectivity to the existing surrounding pedestrian network in accordance with the provisions of the Clause.

With respect to reducing internal vehicle speeds and combating against potential 'rat-running' through the development, conditions will require the incorporation of a series of road humps along the main Access Street. The inclusion of these measures will facilitate direct, safe and easy movements for both motorists and pedestrians.

The application has provided road cross sections in accordance with the Access Lane, Access Place and Access Street (Level 1) requirements contained at Table C1 (Design of roads and neighbourhood streets). Council's Traffic and Transportation Unit are satisfied the proposed carriageway widths provide for safe and efficient access for emergency vehicles, whilst pedestrians are provided with safe movement via appropriate footpaths. A condition of approval will require further plans detailing the construction of the Clarendon Street roundabout connection including provisions for a traffic island with pedestrian refuge.

With respect to the external traffic impacts of the proposal, Council's Traffic and Transportation Unit have raised issue with anticipated traffic volumes that will be generated at the intersection of Clarendon Street and Military Road. As such, they have indicated the need for the intersection to be signalised.

The signalisation of this intersection has remained a Council preference since the inception of the masterplan associated with the Avondale Heights Community Precinct (AHCP). In 2012, Council commissioned Traffix Group to prepare a background traffic engineering report for the development of the community precinct in combination with a review of the anticipated parking and traffic impacts associated with a residential development (130 dwellings) on the current Places Victoria site.

To ascertain the impacts associated with the AHCP and the Places Victoria residential development, Traffix Group undertook a Sidra assessment of the intersection between Clarendon Street and Military Road. Ultimately, the assessment indicated that under future conditions without traffic signals, the Clarendon Street leg of the intersection would operate with delays, queues and degree of saturation above the acceptable limits. This was deemed primarily due to the high number of right turn manoeuvres which are required to occur for vehicles intending to travel southbound.

The report highlighted that in the event that no signals are installed, given the expected delays at this location, cars associated with both developments would utilise alternate routes (i.e. travel via Sydney Street and Raglan Street to the signalised intersection at Canning Street to the south).

Based on the above, it was deemed imperative that the intersection be signalised in order to attract the following benefits;

- Direct and convenient access for the community to access the new uses provided at the AHCP, access for residents located to the north and south will be safe (controlled) when compared to an unsignalised arrangement.
- Improve the accessibility of vehicle access to the Places Victoria development site ensuring that traffic associated with the development has minimal impacts on residential streets located towards the south.
- Access to the Avondale Heights Primary School from Military Road will be improved with a direct signalised access available for residents accessing the site.
- An expected decrease in traffic utilising local roads to the south of AHCP to occur as cars in nearby areas will no longer be required to travel to Canning Street to access traffic signals.
- Signalised access is expected to improve vehicle access to the supermarket and shops located to the south of the site as they would create breaks in traffic for cars to access Military Road.
- The signalisation will provide a controlled pedestrian crossing across Military Road and Clarendon Street in close proximity to the AHCP. In light of the above benefits, the signalisation of the intersection was included within staging sequence (Stage 2B) of the development of the AHCP.

As the development will benefit from the controlled intersection, a condition of approval will require the applicant to enter into a Section 173 Agreement with Council that sets an obligation to contribute 30% of the total cost of the design, construction, installation and maintenance of the new traffic signals.

Council's Traffic Engineers have indicated that the 30% is based on an analysis of traffic generation from both the AHCP and Places Victoria sites. The volumes are based on generation rates from their respective traffic impact assessments. It was found that 30% of this additional traffic at the Military / Clarendon intersection was made up of Places Victoria vehicles at the respective am and pm peaks.

Subject to the above conditions, the application complies with the objectives contained within Access and Mobility provisions.

- Integrated Water Management (Clause 56.07)

An infrastructure servicing report, prepared by SMEC, was submitted with the application. The potential for incorporating above ground water management features has been identified in the public open space and within road reserves, while potential for underground infrastructure has also been identified. Council's engineers have reviewed the report and have required detailed drainage construction plans to be submitted for approval. This has been included as a condition of approval.

- Site Management (Clause 56.08)

A condition of approval will require the submission of a construction and site management plan which will set out how the site is to be managed prior to and during the construction period.

- Utilities (Clause 56.09)

The application has been referred to various external agencies that have prescribed conditions which are included within the recommendation.

In addition, Council's Engineering Services Unit have required the submission of a public lighting plan with relevant details to accord with Council's Sustainable Lighting Guidelines.

### **3.12 Other Matters**

#### Piazza Contribution

In addition to the requirement to provide a contribution towards the signalisation of the Clarendon/Military Road intersection, it is considered that a further benefit to the proposal lies with the immediately adjacent Piazza area associated with the AHCP.

The vision for the piazza, as described within the Master Plan, "is to function as a neighbourhood park for play and recreation, as well as a wider civic gathering space and community hub"

Key features of the piazza comprise;

- Landscaping (hard and soft surfaces) Children's outdoor play area; Outdoor recreational facilities, seating, public art and Wi-Fi Outdoor

performance/event facilities Initial costing for the Piazza reveal construction estimates in the order of \$1.3 million.

As the proposal will benefit for unencumbered access to this community space it is submitted that a 10% contribution towards the construction be required via a Section 173 Agreement.

### 3.13 Objections

Overall, a total of 343 objections were received to the application. Many of the responses received consisted of standardised templates that were predominately coordinated via two key community groups, the Voices of Avondale and Avondale Action. A separate and more detailed objection was provided by Avondale Action.

The objections initiated by the Voices of Avondale advocated for the land to be developed into a full sized Piazza and/or market place surrounded by a mix of shops and restaurants. This response accounted for 53% (182 objections) of the objections received. In addition, a petition containing 438 signatures was received further articulating the need for a piazza.

With respect to Avondale Action, the key concerns of the proposal revolved around the built form and density of the proposal. A position to retain the land for educational purposes and/or develop the land into a public park/community garden was put forward. These responses accounted for 42% (145 objections) of the objections received.

The remaining 5% of objection (10 individual submissions and 6 additional replicated responses) raised concerns relating to neighbourhood character, interface with the adjoining Wintringham Nursing home, traffic and removal of native vegetation. A preference for a recreational reserve with sporting facilities and play equipment was submitted.

As the issues are wide ranging, they have been grouped below under key themes in order to provide a more consolidated approach to addressing the key areas of concern. It should be noted that many of the issues raised have been addressed within this report.

Issue	Officer Response
<u>Use the land</u> <ul style="list-style-type: none"><li>• The land should be developed into a full sized Piazza and/or market place complete with water fountains surrounded by a mix of shops and restaurants;</li><li>• The land should be used for educational purposes in accordance with the current zoning and to service the existing and</li></ul>	<p>From the outset, it must be noted that the use of the land for the purpose of residential development is not prohibited under the current Public Use zoning of the land.</p> <p>In light of the above, Council is obliged to consider the merits of the proposal having regard to the existing policy provisions contained within the Moonee Valley Planning Scheme.</p>

<p>future community educational needs. A high school and/or a Technical college is needed;</p> <ul style="list-style-type: none"> <li>• The land should be developed into a park and community garden. There is a current lack of public parks within Avondale Heights.</li> </ul>	<p>A community preference for the site to be developed into a full sized piazza with shops and restaurants is noted. The application currently before the Council concerns a residential development and accordingly the merits of such a proposal must be considered notwithstanding a preference for a completely alternate land use.</p> <p>In relation to the preference for an educational facility, Council has been made aware that the land is surplus to the educational requirements of the State. This position ultimately led to the sale of the land to Places Victoria with the intent that it be developed for residential purposes.</p> <p>A preference for a public park is noted. In this regard, the proposal provides for a centrally located public open space that will provide a link to the envisaged piazza area associated with the Avondale Height Community Precinct. This response is considered appropriate and combined with the adjacent precinct, an overall net community benefit will be achieved.</p>
<p><u>Built Form/Layout</u></p> <ul style="list-style-type: none"> <li>• The contemporary design of the development is not in keeping with the local/surrounding area;</li> <li>• The proposed density is excessive and lot sizes are not reflective of the character of the area. The development is more suited to an inner city location;</li> <li>• The proposal does not comply with the policy provisions of the Moonee Valley Planning Scheme</li> <li>• The development presents as an enclosed estate and</li> </ul>	<p>Much of the built form/layout considerations have been addressed within Section 3.</p> <p>Overall, the proposal is deemed appropriate and subject to conditions, the development will successfully integrate within the current neighbourhood context.</p> <p>The interface with the Wintringham Ron Conn Nursing Home is noted and accordingly, conditions will be imposed to address the concerns by way of greater design variance to improve the outlook when viewed from this adjacent property.</p>

<p>does not appropriately integrate with the surrounding context;</p> <ul style="list-style-type: none"> <li>• The sideways alignment of townhouses along Military Road is not acceptable;</li> <li>• The proposed setbacks to Clarendon Street, Military Road and Westminster Drive (north-east corner) are minimal;</li> <li>• The proposal provides a poor interface to the adjoining Wintringham Ron Conn Nursing Home with uniform elevations that provide minimal articulation and design variance along with a lack of landscaping treatments.</li> </ul>	
<p><u>Open Space</u></p> <ul style="list-style-type: none"> <li>• The public open space is poorly linked to the Community Precinct;</li> <li>• The inclusion of the swale within the public open space means that half of the space is unusable;</li> <li>• The development does not allow for meaningful landscaping.</li> </ul>	<p>Council is satisfied that the public open space will successfully integrate with the future piazza associated with the AHCP.</p> <p>Notwithstanding the fact that the biofilter cannot be used, the area is heavily landscaped and provides a positive contribution to the overall open space area.</p>
<p><u>Services and Infrastructure</u></p> <ul style="list-style-type: none"> <li>• The proposal will place undue pressure on existing roads, schools, child care, medical services and public transport).</li> <li>• The suitability of the stormwater treatment. Council must ensure that it poses no safety risk to the community. It should be</li> </ul>	<p>The application has been assessed by both Council's Engineering Services Unit and Traffic and Transportation Unit.</p> <p>Subject to conditions, it is not considered that the proposal will place an unreasonable burden on existing services and infrastructure.</p>

<p>relocated away from the community precinct.</p>	
<p><u>Traffic/Parking</u></p> <ul style="list-style-type: none"> <li>• The proposal will lead to traffic congestion within the surrounding road network;</li> <li>• Traffic lights should be installed at the Military Road intersection with Westminster Drive and Macey Avenue;</li> <li>• Traffic lights should be installed at the Military Road/Clarendon Street intersection;</li> <li>• Traffic lights should not be installed at the Military Road/Clarendon Street intersection as it will lead to an increase in traffic;</li> <li>• The proposed internal road network is too narrow;</li> <li>• The internal road network should link up with Doyle Street;</li> <li>• The proposal fails to provide sufficient parking. In addition most garages will not be used for their intended purpose which will place pressure on existing streets to cater for increased parking demand;</li> <li>• The proposal poses traffic/safety hazards to school children and elderly residents at the nearby Ron Conn Nursing Home;</li> <li>• Military Road should be widened and Clarendon Street should be realigned to intersect with Medfield Avenue.</li> </ul>	<p>Traffic and Parking aspects have been addressed within Sections 3.6 and 3.11 of this assessment.</p> <p>Extensive conditions have been imposed in a bid to minimise any adverse impacts by the development.</p>

<ul style="list-style-type: none"> <li>• The development should not have any access from Sydney Street given the location of the nearby primary school.</li> <li>• The internal main street will be used as a 'rat run'</li> </ul>	
<p><u>Other concerns</u></p> <p>The proposal will lead to the devaluation of surrounding property values.</p>	Property devaluation is not within the realms of planning considerations.
Avondale Heights is a family orientated suburb and the proposed development is not designed for families.	The development provides for a wide range of housing types in accordance with relevant State and Local planning policy.
Public transport in the area is poor and cannot cater for the proposed development.	The application was referred to Public Transport Victoria who raised no objection to the application. The site is serviced by two existing bus routes that provide adequate connections to essential services.
Construction noise.	Noise associated with construction will be addressed as part of a construction and site management plan.
The existing trees and native vegetation should be retained.	Many of the trees on site were previously planted with none identified as having exceptional quality. It is considered the development provides for sufficient opportunities for meaningful landscaping throughout. Conditions of approval will also require a number of trees to be retained.
The developer should make a significant contribution to the development of the Community Precinct.	Conditions of approval will require the developer to provide contributions towards infrastructure and the future adjoining piazza.
If the development were to be approved and subsequent changes proposed – would the community be notified?	The community would only be notified of modifications to the design if Council considers that material detriment may arise.

Potential overshadowing to Military Road.	As the maximum height of the proposal is to be two storeys, overshadowing impacts to Military Road will be negligible.
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**4. Human Rights**

The application process and decision making is in line with the Victorian Charter of Human Rights and Responsibilities 2006 (Section 18 – Taking part in public life).

**5. Conclusion**

The application has been assessed against the relevant provisions of the SPPF, LPPF and the relevant Particular and General Provisions of the Moonee Valley Planning Scheme. It is submitted that the proposal demonstrates compliance with the requirements of these provisions and policies.

In light of the above, it is recommended that Council support the application in line with conditions prescribed within the Recommendation.

## APPENDIX B

### Location of objectors

31 Oakley Drive, AVONDALE HEIGHTS VIC 3034
31 Oakley Drive, AVONDALE HEIGHTS VIC 3034
31 Oakley Drive, AVONDALE HEIGHTS VIC 3034
31 Oakley Drive, AVONDALE HEIGHTS VIC 3034
31 Oakley Drive, AVONDALE HEIGHTS VIC 3034
31 Oakley Drive, AVONDALE HEIGHTS VIC 3034
50 Intervale Drive, AVONDALE HEIGHTS VIC 3034
17 Chaumont Drive, AVONDALE HEIGHTS VIC 3034
80 Military Road, AVONDALE HEIGHTS VIC 3034
24 Glamis Drive, AVONDALE HEIGHTS VIC 3034
18 Ridley Avenue, AVONDALE HEIGHTS VIC 3034
18 Ridley Avenue, AVONDALE HEIGHTS VIC 3034
22 Sovereign Way, AVONDALE HEIGHTS VIC 3034
22 Sovereign Way, AVONDALE HEIGHTS VIC 3034
1 Ridley Avenue, AVONDALE HEIGHTS VIC 3034
162 Sterling Drive, EAST KEILOR VIC 3033
46 Herbert Street, AVONDALE HEIGHTS VIC 3034
46 Herbert Street, AVONDALE HEIGHTS VIC 3034
20 Clarendon Street, AVONDALE HEIGHTS VIC 3034
34 Glencara Street, AVONDALE HEIGHTS VIC 3034
34 Glencara Street, AVONDALE HEIGHTS VIC 3034
34 Glencara Street, AVONDALE HEIGHTS VIC 3034
67 Barbara Crescent, AVONDALE HEIGHTS VIC 3034
13 Carey Court, EAST KEILOR VIC 3033
13 Carey Court, EAST KEILOR VIC 3033
151 Canning Street, AVONDALE HEIGHTS VIC 3034
7 Ridley Avenue, AVONDALE HEIGHTS VIC 3034
184 Buckley Street, ESSENDON VIC 3040
123 Prospect Drive, EAST KEILOR VIC 3033
123 Prospect Drive, EAST KEILOR VIC 3033

226 Sterling Drive, EAST KEILOR VIC 3033
21 Ash Grove, EAST KEILOR VIC 3033
157 Canning Street, AVONDALE HEIGHTS VIC 3034
20 Clarendon Street, AVONDALE HEIGHTS VIC 3034
65 Barbara Crescent, AVONDALE HEIGHTS VIC 3034
65 Barbara Crescent, AVONDALE HEIGHTS VIC 3034
65 Barbara Crescent, AVONDALE HEIGHTS VIC 3034
45 Glencara Street, AVONDALE HEIGHTS VIC 3034
40 Alexander Street, AVONDALE HEIGHTS VIC 3034
40 Alexander Street, AVONDALE HEIGHTS VIC 3034
40 Alexander Street, AVONDALE HEIGHTS VIC 3034
40 Alexander Street, AVONDALE HEIGHTS VIC 3034
2a Doyle Street, AVONDALE HEIGHTS VIC 3034
2a Doyle Street, AVONDALE HEIGHTS VIC 3034
2a Doyle Street, AVONDALE HEIGHTS VIC 3034
2a Doyle Street, AVONDALE HEIGHTS VIC 3034
21 Cecelia Drive, EAST KEILOR VIC 3033
5 Ridge Drive, AVONDALE HEIGHTS VIC 3034
12 Mark Street, EAST KEILOR VIC 3033
53 Barbara Crescent, AVONDALE HEIGHTS VIC 3034
53 Barbara Crescent, AVONDALE HEIGHTS VIC 3034
53 Barbara Crescent, AVONDALE HEIGHTS VIC 3034
13 Herbert Street, AVONDALE HEIGHTS VIC 3034
14 Alexander Street, AVONDALE HEIGHTS VIC 3034
14 Alexander Street, AVONDALE HEIGHTS VIC 3034
3/50 Sargood Street, ALTONA VIC 3018
48 Park Drive, EAST KEILOR VIC 3033
3 Shelley Street, EAST KEILOR VIC 3033
3 Shelley Street, EAST KEILOR VIC 3033
8 Chicago Street, MARIBYRNONG VIC 3032
8 Chicago Street, MARIBYRNONG VIC 3032
9 Charmaine Avenue, AVONDALE HEIGHTS VIC 3034
9 Charmaine Avenue, AVONDALE HEIGHTS VIC 3034

30 Wood Street, AVONDALE HEIGHTS VIC 3034
30 Wood Street, AVONDALE HEIGHTS VIC 3034
9 Charmaine Avenue, AVONDALE HEIGHTS VIC 3034
32 Wood Street, AVONDALE HEIGHTS VIC 3034
9 Charmaine Avenue, AVONDALE HEIGHTS VIC 3034
32 Wood Street, AVONDALE HEIGHTS VIC 3034
9 Charmaine Avenue, AVONDALE HEIGHTS VIC 3034
30 Wood Street, AVONDALE HEIGHTS VIC 3034
23 Rim Cross Drive, AVONDALE HEIGHTS VIC 3034
13 Ridley Avenue, AVONDALE HEIGHTS VIC 3034
3 Ridley Avenue, AVONDALE HEIGHTS VIC 3034
33 Fawkner Crescent, EAST KEILOR VIC 3033
5 Ridge Drive, AVONDALE HEIGHTS VIC 3034
6 Dickson Street, AVONDALE HEIGHTS VIC 3034
6 Dickson Street, AVONDALE HEIGHTS VIC 3034
6 Dickson Street, AVONDALE HEIGHTS VIC 3034
5 Camlarni Close, AVONDALE HEIGHTS VIC 3034
15 Herbert Street, AVONDALE HEIGHTS VIC 3034
47 Glencara Street, AVONDALE HEIGHTS VIC 3034
59 Deutscher Street, AVONDALE HEIGHTS VIC 3034
62 Orleans Road, AVONDALE HEIGHTS VIC 3034
338 Milleara Road, AVONDALE HEIGHTS VIC 3034
18 Dumas Avenue, AVONDALE HEIGHTS VIC 3034
18 Dumas Avenue, AVONDALE HEIGHTS VIC 3034
1/21 Riviera Road, AVONDALE HEIGHTS VIC 3034
177 Military Road, AVONDALE HEIGHTS VIC 3034
9 Roberts Street, EAST KEILOR VIC 3033
7 Norma Court, AVONDALE HEIGHTS VIC 3034
18 Lorgrove Court, AVONDALE HEIGHTS VIC 3034
18 Lorgrove Court, AVONDALE HEIGHTS VIC 3034
14 Prescott Place, AVONDALE HEIGHTS VIC 3034
43 Raglan Street, AVONDALE HEIGHTS VIC 3034
21 Brees Road, EAST KEILOR VIC 3033

10 Skewes Street, AVONDALE HEIGHTS VIC 3034
10 Skewes Street, AVONDALE HEIGHTS VIC 3034
5 Downland Square, AVONDALE HEIGHTS VIC 3034
52 Wood Street, AVONDALE HEIGHTS VIC 3034
69 North Road, AVONDALE HEIGHTS VIC 3034
77 Doyle Street, AVONDALE HEIGHTS VIC 3034
77 Doyle Street, AVONDALE HEIGHTS VIC 3034
23b Stroner Avenue, EAST KEILOR VIC 3033
25 McCarron Parade, ESSENDON VIC 3040
1 Winbrook Way, AVONDALE HEIGHTS VIC 3034
179 Military Road, AVONDALE HEIGHTS VIC 3034
9 Stroner Avenue, EAST KEILOR VIC 3033
1 Windsor Drive, AVONDALE HEIGHTS VIC 3034
3 Brighton Court, AVONDALE HEIGHTS VIC 3034
20 Macey Avenue, AVONDALE HEIGHTS VIC 3034
13 Collendina Close, EAST KEILOR VIC 3033
13 Collendina Close, EAST KEILOR VIC 3033
13 Collendina Close, EAST KEILOR VIC 3033
13 Collendina Close, EAST KEILOR VIC 3033
13 Collendina Close, EAST KEILOR VIC 3033
13 Collendina Close, EAST KEILOR VIC 3033
6 Dickson Street, AVONDALE HEIGHTS VIC 3034
3/9b Weyburn Place, AVONDALE HEIGHTS VIC 3034
8/570 Buckley Street, EAST KEILOR VIC 3033
15 Dumas Avenue, AVONDALE HEIGHTS VIC 3034
159 Military Road, AVONDALE HEIGHTS VIC 3034
123 Sterling Drive, EAST KEILOR VIC 3033
123 Sterling Drive, EAST KEILOR VIC 3033
15a Browning Crescent, AVONDALE HEIGHTS VIC 3034
17 Dumas Avenue, AVONDALE HEIGHTS VIC 3034
17 Dumas Avenue, AVONDALE HEIGHTS VIC 3034
15 Dumas Avenue, AVONDALE HEIGHTS VIC 3034
14 Prescott Place, AVONDALE HEIGHTS VIC 3034

35 Deutscher Street, AVONDALE HEIGHTS VIC 3034
18 Stroner Avenue, EAST KEILOR VIC 3033
30 Thompson Street, AVONDALE HEIGHTS VIC 3034
78 Doyle Street, AVONDALE HEIGHTS VIC 3034
178 Sterling Drive, EAST KEILOR VIC 3033
178 Sterling Drive, EAST KEILOR VIC 3033
178 Sterling Drive, EAST KEILOR VIC 3033
10 Phillip Road, EAST KEILOR VIC 3033
18 College Parade, EAST KEILOR VIC 3033
176 Sterling Drive, EAST KEILOR VIC 3033
9a Riverview Street, AVONDALE HEIGHTS VIC 3034
7 Medfield Avenue, AVONDALE HEIGHTS VIC 3034
39 Glencara Street, AVONDALE HEIGHTS VIC 3034
39 Glencara Street, AVONDALE HEIGHTS VIC 3034
27 Thompson Street, AVONDALE HEIGHTS VIC 3034
25 Thompson Street, AVONDALE HEIGHTS VIC 3034
29 Rogerson Street, AVONDALE HEIGHTS VIC 3034
29 Rogerson Street, AVONDALE HEIGHTS VIC 3034
29 Rogerson Street, AVONDALE HEIGHTS VIC 3034
42 Alexander Street, AVONDALE HEIGHTS VIC 3034
3/12 Cresswold Avenue, AVONDALE HEIGHTS VIC 3034
17 Prescott Place, AVONDALE HEIGHTS VIC 3034
1/9 Alexander Street, AVONDALE HEIGHTS VIC 3034
54 Macey Avenue, AVONDALE HEIGHTS VIC 3034
1 Oates Court, TAYLORS LAKES VIC 3038
11 Viewbank Drive, EAST KEILOR VIC 3033
1 Lorgrove Court, AVONDALE HEIGHTS VIC 3034
91 Canning Street, AVONDALE HEIGHTS VIC 3034
6 Prescott Place, AVONDALE HEIGHTS VIC 3034
21 St Raphael Street, AVONDALE HEIGHTS VIC 3034
4 Winbrook Way, AVONDALE HEIGHTS VIC 3034
4 Winbrook Way, AVONDALE HEIGHTS VIC 3034
4 Winbrook Way, AVONDALE HEIGHTS VIC 3034

60 Wood Street, AVONDALE HEIGHTS VIC 3034
30 Glencara Street, AVONDALE HEIGHTS VIC 3034
19 Glenside Street, AVONDALE HEIGHTS VIC 3034
42 Glenside Street, AVONDALE HEIGHTS VIC 3034
42 Glenside Street, AVONDALE HEIGHTS VIC 3034
8 Prescott Place, AVONDALE HEIGHTS VIC 3034
8 Prescott Place, AVONDALE HEIGHTS VIC 3034
8 Prescott Place, AVONDALE HEIGHTS VIC 3034
16 Windsor Drive, AVONDALE HEIGHTS VIC 3034
5/35 Westminster Drive, AVONDALE HEIGHTS VIC 3034
4 Clift Court, AVONDALE HEIGHTS VIC 3034
4 Clift Court, AVONDALE HEIGHTS VIC 3034
5 Prescott Place, AVONDALE HEIGHTS VIC 3034
5 Prescott Place, AVONDALE HEIGHTS VIC 3034
12 Prescott Place, AVONDALE HEIGHTS VIC 3034
12 Prescott Place, AVONDALE HEIGHTS VIC 3034
10 Prescott Place, AVONDALE HEIGHTS VIC 3034
15 Templewood Crescent, AVONDALE HEIGHTS VIC 3034
1 Lorgrove Court, AVONDALE HEIGHTS VIC 3034
172 Templewood Crescent, AVONDALE HEIGHTS VIC 3034
167 Templewood Crescent, AVONDALE HEIGHTS VIC 3034
26 St Raphael Street, AVONDALE HEIGHTS VIC 3034
58 Riverside Avenue, AVONDALE HEIGHTS VIC 3034
17 Templewood Crescent, AVONDALE HEIGHTS VIC 3034
26 Macey Avenue, AVONDALE HEIGHTS VIC 3034
26 Macey Avenue, AVONDALE HEIGHTS VIC 3034
26 Macey Avenue, AVONDALE HEIGHTS VIC 3034
26 Macey Avenue, AVONDALE HEIGHTS VIC 3034
8 Cresswold Avenue, AVONDALE HEIGHTS VIC 3034
71 Barbara Crescent, AVONDALE HEIGHTS VIC 3034
71 Barbara Crescent, AVONDALE HEIGHTS VIC 3034
14 Prescott Place, AVONDALE HEIGHTS VIC 3034
14 Prescott Place, AVONDALE HEIGHTS VIC 3034

58 Wood Street, AVONDALE HEIGHTS VIC 3034
35 Duke Street, AVONDALE HEIGHTS VIC 3034
35 Duke Street, AVONDALE HEIGHTS VIC 3034
35 Duke Street, AVONDALE HEIGHTS VIC 3034
35 Duke Street, AVONDALE HEIGHTS VIC 3034
30 Glencara Street, AVONDALE HEIGHTS VIC 3034
30 Glencara Street, AVONDALE HEIGHTS VIC 3034
27 The Crossway, EAST KEILOR VIC 3033
17 Prescott Place, AVONDALE HEIGHTS VIC 3034
1 Prescott Place, AVONDALE HEIGHTS VIC 3034
1 Prescott Place, AVONDALE HEIGHTS VIC 3034
39 Clarendon Street, AVONDALE HEIGHTS VIC 3034
40 Pintail Crescent, TAYLORS LAKES VIC 3038
3/73 Harcourt Avenue, KEALBA VIC 3021
168 Templewood Crescent, AVONDALE HEIGHTS VIC 3034
23 Ridley Avenue, AVONDALE HEIGHTS VIC 3034
141 Templewood Crescent, AVONDALE HEIGHTS VIC 3034
1 Lorgrove Court, AVONDALE HEIGHTS VIC 3034
15 Prescott Place, AVONDALE HEIGHTS VIC 3034
15 Prescott Place, AVONDALE HEIGHTS VIC 3034
14 Westminster Drive, AVONDALE HEIGHTS VIC 3034
172 Templewood Crescent, AVONDALE HEIGHTS VIC 3034
14 Riverview Street, AVONDALE HEIGHTS VIC 3034
143 Templewood Crescent, AVONDALE HEIGHTS VIC 3034
166 Templewood Crescent, AVONDALE HEIGHTS VIC 3034
32 Glencara Street, AVONDALE HEIGHTS VIC 3034
18 Lorgrove Court, AVONDALE HEIGHTS VIC 3034
18 Lorgrove Court, AVONDALE HEIGHTS VIC 3034
24 Cannes Avenue, AVONDALE HEIGHTS VIC 3034
24 Cannes Avenue, AVONDALE HEIGHTS VIC 3034
7 Wood Street, AVONDALE HEIGHTS VIC 3034
7 Wood Street, AVONDALE HEIGHTS VIC 3034
8 Intervale Drive, AVONDALE HEIGHTS VIC 3034

173 Templewood Crescent, AVONDALE HEIGHTS VIC 3034
42a Herbert Street, AVONDALE HEIGHTS VIC 3034
171 Templewood Crescent, AVONDALE HEIGHTS VIC 3034
13 McKenna Street, AVONDALE HEIGHTS VIC 3034
46 Robson Avenue, AVONDALE HEIGHTS VIC 3034
39 The Crossway, EAST KEILOR VIC 3033
3 Brian Court, NIDDRIE VIC 3042
32 Military Road, AVONDALE HEIGHTS VIC 3034
48 Dinah Parade, EAST KEILOR VIC 3033
49 Riverside Avenue, AVONDALE HEIGHTS VIC 3034
73 Thompson Street, AVONDALE HEIGHTS VIC 3034
15 Woodbury Court, AVONDALE HEIGHTS VIC 3034
41 William Street, KEILOR PARK VIC 3042
482 Fullarton Road, AIRPORT WEST VIC 3042
110 North Road, AVONDALE HEIGHTS VIC 3034
6 Chappell Place, EAST KEILOR VIC 3033
4 Parr Court, AVONDALE HEIGHTS VIC 3034
1 The Strand, EAST KEILOR VIC 3033
21 Swan Street, KEILOR PARK VIC 3042
19 Clarendon Street, AVONDALE HEIGHTS VIC 3034
8 Bloomfield Road, ASCOT VALE VIC 3032
81 Chichester Drive, TAYLORS LAKES VIC 3038
29 Ridley Avenue, AVONDALE HEIGHTS VIC 3034
29 Ridley Avenue, AVONDALE HEIGHTS VIC 3034
35 South Gateway, AVONDALE HEIGHTS VIC 3034
10 Hassett Crescent, EAST KEILOR VIC 3033
13 Collinson Street, KEILOR PARK VIC 3042
10 Clarendon Street, AVONDALE HEIGHTS VIC 3034
33 Robson Avenue, AVONDALE HEIGHTS VIC 3034
29 Rogerson Street, AVONDALE HEIGHTS VIC 3034
1 Drake Court, AVONDALE HEIGHTS VIC 3034
190 Woodland Street, STRATHMORE VIC 3041
190 Woodland Street, STRATHMORE VIC 3041

190 Woodland Street, STRATHMORE VIC 3041
190 Woodland Street, STRATHMORE VIC 3041
178 Sterling Drive, EAST KEILOR VIC 3033
3 Brentwood Drive, AVONDALE HEIGHTS VIC 3034
18 Templewood Crescent, AVONDALE HEIGHTS VIC 3034
18 Templewood Crescent, AVONDALE HEIGHTS VIC 3034
37 St Raphael Street, AVONDALE HEIGHTS VIC 3034
37 St Raphael Street, AVONDALE HEIGHTS VIC 3034
46 Brown Street, AVONDALE HEIGHTS VIC 3034
19 Orleans Road, AVONDALE HEIGHTS VIC 3034
19 Orleans Road, AVONDALE HEIGHTS VIC 3034
15 San Remo Drive, AVONDALE HEIGHTS VIC 3034
PO Box 1222, COLLINGWOOD VIC 3066
2 Brentwood Drive, AVONDALE HEIGHTS VIC 3034
3 Brentwood Drive, AVONDALE HEIGHTS VIC 3034
14 Barbara Crescent, AVONDALE HEIGHTS VIC 3034
3 Cresswold Avenue, AVONDALE HEIGHTS VIC 3034
34 Heather Avenue, EAST KEILOR VIC 3033
34 Heather Avenue, EAST KEILOR VIC 3033
34 Heather Avenue, EAST KEILOR VIC 3033
27 Riverside Avenue, AVONDALE HEIGHTS VIC 3034
10 Medfield Avenue, AVONDALE HEIGHTS VIC 3034
22 Mark Street, EAST KEILOR VIC 3033
56 Wood Street, AVONDALE HEIGHTS VIC 3034
56 Wood Street, AVONDALE HEIGHTS VIC 3034
56 Wood Street, AVONDALE HEIGHTS VIC 3034
48 Dinah Parade, EAST KEILOR VIC 3033
10 Riverview Street, AVONDALE HEIGHTS VIC 3034
7 Riverview Street, AVONDALE HEIGHTS VIC 3034
11 Riverview Street, AVONDALE HEIGHTS VIC 3034
10 Lorgrove Court, AVONDALE HEIGHTS VIC 3034
10 Lorgrove Court, AVONDALE HEIGHTS VIC 3034
10 Lorgrove Court, AVONDALE HEIGHTS VIC 3034

52 Military Road, AVONDALE HEIGHTS VIC 3034
10 Avalon Court, AVONDALE HEIGHTS VIC 3034
35 Raglan Street, AVONDALE HEIGHTS VIC 3034
35 Raglan Street, AVONDALE HEIGHTS VIC 3034
35 Raglan Street, AVONDALE HEIGHTS VIC 3034
23 Robson Avenue, AVONDALE HEIGHTS VIC 3034
7 Menton Court, AVONDALE HEIGHTS VIC 3034
50 Thompson Street, AVONDALE HEIGHTS VIC 3034
48 Wunnamurra Drive, EAST KEILOR VIC 3033
15 Woodbury Court, AVONDALE HEIGHTS VIC 3034
6 Peppercorn Court, AVONDALE HEIGHTS VIC 3034
6 Peppercorn Court, AVONDALE HEIGHTS VIC 3034
6 Peppercorn Court, AVONDALE HEIGHTS VIC 3034
49 Thompson Street, AVONDALE HEIGHTS VIC 3034
2 Macey Avenue, AVONDALE HEIGHTS VIC 3034
2 Macey Avenue, AVONDALE HEIGHTS VIC 3034
11 Winbrook Way, AVONDALE HEIGHTS VIC 3034
11 Winbrook Way, AVONDALE HEIGHTS VIC 3034
4 Turfan Close, KEILOR DOWNS VIC 3038
54 Wood Street, AVONDALE HEIGHTS VIC 3034
36 Orleans Road, AVONDALE HEIGHTS VIC 3034
36 Orleans Road, AVONDALE HEIGHTS VIC 3034
27 Rogerson Street, AVONDALE HEIGHTS VIC 3034
97 North Road, AVONDALE HEIGHTS VIC 3034
104 North Road, AVONDALE HEIGHTS VIC 3034
27 Rogerson Street, AVONDALE HEIGHTS VIC 3034
50 Thompson Street, AVONDALE HEIGHTS VIC 3034
35 Brown Street, AVONDALE HEIGHTS VIC 3034
35 Brown Street, AVONDALE HEIGHTS VIC 3034
33 Macey Avenue, AVONDALE HEIGHTS VIC 3034
32 Macey Avenue, AVONDALE HEIGHTS VIC 3034
114 Canning Street, AVONDALE HEIGHTS VIC 3034
60 Rogerson Street, AVONDALE HEIGHTS VIC 3034

25a Robson Avenue, AVONDALE HEIGHTS VIC 3034
44 St Raphael Street, AVONDALE HEIGHTS VIC 3034
24 Glencara Street, AVONDALE HEIGHTS VIC 3034
5 Landau Place, AVONDALE HEIGHTS VIC 3034
50 Canning Street, AVONDALE HEIGHTS VIC 3034
174 Templewood Crescent, AVONDALE HEIGHTS VIC 3034
29 Brown Street, AVONDALE HEIGHTS VIC 3034
5 Laura Grove, AVONDALE HEIGHTS VIC 3034
29 Park Drive, EAST KEILOR VIC 3033
16 Westminster Drive, AVONDALE HEIGHTS VIC 3034
8 Charmaine Avenue, AVONDALE HEIGHTS VIC 3034
8 Charmaine Avenue, AVONDALE HEIGHTS VIC 3034
10a Westminster Drive, AVONDALE HEIGHTS VIC 3034
47 Clarendon Street, AVONDALE HEIGHTS VIC 3034
5/70 Community Hub, SYDENHAM VIC 3037
6 Coghlan Street, NIDDRIE VIC 3042

## APPENDIX C

### Clause 55 of the Moonee Valley Planning Scheme

Two or more dwellings on a lot and residential buildings (Clause 55 and Schedule to the General Residential Zone 1).

Where there is non-compliance, see section 3.10 in report.

Title and Objective	Complies with Standard	Compliance with Objective
<i>B1 - Neighbourhood Character</i>	✓	✓
<i>B 2 - Residential Policy</i>	✓	✓
<i>B 3 - Dwelling Diversity</i>	✓	✓
<i>B 4 - Infrastructure Objectives</i>	✓	✓
<i>B 5- Integration with the Street Objective</i>	✓	✓
<i>B6 - Street Setback Objective</i>	x	✓
<i>B7 - Building Height Objective</i>	✓	✓
<i>B8- Site Coverage Objective.</i>	✓	✓
<i>B9- Permeability Objectives</i>	✓	✓
<i>B10 - Energy Efficiency Objectives</i>	✓	✓
<i>B 11 - Open Space Objective</i>	✓	✓
<i>B 12- Safety Objective</i>	✓	✓
<i>B 13 - Landscaping Objectives</i>	✓ subject to condition	✓ subject to condition
<i>B 14 - Access Objectives</i>	✓	✓
<i>B 15 Parking Location Objectives</i>	✓	✓
<i>B 16 - Parking Provision Objectives</i>	<i>Deleted from Clause 55 on 5 June 2012 (VC90). Refer to Clause 52.06 for car parking requirements under Section 3.6 of the report.</i>	
<i>B 17 - Side and Rear Setbacks Objective</i>	✓	✓
<i>B 18 - Walls on Boundaries Objective</i>	✓	✓
<i>B 19 - Daylight to Existing Windows Objective.</i>	✓	✓
<i>B 20 - North-facing Windows Objective</i>	N/A	N/A
<i>B 21 - Overshadowing Open Space Objective</i>	✓	✓
<i>B 22 - Overlooking Objective</i>	N/A	N/A

<i>B 23 - Internal Views Objective</i>	✓	✓
<i>B 24 - Noise Impacts Objectives</i>	✓	✓
<i>B 25 - Accessibility Objective</i>	✓	✓
<i>B 26 - Dwelling Entry Objective</i>	✓	✓
<i>B 27 - Daylight to New Windows Objective</i>	✓	✓
<i>B 28 - Private Open Space Objective</i>	x	✓
<i>B 29 - Solar Access to Open Space Objective</i>	x	✓
<i>B 30 - Storage Objective</i>	✓	✓
<i>B 31 - Design detail objective</i>	✓ subject to condition	✓ subject to condition
<i>B 32 - Front Fences Objective</i>	✓	✓
<i>B 33 - Common Property Objectives</i>	N/A	N/A
<i>B 34 - Site Services Objectives</i>	✓	✓

✓ - complies

x – non-compliance

N/A- not applicable

**9.2                      19 Rogerson Street, Avondale Heights (Lot 172 PS060332)**  
**Construction of three double storey dwellings**

**File No:** MV/642/2014  
**Author:** Statutory Planner  
**Directorate:** City Works & Development  
**Ward:** Rose Hill

<b>Proposal</b>	Three double storey dwellings
<b>Applicant</b>	Vitale Properties P/L
<b>Owner</b>	Vitale Properties P/L
<b>Planning Scheme Controls</b>	General Residential Zone No Overlays
<b>Planning Permit Requirement</b>	Clause 32.08-4 – Construction of two or more dwellings
<b>Car Parking Requirements (Clause 52.06)</b>	Required – 6 car spaces Provided – 6 car spaces
<b>Bicycle Requirements</b>	N/A
<b>Restrictive Covenants</b>	None
<b>Easements</b>	Yes – A 1.83 metre wide E-1 (Drainage and Sewerage) Easement along the southern boundary
<b>Site Area</b>	594.3 square metres
<b>Number Of Objections</b>	21
<b>Consultation Meeting</b>	21 January 2015

## Executive Summary

- The application seeks statutory planning approval for the construction of three dwellings.
- The site has an area of approximately 594.3 square metres and is located on the south-western corner of Rogerson Street and Doyle Street, Avondale Heights.
- The application was advertised and as a result 21 objections were received. Concerns were raised relating to neighbourhood character; overdevelopment; car parking; devaluation of properties in the area; amenity impacts (overlooking, overshadowing, visual bulk, solar access); identical development to the south at No.20 Westminster Avenue; quality of life and excessive noise during construction.
- A Consultation Meeting was held on 21 January 2015, attended by Councillor John Sipek, objectors, the applicant and Council's Planning Officers regarding both developments at No.19 Rogerson Street and No.20 Westminster Avenue concurrently. No resolution was achieved at this meeting.
- The application was referred internally to Council's Environmental Sustainable Development (ESD) Officer, Engineering Services Unit, Traffic and Transportation Unit, Arborist and Urban Designer. Conditional support to the application was provided.
- The assessment report finds that the proposal demonstrates an adequate level of compliance with the relevant policies and provisions of the Moonee Valley Planning Scheme and therefore recommends that a Notice of Decision to Grant a Permit be issued subject to conditions.



