Ordinary Meeting of Council
Tuesday, 13 February 2018 at 6.30pm
to be held at the Moonee Valley Civic Centre

TO :

Members: Cr John Sipek Mayor
          Cr Samantha Byrne
          Cr Jim Cusack
          Cr Rebecca Gauci Maurici
          Cr Richard Lawrence
          Cr Nicole Marshall
          Cr Cam Nation
          Cr Narelle Sharpe
          Cr Andrea Surace

Officers: Mr Bryan Lancaster Chief Executive Officer
          Mr David Benallack Chief Financial Officer
          Mr Steven Lambert Director City Services
          Ms Kendrea Pope Director Organisational Performance
          Ms Natalie Reiter Director Planning & Development
          Mr Petrus Barry Manager Statutory Planning
          Ms Allison Watt Manager Communications & Governance
Business:

1. Opening
2. Apologies
3. Confirmation of Minutes
   Ordinary Meeting of Council held on Tuesday, 12 December 2017.
4. Declarations of Conflict of Interest
5. Presentations
   Carols in Queens Park – Make a Wish Foundation
6. Petitions and Joint Letters
7. Public Question Time
8. Reports by Mayor and Councillors
   Nil.
9. Reports
   9.1 Buckley Street - Level Crossing Removal Update ..........................................5
   9.2 2B McPherson Street, Moonee Ponds (Lots 1 and 2 on TP107268X) - Partial demolition, buildings and works, display of business identification signage and removal of vegetation within a Heritage Overlay (HO379) associated with a child care centre.............11
   9.3 74 Pascoe Vale Road Moonee Ponds (Lot 16 on Plan of Subdivision 6223) .........................................................................................................................32
   9.4 14 Cheffers Street, Moonee Ponds (Lot 47 on PS 009204) - Construction of two dwellings..........................................................................................62
   9.5 421-431 Mt Alexander Road, Ascot Vale (Land is PC173659Y) - Construction of a multi storey mixed use building, use as accommodation, reduction in car parking requirements, waiver of loading requirements and alterations to access to a Road Zone, Category 1 road in the Design and Development Overlay Schedule 3...........................................................................................................81
   9.6 Planning Scheme Amendment C182 Update - Heritage Overlay 62, 64, 66 and 68 Buckley Street, Essendon .........................................................104
   9.7 Planning Scheme Amendment C186 Update - Heritage Overlay 5 Alma Street, Aberfeldie ..........................................................................................108
   9.8 Proposed Activities & General Amenities Local Law 2018 - Update ..........................................................................................................................119
   9.9 Community Facility Management Policy Update...........................................138
9.10 Council Plan 2017-21 progress report for July-December 2017 ..........156
9.11 Niddrie Business Precinct Special rate and Charge Declaration...........166
9.12 Flemington Business Precinct Special Rate and Charge Declaration ............................................................................................ 180
9.13 Union Road Business Precinct Special Rate and Charge Declaration ............................................................................................ 191

10. Notices of Motion
10.1 Notice of Motion No. 2018/01 - Transparency Measures ......................197
10.2 Notice of Motion No. 2018/02 - Establishment of Working Group with City of Melbourne ........................................................................... 199
10.3 Notice of Motion No. 2018/03 - Request for reintroduction of the Moonee Valley City Council Waste Calendar .........................................................200

11. Urgent Business

12. Confidential Reports
12.1 Highball Strategic Directions .........................................................................................................................201

13. Close of Meeting

BRYAN LANCASTER
Chief Executive Officer
REPORTS

9.1 Buckley Street - Level Crossing Removal Update

File No: FOL/18/32
Author: Colin Harris
Senior Project Manager – Infrastructure & Land Use Developments
Directorate: Planning & Development

Purpose

To report on recent approvals by the State Government under the Major Transport Projects Facilitation Act, 2009, and Planning and Environment Act, 1987 to facilitate the Buckley Street Level Crossing Removal Project, and recommend next steps.

Executive Summary

- On 7 December 2017, the Premier of Victoria declared the Buckley Street Level Crossing Removal Project a “declared project” under section 10(1)(b) of the Major Transport Projects Facilitation Act, 2009 (MTPFA). This excludes Part 3 and 8 of the Act.
- Under section 14 of the Act, the Premier Appointed the Minister for Public Transport as the Project Minister for the Buckley Street Level Crossing Removal Project on 7 December 2017.
- On 14 December 2017, the Minister for Public Transport appointed the Secretary of the Department of Economic Development, Jobs, Transport and Resources to be the project proponent for the Buckley Street Level Crossing Removal Project, pursuant to section 15 of the Act.
- On 28 December 2017 the Minister for Planning authorised Amendment C180 to the Moonee Valley Planning Scheme under 20(4) of the Planning and Environment Act, 1987. The Mayor was advised of this by letter received on 18 January 2018. The Amendment C180 introduces an Incorporated Document into the Planning Scheme.
- Amendment C180 was included in the Government Gazette on 25 January 2018.
- On 22 January 2018, Council wrote to the Premier seeking advice on the process to be followed by the Government to address the MTPFA. Council requested copies of all assessment material before the Government pre the declaration. A response within 10 working days of the letter was requested, failing which proceedings would be considered. At the time of writing a response has not yet been received.
- The LXRA released their final design on 24 January 2018. On the same date the LXRA announced that contracts had been awarded.
• Since the project was first announced by the State Government, Council has advocated strongly to highlight the impacts of a road-under-rail outcome at Buckley Street, and the benefits that would be achieved by an alternative solution of a rail under road outcome.

• Officers have also worked with LXRA, and stakeholders to ensure Council’s issues and concerns have been identified in the project design. Notwithstanding this, Council has some concerns with the design, particularly in relation to impacts on pedestrian and vehicle movements, loss of car parking, public realm outcomes and lack of clear understanding as to the future of the car park sites.

• Given the project has now commenced, and contracts signed, any injunction of the project creating a project delay would place an unacceptable financial risk to Council. On this basis, legal action is not a recommended course of action.

• It is recommended the Mayor and CEO meet with the Minister for Public Transport to discuss the impacts of the road-under-rail outcome level crossing removal on the Essendon Junction and the wider area. This would be done with a view to securing outcomes that can be delivered as part of the project delivery package. Such outcomes would be aimed at providing wider benefits for the community, designed to assist in mitigating the negative impacts of the development, and improving the future strategic development of Essendon.

• There is also a need to ensure traders are not significantly adversely impacted by the construction activities. The LXRA, Council and key stakeholders need to work closely with the traders to ensure impacts are mitigated where possible.

**Recommendation**

That Council:

1. Agree that the Mayor and CEO of Moonee Valley City Council meet with Minister for Public Transport as a matter of urgency, requesting to discuss project related outcomes that can assist the future strategic development of Essendon.

2. Agree that, given the declaration of the Buckley Street Level Crossing Removal Project as a “declared project” under section 10(1)(b) of the *Major Transport Projects Facilitation Act, 2009 (MTPFA)*, and authorisation of Amendment C180 to the Moonee Valley Planning Scheme under 20(4) of the *Planning and Environment Act, 1987*, pursuing legal action will not deliver the necessary outcomes to justify such action.

3. Commence engagement with Essendon traders, the LXRA and key stakeholders in order to assist in preparing strategies to mitigate the economic impacts associated with construction activity.

4. Agree future updates on this project will be via progress reports via Council’s website and Councillor Updates.
Background

Previous Council Resolutions

At the Ordinary meeting of 13 June 2017, it was resolved that:

In the event that the Minister for Planning prepares to proceed with an Amendment to the Moonee Valley Planning Scheme without all key matters being fully and independently considered, authorise Officers to immediately pursue legal recourse if considered appropriate.

At the Ordinary meeting of 12 December 2017, it was resolved that:

That the Mayor write in the next seven days to the Chief Executive of the LXRA reiterating the endorsed position of Council, and again requesting the project be deferred until such times as all relevant matters (including traffic and transport impacts, the future of the Essendon Station car parking sites and other level crossing removal options) have been independently and transparently considered, and in addition request details of:

a) When the LXRA intends to request the Minister for Planning to proceed with enacting Section 20(4) which is required to switch off planning controls within the project precinct in the City of Moonee Valley.

b) When the final design of the road-under-rail project will be presented to the community;

c) How this final design will be communicated to residents and stakeholders in the affected area, and any subsequent consultation that is intended to take place;

d) When the final traffic assessment and impact report on the LXRA’s preferred road-under-rail model will be made available to the community and stakeholders;

e) A timeframe for consideration of the process for a decision on the IDO (Integrated Development Opportunity) sites in the event that the road-under-rail project does proceed; and;

f) Any intended investment in legacy items beyond the immediate project area, and the indicated financial commitment of such items.

Discussion

Approvals

Major Transport Projects Facilitation Act, 2009 (MTPFA)

On 7 December 2017, the Premier of Victoria declared the Buckley Street Level Crossing Removal Project a “declared project” under section 10(1)(b) of the Major Transport Projects Facilitation Act, 2009 (MTPFA). This excluded Part 3 and 8 of the Act. Council was not directly notified of the gazettal, but became aware of the gazettal in early January through a review of the draft Environmental Management Strategy (EMS) provided by the LXRA on 5 January, 2018.

Under section 4 of the Act, the Premier appointed the Minister for Public Transport as the Project Minister for the Buckley Street Level Crossing Removal Project on 7 December 2017 and on 14 December 2017, the Minister for Public Transport appointed the Secretary to the Department of Economic Development, Jobs,
Transport and Resources to be the project proponent for the Buckley Street Level Crossing Removal Project, pursuant to section 15 of the Act.

On becoming aware of the Gazettal of the MTPFA, Council wrote to the Premier of Victoria, on 22 January 2018. This letter sought advice as to what process would be followed by the Government to address the MTPFA, including its objectives. Council requested copies of all assessment material before the Government pre the declaration.

A response within 10 working days of the letter was requested, failing which proceedings would be considered. At the time of writing, a response has not been received.

**Planning and Environment Act, 1987**

On 18 January 2018, the Mayor was advised by letter that the Minister for Planning had used his powers under section 20(4) of the *Planning and Environment Act, 1987* to amend the Moonee Valley Planning Scheme. This Amendment (C180) introduced an Incorporated Document into the Moonee Valley Planning Scheme.

The Minister for Planning authorised Amendment C180 to the Moonee Valley Planning on 28 December 2017 and Amendment C180 was included in the Government Gazette on 25 January 2018. The implications of Amendment C180 are that the all existing provisions of the Planning Scheme are overridden by the Buckley Street Level Crossing Removal Project Incorporated Document.

As is the case with all 20(4) Amendments, the Minister for Planning has provided the Reasons for Decision.

**Heritage Victoria**

At the time of writing, Council is unaware if an application has been made under the *Heritage Act, 1995*. As Essendon Station and Environs is on the State Heritage Register, a permit is required as a prerequisite to any works starting.

**Environmental Management Strategy**

Within the Incorporated Document, there is a requirement for an Environmental Management Strategy to be prepared to the satisfaction of the Minister for Planning. The LXRA advise this has been prepared and signed by the Minister for Planning.

**Final Released Design**

The final design was released on the LXRA website on 24 January 2018. This design differs in part from others exhibited by the LXRA, including a change to public realm outcomes, and the provision of underpasses on the south side of Buckley Street.

Officers were asked by the LXRA to provide comment to the LXRA in relation to the preliminary design and Council provided a response.

Council’s comments on the preliminary design included the following:

- Extremely narrow footpath widths
- Loss of key vehicle movements and parking
- Impact on bus movements
- Concern regarding DDA access to Essendon Station
• Need to regain at-grade access to the south of Buckley Street
• Does not fully respond to the LXRA’s Urban Design Framework.

Vegetation Removal Buckley Street

On 30 January 2018, the LXRA removed a number of trees on Buckley Street central median. While the trees were covered by the Environmental Significance Overlay (ESO) provisions in the Moonee Valley Planning Scheme, the Incorporated Document overrides the ESO. Council will commence discussions with the LXRA with a view to having the financial and amenity values of the trees assessed, and suitable offsets provided.

Planning Controls Essendon

Buckley Street is centrally located within Essendon and the removal of the level crossing has been at the forefront of Council’s planning for the area. This has been reflected in the Essendon Junction Structure Plan and Design and Development Overlay that formed part of Council’s Amendment C159 request to the Minister for Planning.

Amendment C159 was submitted to the Minister for exhibition in mid-2016. On 12 February 2017, the Minister for Planning wrote to Council stating the request to prepare C159 was premature given the amendment is based on an assumption that Buckley Street grade separation will be achieved by a rail-under-road option. The Minister advised that if the LXRA decides to undertake a road-under-rail option, then Amendment C159 would need to be changed. Council was advised to closely liaise with the LXRA and, once a decision on the approach for the Buckley Street level crossing removal is finalised, review the Essendon Junction Structure Plan to reflect the approved approach and any approved master plan for the VicTrack land around the railway station.

As a decision on the approach for the Buckley Street level crossing has now been made, Council, the LXRA and VicTrack should commence discussion on this matter. The objective will be to determine the future of the land around the railway station and opportunities to deliver outcomes from the removal project that will enhance outcomes for the Junction and wider Essendon area.

Legal Proceedings

Any challenge against the legislative approvals would be to the Victorian Supreme Court in the first instance. Council could seek to undertake an injunction in relation to the project. This would effectively seek to have work on the project halted until such a time that the Supreme Court would have made a ruling on the validity of the approvals.

It is highly likely that Council would be required to make an “undertaking as to damages” before an injunction would be granted. Given the scale of the project, this could expose Council to substantial, potentially many millions of dollars, in delay costs. This is not a recommended course of action.

Council could seek to have the approvals process reviewed. Council might consider seeking discovery pre commencement of proceedings. This would not expose Council to the costs associated with project delay costs but might result in Council obtaining the documents it has sought by letter to the Minister.
Consultation
The nature of this report does not require consultation.

Implications

1. Legislative
   Legislative concerns are addressed within the body of the report, as are concerns regarding DDA compliance.

2. Council Plan / Policy
   In presenting this report, Council is working to achieve its strategic objective to continue our commitment to new civil infrastructure that is accessible in accordance with Council Plan 2017-21 Theme 1: Friendly and safe - An equitable, inclusive and healthy community - People have access to the services they need.

3. Financial
   Addressed within body of report.

4. Environmental
   Addressed within body of report.

Conclusion
Council has previously written to the State Government indicating our preference to have the project deferred until such time as an alternative to a road-under-rail outcome can be funded. The State Government has issued the key statutory approvals to facilitate the Level Crossing Removal Project. Works have commenced and contracts have been signed by the State Government.

Commencing legal action at this stage exposes Council to significant financial risk and since undertaking legal action is unlikely to prevent a road-under-rail outcome, legal action is not a recommended course of action.

It is recommended the Mayor and CEO meet with the Minister for Public Transport as a matter of urgency to discuss the impacts of the road-under-rail outcome for the level crossing removal on the Essendon Junction and the wider area.

This would be done with a view to securing outcomes that can be delivered as part of the project delivery package. Such outcomes would be aimed at providing wider benefits for the community, designed to assist in mitigating the negative impacts of the development, and improving the future strategic development of Essendon.

Appendices
Nil.
9.2 2B McPherson Street, Moonee Ponds (Lots 1 and 2 on TP107268X) - Partial demolition, buildings and works, display of business identification signage and removal of vegetation within a Heritage Overlay (HO379) associated with a child care centre

File No: FOL/18/32
Author: Lachlan Orr
Senior Statutory Planner
Directorate: Planning & Development

<table>
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<tr>
<th>Planning File No.</th>
<th>MV/567/2016</th>
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| Proposal          | • Partial demolitions, alterations and additions to former Club Secretary’s House associated with a child care centre (91 children), which is an as-of-right land use  
|                   | • Vegetation removal, as well as retention and protection works, associated with historic Edna Walling garden  
|                   | • Three 2.88m² business identification signs |
| Applicant         | David Sinclair C/- Tract Consultants Pty Ltd |
| Owner             | Moonee Valley Racing Club (Incorporated) |
| Planning Scheme Controls | Activity Centre Zone (Schedule 1)  
|                   | Heritage Overlay (Schedule 379) |
| Planning Permit Requirement | Clause 37.08-5 – Buildings and works  
|                   | Clause 43.01-1 – Demolition, buildings and works, external painting, tree and signage  
|                   | Clause 52.05-9 – Business identification signage |
| Car Parking Requirements | Required – 20 spaces  
|                   |Provided – 20 spaces (as amended) |
| Restrictive Covenants | Two Section 173 Agreements relating to the Integrated Transport Plan and racecourse operation. |
| Easements         | Various, affecting entire racecourse  
|                   | None affecting the activity area |
| Site Area         | 39.5 hectares for entire racecourse  
|                   | 2,120 square metres for the activity area |
| Number Of Objections | 37 |
| Consultation Meeting | 8 February 2017 |
Executive Summary

- The application seeks planning permission to carry out works to adapt an existing vacant building (former Club Secretary’s House) within a Heritage Overlay for use as a child care centre. The building is located at the north-western corner of the overall Moonee Valley Racecourse site, and is known under the address of 2B McPherson Street, Moonee Ponds. Permission is also sought to display three business identification signs. The use of the land as a child care centre does not require a permit.

- The application was advertised and 39 objections were initially received. Two objections were subsequently withdrawn, resulting in a total of 37 at the time of this assessment. Concerns were raised primarily in relation to impacts on the heritage building and garden, appropriateness of adapting a historic building for a child care centre, traffic and car parking impacts and pedestrian safety.

- A Consultation Meeting was held on 8 February 2017, which was attended by Councillors Cusack and Marshall, objectors, the permit applicant and Council’s Planning Officer. No resolution was achieved.

- On 21 December 2017, the application was amended under Section 57A of the Planning and Environment Act 1987 (the Act) to provide the required amount of on-site car parking, and to delete the proposed vehicle exit lane onto McPherson Street. The two-way access point from Thomas Street shown on the advertised plans would be utilised for a revised car parking area to the east of the building, providing a total of 20 spaces.

- The proposal is considered to be a beneficial reuse of the existing heritage building. The contemporary additions have been sensitively designed to respect the significance of the heritage building and this has also been supported by Council’s Heritage Advisor. The historic garden surrounds will be maintained through the retention of the majority of existing vegetation and garden structures. The implementation of a Tree Management Plan and Landscape Heritage Guidelines report will ensure the ongoing health of the garden is maintained.