Figure 1: Aerial photograph of the subject site and surrounding area

## Recommendation

That Council issue a Notice of Decision to Grant a Permit in relation to Planning Permit Application No. MV/642/2014 for the Construction of three double storey dwellings at

No.19 Rogerson Street, Avondale Heights (Lot 172 on PS60332), subject to the following conditions:

1. Before the development starts, amended plans (three copies) must be submitted to and approved to the satisfaction of the Responsible Authority. The plans must be drawn to scale, with dimensions, and be generally in accordance with the plans submitted and assessed with the application but modified to show:
  - a) The all walls associated with the First Floor setback of Dwellings 2 and 3 to be increased by 500mm from the north eastern boundary.
  - b) The First Floor setback of all Dwellings to be increased by 500mm from the south-west boundary.
  - c) Any internal alterations required as a result of Condition 1a) and b), with no further change to the building footprint.
  - d) A flat roof form provided to the garage of Dwelling 1 and 2.
  - e) All paving except the driveways to be notated as permeable in accordance with the approved STORM report.
  - f) Each rainwater tank to be notated to state, on the ground floor plan:
    - i) The capacity of the rainwater tank;
    - ii) Whether a mechanically, fully charged or gravity fed system is proposed;
    - iii) Number of toilets connected to the rainwater tank, as detailed on the STORM report; and
    - iv) The roof catchment area collected to the rainwater tank, as detailed on the STORM report.
  - g) A notation that the First Floor of Dwelling 3 is to be structurally independent from the lightweight carport within the easement.
  - h) The word 'Townhouse' and 'Unit' replaced with 'Dwelling'.

Once approved these plans become the endorsed plans of this permit.
2. The layout of the site and the size, design and location of the buildings and works permitted must always accord with the endorsed plan and must not be altered or modified without the further written consent of the Responsible Authority.
3. A minimum 30 days prior to any building or works commencing, a Construction & Site Management Plan (CSMP) must be submitted to and be approved by the Responsible Authority detailing the construction activity proposed and the site and environmental management methods to be used. The plan must include, but is not limited to:
  - a) Hours of construction;
  - b) Parking and traffic movement of all workers vehicles and construction vehicles;
  - c) Scaffolding and hoarding for the site;
  - d) Allocated areas for loading and unloading;
  - e) Site evacuation plan and procedure;

- f) Occupational health and safety policy;
- g) Hazard identification and control;
- h) Environmental management and waste minimisation;
- i) Management of onsite stormwater and contamination: a statement or report outlining all construction measures to be taken to prevent litter, sediments and pollution from entering the stormwater systems;
- j) Protection of surrounding roads from site contamination and damage including rumble grid and or wash down bay facility;
- k) Chemical storage;
- l) Noise and vibration;
- m) Risk assessment;
- n) Works timetable; and
- o) Number of workers expected of work on the site at any one time.

Once submitted and approved the works detailed by the Construction & Site Management Plan must be carried out to the satisfaction of the Responsible Authority.

- 4. A minimum 30 days prior to any building or works being completed, a WSUD Maintenance Program must be submitted to and approved by the Responsible Authority which sets out future operational and maintenance arrangements for all WSUD measures. The program must include, but is not limited to:
  - a) Inspection frequency;
  - b) Cleanout procedures;
  - c) As installed design details/diagrams including a sketch of how the system operates; and
  - d) A report confirming completion and commissioning of all WSUD Response initiatives by the author of the WSUD Response and STORM or MUSIC model approved pursuant to this permit, or similarly qualified person or company. This report must be to the satisfaction of the Responsible Authority and must confirm that all initiatives specified in the WSUD Response and STORM or MUSIC model have been completed and implemented in accordance with the approved report.
- 5. Prior to the issue of an Occupancy Permit, all boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority.
- 6. Building or works must not be constructed over or adjacent to any easement or within one metre of an existing Council drainage asset without the written consent of the relevant authorities or agencies to the satisfaction of the Responsible Authority.
- 7. Floor levels shown on the endorsed plan(s) must not be altered or modified without written consent of the Responsible Authority.
- 8. The privacy screens/obscure glazing as shown on the endorsed plans must be installed prior to the occupation of the building.

9. The car parking areas and access ways as shown on the endorsed plans must be formed to such levels so that they may be used in accordance with the plan, and must be properly constructed, surfaced, drained and line-marked (where applicable). The car park area and driveways must be maintained to the satisfaction of the Responsible Authority.
10. Standard concrete vehicular crossing(s) must be constructed to suit the proposed driveway(s) in accordance with the Responsible Authority's standard specification and any vehicle crossing(s) no longer required must be removed and the land, footpath and kerb and channel replaced all to the satisfaction of the Responsible Authority. All vehicle access points must be located a minimum of 1.0 metre from any infrastructure including service pits. Alternatively, such assets may be incorporated into the crossover with the written consent of the Responsible Authority and the relevant servicing authority/agency. Subsequent works and costs in association with relocation and/or amendment must be incurred at the owner's cost, to the satisfaction of the relevant servicing authority/agency and the Responsible Authority.
11. The street tree(s) must not be removed or replaced without written consent of the Responsible Authority. The replacement is to be to the satisfaction of the Responsible Authority. All fees associated with the removal and replacement/replanting of the street tree(s) must be borne by the permit applicant and must be undertaken prior to the issue of an Occupancy Permit to the satisfactory and requirements of the Responsible Authority.
12. Provision must be made for the drainage of the land including landscaped and pavement areas. The discharge of water from the land must be controlled around its limits to prevent any discharge onto any adjoining or adjacent property or streets other than by means of an underground pipe drain which is discharged to an approved legal point of discharge to the satisfaction of the Responsible Authority.
13. An on-site stormwater detention drainage system must be installed on the subject land to the satisfaction of the Responsible Authority. Prior to the commencement of building and works a drainage layout plan, together with computations and manufacturers specifications, must be prepared by a suitably qualified Civil Engineer and submitted to and approved by the Responsible Authority. Once approved by the Responsible Authority the plan must be carried out to the satisfaction of the Responsible Authority.
14. Prior to the issue of an Occupancy Permit, all boundary fencing must be erected. The cost of such fencing must be met by the owner and carried out to the satisfaction of the Responsible Authority.
15. The development must be provided with external lighting capable of illuminating access to each garage, car parking space and pedestrian walkways. Lighting must be located, directed and shielded and of limited intensity so that no nuisance or loss of amenity is caused to any person within or beyond the site to the satisfaction of the Responsible Authority.
16. Before the development starts, or any trees or vegetation removed, a landscape plan (three copies) prepared by a suitably qualified person or firm shall be submitted to and approved to the satisfaction of the Responsible Authority. The plans must

be drawn to scale, with dimensions, and be generally in accordance with the plans submitted with the application but modified to show:

- a) Plans to accord with Condition 1 of this permit;
- b) A planting schedule of all proposed vegetation (trees, shrubs and ground covers) which includes, botanical names, common names, pot size, mature size and total quantities of each plant;
- c) The use of drought tolerant species;
- d) The provision of a canopy trees within the front setback of Dwelling 1 which are able to achieve a minimum mature height of 4 metres;
- e) Pedestrian visibility splays to contain planting no greater than 900mm in overall height.
- f) The use of species with non-invasive root systems within and alongside the easement along the southern boundary; and
- g) Features such as paths, paving and accessways.

Once approved these plans become the endorsed plans of this permit. Landscaping in accordance with this approved plan and schedule shall be completed before the building is occupied.

- 17. All existing vegetation to be retained must be including suitable management and protection of retained vegetation during any construction stage maintained to the satisfaction of the Responsible Authority.
- 18. The garden areas shown on the endorsed plan and schedule must only be used as gardens and must be constructed, completed and maintained in a proper, tidy and healthy condition to the satisfaction of the responsible authority. Any tree or shrub damaged, removed or destroyed must be replaced by a tree or shrub of similar size and variety to the satisfaction of the Responsible Authority.
- 19. This permit will expire if:-
  - a) The development does not start within two (2) years of the date of issue of this permit, or
  - b) The development is not completed within four (4) years of the date of issue of this permit.

Before the permit expires or within six (6) months afterwards the owner or occupier of the land may in writing request the Responsible Authority to extend the expiry date.

Once the development has commenced the owner or occupier of the land may in writing request the Responsible Authority to extend the expiry date within twelve (12) months of the lapse date.

#### **Permit Notes**

- This is not a building permit under the Building Act. A separate building permit is required to be obtained for any demolition or building works.

- Before commencement of the development occurs, the applicant should contact the Moonee Valley City Council's Technical Services Department regarding legal point of discharge, new crossings, building over easements, etc.
- A permit must be obtained from Council for all vehicular crossings.
- An Asset Protection Permit must be obtained from Council prior to commencement of works to ensure that Council assets in the vicinity of the works are not damaged during construction.
- No on street parking permits will be provided to the occupiers of the subject site.
- It is recommended that the required on-site detention system be designed to limit the rate of stormwater discharge from the property to pre-development levels in accordance with the following calculation;  $C=0.4$ ,  $t_c=5\text{mins}$ , ARI 1 in 5. An ARI of 1 in 10 should be used for storage and the greater of post development C or  $C=0.80$ .
- All works undertaken within any existing road reserves must accord with the requirements of the Moonee Valley City Council's Technical Services Department and be to the satisfaction of the Responsible Authority.
- Existing levels along the property line must be maintained. All proposed levels must match to existing surface levels along the property boundary. Council will not accept any modifications to existing levels within the road reserve.
- Prior to the commencement of any buildings and works, separate approval must be obtained from the Moonee Valley City Council in relation to the proposed removal and/or replacement of the nominated street tree(s). Please contact Council on 9243 8888 to speak with Council's Arborist.

## **1. Introduction**

### **1.1 Subject Site and Surrounds**

The subject site is located on the south-western corner of Rogerson Street and Doyle Street, Avondale Heights. The site is generally rectangular with a north-east corner splay with a total area of approximately 594.3 square metres. A 1.83 metre wide drainage and sewerage easement is located along the southern boundary of the subject site.

The subject site is currently occupied by a single storey brick dwelling with a hipped roof form. The existing dwelling is setback a minimum 8.3 metres from the front boundary line. Vehicle access to the site is currently obtained via Doyle Street with a large single width crossover provided to the south-east corner of the site. No significant landscaping is identified on the subject site. A large street tree is located in the road reserve along Rogerson Street and three small street trees are located within the Doyle Street road reserve.



**Figure 2: Subject Site (19 Rogerson Street, Avondale Heights)**

The surrounding area is comprised of predominantly residential zoned land used and developed for residential purposes. The built form within the vicinity is predominantly single and double storey post-war and contemporary style dwellings. The subject site is within close proximity of arterial roads (Military Road), local parklands and local schools. It is noted that properties to the west of the subject site along Rogerson Street (and throughout much of Avondale Heights) are affected by Schedule 2 to the Melbourne Airport Environs Overlay.

There are a number of approved, under construction or completed multi-dwelling developments in the immediate area, including at Nos. 11, 13, 15 and 23 Rogerson Street and at Nos. 10, 14 and 18 Westminster Drive.

## **1.2 Proposal**

The proposal is for the construction of three dwellings. The proposal can be summarised as follows:

**Table 1**

No of dwellings	3
No of car spaces	6
Max Building Height	7.4 metres
Site Coverage	46%
Permeability	31%

Refer **Appendix C** Plans (separately circulated)

## **2. Background**

### **2.1 Relevant Planning History**

No historical planning applications are relevant to the subject site.

## **2.2 Planning Policies & Decision Guidelines**

### State Planning Policy Framework

- Clause 11 Settlement  
Clause 15 Built Environment and Heritage  
Clause 16 Housing

### Local Planning Policy Framework

- Clause 21.01 Municipal Profile  
Clause 21.03 Vision  
Clause 21.04 Sustainable Environment  
Clause 21.05 Housing  
Clause 21.06 Built Environment  
Clause 22.03 Stormwater Management (Water Sensitive Urban Design)

### Zoning

- Clause 32.08 General Residential Zone

### Particular and General Provisions

- Clause 52.06 Car Parking  
Clause 55 Two or More Dwellings on a Lot and Residential Buildings  
Clause 65 Decision Guidelines

## **2.3 Referrals**

### External

Not applicable.

### Internal

- ESD Officer  
No objection subject to standard conditions.
- Engineering Services Unit  
No objection subject to standard conditions.
- Traffic and Transportation Unit  
No objection subject to standard conditions.
- Arborist

No objection subject to the protection of street trees (Doyle Street) from mechanical damage during construction.

- Urban Designer  
No objection subject to conditions.

- The proposal could benefit by dropping the roof pitches to the garages (refer to Condition 1d).
- Assess the amenity impacts of the spatial setback of the dwellings on the adjoining properties to the west and the secluded private open space areas (refer to Conditions 1a) and 1b)).

## **2.4 Public Notification of the Application**

Pursuant to Section 52 of the Planning and Environment Act 1987 the application was advertised by mail to adjoining and surrounding properties, with one notice erected on site for 14 days.

As a result, 21 objections were received from the properties contained within **Appendix A** of this report.

A response to the objections is provided in Section 3.6 of this report.

## **2.5 Consultation Meeting**

A Consultation Meeting was held on 21 January 2015, attended by Councillor John Sipek, objectors, the applicant and Council's Planning Officers. The application was heard concurrently with the planning permit application at No.20 Westminster Avenue, Avondale Height as the two adjoining lots propose like developments. No resolution was achieved at this meeting.

# **3. Discussion**

## **3.1 State Planning Policy Framework**

The relevant State Planning Policy Framework clauses are considered to be met. For the large part, State Planning Policy Framework objectives seek to encourage the consolidation of urban allotments where local infrastructure such as commercial and community services are provided as well as public transport. The subject site is located relatively close to public reserves, schools, arterial roads and public transport allowing the proposal to make use of these services. The site context is considered to lend support for a more intensive form of residential development. In addition, the proposal contributes to the objective of housing diversity by providing a mix of dwelling size in various configurations which will cater for the increasingly diverse needs of current and future residents.

## **3.2 Local Planning Policy Framework**

The proposal is considered to be generally compliant with Clause 21.05 (Housing) of the Moonee Valley Planning Scheme by increasing diverse housing opportunities to meet the growing population needs. It is considered that the subject site is appropriately located to provide additional dwellings which are serviced by a well-established area with access to public transport along main roads and existing community services. The development provides various dwelling layouts which will cater for the changes in housing needs over time.

The proposed development responds to the relevant strategies and objectives of Clause 21.06 (Built Environment) of the Moonee Valley Planning Scheme.

A number of objectives and strategies within the clause appear to overlap with those contained within Neighbourhood Character Precinct Profile - Garden Suburban 7 and ResCode and therefore the key concepts of Clause 21.06 are discussed below in Sections 3.3 and 3.5 of this report.

The proposal complies with Clause 22.03 Stormwater Management (Water Sensitive Urban Design) of the Moonee Valley Planning Scheme and meets the required on site stormwater treatment as demonstrated by achieving 100%, or greater, using the STORM tool. However, not all water treatment measures and relevant annotations have been shown on the plans. This will be required as a condition on any issued planning permit. The relevant design requirement conditions will also be placed on any approval issued in accordance with this policy.

Council's Municipal Strategic Statement has been recently updated, with one of the main changes being the incorporation of Clause 21.04-3 (Ecological Sustainable Development) into the Moonee Valley Planning Scheme. This clause requires developments of three or more dwellings to provide a Sustainable Design Assessment using STEPS/SDS or any other approved assessment tool.

As the proposed development has been lodged prior to this requirement being incorporated into the planning scheme, it is not considered a necessary requirement in this instance.

### **3.3 Neighbourhood Character Guidelines**

The subject land is identified as being within character area 'Garden Suburban 7' Precinct as set out under the Neighbourhood Precinct Profiles 2012, with the preferred character statement as follows:

"New developments will contribute to the character of this area with established gardens, simple design details, low front fencing and consistent siting to ensure they do not dominate the streetscape.

Buildings will be articulated with recesses, porch areas, large windows and setbacks to complement the pattern of the traditional dwellings. The use of brick, timber or weatherboard will maintain the existing palette of materials. Buildings will be located from the front boundary at a distance similar to those on adjoining properties, while consistent side setbacks will allow space for landscaping and planting. Low or permeable front fences will provide views of the vegetation in gardens from the street."

The proposal is considered to respond to the preferred character statement and the design guidelines of this precinct as follows:

**Table 2:**

Siting and Building Envelope	The development is provided with a street setback of 8.94 metres which complements the immediate streetscape (both Rogerson Street and Doyle Street). The building envelope is not dissimilar to the surrounding context where contemporary infill development is present.
Built Form	<p>The siting and massing of the development ensures that there would be no unreasonable visual or amenity impacts caused by the built form. It is considered that the first floor levels of Dwelling 2 and 3 should be set back further from Doyle Street and the adjoining property to the west to reduce the bulk of the form. Furthermore the roof form of each garage should present flat to reduce the bulk of the upper floor of the development. These changes, as conditions on any issued planning permit will ensure the development is an appropriate response within the existing streetscape and to the future character of Rogerson Street and Doyle Street.</p> <p>The development is provided with an articulated façade along both Rogerson Street and Doyle Street frontages to ensure that the dwellings do not create a sheer form to both the road reserves and adjoining properties.</p> <p>While providing a contemporary built form, the proposed development also incorporates design elements and massing that respects that of the established residential buildings within the local context.</p>
Design Detail	<p>The overall roof form of the development is considered generally responsive to the surrounding area with the exception of the garage forms. It is considered that the garage roof form associated with Dwelling 1 and 2 create unnecessary visual bulk as the built form presents to Doyle Street and the adjoining property to the west and therefore should present as a flat roof form as a condition on any issued planning permit.</p> <p>The development incorporates a mix of materials and finishes which will complement the existing residential properties which adjoin the subject site and the more contemporary infill development within Rogerson Street and the surrounding area. This includes the use of light render, face brickwork, cladding and metal.</p>
Landscaping	The development is provided with a landscaped front garden to each dwelling, both along Rogerson Street

	<p>and Doyle Street. Having regard to the characteristics of the subject site, it is considered that the proposed development provides adequate landscaping and planting that is consistent with the character of the locality.</p> <p>The development is provided with a low and semi-transparent front fence which will not obstruct views to the front garden spaces.</p>
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### 3.4 Compliance with Clause 52.06 (Car Parking)

**Table 3**

Unit	Requires	Provides
2 dwellings (3x3 bedrooms)	6 spaces	6 spaces
Visitor Parking	0 spaces	0 spaces
Total	6 spaces	6 spaces

As discussed under Section 2.3 of this report, Council's 'Traffic and Transportation Unit' have no objections to the proposed development, subject to the inclusion of conditions on any permit granted.

In addition, pedestrian visibility splays have not been provided and will be required by a permit condition.

### 3.5 Clause 55 (ResCode) Assessment

The proposal is considered to generally comply with the provisions of Clause 55 as set out in the assessment table (refer to **Appendix B**).

The following points of exception, which have not been satisfied through this development, are listed below:

**Table 4**

Res Code Standard	Response
Clause 55.02-1 (Standard B1 – Neighbourhood Character)	Whilst the development is generally responsive to the standard requirements of this clause, there is need for reduced bulk of the garages as a condition on any issued planning permit as noted in Condition 1d) of the draft conditions. See Section 3.3 of this report for assessment and conditions to allow the development to appropriately respond to the character of Rogerson Street and Doyle Street.
Clause 55.03-8 (Standard B13 –	A condition will be required on any issued planning permit for a complete Landscape Plan prepared by a suitably

Landscaping)	qualified person or firm. Any such Landscape Plan will require landscaping requirements as per the recommended conditions to ensure species with non-invasive root systems are used in proximity to the easement along the southern boundary and the provision of a canopy tree is provided within the front setback of each dwelling.
Clause 55.06-1 (Standard B31 – Design Detail)	See Section 3.3 of this report.

### 3.6 Objections

Issue	Officer Response
Neighbourhood character, visual bulk and scale	The development is considered to be an appropriate design response against Neighbourhood Character – Garden Suburban 7 and ResCode, subject to a condition on any issued planning permit, as discussed within Section 3.3 and 3.5 of this report.
Overdevelopment	<p>Although it is acknowledged that Rogerson Street has been witness to numerous medium density development, the area is clearly undergoing substantial changes.</p> <p>Well-designed infill development is encouraged within State and Local Planning Policy, providing suitable compliance is achieved against the Moonee Valley Planning Scheme.</p> <p>The development is considered to achieve a high level of compliance with the provisions of the Moonee Valley Planning Scheme including the relevant design provisions, neighbourhood character and residential policy objectives pursuant to Clause 21.05 and 55.02 of the Moonee Valley Planning Scheme.</p> <p>It is considered that the inclusion of the proposed development will not have a detrimental impact on Rogerson Street or Doyle Street, with the dwellings designed and sited to ensure coherency within the existing pattern of development within the streetscape.</p>

Traffic/parking impacts	<p>The proposed development provides the required on-site parking requirements for residents pursuant to Clause 52.06 (Car Parking) of the Moonee Valley Planning Scheme as discussed in Section 3.4 of this report.</p> <p>In addition, Council's Traffic and Transportation Unit had no objection to the proposal.</p>
Devaluation of properties within the area	<p>This is not a valid planning consideration.</p>
Privacy/overlooking	<p>The proposed development complies with Clause 55.04-6 (Overlooking) of the Moonee Valley Planning Scheme.</p>
Overshadowing	<p>The proposed development meets the standard requirement of Clause 55.04-5 (Overshadowing Open Space) of the Moonee Valley Planning Scheme.</p>
Identical Development at No.20 Westminster Avenue, Avondale Heights	<p>An independent assessment of the planning permit application has been undertaken. The assessment has found that, subject to conditions, this proposal achieves general compliance with the relevant provisions of the Moonee Valley Planning Scheme.</p> <p>Two concurrent planning permit application on adjoining properties is not beyond orderly planning under Clause 65 of the Moonee Valley Planning Scheme.</p>
Excessive noise during construction	<p>This is not a valid planning consideration. Furthermore, it is noted that there are specific Local Laws and EPA noise guidelines that control nuisance and excessive noise within residential areas, which are applicable to all residential properties.</p> <p>Condition 3 outlines the requirements of the Construction and Site Management Plan.</p>

#### 4. Human Rights

The application process and decision making is in line with the Victorian Charter of Human Rights and Responsibilities 2006 (Section 18 – Taking part in public life).

## **5. Conclusion**

The application has been assessed against the relevant provisions of the Moonee Valley Planning Scheme. It is considered that the proposal demonstrates general compliance with the requirements of these provisions and policies. The application is supported as detailed above in the recommendation section.

## APPENDIX A

### List of Objectors Properties

16 Westminster Drive, Avondale Heights
17 Rogerson Street, Avondale Heights
21 Rogerson Street, Avondale Heights (x2)
22 Rogerson Street, Avondale Heights
23a Rogerson Street, Avondale Heights
27 Rogerson Street, Avondale Heights (x2)
29 Rogerson Street, Avondale Heights (x2)
31 Rogerson Street, Avondale Heights
32 Rogerson Street, Avondale Heights
38 Rogerson Street, Avondale Heights
45 Rogerson Street, Avondale Heights (x3)
46 Rogerson Street, Avondale Heights
60 Rogerson Street, Avondale Heights (x2)
23 Rogerson Street, Avondale Heights (x2)

## APPENDIX B

### Clause 55 of the Moonee Valley Planning Scheme

Two or more dwellings on a lot and residential buildings (Clause 55 and Schedule to the General Residential Zone).

Where there is non-compliance, see section 3.5 in report.

Title and Objective	Complies with Standard	Compliance with Objective
<i>B1 - Neighbourhood Character</i>	✓ subject to condition	✓ subject to condition
<i>B 2 - Residential Policy</i>	✓	✓
<i>B 3 - Dwelling Diversity</i>	N/A	N/A
<i>B 4 - Infrastructure Objectives</i>	✓	✓
<i>B 5- Integration with the Street Objective</i>	✓	✓
<i>B6 - Street Setback Objective</i>	✓	✓
<i>B7 - Building Height Objective</i>	✓	✓
<i>B8- Site Coverage Objective.</i>	✓	✓
<i>B9- Permeability Objectives</i>	✓	✓
<i>B10 - Energy Efficiency Objectives</i>	✓	✓
<i>B 11 - Open Space Objective</i>	N/A	N/A
<i>B 12- Safety Objective</i>	✓	✓
<i>B 13 - Landscaping Objectives</i>	✓ subject to condition	✓ subject to condition
<i>B 14 - Access Objectives</i>	✓	✓
<i>B 15 Parking Location Objectives</i>	✓	✓
<i>B 16 - Parking Provision Objectives</i>	<i>Deleted from Clause 555 on 5 June 2012 (VC90). Refer to Clause 52.06 for car parking requirements under Section 3.5 of the report.</i>	
<i>B 17 - Side and Rear Setbacks Objective</i>	✓	✓
<i>B 18 - Walls on Boundaries Objective</i>	N/A	N/A
<i>B 19 - Daylight to Existing Windows Objective.</i>	✓	✓
<i>B 20 - North-facing Windows Objective</i>	N/A	N/A
<i>B 21 - Overshadowing Open Space Objective</i>	✓	✓
<i>B 22 - Overlooking Objective</i>	✓	✓
<i>B 23 - Internal Views Objective</i>	✓	✓

<i>B 24 - Noise Impacts Objectives</i>	✓	✓
<i>B 25 - Accessibility Objective</i>	✓	✓
<i>B 26 - Dwelling Entry Objective</i>	✓	✓
<i>B 27 - Daylight to New Windows Objective</i>	✓	✓
<i>B 28 - Private Open Space Objective</i>	✓	✓
<i>B 29 - Solar Access to Open Space Objective</i>	✓	✓
<i>B 30 - Storage Objective</i>	✓	✓
<i>B 31 - Design detail objective</i>	N/A	N/A
<i>B 32 - Front Fences Objective</i>	✓	✓
<i>B 33 - Common Property Objectives</i>	✓	✓
<i>B 34 - Site Services Objectives</i>	✓	✓

✓ - complies

x – non-compliance

N/A- not applicable

**9.3                    12 Browning Street, Moonee Ponds (Lot 1 on TP7605P) -  
Demolition of shed, partial demolition and alterations and  
additions to an existing dwelling including the construction of a  
garage on a lot less than 300sqm and in a Heritage Overlay area**

**File No:** MV/767/2014  
**Author:** Senior Town Planner  
**Directorate:** City Works and Development  
**Ward:** Myrnong

<b>Proposal</b>	<ul style="list-style-type: none"><li>• Demolition of shed.</li><li>• Partial demolition of dwelling.</li><li>• Construction of garage.</li><li>• Alterations and additions including a double storey addition to an existing dwelling on a lot less than 300sqm and in a Heritage Overlay</li></ul>
<b>Applicant</b>	Frank Charles Cananzi
<b>Owner</b>	M and F C Cananzi
<b>Planning Scheme Controls</b>	General Residential Zone Heritage Overlay – Schedule 16
<b>Planning Permit Requirement</b>	Clause 32.08-3 – Extension of one dwelling on a lot less than 300 square metres Clause 43.01 – Demolition and to construct and carry out works
<b>Car Parking Requirements (Clause 52.06)</b>	Not applicable
<b>Restrictive Covenants</b>	None
<b>Easements</b>	None
<b>Site Area</b>	218 square metres
<b>Number Of Objections</b>	19
<b>Consultation Meeting</b>	11 March 2015

## Executive Summary

The application seeks planning approval for the demolition of a shed, partial demolition and alterations and additions to an existing dwelling including construction of a garage on a lot less than 300sqm and in a Heritage Overlay area.

The site has an area of 218 square metres and is located on the northern side of Browning Street, Moonee Ponds. The site comprises of an existing single storey brick dwelling.

The application was advertised and 19 objections were received. The concerns raised related to neighbourhood character, impact on the heritage significance of the area, overshadowing, overlooking, boundary walls, increased parking demand and overdevelopment.

A Consultation Meeting was held on 11 March 2015, attended by Councillor Marshall, Councillor Chantry, the applicant, objectors and Council's Planning Officer.

The application was internally referred to Council's Engineering Services Unit, Heritage Advisor and Environmental Sustainable Design (ESD) Officer. Conditional support to the application was provided.

This assessment report finds that the proposal demonstrates an adequate level of compliance with the relevant policies and provisions of the Moonee Valley Planning Scheme and recommends that a Notice of Decision to Grant a Permit be issued subject to conditions.



Figure 1 – Aerial photo of the subject site and surrounds

## Recommendation

That Council issue a Notice of Decision to Grant a Permit in relation to Planning Permit Application No. MV/767/2014 for the demolition of a shed, partial demolition and alterations and additions to an existing dwelling including construction of a garage on a lot less than 300sqm and in a Heritage Overlay area at No.12 Browning Street, Moonee Ponds (Lot 1 on TP 7605P) subject to the following conditions:

1. Before the development starts, amended plans (three copies) must be submitted to and approved to the satisfaction of the Responsible Authority. The plans must be

drawn to scale, with dimensions, and be generally in accordance with the plans submitted and assessed with the application but modified to show:

- a) The first floor setback from the rear boundary increased by 1.4 metres.
- b) Any internal re-arrangement as a result of condition 1 (a).
- c) Bedroom 1 east facing windows screened in accordance with Clause 54.04-6 (Overlooking) of the Moonee Valley Planning Scheme.
- d) A roof plan which graphically shows:
  - i. All roof areas, both treated by WSUD and untreated.
  - ii. The specific roof area in square metres of the rainwater catchment area discharging into the nominated stormwater treatment, with the WSUD treatment capacity clearly annotated.
  - iii. Water tank volumes and numbers of toilets the water tank is connected to.

Once approved these plans become the endorsed plans of this permit.

2. The layout of the site and the size, design and location of the buildings and works permitted must always accord with the endorsed plan and must not be altered or modified without the further written consent of the Responsible Authority.
3. Prior to the issue of an Occupancy Permit, all boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority.
4. The materials, colours, decoration and/or finishes to be applied to the exterior of the building or works as described on the drawings or schedules endorsed to this permit must not be altered without the consent of the Responsible Authority.
5. Floor levels shown on the endorsed plan(s) must not be altered or modified without written consent of the Responsible Authority.
6. The privacy screens as shown on the endorsed plans must be installed prior to the occupation of the building.
7. Provision must be made for the drainage of the land including landscaped and pavement areas.

The discharge of water from the land must be controlled around its limits to prevent any discharge onto any adjoining or adjacent property or streets other than by means of an underground pipe drain which is discharged to an approved legal point of discharge to the satisfaction of the Responsible Authority.

8. A minimum 30 days prior to any building or works commencing, all WSUD Design Details, such as cross sections and/or specifications, to assess the technical effectiveness of the proposed stormwater treatment measures, must be submitted to and be approved by the Responsible Authority.
9. A minimum 30 days prior to any building or works commencing, a Site Management Plan must be submitted to and approved by the Responsible Authority detailing the site and environmental management methods to be used. The plan must include, but is not limited to:
  - a) A statement or report outlining all construction measures to be taken to prevent litter, sediments and pollution from entering the stormwater systems.

The WSUD Site Management Plan may form part of a broader Site Management Plan that covers other project components, ie. such as noise, EPA issues, traffic management, waste management, etc.

Once submitted and approved the works detailed by the Site Management Plan must be carried out to the satisfaction of the Responsible Authority.

10. A minimum 30 days prior to any building or works being completed, a WSUD Maintenance Program must be submitted to and approved by the Responsible Authority which sets out future operational and maintenance arrangements for all WSUD measures. The program must include, but is not limited to:

- a) Inspection frequency
- b) Cleanout procedures
- c) As installed design details/diagrams including a sketch of how the system operates
- d) A report confirming completion and commissioning of all WSUD Response initiatives by the author of the WSUD Response and STORM or MUSIC model approved pursuant to this permit, or similarly qualified person or company. This report must be to the satisfaction of the Responsible Authority and must confirm that all initiatives specified in the WSUD Response and STORM or MUSIC model have been completed and implemented in accordance with the approved report.

The WSUD Maintenance Program may form part of a broader Maintenance Program that covers other aspects of maintenance such as a Builder' User's Guide or a Building Maintenance Guide.

11. Prior to the issue of an Occupancy Permit, all boundary fencing must be erected as per the endorsed plans. The cost of such fencing must be met by the owner and carried out to the satisfaction of the Responsible Authority.

12. This permit will expire if:

- a) The development does not start within two (2) years of the date of issue of this permit, or
- b) The development is not completed within four(4) years of the date of issue of this permit.

Before the permit expires or within six (6) months afterwards the owner or occupier of the land may in writing request the Responsible Authority to extend the expiry date.

Once the development has commenced the owner or occupier of the land may in writing request the Responsible Authority to extend the expiry date within twelve (12) months of the lapse date.

#### **Permit Notes**

- This is not a building permit under the Building Act. A separate building permit is required to be obtained for any demolition or building works.

- Before commencement of the development occurs, the applicant should contact the Moonee Valley City Council's Technical Services Department regarding legal point of discharge, new crossings, building over easements etc.
- This property is located within a Heritage Overlay control area. Planning permission is required for any additional works to the site in accordance with Clause 43.01 of the Moonee Planning Scheme.

## **Introduction**

### **Subject Site and Surrounds**

The subject site is located on the northern side of Browning Street, Moonee Ponds. The site is generally regular in shape with a frontage to Browning Street of 5.18 metres and a maximum depth of 39.93 metres, resulting in a total area of 218 square metres.

There does not appear to be any easements or covenants on the Certificate of Title provided.

The site comprises of a single storey brick dwelling with a sheet metal pitched roof. The dwelling extends to a maximum height of 5.2 metres. Vehicle access is obtained via a laneway to the rear of the site and there is no significant landscaping or vegetation located within the subject site.



**Figure 2 – Subject Site (No.12 Browning Street, Moonee Ponds)**

The surrounding area is comprised of predominantly residential zoned land used and developed for residential purposes. The built form within the vicinity has a strong heritage character, with dominant features including chimneys, fencing and façade details. Dwellings predominantly present to the street as single storey in height, however a number of properties have double storey additions built to the rear of the original dwelling.

### **Proposal**

It is proposed to demolish the existing outbuilding and rear portion of the dwelling, and to construct a double storey addition to the dwelling and new garage within the rear setback. The proposal, as advertised, can be summarised as follows:

**Table 1**

No of dwellings	One
No of car spaces	One
Max Building Height	6.385 metres
Site Coverage	78.68%
Permeability	7.10%

Refer **Appendix C** Plans (separately circulated)

## **2. Background**

### **2.1 Relevant Planning History**

Previous planning permit applications include:

- MV/9038/1997 – Approved the construction of a garden shed and outdoor toilet to the rear of the dwelling.
- MV/1008/1998 – Approved the construction of a garage to the rear of an existing dwelling in an Urban Conservation area.

### **2.2 Planning Policies & Decision Guidelines**

#### State Planning Policy Framework

Clause 11	Settlement
Clause 15	Built Environment and Heritage
Clause 16	Housing

#### Local Planning Policy Framework

Clause 21.01	Municipal Profile
Clause 21.02	Key Issues and Influences
Clause 21.05	Housing
Clause 21.06	Built Environment
Clause 22.03	Stormwater Management (WSUD)

#### Zoning and Overlays

Clause 32.08	General Residential Zone
Clause 43.01	Heritage Overlay

#### Particular and General Provisions

Clause 54	One Dwelling on a Lot
Clause 65	Decision Guidelines

### **2.3 Referrals**

External

- Not applicable.

Internal

- Engineering Services Unit
- No objection subject to standard conditions.

ESD Officer

- No objection subject to standard conditions.

Heritage Advisor

- No objection subject to conditions.

## **2.4 Public Notification of the Application**

Pursuant to Section 52 of the Planning and Environment Act 1987 the application was advertised by mail to adjoining and surrounding properties, with one notice erected on site for 14 days.

As a result, 19 objections were received from the properties contained within **Appendix A** of this report.

A response to the objections is provided in Section 3.6 of this report.

## **2.5 Consultation Meeting**

A Consultation Meeting was held on 11 March 2015 attended by Councillor Marshall, Councillor Chantry, the applicant, objectors and Council's Planning Officer. No resolution was achieved at this meeting.

# **3. Discussion**

## **3.1 State Planning Policy Framework**

The relevant State Planning Policy Framework Clauses are considered to be met. The proposal contributes to the objective of housing diversity by adding to the mix of dwelling sizes and configurations in the local area. The proposal will improve the liveability of an existing heritage dwelling within a well-serviced heritage area, whilst contributing positively to the urban character and minimising detrimental impact on neighbouring properties.

## **3.2 Local Planning Policy Framework**

The proposal complies with Clause 21.05 (Housing) by providing a diversity of housing choice in a well-established area with access to public transport and local services.

The proposed development responds to the strategies of Clause 21.06 (Built Environment). A number of the objective and strategies appear to overlap with those contained within the Neighbourhood Character Precinct Profile, Heritage Overlay and ResCode and therefore the key concepts of Clause 21.06 are discussed below in Sections 3.3, 3.4 and 3.6.

The proposal complies with Clause 22.03 (Stormwater Management) and meets the required on-site storm water treatment as demonstrated by achieving at least 100% on the STORM rating report. As mentioned previously, Council's ESD Officer recommended conditions which will be included on any permit issued along with the relevant design standard conditions.

### 3.3 Neighbourhood Character Guidelines

The subject site is identified as being within the character area 'Garden Suburban 1'. The preferred character statement for this particular precinct is as follows: "New developments will contribute to the predominant siting and finishes of existing buildings, with well-maintained gardens.

Front facade articulation will be achieved through the use of recesses to complement the pattern of verandah and porch areas of the traditional dwellings. The use of lighter finishes will contribute to the traditional palette of materials. Consistent front and side setbacks will ensure space for landscaping, while low or permeable front fences will retain the openness of the streets."

It is considered the development provides a suitable response to the above statement. The retention of the front portion of the existing dwelling will minimise impacts on the streetscape as the existing fence, garden, verandah and dwelling façade will be retained. The proposed upper level addition has been well set back from the street to reduce any visual impacts to a minimum. The external finish of render in a natural grey colour will complement the area which includes similar materials for some of the newer additions. As the subject site is within a Heritage Overlay area, a detailed assessment has been undertaken against the provisions of the Heritage Overlay within Section 3.5 of this report.

**3.4 Clause 54** The proposal is considered to generally comply with the provisions of Clause 54 as set out in the assessment table (refer to **Appendix B**). The following points of exception, which have not been satisfied through this development, are discussed below:

**Table 3**

ResCode Standard	Response
Clause 54.03-3 (Standard A5 - Site Coverage)	Site coverage equates to 78.68%. Whilst this is above the numerical standard of 60% a variation to the standard is considered appropriate in this instance. The subject site is a long narrow lot and high site coverage is characteristic of similar lots in the area, including the adjoining property to the west, no.14 Browning Street. A variation is therefore considered appropriate in this instance.
Clause 54.03-4 (Standard A6 - Permeability)	The site permeability equates to 7.10% which falls below the 20% requirement of this standard. This is considered appropriate in this instance as the existing site permeability is 6.63%, and therefore the permeable area will

	be increased from the existing conditions.
Clause 54.04-2 (Standard A11 - Walls on Boundaries)	<p>The proposal includes walls located along the east, north and west boundaries. Walls located along the north and east boundaries comply with the provisions of this standard, however the length and height of the wall located along the western boundary exceeds the numerical requirements. The wall located along the western boundary abuts an existing wall on boundary for the majority of its length, only exceeding the abutting wall by a distance of 1.4 metres at both ground and first floor level.</p> <p>The length of wall on boundary at ground floor level is considered appropriate. Ground floor boundary walls are characteristic of the area and the existing dwelling is built to each side boundary so there will be no visual impact on the streetscape. Further, the proposed garage will abut existing garages on both boundaries.</p> <p>A condition will be included on any permit issued requiring the upper level, which is built to the western boundary, be set back an additional 1.4 metres from the rear boundary to reduce the visual impact of the addition on the neighbouring properties to both the east and west. This will improve the proposal's level of compliance with this standard, as bringing the addition back in line with the neighbouring property will ensure the addition abuts a boundary wall for the entirety of its length at first floor level. Further, any amenity impacts as a result of the wall on boundary to the property to the west will be reduced.</p>

Clause 54.04-6 (Standard A15 - Overlooking)	There will be some potential for overlooking from the east facing bedroom 1 window into the side courtyard of no. 10 Browning Street. A condition will be included on any permit issued requiring adequate screening of this window in accordance with the requirements of this standard.
Clause 54.05-3 (Standard A18 - Solar Access to Open Space)	The secluded private open space area is located to the north of the subject site. The garage to the north of this area is 3.15 metres in height generating a required setback of 4.8 metres. The proposed setback is 2.99 metres to the covered alfresco area and 5.99 metres to the southern boundary of the secluded open space area. The proposed setback is considered appropriate as the area will operate as a useable space, with a covered element providing protection from the weather and a portion of the area having solar access throughout the day.

### **3.5 Compliance with Clause 43.01 (Heritage Overlay Schedule 16)**

The State and Local Planning Policy Framework have been addressed within Sections 3.1 and 3.2 of this report. The relevant heritage study identifies the dwelling as being constructed around the 1890s and being contributory to the significance of the precinct.

The subject site is located within the Heritage Overlay, Schedule 16. The design response is considered to be appropriate for the Heritage Overlay. The proposal conserves the elements which contribute to the heritage character of the place including the front fence, verandah, façade and front chimney. The proposed demolition is to the rear of the property and the extent to be demolished is considered appropriate in this instance, as it will not impact the appearance of the dwelling from the street and retains a substantial portion of the dwelling to maintain its integrity.

It is not considered the proposed buildings and works will adversely affect the significance of the heritage place. The location, bulk form and appearance of the additions have generally been designed to respond to the heritage significance of the existing dwelling. Further, a condition should be included on any permit issued which increases the first floor level rear setback to be in line with the neighbouring property at no. 14 Browning Street. This will reduce the visual bulk of the addition as viewed from the neighbouring heritage properties.

The proposed additions have been well set back beyond the front two rooms of the dwelling, this ensures the retention of a substantial portion of the dwelling in its original state. The proposal is contemporary in appearance, with a flat roof form which results in both minimising the height of the addition and clearly differentiating the additions from the original dwelling. The addition is 600mm in height above the ridgeline of the existing roof, thus minimising the visibility of the addition when viewed from the opposite side of the street. The use of render in a natural grey colour is considered appropriate for a contemporary addition, as the material reflects other contemporary additions within the streetscape.

Council's Heritage Advisor has provided no objection to the proposal.