- The proposed use has support within State and Local Policy as it provides a required service in an area with strategic support for a variety of land uses. With the recent approval of the Integrated Transport Plan for the Moonee Valley Racecourse Precinct and the revised on-site parking arrangement, the proposal would pose no unreasonable traffic or car parking impacts.

- Overall, this assessment report finds the proposal demonstrates an adequate level of compliance with the relevant policies and provisions of the Moonee Valley Planning Scheme. It is recommended that a Notice of Decision to Grant a Permit be issued subject to conditions.
Recommendation

That Council issue a Notice of Decision to Grant a Permit in relation to Planning Permit Application No. MV/567/2016 for partial demolition, buildings and works, external painting, display of business identification signage and removal of vegetation within a Heritage Overlay (HO379) associated with a child care centre at 2B McPherson Street, Moonee Ponds (Lots 1 and 2 on TP107268X), subject to the following conditions:

1. Before the development starts, amended plans must be submitted to and approved to the satisfaction of the Responsible Authority. The amended plans must be drawn to scale and an electronic copy must be provided. The plans must be generally in accordance with the plans submitted and assessed with the application but modified to show:
   
a) The modifications to garden areas and landscaping as outlined within the Tree Management Plan prepared by Tree Logic Pty Ltd dated 26 May 2017 and the accompanying plan prepared by John Patrick Pty Ltd dated 10 July 2017;

b) A notation on the plans stating ‘Refer to endorsed SDA, BESS and STORM reports for detailed ESD and WSUD requirements and commitments’;

c) The dimensions of all shade sails;

d) A notation on the floor plans that the shade sails will be of a similar colour to the existing building;

e) A notation on the plans that the car spaces will be appropriately signed and line-marked in accordance with Conditions 24 and 25;

f) Each sign reduced to be a maximum 1.8 metres in width and 900mm in
g) The location and details of any service units, with details of any associated screening; and
h) Details (height and construction materials) of screening associated with the waste storage area.

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

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

3. Except with the prior written consent of the Responsible Authority, no more than 91 children may be present on the land at any time.

4. Before the development starts, a detailed photographic assessment of the building and surrounding gardens as set out under the ‘Moonee Valley Racecourse Incorporated Plan – Conservation Policy and Permit Exemptions’ must be undertaken and submitted to the satisfaction of the Responsible Authority.

5. Before the development starts, an amended landscape plan (an electronic copy) 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) Any changes required by Condition 1 of this permit.
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.

6. 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.

7. Before the development starts, the Tree Management Plan prepared by Tree Logic Pty Ltd dated 26 May 2017 must be submitted to the Responsible Authority for endorsement. The Tree Management Plan will be endorsed and will form part of this permit, and its recommendations must be implemented to the satisfaction of the Responsible Authority.

8. Before the development starts, the Landscape Heritage Guidelines report prepared by John Patrick Pty Ltd dated July 2016 must be updated in accordance with Conditions 1 and 7 of this permit, and submitted to the Responsible Authority for endorsement. The guidelines and recommendations of the report endorsed under this condition must be implemented to the satisfaction of the Responsible Authority.

9. Before the development starts, a Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The Waste Management Plan must be generally in
accordance with the plan prepared by SALT dated 18 July 2016. When approved, the Waste Management Plan will be endorsed and will form part of this permit. The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

10. Before the development starts, the Sustainable Design Assessment (SDA) prepared by Sustainable Design Consultants dated September 2016, inclusive of BESS and STORM assessments, is to be submitted to the Responsible Authority for endorsement and will form part of this permit. Preliminary energy rating reports claimed within the BESS assessment must be submitted to ensure a compliant report.

11. A minimum 30 days prior to any building or works commencing, all Water Sensitive Urban Design (WSUD) Details (relating to the WSUD treatment measures nominated in the approved and complying STORM report), such as cross sections and/or specifications, to assess the technical effectiveness of the proposed stormwater treatment measures, must be submitted for approval by the Responsible Authority.

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 CSMP must be in accordance with Moonee Valley City Council’s CSMP’s guideline and templates.

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

The development must be carried out in accordance with the endorsed CSMP and the provisions, requirements and recommendations of the endorsed CSMP must be implemented and complied with to the satisfaction of the Responsible Authority.

13. 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’s User Guide or a Building Maintenance Guide.

14. 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.

15. Floor levels shown on the endorsed plan(s) must not be altered or modified without written consent of the Responsible Authority.

16. All pipes, fixtures, fittings, ducts and vents servicing any building on the land, other than 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.

17. Except with the prior written consent of the Responsible Authority, equipment, services or other building features (other than those shown on the endorsed plan) must not be erected above the roof level of the building.

18. Noise emitted from the premises, including noise emanating from service equipment, 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.

19. Except with the prior written consent of the Responsible Authority, no form of public address system may be installed or operated so as to be audible from outside the building.

20. All security alarms or similar devices installed on the building must not emit any noise which is audible beyond the boundary of the land and must be designed in accordance with the relevant Australian Standard and must be connected to a security monitoring service.

21. The existing street tree within the Thomas Street road reserve 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.

22. Prior to the issue of an Occupancy Permit, the concrete vehicular crossings must be constructed to suit the proposed driveway in accordance with the Responsible Authority’s specification and any obsolete, disused or redundant vehicle crossings must be removed and the area reinstated to footpath, nature strip and kerb and channel 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 prior 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
23. The loading and unloading of goods (including waste collection) from any vehicles must only be carried out within the boundaries of the land and must not be conducted before 7.00am or after 6.00pm on any day.

24. Prior to the issue of an Occupancy Permit, the areas set aside for the parking of vehicles, together with the associated driveways and access lanes as shown on the endorsed plans must be:
   a) Constructed;
   b) Available for use in accordance with the endorsed plans;
   c) Properly formed to such levels and drained so that they can be used in accordance with the endorsed plans;
   d) Finished with a permanent trafficable surface (such as concrete, asphalt or paving); and
   e) Line-marked or provided with another adequate means of ensuring that the boundaries of all vehicle spaces are clearly indicated on the ground,
   in accordance with the endorsed plans to the satisfaction of the Responsible Authority.

The area set aside for the parking of vehicles, together with the associated driveways and access lanes as shown on the endorsed plans must:
   a) Be maintained and made available for such use; and
   b) Not be used for any other purpose,
   to the satisfaction of the Responsible Authority.

25. Prior to the issue of an Occupancy Permit, signs must be erected in association with the staff and non-staff car parking hereby provided, allowing for the identification of the staff and non-staff car park, to the satisfaction of the Responsible Authority.

26. 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.

27. The location and details of the signage and any supporting structure shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.

28. The advertising signage and any related panel and any supporting structure must be constructed and maintained to the satisfaction of the Responsible Authority.

29. The signage authorised by this permit must not be illuminated or floodlit by internal or external light.

30. Flashing, intermittent or moving light must not be displayed.

31. The signage must not be animated in part or whole.

32. Bunting, streamers and festooning must not be displayed.
33. The signage authorised by this permit must only contain an advertisement which provides or supplies information relating to the business conducted on the land.

34. This permit for the advertising signage will expire fifteen (15) years after the date it is issued.

35. 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.
- This land is located within a Heritage Overlay. Planning permission is required for any additional works to the land in accordance with Clause 43.01 of the Moonee Valley Planning Scheme.
- Before commencement of the development occurs, the applicant should contact Moonee Valley City Council on 9243 8888 regarding legal point of discharge, new crossings, building over easements, etc.
- All drainage works undertaken must be in accordance with the requirements of Stormwater Drainage Requirements for Development Works as prepared by Moonee Valley City Council.
- All works undertaken within any existing road reserves must accord with the requirements of Moonee Valley City Council 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 any road reserve.
- No on-street parking permits will be provided to the occupiers of the subject site.

1. Introduction

1.1 Subject Site and Surrounds
The subject site is located on the intersection of McPherson and Thomas Streets, Moonee Ponds. The site forms part of the Moonee Valley
Racecourse and occupies the north-western corner of the land, with an area of approximately 2,120 square metres.

Figure 2 – Subject site (2B McPherson Street, Moonee Ponds)

The subject site is occupied by a double storey brick dwelling which is currently vacant, but historically associated with the Club Secretary of the racecourse. A garden designed by Edna Walling is an important feature of the residence with ornate pathways and stonework, as well as two large trees which can be traced back to the original garden plan. The significance of this dwelling and the garden are recognised under Heritage Overlay Schedule 379.

The activity area for this application also includes land surrounding the dwelling and garden, currently occupied by trees and lawn, as well as buildings and driveways associated with the racecourse.

The site is located within Precinct 9 (Racecourse) of the Activity Centre Zone, Schedule 1 (Moonee Ponds Activity Centre). The schedule to the zone stipulates that no permit can be granted in this precinct until the Traffic Assessment and Management Plan, Integrated Transport Plan and precinct-wide Section 173 agreement are finalised, which have recently occurred. The land is also affected by a separate Section 173 Agreement which applies to the racecourse as a whole, setting out requirements for night activities of the racing club. This agreement has no bearing on the current application.

The surrounding land is within a General Residential Zone. Residential development around the subject site exhibits a relatively intact character with older dwellings being the predominant built form nearby, although some infill has occurred in surrounding streets.
1.2 Proposal

It is proposed to carry out works to adapt the existing building for use as a child care centre.

The proposal, as advertised, is summarised as follows:

**Table 1**

<table>
<thead>
<tr>
<th>Description</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>No of children</td>
<td>91</td>
</tr>
<tr>
<td>Hours of operation</td>
<td>6:30am to 6:30pm, Monday to Friday</td>
</tr>
<tr>
<td>No of car spaces</td>
<td>18, inclusive of one disabled space</td>
</tr>
<tr>
<td>Buildings and works</td>
<td>Demolition of two structures along the northern section of the building, comprising garage, laundry and outdoor sitting area. Construction of two new double storey wings comprising childcare rooms and associated amenities, in line with the existing wings of the dwelling. Construction of vehicle accessway and parking spaces around the outer walls of the dwelling, entrance and exit from Thomas Street and an exit lane to McPherson Street. Internal reconfigurations External painting</td>
</tr>
<tr>
<td>Landscape and garden works</td>
<td>Retention of majority of vegetation including three significant trees Replacement of one significant tree (Weeping Lilli Pilli) with same species, and of some recently planted vegetation with appropriate species</td>
</tr>
<tr>
<td>Advertising signage</td>
<td>Three business identification signs, each 2.4 metres wide by 1.2 metres high (2.88 square metres) Total advertisement area of 8.64 square metres</td>
</tr>
</tbody>
</table>

Refer **Appendix B** – Advertised Plans (separately circulated) and **Appendix C** - Updated landscape and garden works following submission of a Tree Management Plan (separately circulated).

On 21 December 2017, the application was amended under Section 57A of the *Planning and Environment Act 1987*. The changes are summarised as follows:

- Deletion of the proposed vehicle exit lane onto McPherson Street.
- A revised car parking area provided to the east of the building with two additional car spaces, resulting in a total of 20 on-site parking spaces in accordance with the planning scheme requirement. The
revised parking area will utilise the two-way access point from Thomas Street as shown on the advertised plans.

- As a result of the above, the application removed the permission sought for a reduction to the car parking requirement.

Refer to Appendix D – Amended Parking Layout Plan.

2. Background

2.1 Relevant Planning History

There are numerous historical planning applications associated with the ongoing use of the racecourse, none of which have direct relevance to this application.

2.2 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 21.03 Vision
Clause 21.04 Sustainable Environment
Clause 21.06 Built Environment
Clause 22.01 Heritage
Clause 22.03 Stormwater Management (Water Sensitive Urban Design)

Zoning and Overlays
Clause 37.08 Activity Centre Zone (Schedule 1)
Clause 43.01 Heritage Overlay (Schedule 379)

Particular and General Provisions
Clause 52.05 Advertising Signs
Clause 52.06 Car Parking
Clause 65 Decision Guidelines

2.3 Referrals

No external referrals were required for this application.

The following internal referrals were undertaken:

Table 2

<table>
<thead>
<tr>
<th>Department</th>
<th>Comments/Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arborist</td>
<td>No objection subject to conditions.</td>
</tr>
<tr>
<td>Development</td>
<td>Concern with reduction in car parking.</td>
</tr>
</tbody>
</table>
TUESDAY 13 FEBRUARY 2018
AGENDA – ORDINARY COUNCIL MEETING

<table>
<thead>
<tr>
<th>Department</th>
<th>Comments/Conditions</th>
</tr>
</thead>
</table>
| Engineering (Traffic)             | (resolved due to the amendment)  
|                                   | Recommendation to provide bicycle parking on site. (Refer 3.5)  
|                                   | Standard conditions for design |
| Environmental Sustainable Design (ESD) Officer | STORM complies, amended SDA and notations on plans required. |
| Heritage Advisor                  | Support provided for the proposed design |
| Waste Projects Officer            | No objection to Waste Management Plan. |

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 notices displayed on site for 14 days.

A total 39 objections were received during this process with two later withdrawn, resulting in a total of 37 from the properties contained within Appendix A of this report. The concerns raised within objections are summarised and discussed at Section 3.6 of this report.

It is noted that re-advertising of the amended plan pursuant to Section 57B of the Planning and Environment Act 1987 was not required, as there would be no material detriment caused by the amendments made after advertising. The revised plan provides the entire on-site car parking requirement, and will remove the secondary exit lane onto McPherson Street. These changes address two concerns raised by objectors in relation to car parking and traffic flow. The changes do not involve and alteration or increase in built form which would require re-notification.

2.5 Consultation Meeting

A Consultation Meeting was held on 8 February 2017, which was attended by Councillors Cusack and Marshall, the permit applicant and representatives, objectors and Council’s Planning Officer. There was no resolution achieved.

3. Discussion

3.1 Does the proposal comply with the relevant State and Local Planning Policies?

The proposal is considered to comply with the relevant State and Local Planning Policies, primarily Clauses 15, 21.06 and 22.01 as they relate to built environment and heritage. These clauses encourage contemporary development which appropriately responds to its location and context, and positively contribute to local urban character. Policy objectives for heritage seek to conserve places of heritage significance, and encourage their protection and enhancement through appropriate design and
development. There is specific encouragement for the adaptive reuse of heritage buildings whose use has become redundant at Clause 15.03-1.

The proposal generally complies with the environmental sustainable design principles within Clauses 21.04-3 and 22.03 through the submission of a Sustainable Design Assessment (SDA) which includes both BESS and STORM assessments. Minor amendments are required to the submitted SDA, along with additional notations required on the plans.

The proposal also 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 Waste Management Plan submitted with the application was assessed as being acceptable, and will be endorsed by condition of any permit issued.

### 3.2 Does the proposal comply with the decision guidelines and precinct objectives of the Activity Centre Zone?

The proposal is considered to meet the relevant decision guidelines at Clause 37.08-9, as well as those under Clause 8.0 of Schedule 1 to the Activity Centre Zone.

As noted under Section 1.1 of this report, no permit can be granted for any use, development or subdivision within Precinct 9 until an Integrated Transport Plan and precinct-wide Section 173 agreement are finalised. As these threshold requirements have been fulfilled, a permit can now be granted for this proposal.

There are also a number of applications listed at Clause 6.0 of the schedule to the zone which are specific to Precinct 9, for which Council has discretion to require these as appropriate to any application in the precinct. The majority of these requirements are high level requirements designed to coordinate the development of the racecourse precinct as a whole, and are not considered to be appropriate to this particular application given its relatively minor role within this future development. Each application requirement is discussed in the following table:

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Written statement against the MPAC structure plan</td>
<td>Provided.</td>
</tr>
<tr>
<td>Staging Plan</td>
<td>Not appropriate to this particular application, but will be required for any future application relating to the larger redevelopment of the precinct.</td>
</tr>
<tr>
<td>Transport Assessment and Management Plan</td>
<td>As above (Noting a satisfactory Traffic Impact Assessment was provided with the application).</td>
</tr>
<tr>
<td>Integrated Transport Plan</td>
<td>As above.</td>
</tr>
</tbody>
</table>
The proposal is consistent with the objectives of Precinct 9, primarily through the retention and enhancement of the heritage building at this corner of the racecourse precinct. This will secure a buffer between the larger built form projected to the east, and the lower scale residential land around the intersection of McPherson and Thomas Streets. The proposed works are modest in scale and complementary to the existing building, allowing the original building to remain the prominent element viewed from the public realm. This will maintain a respectful interface between the site and surrounding residential land. It is noted that the maximum height of the proposed works are within the maximum mandatory height of 11 metres for Sub-Precinct 9C.

The adaptation of the vacant dwelling into a child care centre will also achieve the objective of facilitating a land use mix and increased employment opportunities to enhance the role and function of the precinct and activity centre as a whole.

The built form and landscape implications are discussed against the decision guidelines of the Heritage Overlay below.

### 3.3 Does the proposal comply with the purpose and decision guidelines of the Heritage Overlay?

The proposal is considered to meet the decision guidelines at Clause 43.01-4 as follows:

- The proposal has been designed to fortify the ongoing significance and appearance of the heritage place. The design and layout of the additions and works have carefully considered both the architecturally significant built form and the historical garden surrounds.
- The proposal has properly considered the statement of significance contained within the heritage study for this schedule to the overlay, with a suitably qualified heritage architect appointed to design the additions and to undertake a thorough written assessment of the site and proposal.
• The location, scale and appearance of the proposed works are appropriate and will enhance the significance of the heritage place. The design of the new wings to the building are contemporary yet recessive, at a scale which will be subservient to the retained heritage dwelling.

The siting and massing of the additions strongly respond to the physical characteristics of the site and the existing built form, keeping a height below the eaves of the existing building and maintaining setbacks from both street frontages. The selection of external materials and design detailing achieve a respectful and visually engaging building form.

The design strikes the desired balance between integrating and distinguishing itself from the historical building fabric, and makes a positive contribution to the public realm.

• The extent of demolition is appropriate, and leaves the primary areas of the existing dwelling intact. The removal of the garage, northeastern ground floor section and some window and door openings will not have a detrimental impact on the appearance and significance of the heritage building. A condition of permit will require the submission of a detailed photographic study of the existing conditions of the site before works commence, as set out under the relevant incorporated plan for HO379 ‘Moonee Valley Racecourse Incorporated Plan – Conservation Policy and Permit Exemptions’.