### 3.6 Objections

**Table 4**

Issue	Officer Response
Neighbourhood Character	As discussed within Sections 3.2, 3.3 and 3.4 of this report, the design of the proposed additions are considered to have a high level of compliance with the existing and preferred neighbourhood character.
Overdevelopment	The proposed development will accommodate a new kitchen and living area at ground floor level and additional bedroom (including walk in robe and ensuite) and study at first floor level. The site is considered capable of accommodating a three bedroom dwelling. This is evidenced by the acceptable level of ResCode compliance, when considering the small size of the lot.
Car Parking	Clause 52.06 is not applicable to this application and as such car parking provision cannot be assessed. It is noted the proposal provides one covered space to the rear of the subject site, and the Traffic and Transportation Unit have raised no objection to the proposal.
Overshadowing	There will be some additional shadows cast upon the secluded open space areas of no.10 and 14 Browning Street. There will be no additional over shadowing of the secluded private open space area of no.14 Browning Street between the hours of 10am and 3pm. There will also be no additional shadow cast over the secluded private open space area of no.10 Browning Street between the hours of 9am and 2pm, thus meeting the minimum 5 hour requirement of Clause 54.04-5 (Overshadowing) of the Moonee Valley Planning

	Scheme. One objector also raised concerns regarding the overshadowing of solar panels to the western ridge of no. 14 Browning Street. The applicant has since provided additional shadow diagrams showing the shadows will not fall over the western side of the roof as it is the other side of the ridge line, and therefore the solar panels will not be affected.
Privacy/Overlooking	This is addressed above within Section 3.4 of this report.
Impact on Heritage Significance	This is addressed within Section 3.5 of this report.
Walls on Boundaries	This is addressed above within Section 3.4 of this report.
Impact on habitable room windows	The proposal complies with Clause 54.04-3 (Daylight to existing Windows) of the Moonee Valley Planning Scheme and is therefore considered to provide adequate setbacks from the habitable room windows associated with no 10 Browning Street.
Visual Bulk	As discussed above, the visual bulk associated with the proposal will be minimised through the inclusion of a condition on any permit issued requiring the upper level be set back an additional 1.4 metres to be in line with the rear wall of no. 14 Browning Street. This will avoid any feelings of being 'boxed in' from the secluded open space area of no. 14. It will also reduce the amenity impacts on the secluded open space area of no. 10 Browning Street, in addition to the 1.84 metre side setback also provided along the eastern boundary.

### 3.7 Human Rights

The application process and decision making is in line with the Victorian Charter of Human Rights and Responsibilities 2006 (Section 18 – Taking part in public life).

### Conclusion

The application has been assessed against the relevant provisions of the State Planning Policy Framework, Local Planning Policy Framework, zoning and overlay controls, the relevant Particular and General Provisions, and the Decision Guidelines at Clause 65 of the Moonee Valley Planning Scheme.

It is considered that the proposal demonstrates general compliance with the requirements of these provisions and policies. The application is supported as detailed above in the recommendation section.

## APPENDIX A

### Location of Objectors Properties

24 Browning Street, MOONEE PONDS VIC 3039
1 Byron Street, MOONEE PONDS VIC 3039
5 Byron Street, MOONEE PONDS VIC 3039
4 Browning Street, MOONEE PONDS VIC 3039
8 Browning Street, MOONEE PONDS VIC 3039
8 Browning Street, MOONEE PONDS VIC 3039
Level 3, 8 Market Street, MELBOURNE VIC 3000
16 Browning Street, MOONEE PONDS VIC 3039
11 Browning Street, MOONEE PONDS VIC 3039
299 Ascot Vale Road, MOONEE PONDS VIC 3039
36 Browning Street, MOONEE PONDS VIC 3039
10 Browning Street, MOONEE PONDS VIC 3039
21 Byron Street, MOONEE PONDS VIC 3039
9 Byron Street, MOONEE PONDS VIC 3039
20 Browning Street, MOONEE PONDS VIC 3039
3 Chaucer Street, MOONEE PONDS VIC 3039
7 Browning Street, MOONEE PONDS VIC 3039
5 Browning Street, MOONEE PONDS VIC 3039
14 Browning Street, MOONEE PONDS VIC 3039

## APPENDIX B

Clause 54 of the Moonee Valley Planning Scheme

Extension of a dwelling on a lot less than 300 square metres (Clause 54).

Where there is non-compliance, see Section 3.4 in report.

Title and Objective	Complies with Objective	Complies with Standard
<i>A1 - Neighbourhood Character</i>	✓	✓
<i>A2 - Integration with the street</i>	N/A	N/A
<i>A3 - Street Setback</i>	N/A	N/A
<i>A4 - Building Height</i>	✓	✓
<i>A5 - Site Coverage</i>	x	✓
<i>A6 - Permeability</i>	x	✓
<i>A7 - Energy Efficiency</i>	✓	✓
<i>A8 - Significant Trees</i>	N/A	N/A
<i>A10 - Side and Rear Setbacks</i>	✓	✓
<i>A11 - Walls on Boundaries</i>	x	
<i>A12 - Daylight to Existing Windows</i>	✓	✓
<i>A13 - North-facing Windows</i>	N/A	N/A
<i>A14 - Overshadowing Open Space</i>	✓	✓
<i>A15 - Overlooking</i>	✓ (subject to conditions)	✓
<i>A16 - Daylight to New Windows</i>	✓	✓
<i>A17 - Private Open Space</i>	✓	✓
<i>A18 - Solar Access to Open Space</i>	x	✓
<i>A19 - Design Detail</i>	✓	✓
<i>A20 - Front Fences</i>	N/A	N/A

✓ - Complies

x – Non-compliance

N/A- Not applicable

**9.4                      33 Pearl Street, Niddrie (Lot 60 Block G on LP3151) -  
Construction of three dwellings**

**File No:** MV/479/2014  
**Author:** Senior Town Planner  
**Directorate:** City Works & Development  
**Ward:** Buckley

<b>Proposal</b>	<ul style="list-style-type: none"><li>• Three double storey dwellings</li><li>• Basement level garages for two of the dwellings</li></ul>
<b>Applicant</b>	JS Drafting & Design
<b>Owner</b>	Ousama Trad
<b>Planning Scheme Controls</b>	<ul style="list-style-type: none"><li>• General Residential Zone</li><li>• No overlays</li></ul>
<b>Planning Permit Requirement</b>	Clause 32.08-4 – Construct two or more dwellings on a lot
<b>Car Parking Requirements (Clause 52.06)</b>	Required: 6 car spaces Provided: 6 car spaces
<b>Bicycle Requirements</b>	N/A
<b>Restrictive Covenants</b>	None
<b>Easements</b>	None
<b>Site Area</b>	846m <sup>2</sup>
<b>Number Of Objections</b>	17
<b>Consultation Meeting</b>	18 February 2015

## Executive Summary

- The application seeks planning approval for the construction of three double storey dwellings.
- The site has an area of approximately 846 square metres and is located on the western side of Pearl Street, Niddrie. The site comprises an existing single storey brick dwelling.
- The application was advertised and 17 objections were received. The concerns raised related to neighbourhood character, overdevelopment, traffic concerns, overlooking and loss of privacy, overshadowing, safety and structural implications to neighbouring properties during construction, loss of front landscaping, impact to side boundary fencing, reduction in property values, impacts to view lines, ResCode compliancy, drainage concerns and inaccuracies on documentation submitted.
- A Consultation Meeting was held on the 18 February 2015, attended by Councillor Chantry, objectors and Council's Planning Officer. No resolution was achieved at this meeting.
- The application was internally referred to Council's Engineering Services Unit, Traffic and Transportation Unit and Environmental Sustainable Development (ESD) Officer. Conditional support to the application was provided.
- This assessment report finds that the proposal demonstrates an adequate level of compliance with the relevant policies and provisions of the Moonee Valley Planning Scheme, and recommends that a Notice of Decision to Grant a Permit be issued subject to conditions.



Figure 1 – Aerial photo of the subject site and surrounds

## Recommendation

That Council issue a Notice of Decision to Grant a Permit in relation to Planning Permit Application No. MV/479/2014 for the construction of three dwellings at No. 33 Pearl Street, Niddrie (Lot 60 Block G on LP3151), subject to the following conditions:

1. Before the development starts, amended plans (three copies) must be submitted to and approved to the satisfaction of the Responsible Authority. The plans must be drawn to scale, with dimensions, and be generally in accordance with the plans submitted and assessed with the application but modified to show:
  - a) An outline of the basement level on the eastern elevations.
  - b) Garage door of Dwelling 3 to open outwards or be a sliding door.
  - c) Corner splays at both sides of the two access ways in accordance with the Design Standard 1 of Clause 52.06-8 (Car parking) of the Moonee Valley Planning Scheme.
  - d) Fencing within the front setback along the southern title boundary to be tapered down to 1.2m in height.
  - e) Proposed vegetation within the splays of access way to Dwelling 3 to be less than 0.9m in height. The height of letter boxes within the corner splays must be less than 1.2m in height.
  - f) A notation on the proposed ground floor plan that the family room window of Dwelling 2 be fixed and double glazed.
  - g) The site/ground floor plan to show the size and location of buffer strips and the extent, size and grading of the impervious surfaces draining to them.
  - h) A notation on plans that existing brick fencing along northern and southern external title boundaries must be maintained to the satisfaction of the Responsible Authority.
  - i) Details of the location and type of all paved and sealed areas denoting if porous or not.
  - j) A notation on plans that a clear overland flow path of approximately 300mm be provided and maintained down the southern boundary of the property.
  - k) A notation on plans that finished floor levels of garages and ground floor plans ensure fall is towards the front of the property preventing low spots for flooding or pooling of water.

Once approved these plans become the endorsed plans of this permit.

2. The layout of the site and the size, design and location of the buildings and works permitted must always accord with the endorsed plan and must not be altered or modified without the further written consent of the Responsible Authority.
3. A minimum 30 days prior to any building or works commencing, a Construction and Site Management Plan (CSMP) must be submitted to and be approved by the Responsible Authority detailing the construction activity proposed and the site and environmental management methods to be used. The plan must include, but is not limited to:
  - a) Hours of construction;

- b) Parking and traffic movement of all workers vehicles and construction vehicles;
- c) Scaffolding and hoarding for the site;
- d) Allocated areas for loading and unloading;
- e) Site evacuation plan and procedure;
- f) Occupational health and safety policy;
- g) Hazard identification and control;
- h) Environmental management and waste minimisation
- i) Management of onsite stormwater and contamination: a statement or report outlining all construction measures to be taken to prevent litter, sediments and pollution from entering the stormwater systems
- j) Protection of surrounding roads from site contamination and damage including rumble grid and or wash down bay facility;
- k) Chemical storage;
- l) Noise and vibration;
- m) Risk assessment;
- n) Works timetable; and
- o) Number of workers expected of work on the site at any one time.

Once submitted and approved the works detailed by the Construction & Site Management Plan must be carried out to the satisfaction of the Responsible Authority.

4. A minimum 30 days prior to any building or works being completed, a WSUD Maintenance Program must be submitted to and approved by the Responsible Authority which sets out future operational and maintenance arrangements for all WSUD measures. The program must include, but is not limited to:
- a) inspection frequency.
  - b) cleanout procedures.
  - c) as installed design details/diagrams including a sketch of how the system operates.
  - d) a report confirming completion & commissioning of all WSUD Response initiatives by the author of the WSUD Response and STORM or MUSIC model approved pursuant to this permit, or similarly qualified person or company. This report must be to the satisfaction of the Responsible Authority and must confirm that all initiatives specified in the WSUD Response and STORM or MUSIC model have been completed and implemented in accordance with the approved report.

The WSUD Maintenance Program may form part of a broader Maintenance Program that covers other aspects of maintenance such as a Builder' User's Guide or a Building Maintenance Guide.

5. A minimum 30 days prior to any building or works commencing, all WSUD Details, such as cross sections and/or specifications, to assess the technical effectiveness

of the proposed stormwater treatment measures, must be submitted to and be approved by the Responsible Authority.

The WSUD Details should be appropriate to the proposed stormwater treatment measure (eg. further detail is required for raingarden systems but is not required for above ground standalone rainwater tanks unless connected to toilets in which case notation to that effect is to be included on the drawings and in an ESD report if applicable).

Where applicable, any stormwater treatment measures (eg. rainwater tank, raingarden, etc) contained within the endorsed plans must be included on the stormwater drainage plan, the roof plan and landscape plan as applicable.

6. Prior to the issue of an Occupancy Permit, all boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority.
7. Floor levels shown on the endorsed plan(s) must not be altered or modified without written consent of the Responsible Authority.
8. The privacy screens as shown on the endorsed plans must be installed prior to the occupation of the building.
9. The car parking areas and access ways as shown on the endorsed plans must be formed to such levels so that they may be used in accordance with the plan, and must be properly constructed, surfaced, drained and line-marked (where applicable). The car park area and driveways must be maintained to the satisfaction of the Responsible Authority.
10. Standard concrete vehicular crossing(s) must be constructed to suit the proposed driveway(s) in accordance with the Responsible Authority's standard specification and any vehicle crossing(s) no longer required must be removed and the land, footpath and kerb and channel replaced all to the satisfaction of the Responsible Authority. All vehicle access points must be located a minimum of 1.0 metre from any infrastructure including service pits. Alternatively, such assets may be incorporated into the crossover with the written consent of the Responsible Authority and the relevant servicing authority/agency. Subsequent works and costs in association with relocation and/or amendment must be incurred at the owner's cost, to the satisfaction of the relevant servicing authority/agency and the Responsible Authority.
11. Provision must be made for the drainage of the land including landscaped and pavement areas.

The discharge of water from the land must be controlled around its limits to prevent any discharge onto any adjoining or adjacent property or streets other than by means of an underground pipe drain which is discharged to an approved legal point of discharge to the satisfaction of the Responsible Authority.

12. An on-site stormwater detention drainage system must be installed on the subject land to the satisfaction of the Responsible Authority. Prior to the commencement of building and works a drainage layout plan, together with computations and manufacturers specifications, must be prepared by a suitably qualified Civil Engineer and submitted to and approved by the Responsible Authority. Once approved by the Responsible Authority the plan must be carried out to the satisfaction of the Responsible Authority.

13. The development must be provided with external lighting capable of illuminating access to each garage, car parking space and pedestrian walkways. Lighting must be located, directed and shielded and of limited intensity so that no nuisance or loss of amenity is caused to any person within or beyond the site to the satisfaction of the Responsible Authority.
14. Prior to the issue of an Occupancy Permit, all boundary fencing must be erected as per the endorsed plans. The cost of such fencing must be met by the owner and carried out to the satisfaction of the Responsible Authority.
15. Before the development starts, or any trees or vegetation removed, a landscape plan (three copies) prepared by a suitably qualified person or firm shall be submitted to and approved to the satisfaction of the Responsible Authority. The plans must be drawn to scale, with dimensions, and be generally in accordance with the plans submitted with the application but modified to show:
  - a) Plans to accord with Condition 1 of this permit.
  - b) A planting schedule of all proposed vegetation (trees, shrubs and ground covers) which includes, botanical names, common names, pot size, mature size and total quantities of each plant.
  - c) The use of drought tolerant species.
  - d) The provision of canopy trees within the front setback of Dwellings 1 and 2 which are able to achieve a minimum mature height of 4 metres.
  - e) The use of non-invasive plant species which will ensure that existing infrastructure assets are not damaged by root systems.
  - f) Features such as paths, paving and accessways.

Once approved these plans become the endorsed plans of this permit. Landscaping in accordance with this approved plan and schedule shall be completed before the building is occupied.

16. The garden areas shown on the endorsed plan and schedule must only be used as gardens and must be constructed, completed and maintained in a proper, tidy and healthy condition to the satisfaction of the responsible authority. Any tree or shrub damaged, removed or destroyed must be replaced by a tree or shrub of similar size and variety to the satisfaction of the Responsible Authority.
17. This permit will expire if:
  - a) The development does not start within two (2) years of the date of issue of this permit, or
  - b) The development is not completed within four (4) years of the date of issue of this permit.

Before the permit expires or within six (6) months afterwards the owner or occupier of the land may in writing request the Responsible Authority to extend the expiry date.

Once the development has commenced the owner or occupier of the land may in writing request the Responsible Authority to extend the expiry date within twelve (12) months of the lapse date.

## Permit Notes

- This is not a building permit under the Building Act. A separate building permit is required to be obtained for any demolition or building works.
- Before commencement of the development occurs, the applicant should contact the Moonee Valley City Council's Technical Services Department regarding legal point of discharge, new crossings, building over easements etc.
- Existing levels along the property line must be maintained. All proposed levels must match to existing surface levels along the property boundary. Council will not accept any modifications to existing levels within any road reserve.
- The required on-site detention system must be designed to limit the rate of stormwater discharge from the property to pre-development levels in accordance with the following calculation;  $C=0.4$ ,  $t_c=5$ mins, ARI 1 in 5. An ARI of 1 in 10 should be used for storage and the greater of post development C or  $C=0.80$ .
- No on street parking permits will be provided to the occupiers of the subject site.
- A permit must be obtained from Council for all vehicular crossings.
- An Asset Protection Permit must be obtained from Council prior to commencement of works to ensure that Council assets in the vicinity of the works are not damaged during construction.
- All works undertaken within any existing road reserves must accord with the requirements of the Moonee Valley City Council's Engineering Services Unit and to the satisfaction of the Responsible Authority.
- All drainage works undertaken must be in accordance with the requirements of Stormwater Drainage Requirements for Development Works as prepared by the Moonee Valley City Council.
- Council will not accept any modifications to existing levels within the road reserve or to any R.O.W. Any change in levels to match existing surface levels along property boundary line must be made within the property boundary.
- The applicant is advised to check with Council's Engineering Services Unit for the height and location of Legal Point of Discharge (LPD) to avoid potential conflict with in ground WSUD treatment measures.

## 1. Introduction

### 1.1 Subject Site

The subject site is located on the western side of Pearl Street, Niddrie. The site is regular in shape with a frontage to Pearl Street of 20.12 metres and a maximum depth of 42.06 metres, resulting in a total area of approximately 846m<sup>2</sup>.

The land has an approximate 3.3 metre fall from the north-west of the site to the south-east.

There does not appear to be any easements or covenants on the Certificate of Title provided.

The site comprises a single storey brick dwelling with a tiled pitched roof. Vehicle access to the site is obtained from an existing crossover located to the south-east corner off Pearl Street. Lawn cover and established trees occupy the front setback. A low brick fence bounds the site onto Pearl Street. There is no street trees or notable infrastructure within the nature strip at the front of the site.



**Figure 2 – Subject site at No.33 Pearl Street, Niddrie**

The surrounding area is comprised of predominantly residential zoned land used and developed for residential purposes.

The built form within the vicinity is predominantly single and double storey dwellings with brick or weatherboard external finishes and hipped tiled roof forms. There would appear to be an emerging trend for infill development in the immediate and surrounding area.

## **1.2 Proposal**

It is proposed to construct three double storey dwellings. Dwellings 1 and 2 will front Pearl Street and feature basement car parking connected to Pearl Street via a combined crossover. Dwelling 3 to the rear will utilise the existing crossover and driveway along the southern title boundary. The proposal as advertised can be summarised as follows:

**Table 1**

No. of dwellings	3
No. of car spaces	6
Max. Building Height	8.2m
Site Coverage	49.3%
Permeability	27%

Refer **Appendix C** - Plans (separately circulated).

## **2. Background**

### **2.1 Relevant Planning History**

Not applicable.

### **2.2 Planning Policies & Decision Guidelines**

#### State Planning Policy Framework

Clause 11 Settlement

Clause 15 Built Environment and Heritage

Clause 16 Housing

#### Local Planning Policy Framework

Clause 21.01 Municipal Profile

Clause 21.03 Vision

Clause 21.04 Sustainable Environment

Clause 21.05 Housing

Clause 21.06 Built Environment

Clause 22.03 Stormwater Management (WSUD)

#### Zoning

Clause 32.08 General Residential Zone

#### Particular and General Provisions

Clause 52.06 Car Parking

Clause 55 Two or More Dwellings on a Lot and Residential Buildings

Clause 65 Decision Guidelines

#### Planner's comments

Council's Municipal Strategic Statement has been recently updated, with one of the main changes being the incorporation of Clause 21.04-3 (Ecological Sustainable Development) into the Moonee Valley Planning Scheme. This clause requires developments of three or more dwellings to provide a Sustainable Design Assessment using STEPS/SDS or any other approved assessment tool. As the proposed development has been lodged prior to this requirement being incorporated into the planning scheme, it is not considered necessary in this instance.

### **2.3 Referrals**

#### External

Not applicable

### Internal

- Engineering Services Unit

No objection subject to standard conditions and two further specific conditions as follows;

- A clear overland flow path of approximately 300mm will be required down the southern boundary of the property (refer to Condition 1j).
- All garage finish floor levels and ground floor levels to be amended to ensure fall is towards the front of the property and not creating a low spot for flooding (refer to Condition 1k).

- Traffic and Transportation Unit

No objection subject to the following conditions;

- The garage door of Dwelling 3 opening inwards to the car space cannot be considered safe. Applicant needs to provide this door to be opened outwards. Alternatively a sliding door needs to be provided (refer to Condition 1b).
- Corner splays need to be provided at both sides of the two access ways in accordance with the Design Standard 1 of Clause 52.06-8. Proposed new fence at the southern property boundary needs to be tapered down to 1.2m. Proposed vegetation within the splays of access way to Dwelling 3 need to be less than 0.9m in height. The height of three letter boxes within the corner splays must be less than 1.2m (refer to Condition 1c, 1d and 1e).
- New crossovers need to be constructed in accordance with Council's vehicle crossing policy (refer to Permit Notes).
- Residents and their visitors of the proposed development are not eligible for parking permits in accordance with Council Parking Permit Policy (refer to Permit Notes).

- ESD Officer

No objection subject to standard conditions.

## **2.4 Public Notification of the Application**

Pursuant to Section 52 of the Planning and Environment Act 1987 the application was advertised by mail to adjoining and surrounding properties, with one notice erected on site for 14 days.

As a result, seventeen (17) objections were received from properties contained in **Appendix A** of this report with one additional objection submitted at the Consultation Meeting held 18 February 2015.

A response to the objections are provided in Section 3.6 of this report.

## **2.5 Consultation Meeting**

A Consultation Meeting was held on 18 February 2015, attended by Councillor Chantry, objectors and Council's Planning Officer. No resolution was achieved at this meeting.

### **3. Discussion**

#### **3.1 State Planning Policy Framework**

The relevant State Planning Policy Framework clauses are considered to be met. For the large part State Planning objectives seek to encourage urban consolidation in locations which take advantage of existing commercial and community services and public transport. The subject site is located within close proximity of an arterial road (Hoffmans Road), bus routes (No. 475), public parks/reserves (Buckley Park & Cliff Whitworth Reserve) and schools (Niddrie Secondary School).

The location of the subject site is considered to lend support for a more intensive form of residential development. The proposal contributes to the objective of housing diversity by providing a range of housing that will cater for the increasingly diverse needs of future residents.

#### **3.2 Local Planning Policy Framework**

The proposal complies with the objectives and strategies of Clause 21.05 (Housing) by increasing housing opportunities to meet growing population needs, providing a diversity of housing choice in a well-established area with access to public transport options and local/community services. Within the policy guidelines of Clause 21.05 the site falls within category 3 being 'slight to moderate housing intensification', - an area where medium density that is respectful of the character of the area may occur.

The proposed development responds to the strategies of Clause 21.06 (Built Environment). A number of the objectives and strategies within the Clause appear to overlap with those contained within neighbourhood character precinct profiles and ResCode and therefore the key concepts of Clause 21.06 are discussed below in Sections 3.3. and 3.5.

The proposal complies with Clause 22.03 Stormwater Management (WSUD) and meets the required on site stormwater treatment as demonstrated by achieving 100%, or greater, using the STORM tool. However, not all water treatment measures and relevant annotations have been shown on the plans. This will be a condition of any permit issued. The relevant design requirement conditions will be placed on any approval issued in accordance with this policy.

#### **3.3 Neighbourhood Character Guidelines**

The subject land is identified as being within character area 'Garden Suburban 6'. The preferred character statement for this precinct is as follows:

'New developments will contribute to the predominant siting and finishes of existing buildings, with well-maintained gardens.

Front facade articulation will be achieved through the use of recesses to complement the pattern of verandah and porch areas of the traditional dwellings. The use of lighter finishes will contribute to the traditional palette of materials. Consistent front and side setbacks will ensure space for landscaping, while low or permeable front fences will retain the openness of the streets.'

It is considered that the development provides a suitable response to the preferred character statement of the Garden Suburban 6 within the Neighbourhood Precinct Profiles 2012 as follows:

Siting and Building Envelope	<p>The development has a street setback of 8.4m which complements the setbacks found within the immediate streetscape which vary from 8m to 9m.</p> <p>The design responds well to the character of Pearl Street with proposed dwellings adopting pitched roofs, eaves and materials in keeping with surrounding and emerging built forms.</p> <p>The basement level car parking is cleverly concealed behind generous landscaping within the front setback.</p> <p>The single width 3m crossover serving both basement levels and topography of the land sloping upwards further reduces the visible impact of basement garaging on the streetscape. Basement</p> <p>It is set off one side boundary.</p> <p>A building envelope similar to other medium density style developments within the immediate area is provided.</p>
Built Form	<p>A mix of traditional and modern elements complementing the mix within the streetscape.</p> <p>The development is well-articulated on each elevation. The dwellings incorporate simple post-war style architecture, with pitched roofs, eaves, large windows and porches.</p> <p>Two storey height responsive to the heights of double storey developments within the street.</p>
Design Detail	<p>A mix of brick and lightweight materials which are considered to be characteristic of more contemporary infill developments in the area is used.</p> <p>Windows provided along street front ensure surveillance to the street is achieved.</p>
Landscaping	<p>The development is set off one side boundary and is provided with landscaped front and rear yards. The driveway along the southern side boundary contains good landscaping to break up hard surfaced areas.</p> <p>No front fence ensures views of the front gardens are maintained.</p>

### 3.4 Compliance with Clause 52.06 (Car Parking)

**Table 2**

Use (dwellings)	Required	Provided
3 Dwellings (3x4 bedrooms)	6	6
Residential Visitors	N/A	N/A
Total	6	6

As referenced under Section 2.3 of this report, Councils Traffic and Transportation Unit have no objection to the proposed development, subject to the inclusion of conditions on any permit granted which are detailed in the Recommendation section of this report.

### 3.5 Clause 55 (ResCode) Assessment

The proposal is considered to generally comply with the provisions of Clause 55 as set out in the assessment table (refer to **Appendix B**).

The following points of exception, which have not been satisfied through this development, are listed below:

**Table 3**

Res Code Standard	Response
Clause 55.03-1 (Standard B6 – Street setback)	<p>The adjoining dwellings have an average setback of 8.4 metres. In view of this, the development is required to achieve a minimum setback of 8.4m. An 8.44m setback at basement level and 8.465m setback at ground level that satisfy this provision.</p> <p>The proposal does however feature front facing balcony elements that cantilever over lower levels. Balconies are setback 7.8m from the front title boundary and therefore require a variation to the front setback standard. This minor encroachment into the front setback is considered acceptable in this instance given the minor variation to the required standard and the emergence of similar balcony features along the streetscape such as that at No. 32 Pearl Street. The objectives of this standard are considered to be met.</p>
Clause 55.03-8	A landscape plan to Council's satisfaction has not been provided. A

(Standard B13 – Landscaping)	condition on any future permit issued will require a landscape plan drawn by a suitably qualified person submitted to the Responsible Authority's satisfaction.
Clause 55.03-10 (Standard B15 – Parking location)	<p>The living room area of Dwelling 2 features habitable windows setback 0.4m from the access way to Dwelling 3 in lieu of the 1m setback required by this standard.</p> <p>A variation is considered acceptable given both windows have sill heights at or exceeding 1.4m above the access way which limits amenity impacts. To further protect the amenity of future occupants a condition will require these living room windows to be fixed and double glazed.</p>
Clause 55.04-1 (Standard B17 – Side and rear setbacks)	<p>The first floor casual living area of Dwelling 1 is setback 1.65m from the northern boundary. This does not satisfy Standard B17 which requires a 1.69 metre setback given the external walls 5.91m height. This 0.04m non-compliance is considered acceptable in this instance given the minor variation to the standard. Furthermore a driveway separates this proposed dwelling from the property at No. 35 Pearl Street limiting any potential amenity impacts.</p> <p>It is considered that the height and setback of buildings respect the existing and preferred neighbourhood character and limits the impact to existing dwellings.</p>

### 3.6 Objections

**Table 4**

Issue	Officer Response
Neighbourhood character	Refer to Section 3.3 of this report

Overdevelopment	There is no evidence of this proposal being an over-development, with the site coverage, permeability levels, parking on site and open space amounts being well within the parameters of Clause 55.
Traffic and parking concerns	The development satisfies the parking provisions of the Clause 52.06 of the Moonee Valley Planning Scheme, and accordingly, there is no statutory basis to request additional parking. Council's engineers have raised no issue with the application.
Overlooking and loss of privacy	First floor habitable room windows have either sill heights to 1.7m above finished floor level or screening in accordance with the standards of Clause 55.04-6 (Overlooking).
Overshadowing	Plans accord with Clause 55.04-5 (Overshadowing). The built form does not unreasonably overshadow any adjoining properties.
Safety and structural implications to neighbouring properties during construction	This matter is not the subject of a planning assessment and is dealt with under the building permit process and building regulations.
Loss of front landscaping and existing trees on site	<p>The front yard area is capable of accommodating two large trees that will respond to the garden setting of the area. The courtyards may also each accommodate sufficient landscaping and large shrubs can be featured in the planting zones along the driveway.</p> <p>A condition on any future permit issued will require a landscape plan drawn by a suitably qualified person submitted to the responsible authority's satisfaction.</p> <p>It should be noted that no trees within the subject site have been listed as significant.</p>
Impact to side boundary fencing	Abutting property owners at No. 31 and 35 Pearl Street expressed a desire to maintain existing brick fences along north and south title boundaries. A condition on any future permit issued will ensure that existing brick fencing along both title boundaries is maintained.

	It should be noted that existing southern boundary fencing within the front setback is 0.7m high and therefore does not need to be tapered to allow for pedestrian view lines.
Reduction in property values as a result of the proposed development	Market values are not the subject of a planning application assessment.
Impacts to view lines	As discussed in Section 3.3 of this report, the height and setback of buildings is considered to respect the existing and preferred neighbourhood character.  Built form proposed is not considered to unreasonably impact on surrounding view lines.
Noise	The proposed development is for residential dwellings. Noise levels are expected to be typical for a use of this type in an already established residential setting.
Drainage concerns	The proposal was referred to Council's Engineering Services Unit who had no objection to the proposal subject to conditions on any future permit issued.
Inaccuracies on documentation submitted.	It was noted during the assessment of plans submitted that some details with respect to street names, side fencing and site layout featured inaccuracies. These inaccuracies were further highlighted in objections received.  It should be noted that upon a site visit and review of all documents provided, a clear and accurate planning assessment was able to be carried out.

#### **4. Human Rights**

The application process and decision making is in line with the Victorian Charter of Human Rights and Responsibilities 2006 (Section 18 – Taking part in public life).

#### **5. Conclusion**

The application has been assessed against the relevant provisions of the State Planning Policy Framework, Local Planning Policy Framework, zoning controls, the relevant Particular and General Provisions, and the decision guidelines at Clause 65 of the Moonee Valley Planning Scheme.

It is considered that the proposal demonstrates general compliance with the requirements of these provisions and policies. The application is supported as detailed above in the recommendation section.

## APPENDIX A

### Location of Objectors

18A Pearl Street, NIDDRIE VIC 3042
35 Pearl Street, NIDDRIE VIC 3042
26 Pearl Street, NIDDRIE VIC 3042
21 Pearl Street, NIDDRIE VIC 3042
31 Pearl Street, NIDDRIE VIC 3042
38 Pearl Street, NIDDRIE VIC 3042
39 Pearl Street, NIDDRIE VIC 3042
37 Pearl Street, NIDDRIE VIC 3042
44 Garnet Street, NIDDRIE VIC 3042
48 Garnet Street, NIDDRIE VIC 3042
50 Garnet Street, NIDDRIE VIC 3042
39 Garnet Street, NIDDRIE VIC 3042
43 Garnet Street, NIDDRIE VIC 3042
53 Garnet Street, NIDDRIE VIC 3042
46 Garnet Street, NIDDRIE VIC 3042
47 Garnet Street, NIDDRIE VIC 3042
52 Garnet Street, NIDDRIE VIC 3042

## APPENDIX B

### Clause 55 of the Moonee Valley Planning Scheme

Two or more dwellings on a lot and residential buildings (Clause 55 and Schedule to the Residential 1 Zone).

Where there is non-compliance, see section 3.5 in report.

Title and Objective	Complies with Standard	Compliance with Objective
<i>B1 - Neighbourhood Character</i>	✓	✓
<i>B 2 - Residential Policy</i>	✓	✓
<i>B 3 - Dwelling Diversity</i>	✓	✓
<i>B 4 - Infrastructure Objectives</i>	✓	✓
<i>B 5- Integration with the Street Objective</i>	✓	✓
<i>B6 - Street Setback Objective</i>	X	✓
<i>B7 - Building Height Objective</i>	✓	✓
<i>B8- Site Coverage Objective.</i>	✓	✓
<i>B9- Permeability Objectives</i>	✓	✓
<i>B10 - Energy Efficiency Objectives</i>	✓	✓
<i>B 11 - Open Space Objective</i>	✓	✓
<i>B 12- Safety Objective</i>	✓	✓
<i>B 13 - Landscaping Objectives</i>	✓ - subject to condition	✓ - subject to condition
<i>B 14 - Access Objectives</i>	✓	✓
<i>B 15 Parking Location Objectives</i>	✓ - subject to condition	✓ - subject to condition
<i>B 16 - Parking Provision Objectives</i>	<i>Deleted from Clause 55 on 5 June 2012 (VC90). Refer to Clause 52.06 for car parking requirements under Section 3.4 of the report.</i>	
<i>B 17 - Side and Rear Setbacks Objective</i>	X	✓
<i>B 18 - Walls on Boundaries Objective</i>	✓	✓
<i>B 19 - Daylight to Existing Windows Objective.</i>	✓	✓
<i>B 20 - North-facing Windows Objective</i>	✓	✓
<i>B 21 - Overshadowing Open Space Objective</i>	✓	✓
<i>B 22 - Overlooking Objective</i>	✓	✓

<i>B 23 - Internal Views Objective</i>	✓	✓
<i>B 24 - Noise Impacts Objectives</i>	✓	✓
<i>B 25 - Accessibility Objective</i>	✓	✓
<i>B 26 - Dwelling Entry Objective</i>	✓	✓
<i>B 27 - Daylight to New Windows Objective</i>	✓	✓
<i>B 28 - Private Open Space Objective</i>	✓	✓
<i>B 29 - Solar Access to Open Space Objective</i>	✓	✓
<i>B 30 - Storage Objective</i>	✓	✓
<i>B 31 - Design detail objective</i>	✓	✓
<i>B 32 - Front Fences Objective</i>	✓	✓
<i>B 33 - Common Property Objectives</i>	✓	✓
<i>B 34 - Site Services Objectives</i>	✓	✓

✓ - complies

x – non-compliance

N/A - not applicable

**9.5                      20 Westminster Drive, Avondale Heights (Lot 173 on LP063096) - Construction of three dwellings**

**File No:** MV/645/2014  
**Author:** Statutory Planner  
**Directorate:** City Works & Development  
**Ward:** Rose Hill

<b>Proposal</b>	Three double storey dwellings
<b>Applicant</b>	Vitale Properties P/L
<b>Owner</b>	Vitale Properties P/L
<b>Planning Scheme Controls</b>	General Residential Zone
<b>Planning Permit Requirement</b>	Clause 32.08-4 – Two or more dwellings
<b>Car Parking Requirements (Clause 52.06)</b>	Required: 6 spaces Provided: 6 spaces
<b>Restrictive Covenants</b>	None
<b>Easements</b>	Yes, a 1.83 metre wide drainage and sewerage easement along the northern boundary
<b>Site Area</b>	589.7m <sup>2</sup>
<b>Number Of Objections</b>	15
<b>Consultation Meeting</b>	21 January 2015

## Executive Summary

- The application seeks planning approval for the construction of three double storey dwellings.
- The site has an area of 589.7 square metres and is located on the north-western corner of Westminster Drive and Doyle Street, Avondale Heights.
- The application was advertised and 15 objections were received. Concerns were raised relating to neighbourhood character; overdevelopment; car parking; devaluation of properties in the area; amenity impacts (overlooking, overshadowing, visual bulk, solar access); identical development at 19 Rogerson Street; quality of life and excessive noise during construction.
- A Consultation Meeting was held on 21 January 2015, attended by Councillor Sipek, objectors, the applicant and Council's Planning Officers regarding both developments at No.19 Rogerson Street and No.20 Westminster Avenue concurrently. No resolution was achieved at this meeting.
- The application was referred internally to Council's Environmental Sustainable Development (ESD) Officer, Engineering Services Unit, Traffic and Transportation Unit, Arborist and Urban Designer. Conditional support to the application was provided.
- The assessment report finds that the proposal demonstrates an adequate level of compliance with the relevant policies and provisions of the Moonee Valley Planning Scheme, and recommends that a Notice of Decision to Grant a Permit be issued subject to conditions.



Figure 1 – Aerial photograph of subject site and surrounds

## Recommendation

That Council issue a Notice of Decision to Grant a Permit in relation to Planning Permit Application No. MV/645/2014 for the Construction of three dwellings at 20 Westminster Drive, Avondale Heights (Lot 173 on LP063096), subject to the following conditions:

1. Before the development starts, amended plans (three copies) must be submitted to and approved to the satisfaction of the Responsible Authority. The plans must be drawn to scale, with dimensions, and be generally in accordance with the plans submitted and assessed with the application but modified to show:
  - a) The first floor setback from Doyle Street of Dwellings 2 and 3 to be increased by 500mm, including the nook between the dwellings.
  - b) Any internal alterations required as a result of Condition 1(a), with no further change to the building footprint.
  - c) The crossover to Dwelling 3 to align with the proposed accessway.
  - d) The western rear boundary fence to each dwelling and the northern rear boundary fence to Dwelling 3 to be at least 1.8 metres in height.
  - e) The internal dividing boundary fences between the secluded private open space areas to each dwelling to be at least 1.8 metres in height.
  - f) The provision of additional windows to the northern facades of the first floor level of Dwellings 1 and 3 (bedroom 3 and bathroom of each dwelling), to Council's satisfaction.
  - g) Additional windows as required by Condition 1(f) to comply with Clause 55.04-6 (Overlooking) and Clause 55.04-7 (Internal Views) of the Moonee Valley Planning Scheme where applicable.
  - h) The hipped roof to the garages of Dwellings 1 and 2 replaced with a flat roof.
  - i) Internal elevations of each dwelling.
  - j) All paving except the driveways to be notated as permeable in accordance with the approved STORM report.
  - k) Each rainwater tank to be notated to state, on the ground floor plan:
    - i. The capacity of the rainwater tank;
    - ii. Whether a mechanically, fully charged or gravity fed system is proposed;
    - iii. Number of toilets connected to the rainwater tank, as detailed on the STORM report;
    - iv. The roof catchment area collected to the rainwater tank, as detailed on the STORM report.
  - l) A roof plan which graphically shows:
    - i. All roof areas, both treated by WSUD and untreated.
    - ii. The specific roof area in square metres of the rainwater catchment area discharging into the nominated stormwater treatment, with the WSUD treatment capacity clearly annotated.

- iii. Water tank volumes and numbers of toilets the water tank is connected to.

Once approved these plans become the endorsed plans of this permit.

- 2. The layout of the site and the size, design and location of the buildings and works permitted must always accord with the endorsed plan and must not be altered or modified without the further written consent of the Responsible Authority.
- 3. A minimum 30 days prior to any building or works commencing, a Construction & Site Management Plan (CSMP) must be submitted to and be approved by the Responsible Authority detailing the construction activity proposed and the site and environmental management methods to be used. The plan must include, but is not limited to:
  - a) Hours of construction;
  - b) Parking and traffic movement of all workers vehicles and construction vehicles;
  - c) Scaffolding and hoarding for the site;
  - d) Allocated areas for loading and unloading;
  - e) Site evacuation plan and procedure;
  - f) Occupational health and safety policy;
  - g) Hazard identification and control;
  - h) Environmental management and waste minimisation
  - i) Management of onsite stormwater and contamination: a statement or report outlining all construction measures to be taken to prevent litter, sediments and pollution from entering the stormwater systems
  - j) Protection of surrounding roads from site contamination and damage including rumble grid and or wash down bay facility;
  - k) Chemical storage;
  - l) Noise and vibration;
  - m) Risk assessment;
  - n) Works timetable; and
  - o) Number of workers expected of work on the site at any one time.

Once submitted and approved the works detailed by the Construction & Site Management Plan must be carried out to the satisfaction of the Responsible Authority.

- 4. A minimum 30 days prior to any building or works being completed, a WSUD Maintenance Program must be submitted to and approved by the Responsible Authority which sets out future operational and maintenance arrangements for all WSUD measures. The program must include, but is not limited to:
  - a) Inspection frequency;
  - b) Cleanout procedures;

- c) As installed design details/diagrams including a sketch of how the system operates; and
- d) A report confirming completion and commissioning of all WSUD Response initiatives by the author of the WSUD Response and STORM or MUSIC model approved pursuant to this permit, or similarly qualified person or company. This report must be to the satisfaction of the Responsible Authority and must confirm that all initiatives specified in the WSUD Response and STORM or MUSIC model have been completed and implemented in accordance with the approved report.

The WSUD Maintenance Program may form part of a broader Maintenance Program that covers other aspects of maintenance such as a Builders' User's Guide or a Building Maintenance Guide.

- 5. Prior to the issue of an Occupancy Permit, all boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority.
- 6. Building or works must not be constructed over or adjacent to any easement or within one metre of an existing Council drainage asset without the written consent of the relevant authorities or agencies to the satisfaction of the Responsible Authority.
- 7. Floor levels shown on the endorsed plan(s) must not be altered or modified without written consent of the Responsible Authority.
- 8. The privacy screens/obscure glazing as shown on the endorsed plans must be installed prior to the occupation of the building.
- 9. The car parking areas and access ways as shown on the endorsed plans must be formed to such levels so that they may be used in accordance with the plan, and must be properly constructed, surfaced, drained and line-marked (where applicable). The car park area and driveways must be maintained to the satisfaction of the Responsible Authority.
- 10. Standard concrete vehicular crossing(s) must be constructed to suit the proposed driveway(s) in accordance with the Responsible Authority's standard specification and any vehicle crossing(s) no longer required must be removed and the land, footpath and kerb and channel replaced all to the satisfaction of the Responsible Authority. All vehicle access points must be located a minimum of 1.0 metre from any infrastructure including service pits. Alternatively, such assets may be incorporated into the crossover with the written consent of the Responsible Authority and the relevant servicing authority/agency. Subsequent works and costs in association with relocation and/or amendment must be incurred at the owner's cost, to the satisfaction of the relevant servicing authority/agency and the Responsible Authority.
- 11. The street tree(s) must not be removed or replaced without written consent of the Responsible Authority. The replacement is to be to the satisfaction of the Responsible Authority. All fees associated with the removal and replacement/replanting of the street tree(s) must be borne by the permit applicant and must be undertaken prior to the issue of an Occupancy Permit to the satisfaction and requirements of the Responsible Authority.