• The significance of the heritage place is largely due to its intact garden surrounds, designed by the famous 20th century landscape designer Edna Walling. The proposal has been designed to ensure the layout and ongoing health of the garden will be protected, consulting the original garden plans as part of both the submitted building and landscape plans. The proposal will retain three originally planted mature trees on the site, as well as significant internal walls, pathways and gates. All new parking areas and accessways are located outside the perimeter of the heritage garden.

Vegetation to be removed is mainly confined to the replacement of one significant tree which is in poor condition as outlined within the submitted Tree Management Plan (refer Appendix C – separately circulated). This has been assessed by Council’s Arborist and is considered acceptable. A Landscape Heritage Guidelines report was also submitted with the application which sets out guidelines and recommendations for the ongoing protection and maintenance of the historic garden, which will be enforced through conditions of any permit issued.

• Subject to a change discussed in the following section, the location and design of the proposed signage is appropriate and will not adversely affect the appearance of the heritage place. Each sign is located remotely from the others, and is of an appropriate size so as not to detract from the appearance of the building.

• It is noted that Council’s Heritage Advisor provided support for each aspect of the proposal as described above.
3.4 Is the proposed signage appropriate?
The display of business identification signage in this precinct requires a permit pursuant to Clause 52.05-9 (Category 3 – High Amenity Areas), pursuant to Clause 9.0 of Schedule 1 to the Activity Centre Zone. The purpose of this category is to ensure that signs in high-amenity areas are orderly, of good design and do not detract from the appearance of the building on which a sign is displayed or the surrounding area.

Having regard to the decision guidelines of Clause 52.05, the proposed signage has been designed to provide clear and simple identification for the proposed child care centre that does not result in a visual clutter for the site and surrounds. The location and design of the signage at three separate and discrete locations around the building is appropriate and will have an ancillary presence within the site, ensuring it will not detrimentally affect the residential character of the surrounding area. However, it is considered that the size of each sign, at 2.4 metres wide by 1.2 metres high, is excessive within the residential context. A condition of permit will require the signs are reduced to have a maximum height of 900mm and maximum width of 1.8 metres, which will maintain the ratio of the proposed sign and achieve a more respectful presentation to each street.

3.5 Is the provision and design of car parking acceptable?
The proposal provides car parking as set out in the table below:

<table>
<thead>
<tr>
<th></th>
<th>Requires</th>
<th>Provides</th>
</tr>
</thead>
<tbody>
<tr>
<td>Child care centre with 91 places (0.22 spaces per child)</td>
<td>20</td>
<td>20</td>
</tr>
</tbody>
</table>

The proposal originally sought a reduction of two parking spaces. However, with the amendments made under Section 57A, the proposal now fully satisfies the requirement for on-site car parking.

The design of the accessway to Thomas Street and the revised car parking area complies with Clause 52.06-9, with compliant car space and accessway dimensions (including one disabled space) and pedestrian visibility splays provided where necessary.

The concerns and recommendations made by Council’s Development Engineering (Traffic) are generally addressed within the revised plan. A recommendation to provide bicycle spaces on site is noted, but is not considered appropriate in this instance given the absence of any statutory requirement to provide such facilities.

3.6 Objections (Discussion)
The following table provides a discussion of the concerns raised within the objections to the application:
Table 5

<table>
<thead>
<tr>
<th>Issue</th>
<th>Officer Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Impact of buildings and works on the heritage building and garden</td>
<td>This is considered to be acceptable as discussed under Section 3.3.</td>
</tr>
<tr>
<td>Appropriateness of adapting a historic building for a child care centre</td>
<td>It is considered appropriate to utilise the existing building as a child care centre, noting policy support for the adaptive reuse of heritage buildings where their previous use has become redundant. The long-term health of the historic garden will be protected by conditions incorporating the Tree Management Plan and Landscape Heritage Guidelines submitted with the application.</td>
</tr>
<tr>
<td>Traffic and parking impacts Pedestrian safety</td>
<td>As discussed throughout this report, the proposal has been amended to provide all required on-site car parking and the design standards of Clause 52.06-9 continue to be met. In light of this, the proposal is not considered to pose any unreasonable impact on safe operation of the road network (including footpaths).</td>
</tr>
<tr>
<td>Inappropriate land use, impact on residential properties</td>
<td>The use of the land for a child care centre has policy support at both state and local level, and the scale of the proposed use is appropriate to its residential context as discussed throughout this report. The impact of the proposal on residential land is not unreasonable, and will be suitably managed through conditions of permit.</td>
</tr>
<tr>
<td>Proximity of a child care centre near a gaming venue</td>
<td>There is no evidence to suggest the proximity of the child care centre, or any other nearby use, to the racecourse would cause any detrimental impacts. The objectives for the Racecourse Precinct encourage a variety of different uses in this location, to achieve the long term roles and functions for the Moonee Ponds Activity Centre.</td>
</tr>
<tr>
<td>Integrated Transport Plan not finalised</td>
<td>This has been resolved as discussed above.</td>
</tr>
</tbody>
</table>

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 and overlay controls, the relevant Particular and General Provisions, and the decision guidelines at Clause 65 of the Moonee Valley Planning Scheme.

Consideration has also been given to the requirements of Section 60(1B) of the Planning and Environment Act 1987 with respect to the number of objections received. It is determined that the proposal would not have a significant social effect.

It is recommended that Council issue a Notice of Decision to Grant a Planning Permit in accordance with the conditions contained within the recommendation section above.

Appendices

Appendix A: Location of Objectors
Appendix B: Advertised Plans (separately circulated)
Appendix C: Updated landscape and garden works following submission of Tree Management Plan (separately circulated)
Appendix D: Amended Parking Layout Plan.
### APPENDIX A

**Location of Objectors**

<table>
<thead>
<tr>
<th>Address</th>
<th>Postcode</th>
</tr>
</thead>
<tbody>
<tr>
<td>26 Ngarveno Street, MOONEE PONDS VIC 3039</td>
<td></td>
</tr>
<tr>
<td>7 Kenna Street, MOONEE PONDS VIC 3039</td>
<td></td>
</tr>
<tr>
<td>9 Kenna Street, MOONEE PONDS VIC 3039</td>
<td></td>
</tr>
<tr>
<td>52 Dean Street, MOONEE PONDS VIC 3039</td>
<td></td>
</tr>
<tr>
<td>35 Williamson Avenue, STRATHMORE VIC 3041</td>
<td></td>
</tr>
<tr>
<td>19 Capulet Street, MOONEE PONDS VIC 3039</td>
<td></td>
</tr>
<tr>
<td>95 McPherson Street, ESSENDON VIC 3040</td>
<td></td>
</tr>
<tr>
<td>11 King Street, ESSENDON VIC 3040</td>
<td></td>
</tr>
<tr>
<td>61 McPherson Street, MOONEE PONDS VIC 3039</td>
<td></td>
</tr>
<tr>
<td>17 McPherson Street, MOONEE PONDS VIC 3039</td>
<td></td>
</tr>
<tr>
<td>16 Kipling Street, MOONEE PONDS VIC 3039</td>
<td></td>
</tr>
<tr>
<td>19 McPherson Street, MOONEE PONDS VIC 3039</td>
<td></td>
</tr>
<tr>
<td>10 Mascoma Street, ASCOT VALE VIC 3032</td>
<td></td>
</tr>
<tr>
<td>77 Wilson Street, MOONEE PONDS VIC 3039</td>
<td></td>
</tr>
<tr>
<td>21 McPherson Street, MOONEE PONDS VIC 3039</td>
<td></td>
</tr>
<tr>
<td>23 McPherson Street, MOONEE PONDS VIC 3039</td>
<td></td>
</tr>
<tr>
<td>PO Box 408, MOONEE PONDS VIC 3039</td>
<td></td>
</tr>
<tr>
<td>90 Bent Street, MOONEE PONDS VIC 3039</td>
<td></td>
</tr>
<tr>
<td>2/41 York Street, AIRPORT WEST VIC 3042</td>
<td></td>
</tr>
<tr>
<td>51 Wordsworth Street, MOONEE PONDS VIC 3039</td>
<td></td>
</tr>
<tr>
<td>26 Thomas Street, MOONEE PONDS VIC 3039</td>
<td></td>
</tr>
<tr>
<td>8 Vine Street, MOONEE PONDS VIC 3039</td>
<td></td>
</tr>
<tr>
<td>1 Sydenham Street, MOONEE PONDS VIC 3039</td>
<td></td>
</tr>
<tr>
<td>PO Box 605, MOONEE PONDS VIC 3039</td>
<td></td>
</tr>
<tr>
<td>3 Kenna Street, MOONEE PONDS VIC 3039 (x2)</td>
<td></td>
</tr>
<tr>
<td>Address</td>
<td>Location</td>
</tr>
<tr>
<td>---------------------------------------------</td>
<td>------------------</td>
</tr>
<tr>
<td>6 Kenna Street, MOONEE PONDS VIC 3039</td>
<td>(x2)</td>
</tr>
<tr>
<td>12 Capulet Street, MOONEE PONDS VIC 3039</td>
<td>(x2)</td>
</tr>
<tr>
<td>8 Kenna Street, MOONEE PONDS VIC 3039</td>
<td></td>
</tr>
<tr>
<td>51 Nimmo Street, ESSENDON VIC 3040</td>
<td>(x2)</td>
</tr>
<tr>
<td>28 Salisbury Street, MOONEE PONDS VIC 3039</td>
<td></td>
</tr>
<tr>
<td>18 Wigton Street, ASCOT VALE VIC 3032</td>
<td></td>
</tr>
<tr>
<td>82 Vine Street, MOONEE PONDS VIC 3039</td>
<td>(x2)</td>
</tr>
</tbody>
</table>
9.3 74 Pascoe Vale Road Moonee Ponds (Lot 16 on Plan of Subdivision 6223)

File No: FOL/17/11  
Author: Vi Neilsen  
Senior Statutory Planner  
Directorate: Planning & Development

<table>
<thead>
<tr>
<th>Planning File No.</th>
<th>MV/69/2017</th>
</tr>
</thead>
</table>
| **Proposal**      | Construction of a multi-storey building comprising:  
|                   | • Food and drink premises  
|                   | • 14 dwellings  
|                   | • Four storeys  
|                   | • Reduction of 4 car spaces (2 visitor and 2 commercial car parking spaces)  
|                   | • Variation to the loading bay requirements |
| **Applicant**     | Caroline Loke |
| **Owner**         | Caroline Loke |
| **Planning Scheme Controls** | Activity Centre Zone (Schedule 1) |
| **Planning Permit Requirement** |  
| Clause 37.08-3 – use the land as a food and drink premise.  
| Clause 37.08-5 – construct a building or construct or carry out works.  
| Clause 52.06-3 – reduce the parking requirements.  
| Clause 52.07 – vary the loading bay requirements.  
| Clause 52.29 – create or alter access to a road in a Road Zone, Category 1. |
| **Car Parking Requirements** |  
| (Clause 52.06) | Required – 19 car spaces  
|                 | Proposed – 15 car spaces |
| **Bicycle Requirements** |  
|                     | Required  
|                     | Resident parking – 2  
|                     | Visitor parking – 1  
|                     | Restaurant - 1  
|                     | Proposed  
|                     | Resident – 8 |
| **Restrictive Covenants** |  
Executive Summary

- The application seeks planning approval to construct a four storey mixed use development comprising 14 dwellings, food and drink premises, reduction in car parking requirements, variation to the loading bay requirements and alter access to a road in a Road Zone, Category 1.

- The site has an area of 627.6 square metres and is located on the south-eastern side of Kellaway Avenue and Pascoe Vale Road, Moonee Ponds and approximately 35 metres south of Thomas Street, Moonee Ponds. The site currently accommodates a single storey dwelling.

- The application was advertised and 17 objections were received. The concerns raised related to neighbourhood character, overdevelopment, off-site amenity impacts, car parking, traffic and loading, impact on infrastructure and devaluation of property.

- A Consultation Meeting was held on 11 December 2017, which was attended by Councillor Cusack, the Permit Applicant, Objectors and Council’s Planning Officer. No resolution was reached.

- The application was internally referred to Council’s Development Engineering (Drainage) Unit, Development Engineering (Traffic) Unit, Waste Management Unit, Urban Designer, Arborist, Environmental Sustainable Design (ESD) Officer and Property Department. The application was externally referred to Vic Roads. While some engineering and environmental sustainable design concerns were raised, conditional support was provided from all internal departments and VicRoads.

- The subject site is located with the Moonee Ponds Activity Centre which is envisioned for housing intensification and to support a range of mixed uses that are within close proximity to public transportation, community services and infrastructure. The development also provides a high level of architecture and urban design that is respectful of its context and is in keeping with the vision for the Moonee Ponds Activity Area, including the mandatory height.

- This assessment report finds 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.
Recommendation

That Council issue a Notice of Decision to Grant a Permit in relation to Planning Permit Application No. MV/69/2016 for the construction of a multi storey building, use of the land as a food and drink premises, reduction in car parking requirements, variation to the loading bay requirements and alter access to a road in a Road Zone, Category 1 at 74 Pascoe Vale Road, Moonee Ponds (Lot 16 on Plan of Subdivision 6223), subject to the following conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The amended plans must be drawn to scale with dimensions and an electronic copy must be provided. The amended plans must be generally in accordance with the plans submitted and assessed with the application but modified to show:
   
   a) The maximum mandatory building height of 14 metres (not including site services);
   
   b) Delete the section of the balconies adjacent to BED 1 and in front of BED 2 in Dwellings of 202-205 to allow for solar access to level 1 BED 1 windows;
   
   c) The development ground floor, northern wall (part food and drink premise and services room) setback 5.0 metres from the laneway;
   
   d) Dwellings 1.01, 2.01 and 3.01 northern balconies screened in accordance with Standard B22 of Clause 55.04-6 (Overlooking) of the Moonee Valley Planning Scheme;
e) The location of any external flue to the food and drink premises and to be located away from the residential area;

f) All habitable room windows within the development to be double glazed;

g) Separate single panel lift door to the loading bay and the height clearance of this opening to be no less than 0.5 metres above the overall height of a mini loader waste truck;

h) Provision of single panel lift door to each of the three car park openings in order to minimise noise;

i) Provision of a ‘No Right Turn’ sign at the interface of the laneway and Pascoe Vale Road;

j) Provision of a pedestrian visibility splay to the southern side of the vehicle crossover along Pascoe Vale Road and / or the provision of a vehicular flashing light system to notify pedestrians of oncoming vehicles;

k) The allocation of all car parking spaces nominated on the plans;

l) Notation stating ‘The existing bluestone laneway adjoining the perimeter of the site be restored and made good at the full cost of the permit holder and to the satisfaction of the Responsible Authority’;

m) Notation stating ‘Proposed vehicular crossover including splays constructed in line with Council’s Vehicular Crossover Policy and aligned with the proposed accessway’;

n) Notation stating ‘Redundant vehicle crossing to be reinstated to kerb and channel in line with Council’s Vehicular Crossover Policy’;

o) The provision of at least two public bicycle parking spaces that are conveniently accessible from the public realm in accordance with Clause 52.34 (Bicycle Facilities) of the Moonee Valley Planning Scheme;

p) All bicycle parking designed and annotated in accordance with Australian Standard AS 2890.3 1993 Parking facilities, Part 3: Bicycle parking facilities and Clause 52.34-4 (Bicycle Facilities) of the Moonee Valley Planning Scheme;

q) A prominent note on all floor and elevation plans stating: “Refer to endorsed Sustainability Management Plan, and associated BESS Report, for all ESD commitments and requirements”;

r) All BESS sustainable design initiatives and associated notations to be shown on the relevant plans as required by Condition 6; and

s) Amended Landscape Plan in accordance with Condition 21.

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

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

3. A minimum 30 days prior to any building or works commencing, all Water Sensitive Urban Design (WSUD) details (relating to the WSUD treatment measures nominated in the approved and complying STORM report), such as cross sections and/or specifications, to assess the technical effectiveness of the
proposed stormwater treatment measures, must be submitted for approval by the Responsible Authority.

4. 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 CSMP must be in accordance with Moonee Valley City Council’s CSMP’s Guidelines and Template.

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

The development must be carried out in accordance with the endorsed CSMP and the provisions, requirements and recommendations of the endorsed CSMP must be implemented and complied with to the satisfaction of the Responsible Authority.

5. A maximum 30 days following completion of the development, 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’s Guide or a Building Maintenance Guide.

6. Before the development commences, an amended BESS that outlines proposed design initiatives must be submitted to and approved by the Responsible Authority. The amended BESS shall refer to the endorsed plans. Upon approval the BESS Report will be endorsed as part of this planning permit and the development must incorporate the sustainable design initiatives outlined in the endorsed BESS Report to the satisfaction of the Responsible Authority. The BESS must be generally in accordance with the BESS submitted with the application, but modified as follows:

a) Any changes required by Condition 1 of this permit.

The development must incorporate the sustainable design initiatives outlined in the endorsed Sustainable Design Assessment BESS to the satisfaction of the Responsible Authority.
7. The food and drink premises must not be used as a restaurant unless with the written consent of the Responsible Authority.

8. Before the building approved by this permit is occupied, all boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority if the owner of the adjoining land allows access for the purpose.

9. The Right of Way must be widened to 5.0 metres from the raingarden eastwards up until the loading bay and constructed (in bluestone) for the entire perimeter of the property. All costs associated with the survey, design and construction of the R.O.W must be borne by the permit holder.

Prior to the commencement of buildings and works, detailed engineering drawings to show the widening and construction of the right of way are to be submitted to and approved by the Responsible Authority. The right of way is to be surveyed and designed by a qualified surveyor/civil engineer respectively. The plans are to indicate existing surface levels, proposed surface levels and reinstatement of the right of way in accordance with Moonee Valley City Council standards.

Reinstatement of the right of way as specified in this permit must be satisfactorily completed prior to the issue of an Occupancy Permit for the approved development.

Prior to certificate of occupancy a plan of subdivision reflecting the widened and constructed R.O.W, shown as “road” must be submitted to Council and approved by the relevant authority.