12. The existing tree(s) to be retained on the endorsed plan, must not be damaged, removed or destroyed without the written consent of the Responsible Authority (other than in accordance with a Notice given pursuant to the Local Government Act).
13. Provision must be made for the drainage of the land including landscaped and pavement areas. The discharge of water from the land must be controlled around its limits to prevent any discharge onto any adjoining or adjacent property or streets other than by means of an underground pipe drain which is discharged to an approved legal point of discharge to the satisfaction of the Responsible Authority.
14. An on-site stormwater detention drainage system must be installed on the subject land to the satisfaction of the Responsible Authority. Prior to the commencement of building and works a drainage layout plan, together with computations and manufacturers specifications, must be prepared by a suitably qualified Civil Engineer and submitted to and approved by the Responsible Authority. Once approved by the Responsible Authority the plan must be carried out to the satisfaction of the Responsible Authority.
15. Prior to the issue of an Occupancy Permit, all boundary fencing must be erected. The cost of such fencing must be met by the owner and carried out to the satisfaction of the Responsible Authority.
16. The development must be provided with external lighting capable of illuminating access to each garage, car parking space and pedestrian walkways. Lighting must be located, directed and shielded and of limited intensity so that no nuisance or loss of amenity is caused to any person within or beyond the site to the satisfaction of the Responsible Authority.
17. Before the development starts, or any trees or vegetation removed, a landscape plan (three copies) prepared by a suitably qualified person or firm shall be submitted to and approved to the satisfaction of the Responsible Authority. The plans must be drawn to scale, with dimensions, and be generally in accordance with the plans submitted with the application but modified to show:
  - a) Plans to accord with Condition 1 of this permit;
  - b) A planting schedule of all proposed vegetation (trees, shrubs and ground covers) which includes, botanical names, common names, pot size, mature size and total quantities of each plant;
  - c) The use of drought tolerant species;
  - d) The provision of canopy trees within the front setback of each dwelling which are able to achieve a minimum mature height of 4 metres;
  - e) The use of species with non-invasive root systems within and alongside the easement along the southern boundary; and
  - f) Features such as paths, paving and accessways.

Once approved these plans become the endorsed plans of this permit. Landscaping in accordance with this approved plan and schedule shall be completed before the building is occupied.

18. All existing vegetation to be retained must be including suitable management and protection of retained vegetation during any construction stage maintained to the satisfaction of the Responsible Authority.
19. The garden areas shown on the endorsed plan and schedule must only be used as gardens and must be constructed, completed and maintained in a proper, tidy and healthy condition to the satisfaction of the responsible authority. Any tree or shrub damaged, removed or destroyed must be replaced by a tree or shrub of similar size and variety to the satisfaction of the Responsible Authority.
20. This permit will expire if:-
  - a) The development does not start within two (2) years of the date of issue of this permit, or
  - b) The development is not completed within four (4) years of the date of issue of this permit.

Before the permit expires or within six (6) months afterwards the owner or occupier of the land may in writing request the Responsible Authority to extend the expiry date.

Once the development has commenced the owner or occupier of the land may in writing request the Responsible Authority to extend the expiry date within twelve (12) months of the lapse date.

#### **Permit Notes**

- This is not a building permit under the Building Act. A separate building permit is required to be obtained for any demolition or building works.
- Before commencement of the development occurs, the applicant should contact the Moonee Valley City Council's Technical Services Department regarding legal point of discharge, new crossings, building over easements, etc.
- A permit must be obtained from Council for all vehicular crossings.
- An Asset Protection Permit must be obtained from Council prior to commencement of works to ensure that Council assets in the vicinity of the works are not damaged during construction.
- Owners of properties may be asked to pay an inspection fee and provide a bond to ensure that Council assets in the vicinity of their works are not damaged during construction.
- No on street parking permits will be provided to the occupiers of the subject site.
- It is recommended that the required on-site detention system be designed to limit the rate of stormwater discharge from the property to pre-development levels in accordance with the following calculation;  $C=0.4$ ,  $t_c=5\text{mins}$ , ARI 1 in 5. An ARI of 1 in 10 should be used for storage and the greater of post development C or  $C=0.80$ .
- All drainage works undertaken must be in accordance with the requirements of Stormwater Drainage Requirements for Development Works as prepared by the Moonee Valley City Council.

- All works undertaken within any existing road reserves must accord with the requirements of the Moonee Valley City Council's Technical Services Department and be to the satisfaction of the Responsible Authority.
- Existing levels along the property line must be maintained. All proposed levels must match to existing surface levels along the property boundary. Council will not accept any modifications to existing levels within the road reserve.

## **1. Introduction**

### **1.1 Subject Site and Surrounds**

The subject land is located on the north-western corner of Westminster Drive and Doyle Street, Avondale Heights. The site is generally rectangular in shape with an area of 589.7 square metres. A 1.83 metre wide drainage and sewerage easement is located along the entire northern boundary of the land.



**Figure 2 – Subject Site (20 Westminster Drive, Avondale Heights)**

The subject land is occupied by a single storey brick dwelling with a hipped roof form. The existing dwelling is set back by a minimum of 7.7 metres from Westminster Drive. Vehicle access is currently provided by two single width crossovers along the eastern boundary to Doyle Street. A large street tree is located centrally within the road reserve at Westminster Drive. The land is relatively flat.

The surrounding area is comprised of predominantly residential zoned land used and developed for residential purposes. The built form within the vicinity is predominantly single and double storey post-war and contemporary style dwellings. The subject site is within close proximity of arterial roads (Military

Road), local parklands and local schools. It is noted that properties to the west of the subject site along Westminster Drive (and throughout much of Avondale Heights) are affected by Schedule 2 to the Melbourne Airport Environs Overlay.

There are a number of approved, under construction or completed multi-dwelling developments in the immediate area, including at Nos. 11, 13, 15 and 23 Rogerson Street and at Nos. 10, 14 and 18 Westminster Drive.

It is also noted that the site is located directly opposite the vacant site at 77-89 Military Road which is currently subject to a planning application for the use of land for dwellings, staged subdivision, including subdivision of the land adjacent to a Road Zone Category 1, removal of native vegetation, construction of multiple dwellings and associated buildings and works.

## **1.2 Proposal**

It is proposed to construct three attached double storey dwellings. The proposal can be summarised as follows:

**Table 1**

No of dwellings	3
No of car spaces	6
Max Building Height	7.65 metres
Site Coverage	46.1%
Permeability	40.8%

Refer **Appendix C** Plans (separately circulated).

## **2. Background**

### **2.1 Relevant Planning History**

No historical planning applications are relevant to the subject site.

### **2.2 Planning Policies & Decision Guidelines**

#### State Planning Policy Framework

Clause 11	Settlement
Clause 15	Built Environment and Heritage
Clause 16	Housing

Local Planning Policy Framework

Clause 21.01	Municipal Profile
Clause 21.03	Vision
Clause 21.04	Sustainable Environment
Clause 21.05	Housing
Clause 21.06	Built Environment
Clause 22.03	Stormwater Management (Water Sensitive Urban Design)

Zoning

Clause 32.08	General Residential Zone
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Particular and General Provisions

Clause 52.06	Car Parking
Clause 55	Two or More Dwellings on a Lot and Residential Buildings
Clause 65	Decision Guidelines

**2.3 Referrals**

External

Not applicable.

Internal

- ESD Officer:  
  
No objection subject to standard conditions and one non-standard condition:
  - Notate all permeable paving on the site plan, in accordance with the STORM report (i.e. decking and footpaths) (refer to Condition 1j).
- Engineering Services Unit:  
  
No objection subject to standard conditions.

- Traffic and Transportation Unit:

No objection subject to standard conditions and the following additional conditions:

- Crossover of Dwelling 3 needs to be aligned with the driveway as shown on the plan (refer to Condition 1c).
- Internal garage doors must open outwards (requirement met).
- Pedestrian sight triangles to be provided to each accessway – vegetation within the splays to have a maximum mature height of 900mm or less (requirement met).
- A referral to Council's Arborist is required in relation to the nature strip tree within 1 metre of the proposed crossover to dwelling 3 (requirement met).
- New vehicle crossovers must be constructed in accordance with Council's vehicle crossing policy (refer to Condition 10).
- The existing crossovers must be removed and the footpath, nature strip, kerb and channel must be reinstated at the developer's expense and to Council's satisfaction (refer to Condition 10).

- Arborist:

No objection subject to the protection of street trees (Doyle Street) from mechanical damage during construction.

- Urban Designer:

No objections and the following comments raised:

- The proposal could benefit by dropping the roof pitches to the garages (refer to Condition 1h).
- Assess the amenity impacts of the spatial setback of the dwellings on the adjoining properties to the west and the secluded private open space areas (requirement met).

## 2.4 Public Notification of the Application

Pursuant to Section 52 of the Planning and Environment Act 1987 the application was advertised by mail to adjoining and surrounding properties, with one notice erected on site for 14 days.

As a result, fifteen (15) objections were received from the properties contained within **Appendix A** of this report.

A response to the objections is provided in Section 3.6 of this report.

## **2.5 Consultation Meeting**

A Consultation Meeting was held on 21 January 2015, attended by Councillor John Sipek, objectors, the applicant and Council's Planning Officers. The application was heard concurrently with the planning permit application at No. 19 Rogerson Street, Avondale Height as the two adjoining lots propose alike developments. No resolution was achieved at this meeting.

## **3. Discussion**

### **3.1 State Planning Policy Framework**

The relevant State Planning Policy Framework clauses are considered to be met. For the large part state planning objectives seek to encourage urban consolidation in locations which take advantage of existing commercial and community services and public transport. The subject site is located relatively close to public reserves, schools and arterial roads. This context is considered to lend support for a more intensive form of residential development. In addition, the proposal contributes to the objective of housing diversity by providing a mix of dwelling sizes in various configurations which will cater for the increasingly diverse needs of future residents.

### **3.2 Local Planning Policy Framework**

The proposal complies with Clause 21.05 (Housing) by increasing diverse housing opportunities to meet growing population needs, providing a choice in a well-established area with access to local/community services.

The proposed development responds to the strategies of Clause 21.06 (Built Environment). A number of the objectives and strategies within the Clause appear to overlap with those contained within neighbourhood character precinct profiles and ResCode and therefore the key concepts of Clause 21.06 are discussed below in Sections 3.3. and 3.5.

The proposal complies with Clause 22.03 Stormwater Management (WSUD) and meets the required on site stormwater treatment as demonstrated by achieving 100%, or greater, using the STORM tool or achieving 80:45:45 using the MUSIC tool. However, not all water treatment measures and relevant annotations have been shown on the plans as advised by Council's ESD Officer. This will be a condition of any permit issued.

Council's Municipal Strategic Statement has been recently updated, with one of the main changes being the incorporation of Clause 21.04-3 (Ecological Sustainable Development) into the Moonee Valley Planning Scheme. This clause requires developments of three or more dwellings to provide a Sustainable Design Assessment using STEPS/SDS or any other approved assessment tool. As the proposed development has been lodged prior to this requirement being incorporated into the planning scheme, it is not considered necessary in this instance.

### 3.3 Neighbourhood Character Guidelines

The subject land is identified as being within the ‘Garden Suburban 7’ Precinct as set out under the Neighbourhood Precinct Profiles 2012, with the preferred character statement as follows:

“New developments will contribute to the character of this area with established gardens, simple design details, low front fencing and consistent siting to ensure they do not dominate the streetscape.

Buildings will be articulated with recesses, porch areas, large windows and setbacks to complement the pattern of the traditional dwellings. The use of brick, timber or weatherboard will maintain the existing palette of materials. Buildings will be located from the front boundary at a distance similar to those on adjoining properties, while consistent side setbacks will allow space for landscaping and planting. Low or permeable front fences will provide views of the vegetation in gardens from the street.”

The proposal is considered to respond to the preferred character statement and the design guidelines of this precinct as follows:

**Table 2**

Siting and Building Envelope	The development is provided with a front street setback of 7.74 metres (ground floor) to Westminster Street) and 3 metres (ground floor) to Doyle Street which complements the immediate surrounds. Subject to a condition the siting and massing of the development ensures that there would be no unreasonable visual or amenity impact caused. It is considered the first floor levels of Dwellings 2 and 3 should be further setback from Doyle Street to reduce visual bulk.
Built Form	<p>The development is provided with an articulated facade to ensure that it does not result in a visually dominant built form to both the street and adjoining properties. A condition of any permit will require the street setback of the upper floors to Dwellings 2 and 3 to be increased in order to reduce visual bulk. At the rear elevation, it is considered that the façade is adequately articulated through a mix of materials and window sizes and it is not considered that further recesses are required.</p> <p>Furthermore the roof form of each garage should present flat to reduce the bulk of the upper floor of the development. These changes, as conditions on any issued planning permit will ensure the development is an appropriate response within the</p>

	<p>existing streetscape and to the future character of Westminster Drive and Doyle Street.</p> <p>While providing a contemporary built form, the proposed development also incorporates design elements and massing that respects that of the established residential buildings in the area.</p>
Design Detail	<p>The overall roof form of the development is considered responsive to the surrounding area. It is considered that the garage roof form associated with Dwelling 1 and 2 create unnecessary visual bulk as the built form presents to Doyle Street and the adjoining property to the west and therefore should present as a flat roof form as a condition on any issued planning permit.</p> <p>The development incorporates a mixture of materials which will complement the existing residential properties which adjoin the subject site and the more contemporary infill developments in the area. This includes the use of light render, brickwork and cladding.</p>
Landscaping	<p>The development is provided with a landscaped front garden to each dwelling. Having regard to the characteristics of the site, it is considered that the proposed development provides adequate landscaping and planting that is consistent with the character of the area. Additionally, the development is provided with a low and semi-transparent front fence which will not obstruct views to the front garden space.</p>

### 3.4 Compliance with Clause 52.06 (Car Parking)

**Table 3**

Unit	Requires	Provides
3 dwellings (3 X 3 bedrooms)	6	6
Residential visitors	0	0
Total	6	6

As discussed under Section 2.3 of this report, Council's Traffic and Transportation Unit have no objection to the proposal subject to conditions.

With regards to the conditions required by Council's Traffic and Transportation Unit which relate to the internal garage doors and pedestrian sight triangles, it

is noted that they have already been satisfied by the applicant and will not be included on any permit granted.

### 3.5 Clause 55 (ResCode) Assessment

The proposal is considered to generally comply with the provisions of Clause 55 as set out in the assessment table (refer to **Appendix B**).

The following points of exception, which have not been satisfied through this development, are listed below:

**Table 4**

Res Code Standard	Response
Clause 55.02-1  Standard B1  Neighbourhood Character	Whilst the development is considered to be generally respectful of the existing and preferred neighbourhood character of the area, a condition on any permit issued will require the front setback of the first floor levels of Dwellings 2 and 3 to be increased by 500mm, with the inclusion of the nook. This will reduce the visual bulk of the proposal when viewed from Doyle Street. Further, as discussed above in Section 3.3 of this report it is considered that the rear façade of the development is adequately articulated through a mix of materials and window sizes and it is not considered that further recesses are required in this location.
Clause 55.03-5  Standard B10  Energy Efficiency	The proposed development does not take advantage of the sites orientation by maximising solar access to north-facing windows. As such, a condition of any permit issued will require the provision of additional windows to the northern facades of Dwellings 1 and 3 (first floor bedroom 3 and bathroom of each dwelling). A further condition will also require these new windows to comply with Standards B22 and B23 if applicable.
Clause 55.03-8  Standard B13  Landscaping	A condition will require a landscape plan to be submitted for approval, which will allow for canopy planting within the front setback as well as ensuring species with non-invasive root systems are used in proximity to the easement along the northern boundary of the site.

<p>Clause 55.04-6</p> <p>Standard B22</p> <p>Overlooking</p>	<p>The western rear boundary fence to each dwelling and the northern rear boundary fence to Dwelling 3 must be notated as having minimum heights of 1.8 metres.</p>
<p>Clause 55.04-7</p> <p>Standard B23</p> <p>Internal Views</p>	<p>The internal dividing boundary fences between the secluded private open space areas of the dwellings must be notated as having a minimum height of 1.8 metres.</p>
<p>Clause 55.05-5</p> <p>Standard B29</p> <p>Solar Access to Open Space</p>	<p>The southern boundary of the secluded private open space (SPOS) to Dwelling 3 must be setback by 7.25 metres from the first floor bedroom 3 wall (to the north) in accordance with this standard. A minor variation to the standard is sought as only 21m<sup>2</sup> of the SPOS to this dwelling is able to meet this requirement. Due to the orientation of the lot it is noted that the SPOS will receive direct afternoon sunlight. It is further considered that this SPOS area is functional and appropriate to the size of the dwelling, and that a shortfall of 4m<sup>2</sup> is acceptable in this instance. It is therefore considered that the proposal meets the objective of this clause.</p>
<p>Clause 55.06-1</p> <p>Standard B31</p> <p>Design Detail</p>	<p>The upper floor levels to Dwellings 2 and 3 should be further setback from Doyle Street in order to reduce the visual bulk of the development, as discussed above under Standard B1.</p> <p>It is considered that the blank walls on the northern facades of Dwellings 1 and 3 (first floor level) require further articulation as they will be visible from Doyle Street (looking south towards Westminster Avenue). It is considered that the required condition for compliance with Standard B10 as discussed above will also satisfy this standard.</p> <p>Additionally, it is recommended that the roof pitch above the garages of Dwellings 1 and 2 is deleted and replaced with a flat roof in order to improve the first floor building separation of the development, particularly when viewed in context with the proposed development of three double storey</p>

	<p>dwelling at the adjoining property at No. 19 Rogerson Street.</p>
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### 3.6 Objections

**Table 5**

<b>Issue</b>	<b>Officer Response</b>
Neighbourhood character, visual bulk and scale	<p>The development is considered to be an appropriate design response against Neighbourhood Character – Garden Suburban 7 and ResCode, subject to a condition on any issued planning permit, as discussed within Sections 3.2, 3.3 and 3.5 of this report.</p>
Overdevelopment	<p>Although it is acknowledged that Westminster Drive and the surrounding area has been witness to numerous medium density development, the area is clearly undergoing substantial changes.</p> <p>Well-designed infill development is encouraged within State and Local Planning Policy, providing suitable compliance is achieved against the Moonee Valley Planning Scheme.</p> <p>The development is considered to achieve a high level of compliance with the provisions of the Moonee Valley Planning Scheme including the relevant design provisions, neighbourhood character and residential policy objectives pursuant to Clause 21.05 and 55.02 of the Moonee Valley Planning Scheme.</p> <p>It is considered that the inclusion of the proposed development will not have a detrimental impact on Westminster Drive or Doyle Street, with the dwellings designed and sited to ensure coherency within the existing pattern of development within the streetscape.</p>
Traffic/parking impacts	<p>The proposed development provides the required on-site parking requirements for residents pursuant to Clause 52.06 (Car Parking) of the Moonee Valley Planning Scheme as discussed in Section 3.4 of this report.</p> <p>In addition, Council's Traffic and Transportation Unit had no objection to the proposal.</p>
Devaluation of properties within the area	<p>This is not a valid planning consideration.</p>

Privacy/overlooking	This is considered acceptable, subject to the inclusion of conditions on any permit granted, as discussed within Section 3.5 of this report.
Overshadowing	The proposed development meets the requirements of Clause 55.04-5 (Overshadowing Open Space) of the Moonee Valley Planning Scheme.
Identical development at 19 Rogerson Street	<p>An independent assessment of this application has been undertaken. The assessment has found that, subject to conditions, this proposal achieves general compliance with the relevant provisions of the Moonee Valley Planning Scheme.</p> <p>Two concurrent planning permit applications on adjoining properties is not beyond orderly planning under Clause 65 of the Moonee Valley Planning Scheme.</p>
Excessive noise during construction	This is not a valid planning consideration. Furthermore, it is noted that there are specific Local Laws and EPA noise guidelines that control nuisance and excessive noise within residential areas, which are applicable to all residential properties.

#### **4. Human Rights**

The application process and decision making is in line with the Victorian Charter of Human Rights and Responsibilities 2006 (Section 18 – Taking part in public life).

#### **5. Conclusion**

The application has been assessed against the relevant provisions of the Moonee Valley Planning Scheme. It is considered that the proposal demonstrates general compliance with the requirements of these provisions and policies. The application is supported as detailed above in the recommendation section.

## APPENDIX A

### Location of Objectors Properties

24 Westminster Drive, AVONDALE HEIGHTS VIC 3034
21 Rogerson Street, AVONDALE HEIGHTS VIC 3034
22 Rogerson Street, AVONDALE HEIGHTS VIC 3034
23 Rogerson Street, AVONDALE HEIGHTS VIC 3034 (X 2)
23A Rogerson Street, AVONDALE HEIGHTS VIC 3034
27 Rogerson Street, AVONDALE HEIGHTS VIC 3034 (X2)
29 Rogerson Street, AVONDALE HEIGHTS VIC 3034 (X2)
32 Rogerson Street, AVONDALE HEIGHTS VIC 3034
38 Rogerson Street, AVONDALE HEIGHTS VIC 3034
45 Rogerson Street, AVONDALE HEIGHTS VIC 3034 (X3)

## APPENDIX B

### Clause 55 of the Moonee Valley Planning Scheme

Two or more dwellings on a lot and residential buildings (Clause 55 and Schedule to the General Residential Zone). Where there is non-compliance, see section 3.5 in report.

Title and Objective	Complies with Standard	Compliance with Objective
<i>B1 - Neighbourhood Character</i>	✓ (Condition)	✓
<i>B 2 - Residential Policy</i>	✓	✓
<i>B 3 - Dwelling Diversity</i>	N/A	N/A
<i>B 4 - Infrastructure Objectives</i>	✓	✓
<i>B 5- Integration with the Street Objective</i>	✓	✓
<i>B6 - Street Setback Objective</i>	✓	✓
<i>B7 - Building Height Objective</i>	✓	✓
<i>B8- Site Coverage Objective.</i>	✓	✓
<i>B9- Permeability Objectives</i>	✓	✓
<i>B10 - Energy Efficiency Objectives</i>	✓ (Condition)	✓
<i>B 11 - Open Space Objective</i>	✓	✓
<i>B 12- Safety Objective</i>	✓	✓
<i>B 13 - Landscaping Objectives</i>	✓ (Condition)	✓
<i>B 14 - Access Objectives</i>	✓	✓
<i>B 15 Parking Location Objectives</i>	✓	✓
<i>B 16 - Parking Provision Objectives</i>	<i>Deleted from Clause 555 on 5 June 2012 (VC90). Refer to Clause 52.06 for car parking requirements under Section 3.4 of the report.</i>	
<i>B 17 - Side and Rear Setbacks Objective</i>	✓	✓
<i>B 18 - Walls on Boundaries Objective</i>	✓	✓
<i>B 19 - Daylight to Existing Windows Objective.</i>	✓	✓
<i>B 20 - North-facing Windows Objective</i>	✓	✓
<i>B 21 - Overshadowing Open Space Objective</i>	✓	✓
<i>B 22 - Overlooking Objective</i>	✓ (Condition)	✓
<i>B 23 - Internal Views Objective</i>	✓ (Condition)	✓
<i>B 24 - Noise Impacts Objectives</i>	✓	✓
<i>B 25 - Accessibility Objective</i>	✓	✓

<i>B 26 - Dwelling Entry Objective</i>	✓	✓
<i>B 27 - Daylight to New Windows Objective</i>	✓	✓
<i>B 28 - Private Open Space Objective</i>	✓	✓
<i>B 29 - Solar Access to Open Space Objective</i>	X	✓
<i>B 30 - Storage Objective</i>	✓	✓
<i>B 31 - Design detail objective</i>	✓ (Condition)	✓
<i>B 32 - Front Fences Objective</i>	✓	✓
<i>B 33 - Common Property Objectives</i>	✓	✓
<i>B 34 - Site Services Objectives</i>	✓	✓

✓ - complies

x – non-compliance

N/A- not applicable

## **9.6 Planning Scheme Amendment C154 (5 Treadwell Road)**

**File No:** FOL/15/154  
**Author:** Senior Strategic Planning Officer  
**Directorate:** City Works & Development  
**Ward:** Buckley

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### **Purpose**

The purpose of this report is to advise Council on the submission received during the public exhibition stage of Moonee Valley Planning Scheme Amendment C154 (5 Treadwell Road, Niddrie).

The report then recommends that Council refer this submission to an independent Panel.

### **Executive Summary**

- Council purchased the site at 5 Treadwell Road, Niddrie in 2011 with a view for it to be incorporated into the adjacent Council car park at 1-3 Treadwell Road. This would enable Council to provide additional car parking spaces for the precinct until future applications or the possibility of a library or other public use, can be explored.
- The subject site at 5 Treadwell Road is currently within the General Residential Zone. Under the General Residential Zone the use of the land for car parking is not permitted unless associated with another permissible use on the land.
- Therefore, Council would be unable to use the site as a car park in the future if it is not rezoned.
- Council resolved at its meeting on 16 December 2014 to seek to rezone the land at 5 Treadwell Road. Rezoning the land so that it is consistent with the adjacent Council owned land at 1-3 Treadwell Road, will better enable the sites to be consolidated in the future and a consistent use applied.
- Given the site at 1-3 Treadwell Road is zoned Commercial 1, which is consistent with its location adjacent to an arterial road within the Keilor Road Activity Centre, the most appropriate zone for 5 Treadwell Road is also a Commercial 1 Zone. Car parking is a Section 2 (permit required) use within the Commercial 1 Zone.
- A Commercial 1 Zone will also allow better opportunities (for Council) to provide community uses in the precinct in the future.
- On the 19 February 2015, Council received an email from the Department of Environment, Land, Water and Planning (DEWLP) that it could prepare Amendment C154 without authorisation after 24 February 2015.
- Amendment C154 was formally exhibited from 19 March until 1 May 2015.

- Surrounding property owners and occupiers were directly notified of this amendment, as was the Niddrie Traders Association, Public Transport Victoria (PTV), VicRoads and Prescribed Ministers.
- Throughout the exhibition process one submission was received to Amendment C154. This submission was opposed to the amendment and requests the amendment be abandoned. Reasons cited include a lack of transparency and concerns about the adverse impacts on adjoining property owners. Other concerns surrounded the disclosure of relevant documents and possible breaches of legal obligations.
- Correspondence was also received from Public Transport Victoria (PTV), during the exhibition process, indicating they did not wish to make a submission or raise any issues in relation to the matter.
- A copy of both the submission and correspondence from PTV have been included in **Appendix A**.
- As the Amendment is not recommended to be changed to satisfy submissions, it is recommended that Council request the Minister for Planning, to appoint a Panel to consider the submissions in respect to Amendment C154.

### **Recommendation**

That Council request the Minister for Planning, to appoint a Panel in accordance with Section 23(1)(b) of the *Planning and Environment Act 1987* to consider the submission received in relation to Amendment C154.

### **Background**

The property at 5 Treadwell Road, Niddrie was purchased by Council in 2011 with a view to providing additional public car parking spaces to relieve some of the existing demands for parking on the north side of Keilor Road, Niddrie.

At its meeting on the 22 July 2014, Council considered a report into the use of the land at 5 Treadwell Road, Niddrie.

The recommendation of the report required the various land use options be further considered and that a report be provided to Council outlining the future options relating to the property at 5 Treadwell, Road Niddrie.

This may include the use of the site as a car park until future applications or the possibility of a library or other public use are explored.

The land at 5 Treadwell Road, Niddrie is currently within the General Residential Zone. Under the General Residential Zone, car parking is a prohibited use (when not in conjunction with another permissible use).

Therefore, to enable the site to be used as a car park, the site will need to be rezoned to an appropriate zone, which enables car parking.

At its Council meeting on 16 December 2014 Council resolved to seek to rezone the land at 5 Treadwell Road.

The purpose was to ensure an appropriate and consistent zone applies to the site and the adjacent Council owned land at 1-3 Treadwell Road. This will better enable future site consolidation and a consistent use across the site.

Given the site at 1-3 Treadwell Road is zoned Commercial 1, which is consistent with its location on adjacent to an arterial road within the Keilor Road Activity Centre, the most appropriate zone for 5 Treadwell Road is the Commercial 1 Zone. Car parking is a Section 2 use within the Commercial 1 Zone.

### **Update on Council resolution 16 December 2014**

The following section provides a brief update on Council's resolution of the 16 December 2014 regarding land use options for 5 Treadwell Road, Niddrie.

1. Explore the possibility to use existing dwelling for community purposes if feasible  
This still needs to be explored further by Council's Building, Health and Property Services Department.
2. Make a planning permit application for a planning permit to consolidate the titles of 1-5 Treadwell Road, Niddrie.  
Council will commence this process should the rezoning of 5 Treadwell Road be successful.
3. Seek a rezoning of the combined site to ensure and appropriate zoning applies to the site at 1-5 Treadwell Road, Niddrie.  
The rezoning of 5 Treadwell Road to a Commercial 1 Zone is the subject of this amendment. As the site at 1-3 Treadwell Road is currently within a Commercial 1 Zone, this will ensure a consistent zone across the land parcels and better enable future consolidation. Given the location of the sites adjacent to the Keilor Road Activity Centre, the Commercial 1 Zone is considered the most appropriate zone.
4. If the application for rezoning is successful then it can be used as a car park until further plans or the possibility of a library or other public use are explored.  
This will be investigated further by Council's Building, Health and Property Services Department, should the rezoning of 5 Treadwell Road be successful.

### **Discussion**

#### **Amendment C154 (5 Treadwell Road, Niddrie)**

Amendment C154 proposes to rezone 5 Treadwell Road, Niddrie from a General Residential Zone to a Commercial 1 Zone.

The amendment proposes to update Planning Map 7 accordingly.

### **Submissions**

In accordance with Section 22 of the *Planning and Environment Act 1987*, Council must consider all submissions made on or before the closing date as set out in the Notice of Amendment. One submission was received which objected to this amendment. In addition a letter was received from PTV stating that they did not wish to make a submission into this amendment.

A copy of both the submission and letter from PTV are provided in **Appendix A**.

In accordance with Section 23 of the *Planning and Environment Act 1987*, Council has the following options in relation to the consideration of submissions:

- a) Change the amendment as requested in the submission.
- b) Refer the submission to a Panel.
- c) Abandon the amendment.

Given the submission is essentially objecting to the rezoning of the land the only change which could be made in relation to this would be to abandon the amendment.

### **Summary of submission**

The submission into Amendment C154 cited a number of concerns in relation to the amendment itself and the purchase of the land more broadly. The key issues raised, as provided in a summary at the conclusion of the submission, are that Council:

- ‘has failed/refused to disclose its intentions other than to exploit No. 5 for maximum commercial gain
- has completely ignored the adverse impacts and consequences on adjoining residents/owners
- has refused to make disclosure of all relevant documents to those who will be adversely affected
- may be in breach of its legal obligations.’

### **Council Officers response**

The report provided to the 16 December 2014 Council meeting outlines possible options for the site at 5 Treadwell Road.

The report outlines that the original reason for the acquisition of the land was for the use of the land as a car park. Should Council go down this path, then the community will have a further opportunity to have a say on the proposed land use through the planning permit process.

As of the date that this report was written, a freedom of information (FOI) request has not been received by Council in relation to the confidential documents raised in the submission. Details of how to lodge an FOI request have been provided to the submitter. Should an FOI request be provided, then Council will make an assessment of this.

### **Consultation**

Amendment C154 was formally exhibited from 19 March 2015 until 1 May 2015, with notices in the local papers and government gazette.

Letters were sent to all surrounding property owners and occupiers. Letters were also sent to the Niddrie Traders Association, PTV, VicRoads and Prescribed Ministers.

### **Implications**

#### **1. Legislative**

The Amendments is consistent with Ministerial Direction of the Form and Content of Planning Schemes under Section 7(5) of the *Planning and Environment Act 1987*.

**2. Council Plan / Policy**

Amendment C154 relates to Theme 3 (Green, clean and beautiful) in the Council Plan 2013-2017. More specifically Strategy 3 within Strategic Objective 3 to 'ensure infrastructure and facilities planning takes into account of major developments and demographic change'.

**3. Financial**

The cost of finalising this amendment, including costs associated with a Panel Hearing will be borne through the Strategic Planning operational budget.

**4. Environmental**

There could be environmental impacts of the rezoning, particularly if the future use on the site is that of a car park. Council will consider steps to mitigate the environmental impact of this use, should a permit application be submitted in the future.

Any new development of the site will require the structure to incorporate Environmentally Sustainable Design techniques, including Water Sensitive Urban Design.

**Conclusion**

The property at 5 Treadwell Road is proposed to be better utilised and, in order to do so, should be consolidated into the title of the adjacent Council property at 1-3 Treadwell Road. This will enable a consistent use across the two sites.

Amendment C154 seeks to rezone the land at 5 Treadwell Road to a Commercial 1 Zone so that it is consistent with 1-3 Treadwell Road.

Given there was a submission received in relation to Amendment C154 that Council is not able to resolve, it is necessary for Council to request the Minister for Planning, to appoint a panel to consider Moonee Valley Planning Scheme Amendment C154, and the submission received.

## APPENDIX A

Strategic Planning Department  
Moonee Valley City Council  
P.O.Box 126  
Moonee Ponds 3039  
Vic.

MOONEE VALLEY PLANNING SCHEME – AMENDMENT NO C154  
("Proposed Amendment")

SUBMISSION IN OPPOSITION TO PROPOSED AMENDMENT ("Submission")

1. This Submission is made for and on behalf of:

[REDACTED]  
[REDACTED]

2. Objection is made to the Proposed Amendment.

3. Documents provided by the Council are:

letter dated 13<sup>th</sup> March to owners

report to the Council from the Manager Building Health and Property Services for Council meeting Tuesday 16<sup>th</sup> December headed Treadwell Rd – Council Property Land Use Options ("Land Use Options Report").

4. I have requested from the Council copies of the following documents referred to in the Land Use Options Report namely:

Memorandum of Understanding to Preserve Car Parking Spaces

Report into the Use of Land at 5 Treadwell (referred to as "Land Use Review-5 Treadwell Rd Niddrie" in Council Minutes of 22 July 2014 )

The Council has refused a request to provide copies of these documents claiming confidentiality.

5. Inter alia the Land Use Options Report:

recommends that the Council should consolidate the titles for 1 to 5 Treadwell Rd ("Combined Sites" ) as the Council ***"wishes to explore seeking the full potential of the combined site"***

states that the three options available to the Council are to (a) sell No 5 (b) develop it as a carpark or (c) seek expressions of interest for a joint venture partnership with the Council

examines in the some detail the commercial viability and funding of a joint venture for the Combined Sites including for ***"Office" "Retail" "Carpark" and "Accommodation Options"***

6. The Land Use Options Report makes no reference or comment whatsoever regarding the impact on neighbouring residents/owners.
7. The Councils purchase of No 5 Treadwell was contentious and there were irregular aspects to the purchase including:
  - the excessive price paid by the council
  - the manner in which negotiations took place including the parties involved

The Council was aware at that time of all zoning issues relating to No 5 Treadwell including the residential use of No 7 Treadwell .
8. To date the Council has given no indication of its final intentions (assuming rezoning) in respect to No 5 Treadwell .
9. The Proposed Amendment represents a significant intrusion into an established residential area and will result in significant loss and damage to adjoining residents/owners including:
  - significant depreciation of property values .The consolidation of the Combined Sites would produce a site in excess of 2000 sq. metres and the possibility of a development of say a three floor office block with a footprint of approx. 2000 sq. metres.
  - security issues (assuming a carpark) with residents at No 7 Treadwell then having a boundary with an unsupervised public area. The resident of No 1/7 is a 90 year old widow.
  - exacerbation of noise and pollution issues .The existing carpark is well used including by the patrons of nearby restaurants many of which operate late. An extension of the carpark will worsen these problems to the detriment of adjoining residents/owners
10. The Council (as stated) wishes to exploit the Combined Sites for maximum commercial gain with complete disregard of adjoining residents/owners.
11. If the Proposed Amendment is made then the Council can in effect do whatever it wants including the issuing of any planning/building permits it chooses subject only to review by VCAT however in this event there would be a complete power imbalance i.e. the Council (and its partners) would have unlimited funds and resources to easily overcome any opposition to its proposals.
12. The Councils stated intentions may well be contrary to its obligations pursuant to the Local Government Act and in particular sections 3C (1), (2)(b) and (c) particularly if it uses its powers to have land rezoned and then issues permits to itself ( with or without partners) for commercial exploitation to the detriment of its residents/ratepayers .
13. The preparation of this Submission has been limited by the refusal of Council to make available copies of documents relevant to the Councils decision to seek the Proposed Amendment This will be relevant to future reviews of the Councils actions and decisions . I again request the Council to provide the documents requested and extend the time for submissions to enable the documents to be reviewed and further submissions to be made failing which I reserve my position in respect to the Councils refusal to provide these documents.
14. In summary in pursuing the Proposed Amendment the Council:

has failed/refused to disclose its intentions other than to exploit No 5 for maximum commercial gain

has completely ignored the adverse impacts and consequences on adjoining residents/owners

has refused to make disclosure of all relevant documents to those who will be adversely affected

may be in breach of its legal obligations

15. It is submitted that the Council should abandon the Proposed Amendment.

.....

[REDACTED]

[REDACTED]



Trim Ref: FOL/15/20262

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Ms Lisa Dunlop  
Coordinator, Strategic Planning  
Moonee Valley City Council  
PO Box 126  
MOONEE PONDS 3039

Dear Ms Dunlop

**MOONEE VALLEY PLANNING SCHEME AMENDMENT C154  
No. 5 TREADWELL ROAD, NIDDRIE**

Thank you for your letter of 13<sup>TH</sup> March 2015 advising Public Transport Victoria (PTV) of the exhibition of Amendment C154. The Amendment proposes to rezone the land at no. 5 Treadwell Road, Niddrie from a General Residential Zone to a Commercial 1 Zone. The site is located within the Keilor Road Activity Centre.

PTV has considered the proposed Amendment and advises that it does not wish to make a submission or raise any issues in relation to the Amendment.

For further information, please contact Rebecca Jenkins, Senior Transport and Land Use Planner by phone on 9027 4827 or email: [rebecca.jenkins@ptv.vic.gov.au](mailto:rebecca.jenkins@ptv.vic.gov.au).

Yours sincerely

A handwritten signature in blue ink, appearing to read "R. McAliece", is written over a faint, larger blue ink signature that is partially obscured.

**RICHARD MCALIECE**  
Manager, Land Use Planning and Referrals

13/04/2015

**9.7 Combined Planning Permit Application MV/37/2014 and Amendment C150 to the Moonee Valley Planning Scheme (1-5 Term Street, Strathmore)**

**File No:** FOL/14/871  
**Author:** Strategic Planner & Senior Statutory Planner  
**Directorate:** City Works & Development  
**Ward:** Buckley

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**Purpose**

The purpose of this report is for Council to adopt the combined planning permit and planning scheme amendment and submit to the Minister for Planning for approval. The planning permit application (MV/37/2014) is for the use and development of a preschool at 1-5 Term Street, Strathmore, which requires a planning scheme amendment (Amendment C150) to vary a restrictive covenant on the land.

**Executive Summary**

- Council (as the applicant for the preschool) seek to undertake a combined planning scheme amendment and planning permit in accordance with Section 96A of the *Planning and Environment Act 1987* for the land at 1-5 Term Street, Strathmore (Lots 498, 499, 500, 501, 502 and 503 on PS 009986).
- The application seeks planning approval to use and develop the subject site for the purpose of a preschool. The planning permit application (MV/37/2014) is to build a new preschool directly to the east of the existing Strathmore Childcare Centre to be accessed via Term Street and via an internal corridor to the existing children's centre.
- Preschool is not defined in the planning scheme. Therefore, the planning permit conditions and amendment documentation refer to the proposed development as a childcare centre which is the closest and most appropriate definition within the planning scheme. For the purposes of this report the proposed development will still be referred to as a preschool.
- The new facility would provide 66 preschool places along with a family education space and associated staff facilities.
- The application is made by Perkins Architects on behalf of Moonee Valley City Council. A copy of the planning permit application and associated plans is included in **Appendix A** – (separately circulated).
- There is a restrictive covenant on the land which restricts development to single residential dwellings among other things.
- A planning scheme amendment is therefore required to vary the restrictive covenant to allow for the proposed preschool.

- On 25 November 2014, Council resolved to seek authorisation for a combined planning permit and planning scheme amendment from the Minister for Planning.
- Council commenced exhibition of the combined planning permit and planning scheme amendment on 5 February 2015, with the notification period ending on 13 March 2015.
- No submissions were received during this period.
- A copy of the recommended planning permit conditions (as exhibited) is included in **Appendix B**.
- A copy of the amendment documentation (as exhibited) is included in **Appendix C**.

### **Recommendation**

That Council:

1. Adopt Amendment C150 to the Moonee Valley Planning Scheme in accordance with Section 29(1) of the *Planning and Environment Act 1987*.
2. Pursuant to Section 31(1) of the *Planning and Environment Act 1987*, submit Amendment C150 to the Moonee Valley Planning Scheme to the Minister of Planning for approval.
3. Recommend to the Minister for Planning that Planning Permit MV/37/2014 be granted in the form exhibited in accordance with Section 96G(1)(a) of the *Planning and Environment Act 1987*.
4. Submit Planning Permit MV/37/2014 to the Minister for Planning in accordance with Section 96H of the *Planning and Environment Act 1987*.

### **Background**

#### **Site and Surrounds**

The subject site is located on the western side of Term Street, Strathmore. The subject site is irregular in shape with a frontage of 20.20 metres to Term Street and a boundary length of 91.453 metres, resulting in a total area of 3,324 square metres.

The land has an approximate 7.7 metres fall from the west of the site to the east and an approximate 3.85 metre fall from the north to the south.

There is a 1.83 metre wide drainage and sewerage easement within the centre of the site in a north south orientation. The subject site is also affected by a restrictive covenant which does prohibit the proposed development. The proposal is therefore subject to a planning scheme amendment, where a determination to vary the covenant is to be made in conjunction with this proposed development.

In addition to the covenant, the Title Certificate identifies a Section 173 Agreement is present. The Agreement refers to the previous use of the land as a VicRoads storage yard and staging area. The proposed use and development will not contravene the Section 173 Agreement.

The subject site is currently within the General Residential Zone and not subject to any planning overlays. The site is currently vacant. It was previously occupied by a building

and storage facility associated with the previous use as a VicRoads storage yard and staging area.

Vehicle access to the site is obtained from the existing road along Term Street. The road continues until the site boundary, at which point an unmade road provides access to the subject site. There are a number of large canopy trees and vegetation on the subject site.

The surrounding area is comprised of a mixture of zones, being General Residential Zone, Public Park and Recreation Zone, and Road Zone Category 1.

The land located to the east and south (Loeman Street) of the subject site is used and developed for residential purposes. To the west is the existing Strathmore Childcare Centre, which is a Council operated childcare facility. To the north is the Tullamarine Freeway, beyond which are residential properties associated with the suburb Strathmore.

The built form within the vicinity is predominantly single and double storey. The built form found within the immediate vicinity is very eclectic, with no strong urban character and there is a slow emergence of new residential developments nearby.

#### Combined planning permit and amendment process

To avoid the necessity for a two stage process where a planning proposal requires both an amendment to the planning scheme and a planning permit, the *Planning and Environment Act 1987* provides for a planning scheme amendment and planning permit application to be considered concurrently under Section 96A.

This process allows for the assessment and consideration of the planning scheme amendment and planning permit application through the same process.

The process is substantially the same as a planning scheme amendment, with the opportunity to make a submission during the exhibition period and any submission received being referred to an independent Panel. Council can determine whether it wishes to adopt the combined planning permit and planning scheme amendment. The Minister for Planning can then approve the amendment, and can direct the Responsible Authority to issue the planning permit.

#### Planning Permit Application (MV/37/2014)

A planning permit is required to use and develop the land at 1-5 Term Street, Strathmore for the purpose of a preschool as required by Clause 32.08-1 (use of land for the purpose of a preschool) and Clause 32.08-6 (construct a building or carry out works to a Section 2 use). The proposal is summarised below in Table 1.

The centre also proposes a “family room” within the proposed building. This room is to operate as an ancillary function to the preschool providing first mothers’ groups and other meetings associated with the preschool. These groups will have a maximum of 15 children and 15 adults attending at any one time.

**Table 1: Summary of proposal**

Building area	751 square metres
Number of children	81 (66 associated with the playrooms and 15 with the family room)
Number of staff	7
No of car spaces	18 car spaces (note that the Planning Scheme requires 17 car spaces)
Max building height	6.4 metres
Site coverage	22%
Permeability	49%
Hours of operation	Monday to Friday, 8.00am to 6.00pm

#### Relevant Planning History

The following relevant planning permits have been lodged for the subject site:

- Permit number MV/2936/1980 approved for a patrol depot.
- Permit number MV/10069/1998 refused for the construction of a double sided floodlit, promotional, panel sky sign.
- Permit number MV/12291/2000 approved for the establishment of an accessway to the site and installation of a portable building.
- Permit number MV/610/2014 approved for a three lot subdivision and the removal of drainage and sewerage easement.

#### Planning Scheme Amendment C150

There is a restrictive covenant which is contained in registered transfer of land no.1941367. A copy of the restrictive covenant is included in **Appendix D** – (separately circulated). The covenant on the subject site restricts the following:

- Quarrying operations except for the purpose of laying foundations of a building;
- Roof or any of its exterior walls of iron or metal of any description of any material which shall be an imitation or substitute;
- Construction of any shop factory warehouse or other premises for use or suitable for use for the purposes of manufacturing vending or exhibiting for sale of goods or merchandise of any description;
- Not for any other purpose than that of a residence;
- No trade or other sign shall be displayed or caused or allowed to be displayed;
- No more than one dwelling house on any one lot;
- Any dwelling including fences and outbuildings cost no more than four hundred pounds;
- Shall be erected to have frontage to the road; and

- Setback a distance of at least 40 feet.

Council intends to build a new preschool on the vacant site which is proposed to be connected to the existing Strathmore Children's Centre.

As the restrictive covenant stands to date, Council will be in breach of many of the restrictions in the covenant when pursuing the project without varying the covenant.

Amendment C150 seeks to amend Section 1 of the Schedule to Clause 52.02 (Easements, restrictions and reserves) of the Moonee Valley Planning Scheme in order to vary the restrictive covenant on the land. A copy of the amendment documentation to vary the restrictive covenant is included in **Appendix C**. The variation to the covenant will 'allow development for uses associated with a childcare centre consistent with the definitions in the Moonee Valley Planning Scheme'.

The variation to the restrictive covenant will allow for the consideration of a new preschool to be built on the subject site. The restrictive covenant will still apply to the land and any future development that deviates from the preschool needs to meet the requirements of the covenant.

#### Planning Policies and Decision Guidelines

State Planning Policy Framework	Clause 11 (Settlement)
	Clause 15 (Built Environment and Heritage)
Local Planning Policy Framework	Clause 21.01 (Municipal Profile)
	Clause 21.02 (Key Issues and Influences)
	Clause 21.03 (Vision)
	Clause 21.04 (Sustainable Environment)
	Clause 21.05 (Housing)
	Clause 21.06 (Built Environment)
	Clause 22.03 (Stormwater Management – WSUD)
Zoning	Clause 32.08 (General Residential Zone)
Particular and General Provisions	Clause 65 (Decision guidelines)

#### Planner's Comments

Preschool is not defined within the planning scheme. The closest and most appropriate definition within Clause 74 (Definitions) of the planning scheme is childcare centre where it states '*land used to care for five or more children who are not permanently resident on the land.*' Therefore the proposed planning permit conditions and amendment documentation refer to the proposal as a childcare centre. For the purpose of this report, the proposal will be referred to as a preschool.

Council's Municipal Strategic Statement has been recently updated, with one of the main changes being the incorporation of Clause 21.04-3 (Ecological Sustainable Development) into the Moonee Valley Planning Scheme.

This clause requires developments of three or more dwellings to provide a Sustainable Design Assessment using STEPS/SDS or any other approved assessment tool. As the proposed development has been lodged prior to this requirement being incorporated into the planning scheme, it is not considered necessary in this instance.

#### Referrals

External	Not applicable
Internal	Engineering Services Unit – No objection subject to conditions
	Traffic and Transportation Unit – No objection
	Property Services – No objection
	ESD – No objection subject to standard conditions

#### **Discussion**

##### State Planning Policy Framework (SPPF)

The State Planning Policy Framework which is relevant to this application is predominantly contained within Clause 15 of the Planning Scheme. Relevant objectives of 15.01 include *“achieving architectural and urban design outcomes that contribute positively to local urban character and enhance the public realm while minimising detrimental impact on neighbouring properties”*.

The proposed preschool is to provide a community facility and service that will benefit local residents. The proposed single storey building is of similar scale to the existing childcare centre to the west and in keeping with the existing character of the area. A full assessment of the proposed development against the built form requirements is discussed below in compliance with Clause 32.08 (General Residential Zone).

##### Local Planning Policy Framework (LPPF)

The proposed development complies with the relevant objectives and strategies of the Local Planning Policy Framework.

Clause 21.05-4 (Non-residential uses in residential zones) identifies other compatible uses suited to being located within residential zones. These uses are considered suitable *“within residential precincts if they enhance the vitality, interest and service availability of the area. However the use needs to be operated properly and regulated, so as to not significantly detrimentally impact the amenity of adjoining properties”*. The above clause also seeks to ensure that discretionary uses cater for the needs of the local community.

The proposed development responds to the strategies of Clause 21.05 in the following manner:

- The proposed use will provide an educational use which is to serve the needs of the local community.
- The scale, height and appearance of the proposed building is similar to the built form of the existing childcare centre and surrounding residential area.
- Landscaping and screening along the southern boundary and adequate parking to the north eastern boundary has been provided to minimise impacts to the existing residential uses.

A full assessment of the proposed use against the General Residential Zone, including any amenity impacts, is contained below under Compliance with Clause 32.08 (General Residential Zone).

The proposal seeks to provide an appropriate design response for the subject site by way of built form, architectural quality and landscaping. In particular, the proposed development is considered to comply with the objectives and strategies of Clause 21.06 (Built Environment) which seeks.

- To ensure that new development makes a positive contribution to the appearance and amenity of the streetscape.
- To ensure the siting of new development does not adversely affect the existing or the preferred character of the neighbourhood.
- To achieve contemporary development that is innovative, legible and designed in a manner that responds to its location and context.

The proposed development responds to the strategies of Clause 21.06 in the following manner:

- The proposed preschool is to follow the single storey scale of the existing childcare centre. The building also incorporates a gradual stepping down in the overall built form which follows the site topography. The building is to be provided with an articulated built form and the use of appropriate materials seeks to break up the building's massing. The proposed building is also to have a front setback of 38 metres from Term Street, ensuring that the centre will not be a dominant building within the streetscape.
- The graduated stepping down of the centre, along with a varied 3.7 to 5 metres side setbacks along the southern boundary and articulated finishes seek to reduce the overall built form towards the adjoining residential properties along Loeman Street. This ensures spacing between the centre and the residential properties. The side setbacks will also allow for the retention of landscaping along this boundary and maintain the landscaped buffer currently present along the southern boundary of the existing childcare centre.
- The combined retention of landscaping and use of materials seeks to break the building's massing. The proposed building seeks to reduce any unreasonable off site amenity impacts and to be in keeping with the neighbourhood character. The application seeks to minimise the off-site amenity impacts and provide a proposal that generally responds well to the site and surrounding area.
- The building envelope will also allow for a playground area to be located towards the northern boundary, away from the residential properties along Loeman Street. By locating the playground in this area this will also maintain the large open space area towards the northern segment of the subject site and existing childcare centre.
- The proposed building provides a contemporary response to the requirements of a preschool facility and seeks to include elements which provide easy identification of the use of the building in a manner suitable to the existing character of the area.

The proposed development incorporates a compressed cement sheet paint finish, timber batten balustrades and screening which are considered to be characteristic of more contemporary infill developments in the area and soften the overall built form as discussed above.

The proposal complies with Clause 22.03 Stormwater Management (WSUD) and meets the required on site stormwater treatment as demonstrated by achieving 100%, or greater, using the STORM tool. A condition however will be included for a roof plan to be submitted to show the extent of the roof catchment area, a note which WSUD treatment measure each area connects to and notation that the rainwater tank is connected to all toilets.

The standard conditions requiring the submission of the WSUD design details, a site management plan and maintenance program will be included on the permit.

#### Compliance with 32.08 (General Residential Zone)

One purpose of the General Residential Zone (GRZ) seeks, among other objectives, to allow educational uses that serve the local communities needs in appropriate locations. The locating of educational facilities within residential zones is a common characteristic within the municipality, provided that such a facility can demonstrate that there will be limited off-site amenity impacts to adjoining residential properties.

The proposal seeks to provide an educational use which is to serve the local community directly adjoining the existing Strathmore Childcare Centre. The preschool is to operate between 8.00am and 6.00pm from Monday to Friday, in line with the existing Strathmore Childcare Centre. Given the presence of the existing childcare centre and the similar hours of operation, the proposed centre is considered to be appropriately located as the area is already served by similar uses.

The scale, height, appearance and setback of the proposed development has been designed to be of a similar built form as the existing childcare centre and surrounding area. The single storey built form is a common characteristic of the area and seeks to reduce the visual built form on adjoining residential properties. The proposal is also provided with a graduated stepping down in the built form to reduce the building's massing on adjoining residential properties. The combination of a single storey built form, articulated finishes and use of materials seeks to reduce the overall building massing towards adjoining residential properties and provide a design response which is respectful to the surrounding neighbourhood.

To minimise off-site amenity impacts, translucent film screening and timber batten screening has been provided along the southern boundary to prevent overlooking into the adjoining secluded private open spaces of properties fronting Loeman Street. In addition to the screening a number of existing trees are to be retained, softening the impact of the proposed development on residential properties. Given the single storey nature of the proposed development, there is limited overshadowing into adjoining properties along Loeman Street and the shadow cast on the 22 September equinox contained within the subject site.

The development is set back from all side boundaries, which will allow for landscaping, in particular along the southern boundary where the proposed development interfaces with the secluded private open spaces of dwellings along Loeman Street.

An additional larger landscaped area of 970 square metres is proposed within the northern setback of the proposed development, allowing for the children's playground. This also assists in maintaining the spatial characteristics of the immediate area. A service yard has been provided adjacent to the disabled car space within the car park. This space should be sufficient to provide appropriate waste storage areas for the centre. A condition however should be included for a waste management plan to be provided to the Responsible Authority prior to the commencement of construction.

#### Compliance with Clause 52.06 (Car parking)

Pursuant to Clause 52.06 of the Moonee Valley Planning Scheme, prior to a new use commencing, the car parking spaces required under Clause 52.06-5 must be provided on the land. Where a use is not specified in Table 1 of Clause 52.06-5, car parking spaces must be provided to the satisfaction of the Responsible Authority.

The proposed use is identified as a preschool or kindergarten which is not specified in Table 1 of Clause 52.06. Car parking must therefore be provided to the satisfaction of the Responsible Authority.

In assessing this application, it has been identified that the closest use relating to a preschool is a childcare centre. Pursuant to Clause 52.06-5, the car parking ratio is 0.22 car spaces required to each child permitted in a childcare centre. The proposal seeks a total of 66 children and 15 associated with the ancillary room which equates to the requirement for 17 car spaces on site for a childcare centre.

A total of 18 car spaces are provided on-site. Whilst not required by the Planning Scheme a number of bicycle parking facilities have also been provided.

Given the total number of car spaces provided on-site and given that the car parking demand created by a childcare centre is closely related to that of the proposed use, a total number of 18 car spaces is considered appropriate in this instance.

A review of the proposed car parking area has identified that the area has been designed to allow for safe and efficient movements within the car park.

It must also be noted that Council's Traffic and Transportation Unit have no objections to the proposed development, subject to the inclusion of conditions on any permit granted. Permit conditions have been included in **Appendix B**.

To allow access to the subject site, a new road extension along Term Street and car parking area is proposed.

The car parking area has been designed to allow safe and efficient movements within the subject site and onto Term Street. The proposal should not have any significant detrimental effects in relation to the anticipated traffic generation.

#### Aboriginal Cultural Heritage Management Plan

The proposed car park in the north eastern corner of the subject site is located within a nominated area of Aboriginal Significance.

As a result, advice from Aboriginal Affairs Victoria has been sought. They have confirmed that the subject site has no Aboriginal cultural heritage places or objects registered in their database.

In addition to the above, a review of the existing survey plan indicates that significant ground disturbance has occurred.

Evidence of this can be found with a retaining wall present on-site and aerial photos indicating foundations for building associated with the VicRoads storage yard and staging area. Given the above, a Cultural Heritage Management Plan is therefore not required.

A condition however should be included requiring works to cease immediately if any Aboriginal cultural material is discovered and for Aboriginal Affairs Victoria to be notified immediately of any such discovery.

#### Native Vegetation

Council's senior arborist has assessed the existing trees on the subject site. None of the trees are identified as being native to Victoria and therefore Clause 52.17 (Native Vegetation) does not apply in this instance.

#### Contaminated Land

Given the previous use of the subject site as a storage yard and staging area, which included underground storage tanks for fuels and a chemical storage shed, a Validation Assessment was carried out to assess the environmental condition of the site and whether this would be suitable for the proposed sensitive use. The assessment was carried out by a suitably qualified/accredited environmental consultant.

The assessment concluded that based on the samples collected, it was unlikely that the residual contamination identified within the soil samples examined could pose a health risk to the future users of the subject site. A copy of the Contamination and Geotechnical Assessment has been included as **Appendix E** – (separately circulated).

#### Net Community Benefits

Council adopted its Early Years Infrastructure Plan (the Plan) in April 2011. The Plan's purpose is to provide a long term strategy regarding investment and management of Moonee Valley's early years infrastructure to support delivery of high quality early years services. A key project identified through the Plan is the further development of the Strathmore Childcare Centre.

The proposal to use and develop the preschool at 1-5 Term Street, Strathmore will see the Strathmore facility become an integrated early years model where a range of complementary services are made available within the one facility.

The integration of early childhood services and the opportunity for increased collaboration between services is integral to addressing and supporting the needs of children and their families.

The proposed vacant site adjacent to the existing Strathmore Childcare Centre provides an appropriate location which will benefit the community.

#### **Consultation**

Notice of the Amendment and Planning Permit Application was given in accordance with Section 19 of the *Planning and Environment Act 1987*. Notice was given to each prescribed Minister. Letters were sent to all landowners and occupiers surrounding the subject site and beneficiaries to the restrictive covenant. Letters were also sent to families associated with the Strathmore Childcare Centre.

The planning permit and amendment documents were made available for inspection at the Moonee Valley City Council offices, Strathmore Childcare Centre, the Moonee Valley City Council website and the Department of Environment, Land, Water and Planning

website. Public notices appeared in the Moonee Valley Leader, Moonee Valley Weekly and the Government Gazette on 2, 3 and 5 February 2015 respectively.

An information session was held on 26 February 2015 at the Strathmore Childcare Centre which gave an opportunity for interested people to learn more about the proposal and the process that Council is undertaking. This session was attended by approximately 15 people.

The closing date for public submissions was Friday 13 March 2015. No submissions were received. Correspondence was received from VicRoads with no objection.

## **Implications**

### **1. Legislative**

The planning scheme amendment is consistent with the Ministerial Direction on the form and content of planning schemes under Section 7(5) of the *Planning and Environment Act 1987*.

The preparation of the combined amendment and planning scheme is also in accordance with Section 4 and Section 96A of the *Planning and Environment Act 1987*.

The application process and decision making is in line with the Victorian Charter of Human Rights and Responsibilities 2006 (Section 18 – Taking part in public life).

### **2. Council Plan / Policy**

The recommendations contained within this report accord with Strategic Objective 3.1 to '*Ensure there is a clear direction for the growth and proactive management of the city*' within the Council Plan 2013-2017.

### **3. Financial**

There are no relevant financial considerations to this report. The cost of the preparation of the Amendment and planning permit application will be borne by Council.

### **4. Environmental**

There are no further relevant environmental considerations to this report.

## **Conclusion**

The combined planning permit application and planning scheme amendment was widely exhibited from 5 February 2015 until 13 March 2015.

No submissions were received and therefore this report recommends to adopt the planning permit and planning scheme amendment with no changes.

Once adopted, the planning permit and amendment needs to be sent to the Minister for Planning with a request for approval.

## APPENDIX B

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# PLANNING PERMIT

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GRANTED UNDER DIVISION 5  
OF PART 4 OF THE PLANNING  
AND ENVIRONMENT ACT 1987

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Permit No.: MV/37/2014

Planning Scheme: Moonee Valley  
Planning Scheme

Responsible Authority: Moonee Valley  
City Council

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ADDRESS OF THE LAND: 1-5 TERM  
STREET, STRATHMORE (LOTS  
500, 501, 502 AND 503 ON PS  
009986)

THE PERMIT ALLOWS: THE USE  
AND DEVELOPMENT OF THE LAND  
FOR THE PURPOSE OF A CHILD  
CARE CENTRE

### THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

1. Prior to the commencement of works, the planning permit application for the three lot subdivision and removal of easement associated with MV/610/2014 must be finalised. The new title for the subject site must then be submitted to the Responsible Authority within three (3) months of being registered with the Land Titles Office.
2. Before the development starts, amended plans (three copies) must be submitted to and approved to the satisfaction of the Responsible Authority. The plans must be drawn to scale, with dimensions, and be generally in accordance with the plans submitted and assessed with the application but modified to show:
  - a) A roof plan to show the extent of the roof catchment area/s (square metres) that are nominated in the STORM report and must be graphically shown on the drawings, and must note which WSUD treatment measure each area connects to (ie. nominate the specific rainwater tank that that particular roof catchment area is connected to).
  - b) The size and location of any rainwater tank (Litres) on the plans. Provide a note outlining the roof catchment area being collected by each rainwater tank and note connection to all toilets, as per the STORM report.

3. The layout of the site and the size, design and location of the buildings and works permitted must always accord with the endorsed plan and must not be altered or modified without the further written consent of the Responsible Authority.
4. The use must operate only between the hours of:
  - a) Monday to Friday: 8.00am to 6.00pm  
Unless these hours are varied with the written consent of the Responsible Authority.
5. No more than 7 staff may be present on the land unless with the written consent of the Responsible Authority.
6. No more than 66 children associated with the preschool may be present on the land unless with the written consent of the Responsible Authority.
7. No more than 15 children and 15 adults associated with the family room may be present on the land unless with the written consent of the Responsible Authority.
8. Before the commencement of the use a directional sign not exceeding 0.3 m<sup>2</sup> in area must be provided directing drivers to the area(s) set aside for car parking and must be located and maintained to the satisfaction of the Responsible Authority.
9. A maximum 30 days following completion of the building or works, a WSUD Maintenance Program must be submitted to and approved by the Responsible Authority which sets out future operational and maintenance arrangements for all WSUD measures. The program must include, but is not limited to:
  - a) Inspection frequency
  - b) Cleanout procedures
  - c) As installed design details/diagrams including a sketch of how the system operates
  - d) A report confirming completion and commissioning of all WSUD Response initiatives by the author of the WSUD Response and STORM or MUSIC model approved pursuant to this permit, or similarly qualified person or company. This report must be to the satisfaction of the Responsible Authority and must confirm that all initiatives specified in the WSUD Response and STORM or MUSIC model have been completed and implemented in accordance with the approved report.

The WSUD Maintenance Program may form part of a broader Maintenance Program that covers other aspects of maintenance such as a Builder' User's Guide or a Building Maintenance Guide.

10. Prior to the commencement of the development an acoustic report prepared by a qualified acoustics expert must be provided to the Responsible Authority and be to its satisfaction. This report must detail the noise attenuation measures required to the building to ensure minimal impacts from external noise sources. The recommendations of the acoustic report must be implemented prior to the completion of the development.

11. Prior to the commencement of the development (other than constituted solely by the breaking up of a concrete floor only to the extent necessary to test soil conditions underneath), either:
- a) A Certificate of Environmental Audit for the land must be issued in accordance with Section 53Y of the Environment Protection Act 1970; or
  - b) An Environmental Auditor appointed under Section 53S of the Environment Protection Act 1970 must make a Statement in accordance with Section 53Z of the Act that the environment conditions of the land are suitable for the use and development that are the subject of this permit.

Should the Responsible Authority conclude it necessary it may, at the cost of the permit holder, obtain a peer review of environmental site assessment and/or certificate or statement of environmental audit.

In the event that the management measures are required or a statement is issued in accordance with Part IXD of the Environment Protection Act, before the use is occupied all management measures of the site assessment or conditions of the Statement of Environmental Audit must be complied to the satisfaction of the Responsible Authority. Written confirmation of compliance with the management measures of the site assessment or the conditions of the Statement of Environmental Audit must be provided by a suitably qualified environmental professional. The Statement is to confirm that the site is suitable for occupation by the proposed use and development.

If the management measures of the site assessment or the conditions of the Statement of Environmental Audit require ongoing maintenance or monitoring, before the use is occupied the owner of the land must enter into an Agreement with the Responsible Authority under Section 173 of the Planning and Environment Act 1987 to the satisfaction of the Responsible Authority. This agreement must be to the effect that except with the written consent of the Responsible Authority all management measures of the site assessment or conditions of the Statement of Environmental Audit issued in respect of the land will be complied with to the satisfaction of the Responsible Authority. Written confirmation of compliance with the management measures of the site assessment or the conditions of the Statement of Environmental Audit must be provided by a suitably qualified environmental professional.

A memorandum of the Agreement must be entered on the Title to the land and the owner must pay the costs of the preparation and execution of the Agreement and entry of the memorandum on Title.

12. A minimum 30 days prior to any building or works commencing, a Construction and Site Management Plan (CSMP) must be submitted to and be approved by the Responsible Authority detailing the construction activity proposed and the site and environmental management methods to be used. The plan must include, but is not limited to:
- a) Hours of construction;
  - b) Parking and traffic movement of all workers vehicles and construction vehicles;
  - c) Scaffolding and hoarding for the site;

- d) Allocated areas for loading and unloading;
- e) Site evacuation plan and procedure;
- f) Occupational health and safety policy;
- g) Hazard identification and control;
- h) Environmental management and waste minimisation
- i) Management of onsite stormwater and contamination: a statement or report outlining all construction measures to be taken to prevent litter, sediments and pollution from entering the stormwater systems
- j) Protection of surrounding roads from site contamination and damage including rumble grid and or wash down bay facility;
- k) Chemical storage;
- l) Noise and vibration;
- m) Risk assessment;
- n) Works timetable; and
- o) Number of workers expected of work on the site at any one time.

Once submitted and approved the works detailed by the Construction and Site Management Plan must be carried out to the satisfaction of the Responsible Authority.

- 13. Buildings or works must not be constructed over or adjacent to any easement or within one metre of an existing Council drainage asset without the written consent of the relevant authorities or agencies to the satisfaction of the Responsible Authority.
- 14. Floor levels shown on the endorsed plan(s) must not be altered or modified without written consent of the Responsible Authority.
- 15. The privacy screens as shown on the endorsed plans must be installed prior to the occupation of the building.
- 16. The fencing (boundary and internal) as shown on the endorsed plans must be installed prior to the occupation of the dwellings. The cost of such fencing must be met by the owner and carried out to the satisfaction of the Responsible Authority.
- 17. Noise emitted from the premises must not exceed the permissible noise levels determined in accordance with the State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1.
- 18. The amenity of the area must not be detrimentally affected by the use of land, through:
  - a) Transportation of materials, goods or commodities to or from the land;
  - b) Appearance of any building, works or materials;
  - c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot ash, dust, waste water, waste produces, grit or oil;
  - d) Presence of vermin; or
  - e) or in any other way

to the satisfaction of the Responsible Authority.

19. Once the use is commenced, the land must only be used for the permitted use and to the satisfaction of the Responsible Authority.
20. Provision must be made for the drainage of the land including landscaped and pavement areas. The discharge of water from the land must be controlled around its limits to prevent any discharge onto any adjoining or adjacent property or streets other than by means of an underground pipe drain which is discharged to an approved legal point of discharge to the satisfaction of the Responsible Authority.
21. The area set aside for the parking of vehicles, together with the associated access lanes as delineated on the endorsed plan must be to the satisfaction of the Responsible Authority:
  - a) Be provided and completed prior to the commencement of the use hereby permitted;
  - b) Thereafter be maintained;
  - c) Be made available for such use at all times and not used for any other purpose;
  - d) Be properly formed to such levels that it can be used in accordance with the endorsed plan;
  - e) Be drained and constructed with a permanent trafficable surface (concrete, asphalt, paving);
  - f) Have the boundaries of all vehicle spaces clearly indicated on the ground in conformity with the endorsed plan.
22. Works must cease immediately upon the discovery of any Aboriginal cultural material, and Aboriginal Affairs Victoria must be notified immediately of any such discovery.
23. If anything is suspected of being human remains is found, work in the area must cease. Victoria Police and the State Coroner's office (telephone 03 9684 4444) must be informed of the discovery without delay.

If there are reasonable grounds to suspect that the remains are Aboriginal, the discovery must also be reported to the Department of Sustainability and Environment's Emergency Co-ordination Centre. Aboriginal Affairs Victoria will ensure that the local Aboriginal community is informed about the circumstances of the discovery.

24. The garden areas shown on the endorsed plan and schedule must only be used as gardens and must be constructed, completed and maintained in a proper, tidy and healthy condition to the satisfaction of the Responsible Authority. Any tree or shrub damaged, removed or destroyed must be replaced by a tree or shrub of similar size and variety to the satisfaction of the Responsible Authority.
25. Prior to the occupation of the development hereby permitted, all landscaping, (including trees, shrubs and lawn) must be completed in accordance with any approved landscape plan to the satisfaction of the Responsible Authority.

26. Prior to the commencement of the development, a Waste Management Plan must be submitted to and approved to the satisfaction of the Responsible Authority. The Waste Management Plan shall be in accordance with the City of Moonee Valley's "Waste Management Plans – Guidelines for Applicants". The plan must include but not be limited to showing and detailing:
- a) That the bin storage areas are sufficient to cater for the amount of waste that will be produced at least;
  - b) What type of bins will be used on the land;
  - c) Where these bins will be stored including details of screening and ventilation;
  - d) Who will be responsible for taking bins in and out for collection and where this will occur;
  - e) How recycling materials will be dealt with and collected;
  - f) Hours of bin collection;
  - g) Access routes for private waste collection vehicles that do not rely on reversing movements if private waste collection is utilised.

Once submitted and approved the plan must be implemented to the satisfaction of the Responsible Authority.

27. Provision must be made for the storage and disposal of garbage to the satisfaction of the Responsible Authority. All garbage storage areas must be screened from public view.
28. This permit will expire if:
- a) the development is not commenced within two (2) years from the date of issue of this permit, or
  - b) the development is not completed and the use is not commenced within four (4) years from the date of issue of this permit.

Before the permit expires or within six (6) months afterwards the owner or occupier of the land may in writing request the responsible authority to extend the expiry date.

Once the development has commenced the owner or occupier of the land may in writing request the Responsible Authority to extend the expiry date within twelve (12) months of the lapse date.

### **Permit Notes**

- This is not a building permit under the Building Act. A separate building permit is required to be obtained for any demolition or building works.
- Before commencement of the development occurs, the applicant should contact the Moonee Valley City Council's Technical Services Department regarding legal point of discharge, new crossings, building over easements.
- This permit does not authorise any advertising signs except those which are exempted by the Moonee Valley Planning Scheme.

- Paving abutting an adjacent property must be provided with 150mm high concrete kerb.
  - All works within the road reserve shall be in accordance with the requirements of Moonee Valley City Council's Engineering Services Department and to the satisfaction of the Responsible Authority.
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(If the permit has been amended, include the following table indicating the date and nature of amendments included in the amended permit)

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Date of amendment	Brief description of amendment

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## IMPORTANT INFORMATION ABOUT THIS PERMIT

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### WHAT HAS BEEN DECIDED?

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The Responsible Authority has issued a permit. The permit was granted by the Minister administering the **Planning and Environment Act 1987** under section 96I of that Act.

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### WHEN DOES THE PERMIT BEGIN?

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The permit operates from a day specified in the permit being a day on or after the day on which the amendment to which the permit applies comes into operation.

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### WHEN DOES A PERMIT EXPIRE?

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1. A permit for the development of land expires if -
  - \* the development or any stage of it does not start within the time specified in the permit; or
  - \* the development requires the certification of a plan of subdivision or consolidation under the **Subdivision Act 1988** and the plan is not certified within two years of the issue of a permit, unless the permit contains a different provision; or
  - \* the development or any stage is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit or in the case of a subdivision or consolidation within 5 years of the certification of the plan of subdivision or consolidation under the **Subdivision Act 1988**.
2. A permit for the use of land expires if -
  - \* the use does not start within the time specified in the permit, or if no time is specified, within two years after the issue of the permit; or
  - \* the use is discontinued for a period of two years.
3. A permit for the development and use of land expires if -
  - \* the development or any stage of it does not start within the time specified in the permit; or
  - \* the development or any stage of it is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit; or
  - the use does not start within the time specified in the permit, or, if no time is specified, within two years after the completion of the development; or
  - the use is discontinued for a period of two years.
4. If a permit for the use of land or the development and use of land or relating to any of the circumstances mentioned in section 6A(2) of the **Planning and Environment Act 1987**, or to any combination of use, development or any of those circumstances requires the certification of a plan under the **Subdivision Act 1988**, unless the permit contains a different provision-
  - \* the use or development of any stage is to be taken to have started when the plan is certified; and
  - \* the permit expires if the plan is not certified within two years of the issue of the permit.
5. The expiry of a permit does not affect the validity of anything done under that permit before the expiry.

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### WHAT ABOUT APPEALS?

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- \* Any person affected may apply for a review of -
  - a decision of the responsible authority refusing to extend the time within which any development or use is to be started or any development completed; or.

- a decision of the responsible authority refusing to extend the time within which a plan under the **Subdivision Act 1988** is to be certified, in the case of a permit relating to any of the circumstances mentioned in section 6A(2) of the **Planning and Environment Act 1987**; or.
- the failure of the responsible authority to extend the time within one month after the request for extension is made.

\* An application for review is lodged with the Victorian Civil and Administrative Tribunal.

**\*An application for review must be made on an Application for Review form which can be obtained from the Victorian Civil and Administrative Tribunal, and be accompanied by the applicable fee.**

\* An application for review must state the grounds upon which it is based.

\* An application for review must also be served on the Responsible Authority.

\* Details about applications for review and the fees payable can be obtained from Victorian Civil and Administrative Tribunal.

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## APPENDIX C

*Planning and Environment Act 1987*

### **MOONEE VALLEY PLANNING SCHEME AMENDMENT C150 EXPLANATORY REPORT**

#### **Who is the planning authority?**

This amendment has been prepared by the Moonee Valley City Council which is the planning authority for this amendment.

The amendment has been made at the request of Moonee Valley City Council.

#### **Land affected by the amendment**

The amendment applies to land burdened by one restrictive covenant contained in registered transfer of land no. 1941367:

- 1-5 Term Street, Strathmore (Lots 500, 501, 502 and 503 on PS 009986)

#### **What the amendment does**

The amendment seeks to amend Section 1 of the Schedule to Clause 52.02 of the Moonee Valley Planning Scheme to insert 1-5 Term Street, Strathmore, in order to vary a restrictive covenant on the land. The restrictive covenant is contained in registered transfer of land no. 1941367.

Concurrent with the preparation of the planning scheme amendment is a planning permit application made pursuant to Section 96A(1) of the *Planning and Environment Act 1987* to use and develop the land at 1-5 Term Street, Strathmore for the purpose of a child care centre consistent with the General Residential Zone and Local Planning Policy Framework.

#### **Strategic assessment of the amendment**

#### **Why is the amendment required?**

The existing site is a disused VicRoads storage yard and staging area with no significant structures.

There is currently a covenant on the subject site which restricts the following:

- Quarrying operations except for the purpose of laying foundations of any building;
- Roof or any of its exterior walls of iron or metal of any description or of any material which shall be an imitation or substitute;
- Construction of any shop factory warehouse or other premises for use or suitable for use for the purpose of manufacturing vending or exhibiting for sale of goods or merchandise of any description;
- Not for any other purpose than that of a residence;
- No trade or other sign shall be displayed or caused or allowed to be displayed;

- No more than one dwelling house on any one lot;
- Any dwelling including fences and outbuildings cost no less than four hundred pounds;
- Shall be erected to have frontage to the road; and
- Setback a distance of at least 30 feet.

Council intends to build a new child care centre on the vacant site which is proposed to be connected to the existing Strathmore Children's Centre. As the covenant stands to date, Council will be in breach of this covenant when pursuing the project without varying the covenant. This amendment seeks to vary this restrictive covenant via an inclusion into the Schedule of Clause 52.02 and apply for a planning permit to allow for the development of a child care centre.

This variation will provide for the new child care centre to be built and used which will provide for much needed child care facilities in the Strathmore area. The current beneficiaries of the restrictive covenant are not expected to experience a material detriment as it is considered an improvement to the subject site.

### **How does the amendment implement the objectives of planning in Victoria?**

The amendment is consistent with the following objectives for planning in Victoria as outlined in the *Planning and Environment Act 1987*:

- 1(a) to provide for the fair, orderly, economic and sustainable use, and development of land;*
- 1(c) to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria;*
- 2(d) to ensure that the effects on the environment are considered and provide for explicit consideration of the social and economic effects when decisions are made about the use and development of land.*

The amendment will allow the legalisation of the use of land as a child care centre on the subject site.

### **How does the amendment address any environmental, social and economic effects?**

The draft planning permit includes conditions that addresses the relevant environmental effects of the planning proposal. Varying the covenant is not expected to have any environmental effects. The proposal to use and develop the child care centre at 1-5 Term Street, Strathmore will see the Strathmore facility become a 'one-stop shop' for early years services which will provide space for additional Council services and for visiting services relevant to early years. This is consistent with a recommendation of Council's Early Years Infrastructure Plan adopted in April 2011.

The integration of early childhood services and the opportunity for increased collaboration between services is integral to addressing and supporting the needs of children and their families. It is therefore considered that the proposed child care centre will provide social benefits to the community.

The restrictive covenant will still apply to the land and any future development that deviates from the child care centre needs to meet the requirements of the covenant.

**Does the amendment address relevant bushfire risk?**

The subject site is not located within a Bushfire Management Overlay and is not within a Designated Bushfire Prone Area.

**Does the amendment comply with the requirements of any Minister's Direction applicable to the amendment?**

The amendment and planning permit application complies with the requirements of:

- Ministerial Direction on the form and content of Planning Schemes;
- Direction No.11 Strategic Assessment of Amendments; and
- Direction No.1 Potentially Contaminated Land

Given the previous use of the subject site as a storage depot, which included underground storage tanks for fuels and a chemical storage shed, a Validation Assessment was required to assess the environmental condition of the site. This assessment was carried out given the proposed sensitive use and carried out by a suitable qualified/accredited environmental consultant.

The assessment concluded that based on the samples collected it was unlikely that the residual contamination identified within the soil samples examined could pose a health risk to the future users of the subject site.

**How does the amendment support or implement the State Planning Policy Framework and any adopted State policy?**

The amendment is consistent with the State Planning Policy Framework, in particular the following clauses:

- 15.01-2 (Urban Design Principles) which aims to achieve architectural and urban design outcomes that contributes positively to local urban character and enhances the public realm while minimising detrimental impact on neighbouring properties.
- 19.02-4 (Distribution of social and cultural infrastructure) to provide a fair distribution of access to social and cultural infrastructure.

**How does the amendment support or implement the Local Planning Policy Framework, and specifically the Municipal Strategic Statement?**

The amendment supports Clause 21.08-3 of the Municipal Strategic Statement by providing a community facility within the Strathmore area which considers the needs of the surrounding community and also the amenity of the surrounding residential area.

The amendment also supports Clause 21.04 (Moonee Valley's Vision) which outlines Council direction to be *'a diverse and safe community, which has ready access to services and facilities required for well being, embraces its local heritage and cares for the environment, supporting individuals and groups to be involved in the community.'*

**Does the amendment make proper use of the Victoria Planning Provisions?**

It is considered that the amendment makes proper use of the VPP's as it proposes to utilise Clause 52.02 in order to vary a covenant and does not duplicate an existing planning provision.

**How does the amendment address the views of any relevant agency?**

Relevant agencies will be notified of the amendment as part of the exhibition period.

**Does the amendment address relevant requirements of the Transport Integration Act 2010?**

There are no relevant requirements of the Transport Integration Act 2010.

**Resource and administrative costs**

- **What impact will the new planning provisions have on the resource and administrative costs of the responsible authority?**

The amendment will not have a significant impact on resourcing and administrative costs of responsible authority. The amendment does not alter permit triggers.

**Where you may inspect this Amendment**

The amendment is available for public inspection, free of charge, during office hours at the following places:

- Moonee Valley City Council, 9 Kellaway Avenue, Moonee Ponds
- Moonee Valley City Council website [www.mvcc.vic.gov.au](http://www.mvcc.vic.gov.au)

The amendment can also be inspected free of charge at the Department of Environment, Land, Water and Planning website at [www.dtpli.vic.gov.au/publicinspection](http://www.dtpli.vic.gov.au/publicinspection).

**AMENDMENT C150**

**INSTRUCTION SHEET**

***PLANNING AND ENVIRONMENT ACT 1987***

**MOONEE VALLEY PLANNING SCHEME**

The planning authority for this amendment is the Moonee Valley City Council.

The Moonee Valley Planning Scheme is amended as follows:

**Planning Scheme Ordinance**

The Planning Scheme Ordinance is amended as follows:

1. In Particular Provisions – Clause 52.02, replace the Schedule with a new Schedule in the form of the attached document.

End of document

**SCHEDULE TO CLAUSE 52.02**

19/01/20  
06 VC37  
**1.0**

**Under Section 23 of the Subdivision Act 1988**

19/01/2006  
Proposed  
C150

Land	Easement or restriction	Requirement
Lots 500, 501, 502, 503 on Plan of Subdivision 009986	The restrictive covenant contained in instrument of transfer no. 1941367	To vary the covenant to allow development for uses associated with a Child care centre consistent with the definitions in the Moonee Valley Planning Scheme.

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**2.0**

**Under Section 24A of the Subdivision Act 1988**

19/01/20  
06 VC37

Land	Person	Action
None specified		

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**3.0**

**Under Section 36 of the Subdivision Act 1988**

19/01/200  
6 VC37

Land	Easement or right of way	Requirement
None specified		

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**9.8                      Consideration of demolition requests and planning permit applications for properties where a Heritage Overlay does not apply**

**File No:** FOL/13/768  
**Author:** Coordinator Strategic Planning  
**Directorate:** City Works & Development  
**Ward:** Municipal

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**Purpose**

The purpose of this report is to introduce a suitable internal process for the consideration of demolition requests and planning permit applications for properties that are identified within the Heritage Gap Study – Stage 1 Report, and are not yet included within a Heritage Overlay. This report also requests delegation to the Chief Executive for requests to the Minister for Planning for interim heritage controls.

**Executive Summary**

- Council received approximately 500 demolition requests in the 2013/14 financial year. This equates to approximately 10 per week.
- Under the Building Act 1993 Council can only refuse consent of a demolition request if a planning permit is required for the demolition (e.g. if the place is within a Heritage Overlay) and has not been obtained.
- Applications for demolition under Section 29A of the Building Act 1993 must be decided upon within 15 days, otherwise the building surveyor assumes that consent is given and may issue the building permit.
- Section 29B of the Building Act 1993 sets out the requirements for Council to suspend a demolition permit, pending an amendment to the planning scheme to introduce interim heritage controls in the form of an interim Heritage Overlay.
- Any application for an interim Heritage Overlay must be made within the legislated 15 day timeframe.
- Applying for an interim Heritage Overlay is the only way to suspend a demolition request.
- Council adopted the Heritage Gap Study – Stage 1 Report in November 2014, however, the Heritage Gap Study alone does not provide sufficient grounds to refuse a demolition request.
- Heritage Victoria have advised that Council needs to be very selective in choosing when to apply for interim Heritage Overlays, because it is not reasonable to prevent everything from demolition.