10. Service units, including air conditioning units, must not be located on any of the balconies or terrace areas unless appropriately visually and acoustically screened to the satisfaction of the Responsible Authority.

11. Floor levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.

12. Before the building approved by this permit is occupied, the privacy screens and other measures to prevent overlooking as shown on the endorsed plans must be installed in accordance with Clause 55.04-6 (Overlooking) of the Moonee Valley Planning Scheme to the satisfaction of the Responsible Authority.

All privacy screens and other measures to prevent overlooking as shown on the endorsed plans must at all times be maintained to the satisfaction of the Responsible Authority.

13. 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.

14. Before the building approved by this permit is occupied, the areas set aside for the parking of vehicles, together with the associated driveways and access lanes as shown on the endorsed plans must be:

a) Constructed;

b) Available for use in accordance with the endorsed plans;
c) Properly formed to such levels and drained so that they can be used in accordance with the endorsed plans;

d) Finished with a permanent trafficable surface (such as concrete, asphalt or paving); and

e) Line-marked or provided with another adequate means of ensuring that the boundaries of all vehicle spaces are clearly indicated on the ground, in accordance with the endorsed plans to the satisfaction of the Responsible Authority.

The area set aside for the parking of vehicles, together with the associated driveways and access lanes as shown on the endorsed plans must:

a) Be maintained and made available for such use; and

b) Not be used for any other purpose, to the satisfaction of the Responsible Authority.

15. Before the development starts, a Car Parking Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The Car Parking Management Plan must be prepared by a traffic consultant with suitable qualifications to the satisfaction of the Responsible Authority and must include:

a) Details as to how the Klaus park board system is to be regularly maintained and serviced;

b) Details of timeframes and measures to be undertaken, to reinstate the Klaus park board system to working order, if the car stackers become non-operational;

c) Details of measures to be undertaken if the Klaus park board system is not operational, so not to provide any additional on-street parking demand; and

d) Details of the proposed openings to the car park is to be regularly maintained and serviced to minimise off-site noise impacts.

When approved, the Car Parking Management Plan will be endorsed and will form part of this permit.

The provisions, recommendations and requirements of the endorsed Car Parking Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

16. 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.

17. An on-site stormwater detention drainage system must be installed on the 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.

18. A council barrel drain (minimum 300mm dia RCP RRJ) must be constructed (through the existing R.O.W from the rear of 74 Pascoe Vale Road to the north east corner of 33 Walker Street, Approximately 50m in length) to reach the approved point of discharge. Engineering Design Plans prepared by a qualified Civil Engineer must be submitted to and approved by the Responsible Authority prior to the commencement of any building or works (including drainage). All costs relating to design and construction of the barrel drain to be borne by the applicant.

19. Goods must not be stored or left exposed outside the building so as to be visible from any public road or thoroughfare, to the satisfaction of the Responsible Authority.

20. The plant area and equipment on the roof of the building must be screened in a manner to complement the appearance of the building and be to the satisfaction of the Responsible Authority.

21. Before the development starts, and before any trees or vegetation are removed, an amended landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The amended landscape plan must be prepared by a person or firm with suitable qualifications to the satisfaction of the Responsible Authority, drawn to scale with dimensions and an electronic copy must be provided. The amended landscape plan must be generally in accordance with the landscape plan submitted with the application but modified to show:

a) Plans to accord with Condition 1 of this permit;

b) Cross section details and specification of the proposed raingarden;

c) Details and specifications of the integrated irrigation system;

d) A planting schedule of all proposed vegetation which includes, botanical names, common names, pot size, mature size and total quantities of each plant; and

e) All planting abutting the accessway(s) and land frontage to have a maximum mature height of no more than 900mm in accordance with Clause 52.06-8 (Design Standards for car parking) of the Moonee Valley Planning Scheme.

When approved, the amended landscape plan will be endorsed and will form part of this permit.

Landscaping in accordance with the endorsed landscaping plan and schedule must be completed before the building is occupied.

22. 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.
23. The development must be provided with external lighting capable of illuminating access to each vehicle accessway, 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.

24. Noise levels emanating from service equipment on the land must not exceed the permissible noise levels determined in accordance with State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade), No. N-1 (SEPP N-1).

25. 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 products, grit or oil;
   d) Presence of vermin; or

   in any other way to the satisfaction of the Responsible Authority.

26. Before the development starts, a Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The Waste Management Plan must be in accordance with the City of Moonee Valley’s ‘Waste Management Plans – Guidelines for Applicants’ and must:
   a) demonstrate that bin storage areas are sufficient to cater for the amount of waste that will be produced;
   b) specify the type of bins to be used;
   c) show where bins will be stored;
   d) provide details of screening and ventilation of bin storage areas;
   e) identify responsibility for taking bins and out for collection and returning them to the bin storage area;
   f) identify collection points;
   g) specify how recycling materials will be managed and collected;
   h) specify bin collection times; and
   i) if private waste collection is utilised, show access routes for private waste collection vehicles that do not rely on reversing movements.

   When approved the Waste Management Plan will be endorsed and will form part of this permit.
   The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

27. All wastes must be disposed of to the satisfaction of the Responsible Authority. Liquid waste or polluted waters must not be discharged into a sewer or
stormwater drainage system.

28. The loading and unloading of vehicles and the delivery of goods to and from the land must:
   a) only be carried out on or adjacent to the boundaries of the land;
   b) not be conducted before 7.00 a.m. or after 10.00 p.m. on any day; and
   c) not disrupt the circulation or parking of vehicles on the land,

to the satisfaction of the Responsible Authority.

Vic Roads Conditions

29. No bins are to be collected from the Pascoe Vale Road reserve. The collection of all waste to occur on the site.

30. No right hand turn exit is to be conducted from the site.

End of Vic Roads Conditions

31. This permit will expire if one of the following circumstances applies:
   a) The development is not commenced within two (2) years from the date of issue of this permit, or
   b) The development is not completed 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.

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.
- The accessway along the boundary, adjoining the Right of Way is to be kept clear of landscaping, fencing and structures.
- No on street parking permits will be provided to the occupiers of the land.
- Before the development starts, the permit holder must contact the Moonee Valley City Council regarding legal point of discharge, vehicular crossings, building over easements, asset protection, road consent/occupancy etc.
- The required on-site detention system must be designed to limit the rate of stormwater discharge from the land to pre-development levels in accordance with the following calculation; C=0.4, tc=5mins, 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 and be to the satisfaction of the Responsible Authority.
- Existing levels along the property line and easements must be maintained. All proposed levels must match to existing surface levels along the property
boundary and or easement. Council will not accept any modifications to existing levels within any road reserve or easement.

- This permit does not authorise any advertising signs. No advertising signs may be erected on the land (other than those which, under the Moonee Valley Planning Scheme, are exempt from the need for a planning permit).

1. Introduction

1.1 Subject Site and Surrounds

The subject property, 74 Pascoe Vale Road, Moonee Ponds is located on the eastern side of Pascoe Vale Road, Moonee Ponds and approximately 35 metres south of Thomas Street, Moonee Ponds.

The land is rectangular in shape with a frontage to Pascoe Vale Road of 14.4 metres and depth of 43.68 metres (southern elevation). The site area is approximately 628 square metres. There are no easements noted on the Certificate of Title.

The site currently accommodates a single storey dwelling with a pitched roof. A laneway is located along the site’s northern and eastern (rear) boundary which provides vehicular access between Pascoe Vale Road and Coats Street.

The property and immediate surrounds are located within the Moonee Ponds Activity Centre which encourages greater development density in established areas that has access to public transport options and a mix of local and community services.

![Figure 2 – Street View (74 Pascoe Vale Road, Moonee Ponds)](image-url)
1.2 Proposal
The proposal is for the construction of a four storey mixed use development comprising the following:

Table 1

<table>
<thead>
<tr>
<th>Commercial floor area</th>
<th>Food and drink premises with an area of 94m²</th>
</tr>
</thead>
<tbody>
<tr>
<td>No of dwellings</td>
<td>14 dwellings (1 x one bedroom and 13 x two bedroom)</td>
</tr>
<tr>
<td>No of car spaces</td>
<td>15 car spaces:</td>
</tr>
<tr>
<td></td>
<td>• 1 commercial; and</td>
</tr>
<tr>
<td></td>
<td>• 14 resident spaces.</td>
</tr>
<tr>
<td>Max Building Height</td>
<td>14 metres (4 storeys)</td>
</tr>
</tbody>
</table>

Refer Appendix B Plans (separately circulated).

2. Background

2.1 Relevant Planning History
Planning Permit No. MV/20439/2009 for the removal of Restrictive Covenant No. 1130116 was issued on 24 December 2009. The Restrictive Covenant 1130116 has been removed from the Certificate of Title (Dealing number AH159608M and Date Recorded on Register 15 April 2010).

Planning Permit No. MV/196/2014 for the construction of a five storey building accommodating 23 dwellings (11 x 1 bedroom, 10 x 2 bedroom and 2 x 3 bedroom), use of land for a food and drink premises, reduction in car and bicycle requirements, waiver of loading requirements was refused by Council on 18 November 2015.

2.2 Policies and Decision Guidelines
State Planning Policy Framework
Clause 9 Plan Melbourne
Clause 10 Operation of the State Planning Policy Framework
Clause 11 Settlement
Clause 11.06 Metropolitan Melbourne
Clause 15 Built Environment and Heritage
Clause 16 Housing
Clause 17 Economic Development
Clause 18 Transport
Clause 19 Infrastructure
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 21.07 Activity Centres
Clause 21.08 Economic Development
Clause 22.03 Stormwater Management (Water Sensitive Urban Design)

Zoning
Clause 37.08 Activity Centre Zone (Schedule 1)

Overlays
N/A

Particular and General Provisions
Clause 52.06 Car Parking
Clause 52.07 Loading and unloading of Vehicles
Clause 52.29 Land Adjacent to a Road Zone, Category 1
Clause 52.34 Bicycle Facilities
Clause 55 Two or More Dwellings on a Lot and Residential Buildings
Clause 65 Decision Guidelines

2.3 Referrals

External Referrals
The following external referrals were undertaken:

Table 2

<table>
<thead>
<tr>
<th>External Referral</th>
<th>Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vic Roads</td>
<td>No objections, subject to standard conditions.</td>
</tr>
</tbody>
</table>

Internal Referrals
The following internal referrals were undertaken:

Table 3

<table>
<thead>
<tr>
<th>Internal Referrals</th>
<th>Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Development Engineering (Traffic)</td>
<td>No objections, subject to standard conditions and the following non-standard conditions:</td>
</tr>
<tr>
<td></td>
<td>• Increase the width of the Right of Way to 5.0 metres from the property boundary at Pascoe</td>
</tr>
</tbody>
</table>
Internal Referrals | Conditions
--- | ---
Vale Road to the proposed loading area. |  
- Pedestrian visibility splay at the southern side of the vehicle crossover along Pascoe Vale Road and / or the provision of a vehicular flashing light system to notify pedestrians of oncoming vehicles.  
- Provision of a ‘No Right Turn’ sign at the interface of the laneway and Pascoe Vale Road.  
- Specification of the loading bay clearance height.

Development Engineering (Drainage) | No objections, subject to standard drainage and construction management conditions.

Urban Design | No objections, subject to standard conditions.

Waste Department | No objection, subject to standard conditions.

Environment Sustainable Design | No objections, subject to standard conditions.

Arborist | No objection to the proposal.

Property | No objection to the proposal.

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 displayed on site for 14 consecutive days.

As a result, 17 objections were received and identified within Appendix A of this report. The objections are discussed at Section 3.8 of this report.

2.5 Consultation Meeting

A Consultation Meeting was held on 11 December 2017, which was attended by Councillor Cusack, the Permit Applicant, Objectors and Council’s Planning Officer. No resolution was reached at this meeting.

3. Discussion

3.1 Does the Proposal Address the Relevant State and Local Planning Policies?

For the large part State and Local Planning seeks to provide land for housing, employment, recreation, commercial and community facilities and infrastructure that is appropriately designed in context to the character of the area.
It is a strategy of Clause 15.01-1 (Urban Design) to ensure new development responds to its context in terms of urban character, cultural heritage, natural features, surrounding landscape and climate. It is considered the proposed development appropriately considers its site context and proposes a built form that will be visually interesting to the street, adjoining properties and provides an appropriate internal amenity to future occupants of the site.

Clause 21.06-4 (Urban Design) seeks to achieve contemporary development that is innovative, legible and designed in a manner that responds to its location and context.

It is considered the development complies with the relevant design principles of Clause 15.01-2 and 21.06-4 as discussed below:

The Public Realm

The development will make a positive contribution to the street. The prominence of the residential and commercial facades, integrated outdoor seating to the commercial premises and landscape features (green walls, garden beds throughout) creates public and private spaces that is attractive, accessible, safe and provides a social experience for users.

A key asset is the proposed bluestone laneway located along the northern and eastern boundaries of the site. To ensure this contributory fabric is protected and as recommended by Council’s Urban Design Officer a condition will form part of any permit granted that will require the bluestone laneway be restored and ‘made good’.

Safety

The proposal will result in increased passive surveillance and activity to the area through the use of glazing at the lower levels and balconies at the upper levels.

The commercial and residential entrances are prominent and identifiable from the street and provides separate and secure access.

The development’s northern setbacks and commercial use enhances passive surveillance through oblique views of the laneway and car parking areas.

Automated garage doors provide convenient access and coupled with a condition of any permit requiring external lighting to illuminate vehicular and pedestrian access will suitably provide for the safety and security of future occupants.

Landmarks, Views and Vistas

The building façade complements the natural features of Queens Park. The key north-west corner of the development is highly articulated through punctuated built form, material variation and landscaping (green walls, garden beds) that respects the landscape qualities of Queens Park.
Pedestrian Spaces

The proposed residential and commercial frontages provide an open and active address to Pascoe Vale Road and is of a human scale consistent with other residential and non-residential buildings in the immediate surrounds.

The development is well connected and provides efficient movement to the wider pedestrian and road network.

Heritage

The site is not located within a Heritage Overlay. Part of Queens Park is covered by the Heritage Overlay, however such buildings are situated deep within the park and have no connection to the proposed development, as such any impact would be negligible.

Light and Shade

The site’s north-south axis along Pascoe Vale Road will limit overshadowing of the public realm only to the early morning. This means the public realm will receive uninterrupted solar access for the remainder of the day.

Energy and resource efficient

The proposed development provides a built form designed to maximise environmental sustainability measures to all dwellings, including natural light and ventilation to the residential levels internal corridors.

Council’s ESD Officer commented solar access could be improved through cutting back part of the first and second floor balconies.

The cutting back of the second floor balconies is considered necessary to improve solar access to the first floor snorkel windows and will form part of any condition of permit. However, the cutting back of the first floor balconies is not warranted and results in no net benefit to the car parking and service areas located directly below.

The proposal complies with Clause 22.03 Stormwater Management (Water Sensitive Urban Design) and subject to conditions meets the required on-site stormwater treatment as demonstrated by achieving compliance under the STORM tool. However, an amended BESS Report with appropriate annotations on the plans would be required and will form part of any condition of any permit.

Architectural quality

The proposed built form has considered the surrounding site context and results in a development that responds to Schedule 1 of the Activity Centre Zone, subject to conditions.

The development is appropriately sited with the majority of its built form constructed to its southern boundary adjoining land within the Activity Centre Zone. This suitably facilitates the equitable development, without compromising or prejudicing the future layout or amenity of 72 Pascoe Vale Road.
The proposed building height of four storeys is within and consistent with the built form outcomes sought for Precinct 8A of the Activity Centre Zone.

The third floor is highly recessive from all boundaries which serves to distance views and minimise visual impact. In addition this setback provides a gradual transition to the intended future built form outcomes sought by the Planning Scheme which sees development up to 4 storeys on adjoining land within the Activity Centre Zone and development up to 3 storeys on surrounding land within the General Residential Zone.

To Pascoe Vale Road the building is sited along the front boundary with recessed entry areas to the residential lobby and food and drink premises including residential areas above.

The Pascoe Vale Road façade offers a mixture of architectural features, landscaping and materials to articulate and create visual cohesion to the overall design theme of the building.

The architectural cantilevered features to the building façade has been appropriately designed with minimal intrusion and will not interfere with pedestrian use of the footpath. VicRoads’ usual recommendation is for a cantilever design, not requiring any supports to be installed within the road reserve.

The food and drink premises incorporates glazing that wraps around the site’s frontage and presents an active façade to Pascoe Vale Road and the laneway. The scale and presentation of the premises is consistent with other non-residential buildings in the area. Integrated seating and landscaping at the entrance defines this commercial space while adding vibrancy and activity to the centre.

Further, as discussed in Section 3.2 of this report the laneway provides a significant setback with the residential levels of the development stepping away. This visual separation ensures the development will not appear out of context to development north of Pascoe Vale Road.

The northern and eastern elevations are well recessed and staggered to alleviate the appearance of massing and ensures the development will not be read as a flat linear plane.

As a response to improve solar access a condition of permit inadvertently results in greater punctuation to the Second Floor Level balconies along the northern façade enhancing visual breaks throughout.

This coupled with building variation introduces framed and scaled proportions that breaks down and overall bulk and heaviness of the development. The rows of vertical green walls adds lightness to the building while acknowledging the landscape character of Queens Park.

The car parking and loading bays areas are obscured behind the building. The makeup of the car park incorporates a combination of perspex glazing with perforated mesh, intentionally selected to blend in and integrate with the overall theme of the development.
The proposed development demonstrates a high standard of contemporary design with varied building materials, finishes and design detailing. This is demonstrated through a range of design features and materials to balance a contemporary response to the existing character and Queens Park.

The textured external cladding, integrated landscaping and neutral colour palette adds a fine grain quality across the development. The neutral material palette is not dissimilar to other mixed use developments within the Activity Centre. Council’s Urban Design Unit raised no concern to the proposed development or materials and colours selection.

The overall design of the development results in high quality architecture that will positively contribute and enhance the emerging character and identity of the Moonee Ponds Activity Centre.

Landscape architecture

The development features a rain garden in front of the food and drink premises, a series of vertical green walls along the western and northern elevations, horizontal planter along the full extent of the southern wall (at third floor) and individual planter boxes to each balcony making landscaping an integral feature of the overall building. This creates a living façade that will soften and add lightness across the development while providing a visual landscape connection to Queens Park.