The Minister for Planning applying interim heritage controls is an extraordinary use of his powers, and therefore Council must justify why intervention is required, and should only apply where it is a particularly significant place.

- Four criteria are proposed to assist Council's Heritage Advisor in determining which properties may warrant an interim Heritage Overlay:
  - Significant or landmark building;
  - Good condition;
  - Rarity in the local context; and
  - For properties in a precinct or group of buildings, the loss of the building will irreversibly jeopardise the significance of the entire precinct or group of buildings.
- It is important to have a consistent process and criteria in place to consider demolition requests for the following reasons:
  - Ad hoc assessments lead to inconsistent outcomes.
  - There is potential to lose some very significant heritage fabric.
  - There are resource and timing implications.
  - A consistent approach is clearer for community and applicants to understand and allows for greater transparency.
- Given the tight timeframe for which Council has to decide on applications for demolition requests (15 days) it would not be possible to seek a Council resolution should interim controls be required. In this regard delegation of requests for interim Heritage Overlays is required to the Chief Executive.
- A matter that Heritage Victoria has raised is that, for the Minister for Planning to take requests for interim controls seriously, then Council needs to also act upon requesting permanent Heritage Overlays in a timely manner.

### **Recommendation**

That Council:

1. Confer delegation of requests to the Minister for Planning for interim Heritage Overlays under Section 20(4) of the Planning and Environment Act 1987 to the Chief Executive.
2. Endorse the process for the consideration of applications for demolition under Section 29A of the Building Act 1993 as they relate to properties identified in an adopted heritage study or in the Heritage Gap Study as outlined in **Appendix A** – separately circulated, to this report.
3. Endorse the criteria as set out in Attachment 1 of **Appendix A** – separately circulated and summarised below, for resolving to request interim controls:
  - a) Significant or landmark building;
  - b) Good condition;
  - c) Rarity in the local context; and

- d) For properties in a precinct or group of buildings, the loss of the building will irreversibly jeopardise the significance of the entire precinct or group of buildings.

## **Background**

### **Heritage Gap Study**

Council adopted the Heritage Gap Study at the Ordinary Council meeting on 25 November 2014.

The purpose of the Heritage Gap Study is to:

- Identify gaps in Moonee Valley's heritage protection by identifying all places dating from the time of European contact which are of potential heritage value and not protected by a Heritage Overlay.
- Provide a prioritised work program that may be used to guide which heritage studies should be undertaken in the future (over the next 8+ years).
- Provide a systematic approach to identifying places of potential heritage significance.
- Minimise ad hoc heritage assessments.

The Heritage Gap Study identifies approximately 3,500 places that could potentially have heritage significance and therefore are to be assessed in the future.

Given the large number of properties included, priorities have been established to assist with the heritage work program.

Council officers have recently commenced a heritage study which reviews a number of the high priority places included within the Heritage Gap Study.

### **Demolition requests and the Building Act 1993**

Section 29A of the Building Act 1993 requires a building surveyor to seek the report and consent of Council (as the Responsible Authority) for demolitions of more than 50 per cent of a building, or demolition of the facade of a building.

In the 2013/14 financial year, Council received approximately 500 Section 29A applications for consent for demolition. This equates to approximately 10 applications per week.

Council can only refuse consent of a demolition request if a planning permit is required for the demolition (e.g. if the place is within a Heritage Overlay) and has not been obtained.

In the five months since the Heritage Gap Study was adopted by Council, approximately 145 demolition requests have been received (up until mid-April 2015). Approximately 10 of those included properties identified in the Heritage Gap Study.

Applications for demolition under Section 29A of the Building Act must be decided upon within 15 days. Failure to decide applications within the legislated timeframes is considered to be a deemed approval by Council.

Section 29B of the Building Act sets out the requirements for Council to suspend a demolition permit, pending an amendment to the planning scheme to introduce interim Heritage Overlays.

Any application for an interim Heritage Overlay must be made within the 15 day timeframe.

Applying for an interim Heritage Overlay is the only way to suspend a demolition request.

In some circumstances Council may receive an application to redevelop a site identified in the Heritage Gap Study that is not accompanied by a demolition request. In this circumstance the requirements of the Building Act 1993 do not apply, and there is no opportunity for Council to suspend the planning application consideration. However there is still an opportunity to request interim controls, as detailed in the following section of this report.

Because the Heritage Gap Study does not assign value to any identified properties, it alone does not provide sufficient grounds to refuse a demolition request.

## **Discussion**

### **Ministerial Intervention**

Applying for an interim Heritage Overlay requires Council to formally request the Minister for Planning to exercise his powers of intervention.

This requires the Minister to make an extraordinary use of his powers. Therefore, it is important to have strict requirements and a process in place to ensure that requests are only submitted where they fulfill certain criteria, clearly demonstrating unique circumstances and sufficient merit.

Council has received advice from Heritage Victoria about setting these criteria. Heritage Victoria is an important role player in this process as the Minister for Planning would seek their advice in relation to any requests Council makes for interim heritage controls. Council Officers have been advised that Heritage Victoria are currently in the process of preparing a Practice Note in relation to this topic. The criteria proposed in this report is anticipated to be consistent with the Practice Note when it is released.

Heritage Victoria have advised that Council needs to be particularly discerning when seeking interim controls. Given that the intervention to introduce an interim control in an extraordinary use of the Minister's powers, the place should be of particular note. Because the imposition of interim controls also raises issues of fairness, a higher degree of justification is required.

Heritage Victoria have furthermore advised that the following are unlikely to be supported:

- The introduction of blanket interim Heritage Overlays that mirror a proposed planning scheme amendment.
- The introduction of interim Heritage Overlays where a planning permit has already been issued for redevelopment of the building or land.

- The introduction of interim Heritage Overlays where consent under the Building Act 1993 to demolish the building has already been given.

### **Criteria**

The criteria proposed for requests for interim Heritage Overlays is set out below. This criteria is attached as part of the process set out in **Appendix A** – separately circulated, of this report.

Including additional matters in the criteria, or varying from the criteria significantly could jeopardise Council's requests for interim controls, and is unlikely to be supported by Heritage Victoria, and therefore the Minister for Planning.

Other options available to Council is to not investigate anything outside of the heritage overlay and adopted work program, and potentially miss out on protecting some very significant properties.

Alternatively, Council could choose to request interim controls for every demolition application. However this would have significant resource implications which would not be feasible to deliver under the current budget, and Council has been advised strongly from Heritage Victoria that these requests would unlikely be successful.

The best option available is to be selective, and consistent based on the criteria set out below.

In order to request an interim Heritage Overlay it is proposed that all of the following criteria (1-3) must be met.

In the case of precincts, in addition to criteria 1-3, criteria 4 must also be met.

1. Significant or landmark building.

In this regard the significance should be beyond reasonable doubt and broadly recognised by the community and Council as being significant. In most cases this would include landmark buildings easily identifiable to the public. In some cases it may also include residential properties.

2. Good condition.

No major structural failings should be present. This would usually be determined by a building surveyor and should be evident as part of an application for demolition, in the event that they form the basis for the request for demolition.

3. Rarity in the local context.

The type of building should not be already well represented in the Heritage Overlay in Moonee Valley, or it should be a particularly fine example of the type of building.

4. The loss of the building will irreversibly jeopardise the significance of the entire precinct or group of buildings.

If the building is in the middle of a precinct or group of buildings then the loss of the building will have a greater impact on the precinct than if it were on the edge.

The loss of the building in this circumstance will impact on the intactness of the precinct or group of buildings, to the extent that it will impact on the significance of the precinct or group of buildings as a whole.

### **Process**

It is important to have a consistent process to consider demolition requests because:

- Ad hoc assessments lead to inconsistent outcomes.
- There is the potential to lose some very significant heritage fabric.
- There are resource and timing implications.
- A consistent approach is clearer for community to understand and allows for greater transparency.

Attached as **Appendix A** – separately circulated, is a flow chart detailing the proposed process for consideration of demolition requests where a planning permit is not required.

The process is relevant only for properties which form part of an adopted heritage study which has not yet been implemented, or have been identified in the Heritage Gap Study. Otherwise Council staff do have an option to negotiate with an applicant to try and get a better outcome in terms of the potential heritage significance of the building. However there is less justification to do so, and no statutory requirements for this to occur.

Council's Heritage Advisor would assess the demolition requests or permit applications to determine whether to request interim Heritage Overlays.

Given the tight timeframe for which Council has to decide on applications for demolition requests (15 days) it would not be possible to seek a Council resolution should interim controls be required. In this regard delegation for interim Heritage Overlay requests is required to the Chief Executive. This would ensure that, should interim controls be needed, that they are acted upon in an effective and efficient manner. As mentioned previously requesting interim controls is the only way in which Council can 'stop the clock' on a demolition request.

Heritage Victoria have advised that Council must also demonstrate a commitment and sense of urgency, and be willing to expedite a planning scheme amendment to introduce a permanent Heritage Overlay following the approval of interim controls. The purpose of this is to balance the need for heritage protection with the requirement to afford natural justice to the owner of the property by ensuring that an amendment to introduce a permanent Heritage Overlay is prepared and exhibited as soon as possible.

To this regard, a report would be presented at the next available Council meeting, requesting a permanent heritage overlay be acted upon, to support the interim request.

### **Planning permit applications and requests for interim controls**

In some circumstances Council may receive an application for the redevelopment of a site that has been included in the Heritage Gap Study. Often this is not accompanied by a demolition request. In this circumstance, the criteria above is relevant for determining whether interim controls are warranted. The process

however is slightly different. This is outlined in the flow chart at **Appendix A** – separately circulated.

Council has no power in which to ‘stop the clock’ in this circumstance. If a property meets the criteria outlined above, Council may apply to the Minister for Planning for interim controls, but cannot delay making a decision on the planning permit. Given the application for interim controls, the heritage significance of the place would be a factor for that decision.

### **Consultation**

There is no consultation required as a result of this report. However Council’s website would need to be updated.

Comprehensive consultation was undertaken during the preparation of the Heritage Gap Study in 2014. During the consultation for the draft Heritage Gap Study, property owners were mailed letters which included a detailed factsheet to explain the study.

During the consultation on the draft Heritage Gap Study the following messages were communicated to property owners:

- *One of the reasons that we are conducting this Stage 1 Study was so Council has a more strategic approach to conducting heritage studies (less ad hoc).*
- *The Heritage Gap Study would have no impact on property owners until a Stage 2 Study commenced for their property. At this stage they would be consulted again and given the opportunity to provide more information about their property before heritage controls were pursued.*
- *The study prioritises listings for future studies and anticipated timeframes (8+ years).*

Post adoption of the Heritage Gap Study, letters and fact sheets were sent to all submitters, reinforcing these messages.

Should Council vary significantly from the advice provided in the last 12 months, there is a risk that property owners may perceive Council not following previously published and verbal advice.

This could then lead to a lack of credibility for future heritage studies and future consultations.

Whilst Council advised residents that they would most likely not be affected until a future study was undertaken, it is reasonable to assume that, in special circumstances, interim controls may be required. This is why it is important to have a consistent process and criteria to ensure a clear message is being delivered to the community.

### **Implications**

#### **1. Legislative**

Demolition requests are considered in accordance with Section 29A and Section 29B of the Building Act 1993.

Requests for the Minister for Planning to approve interim controls are in accordance with Section 20(4) of the Planning and Environment Act 1987.

## **2. Council Plan / Policy**

The process for the consideration of heritage overlays implements Theme 3 of the Council Plan 2013-2017 – Sustainable Living: Clear direction for growth and development of the city.

The following strategies are most relevant:

Strategic Objective 1 – Ensure there is clear direction for growth and proactive management of development in the city.

Strategy 3 – identify gaps in heritage controls and implement new heritage overlays where warranted.

## **3. Financial**

In terms of resourcing there will be some impacts on both the Statutory and Strategic Planning Units, which may affect other project deliverables and priorities.

There will also be some financial implications as a result of this new process. Financial implications are summarised below:

- Additional work for the Heritage Advisor to assess demolition requests as outlined in the process. This may need to involve a review of the Heritage Advisor's contract.
- Cost of preparation of detailed citations and statement of significance where warranted – approximately \$2,000-\$5,000 per citation (depending on the scope)
- Statutory fee for requesting each interim control around \$2,200.
- Additional costs for requesting each permanent control and amendment process – could be between \$4,000 to \$15,000 (depending on scope, submissions and panel requirements).

The impact on the Strategic and Statutory Planning operational budget will be monitored and reported on through Council's financial reporting.

## **4. Environmental**

There are no significant environmental implications as a result of this report.

## **Conclusion**

It is important to have a clear process in place in order to ensure consistency in the assessment of demolition requests for places of potential heritage significance.

Council must however be selective and must exercise discretion when considering whether a place warrants interim heritage controls. It is not possible to save everything, and it is not reasonable to do so, particularly when considering the advice provided to property owners in 2014 when preparing the Heritage Gap Study.

Interim controls should only be sought in special circumstances. It is for this reason that a criteria has been developed, based on the advice of Heritage Victoria. This would provide a framework in which Council's Heritage Advisor reviews demolition requests.

**9.9                      Keilor Road/Matthews Avenue Junction Niddrie – Part Road Discontinuance to Facilitate Toilet Facility Refurbishment Project**

**File No:** FOL/15/157  
**Author:** Coordinator Property Services  
**Directorate:** Corporate Services  
**Ward:** Buckley

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**Purpose**

To consider a proposal to discontinue part of the road reserve at the Keilor Road/Matthews Avenue Junction, Niddrie. Refer location photo at **Appendix A**.

**Executive Summary**

- Council is upgrading the existing public toilet facility at the junction of Keilor Road and Matthews Avenue, Niddrie.
- To commence structural components of the proposed works, a building permit is required from a building surveyor.
- In order to obtain a building permit, a copy of certificate of title showing that Moonee Valley City Council is the proprietor of the subject land or alternatively the Government Gazette notification evidencing that the land has vested in Council must be provided to the building surveyor.
- The road remains in the original certificate of title Volume 11520 Folio 706. Council has the authority to discontinue the relevant section of road and vest the land in Council.
- Statutory procedures under sections 206 and 223 of the *Local Government Act* 1989 have been undertaken. Public notice was given in the local newspapers and no submissions were received.
- Service authorities were contacted and advised that they have no assets in the occupied land.

**Recommendation**

That Council:

1. Note that after having given notice pursuant to sections 223 and 206 and clause 3 of Schedule 10 to the *Local Government Act* 1989 of a proposal to discontinue a section of road reserve at the Keilor Road/Matthews Avenue Junction, contained in certificate of title Volume 11520 Folio 706 and shown as the shaded area of land on the allocation plan in **Appendix B**, no submissions were received.

2. Is of the opinion that the section of road is no longer required for public use and that it should be discontinued and the land retained for municipal purposes.
3. Publish a notice, pursuant to clause 3(a) of Schedule 10 to the *Local Government Act* 1989 in the Victorian Government Gazette.
4. Authorise the Chief Executive to execute the transfer (if required) and other associated documents.

### **Background**

Council is upgrading the existing public toilet facility at the junction of Keilor Road and Matthews Avenue, Niddrie. Refer location photo at **Appendix A**. The improvement works include:

- A new layout and complete refurbishment of the existing male and female toilets
- A new accessible toilet with baby change facilities
- New paved areas and minor landscaping
- New seating
- New rendered external walls
- Additional safety features including new external lighting, fencing alongside the car park and the removal of hiding spots.

This project is anticipated to be completed in two phases due to the lengthy process associated with the proposed road discontinuance process. Non-structural works not requiring a building permit will be commenced in June 2015 while all other works requiring a building permit will be commenced once the road discontinuance process is completed and a new certificate of title is issued from the Titles Office. The project is anticipated for completion by the end of the 2015 calendar year.

The land is contained in certificate of Title Volume 11520 Folio 706 and shown on LP20684 and is in the name of the original sub divider. Council therefore has the authority to discontinue the subject road reserve and retain it for municipal purposes. Refer survey plan at **Appendix B**.

### **Discussion**

The subject land (being road reserve) is currently utilized as a public toilet and is maintained by Council. The part road discontinuance will formalize Council's occupancy and use of the land and enable the building surveyor to issue a building permit to facilitate the toilet block upgrade.

### **Consultation**

All the relevant service authorities have been advised of the proposal and have confirmed that there are no objections. The proposal is fully supported internally and is an approved capital works project.

Public advertisements were placed in the Moonee Valley Leader on 31 March and Moonee Valley Weekly on 1 April 2015 and notices forwarded to the affected property

owners. The submission period closed on 30 April 2015 and no written submissions were received.

## **Implications**

### **1. Legislative**

Council has acted under sections 206 and 223 of the *Local Government Act* 1989 regarding the proposed road discontinuance. All relevant statutory procedures have been fully complied with Council Plan / Policy

The application has been processed in accordance with Council's Road Discontinuance and Sale of Land Policy (2014) and the Local Government Best Practice Guideline for the Sale and Exchange of Land.

### **2. Financial**

All costs for the necessary land survey work and plans will be met by Council's Major Projects Unit.

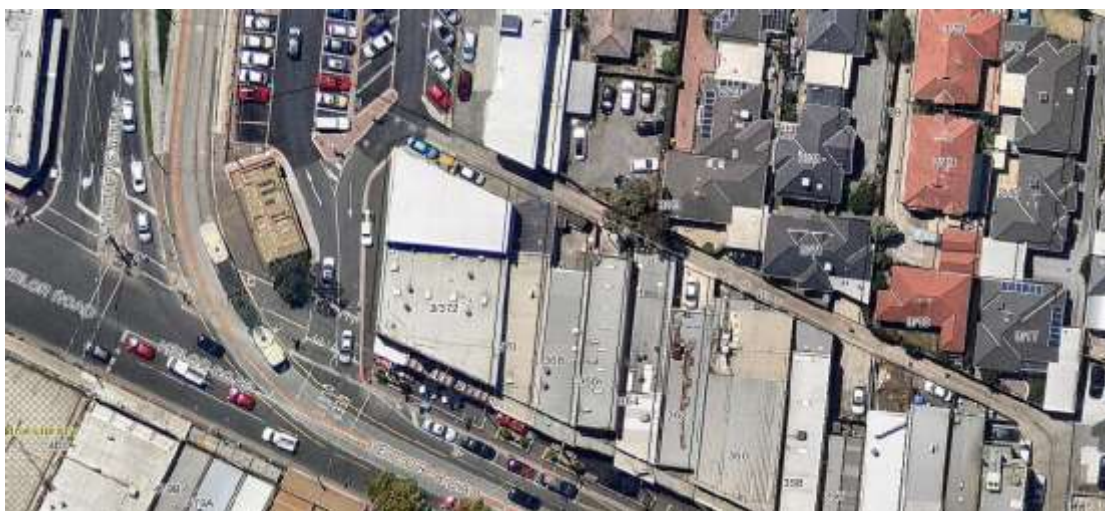
### **3. Environmental**

There are no environmental implications.

## **Conclusion**

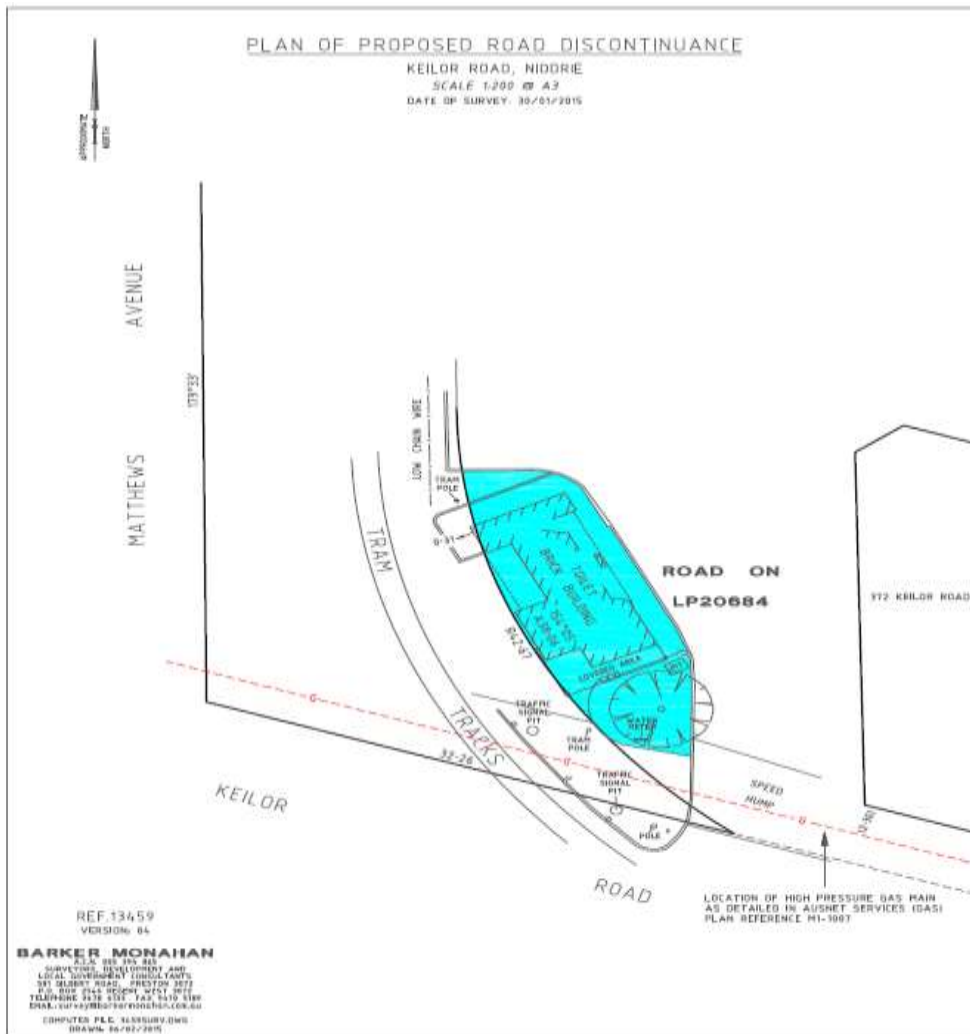
Since it has been established that the section of road is no longer required for public use and it is to be utilised as a public toilet, it is considered appropriate to formally discontinue the section of road reserve and retain the land contained within the road for municipal purposes.

## APPENDIX A



Location Photo: Keilor Road/Matthews Avenue Junction Niddrie

## APPENDIX B



Allocation plan showing occupied area of road reserve shaded blue

**9.10 Proposed Sale of Land Abutting 1 & 3 Normanby Street and  
142 Maribyrnong Road, Moonee Ponds**

**File No:** FOL/15/283  
**Author:** Coordinator Property Services  
**Directorate:** Corporate Services  
**Ward:** Myrnong

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**Purpose**

To consider a proposal to sell the former road ('the subject land') to the abutting property owners at 1 & 3 Normanby Street, Moonee Ponds.

**Executive Summary**

- Council's Property Services Unit commenced investigations into this land status and access issue following receipt of town planning permit application MV/28/2013 lodged by the owner of 142 Maribyrnong Road for use and development of the land as a medical centre, reduction to the car parking requirement and display of internally illuminated business identification signage.
- The subject land abutting 1 & 3 Normanby Street and 142 Maribyrnong Road Moonee Ponds was formally discontinued as a road in 1977 and the land vested in Council. Refer location photo provided at **Appendix A**. No further action was taken at that time to sell the discontinued road to any of abutting property owners.
- In April 2014, Council obtained title to the subject land which is described as Lot 1 on TP918312A contained on Certificate of Title Volume 11492 Folio 713.
- There is evidence that the subject land has continued to be used for vehicle access by abutting property owners since the road was discontinued in 1977.
- Council at its meeting on 25 November 2014, considered a report and options concerning the subject land. These options were:
  - Offer the land for sale to the owners of 1 & 3 Normanby Street, Moonee Ponds.
  - Declare the subject land a 'public highway'.
  - Install a bollard at the Normanby Street entrance restricting vehicle access over the subject land.
- Subsequently, Council resolved to commence statutory procedures under section 189 of the *Local Government Act* 1989 ('the Act') to sell the land by private treaty.
- The proposal was advertised in local newspapers on 2 February 2015. The section 223 submission period closed on 4 March 2015.

- Two written submissions were received. The submission from Mr Anthony Hughes owner of 1 Normanby Street supported the sale of land proposal. A submission received from Dr Hanan Al-Ali, owner 142 Maribyrnong Road, Moonee Ponds objected to the proposal and requested to be heard in support of her written submission.
- A special committee of Council was convened on 15 April 2015 to receive submissions and hear a submission from Dr Hanan Al-Ali.
- Dr Hanan Al-Ali advised that previous owners of the property have enjoyed vehicle access over the Discontinued Road for several decades and that she also requires continued vehicle access to the rear of her property. Therefore, she seeks that the subject land not be sold and that it remain open for vehicle access.
- The special committee of Council recommended as follows:
  1. “Receive and note the report and written submissions to the proposed sale of Council land abutting 1 & 3 Normanby Street and 142 Maribyrnong Road, Moonee Ponds.
  2. Receive and thank Dr Hanan Al-Ali owner of 142 Maribyrnong Road, Moonee Ponds for her verbal submission.
  3. Request a report be presented to Council on 26 May 2015 to further consider the proposal.”

### **Recommendation**

That Council:

1. After having given notice of its intention to sell the land described as Lot 1 on TP918312A and contained on Certificate of Title Volume 11492 Folio 713 and provided at **Appendix B**, in accordance with sections 189 and 223 of the *Local Government Act* 1989 and having received two written submissions to the proposal and heard a verbal submission from the owner of 142 Maribyrnong Road, Moonee Ponds, is of the opinion that the subject land is still required for public use and therefore, the proposal to sell the subject land be abandoned.
2. Undertake the necessary procedures pursuant to section 35(8) of the *Subdivision Act* 1988 to certify and register the Council land as a ‘road’ for the continued use and benefit of abutting property owners.

### **Background**

Council’s Property Services Unit commenced investigations into the land status and access issue following receipt of town planning permit application MV/28/2013 lodged by the owner of 142 Maribyrnong Road for use and development of the land as a medical centre, reduction to the car parking requirement and display of internally illuminated business identification signage.

The former road abutting 1 & 3 Normanby Street and 142 Maribyrnong Road, Moonee Ponds was discontinued on 23 November 1977 pursuant to section 528(2) of the *Local Government Act* 1958 (‘the former Act’) and the land subsequently vested in Council.

In April 2014, Council obtained title to the subject land which is provided at **Appendix B**.

A search of Council records reveals that following discussions with affected property owners sometime after the road discontinuance in 1977, it was agreed that the subject land remain open for public access until such time it could be established that it was no longer required for public use.

An investigation of the subject land found that it:

- is not constructed
- is not recorded as a public road in Council's road register
- has not been maintained by Council as a road since its discontinuance
- appears to have continued to have been used as a road by adjacent property owners.

Council at its meeting on 25 November 2014, considered a report with three options dealing with the subject land. These were:

<b>Option 1</b>	Offer the land for sale to the owners of 1 & 3 Normanby Street, Moonee Ponds.
<b>Option 2</b>	Declare the subject land a 'public highway'.
<b>Option 3</b>	Install a bollard at the Normanby Street entrance restricting vehicle access over the subject land.

Whilst all three options are problematic, Council favoured Option 1 since the original intention of Council in 1977 was to dispose of the subject land following its discontinuance. Subsequently, Council resolved to commence statutory procedures under section 189 of the *Local Government Act* 1989 to sell the land by private treaty.

The proposal was advertised in local newspapers on 2 February 2015. The submission period closed on 4 March 2015.

Two written submissions were received on the proposal. A submission from Mr Anthony Hughes owner of 1 Normanby Street supported the sale of land proposal and he expressed interest in purchasing all or part of the land. A copy of the submission is provided at **Appendix C**.

Dr Hanan Al-Ali, owner 142 Maribyrnong Road, Moonee Ponds objected to the proposal and requested to be heard in support of her written submission. A copy of the submission is provided at **Appendix D**.

A special committee of Council was convened on 15 April 2015 to hear Dr Hanan Al-Ali's submission.

Dr Hanan Al-Ali advised that previous owners of her property have enjoyed vehicle access over the Discontinued Road for several decades and that she requires continued vehicle access to the rear of her property.

The special committee of Council recommended as follows:

1. “Receive and note the report and written submissions to the proposed sale of Council land abutting 1 & 3 Normanby Street and 142 Maribyrnong Road, Moonee Ponds.
2. Receive and thank Dr Hanan A-Ali owner of 142 Maribyrnong Road, Moonee Ponds for her verbal submission.
3. Request a report be presented to Council on 26 May 2015 to further consider the proposal”.

### **Discussion**

The principal consideration regarding this proposal is whether or not Council is fully satisfied that the subject land is now reasonably required for public use, irrespective of the fact that the road was formally discontinued in 1977. If the Council is of the view that the subject land is still required for public use by adjacent properties, particularly 142 Maribyrnong Road, then it ought to consider abandoning the current proposal to sell the land to the owners of 1 & 3 Normanby Street, Moonee Ponds.

In her written and verbal submission to Council, Dr Hanan Al-Ali contended that previous owners of the property at 142 Maribyrnong Road have enjoyed vehicle access over the Discontinued Road for several decades and that she has also enjoyed vehicle access to the rear of her property since she acquired the property in September 2012.

Dr Hanan claims she has acquired a carriageway easement by prescription and long use over the Discontinued Road given that she and previous owners have exercised such use as of right for 20 years or more and the use:

- Has been exercised without lawful right;
- Has been exercised with the actual or constructive knowledge of Council in circumstances where Council had the power to prevent the use and abstained from doing so;
- Is continually exercised without force, secrecy or licence; and
- Is exercised by one freehold owner against another.

If Council is to continue with the sale of land proposal, its decision may be subject to legal challenge in light of the above claim.

Given that there is evidence that the subject land is still reasonably required for public use then it is now proposed that the following options be considered.

#### Option 1

Commence statutory procedures to declare the subject land a ‘public highway’ pursuant to sections 204 and 223 of the Act.

#### Option 2

Council make a town planning permit application under the relevant provisions of the *Planning and Environment Act 1987* to create a carriageway easement over the subject land in favour of one or more of the abutting property owners.

#### Option 3

Council undertake procedures pursuant to section 35(8) of the *Subdivision Act* 1988 certifying and lodging a plan for registration for the purpose of setting out the subject land as road. This plan would not require a planning permit as it is exempt to clause 62.04 of the Planning Scheme.

Given the historical circumstances surrounding the subject land, it is proposed that Council resolve to abandon the sale of land proposal and consider one of the above three options. Given that the subject land has continued to be used as a road, then the most expedient option for Council is to pursue Option 3.

A chronology summarising historic and recent events concerning the subject land is provided at **Appendix E**.

### **Consultation**

Public consultation was undertaken pursuant to section 189 and 223 of the Act. Internal and external consultation was also undertaken.

### **Implications**

#### **1. Legislative**

The sale of Council land is governed by section 189 of the Act.

The declaration of a public highway can be undertaken pursuant to sections 204 and 223 of the Act. Council can then record the public highway declaration over its land in Council's Register of Public Roads and Rights of Way in accordance with section 17(3) of the *Road Management Act* 2004.

The creation of a carriageway easement is subject to the relevant provisions of the *Planning and Environment Act* 1987.

Certifying and registering a plan establishing the subject land a 'road' can be undertaken pursuant to section 35(8) of the *Subdivision Act* 1988. A plan of subdivision would not require a planning permit as it is exempt under clause 62.04 of the Planning Scheme.

Section 20 of the Charter of Human Rights provides that a person must not be deprived of his or her property other than in accordance with the law. The restriction of vehicle access to the rear of 142 Maribyrnong Road over the subject land given the history and particular circumstances in this matter could be seen as a contravention of the Charter.

#### **2. Council Plan / Policy**

The sale of land proposal has been considered and administered in accordance with Council's Road Discontinuance and Sale of Land Policy (2014) and Local Government Best Practice Guideline for the Sale, Exchange and Transfer of Land 2009.

#### **3. Financial**

There are no financial implications.

#### **4. Environmental**

There are no environmental implications.

## **Conclusion**

Given the submission from the owner of 142 Maribyrnong Road, Moonee Ponds there appears to be substantial evidence that the subject land is still reasonably required for public use. Therefore, it would be prudent for Council to abandon the sale of land process and instigate the necessary procedures enabling the land to be formally used as a road.


## APPENDIX A



Location photo showing subject land outlined in yellow

## APPENDIX B



CERTIFICATE OF TITLE - VICTORIA



**Volume 11492 Folio 713**  
124050558034T      Page 1 / 1  
Produced 16/05/2014      14:40 hr

**Under the Transfer of Land Act 1958**  
I certify that the registered proprietor is the proprietor of the estate and interest in the land subject to the encumbrances, caveats and notices described

  
**REGISTRAR OF TITLES**

**LAND DESCRIPTION**

Lot 1 on Title Plan 918312A (formerly known as part of Crown Allotment D Section 6 Parish of Doutta Galla).  
PARENT TITLE Volume 01733 Folio 461  
Created by instrument AL002357E 03/04/2014

**REGISTERED PROPRIETOR**

Estate Fee Simple  
Sole Proprietor  
MOONEE VALLEY CITY COUNCIL of 9 KELLAWAY AVENUE MOONEE PONDS VIC 3039  
AL002357E 03/04/2014


**ENCUMBRANCES, CAVEATS AND NOTICES**

Any encumbrances created by Section 98 Transfer of Land Act 1958 or Section 24 Subdivision Act 1988 and any other encumbrances shown or entered on the plan set out under DIAGRAM LOCATION below.


**DIAGRAM LOCATION**

SEE TP918312A FOR FURTHER DETAILS AND BOUNDARIES

**END OF CERTIFICATE**



THIS CERTIFICATE CONTAINS INFORMATION CORRECT AT THE TIME OF PRINTING.  
CURRENT INFORMATION SHOULD BE OBTAINED BY A SEARCH OF THE REGISTER.



<b>TITLE PLAN</b>		<b>EDITION 2</b>		<b>TP 918312A</b>							
<b>LOCATION OF LAND</b> Parish: DOUTTA GALLA Township: - Section: 8 Crown Allotment: D (PT) Crown Portion: -  Last Plan Reference: - Derived From: VOL. 1733 FOL. 481 Depth Limitation: NIL			Notations   ANY REFERENCE TO MAP IN THE TEXT MEANS THE DIAGRAM SHOWN ON THIS TITLE PLAN								
<b>EASEMENT INFORMATION</b> E - ENCUMBERING EASEMENT R - ENCUMBERING EASEMENT (R/O) A - APPURTENANT EASEMENT					THIS PLAN HAS BEEN PREPARED BY LAND REGISTRY, LAND VICTORIA FOR TITLE DIAGRAM PURPOSES						
<b>Easement Reference</b>	<b>Purpose / Authority</b>	<b>Width (Metres)</b>	<b>Origin</b>	<b>Land benefited / In favour of</b>	COMPILED: Date: 26/09/2008 VERIFIED: A. DALLAS Assistant Registrar of Titles						
ALL LAND	DRAINAGE & SEWERAGE	SEE DIAG.	AS PROVIDED FOR IN Sec. 52B (2)(e) LGA	M.H.B.W.							
<table border="1"> <tr> <th colspan="2">TABLE OF PARCEL IDENTIFIERS</th> </tr> <tr> <td colspan="2">WARNING: Where multiple parcels are referred to or shown on this Title Plan, this does not imply separately disposable parcels under Section 8A of the Sale of Land Act 1962.</td> </tr> <tr> <td colspan="2">LOT 1 = C. A. D (PT)</td> </tr> </table>						TABLE OF PARCEL IDENTIFIERS		WARNING: Where multiple parcels are referred to or shown on this Title Plan, this does not imply separately disposable parcels under Section 8A of the Sale of Land Act 1962.		LOT 1 = C. A. D (PT)	
TABLE OF PARCEL IDENTIFIERS											
WARNING: Where multiple parcels are referred to or shown on this Title Plan, this does not imply separately disposable parcels under Section 8A of the Sale of Land Act 1962.											
LOT 1 = C. A. D (PT)											
LENGTHS ARE IN METRES Metres = 0.3048 x Feet Metres = 0.201168 x Links		DEALING / FILE No: LGD 2283		Sheet 1 of 1 Sheets							

## APPENDIX C

### Submission from the owner of 1 Normanby Street, Moonee Ponds

Mr Neville Smith  
Chief Executive  
Moonee Valley City Council  
PO Box 126  
MOONEE PONDS, Vic, 3039

Dear Neville,

Please accept this letter as an expression of interest in the purchase of the land contained in certificate of title volume 11492 Folio 713 abutting numbers 1 & 3 Normanby St Moonee Ponds.

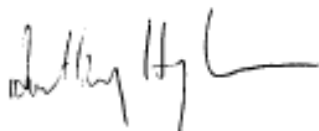
Further to the expression of interest above I would like to add that I, as the current owner of 1 Normanby St Moonee Ponds have performed the following, at my own expense, since purchasing the property in 2008:

- Regular maintenance of the laneway including weed and pest control.
- Contracted construction and maintained the boundary fence between 1 Normanby St and the laneway at my own cost.
- Levelling & distribution of crushed rock as topping to the surface to ensure vehicle and pedestrian safety.
- Ensured regular surveillance of the laneway to determine security of the abutting properties.

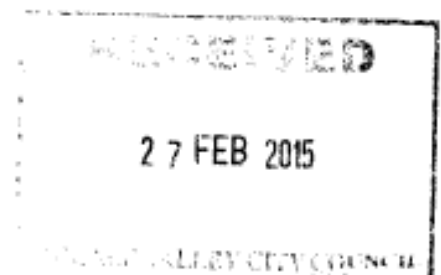
I ask that the above points be considered when determining the council decision regarding the sale of the land abutting 1 & 3 Normanby St Moonee Ponds.

Any questions or queries, please feel free to contact me.

Kind Regards,



Anthony Hughes  
1 Normanby St  
Moonee Ponds, Vic  
3039  
Ph: 0412437399



## APPENDIX D

### Letter from the owner of 142 Maribyrnong Road, Moonee Ponds

28<sup>th</sup> Feb 2015

Re: Council letter regarding the sale of former Road Abutting 1 & 3 Normanby Street, Moonee Ponds

Dear Mr Smith,

I'm making a submission under section 223 of the Act regarding council decision to sell the land (former road) abutting 1 and 3 Normanby st Moonee Ponds to the adjacent properties and excluding my property (142 Maribyrnong Rd Moonee Ponds) from the sell in spite of knowing that this property has been continuously using this road as ROW since 1977 as per documents from the Land Registry LCD 2283, Ref 76/3799.

I wish this matter to be announced to the public to judge instead of making unfair decision discarding my lawful rights.

I have sent the Council several emails requesting a meeting to show my evidences of using the mentioned land for over 30 years by myself and the previous owner who lived there for 30 years without force and with awareness from the council. Also word evidences from local residents who lived in the area and know about the use. Some of the residents lived for more than 60 years and aware of the use of this lane way by property owner 142 Maribyrnong Rd and all are ready to witness and say their statement in person.

We also have Arial photos for the last 30 years to the property which is showing clearly the use of the Lane way by property 142 Maribyrnong Rd and can get photos even earlier than that.

The Council with its Agenda 25<sup>th</sup> November 2014 stated: *"depending on the future use of and activities at 142 Maribyrnong Rd, there may be a resultant increase in vehicular traffic which may significantly affect the amenity of property 3 Normanby street because the south wall of the house and window directly abut the subject land."*

By stating that they are ignoring the VCAT member's recommendation in VCAT order (Ref: P2256/2013 Paragraph 36): *"Although I have determined the current (amended) application unfavorably, there are conceivably a number of potential avenues by which lawful access can be gained to the car parking area at the rear of the site, so long as the access way is retained (Rather than being consolidated into*

*adjoining titles and separately fenced). If this opportunity were to eventuate, I would have been inclined to look favorably at permitting the use with the reduced number of onsite parking spaces. Subject to the due process, I would encourage the council to investigate the options for permitting such access for use that serves community needs."*

Prior to 1st July 2014, a permit was required for the use and development of the land for a medical Centre pursuant to the provisions of the Residential 1 zone. However, in the table under clause 32.08-1 of the General Residential Zone after July 2014, a permit is not required for the use of the land for a medical Centre in a residential zone provided the three conditions are met. This means that there is no amenity impact of a medical Centre on a residential area.

The Council's legal advice suggested "the owner of 142 Maribyrnong road ('the Owner') will only have acquired a carriageway easement by prescription and long user over the discontinued road if that owner has exercised such a use as the right for 20 years or more and the use

- has been exercised without lawful right,
- has been exercised with the actual or constructive knowledge of the council in circumstances where council had the power to prevent the use and abstained from doing so,
- is continually exercised without force, secrecy or license.
- is exercised by one freehold owner against another freehold owner.

All the above criteria applies to the owner of 142 Maribyrnong and not the owners of 1 or 3 Normanby Street as parking their vehicles in the lane way will obstruct entrance to the 142 Maribyrnong property and would have been reported. No records show any reports of such incidence. So the use was exclusively exercised by the owner of 142 Maribyrnong Road and the council is aware of that. This was the reason why the sale didn't proceed in 1977 and nothing has changed since then.

Council minute meeting on Tuesday the 22nd of July 2014, the chief executive advised "that under council's current policy (currently being reviewed) if the council agreed to the sale the owner would be required to pay what is determined to be the market value for the land in question based on its highest and best use. The current policy has similar provision to Moreland and Bayside council's policy in that council recognizes existing occupation of a road or road reserve and that first preference to sell the land will be given to those property owners:

- In physical occupation of the land.
- Who have occupied the land for more than 15 years or longer.
- Who have maintained the land in a neat and orderly condition, and
- Where there has been no history or opposition by adjoining neighbors to the occupation of the land.

The local government Best Practice Guideline for the Sale, Exchange and Transfer of Land requires as a matter of principle, for a Council to dispose of public land at its

*highest and best use and wherever possible, achieve highest sale price".*

The Council decision to sell the mentioned land to 1 and 3 Normanby St contradict the above statement.