With regards to context, the subject site is located with the Activity Centre Zone, Schedule 1 (ACZ1) and Moonee Ponds Activity Area and is in a location that is envisioned to be a focus for high-quality development, activity and living for the whole community. Further, the strategies of Clause 11.01-2 (Victoria Settlement Framework) and Clause 18.01-2 (Transport system) include, encouraging a mix of commercial uses and a diversity of housing types at higher density in and around activity centres, near railway stations, transport interchanges and tramways. It is considered the proposed development is located in a well serviced area, providing for appropriate commercial uses and residential properties.

Context

A description of the proposal has been provided within this report, along with the accompanying documentation, which accurately details the context of the site. The design response is considered appropriate given the size and location of the site with good access to a range of services including public transport, community facilities and local businesses.

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. It is noted that the subject site is located within an area of ‘high to substantial housing intensification’.

Clause 21.07 (Activity Centres) is applicable in this instance and builds on the objectives and strategies of the State Planning Policies, in particular Clause 11 (Settlement) and Clause 15.01-2 (Urban Design). The subject
site is located within the Moonee Ponds Activity Area as identified in Plan Melbourne. As noted above, the proposed built form and use is consistent with its site context and provides an acceptable built form to the streetscapes and activity to the surrounding area. The built form is discussed in further detail in Section 3.2 of this report.

With regard to Clause 21.08 (Economic Development), it is considered the proposed food and drink premise would contribute to and enhance the Moonee Ponds Activity Centre (MPAC) in terms of employment and business. The proposed use is considered accordingly acceptable.

Clause 21.09 (Transport) seeks to reduce environmental impacts and improve access to sustainable modes of transport. It also seeks to provide choices for movement of people and goods whilst ensuring these choices provide sustainable outcomes. It is considered the proposal has struck an appropriate balance with respect to the provision of on-site parking, as discussed within Section 3.3 of this report, thereby encouraging the use of alternative modes of transport.

The site’s location within the ACZ and on Pascoe Vale Road warrants higher density in this location.

The basis for the consideration of height scale and massing is located in Precinct 8A (Dean Street – Peripheral Commercial Precinct) of the Activity Centre Zone, Schedule 1 which allows for the proposed height, scale and massing.

The proposed development was lodged with Council prior to the gazettal of Amendment VC136 on 13 April 2017. As such, the requirements of Clause 58 which relate to Apartment Development do not apply to this development pursuant to the transitional arrangements within Clause 37.08 (Activity Centre Zone) of the Moonee Valley Planning Scheme.

However, a Clause 55, ResCode assessment is required (as the application was lodged before VC136 subject to Clause 37.08-9), and as discussed in Section 3.7 of this report.

3.2 Does the Proposal Appropriately Respond to the Activity Centre Zone Requirements?

The subject site is located within the Moonee Ponds Activity Area and within Precinct 8A (Dean Street – Peripheral Commercial Precinct) of the Activity Centre Zone, Schedule 1.

Properties within this precinct have a mandatory building height requirement of 14 metres. The proposal has an overall building height of 14.0 metres. To ensure the mandatory building height of 14 metres will not be exceeded this will form part of any condition of any permit.

The proposed four storey development is considered appropriate and accords with the Activity Centre Zone. The policy directives of the surrounding area which allows the adjoining properties in the Activity Centre Zone (south of the subject site and 2 Thomas Street) to be developed to four storeys, 14 metres in height and the remaining properties in the General Residential Zone to be developed to three
stories, 11 metres in height. This will ensure building transitions are maintained in and around the Moonee Ponds Activity Centre as these sites are further developed.

The accompanying setbacks are appropriate. The laneway provides a guaranteed physical buffer that mitigates the impact of visual bulk from the adjoining residential interfaces.

The proposed development is appropriately staggered with substantial punctuation across all levels, this alleviates and breaks up the appearance of continuous massing across the length of the site. The third floor is highly recessive and will not be significantly visible from the adjoining properties backyards along Thomas and Walker Streets.

The degree of varied setbacks and articulation coupled with the existing physical buffer granted by the laneway ensures the minor variations to the setback requirements will not result in unreasonable visual impacts to the adjoining interfaces and surrounds.

The proposed development requires a permit under Clause 37.08-5 (Buildings and Works). As discussed within Sections 3.1 and 3.7 of this report, the proposal is considered to be a good design outcome for the site and surrounding area.

The proposed use of a food and drink premises (not restaurant) is appropriate as its operation will occur during the day. The premise occupies a relatively small leasable floor area and the amount of patrons that could be accommodated on the site would be low and unlikely to generate significant off-site amenity impacts. The entrances to the premises is via Pascoe Vale Road mitigating foot traffic along the laneway.

The premises occupies the north/west corner of the allotment (adjoining the laneway) with no direct sensitive interfaces. Part of the premises faces the rear yards of the residential properties along Thomas Street, which have been developed with garage, outbuilding and fencing.

Further, under Clause 21.07-1, (Moonee Ponds Activity Centre), the Moonee Ponds Structure Plan map encourages mixed uses adjoining the site and includes properties north of the site at 2, 4 and 6 Thomas Street.

It is considered, the low intensive use of the premises coupled with the existing physical buffer and notwithstanding the intended policy directions of the adjoining properties will ensure any off-site impacts are appropriately mitigated in accordance with this zone. Nevertheless, standard amenity conditions will form part of the permit to manage and minimise impact on the surrounds.

3.3 Does the Proposal Comply with Clause 52.06 (Car Parking)?

The proposal provides car parking as set out in the table below:
Table 4

<table>
<thead>
<tr>
<th></th>
<th>Requires</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>One 1-bedroom dwelling</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Thirteen 2-bedroom dwellings</td>
<td>13</td>
<td>13</td>
</tr>
<tr>
<td>Residential Visitors</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td>Food and drink premise (94 square metres)</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td>Totals</td>
<td>19</td>
<td>15</td>
</tr>
</tbody>
</table>

The application has been referred to Council's Development Engineering (Traffic) Unit who had no objection to the proposed reduction of four car parking spaces for the following reasons:

- Suitable parking has been provided to all the residential dwellings in accordance with Clause 52.06, Car parking of the Moonee Valley Planning Scheme;
- Suitable parking has been provided to the commercial premises and is considered sufficient to meet the needs of future occupants;
- The development provides a surplus of resident bicycle parking. This coupled with a condition of any permit requiring public bicycling parking facilities encourages the use of alternative modes of transportation;
- The site is located within the Moonee Ponds Activity Area and is located within walking distance to various modes of public transportation options including tram, bus transport hub and Moonee Ponds Train Station;
- Ride sharing options (such as Uber, o-bikes etc.) offer visitors and occupants convenient and easily accessible alternative transportation; and
- There is sufficient parking within the activity centre to cater for the proposed waiver in the form of on-street parking and paid car parks.

The proposed car parking reduction is appropriate for the development and will not unreasonably impact parking within the surrounding area.

However, to ensure the use of the food and drink premises will not be used as a restaurant (which requires a higher car parking rate), a condition of permit will accordingly restrict this use.

The proposed development seeks to utilise the adjoining laneway and part of the northern boundary as the site’s primary access and egress to Pascoe Vale Road. This aligns with Precinct 8, Dean Street peripheral commercial precinct map which highlights this as the preferred vehicle access option. VicRoads raised no concern to the proposed access arrangement.
The development provides safe and convenient access arrangements that will ensure safe vehicle movements to and from Pascoe Vale Road, subject to an improved loading bay turning area, vehicular signage and sightline splays at the southern side of the Pascoe Vale Road entrance.

In relation to the condition requiring the widening of the laneway, this is considered appropriate for the practical manoeuvring of vehicles accessing and egressing from the site, in particular loading and service vehicles. However, it is appropriate to only require the increased setback to be at ground level to maintain the built form at the upper levels.

The use of mechanical parking (Klaus sliding park board system) makes efficient use of the site. Whilst this sliding mechanism shares its use with the loading bay, it is considered the operation of loading / unloading is infrequent and has a quick turnaround time and as such any interference will be nominal.

Transmission of noise from the Klaus sliding park board system has been acoustically measured to have a sound output of a maximum of 30dc this is lower than a typical mechanical parking stacker system. Nevertheless, standard acoustic conditions will form part of any permit.

While the car park setback, laneway and intervening structures (garages, outbuilding and fences) provides a significant buffer between the car park and habitable areas to further minimise the transmission of vehicular and car parking noise a condition of any permit will require a single panel lift garage door to each car park opening.

Council’s Development Engineering (Traffic) Department has no objection to the design and parking layout of the car park, which has been generally designed in accordance with Clause 52.06-8 and the relevant Australian Standards.

3.4 Does the Proposal Comply with Clause 52.07 (Loading Bay)?

The proposed loading bay dimensions are designed ‘fit for purpose’ to comfortably accommodate the size of waste service vehicles (mini loader) and food delivery vans. Council’s Waste Department raised no concern to the proposed variation.

To ensure the functional and practical useability of the loading bay a condition of any permit will require a separate panel door be provided and this opening to have a height clearance of approximately 0.5 metres above the overall height of a mini loader (approximate height of a mini loader is 2.08 metres).

Further, to provide a comfortable turning area for these vehicles Council’s Development Engineering (Traffic) Unit requires the ground floor, northern wall (part food and drink premise and services room) setback 5.0 metres from the laneway. This will form part of any condition of permit.
3.5 Does the Proposal Comply with Clause 52.29 (Land Adjacent to a Road Zone, Category 1)?

Vic Roads raised no concern to the proposed alteration to vehicular access and egress to the site along Pascoe Vale Road (Road Zone, Category 1), subject to conditions to maintain the continued safe and efficient operation of the road network.

3.6 Does the Proposal Comply with Clause 52.34 (Bicycle Facilities)?

The proposal provides bicycle parking as set out in the table below:

Table 5

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Requires</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Resident (1 to each 5 dwellings)</td>
<td>2</td>
<td>8</td>
</tr>
<tr>
<td>Visitor Resident (1 to each 10 dwellings)</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Public Restaurant (1 to each 100sqm of floor area to the public)</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Total</td>
<td>4</td>
<td>8</td>
</tr>
</tbody>
</table>

The proposal provides more than the required resident bicycle parking on the site that is conveniently accessible and secure. No public shower or change facilities are required for this development.

It is acknowledged there is no public bicycle parking available on the site for patrons or visitors to the site. As such, a condition of any permit will require the provision of at least two bicycle parking spaces be made available to the public and that are conveniently accessible from the public realm in accordance with Clause 52.34-3 (Bicycle Facilities) of the Moonee Valley Planning Scheme.

3.7 Does the Proposal Comply with Clause 55 (ResCode)?

Neighbourhood character and Infrastructure

This design responds to the State and Local Planning Policy that encourages higher densities of housing in appropriate locations. In this instance, there is strong policy support for more intensive forms of housing in this location.

The site is located within the Activity Centre Zone and the proposed apartment development supports medium densities in areas close to public transport, community infrastructure and services.

The proposed infill development would utilise existing infrastructure and services available on site and within the surrounding area. This is considered to be an efficient and appropriate use of available resources.
The proposed development provides dwelling diversity and choice within the wider centre. The proposed one and two bedroom dwellings offer low maintenance, affordable, smaller housing compatible with changing family structures and demographics.

The development is well integrated to the street with commercial and residential frontages that enhances the public realm along Pascoe Vale Road. Pedestrian links are enhanced by utilising the existing laneway as primary access and reinstating existing redundant vehicular crossovers.

Refer to the architectural quality and landscape architecture discussion in Section 3.1 of this report.

Site layout and building massing

The proposed zero lot line and site coverage is consistent with the policy directives of the Activity Centre Zone and evolving character of this section of Pascoe Vale Road. STORM measures have been incorporated to reduce storm water run-off on the existing drainage system.

The habitable areas are orientated to take advantage of the northerly aspect with the front dwellings having an outlook and visual connection to Queens Park. A condition will form part of any permit granted to improve direct solar access to the first floor habitable room windows (Refer to the Energy and resource efficient discussion in Section 3.1 of this report). All remaining habitable room windows are orientated to make efficient use of daylight in accordance with Clause 55.03-5 (Energy Efficiency).

The commercial and residential entrances are prominent and identifiable from the street and provide secure access.

The integrated landscaping theme creates a living façade that enhances the vegetated character along Pascoe Vale Road and provides a visual landscape connection to Queens Park.

Refer to Appendix C for Clause 55, ResCode table.

Amenity Impacts

The site’s Activity Centre location means there is greater expectation for increased density. The north-south axis results in overshadowing the adjoining property at 72 Pascoe Vale Road. This site's locale within the Activity Centre is not afforded the same level of amenity as sites otherwise located in a General Residential Zone. Further, the Equitable Shadow Study Proposed Building Envelope Diagram illustrates daylight to this site will not be detrimentally impacted should this site be redeveloped.

There is no overshadowing to the properties north along Thomas Street and overshadowing to the properties east along Walker Street is limited to the late afternoon accords with Clause 55.04-5 (Overshadowing open space).

The development does not strictly meet the requirements of Clause 55.04-1 (Side and rear setbacks) however, the existing laneway provides a guaranteed physical buffer that provides significant separation to the adjoining residential interfaces.
Subject to screening dwellings 1.01, 2.01 and 3.01 northern balconies, all remaining north and east facing habitable areas have been screened in accordance with the requirements of Clause 55.04-6 (Overlooking).

The proposed development has been designed to limit internal overlooking to the lower level dwellings directly below and within the same development through balustrade screening and party walls.

To protect residents from street noise and minimise the transmission of noise from proposed site services and car parking areas appropriate noise conditions will form part of any permit granted to comply with this design element.

Onsite Amenity and facilities

The residential entrance provides shelter and its own sense of identity from the commercial premises. The development is conducive to persons with limited mobility with the entrance constructed at grade and each floor accessible by the internal lift. Storage cages of 12 square metres are provided to each dwelling.

Sufficient daylight is provided to all habitable rooms and whilst the balcony requirements of Clause 55.05-4 (Private Open Space) does not apply to apartment developments, the proposal provides useable secluded private open spaces (of no less than 8.0 square metres of 1.6 metres in width) that are north facing and directly accessible from the main living areas to meet the recreational needs of future occupants.

Detailed design

Refer to the architectural quality and landscape architecture discussion in Section 3.1 of this report.

Common areas within the development are practical, attractive and can be easily maintained. Private and common areas are clearly defined to avoid future management issues.

Site services for mail and bin collection are conveniently located, sized and designed.

3.8 Objections

The following table provides a discussion of the concerns raised within the objections to the application:

<table>
<thead>
<tr>
<th>Issue</th>
<th>Officer Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Neighbourhood Character (Site layout, Building massing, height and landscaping)</td>
<td>Having regard to the zoning and strategic policies that specifically seek to provide for increased residential development on this site, the proposed development is considered an appropriate response to the intended and existing built form outcomes for the Moonee Ponds Activity Centre. Refer to Section 3.1 and 3.2 of this report for discussion in relation to site layout, building massing, height and</td>
</tr>
<tr>
<td>Issue</td>
<td>Officer Response</td>
</tr>
<tr>
<td>---------------------------</td>
<td>-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>landscaping.</td>
<td>The subject site is located within an Activity Centre Zone associated with the Moonee Pond Activity Area where this form of development is encouraged. It is considered the proposal is not an overdevelopment of the site and is consistent with the built form and use outcomes expected for this area and as discussed in Sections 3.1 and 3.2 of this report.</td>
</tr>
</tbody>
</table>
| Overdevelopment           | The site’s Activity Centre Zoning anticipates change beyond what is expected in a residential zone. It is an established planning principle that the reasonable amenity expectations of neighbours at the interface of an activity centre cannot be the same as these within an established residential area. Refer to Section 3.7 of this report for discussion regarding overlooking, overshadowing, residential noise.  
                          | The proposed use of a food and drink premises is appropriate as it is consistent with its location within an Activity Centre Zone, location on a Road Zone Category 1, proximity to public transport and location within the Moonee Ponds Activity Area. Refer to Section 3.2 of this report for discussion regarding the proposed use.  
<pre><code>                      | Undesirable behavioural issues associated with patrons of the premises is not a planning consideration. Further, no liquor licence is proposed as part of this application. A separate planning permit application would be required for any licensed premises and would be assessed on its own merits.                                                                                           |
</code></pre>
<p>| Off-site amenity impacts  | Refer to Section 3.3 of this report for discussion regarding traffic congestion, on-site parking vehicular safety (sightlines) and vehicular / car parking noise. With regards to vehicular pollution this is not a planning consideration and it is unlikely the proposed development would result in any unreasonable pollution impacts commonly found within an urban and activity centre location. |
| Traffic and Parking       | Refer to Section 3.3 of this report for discussion regarding the shared shuffle system. To ensure the amenity of the area will not be detrimentally impacted by the loading and unloading of goods, delivery times will be accordingly restricted and will form part of a condition of any permit.                                                             |
| Loading Bay               | Council’s Engineers and Vic Roads raised no concern to the proposal development impact on existing services and road infrastructure.                                                                                                                                                                                                                |</p>
<table>
<thead>
<tr>
<th>Issue</th>
<th>Officer Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>A condition of permit will require the bluestone laneway around the perimeter of the site be restored and made good and as required by Council’s Urban Design Unit. Fire protection infrastructure is regulated by the Building Code (not the Planning Scheme). The Building Code allows for Fire Engineers to design alternative fire protection solutions to ensure developments (similar to the proposed) complies with this requirement of the Building Code.</td>
<td></td>
</tr>
<tr>
<td>Devaluation of Property</td>
<td>Devalue property prices is not a planning consideration. Each application is assessed on its own merits and response to the relevant site and strategic context.</td>
</tr>
</tbody>
</table>

4. **Clause 58 (Apartment Design Guidelines)**

The proposed development was lodged with Council prior to the gazettal of Amendment VC136 on 13 April 2017. As such, the requirements of Clause 58 do not apply to this development pursuant to the transitional arrangements within Clause 37.08 (Activity Centre Zone) of the Moonee Valley Planning Scheme.

5. **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).

6. **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.

Additionally, consideration has been given to the requirements of Section 60(1B) of the *Planning and Environment Act 1987* with respect to the number of objections received, and it is determined that the proposal would not have a significant social effect.

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

**Appendices**

Appendix A: Objectors Location  
Appendix B: Plans (separately circulated)  
Appendix C: Clause 55 ResCode Table.
APPENDIX A – Location of Objectors
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).

Where there is non-compliance, see main report.

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard</th>
<th>Complies with Objective</th>
</tr>
</thead>
<tbody>
<tr>
<td>B1 - Neighbourhood Character</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>B2 - Residential Policy</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>B3 - Dwelling Diversity</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>B4 - Infrastructure Objectives</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>B5 - Integration with the Street Objective</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>B6 - Street Setback Objective</td>
<td>✓ Variation Acceptable</td>
<td>✓ Variation Acceptable</td>
</tr>
<tr>
<td>B7 - Building Height Objective</td>
<td>✓ Variation Acceptable</td>
<td>✓ Variation Acceptable</td>
</tr>
<tr>
<td></td>
<td>(building height in accordance with the Activity Centre Zone)</td>
<td>(building height in accordance with the Activity Centre Zone)</td>
</tr>
<tr>
<td>B8 - Site Coverage Objective</td>
<td>✓ Variation Acceptable</td>
<td>✓ Variation Acceptable</td>
</tr>
<tr>
<td>B9 - Permeability Objectives</td>
<td>✓ Variation Acceptable</td>
<td>✓ Variation Acceptable</td>
</tr>
<tr>
<td>B10 - Energy Efficiency Objectives</td>
<td>✓ Condition Required</td>
<td>✓ Condition Required</td>
</tr>
<tr>
<td>B11 - Open Space Objective</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>B12 - Safety Objective</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>B13 - Landscaping Objectives</td>
<td>✓ Variation Acceptable</td>
<td>✓ Variation Acceptable</td>
</tr>
<tr>
<td>B14 - Access Objectives</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>B15 - Parking Location Objectives</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>B16 - Parking Provision</td>
<td>Deleted from Clause 55 on 5 June 2012 (VC90). Refer to Clause 52.06 for car parking requirements under Section 3.3 of the report.</td>
<td></td>
</tr>
<tr>
<td>B17 - Side and Rear Setbacks Objective</td>
<td>✓ Variation Acceptable</td>
<td>✓ Variation Acceptable</td>
</tr>
<tr>
<td>Title and Objective</td>
<td>Complies with Standard</td>
<td>Complies with Objective</td>
</tr>
<tr>
<td>-------------------------------------------------</td>
<td>------------------------</td>
<td>-------------------------</td>
</tr>
<tr>
<td>B18 - Walls on Boundaries Objective</td>
<td>✓ Variation Acceptable</td>
<td>✓ Variation Acceptable</td>
</tr>
<tr>
<td>B19 - Daylight to Existing Windows Objective</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>B20 - North-facing Windows Objective</td>
<td>✓ Variation Acceptable</td>
<td>✓ Variation Acceptable</td>
</tr>
<tr>
<td>B21 - Overshadowing Open Space Objective</td>
<td>✓ Variation Acceptable</td>
<td>✓ Variation Acceptable</td>
</tr>
<tr>
<td>B22 - Overlooking Objective</td>
<td>✓ Condition Required</td>
<td>✓ Condition Required</td>
</tr>
<tr>
<td>B23 - Internal Views Objective</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>B24 - Noise Impacts Objectives</td>
<td>✓ Condition Required</td>
<td>✓ Condition Required</td>
</tr>
<tr>
<td>B25 - Accessibility Objective</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>B26 - Dwelling Entry Objective</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>B27 - Daylight to New Windows Objective</td>
<td>✓ Condition Required</td>
<td>✓ Condition Required</td>
</tr>
<tr>
<td>B28 - Private Open Space Objective</td>
<td>N/A (for apartment developments)</td>
<td>N/A (for apartment developments)</td>
</tr>
<tr>
<td>B29 - Solar Access to Open Space Objective</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>B 30 - Storage Objective</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>B 31 - Design Detail objective</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>B 32 - Front Fences Objective</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>B 33 - Common Property Objectives</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>B 34 - Site Services Objectives</td>
<td>✓</td>
<td>✓</td>
</tr>
</tbody>
</table>

✓ - complies, x - non-compliance, N/A - Not Applicable
9.4 14 Cheffers Street, Moonee Ponds (Lot 47 on PS 009204) - Construction of two dwellings

File No: FOL/18/32
Author: Kate Murphy
Statutory Planning
Directorate: Planning & Development

<table>
<thead>
<tr>
<th>Planning File No.</th>
<th>MV/516/2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposal</td>
<td>Construction of two dwellings</td>
</tr>
<tr>
<td>Applicant</td>
<td>ARG Planning P/L</td>
</tr>
<tr>
<td>Owner</td>
<td>Baron Forge (Aust) PTY LTD</td>
</tr>
<tr>
<td>Planning Scheme Controls</td>
<td>General Residential Zone</td>
</tr>
<tr>
<td>Planning Permit Requirement</td>
<td>Clause 32.06-8 – Construct two or more dwellings</td>
</tr>
</tbody>
</table>
| Car Parking Requirements (Clause 52.06) | Required – 4 spaces  
Proposed – 4 spaces |
| Bicycle Requirements | N/A |
| Restrictive Covenants | None |
| Easements         | Yes – 1.8 metre sewerage and drainage easement along the eastern property boundary. |
| Site Area          | 516.29m² |
| Number Of Objections | 15 |
| Consultation Meeting | 18 October 2017 |

Executive Summary
- This application seeks approval for two double storey dwellings.
- The site is approximately 516 square metres, and is located on the corner of Cheffers Street and Bruce Street in Moonee Ponds.
- The application was advertised with 15 objections received. Concerns were generally raised in regards to traffic, car parking, neighbourhood character and off-site amenity.
A Consultation Meeting was held on 18 October 2017, which was attended by Councillor Sharpe, the Permit Applicant, Objectors and Council’s Planning Officer.

Following on from the Consultation Meeting, amended plans were submitted in accordance with Section 57A of the Planning and Environment Act 1987, which seek to respond to concerns identified by objectors (Appendix D).

The application was internally referred to Council’s Development Engineering (Drainage) and Development Engineering (Traffic) Unit. Some comments were made regarding the location of crossovers which will form conditions on the permit.

The proposal demonstrates an adequate level of compliance with the relevant policies and provisions of the Moonee Valley Planning Scheme. It proposes an appropriate intensification of residential development in a well-established area close to schools, public open space and public transport. The architectural response is considered to be appropriate to the context of the site and maintains the existing streetscape presentation and responds to the heritage significance of the dwelling and surrounding area appropriately.

The proposal achieves a high level of compliance with the standards of ResCode, with five areas of non-compliance. These are Neighbourhood Character (in regards to the colours and materials), Landscaping, North-facing windows, Overlooking and Private Open Space. These variations are not supported and conditions on the permit will require compliance with all ResCode standards.

This report finds the proposal compliant with the relevant policies and clauses of the Moonee Valley Planning Scheme, and recommends 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/516/2017 for the Construction of two dwellings at 14 Cheffers Street, Moonee Ponds (Lot 47 on PS009204) subject to the following conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The amended plans must be drawn to scale with dimensions and an electronic copy must be provided. The amended plans must be generally in accordance with the plans submitted and assessed with the application but modified to show:

   a) All references to ‘unit’ replaced with ‘Dwelling’;
   b) The provision of a new colours and materials schedule to comply with ‘Garden Suburban 6’ of the Neighbourhood Character Precinct Profiles 2012.
   c) The southern boundary fence to be tapered to 1.2 metres in the front setback;
   d) Delete the pedestrian visibility splay on the eastern side of the crossover of Dwelling 2;
   e) All pedestrian visibility splays to be clearly defined and noted to comply with Clause 52.06 (Car Parking);
   f) The accessway for Dwelling 2 to taper to the eastern property boundary and align with the existing crossover;
   g) The accessway of Dwelling 1 to taper to the southern property boundary and align into the proposed crossover;
   h) The Kitchen/WIP wall associated with Dwelling 2 to be set back 1.0 metre from the southern boundary to comply with Standard B20 of Clause 55.04-4 (North Facing Windows) of the Moonee Valley Planning Scheme;
   i) Any internal modifications as a consequence of Condition 1h);
   j) The south-facing window in Bedroom 4 of Dwelling 2 to be screened to comply with Standard B22 of Clause 55.04-6 (Overlooking) of the Moonee Valley Planning Scheme;
   k) The storage facility for Dwelling 2 to be relocated to the northern boundary of the Secluded Private Open Space Area;
   l) All storage areas to be dimensioned to comply with Standard B30 of Clause 55.05-6 (Storage) of the Moonee Valley Planning Scheme;
   m) All permeable and non-permeable areas to be noted on the floor plans to comply with the approved STORM report;
   n) All appropriate STORM treatment measures and notations in accordance with the approved STORM report; and
   o) The submission of a landscape plan in accordance with Condition 14.
When approved, these plans will be endorsed and will form part of this permit.

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

3. A minimum 30 days prior to any building or works commencing, all Water Sensitive Urban Design (WSUD) details relating to the WSUD treatment measures nominated in the approved and complying STORM report, such as cross sections and/or specifications, to assess the technical effectiveness of the proposed stormwater treatment measures, must be submitted for approval by the Responsible Authority.

4. A minimum 30 days prior to any building or works commencing, a WSUD 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.

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

5. A maximum 30 days following completion of the development, 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 operate; and
   d) a report confirming completion and commissioning of all WSUD Response treatment measures written by the author of the WSUD Response and STORM or MUSIC model approved pursuant to this permit, or licensed installing/commissioning plumber, or similarly qualified person or company. This report must be to the satisfaction of the Responsible Authority and must confirm that all WSUD treatment measures 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’s Guide or a Building Maintenance Guide.

6. Floor levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.

7. Before the buildings approved by this permit are occupied, the privacy screens and other measures to prevent overlooking as shown on the endorsed plans must be installed in accordance with Clause 55.04-6 (Overlooking objective) of the Moonee Valley Planning Scheme to the satisfaction of the Responsible Authority.
Authority.

All privacy screens and other measures to prevent overlooking as shown on the endorsed plans must at all times be maintained to the satisfaction of the Responsible Authority.

8. All pipes, fixtures, fittings, ducts and vents servicing any building on the land, other than 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.

9. 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 prior written consent of Council (or of the authorities or agencies with an interest in the easement) to the satisfaction of the Responsible Authority.

10. Before the buildings approved by this permit are occupied, all boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority if the owner of the adjoining land allows access for the purpose.

11. Before the building/s approved by this permit is/are occupied, the areas set aside for the parking of vehicles, together with the associated driveways and access lanes as shown on the endorsed plans must be:

   a) constructed;

   b) available for use in accordance with the endorsed plans;

   c) properly formed to such levels and drained so that they can be used in accordance with the endorsed plans; and

   d) finished with a permanent trafficable surface (such as concrete, asphalt or paving),

   in accordance with the endorsed plans to the satisfaction of the Responsible Authority.

The area set aside for the parking of vehicles, together with the associated driveways and access lanes as shown on the endorsed plans must:

   a) be maintained and made available for such use; and

   b) not be used for any other purpose,

   to the satisfaction of the Responsible Authority.

12. Before the buildings approved by this permit are occupied, concrete vehicular crossings must be constructed to suit the proposed driveways in accordance with the Responsible Authority’s specification and any obsolete, disused or redundant vehicle crossing(s) must be removed and the area reinstated to footpath, nature strip and kerb and channel 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 prior 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.

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. Before the development starts, and before any trees or vegetation are removed, a landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The landscape plan must be prepared by a person or firm with suitable qualifications to the satisfaction of the Responsible Authority, drawn to scale with dimensions and an electronic copy must be provided. The landscape plan must be generally in accordance with the plans submitted with the application but modified to show:

a) Any changes as required by Condition 1 of this permit;

b) All boundary fencing;

c) 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;

d) The use of drought tolerant species;

e) The provision of two canopy trees within the frontage of each dwelling which is able to achieve a minimum mature height of 4 metres;

f) The provision of one canopy tree within the secluded private open space areas of each dwelling which is able to achieve a minimum mature height of 4 metres;

g) The provision of garden beds along the side of the driveways, and along the front property boundary, to soften the appearance of the development;

h) Features such as paths, paving and accessways;

i) The use of non-invasive plant species within any easements which will ensure that existing infrastructure assets are not damaged by root systems;

j) All planting abutting the accessway(s) and land frontage to have a maximum mature height of no more than 900mm in accordance with Clause 52.06-8 (Design Standards for car parking) of the Moonee Valley Planning Scheme; and

k) An appropriate irrigation system.

When approved, the landscape plan will be endorsed and will form part of this permit.

Landscaping in accordance with the endorsed landscaping plan and schedule must be completed before the building is occupied.

15. 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.

16. 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 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.

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 Moonee Valley City Council on 9243 8888 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.
- No on street parking permits will be provided to the occupiers of the land.
- All works undertaken within any existing road reserves must accord with the requirements of Moonee Valley City Council and to the satisfaction of the Responsible Authority.

1. Introduction

1.1 Subject Site and Surrounds

The subject site is located on the eastern side of Cheffers Street, at the intersection with Bruce Street, Moonee Ponds. The site is slightly irregular in shape, with a frontage of 17.06 metres to Cheffers Street and 31.10 metres to Bruce Street, yielding a site area of 516.29 square metres. It is a relatively flat site with a sewerage and drainage easement along the eastern property boundary. There are no restrictive covenants or agreements registered on the title.

Currently, the site is occupied by a single-storey weatherboard dwelling with a pitched roof. The existing dwelling is set back 7.447 metres from Cheffers Street, with two crossovers onto Bruce Street.
Cheffers Street is made up of residentially zoned land, as are the surrounding streets. The locality is a mix of older, single dwellings and several newer multi-unit developments. The multi-unit developments in the area are predominantly double-storey, while the older housing stock is a mix of one and two storey dwellings.

There is a consistent character in the area. Hipped and gabled roof forms are prevalent, and the predominant colour palette is warm colours. The land is located proximate to open spaces, with Maribyrnong Park approximately 150 metres south of the subject site.

1.2 Proposal

It is proposed to construct two double-storey dwellings with single garages and a second tandem car space in front of each garage.

The proposal can be summarised as follows:

<table>
<thead>
<tr>
<th>Table 1</th>
</tr>
</thead>
<tbody>
<tr>
<td>No of dwellings</td>
</tr>
<tr>
<td>No of car spaces</td>
</tr>
<tr>
<td>Max Building Height</td>
</tr>
<tr>
<td>Site Coverage</td>
</tr>
<tr>
<td>Permeability</td>
</tr>
<tr>
<td>Garden Area (30%)</td>
</tr>
</tbody>
</table>

Refer **Appendix C** for the Advertised Plans.
Following advertising, the proposal was amended under Section 57A of the Planning and Environment Act 1987.

The following changes were made:
- Roof form changed to be a traditional pitched roof;
- Setbacks increased at upper floor level for Dwelling 1 and Dwelling 2;
- Wall heights reduced on southern boundary.

Refer to Appendix D for the Section 57A Amended Plans.

2. Background

2.1 Relevant Planning History
There are no historical planning applications relevant to the subject land.

2.2 Planning Policies and Decision Guidelines
State Planning Policy Framework
Clause 11 Settlement
Clause 15 Built Environment and Heritage
Clause 16 Housing
Clause 18 Transport

Local Planning Policy Framework
Clause 21.01 Municipal Profile
Clause 21.03 Vision
Clause 21.05 Housing
Clause 21.06 Built Environment
Clause 22.03 Stormwater Management (Water Sensitive Urban Design)

Zoning and Overlays
Clause 32.08 General Residential Zone

Particular and General Provisions
Clause 52.06 Car Parking
Clause 55 Two or More Dwellings on a Lot
Clause 65 Decision Guidelines

2.3 Referrals
No external referrals were required for this application.
The following internal referrals were undertaken:
Table 2

<table>
<thead>
<tr>
<th>Department/Officer</th>
<th>Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Development Engineering (Traffic)</td>
<td>Conditions relating to the location of crossovers and accessways.</td>
</tr>
<tr>
<td>Development Engineering (Drainage)</td>
<td>Standard drainage and easement conditions.</td>
</tr>
</tbody>
</table>

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 two notices displayed on site for 14 consecutive days.

A total of 15 objections were received from the properties contained within Appendix A of this report. The objections are discussed at Section 3.5 of this report.

Following advertising, the application was amended under Section 57A of the Planning and Environment Act 1987. The changes to the application were:

- Roof form changed to be a traditional pitched roof;
- Setbacks increased at upper floor level for Dwelling 1 and Dwelling 2;
- Wall heights reduced on southern boundary.

The changes were considered minor and as such did not warrant re-advertising.

2.5 Consultation Meeting

A Consultation Meeting was held on 18 October 2017, which was attended by Councillor Sharpe, the Permit Applicant, Objector’s and Council’s Planning Officer. Following the Consultation Meeting, amended plans were submitted in accordance with Section 57A of the Planning and Environment Act 1987, which respond to concerns identified by objectors.

3. Discussion

3.1 Does the proposal address the relevant State and Local Planning Policies?

The relevant clauses of the State and Local Planning Policy Frameworks have been satisfied by the proposal. The policy objectives broadly encourage consolidation of urban consolidation on sites that are well located in relation to jobs, services and transport. Relevant policy guidance is contained within Clauses 11, 15, 16, 18 and 21.05 which all seek to increase residential supply within these areas.

The subject site is located in proximity to bus services on Holmes Road and approximately 1.5 kilometres from Moonee Ponds Activity Centre and Moonee Ponds Railway Station. The proposal represents an appropriate...
degree of housing intensification in this location, and contributes to the objective of housing density by providing two dwellings that are well placed to service the needs of future residents. The proposed development responds to the objectives and strategies of Clause 21.06 (Built Environment). The key concepts of this clause are discussed further in Section 3.2: Neighbourhood Character Guidelines.

The proposal complies with Clause 22.03 – Stormwater Management (Water Sensitive Urban Design). The applicant has submitted with the proposal a STORM assessment prepared by Flux Civil Consulting. Two STORM reports were provided, each reaching a rating of 100%. All appropriate WSUD notations have been provided on the floor plans. A condition will be required to note the permeable and non-permeable areas on the floor plans.