I request this matter to be heard ASAP as the Council cannot circumvent my access rights for the ROW for use which serves community needs and allow this to proceed to the court which will cost rate payers thousands of dollars.

Thank you

Regards



Dr Hanan AL-ALI  
142 Maribyrnong Rd,  
Moonee Ponds 3039  
M:0404835322

## APPENDIX E

### CHRONOLOGY OF EVENTS

Date	Details
15 October 1971	Application received from owner of 3 Normanby Street, Moonee Ponds complaining about amenity issues in the right of way and seeking to purchase the subject land.
4 November 1971	Council advises applicant that the right of way would be listed for closure, however if any objections are received, the right of way will be constructed and become a public highway under the care and management of Council.
25 June 1976	Matter referred to the Department of Local Government advising that Council has resolved to discontinue the road and sell the land to abutting property owners. Requested that the Governor- in - Council make appropriate orders to affect the discontinuance.
23 November 1977	<ul style="list-style-type: none"> <li>• Notice published in Victorian Government Gazette discontinuing the road between 1 &amp; 3 Normanby Street, Moonee Ponds.</li> <li>• Land vested in Council.</li> </ul>
Sometime following discontinuance	Following discussions with abutting property owners it was agreed that the subject land remain open for public access.
26 September 2012	Hanan Hameed Hussain Al-Ali registered proprietor of 142 Maribyrnong Road Moonee Ponds.
	Home Occupation (medical clinic) commenced operation
22 May 2013	Town planning permit application MV28/2013 lodged for use and development of the land at 142 Maribyrnong Road as a medical centre (single practitioner), reduction to car parking requirement and display of illuminated business signage.
July 2013	Property Services Unit commenced investigations as to status of subject land and advised Statutory Planning.
30 September 2013	Application refused by Council.
December 2013	Property Services made application to Land Victoria to obtain title to the subject land.
20 March 2014	Decision appealed by applicant. VCAT hearing took place.
3 April 2014	Council obtained title (Certificate of Title Volume 11492 Folio 713)
19 May 2014	Order issued by VCAT which upheld Council's refusal to grant a permit.
13 August 2014	Final refusal to grant a permit issued by Council.
September 2014	Property Services Unit commenced investigated regarding future options for the subject land.

25 November 2014	Council considered a report on three options dealing with the subject land and resolved to commence statutory procedures pursuant to section 189 of the <i>Local Government Act</i> 1989 to sell the land to the owners of 1 & 3 Normanby Street, Moonee Ponds.
4 February 2015	Statutory process commenced and public notices appeared on local newspapers.
4 March 2015	Section 223 submission period ends.
	Council receives two submissions. One submitter requests to be heard in support of her written submission. Refer Appendices C and D.
15 April 2015	Special Committee of Council convened to hear s223 submission from Dr Hanan Al-Ali.
26 May 2015	Report presented to Council meeting.

**9.11                      5 Bank Street, Ascot Vale - Proposed Part Road Discontinuance**

**File No:** PR 1106  
**Author:** Coordinator Property Services  
**Directorate:** Corporate Services  
**Ward:** Myrnong

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**Purpose**

To consider a proposal to discontinue a small portion of unused road adjacent 5 Bank Street, Ascot Vale. Refer location photo at **Appendix A**.

**Executive Summary**

- Council received an application from the owners of 5 Bank Street, Ascot Vale to discontinue the unused right of way/road ('the road') and acquire a parcel of land abutting their property.
- The portion of road 4.4m<sup>2</sup> (1.2m x 3.66m) adjacent to their garage has been enclosed for up to 20 years and is no longer required for public use.
- The road is situated in a Residential 1 zone and there are no rezoning issues associated with this proposal.
- The applicant is requesting to purchase the portion of occupied road and formalise the occupation.
- The owners of 7 Bank Street, Ascot Vale, who abut the road have indicated that they have no interest in the land and have no objections to the proposed discontinuance and sale.
- The road remains in the original certificate of title Volume 4578 Folio 446. Council has the authority to discontinue the road and sell the land by private treaty.
- Statutory procedures under sections 206 and 223 of the *Local Government Act* 1989 have been undertaken. Public notice was given in the local newspapers and no submissions were received.
- Service authorities were contacted and have advised they have no assets in the occupied land.

**Recommendation**

That Council:

1. Note that after having given notice pursuant to sections 223 and 206 and clause 3 of Schedule 10 to the *Local Government Act* 1989 of a proposal to discontinue a 4.4m<sup>2</sup> section of road abutting 5 Bank Street, Ascot Vale, contained in certificate

of title Volume 4578 Folio 446 and shown as Lot 1 on the land allocation plan in **Appendix E**, no submissions were received.

2. Is of the opinion that the 4.4m<sup>2</sup> section of road is no longer required for public use and that it should be discontinued and the land sold by private treaty to the owners 5 Bank Street, Ascot Vale.
3. Publish a notice, pursuant to clause 3(a) of Schedule 10 to the *Local Government Act* 1989 in the Victorian Government Gazette.
4. Authorise the Chief Executive to execute the transfer and other associated documents.

### **Background**

An application has been received from the owners of 5 Bank Street, Ascot Vale seeking to formalise the occupation of 4.4m<sup>2</sup> (1.2m x 3.66m) of road adjacent to their garage. Refer **Appendices B and C**.

The applicant is requesting to purchase the portion of occupied road in order to belatedly comply with the conditions outlined by Council's building department to issue a permit for the garage. Refer letter at **Appendix D**.

The land is contained in Certificate of Title Volume 4578 Folio 446 and is in the name of the original subdivider of the land. Council therefore, has the authority to discontinue the road and sell the land by private treaty.

### **Discussion**

The subject road is situated in a Residential 1 zone and there are no rezoning issues associated with this proposal.

Council investigations reveal that the road is physically enclosed and incorporated into the garage of 5 Bank Street.

A proposed land allocation plan is shown at **Appendix E**.

### **Consultation**

Service authorities advise that they have no assets in the land and don't require an easement.

Public advertisements were placed in the Moonee Valley Leader on 31 March and Moonee Valley Weekly on 1 April 2015 and notices forwarded to the affected property owners. The submission period closed on 30 April 2015 and no written submissions were received.

A letter was sent to the owners of 7 Bank Street, Ascot Vale advising of the proposal and have advised Council that they have no issue with the proposal.

### **Implications**

#### **1. Legislative**

Council has acted under sections 206 and 223 of the *Local Government Act* 1989 regarding the proposed road discontinuance. All relevant statutory procedures have been fully complied with.

**2. Council Plan / Policy**

The application has been processed in accordance with Council's Road Discontinuance and Sale of Land Policy (2014) and the Local Government Best Practice Guideline for the Sale and Exchange of Land.

**3. Financial**

The subject land has been valued at \$2,000 plus GST and the applicant has agreed to pay the land sale price and associated transfer and administrative costs.

**4. Environmental**

There are no environmental implications.

**Conclusion**

Since it has been established that the section of road is no longer required for public use and the abutting owner has agreed to purchase the land, it is considered appropriate to formally discontinue the portion of road and sell the land contained within the road to the abutting owner by private treaty.

## APPENDIX A



Location Photo: 5 Bank Street, Ascot Vale

## APPENDIX B



Plan showing occupied area of road


## APPENDIX C



Sketch plan showing roller door 1.2m outside title boundary

## APPENDIX D

ATTACHMENT C

  
**Moonee Valley**

20th August, 1997

Mr & Mrs Taylor  
5 Bank Street  
ASCOT VALE VIC 3032

Dear Sir/Madam,

**Re:** Proposed Garage/Studio.  
Our Ref: Building Permit No. 29540/96/AD  
At: 5 Bank Street, Ascot Vale.  
For: Mr & Mrs Taylor.

Moonee Valley City Council  
Civic Centre Cnr Pascoe Vale Rd  
& Kellaville Avenue  
PO Box 126 Moonee Ponds  
Victoria Australia 3039  
Telephone 61 + 03 9243 8888  
Facsimile 61 + 03 9375 4593

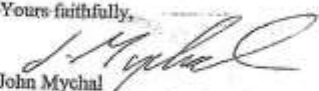
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Final inspection performed: 19/8/97  
Inspection Result: Not Approved  
Direction No. 1 issued under the provisions of Clause 37 - Building Act 1993

**DETAILS OF THIS DIRECTION:**  
Following an inspection of the above noted building, I have identified several items requiring completion/further clarification and these are described as follows:

1. Paint/effectively seal plasterboard wall/ceiling linings to ground floor Laundry & first floor en-suite.
2. Cover exposed areas of particle board sheet flooring to en-suite (including junctions with vertical wall surfaces) with suitable impervious floor covering.
3. The roller door located at the rear of your property has been erected in the laneway and is outside the property boundaries. As discussed on site with Ms. E. Taylor, you are to approach Council and obtain written consent for the roller door installation.

Please call for a re-inspection as soon as possible once the above works have been satisfactorily completed/attended to.

Yours faithfully,  
  
John Mychal  
Building Inspector - Registration No. IN-1139

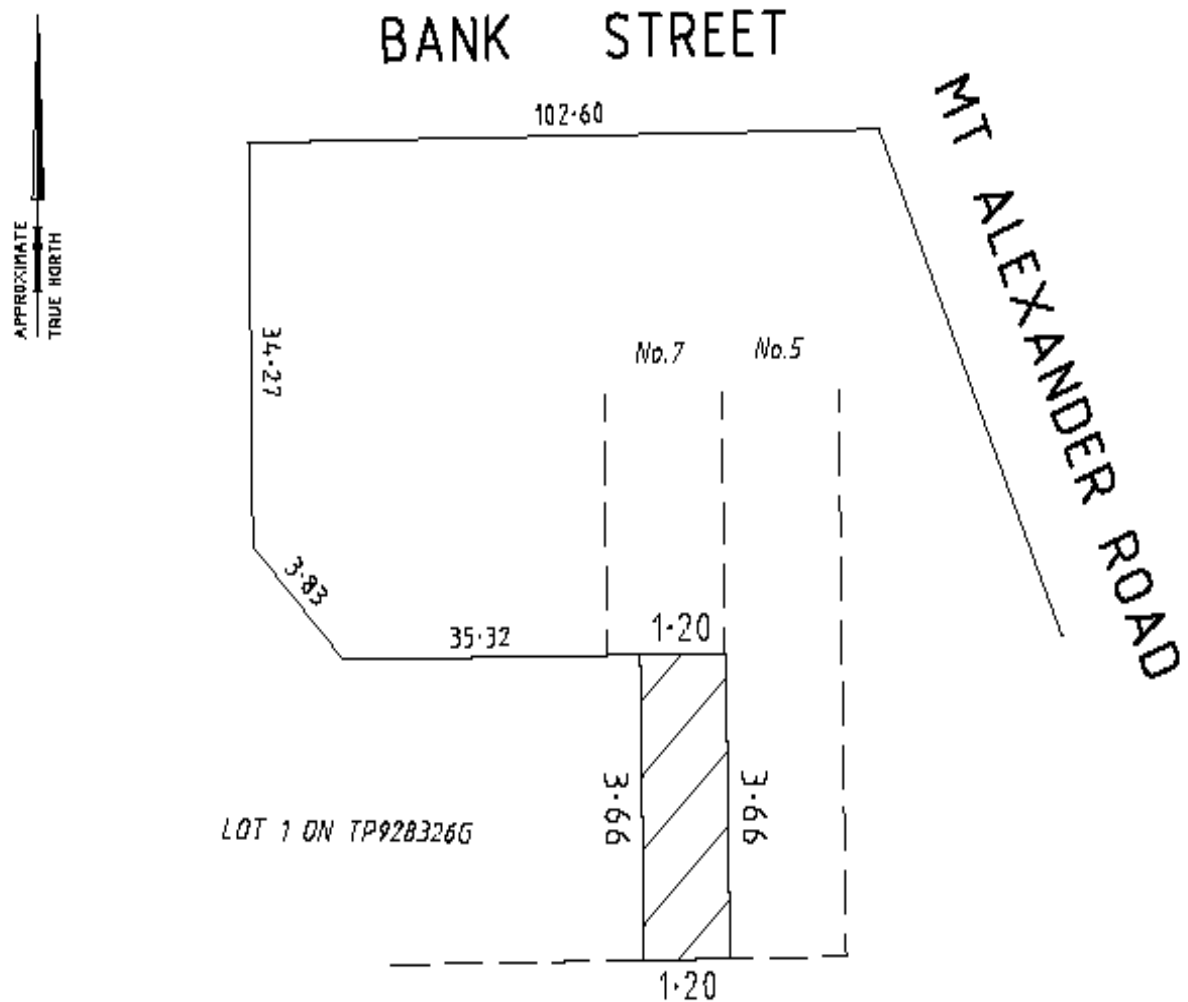
Page 1 of 1

Johns: 0412131509

Directions letter dated 20 August 1997

## APPENDIX E

### Allocation Plan



## 9.12 Corporate Sponsorship Policy

**File No:** FOL/10/1365  
**Author:** Coordinator Community Partnerships & Sponsorship  
**Directorate:** Environment & Lifestyle  
**Ward:** Municipal

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### Purpose

The purpose of this report is to provide Councillors with the Corporate Sponsorship Policy (**Appendix A** - separately circulated) for adoption and approval.

### Executive Summary

- The Moonee Valley City Council's Corporate Sponsorship Policy has been developed to regulate the acceptance of appropriate sponsorships.
- In a world of reducing Federal, State, and Local Government funding it is important that Council seeks alternative revenue generating avenues.
- The Policy applies to all incoming sponsorships received by Council and the responsibilities of all parties involved in the Sponsorship Arrangement.
- It is accompanied by an Internal Guidelines document (**Appendix B** – separately circulated).

### Recommendation

That Council adopts the Corporate Sponsorship Policy.

### Background

Prior to the appointment of a full time Community Partnerships & Sponsorship Coordinator in 2010 sponsorship revenue was procured by various Council departments on an ad hoc basis. There wasn't a central coordination of sponsorship and the total value (cash and In kind) of Sponsorship was not reported on an annual basis.

Since 2010 there has been central coordination of sponsorship and long term partnerships have been maintained and created. Sponsorship revenue has increased considerably from \$200,000 in 2009/10 to an average in excess of \$400,000 each year.

With the success of the Community Partnerships role Council has decided to develop a formal Sponsorship Policy to give clarity and further structure to this role.

The Sponsorship Policy details:

- The purpose of the Policy
- The scope of the Policy
- Responsibility
- Ethics framework
- Conflict of interest and personal benefits
- Attracting sponsors
- The acceptance of sponsors and financial delegation levels for approval
- Register of sponsors

### **Discussion**

In a time of declining Federal, State, and Local Government funding the need to leverage community partnership opportunities has become increasingly vital.

As corporate sponsorships have become regular components of Council events and programs the need for a formal Corporate Sponsorship Policy has increased. It is also in keeping with Council's pursuit of Excellence in Governance.

The role of Community Partnerships and Sponsorship Coordinator also acts as a conduit between business and Council.

Enquiries with other Councils such as City of Melbourne, Melton and Hume had informed us that they had Internal Sponsorship Guidelines but not a formal Sponsorship Policy that had been endorsed by Council. The City of Sydney had a Sponsorship Policy which we have used as a guide, however we believe Moonee Valley will be leading the way with this Policy.

### **Consultation**

Consultation has taken place across various departments within the organisation and support for the Policy has been achieved. Council also engaged the services of Macquarie Lawyers to assist in the development of the Corporate Sponsorship Policy.

### **Implications**

#### **1. Legislative**

The adoption of a Corporate Sponsorship Policy by Council is not a Legislative requirement, it is however considered good practice and a commitment to forming important community partnerships and the quality delivery of community events and programs.

The impact of future legislative Rate Capping makes the implementation of the Corporate Sponsorship Policy more important and will place Council in a strong position moving forward.

**2. Council Plan / Policy**

The Corporate Sponsorship Policy aligns with Theme 5, Excellence in Governance and Theme 1, Friendly and Safe, Strategic Objective 5.2: Strengthen partnerships with private, government, and not for profit providers of services.

**3. Financial**

No direct impact on Council's operational budget will result from the delivery of the Corporate Sponsorship Policy however, specific programs, projects, and campaigns will require additional funding through the capital and new initiative process as required.

The introduction of the Corporate Sponsorship Policy will have a positive impact on the financial position of Council.

**4. Environmental**

The Corporate Sponsorship Policy will be mindful and respectful of Council's City Sustainability Policy. The delivery of the Corporate Sponsorship Policy will support and contribute to Council's environmental objectives.

**Conclusion**

The Corporate Sponsorship Policy is an important document in driving community partnerships and increasing revenue streams for the better delivery of Council's services contributing to its long term sustainability.

## 9.13                      Footpath Trading Policy

**File No:** FOL/14/709  
**Author:** Coordinator Economic Development  
**Directorate:** Corporate Services  
**Ward:** Municipal

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### Purpose

To seek adoption by Council for the Footpath Trading Policy (**Appendix A** – separately circulated).

### Executive Summary

- The Footpath Trading Policy (“the Policy”) has been developed in order to ensure an equitable and coordinated approach to footpath trading in Moonee Valley, recognising its value and importance to the development of a successful and vibrant business community. A copy of the Policy is provided as (**Appendix A** – separately circulated).
- Once adopted the policy will be rolled out at the start of the new financial year. It is proposed that a six month grace period will be offered for businesses to comply with the new policy.
- In response to the consultation the 1.8 m width will only apply in major pedestrian arterials; Puckle Street and Mt Alexander Road in Moonee Ponds, Union Road Ascot Vale, Racecourse Road Flemington and Keilor Road Niddrie which is no change from the current Policy. All other areas the minimum pedestrian zone will be 1.2m.
- Businesses without permits supported the removal of goods however businesses with permits felt that this policy position would have a negative impact on their business.
- The wording of the policy has been altered to provide for ‘officer discretion’ when considering display of goods permit requests to ensure equitable outcomes.
- The proposal to change the fee structure for outdoor dining areas and remove the 20 per cent cap on tables was well received by businesses.
- In considering the needs of business operators, the policy seeks to achieve a balance between the necessities and expectations of the community to provide public spaces that continue to be both safe and accessible for all members of the community.

## **Recommendation**

That Council adopt the Footpath Trading Policy.

## **Background**

In 2006 Council adopted a Footpath Trading Policy. The policy was prepared on the basis of bringing all facets of footpath trading under one umbrella.

In 2011 the policy was reviewed and considered appropriate to remain in place for a further three years, with a scheduled review in October 2014.

The review included a survey of existing permit holders and community members an internal review with various Council Departments together with a review of 13 other Council policies.

A summary of the changes include:

- The final document will be professionally presented, written from the lens of what can be achieved rather than a compliance perspective.
- Removal of 'Display of goods' with exceptions for fruit and vegetables and flowers and plants.
- Removal of 'Limitations on numbers' applied to footpath dining permits.
- New fee structure with four permit categories.

Council endorsed the exhibition of the policy at the Ordinary Council Meeting 16 December 2014, seeking feedback from businesses and the broader community on the proposed changes.

## **Discussion**

Although Council's Footpath Trading Policy has served Council well, it has proven to be quite a complex document from a user perspective given certain restrictions, multiple applications and various fee structures. The retail landscape has shifted considerably and there is room to build opportunities to support businesses by easing red tape and enabling business growth through the new Policy.

One of the primary drivers in undertaking the Policy rewrite was to streamline and provide a proactive 'can do' Policy to support place making activities as advocated for by the Trader Associations and various Council Departments.

Once adopted by Council the policy will be rolled out at the start of the new financial year. It is proposed that a six month grace period will be offered for businesses to comply with the new policy. The Economic Development unit will continue to work with businesses that will be impacted on by the introduction of the policy especially those that may lose their current permit.

The introduction of Footpath Zones (replacing the previous width and volume charts) will support businesses in identifying what they can and can't do. The policy proposes the following three Zones: Pedestrian, Trading and Kerb Zones offer a better interpretation from a Local Laws perspective and will contribute to greater compliance.

Through the consultation it has become apparent that this introduction will impact on approximately 57 current permit holders. Some will potentially lose their permits while

some will require configuration. The 1.8 m pedestrian zone is the minimum wide of AS 1428.2 that shows the minimum width required for 2 people using wheelchairs to pass each other. The policy takes the position that this is a broad pedestrian zone but relevant in shopping precincts to allow for pedestrian comfort and clear passage in circumstances that will also enable two prams to pass safely. In response to the consultation the 1.8 m width will only apply in major pedestrian arterials; Puckle Street and Mt Alexander Road in Moonee Ponds, Union Road Ascot Vale, Racecourse Road Flemington and Keilor Road Niddrie which is no change from the current policy. All other areas the minimum width will be 1.2m.

The removal of the display of goods was another topic that created interest through the consultation. Businesses without permits supported the removal of goods however businesses with permits felt that this policy position would have a negative impact on their business. The main reasons businesses displayed goods were to communicate that they were open and because they did not have adequate floor space. One business has been working with Local Laws for a couple of years to improve the presentation and safety of their displays and recently purchased \$3,000 in custom display stands. The couching of the policy has been altered to provide for officer discretion when considering these permit requests to allow for examples such as the one described above to generate a return on the infrastructure investment with a commitment to phasing them out.

The proposal to change the fee structure for outdoor dining areas and remove the 20 per cent cap on tables was well received by businesses. Businesses felt this would allow them to be creative through articulation of custom equipment to provide their customers with a comfortable dining experiences.

### **Consultation**

Consultation on the policy occurred using two methods of consultation. Firstly a traditional 'have your say' campaign was launched through Council's website and secondly CoDesign Studios were engaged to run an engagement campaign.

The 'have your say' campaign resulted in 15 comments from varying sources including Facebook to email and letters. Of the 15 responses six were general comments, five negative comments on display of goods and two of the three comments positive on outdoor dining. The tone of the responses was fairly even with five positive, four neutral and six negative.

The engagement campaign executed by CoDesign Studios was aimed to provide community and business owners a better understanding of the Footpath Trading Policy. The report (**Appendix B** – separately circulated), summaries community feedback through a number of activities including street surveys and trial activations.

The consultation volunteered responses from 107 businesses and 50 community members within the shopping precincts. In summary 65 per cent of businesses were positive about the changes to the policy while five per cent expressed concern. Community feedback was overwhelmingly positive.

The street activation category was received well with only positive responses relating to policy changes that promote a more active and greener shopping precinct.

The removal of permits for businesses to display goods on the footpaths was by far the element of the policy that created the most concern from the business owners with these permits. 70 per cent of business owners that do not have display of goods strongly supported their removal.

Additional feedback related to the procedure, interpretation and enforcement of the policy.

## **Implications**

### **1. Legislative**

In accordance with the *Local Government Act 1989*, it is the role of Council to provide governance and leadership for the local community through advocacy, decision making and action.

There are no negative implications on the Human Rights Charter or Commonwealth Disability Discrimination Act 1992, resulting from the preparation of this report.

In accordance with the *Local Government Act 1989*, it is the role of Council to provide governance and leadership for the local community through advocacy, decision making and action.

### **2. Council Plan / Policy**

The endorsement of the Footpath Trading Policy will contribute to the Council Plan through the following themes, objectives and strategies;

- a) Theme 1: Friendly and safe: Build a community where people feel safe in both public and private spaces.
- b) Theme 2: Green, clean and beautiful: Make the city more attractive through maximising opportunities for greening the public realm.
- c) Theme 3: Sustainable living: Ensure there is clear direction for growth and proactive management of development in the city & enhance the look and feel of the city through good design.
- d) Theme 4: Vibrant and diverse: Support economic growth and development in the municipality.
- e) Theme 5: Excellence in governance: Provide the community with meaningful and genuine opportunities to contribute to Council planning.

The review of the Footpath Trading Policy is also one of the main actions scheduled for year 1 of the Economic Development Strategy 2014 action plan.

### **3. Financial**

The current trend for revenue generated from Footpath Trading is in decline from \$167,600 in 2012 to \$147,500 in 2014. This figure includes the total number of permits issued over the year, the value of current permits issued is \$125,400.

The survey identified that this could be due to the cost of obtaining a permit. The proposed simplification of the fees will have the greatest impact on dining permits.

Currently each piece of equipment attracts a different fee. In 2014 there were 156 outdoor dining permits granted with the average fee \$528.

The proposed structure for a flat fee at \$500 per outdoor dining area will have a net impact of approximately \$4,500, or 3 per cent however this could be offset by increasing the number of permits issued with a proactive policy.

#### **4. Environmental**

The draft Footpath Trading Policy will support and contribute to Council's environmental strategies and objectives through enabling businesses to contribute to the greening shopping precincts.

#### **Conclusion**

It is important that Council has relevant and robust policies to assist in the delivery of its commitments to the community as well as requirements set out by legislation. The Footpath Trading Policy has been tested through engagement with the business and local community and considered appropriate to support the purpose of the policy.

To ensure safe, clean and vibrant shopping precincts that support business growth while ensuring safe passage for all pedestrians.

## 9.14                      Financial Performance Report March 2015

**File No:** FOL/15/192  
**Author:** Manager Finance  
**Directorate:** Corporate Services  
**Ward:** Municipal

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### **Purpose**

To receive a report on Council's financial performance for the financial year to date, ending 31 March 2015, including the Grant Register Status Report as at 31 March 2015.

### **Executive Summary**

- This Report explains Council's financial performance for the nine months to March 2015 in the 2014-15 financial year and – refer **Appendix A** (separately circulated)
- Includes a copy of the Grant Register Status Report as at March 2015 – refer **Appendix B** (separately circulated)

### **Recommendation**

That Council:

1. Receive and note the Financial Performance Report for the period 1 July 2014 to 31 March 2015.
2. Receive and note the Grants Status Report for March 2015.

### **Background**

Council has a commitment to provide accountable and responsible government. The provision of regular reports to Council on its financial performance ensures that Council's financial management and associated processes are accountable, transparent and responsible.

The attached financial report for the 2014-15 financial year for the period 1 July 2014 to 31 March 2015 (**Appendix A** separately circulated) provides the following Financial Statements:

- Operating Statement,
- Balance Sheet,
- Cash Flow Statement, and
- Capital Expenditure by Program.

## Discussion

### Summary of Overall Financial Position

#### 1. Operating Statement

- a) The net operating result for the nine months is a favourable \$2.8m against forecast.
- b) Revenue from operating activities for the nine months was \$124.9m.
- c) Expenditure from operating activities for the nine months was \$87.0m.

#### 2. Balance Sheet

- a) For the nine months ended March 2015, Council's net asset position has increased by \$2.8m.

### Forecast Position

The overall movement in the annual forecast position is favorable \$4.22m (before reserve transfers). The forecast movement is a result of the following adjustments:

#### 3. Revenue

- a) Rates and Charges  
Favourable variance relates to higher than expected revenue from the supplementary rates processed in July 2014.
- b) Grants Operating  
Favourable variance is due to an expected increase in funding for community meals and roads projects.
- c) User Fees  
Favourable variance is due to an expected increase across various departments.
- d) Statutory Fees and Fines  
Unfavourable variance is primarily due to an expected decrease in road reinstatements and traffic control fees.
- e) Other Revenue  
Favourable variance reflects an increase in contributions and recognition of income from various contract retentions.

#### 4. Expenses

- a) Employee Benefits  
Favourable forecast variance is primarily due to savings in the WorkCover premium and staff vacancies.
- b) Materials and Services  
Favourable variance is due to forecast decrease in payments across various departments.

## **5. Capital Works**

The annual allocation of \$31.2m includes the finalised carry forwards of \$7.1m from the 2013-14 financial year, as well as project adjustments due to income variances. \$6.4m of the allocation has been identified to be carried over to 2015/16. The year to date actual spend is \$14.1m compared to a budget amount of \$24.1m.

## **6. Grant Register Status Report**

The Grant Register Status Report provides updates as to the progress of grant applications across Council. A request of the Council, this report is an appendix to the Quarterly Financial Performance Report (refer **Appendix B – Separately circulated**).

## **Consultation**

Consultation with senior management has been undertaken in the preparation of this report.

## **Implications**

### **1. Legislative**

*Section 138 – Quarterly statements* of the Local Government Act 1989, states “At least every 3 months, the Chief Executive Officer must ensure that a statement comparing the budgeted revenue and expenditure for the financial year with actual revenue and expenditure to date is presented to Council”.

### **2. Council Plan / Policy**

Council has set out its strategic direction and priorities through the Council Plan 2015-18 and the Budget 2014-15. Performance against the Council Plan and Budget are recorded at the end of the financial year in the Annual Report, with ongoing progress presented in Council progress reports.

### **3. Financial**

The March 2015 surplus of \$2.8m does not reflect a true financial position of Council as the result can be attributed to significant timing differences in employee benefits and materials and services that are anticipated to be incurred in future months.

### **4. Environmental**

There are no environmental implications as a result of this report.

## **Conclusion**

Timing delays for financial commitments have contributed to the favourable year to date variance. Council's overall financial position, as at 31 March 2015 is forecast to have a favourable operating net result of \$4.22 for the financial year ended 30 June 2015.

**9.15                      Endorsement of Nominations for Arts & Culture Community Advisory Committee**

**File No:** FOL/13/601  
**Author:** Manager Arts & Culture  
**Directorate:** Environment & Lifestyle  
**Ward:** Municipal

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**Purpose**

The purpose of this report is to seek endorsement of the appointment of members to the Arts & Culture Community Advisory Committee.

**Executive Summary**

- At its Council Meeting held 23 April 2013, Council appointed members to its Community Advisory Committees.
- Due to competing family and work commitments, several resignations have left three Arts & Culture Community Advisory Committee community member vacancies.
- An expression of interest campaign was launched in March 2015, inviting interested community members to nominate to be a representative of the Arts & Culture Community Advisory Committee.
- After consideration from the Chair and Deputy Chair of the Arts & Culture Community Advisory Committee, along with Council's Acting Director Environment & Lifestyle and Manager Arts & Culture, it is recommended that three new Community Members are appointed.

**Recommendation**

That Council:

1. Appoint Mr Chris Clark, Ms Raelene Marshall and Ms Shelley Abazi as Community Members to the Arts & Culture Community Advisory Committee until the end of the Council term.
2. Write to all applicants thanking them for their interest and willingness to assist the Moonee Valley community.

**Background**

Council has in place various Advisory Committees to encourage community participation, gain insight into the views, ideas and concerns of the community and to ultimately contribute to Council's long term objectives and informed decision making.

Council has in place a good governance framework to support the structure, purpose and vision of Advisory Committees. As such, Council appoints Councillor

representatives to respective Committees and has in place Operating Guidelines for Community Advisory Committees (“the Guidelines”).

In accordance with the Guidelines, the Arts & Culture Community Advisory Committee members were appointed at Council’s meeting held 23 April 2013. Three members of the Advisory Committee have progressively resigned due to competing family and work commitments. This has resulted in difficulties for the Advisory Committee meeting the requirements for a quorum. It is considered appropriate that these vacancies be filled to enable greater community representation and allow the Advisory Committee to consistently meet its quorum.

### **Discussion**

In March 2015, Council invited expression of interests from community members to nominate for Council’s Arts & Culture Community Advisory Committee. Notices were placed in local papers, on Council’s website and through various networks over a two week period. As a result eight applications were received.

Applicants were required to apply through an on-line process which included responding to questions around their areas of interest and experience in arts and culture.

In order to ensure inclusive representation, the Terms of Reference invites participation from a cross-representation of art forms as well as broader representation from community members, especially from CALD backgrounds in the municipality. This diverse interest and experience is reflected in the recommended new members below.

After consideration from the Chair and Deputy Chair of the Arts & Culture Community Advisory Committee, along with Council’s Acting Director Environment & Lifestyle and Manager Arts & Culture, it is recommended that the following three applicants be appointed:

- Mr Chris Clark: arts manager from Moonee Ponds working predominantly in the music sector and has held a number of various positions in a variety of arts organisations over the years.
- Ms Raelene Marshall: arts worker from Keilor East who has held a number of positions in various community arts organisations over the years.
- Ms Shelley Abazi: impartial local arts consumer of from Moonee Ponds with a CALD background and is a supporter of the Clocktower, Incinerator Gallery and various festival activities.

Community members to the Advisory Committee will have no decision making power or delegated authority of Council but are intended to assist in providing information, advice and general contribution to arts and culture activities in the broader community as well as acting as advocates and champions of the Clocktower Centre, Incinerator Gallery and key festivals held within the municipality.

### **Consultation**

The nature of this report does not require any consultation.

## **Implications**

### **1. Legislative**

There are no legislative implications resulting from this report.

### **2. Council Plan / Policy**

The outcomes of this report will contribute to the following Council Plan objectives:

- Theme 4: Vibrant and Diverse
  - Strategic Objective 2: Facilitate and encourage access to diverse, affordable and enjoyable leisure and learning opportunities.
  - Strategic Objective 3: Ensure all Council services cater for the diverse communities with the city.
- Theme 5: Excellence in governance – Dynamic, effective and accountable
  - Strategic Objective 2: Build a culture of governance that instils a high level of community respect and confidence in Council decision-making.
  - Strategic Objective 3: Provide the community with meaningful and genuine opportunities to contribute to Council planning.

### **3. Financial**

There are no financial implications associated with the presentation of this report.

### **4. Environmental**

There are no environmental implications as a result of this report.

## **Conclusion**

The Arts & Culture Community Advisory Committee promotes the improvement of arts and culture opportunities and outcomes for the broader community. It is considered appropriate that Council make appointments to the Committee that help create effective partnerships.

## **9.16                      Report on Audit Committee**

**File No:** FOL/09/1556  
**Author:** Manager Governance & Local Laws  
**Directorate:** Corporate Services  
**Ward:** Municipal

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### **Purpose**

To present the unconfirmed Minutes of Council's Audit Committee Meeting held on 20 April 2015, provided as **Appendix A**.

### **Executive Summary**

Audit Committee meetings are held quarterly or as required; and the minutes of these meetings are submitted for consideration.

### **Recommendation**

That Council receive the unconfirmed Minutes of the Audit Committee Meeting held on 20 April 2015.

### **Background**

The Audit Committee is an Advisory Committee of Council established pursuant to Section 139 of the *Local Government Act 1989* ('the Act').

Council's financial management is delivered through the planning of resource allocations as part of our Annual Budget. Regular quarterly monitoring and reporting through the Audit Committee facilitates:

1. the enhancement of the credibility and objectivity of internal and external financial reporting.
2. effective management of financial and other risks, and the protection of Council assets.
3. compliance with laws and regulations as well as use of best practice guidelines.
4. the effectiveness of the internal audit function.
5. the provision of an effective means of communication between the external auditor, internal audit staff.
6. management and Council.

## Discussion

The Audit Committee Charter requires that the Committee report to Council on the findings and recommendations from its meetings. This report provides a summary of matters considered at the Audit Committee meeting held 20 April 2015 as follows:

1. The Audit Committee minutes of 23 February 2015, presented to Council on 24 March 2015, were confirmed by the Audit Committee without change.
2. Management of Risk – Risk Register  
The Audit Committee received a presentation from the Coordinator Work Health, Safety & Risk, Robynne Dashwood, on Council's revised Risk Register.
3. Interim Management Letter – Year Ending 30 June 2015  
Members of the Audit Committee received and noted the Interim Management Letter for the year ending 30 June 2015 along with management comments.
4. Status of Audit Recommendation Implementation  
The Audit Committee received and noted the status of internal audit recommendations from previous Internal Audit Reports, which identified the status of management actions addressing recommendations from previous internal audit reports contained in the Internal Audit Program.
5. Review of Local Laws Administration and Enforcement  
The Audit Committee received a report on the review of the Risk of Local Laws Administration and Enforcement, noting the management actions and timelines.
6. Review of Human Resources Management  
In accordance with the adopted Internal Audit Plan for 2014/15, a review was undertaken of the implementation of Human Resources Management which assessed the adequacy of the framework established to implement Council's human resources management. The report was received and noted by the Audit Committee.
7. Review of Contract and Procurement Management  
In accordance with the adopted Internal Audit Plan for 2014/15, a review was undertaken of the Council's contract and procurement management function which highlighted improvements to Council's contract and procurement management. The report was received and noted by the Audit Committee.
8. Internal Audit Status Report 2014/15  
The Internal Audit Status Report, detailing the current status of the internal audit program, was noted by the Audit Committee.

## Consultation

The nature of this report does not require any consultation.

## Implications

1. Legislative

The Local Government Act 1989 prescribes that Council must establish an Audit Committee and that such committee will be advisory in nature.

**2. Council Plan / Policy**

In presenting this report to Council, Council is achieving its strategic objective of a dynamic, effective and accountable organisation through excellence in governance.

**3. Financial**

This report does not have any direct financial implications.

**4. Environmental**

There are no environmental implications resulting from this report.

**Conclusion**

The Audit Committee plays an integral role in assisting Council to manage financial, compliance and other risks, it is therefore recommended that Council receive and note the unconfirmed Minutes of the Audit Committee meeting held 20 April 2015.

**APPENDIX A**



# **Audit Committee Meeting**

**Monday, 20 April 2015**

**Minutes**

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## Report Index

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The following reports were considered:

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# Minutes of the Audit Committee Meeting

Monday, 20 April 2015 at 6:00pm  
held at the Moonee Valley Civic Centre

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## PRESENT

### TO:

**Members:** Mr Hugh Parkes                      Acting Chairperson  
Mr Bruce Potgieter  
Cr Narelle Sharpe  
Cr Nicole Marshall

**Officers:** Mr Neville Smith                      Chief Executive  
Mr Dale Monk                      Acting Director Corporate Services  
Mr Damian Hogan                      Acting Manager Finance  
Ms Robynne Dashwood                      Coordinator Work Health, Safety & Risk  
Mr Danny Bilaver                      Acting Coordinator Governance

**Invited** Mr Mark Peters                      HLB Mann Judd  
**Guests:** Ms Shamiso Kamunga                      HLB Mann Judd  
Mr Tim Loughnan                      VAGO

## Appointment of Temporary Chairperson

Prior to the commencement of the meeting, the Acting Coordinator Governance advised the Audit Committee members that they would have to elect a Temporary Chairperson for this Audit Committee Meeting. Mr Potgieter nominated Mr Parkes. There being no further nominations, Mr Parkes was declared elected as Temporary Chairperson for this Audit Committee Meeting.

Mr Parkes assumed the Chair.

### 1. Apologies

An apology for non-attendance was received for Mr David Ashmore, Mr Anthony Smith, Mr Mark Holloway and Ms Ivy Ly.

### 2. Confirmation of Minutes

Moved by Cr Marshall, seconded by Mr Potgieter that the Minutes of the Audit Committee Meeting of Council held on Monday, 23 February 2015 be confirmed.

**CARRIED**

**3. Declarations of Conflict of Interest**

Nil.

The Committee noted that Mr Parkes had been appointed to Cardinia Shire Council's Audit Committee.

**4. Declarations of Breaches of Legislation**

Nil.

**5. Chief Executive / Executive Update**

The Chief Executive, Mr Neville Smith, provided an update to the Audit Committee on the following matters:

- East West Link litigation matters
- Moonee Valley Racecourse Redevelopment
- City Link Widening
- Sewer/Water/Gas refurbishment works
- Discussions with Department of Environment, Land, Water and Planning relating to planning issues
- Former Moonee Ponds Market site
- Draft Budget 2015/16
- Hearings before Fair Work and the Equal Opportunity Commission
- Staffing matters
- Fire at Moonee Valley Transfer Station
- Matters before the Local Government and Compliance Inspectorate.

**6. Presentation**

**6.1 Management of Risk – Risk Register**

Ms Dashwood presented the revised Risk Register. Audit Committee members requested that the finalised Risk Register be presented to Audit Committee at the next Audit Committee meeting.

Ms Robynne Dashwood left the meeting at 6.18pm.

## **7. Reports**

### **7.1 Interim Management Letter - Year Ending 30 June 2015**

**File No:** FOL/14/1253

**Author:** Acting Manager Finance

**Directorate:** Corporate Services

#### **Committee Resolution**

Moved by Cr Marshall, seconded by Mr Potgieter that the Audit Committee receive and note the Interim Management Letter – Year Ending 30 June 2015 and management comments (refer Appendix A – separately circulated).

**CARRIED**

### **7.2 Status of Audit Recommendation Implementation**

**File No:** FOL/14/1253

**Author:** Manager Finance

**Directorate:** Corporate Services

#### **Committee Resolution**

Moved by Mr Potgieter, seconded by Cr Sharpe that the Audit Committee notes the status of the implementation of internal audit recommendations - refer Appendix A (separately circulated).

**CARRIED**

### **7.3 Review of Local Laws Administration and Enforcement**

**File No:** FOL/14/1253

**Author:** Manager Finance

**Directorate:** Corporate Services

#### **Committee Resolution**

Moved by Cr Sharpe, seconded by Cr Marshall that the Audit Committee receive and note the Review of Local Laws Administration and Enforcement - refer Appendix A (separately circulated), noting the management actions and timelines.

**CARRIED**

**7.4 Review of Human Resource Management**

**File No:** FOL/14/1253

**Author:** Manager Finance

**Directorate:** Corporate Services

**Committee Resolution**

Moved by Cr Marshall, seconded by Mr Potgieter that the Audit Committee receive and note the Review of Human Resource Management - refer Appendix A (separately circulated), noting the management actions and timelines.

**CARRIED**

**7.5 Review of Contract and Procurement Management**

**File No:** FOL/14/1253

**Author:** Manager Finance

**Directorate:** Corporate Services

**Committee Resolution**

Moved by Mr Potgieter, seconded by Cr Sharpe that the Audit Committee receive and note the Review of Contract and Procurement Management - refer Appendix A (separately circulated), noting the management actions and timelines.

**CARRIED**

**7.6 Internal Audit Status Report 2014/15**

**File No:** FOL/14/1253

**Author:** Manager Finance

**Directorate:** Corporate Services

**Committee Resolution**

Moved by Cr Sharpe, seconded by Cr Marshall that the Audit Committee notes the status of the internal audit program refer Appendix A (separately circulated).

**CARRIED**

**8. Other Business**

- 8.1 Cr Sharpe advised she would be an apology for the next meeting to be held Monday, 15 June 2015.
- 8.2 Mr Parkes advised of reports into identity theft and digital security that will be circulated with the minutes of this meeting.

**9. Next Meeting**

Next meeting of the Audit Committee will be held on Monday, 15 June 2015.

The meeting concluded at 7.16pm.