3.2 Does the proposal accord with the preferred character of the area?

The subject land is identified as being within character area ‘Garden Suburban 6’ within the Moonee Valley Neighbourhood Precinct Profiles 2012. The development is considered a suitable response to the immediate context, the design guidelines and the preferred character statement of the precinct as follows:

- The development is appropriately sited. As this is a corner site, the proposal utilises spacing between the two dwellings and setbacks from the side street (Bruce Street) to maintain the rhythm of the streetscape.
- The building envelopes and massing of the proposed dwellings are considered appropriate. The site coverage is in keeping with the established character of the area.
- The dwellings are well articulated at the front façade. The first floors of both the dwellings are recessed behind the ground floor, to reduce any bulk when viewed from the streetscape and adjoining properties.
- The hipped roof form with eaves is consistent with the streetscape.
- The colours proposed are not in keeping with the streetscape. While the street is characterized by browns and creams, the development had a colder palette featuring grey and black. A condition of the permit will require the colour and materials schedule to be amended to comply with Garden Suburban 6.
- A large tree in the front setback will be removed as a result of this development. A new landscaping plan will be requested as a condition of the permit, so that the site will provide a good landscaping response to accord with ‘Garden Suburban’ character of the area. There is sufficient room within the front setbacks of both dwellings for canopy tree planting to reflect the neighbourhood of the locality.
- Car parking is appropriately located in this proposal, with the garages recessed behind the entry wall so that these are not the dominant feature of the façade.
• A 1.2 metre high front fence is proposed which is consistent with the streetscape. This form of low-scale fencing will maintain views to the dwelling entrance from the street.

3.3 **Does the proposal comply with Clause 52.06 (Car Parking)?**

The proposal provides car parking as set out in the table below:

**Table 3**

<table>
<thead>
<tr>
<th></th>
<th>Requires</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>2 X 4 bedroom dwellings</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Total</td>
<td>2</td>
<td>2</td>
</tr>
</tbody>
</table>

The design of car spaces and accessways complies with the requirements of Clause 52.06. Pedestrian visibility splays have been noted on the plans and the correct number of covered and uncovered car spaces has been provided.

The application has been referred to Council's Development Engineering (Traffic) Unit who do not object to the development subject to the standard crossover conditions. It was recommended that due to the proximity of this existing crossover to the power pole, there should be a referral to the relevant service authority and the pole should be relocated. However given that the crossover is existing, it was determined there were no planning grounds under which Council can require the applicant to bear the cost of relocating a power pole away from an existing crossover.

A condition will be placed on the permit for the accessway of Dwelling 2 to be tapered to the eastern property boundary to match into the existing crossover. Another condition will require the deletion of the pedestrian visibility splay on the eastern side of the accessway of Dwelling 2, as the existing site conditions on the adjoining property mean that a visibility splay is not achievable in this instance.

3.4 **Does the proposal comply with the requirements of Clause 55?**

**Table 4**

<table>
<thead>
<tr>
<th>Res Code Standard</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clause 55.02-1 (Standard B1 – Neighbourhood Character)</td>
<td>The proposed colours and materials schedule is not considered to be in keeping with neighbourhood character. A condition will be included on any permit issued requiring the submission of a new colours and materials schedule which complies with the character area ‘Garden Suburban 6’ within the Neighbourhood Character Precinct Profiles 2012.</td>
</tr>
</tbody>
</table>
Clause 55.03-8  
(Standard B13 – Landscaping)  
A landscape plan has not been submitted with the amended documentation.  
A condition will be placed on any permit issued to require the submission of a landscape plan, prepared by a suitable qualified person.

Clause 55.04-4  
(Standard B20 – North Facing Windows)  
The proposed wall on the southern boundary associated with Dwelling 2 does not comply with the standard for the North facing windows on the adjoining property to the south, which requires a 1 metre setback to be provided.  
It is noted there is an existing boundary wall in this location. However, as the existing dwelling will be entirely demolished and redeveloped, it is considered there is an opportunity for the new development to comply. As such, a condition will be placed on any permit issued for a 1.0 metre setback provided to the kitchen/WIP wall for Dwelling 2 from the southern property boundary.

Clause 55.04-6  
(Standard B22 – Overlooking)  
The south-facing window associated with Bedroom 4 of Dwelling 2 has not been treated for overlooking.  
A condition will be placed on any permit issued for this window to be treated to comply with the standard.

Clause 55.05-4  
(Standard B28 – Private open space)  
The secluded private open space area of Dwelling 2 does not have 25 square metres with a minimum dimension of 3 metres, due to the location of the storage shed.  
A condition will be included to relocate the storage shed to the northern side of the secluded private open space area.

3.5 Objections

The following table provides a discussion of the concerns raised within the objections to the application:

Table 5

<table>
<thead>
<tr>
<th>Issue</th>
<th>Officer Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Neighbourhood Character</td>
<td>Refer to Section 3.2 of this report for discussion.</td>
</tr>
<tr>
<td>Site layout and building massing</td>
<td>Refer to Section 3.2 of this report for discussion.</td>
</tr>
<tr>
<td>Overlooking</td>
<td>A condition will be included so that the proposal will comply with Clause 55.04-6 (Overlooking).</td>
</tr>
</tbody>
</table>
### Overshadowing of solar panels

The applicant has submitted shadow diagrams to show that the new development will not overshadow the solar panels at 12 Cheffers Street, Moonee Ponds.

### Demolition of dwelling

There are no planning controls, such as a heritage overlay, which would prevent demolition.

### Removal of tree in front setback

The tree referred to in the objections has not been identified in the Moonee Valley Significant Tree Register and therefore is not protected by any planning controls and can be removed. A condition of the permit will require a landscaping plan to be prepared by a suitable professional, so that sufficient replacement planting is undertaken as part of this development.

### Car Parking/Traffic

Refer to Section 3.3 of this report for discussion.

### Property devaluation

This is not a planning consideration.

### Plan inaccuracies

The applicant has submitted a survey plan by a licensed land surveyor and the submitted plans are considered to be accurate.

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4. **Does the proposal accord with the mandatory garden area and maximum height requirements of the General Residential Zone?**

The proposal achieves a minimum garden area requirement of 30% prescribed by Clause 32.08-4 of the Moonee Valley Planning Scheme for a lot between 501 and 650 square metres. The proposal provides a total garden area of 36.5%, therefore meeting this mandatory requirement.

The height of the development is 7.457m, which complies with the maximum height requirement of the zone.

5. **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).

6. **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.

Additionally, consideration has been given to the requirements of Section 60(1B) of the *Planning and Environment Act 1987* with respect to the number of objections received, and it is determined that the proposal would not have a significant social effect.
It is considered the proposal demonstrates general compliance with the requirements of these provisions and policies. The application is supported as detailed above in the recommendation section.

Appendices
Appendix A: Objector List
Appendix B: Clause 55 (ResCode Assessment)
Appendix C: Advertised Plans (Separately circulated)
Appendix D: Section 57A Amended Plans (Separately circulated)
APPENDIX A

MV/516/2017 – 14 Cheffers Street, Moonee Ponds

Location of Objectors

<table>
<thead>
<tr>
<th>Address</th>
<th>Location</th>
<th>Postcode</th>
</tr>
</thead>
<tbody>
<tr>
<td>21 Bruce Street, MOONEE PONDS</td>
<td>VIC 3039</td>
<td></td>
</tr>
<tr>
<td>25 Bruce Street, MOONEE PONDS</td>
<td>VIC 3039</td>
<td></td>
</tr>
<tr>
<td>178 Holmes Road, MOONEE PONDS</td>
<td>VIC 3039</td>
<td></td>
</tr>
<tr>
<td>3 Bruce Street, MOONEE PONDS</td>
<td>VIC 3039</td>
<td></td>
</tr>
<tr>
<td>10 Bruce Street, MOONEE PONDS</td>
<td>VIC 3039</td>
<td></td>
</tr>
<tr>
<td>27 Bruce Street, MOONEE PONDS</td>
<td>VIC 3039</td>
<td></td>
</tr>
<tr>
<td>12 Cheffers Street, MOONEE PONDS</td>
<td>VIC 3039</td>
<td></td>
</tr>
<tr>
<td>23 Bruce Street, MOONEE PONDS</td>
<td>VIC 3039</td>
<td></td>
</tr>
<tr>
<td>11 Cheffers Street, MOONEE PONDS</td>
<td>VIC 3039</td>
<td></td>
</tr>
<tr>
<td>7 Cheffers Street, MOONEE PONDS</td>
<td>VIC 3039</td>
<td></td>
</tr>
<tr>
<td>13 Cheffers Street, MOONEE PONDS</td>
<td>VIC 3039</td>
<td></td>
</tr>
<tr>
<td>19 Britt Court, EAST KEILOR</td>
<td>VIC 3033</td>
<td></td>
</tr>
</tbody>
</table>
APPENDIX B

MV/516/2017 – 14 Cheffers Street, Moonee Ponds
Clause 55 (ResCode) 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 main report.

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard</th>
<th>Complies with Objective</th>
</tr>
</thead>
<tbody>
<tr>
<td>B1 - Neighbourhood Character</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>B 2 - Residential Policy</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>B 3 - Dwelling Diversity</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>B 4 - Infrastructure Objectives</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>B 5 - Integration with the Street Objective</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>B 6 - Street Setback Objective</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>B 7 - Building Height Objective</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>B 8 - Site Coverage Objective.</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>B 9 - Permeability Objectives</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>B 10 - Energy Efficiency Objectives</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>B 11 - Open Space Objective</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>B 12 - Safety Objective</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>B 13 - Landscaping Objectives</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>B 14 - Access Objectives</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>B 15 - Parking Location Objectives</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>B16 – Parking Provision</td>
<td>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.</td>
<td></td>
</tr>
<tr>
<td>Title and Objective</td>
<td>Complies with Standard</td>
<td>Complies with Objective</td>
</tr>
<tr>
<td>-------------------------------------------------------</td>
<td>------------------------</td>
<td>-------------------------</td>
</tr>
<tr>
<td>B 17 - Side and Rear Setbacks Objective</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>B 18 - Walls on Boundaries Objective</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>B 19 - Daylight to Existing Windows Objective</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>B 20 - North-facing Windows Objective</td>
<td>✓ complies with condition</td>
<td>✓ complies with condition</td>
</tr>
<tr>
<td>B 21 - Overshadowing Open Space Objective</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>B 22 - Overlooking Objective</td>
<td>✓ complies with condition</td>
<td>✓ complies with condition</td>
</tr>
<tr>
<td>B 23 - Internal Views Objective</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>B 24 - Noise Impacts Objectives</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>B 25 - Accessibility Objective</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>B 26 - Dwelling Entry Objective</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>B 27 - Daylight to New Windows Objective</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>B 28 - Private Open Space Objective</td>
<td>✓ complies with condition</td>
<td>✓ complies with condition</td>
</tr>
<tr>
<td>B 29 - Solar Access to Open Space Objective</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>B 30 - Storage Objective</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>B 31 - Design detail objective</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>B 32 - Front Fences Objective</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>B 33 - Common Property Objectives</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>B 34 - Site Services Objectives</td>
<td>✓</td>
<td>✓</td>
</tr>
</tbody>
</table>

**Clause 55.07 – Apartment Developments**

- B 35 – Energy Efficiency Objectives: N/A
- B 36 – Communal Open Space Objective: N/A
- B 37 – Solar Access to Communal Outdoor Space Objective: N/A
- B 38 – Deep Soil Areas and Canopy Trees: N/A
<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard</th>
<th>Complies with Objective</th>
</tr>
</thead>
<tbody>
<tr>
<td>B 39 – Integrated Water and Stormwater Management Objectives</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>B 40 – Noise Impacts Objectives</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>B 41 – Accessibility Objective</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>B 42 – Building Entry and Circulation Objectives</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>B 43 – Private Open Space above Ground Floor Objective</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>B 44 – Storage Objective</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>B 45 – Waste and Recycling Objectives</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>B 46 – Functional Layout Objective</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>B 47 – Room Depth Objective</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>B 48 – Windows Objective</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>B 49 – Natural Ventilation Objectives</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>

✓ - complies, x - non-compliance, N/A - Not Applicable
9.5 421-431 Mt Alexander Road, Ascot Vale (Land is PC173659Y) - Construction of a multi storey mixed use building, use as accommodation, reduction in car parking requirements, waiver of loading requirements and alterations to access to a Road Zone, Category 1 road in the Design and Development Overlay Schedule 3

File No: FOL/18/32
Author: Grant Michell
Principal Statutory Planner
Directorate: Planning & Development

<table>
<thead>
<tr>
<th>Planning File No.</th>
<th>MV/720/2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposal</td>
<td>Construction of a mixed use development comprising:</td>
</tr>
<tr>
<td></td>
<td>• Four storey height (14.07m) with basement</td>
</tr>
<tr>
<td></td>
<td>• Four commercial tenancies with a total area of 608sqm</td>
</tr>
<tr>
<td></td>
<td>• Use of the land as Accommodation</td>
</tr>
<tr>
<td></td>
<td>• 18 dwellings</td>
</tr>
<tr>
<td></td>
<td>• Reduction of 20 car spaces.</td>
</tr>
<tr>
<td>Applicant</td>
<td>Neston Ascot Vale Pty Ltd</td>
</tr>
<tr>
<td>Owner</td>
<td>Neston Ascot Vale Pty Ltd</td>
</tr>
<tr>
<td>Planning Scheme Controls</td>
<td>• Commercial 1 Zone (C1Z)</td>
</tr>
<tr>
<td></td>
<td>• Design and Development Overlay, Schedule 3 (DDO3)</td>
</tr>
<tr>
<td></td>
<td>• Road Zone, Category 1 (abutting) (RDZ1)</td>
</tr>
<tr>
<td>Planning Permit Requirement</td>
<td>• Clause 34.01-1 – to use the land for accommodation.</td>
</tr>
<tr>
<td></td>
<td>• Clause 34.01-4 – to construct a building or construct or carry out works.</td>
</tr>
<tr>
<td></td>
<td>• Clause 43.02-2 – to construct a building or construct or carry out works.</td>
</tr>
<tr>
<td></td>
<td>• Clause 52.06-3 – to reduce the number of car spaces required.</td>
</tr>
<tr>
<td></td>
<td>• Clause 52.07 – to waive the loading and unloading facilities.</td>
</tr>
</tbody>
</table>
This application seeks approval for the construction of a four storey mixed use development comprising basement parking for 27 vehicles, four retail tenancies and 18 dwellings.

The site is approximately 953 square metres in area and located on the southwestern corner of Mt Alexander Road and Regent Street, Ascot Vale.

The application was advertised with 9 objections received. Concerns were raised in relation to the neighbourhood character, built form, building height, on-site and off-site amenity, traffic and car parking, waste management and devaluation of property.

A Consultation Meeting was not held as there were less than 10 objections received, which is in accordance with Council’s protocols.

The proposal demonstrates an adequate level of compliance with the relevant policies and provisions of the Moonee Valley Planning Scheme. It proposes an appropriate intensification in a well-established area close to schools, public open space and public transport. The architectural response is considered to be appropriate to the context of the site and presents a high level of architectural interest to its corner location.

The proposal achieves an acceptable level of compliance with the standards of Clause 58 (Apartment Developments), with two technical areas of non-compliance. Variations associated with the functional layout and circulation areas are considered appropriate. The proposed development depicts an appropriate built form that provides a high level of internal amenity, protects the amenity of the adjoining properties and responds to its site context.

Overall, this assessment report finds that the proposal demonstrates an adequate level of compliance with the relevant policies and provision of the Moonee Valley Planning Scheme and recommends that the proposal be supported subject to conditions.
Recommendation

That Council issue a Notice of Decision to Grant a Permit in relation to Planning Permit Application No. MV/720/2017 for the construction of a multi storey mixed use building, use as accommodation, reduction in car parking requirements, waiver of loading requirements and alterations to access to a Road Zone, Category 1 road in a Design and Development Overlay 3 at 421-431 Mt Alexander Road, Ascot Vale (Land in PC173659Y) subject to the following conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The amended plans must be drawn to scale with dimensions and an electronic copy must be provided. The amended plans must be generally in accordance with the plans submitted and assessed with the application but modified to show:

   a) The provision of two additional car spaces within the basement level, which are to be allocated for retail use;

   b) Details of the screening system proposed within the western elevation to ensure that there is no overlooking into the adjoining residential property at 1A Regent Street;

   c) A notation that at least 25% of the stacker bays have a height of at least 1.8 metres;

   d) The allocation of all resident and retail car parking spaces;

   e) The provision of pedestrian visibility splays or alternative measures in accordance with the requirements of Clause 52.06-8 (Design Standards
for Car Parking) of the Moonee Valley Planning Scheme;

f) Details and specifications of the proposed car stacker systems, including swept path diagrams demonstrating access to all spaces can be achieved in no more than three manoeuvres;

g) A notation that the vehicle crossover is to be constructed in accordance with Council’s Vehicle Crossing Policy;

h) All bicycle parking designed and annotated in accordance with the relevant Australian Standards;

i) A prominent note on all floor and elevation plans stating: “Refer to endorsed BESS & STORM reports for detailed ESD & WSUD requirements & commitments including insulation, glazing, lighting, heating/cooling specifications and selection of building materials, fittings & fixtures. In accordance with the endorsed BESS report the development must achieve a minimum Housing Energy Rating weighted average of 6.5 stars across all dwellings. Provide individual utility meters to each dwelling. All major common area services are to be separately sub-metered. Car parking ventilation: to be either a) fully naturally ventilated or b) use Carbon Monoxide monitoring to control the operation and speed of the ventilation fans. Internal lighting: the maximum illumination power density (W/m²) for at least 90% of the relevant Building Class is to achieve at least 20% lower than required by Table J67.2a of the NCC BCA (2016) Volume 1 Section J (Clause 2 to 9) and Clause 3.12.5.5 NCC BCA (2016) Volume 2 Section J (Class 1 and 10)”;

j) A landscape plan in accordance with Condition 4 of this permit; and

k) An amended BESS report in accordance with Condition 3 of this permit.