**CONFIRMED**

**HUGH PARKES  
ACTING CHAIRPERSON**

## 9.17 Report on Advisory Committees

**File No:** FOL/14/1256  
**Author:** Manager Governance & Local Laws  
**Directorate:** Corporate Services  
**Ward:** Municipal

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### Purpose

To present the minutes of Council's Advisory Committee meetings received since the last report to Council held in April 2014.

### Executive Summary

The minutes of Advisory Committee meetings received since the last report to Council are submitted for consideration.

### Recommendation

That Council receive and note the following confirmed Advisory Committee Meeting Minutes, received since the last report to Council in April 2014:

- a) Integrated Transport Committee held 2 February 2015 (**Appendix A**);
- b) Disability Reference Group held 16 February 2015 (**Appendix C**); and
- c) Strategic Planning Advisory Committee held 19 February 2015 (**Appendix D**).

### Background

Council at its Statutory Meeting on 5 November appointed representatives to Advisory Committees, up to the month of October 2015.

Minutes from these meetings are presented to Council for information purposes.

### Discussion

Minutes from the following Advisory Committee Meeting Minutes are presented to Council in accordance with section 80A(2)(a) of the *Local Government Act 1989*:

- a) Integrated Transport Committee held 2 February 2015 (**Appendix A**);
- b) Disability Reference Group held 16 February 2015 (**Appendix D**); and
- c) Strategic Planning Advisory Committee held 19 February 2015 (**Appendix E**).

### Consultation

The nature of this report does not require any consultation to be undertaken, but rather the coordination and compilation of minutes of the meetings held during the reporting period.

### Implications

#### 1. Legislative

There are no legislative implications in receiving this report.

**2. Council Plan / Policy**

In presenting this report to Council, Council is achieving its strategic objective of a dynamic, effective and accountable organisation through excellence in governance.

**3. Financial**

There are no financial implications resulting from the presentation of this report.

**4. Environmental**

There are no environmental implications resulting from this report.

**Conclusion**

Advisory Committees allow for a more efficient and effective process of understanding specific areas, prior to being considered by Council.

## APPENDIX A



Held Monday 2 February, 6 to 8pm, Committee Room, Civic Centre

1	<b>Open Meeting – Welcome, Attendees and Apologies</b>
	<p><b>Attendees:</b> Cr Marshall (Acting Chair), Gil Richardson Manager Technical Services, Chris Morris Sustainable Transport Officer, Gary Allan, Frank Kinnersley (Moonee Valley Bicycle User Group), Laurie Elliot, James Golden, Josh Parris.</p> <p><b>Apologies:</b> Cr Surace, Mary Kennedy, Chris Carabott, Lynn Sweeney, Joanne Barrett, Ben Koutoukidis</p>
2	<b>Presentation: Shared Paths, Duane Burt, Victoria Walks</b>
	<p>Duane Burt gave a presentation on the role of Victoria Walks and the results of a survey that assessed senior citizen's barriers to using shared paths. The increase in usage of shared paths by cyclists for commuting when they were originally intended for recreational use may involve reassessing the guidelines for shared paths to create better separation between cyclists and pedestrians.</p>
3	<b>Presentation: Greenhouse Strategy Review, Sandra Mack, Senior Sustainability Officer</b>
	<p>Council is currently reviewing the Greenhouse Strategy with the aim of completing the review by December 2015. As part of the community consultation process, Sandra presented to the ITC to seek feedback for potential new projects in relation to transport. The committee made a number of suggestions:</p> <p><b>Potential new Actions To Investigate</b></p> <p>Make buses more environmentally friendly - electric or alternative fuels.</p> <p>Invest in apps / technology for TravelSmart maps and public transport information</p> <p>Discourage car parking and slow vehicle speed to make it less convenient to drive and therefore encourage more sustainable modes of transport</p> <p>Developing better connected east to west bike connections in Moonee Valley</p> <p><b>Potential New Initiatives</b></p> <p>Promote that Myki cards can be topped up automatically once they reach a certain threshold and more top up locations on route 59</p> <p>Car sharing – modify the planning scheme so that new developments must embrace car sharing as opposed to additional car parking.</p> <p>Promoting home delivery of groceries to reduce car travel to and from the local shops</p>
4	<b>Minutes from Meeting 11 held on 1 December 2014 were confirmed.</b>
5	<b>Business arising from the last meeting</b>

	<ul style="list-style-type: none"> <li>• <b>Issue:</b> ITC members requested to provide feedback on the Dean Street precinct LATM.</li> <li>• <b>ACTION:</b> COUNCIL</li> <li>• <b>Update:</b> Council circulated draft LATM plan to the ITC as an attachment to the previous minutes.</li> </ul>
	<p><b>Issue:</b> Frank Kinnersley has identified key issues and opportunities relating to EWL and the Citylink widening project.</p> <ul style="list-style-type: none"> <li>• <b>ACTION:</b> COUNCIL</li> </ul> <p><b>Update:</b> Council met with Frank Kinnersley on the 19th January 2015 and Frank outlined potential projects as part of the Citylink Widening Project. These included upgrading Talbot Road / Wheeler Street Bridge and bike line marking on Essendon Fields / Matthews Ave. The Talbot Street issue will be further discussed with VicRoads. The Matthews Avenue issue is proposed to be included in the Council Report on 24<sup>th</sup> January 2015.</p>
<b>6</b>	<b>Strategic Updates</b>
	<p><b>Bus Survey Results Update</b></p> <p>Council provided update on the bus survey results and the next steps in advocacy to PTV for more frequent span of hours and coverage of services and on the proposed Transdev SmartBus proposals.</p> <p><b>ACTION COUNCIL:</b> Inform the ITC of any decision in relation to PTV's proposal to split the Smart Bus 903 Route into three sections.</p> <p><b>Senior Travel Safety Booklet</b></p> <p>Council gave overview of the new free transport guide to help senior residents better understand the different transport options available to them.</p> <p><b>ACTION COUNCIL:</b> Are copies of the booklet available online?</p> <p><b>Yarra Tram Superstop proposal for Moonee Ponds Junction</b></p> <p>Council provided overview of the proposed Superstop at the Moonee Ponds Junction and sought feedback on the proposed design.</p> <p><b>ACTION COUNCIL:</b> Discuss with Frank Kinnersley about ideal phasing of the lights at the Junction to provide safe access for pedestrians and cyclists as part of the VicRoads Route Review.</p> <p><b>ACTION COUNCIL:</b> Include comments from the ITC in the VicRoads Route Review that will occur in April 2015 to provide better cycle parking at the Junction, maintaining current traffic arrangements and the provision of safer access with an emphasis on DDA compliance.</p> <p><b>ACTION COUNCIL:</b> Council to conduct site visit of the Moonee Ponds Junction with Laurie Elliot to discuss safety issues and potential solutions for the vision impaired.</p> <p><b>Citylink Widening &amp; East West Link update – Gil</b></p> <p>The State Government has yet to provide further comment to Council on EWL. Council provided an update on the Citylink Widening Project and outlined the proposed 80km/h speed limit and the Calder Freeway ramp metering.</p> <p>The ITC gave feedback on the Citylink Widening project including:</p> <ol style="list-style-type: none"> <li>1. Support for inclusion of bike lanes on Matthews Av and across English St bridge into Essendon Fields to be considered now, not future proofed.</li> <li>2. Support of DDA compliant pedestrian/cyclist bridges.</li> </ol>

	<p>3. Support for expanding scope to include freeway managed system and 80km/h on the Calder Freeway between the interchange and Western Ring Road.</p> <p>4. Do not support roundabouts at Keilor/Newman and Keilor /Grange - issue for Council to consider further</p> <p>5. Support for pedestrian / traffic improvements at Bulla Rd.</p> <p>6. Requested a shared path within Essendon Airport between English St and Bulla Rd.</p> <p>7. Requested the Tullamarine Freeway outbound be provided with a bridge to separate Mickleham Road and Melbourne Airport northbound traffic.</p> <p><b>ACTION COUNCIL:</b> Advocate to VicRoads for the proposals suggested above be included as part of the Citylink Widening Project Council Report on 24<sup>th</sup> February 2015.</p> <p><b>M102 Aberfeldie Main Drain Council Report</b></p> <p>Council has identified a range of legacy opportunities and continues to advocate for the installation of shared paths through the pipe reserve in key locations and the upgrading of the Steele Creek Bridge to ensure that the replacement bridge provides DDA compliance.</p>
<b>7</b>	<b>General Business</b>
	<p><b>Issue:</b> ITC member's believe the Travancore Park redevelopment project should re-commence once the EWL decision has been finalised.</p> <p><b>ACTION:</b> COUNCIL</p> <p><b>Update:</b> A report will be presented to Council in April regarding this matter.</p> <p><b>Issue:</b> Frank Kinnersley requested that a member of Council's Local Law's team present to the ITC in 2015 on the issue of dogs off lead and conditions around construction sites.</p> <p><b>ACTION:</b> COUNCIL</p> <p><b>Update:</b> Council to invite a member of the Local Laws team to present to the ITC in 2015. Councillor Marshall indicated that she intends to move a Notice of Motion regarding Construction Management Plans at the Council Meeting on 24<sup>th</sup> February 2015.</p> <p><b>Issue:</b> Re-surfacing of works on Lincoln Road is allegedly of poor quality.</p> <p><b>ACTION:</b> COUNCIL</p> <p><b>Update:</b> Council to investigate and provide response to ITC.</p> <p><b>Cyclewise Parent Program</b></p> <p>Council is looking for schools to host cycle safety session for parents of primary school aged-children with the objective of getting more parents confident to ride their children to and from school.</p> <p><b>ACTION ITC:</b> Email ITC members to determine if they are interested to discuss with their school and contact Lisa Bagnati by Monday 9<sup>th</sup> March 2015.</p>
<b>9</b>	<b>Proposed meeting dates for 2015</b>
	<p>Council proposed to revise the dates for the ITC from bi-monthly to quarterly. The advantage of meeting quarterly is that bi-monthly meetings take up considerable staff time with the completion of administration tasks. The move to quarterly meetings is in line with other Council committees.</p> <p>Cr Surace (Chair) is fully supportive and Cr Marshall is supportive, subject to alternative mechanisms to engage ITC during meetings. At the ITC meeting, there was support for the change and it was agreed that Council would provide site specific meetings, e-mail updates and feedback during meetings and call special meetings (e.g. ITP review), when required. Neville</p>

	<p>Smith, Chief Executive and Bryan Lancaster, Director City Works &amp; Development also support the move.</p> <p>Due to conflicting Councillor meetings, the next ITC meeting will be moved from the proposed 4<sup>th</sup> May 2015 to the 11<sup>th</sup> May 2015. This has the support of both Cr Surace (Chair) and Cr Marshall.</p> <p>The remaining ITC meeting dates for 2015 are:</p> <p>11<sup>th</sup> May 2015</p> <p>3<sup>rd</sup> August 2015</p> <p>9<sup>th</sup> November 2015</p> <p><b>ACTION COUNCIL:</b> Council to send re-scheduled meeting invitations to ITC members.</p>
	<b>Meeting ended 8:00 pm</b>

## APPENDIX B



### Moonee Valley City Council Disability Reference Group Minutes

Monday 16 February 2015, 4.30 – 6.00 pm

Moonee Valley Civic Centre, 9 Kellaway Ave, Moonee Ponds, Committee Room

<b>Attendance:</b>	Cr. Shirley Cornish (Cr.SC)	Chairperson, MVCC
	Cr Jim Cusack (Cr.JC)	Councillor MVCC
	Jim Karabinis (JK)	Manager Aged & Disability Service
	Maria Weiss (MW)	Coordinator Healthy Aging & Disability
	Carmel Boyce (CB)	Policy Officer MVCC
	Heidi Peart (HP)	Metro Access Officer
	Vincenza Fazzalori (VF)	Resident
	Ruth Kyne (RK)	Resident
	Lisa Greenfield (LG)	Local Resident (rep. Carers Victoria)
<b>Apologies:</b>	Greg Francis (GF)	Resident
	Tony Ball (TB)	Director Community Services
	Sam Kolasa (SK)	State Manager Client Services Care Connect
	Florence Kingsley-Matthews (FKM)	Resident
<b>Guest</b>	Tara Callinan (TC)	SGS Economics & Planning
<b>Presenters:</b>	Geetha Pradhan (GP)	SGS Economics & Planning
<b>Minute Taker:</b>	Rose-Marie McQueen (RM)	Administration Officer Community Services

#### 1. Welcome

Cr Cornish welcomed the group to the first meeting for the year.

#### 2. Apologies

Florence Kinsley-Matthews, Tony Ball

### 3. Conflict of interest

Nil.

### 4. Attendance and Introductions

Consultants: SGS Economics & Planning, conducted a consultation for the establishment of the Crown Street Stables Café, social enterprise.

### 5. Confirmation of record from previous meeting

VF moved to accept the minutes, second RK, pending minor amendments to comments in 7.6.

Cr Cornish requested the minutes of the 1 December 2014 to be re circulated.

- Cr Cusack & Lisa Greenfield entered the meeting 4.45 pm

### 6. Correspondence

No correspondence received.

### 7. Reports/ Discussion

#### 7.1 Disability Action Plan Update (CB)

#### 7.2 Crown Street Stables Consultation (CB) 1 Hour

CB presented and overview of the proposed business plan for Crown Street Stables which tables the strategic direction of the Social Enterprise.

#### **SGS Consultants Presentation include the following key elements;**

- Vision and Strategic Directions
- Financial Appraisal & Staging
- Business Plan
- Annual Operating Plan
- June - July 2015 student positions to commence in the Café' under the guidance of an RTO
- Agency & Council staff will be in attendance until then
- Stake holder groups account for what the Stake holders request

JK: Clarified the tender specifications including the availability of 10 hours minimum per week for the facility to be available for hire to community and provide 20 hours of community services per week.

Aged and Disability Services is accountable for the Social Enterprise including hall for hire, community programming and Café.

Cr Cu: Feedback from Sunday 16 February's consultation, the community are welcoming of the café

Most of Crown Street Stables development has been through grants and the community are encouraging of the use.

Cr C: Specific to community needs the café is well located and is being embraced by the community. The Café is a community sustainable service.

Through the Disability Reference Group, this is a perfect example of Councils commitment of the work done to assist people with a disability.

JK: Tenure document is included in the business plan

- JK: Presented to Council future developments for activation of Coronet Park which included scoping for the installation of an external lift.

CB: Agency Staff, will be engaged primarily until the positions are advertised and the RTOs are in place.

Cr Cu: The community have embraced the fact they don't have to be part of a committee for the café'. Community Curator is so named the lynch pin who the community contact to assist get community projects of the ground.

LG: Suggested volunteers may wish to work there if the opportunities are available.

Cr Cu:

- Presently there is a high level integrations by the community
- A level of community ownership over the café
- Governance model underpinning the training the training
- Serious issues regarding governance around the café is strong

JK: Profiled the scoping of an activation project for Coronet Park which included;

- WiFi – installation and offering to patrons
- Kitchen Garden – Café and public use
- External elevator
- Bike parking and promotion as a destination of interests for cyclists
- Additional disability accessible toilet.

VF: Enquired into parking issues around event times when parking is restricted in the streets around the park. VF: suggested the back of the building where the bins are would be a practical space for bus and car spaces.

CB: The Parking Strategy Project is presently underway and this area is noted for improvement encompassing everything relating to a community gathering.

## **SGS Community Completion**

Cr C: Stated the café needs to be branded,  
Art shows from the Incinerator may be moved to Crown Street a few times a year to bring the arts and culture to another domain and different area of Council.

Cr Cu: Suggested the interiors, utensils and the décor will suggest the branding, street parties for the festive season a consideration, Halloween and other festivities a focal point for those in Crown Street and the surrounds.

RK: Suggested the heritage environment be kept intact, furniture clean and clear

GF: Suggested the Heritage preservation could be an issue and would like to see it in keeping within the era.

MW: Suggested a Community Notice Board, items outside that lead people to inside activities.

JK: Reserved to comment – due to conflict of interest as he manages the project

VF: Requested ergonomically friendly cutlery, easy to use / hold cups

Patrons may wish to decorate their own cups and have them on site all the time, funds raised may go back to the café.

LG: Easy to move and clean furniture

## **SGS Consultant**

- What do you think the Stables look like in 2 years' time?

Cr Cu: Generosity of spirit, if the place is warm inviting the community appreciates what the place is doing.

Give the café a chance to flower in its own way, provide good customer service.

The opportunity to build a business is a great thing,

HP: Staff move on to permanent employment elsewhere

JK: Holistic indicators for the success of staff training are for people to move on to employment  
in the broader community.

Cr C: A place that people want to go to

LG: Busy successful make a documentary on the creation of the Café'

Cr C: Suggested there should be a committee like DRG to meet regarding the Café'

Feedback could come to this meeting as a point of connection and interest to be informed of the café progress. The Café will develop itself overtime.

Cr Cu: Wi-Fi system needs to be installed.

MW: Has had the Wi-Fi costed at 30k which is noted is in the business plan.

VF: Feedback/ Suggestion box inside the premises.

Cr Cu: If the café works at an enterprise level, the café would need to be open on weekends and peak times. Suggested opening times may be from Wednesday to Sunday. Week days are where the training and errors can be made before the larger volume of public arrive on the weekends.

JK: Hours of service are a starting point while the Café develops.

MW: All classes currently taking place upstairs will continue as normal.

### **In Closing**

SGS Consultant, Tara Callinan offered ongoing support for feedback following the conclusion of the consultation period.

Cr C: Suggested the next scheduled Disability Reference Group Meeting be held there on the 13 April 2015 to enable the group to gain a feel of the café' experience.

**Agenda Item:** Look at the Business Plan in April 2015

### **7.3 Moonee Valley Respite Proposal Consultation (MW)**

There is a high percentage of people with core needs, a Project Proposal has been drafted for consideration.

The objective is to provide subsidised respite options for residents with a disability and their careers, increase respite options with the inclusion and use of private providers, subsidies to assist with the cost involved and generate a better understanding with easier access to available facilities.

The group was asked "Should we look at respite for people in the near vicinity or out of the area and hour or so drive away?"

The respite is for short term 5 days maximum

GF: Suggested we leave it open have no boundary

VF: Suggested we leave open and know where the facilities are located

RK: Suggested transport be provided for the recipient's if we go broader so the carer does not have to travel.

Cr Cu: Knowledge of the facilities is the key

Cr C: Suggested we branch further out, more options are available

MW: Standards of the facilities would be to Councils standards for the reputation of Council and safety of participants.

Council to inspect the facilities and have a means in place to re visit and review the standards.

We need people to be happy and safe there, client feedback is important.

MW;

- A proposal has been drafted encompassing 21 centres
- MOU to be drafted for a 12 month trial period around July this year (2015)
- Communications plan and strategy
- December (2015) will be the first review point
- Feb 2016 reports back to the DRG
- June 2016 second review point
- News Letter to be a point of awareness

Cr C asked the following questions, Will the sale of 101 Arcade Way financially assist the respite project?

MW: Existing government funding will be used to trial the project. Depending on the amount of interest and how many people apply would be an indicator of the need for Council to assist, a formal evaluation of the trial project to consider this issue.

Housing Strategy Notion of accessibility and affordability for Housing

Cr Cu: Approves of MW respite options, if Moonee Valley develops a way of looking at this futuristically it can be commercialised. The hardest part is finding respite availability and options.

Include an application on Councils web which locates options of where to go.

A way for people to see where their rates at work.

MW to provide an update at the next meeting Monday 13 April 2015 at Crown Street Stables Community Café'.

MW to provide Cr Cornish details and provide an update on the progress.

RK: Left the meeting 6.00pm

## **8. Review of DRG terms of reference**

### **8.1 New Members**

Comments Noted and information handed to Cr Cornish.

Cr C: Agreed to CB's request to include a new member who wishes to join the group, commenting that people who join do not to have their own issue and disability at heart but join for the good of all.

Cr C and JK to meet to discuss additional nomination.

**9. General Business**

Wintringham to be included in the meeting agenda and progress updates to be provided.

**9.1 Proposed Meeting Schedule for 2015**

**10. Next Scheduled Meeting:** Monday 13 April 2015 approved

**Venue:** 40 Crown Street Flemington

**Close of Meeting, 6.10pm.**

## APPENDIX C



# Strategic Planning Advisory Committee

## Minutes

### MEETING #2

held Thursday, 19 February 2015 at 6.00pm  
Committee Room (Level 2), Moonee Valley City Centre,  
9 Kellaway Ave, Moonee Ponds

#### Attendees

Cr Nicole Marshall  
Cr Narelle Sharpe  
Cr Shirley Cornish  
Adam Wojcik  
Andrew Gunter  
Chris Macdonald  
Jennifer Nola  
Kristen Bell  
Maria Loiacono  
Peter Burke  
Peter Leyden  
Senka Sestan  
Steven Zebic  
Bryan Lancaster  
Henry Bezuidenhout  
Planning Lisa Dunlop  
Bridget Maplestone  
Planning Christina Serruto

Chairperson  
Deputy Chairperson  
Deputy Chairperson  
Community member  
Community member  
Community member  
Community member  
Community member  
Community member  
Community member  
Community member  
Community member  
Community member  
Director, City Works & Development  
Manager, Strategic & Statutory  
Coordinator, Strategic Planning  
Principal Planner, Strategic  
Planning Assistant (Minute taker)

#### External Presenters

Andrew Spencer Associate (SGS Economics & Planning)

#### Apologies

Cr Andrea Surace Deputy Chairperson  
Paul Bird Community member  
Charles Sowerwine Community member  
Anastasia Georgiou Community member

## **Order of Business**

### **1. Welcome**

Chair Cr Marshall opened the meeting at 6.05pm and welcomed members. Chair also activated round table individual introductions.

### **2. Apologies**

Chair noted apologies for Cr Andrea Surace, Paul Bird, Charles Sowerwine  
Andrew Gunter advised of apology from Anastasia Georgiou

### **3. Matters arising from minutes and confirmation of minutes**

Moved by Peter Burke, seconded by Senka Sestan that the Minutes of the Strategic Planning Advisory Committee held on Thursday, 20 November 2014 (meeting #1) be confirmed.

### **4. Conflict of interest Information**

Bryan Lancaster, Director City Works and Development explained the various classes of interest and Council's processes and procedures should a conflict of interest be present within the group.

*Classes of interests*

#### **Direct Interest**

An individual may directly benefit or be disadvantaged

#### **Indirect Interest**

- Close association – family members, relatives, household member
- Indirect financial interest
- Conflicting duty
- Applicable gift
- Party to the matter
- Residential amenity

*Process*

- Declare conflict of interest
- Excuse yourself from the meeting at that point of discussion.

### **5. Declaration of Conflict of interest**

Nil.

Chair Cr Marshall advised if any further clarification or questions, contact Bryan Lancaster.

## 6. Presentations from Committee Members

Adam Wojcik – The importance of affordable housing in creating diversity and liveable cities

Correlation between mental health and social diversity.

- Correlation between housing price and diversity.
- Planning should enable convivial encounters.
- Should provide high quality affordable housing.

**ACTION:** *Presentation to be circulated; Chair Cr Marshall requested also Council's Affordable Housing Background Paper to be circulated.*

Senka Sestan – Building design – including internal and external amenity

- Why we need good design
- What is good design
- What we have now
- Design Issues
- Why we don't have good design
- How do we get good design

**ACTION:** *Presentation to be circulated*

Andrew Gunter – The effect of vacant and undeveloped land on dwelling yield, overall dwelling density and the demand for residential densification

**ACTION:** *Andrew Gunter to present at the next meeting (16 April) due to running overtime.*

## 7. Group Discussion on presentations

Chair advised, due to lack of time discussion about presentations can be done via email now that all have confirmed to share email addresses.

**ACTION:** *Strategic Planning to circulate the presentations.*

## 8. Trends in housing change and growth in Melbourne and Moonee Valley

Andrew Spencer from SGS Economics and Planning presented on "Trends and Housing Change in Moonee Valley and Greater Melbourne".

- Housing supply in Melbourne
- Housing supply in Moonee Valley

- Drivers of housing demand and supply Discussions
- People are attracted to inner city living with areas close to amenities including accessible public transport & parks. This is placing stress on these areas to deliver more housing.
- Need to improve design standards and policies – make them clear. However in raising the standards and construction style this can increase the cost to developers and thereby to the end buyer, impacting housing affordability.
- Increasing the opportunities for housing in different areas leads to a more competitive land market

**ACTION:** Andrew's presentation to be circulated. Send around link to the report from the Grattan Institute.

## 9. Background to Housing Strategy – Issues and Opportunities

Bridget Maplestone presented on the Moonee Valley Housing Strategy (and in particular on the draft Housing Issues and Opportunities Paper that is currently being prepared) and why the need for a review. A report will be presented at the Ordinary Council meeting in March requesting endorsement of the draft Housing Issues and Opportunities Paper for consultation.

- What is a housing strategy?
- Why are we reviewing the existing housing strategy?
- Process of developing the housing strategy
- Demographic change in Moonee Valley
- Summary of permits issued
- Overview of identified housing issues and opportunities.

**ACTION:** presentation was circulated to the group requesting feedback to be provided by Wednesday 25 February.

*Link to Council's Walking and Cycling Strategy to be circulated.*

## 10. Group Discussion/Workshop – Housing challenges and opportunities

- Some key matters raised during the discussion were:
- Social and community infrastructure as well as transport Infrastructure is an important housing issue
- Dwellings should be built so that they can be adaptable to redevelopment to suit changing needs over time.
- Having a variety of dwellings in an areas can encourage a mix of communities.

- To be a sustainable city need to communicate effectively to the municipality why we need change.
- We need to advocate for social housing in a positive manner.
- Adaptability can influence housing affordability.
- Need to sustain liveability throughout all stages of life.

Lisa Dunlop opened discussion on how to engage the community:

- Provide opportunity to speak anonymously and without fear of judgement.
- Need to show broad vision.
- Explain reasonably why there is change.
- Need to determine – what is the rate of change acceptable to the broad population.
- Online interactive mapping tool is useful.

There is negative feedback because things have been done badly. Show what has been done well. There is good building design in Moonee Valley

**ACTION:** *Kristen Bell to provide Lisa Dunlop with some examples of good building designs in Moonee Valley*

## 11. Close meeting and Reflections

Adam Wojcik suggested more frequent meetings (currently bi-monthly) or Lisa Dunlop suggested meetings could be extended from 2hrs to 3hrs. Extended meeting times was not really supported, however more frequent meetings could be. This will be discussed further at the next meeting.

- More discussions valued at meetings rather than formal presentations  
Common council words and their definitions
- A real-estate agent to present at a meeting will be great! Would like another meeting in relation to the Housing Strategy.

**ACTION:** *Frequent meetings or extended meeting hours? To be discussed at next meeting as an agenda item.*

*Circulate confirmed meeting topics for 2015.*

*Strategic Planning to liaise with a real estate agent about coming to a meeting (topic dependant).*

*Everyone to send a list of any terms they are unclear about to Strategic Planning. Strategic Planning to prepare a list of terms and suggested definitions for discussion at next meeting.*

*Strategic Planning to confirm at next meeting whether there will be another meeting on the Housing Strategy and when it might be.*

Chair Cr Marshall apologised for running overtime to not hear Andrew Gunter's presentation and thanked everyone for coming. Thank you to Adam Wojcik,

Senka Sestan, Andrew Spencer and Bridget Maplestone who presented. The meeting closed at 8.15pm.

The next meeting will be on **Thursday, 16 April 6pm-8pm** at Moonee Valley Civic Centre

## 9.18                      **Report on Assemblies of Council**

**File No:** FOL/09/1245  
**Author:** Manager Governance & Local Laws  
**Directorate:** Corporate Services  
**Ward:** Municipal

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### **Purpose**

The purpose of this report is to present to Council, the written records of Assembly of Councillors held in accordance with the provisions of Section 80A(2)(a) and (b) of the *Local Government Act 1989* (“the Act”).

### **Executive Summary**

It is a requirement that the Chief Executive ensures that the written record of an Assembly of Councillors is, as soon as practicable, reported at an Ordinary Meeting of the Council; and incorporated in the minutes of that Council meeting.

### **Recommendation**

That Council receive and note the written records of Assembly of Councillors, provided as **Appendix A**, received since the last report to Council in April 2015.

### **Background**

In accordance with Section 80A (1) & (2) of the Act, the Chief Executive is to ensure that a written record of an Assembly of Councillors is, as soon as practicable, reported at an Ordinary Meeting of the Council; and incorporated in the minutes of that Council meeting.

Furthermore, the written record of an Assembly of Councillors is both kept for a period of 4 years after the date of the Assembly; and made available for public inspection at the offices of the Council for a period of 12 months after the date of the assembly.

### **Discussion**

Section 76AA of the Act defines an Assembly of Councillors as a meeting of an Advisory Committee of the Council, if at least one Councillor is present, or a planned or scheduled meeting of at least half of the Councillors and one member of Council staff which considers matters that are intended or likely to be:

- a) the subject of a decision of the Council; or
- b) subject to the exercise of a function, duty or power of the Council that has been delegated to a person or committee but does not include a meeting of the Council, a Special Committee of the Council, an Audit Committee established under section 139, a club, association, peak body, political party or other organisation.

Section 80A (1) and (2) of the Act provides that:

1. At an Assembly of Councillors, the Chief Executive Officer must ensure that a written record is kept of—
  - a) the names of all Councillors and members of Council staff attending;
  - b) the matters considered;
  - c) any conflict of interest disclosures made by a Councillor attending under subsection (3); and
  - d) whether a Councillor who has disclosed a conflict of interest as required by subsection (3) leaves the assembly.
2. The Chief Executive Officer must ensure that the written record of an assembly of Councillors is, as soon as practicable—
  - a) reported at an ordinary meeting of the Council; and
  - b) incorporated in the minutes of that Council meeting.

Records of Assemblies of Councillors, held since the last report to Council in April 2015, are provided as **Appendix A**.

### **Consultation**

All Council staff have been informed of Council's obligations under the Act.

### **Implications**

#### **1. Legislative**

This report is presented to Council in accordance with Section 80A of the Act. As this is a mandatory reporting requirement, there are no Charter of Human Rights implications for Council.

#### **2. Council Plan / Policy**

In presenting this report to Council, Council is achieving its strategic objective of a dynamic, effective and accountable organisation through excellence in governance.

#### **3. Financial**

There are no financial implications resulting from the presentation of this report.

#### **4. Environmental**

There are no environmental implications resulting from the presentation of this report.

### **Conclusion**

Council has an obligation under Section 80A (2) (a) & (b) of the Act, to present all records of Assemblies of Councillors to an Ordinary Meeting of Council. By receiving and noting this report, Council is ensuring compliance with this provision.

## APPENDIX A

### RECORD OF ASSEMBLY OF COUNCILLORS

Monday, 14 April 2015 at 6.31pm at the Moonee Valley Civic Centre

#### PRESENT

##### Councillors:

Narelle Sharpe, Cam Nation, Jan Chantry, Shirley Cornish, Jim Cusack, Paul Giuliano, Nicole Marshall, John Sipek and Andrea Surace.

##### Officers:

Neville Smith	Chief Executive
Tony Ball	Director Community Services
Bryan Lancaster	Director City Works & Development
Dale Monk	Acting Director Corporate Services
Anthony Smith	Acting Director Environment & Lifestyle
Henry Bezuidenhout	Manager Strategic & Statutory Planning
Michele Leonard	Manager Family & Children
James Martin	Manager Communications & Corporate Planning
Greg Mulcahy	Manager Operations
Adrian Murphy	Manager Economic Development & City Sustainability
Venta Slizys	Coordinator Landscape & Urban Design
Melanie Lorback	Senior Leisure Facilities Officer
Andrew Carey	Sports Development Officer
Jason Crockett	Coordinator Kindergarten Services
Brian Labadie	Senior Strategic Planner

#### CONFLICT OF INTEREST DISCLOSURES

Councillor Cornish declared a Conflict of Interest in Item 1.

Councillor Giuliano declared a conflict of interest in Item 11.

Councillor Chantry declared a conflict of interest in Item 20.

Councillor Nation declared a conflict of interest in Item 20.

Bryan Lancaster declared a conflict of interest in Item 20.

#### MATTERS CONSIDERED

1. Moonee Ponds Special Rate Intention to Declare
2. Draft Riverside Golf & Tennis Centre Master Plan
3. 2014/15 Community Grants - Round 2
4. Status of Projects Delayed by Proposed East West Link
5. Strathmore Children's Centre Redevelopment - Stage 2

6. Draft LGBTIQ Action Plan (2015 - 17)
7. 101 Arcade Way, Keilor East - Proposed Sale of Property
8. 2015/16 Review of the 2013 - 17 Council Plan
9. Investment Policy 2015
10. Planning Scheme Amendment C151 - Updates to the LSIO and SBO
11. Planning Scheme Amendment C144 - Heritage Overlay Review
12. 3 Wood Street, Strathmore
13. Provision of Recycling Receipt and Processing Services
14. Amendment C143 - Heritage Overlay, Ascot Vale
15. 544 Mt Alexander Road, Ascot Vale
16. 71 Waltham Street, Flemington
17. 40 Hall Street, Moonee Ponds
18. 11 - 17 Holmes Road, Moonee Ponds
19. 1048 - 1060 Mt Alexander Road, Essendon
20. Draft Essendon Junction Activity Centre Structure Plan
21. Items of a general nature raised by Councillors and Officers.

**RECORD COMPLETED BY**

Dale Monk

Acting Director Corporate Services

## RECORD OF ASSEMBLY OF COUNCILLORS

Tuesday 21 April 2015 at 7.05 pm at the Moonee Valley Civic Centre

### PRESENT

#### Councillors:

Narelle Sharpe, Cam Nation, Jan Chantry, Jim Cusack, Paul Giuliano, Nicole Marshall, John Sipek and Andrea Surace.

#### Officers:

Neville Smith	Chief Executive
Tony Ball	Director Community Services
Dale Monk	Acting Director Corporate Services
Gil Richardson	Acting Director City Works & Development
Anthony Smith	Acting Director Environment and Lifestyle
Yvonne Hansen	Manager Governance & Local Laws
Sue Hecker	Manager Leisure & Open Space Planning
James Martin	Manager Communications & Corporate Planning
Adrian Murphy	Manager Economic Development & City Sustainability
Craig Skelton	Coordinator Community Partnerships & Sponsorships
Troy Delia	Acting Coordinator Parking Control & Local Laws
Melanie Lorback	Senior Leisure Facilities Officer

### CONFLICT OF INTEREST DISCLOSURES

Nil.

### MATTERS CONSIDERED

1. Draft Riverside Golf & Tennis Centre Master Plan
2. Sponsorship Policy
3. Electoral Representation Review (Consideration of Response Submission)
4. Lost Dogs Home Agreement & Section 84Y Agreements
5. Items of a general nature raised by Councillors and Officers.

### RECORD COMPLETED BY

Anthony Smith                      Acting Director Environment & Lifestyle

## RECORD OF ASSEMBLY OF COUNCILLORS

Tuesday 28 April 2015 at 6.28 pm at the Moonee Valley Civic Centre

### PRESENT

#### Councillors:

Narelle Sharpe, Cam Nation (6.38pm), Jan Chantry, Shirley Cornish, Jim Cusack, Paul Giuliano, Nicole Marshall, John Sipek and Andrea Surace.

#### Officers:

Neville Smith	Chief Executive
Tony Ball	Director Community Services
Dale Monk	Acting Director Corporate Services
Gil Richardson	Acting Director City Works & Development
Anthony Smith	Acting Director Environment & Lifestyle
Henry Bezuidenhout	Manager Strategic & Statutory Planning
Yvonne Hansen	Manager Governance & Local Laws
Michele Leonard	Manager Family & Children
James Martin	Manager Communications & Corporate Planning
Tim Mileham	Coordinator Leisure Facilities & Projects

#### Guests:

Lidia Guterres	Timor-Leste delegate
Claudinha Pinto	Timor-Leste delegate

### CONFLICT OF INTEREST DISCLOSURES

Councillor Cornish declared a Conflict of Interest in Item 9.15

Gil Richardson declared a conflict of interest in Items 9.8 and 9.10.

Councillor Giuliano declared a conflict of interest in Item 9.10.

Councillor Chantry declared a conflict of interest in Item 9.8.

Councillor Nation declared a conflict of interest in Item 9.8.

### MATTERS CONSIDERED

1. 1048 - 1060 Mt Alexander Road, Essendon
2. 544 Mt Alexander Road, Ascot Vale
3. 11 - 17 Holmes Road, Moonee Ponds
4. 71 Waltham Street, Flemington
5. 3 Wood Street, Strathmore
6. 40 Hall Street, Moonee Ponds
7. Strathmore Children's Centre Redevelopment

8. Draft Essendon Junction Activity Centre Structure
9. Planning Scheme Amendment C151
10. Planning Scheme Amendment C144 - Heritage Overlay Review
11. Amendment C143 - Heritage Overlay
12. Proposed Budget 2015/16
13. Investment Policy 2015
14. Draft Riverside Golf & Tennis Centre Master Plan
15. Moonee Ponds Special Rate Intention to Declare
16. 2014/15 Community Grants - Round 2
17. Status of Projects Delayed by Proposed East West Link
18. Draft LGBTIQ Action Plan (2015 - 17)
19. 101 Arcade Way, Keilor East - Proposed Sale of Property
20. Electoral Representation Review 2015 - Response to VEC Preliminary Report
21. Report on Assemblies of Council
22. Report on Advisory Committees
23. Establishment of a Special Committee
24. Notice of Motion Railway Stations at Keilor East and Airport West
25. Notice of Motion Gum Trees in Keilor East
26. Notice of Motion Buckley Street Level Crossing
27. Notice of Motion Residential Zones
28. Notice of Motion WA Aboriginal communities under threat of closure
29. Provision of Recycling Receipt and Processing Services

**RECORD COMPLETED BY**

Anthony Smith

Acting Director Environment & Lifestyle

## RECORD OF ASSEMBLY OF COUNCILLORS

Tuesday 5 May 2015 at 6.35 pm at the Moonee Valley Civic Centre

### PRESENT

#### Councillors:

Narelle Sharpe, Cam Nation, Jan Chantry, Shirley Cornish, Jim Cusack, Nicole Marshall, John Sipek and Andrea Surace.

#### Officers:

Neville Smith	Chief Executive
Tony Ball	Director Community Services
Henry Bezuidenhout	Acting Director City Works & Development
Dale Monk	Acting Director Corporate Services
Anthony Smith	Acting Director Environment and Lifestyle
Sue Hecker	Manager Leisure Open Space & Planning
James Martin	Manager Communications & Corporate Planning
Amanda Allen	Coordinator Sport & Recreation
Lisa Dunlop	Coordinator Strategic Planning
Aleesha Grace	Coordinator Corporate Planning
Riki Fenwick	Corporate Planning Admin Support Officer
Lauri Filippone	Active Events Officer
Janine Speedy	Strategic Policy Officer

### CONFLICT OF INTEREST DISCLOSURES

Nil.

### MATTERS CONSIDERED

1. Heritage Study 2015
2. Moonee Valley Discovery Concept
3. Advocacy Agenda
4. Items of a general nature raised by Councillors and Officers

### RECORD COMPLETED BY

Anthony Smith                      Acting Director Environment & Lifestyle

## RECORD OF ASSEMBLY OF COUNCILLORS

Tuesday 12 May 2015 at 6.57 pm at the Moonee Valley Civic Centre

### PRESENT

#### Councillors:

Narelle Sharpe, Cam Nation (7.15pm), Jan Chantry, Shirley Cornish, Jim Cusack, Paul Giuliano, Nicole Marshall, John Sipek.

#### Officers:

Neville Smith	Chief Executive
Tony Ball	Director Community Services
Henry Bezuidenhout	Acting Director City Works & Development
Carey Patterson	Acting Director Corporate Services
Anthony Smith	Acting Director Environment and Lifestyle
James Martin	Manager Communications & Corporate Planning
Vera Mitrovic–Misic	Acting Manager Strategic and Statutory Planning
Dale Monk	Manager Finance
Gary Mills	Coordinator Property Services

### CONFLICT OF INTEREST DISCLOSURES

Nil.

### MATTERS CONSIDERED

1. Footpath Trading Policy
2. Keilor Road/Matthews Avenue Junction Niddrie - Part Road Discontinuance to Facilitate Toilet Facility Refurbishment Project
3. Proposed Sale of Land Abutting 1 & 3 Normanby Street and 142 Maribyrnong Road, Moonee Ponds
4. Implementation of a managed service and software system for the supply of temporary agency staff
5. Financial Performance Report March 2015
6. 5 Bank Street, Ascot Vale - Proposed Part Road Discontinuance
7. Queens Park Cottage Cafe/Restaurant - Proposed Assignment of Lease
8. 25 Rose Street, Niddrie - Adverse Possession Claim
9. Corporate Sponsorship Policy
10. Endorsement of Nominations for Arts & Culture Community Advisory Committee
11. Combined Planning Permit Application MV/37/2014 and Amendment C150
12. Consideration of demolition requests and planning permit applications for properties where a Heritage Overlay does not apply

13. Planning Scheme Amendment C154 (5 Treadwell Road)
14. 20 Westminster Drive, Avondale Heights
15. 19 Rogersen Street, Avondale Heights
16. 33 Pearl Street, Niddrie
17. 12 Browning Street, Moonee Ponds
18. Items of a general nature raised by Councillors and Officers

**RECORD COMPLETED BY**

Anthony Smith

Acting Director Environment & Lifestyle

## 10. Notices of Motion

### 10.1 Notice of Motion No. 2015/12

**Title:** 'Universal Access to Early Childhood Education' National Partnership Agreement  
**From:** Cr Cam Nation  
**Ward:** Municipal  
**File No:** FOL/14/1258

It is my intention that at the Ordinary Meeting of Council to be held on 26 May 2015, to move:

That Council:

- a) Writes to the Federal Government recognising their \$840 million funding commitment as part of the 'Universal Access to Early Childhood Education' National Partnership Agreement. Under the Agreement the State Government funds 10 hours of kindergarten and the Commonwealth funds the additional five hours. This vital funding ensures that all four-year-olds can access 15 hours of kindergarten to prepare them for the following school year.
- b) Continues to work with all levels of Government to advocate for continued Commonwealth investment in preschool programs, to ensure that all families with young children in Moonee Valley can access affordable preschool education, and to improve learning outcomes for children in Moonee Valley and future generations.

#### **Officers' Comments**

Officers support this Notice of Motion that provides parents and preschools with certainty and demonstrates a joint commitment to early years access and education that enables children to thrive.