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

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

3. An amended BESS assessment report must be submitted simultaneously with the submission of amended plans in accordance with Condition 1. The BESS Assessment must obtain a minimum 50% to comply with Clause 21.04-3 (Ecologically Sustainable Development) of the Moonee Valley Planning Scheme and include: a copy of the preliminary energy rating reports; note whether washing machines are provided and provide details or alter this section to be default and not scoped out; provide details on water efficient landscaping; and provide details on measures taken to reduce potable water consumption.

4. Before the development starts, and before any trees or vegetation are removed a landscape plan and schedule to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The landscape plan and schedule must be prepared by a person or firm with suitable qualifications to the satisfaction of the Responsible Authority, drawn to scale and an electronic copy must be provided. The landscape plan and schedule must be generally in accordance with the landscape plan submitted with the application but modified to show:

a) Any changes as required by Condition 1 of this permit;
When approved the amended landscape plan and schedule will be endorsed and will form part of this permit.

Landscaping in accordance with the endorsed landscape plan and schedule must be completed before the building is occupied.

5. 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.

6. A minimum 30 days prior to any building or works commencing, all Water Sensitive Urban Design (WSUD) details (relating to the WSUD treatment measures nominated in the approved and complying STORM report), such as cross sections and/or specifications, to assess the technical effectiveness of the proposed stormwater treatment measures, must be submitted for approval by the Responsible Authority.

7. 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 CSMP must be in accordance with Moonee Valley City Council’s CSMP’s Guidelines and Template.

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

The development must be carried out in accordance with the endorsed CSMP and the provisions, requirements and recommendations of the endorsed CSMP must be implemented and complied with to the satisfaction of the Responsible Authority.

8. A maximum 30 days following completion of the development, 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’s Guide or a Building Maintenance Guide.
9. Before the building approved by this permit is occupied, all boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority if the owner of the adjoining land allows access for the purpose.

10. Service units, including air conditioning units, must not be located on any of the balconies or terrace areas unless appropriately visually and acoustically screened to the satisfaction of the Responsible Authority.

11. Floor levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.

12. 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.

13. Before the building approved by this permit is occupied, the areas set aside for the parking of vehicles, together with the associated driveways and access lanes as shown on the endorsed plans must be:
   a) Constructed;
   b) Available for use in accordance with the endorsed plans;
   c) Properly formed to such levels and drained so that they can be used in accordance with the endorsed plans;
   d) Finished with a permanent trafficable surface (such as concrete, asphalt or paving); and
   e) Line-marked or provided with another adequate means of ensuring that the boundaries of all vehicle spaces are clearly indicated on the ground, in accordance with the endorsed plans to the satisfaction of the Responsible Authority.

The area set aside for the parking of vehicles, together with the associated driveways and access lanes as shown on the endorsed plans must:

a) Be maintained and made available for such use; and
b) Not be used for any other purpose,

to the satisfaction of the Responsible Authority.

14. Before the development starts, a Car Parking Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The Car Parking Management Plan must be prepared by a traffic consultant with suitable qualifications to the satisfaction of the Responsible Authority and must include:

a) Details as to how the car stackers are to be regularly maintained and serviced;

b) Details of timeframes and measures to be undertaken, to reinstate the car stackers back to working order, if the car stackers become non-operational; and

c) Details of measures to be undertaken if the car stackers are not operational, so not to provide any additional on-street parking demand.
When approved, the Car Parking Management Plan will be endorsed and will form part of this permit.

The provisions, recommendations and requirements of the endorsed Car Parking Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

15. 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.

16. An on-site stormwater detention drainage system must be installed on the land to the satisfaction of the Responsible Authority.

Before the development starts a Drainage Layout Plan, including computations and manufacturer’s specifications, to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The Drainage Layout Plan must be prepared by a Civil Engineer with suitable qualifications to the satisfaction of the Responsible Authority and must depict an on-site stormwater detention drainage system to be installed on the land.

When approved, the Drainage Layout Plan will form part of this permit.

The on-site stormwater detention drainage system must be installed and the provisions, recommendations and requirements of the endorsed Drainage Layout Plan must otherwise be implemented and complied with to the satisfaction of the Responsible Authority.

17. The plant area and equipment on the roof of the building must be screened in a manner to complement the appearance of the building and be to the satisfaction of the Responsible Authority.

18. The development must be provided with external lighting capable of illuminating access to each vehicle accessway, 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.

19. Before the development starts, a Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The Waste Management Plan must be in accordance with the Waste Management Plan, prepared by Frater dated 30 October 2017, but amended to show:

   a) Modifications in accordance with Condition 1 of this permit.

When approved, the Waste Management Plan will be endorsed and will form part of this permit.

The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
20. All wastes must be disposed of to the satisfaction of the Responsible Authority. Liquid waste or polluted waters must not be discharged into a sewer or stormwater drainage system.

21. This permit will expire if one of the following circumstances applies:
   a) The development is not commenced within two (2) years from the date of issue of this permit, or
   b) The development is not completed 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.

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 the development starts, the permit holder must contact Moonee Valley City Council on 9243 8888 regarding legal point of discharge, vehicular crossings, building over easements, asset protection, road consent/occupancy, etc.
- No on-street parking permits will be provided to the occupiers of the land.
- The required on-site detention system must be designed to limit the rate of stormwater discharge from the land to pre-development levels in accordance with the following calculation: \( C=0.4, \text{tc}=5\text{mins}, \text{ARI 1 in 5}. \) 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 Moonee Valley City Council and be to the satisfaction of the Responsible Authority.
- The on-site car spaces and storage cages must not be subdivided, leased or sold separately to external parties that are not prime lot owners or tenants of the building or development.

1. Introduction

1.1 Subject Site and Surrounds

The subject site is located on the southwestern corner of Mt Alexander Road and Regent Street, Ascot Vale.

The site is irregular in shape with a frontage to Mt Alexander Road of approximately 38.54 metres and a frontage to Regent Street of approximately 13.04 metres. A Right of Way is located along the site’s northern boundary.

There are no easements of covenants registered on the Certificate of Title.
The subject site is currently occupied by a single storey convenience restaurant (Nandos) centrally located along the southwestern corner of the site. The majority of the site is occupied with hardstand parking for the restaurant use. Vehicular access is provided from both Mt Alexander Road and Regent Street.

Two crossovers are located to Mt Alexander Road, one which is currently used and one disused crossover.

![Figure 2: Application Site (421-431 Mt Alexander Road, Ascot Vale) – Mt Alexander Road frontage](image)

1.2 Proposal

It is proposed to construct a four storey building comprising four retail tenancies at ground level and 18 dwellings above. A basement level is proposed with 27 car spaces and associated storage and servicing facilities. A mix of one, two and three bedroom dwellings are proposed with varying layouts, including three double storey apartments. Vehicular access is provided from Regent Street and the two existing vehicular crossovers to Mt Alexander Road are to be removed and the kerb and channel reinstated.
Table 1

<table>
<thead>
<tr>
<th>No. of dwellings</th>
<th>4 x one bedroom, 12 x two bedroom and 2 x three bedroom dwellings</th>
</tr>
</thead>
<tbody>
<tr>
<td>No. of retail spaces</td>
<td>4 retail tenancies with a total area of 608sqm</td>
</tr>
<tr>
<td>No. of car spaces</td>
<td>27 car spaces (21 residential and 6 retail car spaces)</td>
</tr>
<tr>
<td>Max Building Height</td>
<td>14.07 metres (4 storeys)</td>
</tr>
</tbody>
</table>

Refer Appendix B Plans (separately circulated).

2. Background

2.1 Relevant Planning History

The following Planning Permits have been issued for the subject site:

<table>
<thead>
<tr>
<th>Planning Permit</th>
<th>Proposal</th>
<th>Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>MV/10205/1998</td>
<td>Use of the existing building as a cafe/takeaway food premises</td>
<td>Approved on 6 July 1998</td>
</tr>
<tr>
<td>MV/655/2011</td>
<td>Construction of a three storey building for use as a retail premises and dwellings within a Design and Development Overlay (DDO4), with a reduction of the car parking and loading bay requirements including alteration of access to a Road Zone, Category 1</td>
<td>Approved 8 January 2013</td>
</tr>
</tbody>
</table>

2.2 Planning Policies and Decision Guidelines

State Planning Policy Framework

Clause 9 Plan Melbourne
Clause 10 Operation of the State Planning Policy Framework
Clause 11 Settlement
Clause 11.06 Metropolitan Melbourne
Clause 15 Built Environment and Heritage
Clause 16 Housing
Clause 17 Economic Development
Clause 18 Transport

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 21.08 Economic Development
Clause 21.09 Transport
Clause 22.03 Stormwater Management (Water Sensitive Urban Design Zoning)
Clause 34.01 Commercial 1 Zone

Overlays
Clause 43.02 Design and Development Overlay Schedule 3

Particular and General Provisions
Clause 52.06 Car Parking
Clause 52.07 Loading and Unloading Facilities
Clause 52.29 Land Adjacent to a Road Zone Category 1
Clause 52.34 Bicycle Facilities
Clause 58 Apartment Developments
Clause 65 Decision Guidelines

2.3 Referrals
The following external referrals were undertaken:

Table 2

<table>
<thead>
<tr>
<th>Department/Officer</th>
<th>Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>VicRoads</td>
<td>No objections.</td>
</tr>
</tbody>
</table>

The following internal referrals were undertaken:

Table 3

<table>
<thead>
<tr>
<th>Department/Officer</th>
<th>Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Environmental Sustainable Design (ESD)</td>
<td>Amended BESS and STORM Report required and all annotation on plans.</td>
</tr>
<tr>
<td>Development Engineering (Traffic)</td>
<td>The provision of two additional retail spaces on-site. Standard accessway conditions.</td>
</tr>
<tr>
<td>Development Engineering (Drainage)</td>
<td>Standard drainage conditions.</td>
</tr>
</tbody>
</table>
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 two notices displayed on site for 14 consecutive days.

As a result, 9 objections from 8 separate properties were received and identified within Appendix A of this report. The objections are discussed at Section 3.5 of this report.

It is noted that two additional objections were received and subsequently withdrawn.

2.5 Consultation Meeting

A Consultation Meeting was not held as there were less than 10 objections received, which is in accordance with Council’s protocols.

3. Discussion

3.1 Does the Proposal Address the Relevant State and Local Planning Policies and the Decision Guidelines of the Commercial 1 Zone?

The subject site is located within the Mt Alexander Road commercial corridor, where it is State and Local Policy to develop the area with a focus for business, shopping, working, leisure and community facilities as well as maximising the choices in services, employment and social interaction. It is considered the proposed application will provide a mix of uses that is consistent with State and Local Policy to develop activity centres as a focus for business, shopping, working, leisure and community facilities.

It is a strategy of Clause 15.01-1 (Urban Design) to ensure new development responds to its context in terms of urban character, cultural heritage, natural features, surrounding landscape and climate. It is considered the proposed development appropriately considers its site context and proposes a built form that will not be visually dominant to the streetscapes and adjoining properties and will provide appropriate internal amenity to future users of the site.

Clause 15.01-2 of the State Planning Policy Framework (Urban Design Principles) provides the main assessment tool for development proposals not covered by Clauses 54, 55 or 56 of the planning scheme. The objective of Clause 15.01-2 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 the proposed development complies with the relevant design principles of the Urban Design Guidelines for Victoria 2017, the Decision Guidelines of the Commercial 1 Zone and Clauses 15.01-2 and 21.06-4 and as discussed below:
Commercial 1 Zone

The residential component of this proposal (dwellings) require a planning permit under the Commercial 1 Zone as the dwelling entry is greater than 2 metres in width. The retail component of the development is an as of right use under the Zone. The proposed dwellings and retail premises are in accordance with the objectives of State and Local Planning Policies within the Moonee Valley Planning Scheme.

Pursuant to Clause 34.01-2, a permit is required for the use of the land for dwellings as the width of the building frontage occupied by the residential foyer exceeds 2 metres. The use of the land for dwellings is considered to accord with the decision guidelines of the zone. The existing commercial uses in the immediate vicinity is not considered to pose an unreasonable adverse impact upon the proposed use.

In addition, the proposed development requires a permit under Clause 34.01-4 (Buildings and Works). As discussed within Section 3.2 of this report, the development represents an appropriate architectural response against the DDO3 Design Objectives.

Urban Design Guidelines for Victoria 2017 (as relevant)

Element 2 – Movement Network

Glazing at ground level and at the upper levels within both street frontages provide for passive surveillance of streetscapes to increase public safety.

An awning is provided to Mt Alexander Road and partially to Regent Street to provide weather protection to the footpath.

Element 5 – Buildings

The proposed building scale and form as proposed are generally consistent with the built form outcomes within the DDO3. The overall height of the development while not compliant with the preferred building heights, is appropriate given the site’s location and incorporates appropriate setbacks at the upper level. This is discussed in Section 3.2 of this report. It is considered the building form and scale are consistent with the existing character of the area and with the future character for this location.

Due to the orientation of the site, the development will not result in overshadowing over Mt Alexander Road or Regent Street.

The proposed development maintains the existing commercial use of the site by providing four separate tenancies of varying sizes. It is considered this is appropriate and will maintain the active frontage to Mt Alexander Road.

The proposed development provides adequate bicycle parking in accordance with Clause 52.34 that is conveniently located.

A vehicular access point is provided to Regent Street, which is appropriate and increases on-street parking within Mt Alexander Road.

The proposed façade treatments are considered appropriate for this form of development and present as a high quality contemporary form consistent with emerging architectural trends in the surrounding area. The proposed materials and finishes are appropriate. The external presentation of the building will make
a positive contribution to the streetscape and will present as a visually interesting design.

Site services are appropriately located and do not dominate the street frontages.

The proposed location of the residential apartment lobby is appropriate and will be readily visible.

**Clauses 15.01-2 and 21.06-4**

**Context**

The proposed mixed use development is considered to be generally appropriate given the location of the site within a commercial area with good access to a range of services, including public transport. The proposed development is responsive to the strategic context of the land. The land is within a Commercial 1 Zone and shopping, recreation, public transport and community facilities are all within walking distance of the site. The overall built form is generally consistent with the design objective within the DDO3, as discussed in Section 3.2 of this report.

**The Public Realm**

The proposed development will make a positive contribution to the public realm through the proposed weather protection and passive surveillance of the streetscapes.

**Safety**

Glazing at ground level and at the upper levels within the frontages provide for passive surveillance of streetscapes to increase public safety.

**Landmarks, Views and Vistas**

There are no significant monuments, landmarks or vistas in the vicinity of the site that have been identified within the Moonee Valley Planning Scheme as requiring specific protection that will be affected by this development.

**Light and Shade**

Due to the orientation of the site, the development will not result in overshadowing over Mt Alexander Road throughout the day.

**Energy and resource efficient**

The proposed development provides a built form designed to maximise the use of natural daylight and ventilation to all dwellings. Council’s ESD Officer has reviewed the development and does not object to the development subject to additional conditions relating to the BESS report on any amended permit issued.

**Architectural quality**

It is considered the development provides a high level of architecture and urban design that is in keeping with the vision for the area in terms of building presentation. The overall height of the development at four storeys while non-compliant is consistent with the Design Objectives within the Design and Development Overlay Schedule 3 as discussed in Section 3.2 of this report.
The external presentation of the building will make a positive contribution to the streetscape and present as a visually interesting design.

The internal layout of the apartments are considered acceptable and an appropriate level of internal amenity will be achieved.

**Landscape Architecture**

Landsaping has been provided along the building edge at the upper level to provide a green edge to the streetscape and is consistent with the requirements of Clause 58.03-5 (Landsaping) of the Moonee Valley Planning Scheme.

With regard to Clause 21.08 (Economic Development), it is considered the development provides appropriate commercial activities to Mt Alexander Road, consistent with surrounding development and continues to contribute to the surrounding economic context.

Clause 21.09 (Transport) seeks to reduce environmental impacts and improve access to sustainable modes of transport. It also seeks to provide choices for movement of people and goods whilst ensuring these choices provide sustainable outcomes. It is considered the proposal provides an appropriate balance with respect to the provision of on-site parking and public transport reliance.

The proposal generally complies with the environmental sustainable design principals regarding BESS and STORM, subject to additional conditions relating to the BESS report on any permit issued.

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. A waste management plan was submitted with the application which adequately addresses the provisions of the Clause subject to conditions ensuring the plan accords with the condition 1 requirements. Council’s Waste Management Officer does not object to the submitted waste management plan.

### 3.2 Does the Proposal Address the Design Objectives and Requirements of the Design and Development Overlay Schedule 3?

The subject site is located within Precinct G of the Design and Development Overlay Schedule 3 (DDO3).

The preferred built form outcomes are provided within the table below.

**Table 4**

<table>
<thead>
<tr>
<th>Preferred maximum height</th>
<th>DDO3-Precinct G</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Front setback (up to 8 metres in height)</td>
<td>0 metres</td>
<td>0 metres (along Mt Alexander Road)</td>
</tr>
<tr>
<td>Front setback (above 8 metres in height)</td>
<td>2 metres, plus 0.5 metres for every metre of height above 11 metres</td>
<td>0 metres up to 11.5 metres in height then 3.045 metres.</td>
</tr>
</tbody>
</table>
Rear setback (up to 7.5 metres in height) | 3 metres | 0 – 3 metres
---|---|---
Rear setback (above 7.5 metres in height) | 4 metres up to 11 metres in height | 2.75 – 4 metres
Rear setback (above 11 metres in height) | 0.7 metres for each 1 metre in height above 11 metres in height | 7.4 metres

Discussion is provided below:

**Preferred Maximum Height**

The proposed development exceeds the 12 metre (three storeys) requirement of the overlay by proposing an overall height of four storeys (14.07 metres) and as discussed throughout the report, the upper level is considered to be appropriate and in keeping with the existing and preferred built form for this part of Mt Alexander Road due to its setback from the street and limited impacts on the adjoining properties.

**Setbacks**

*Front Setback*

A street wall height of 11.5 metres is proposed to Mt Alexander Road, which does not comply with the 8 metre requirement. It is considered the proposed setback is appropriate in this instance as the development is a corner site and architecturally designed to be a landmark development that will present a visually interesting built form to the streetscape. The upper level is well setback from the lower level walls and incorporates a well landscaped building edge to provide further visual interest.

Additionally, the building skin has been designed to be fully openable which will create the illusion of cut-outs that will vary constantly based on resident needs and present a dynamic built form to the streetscapes.

*Rear Setbacks*

While the proposed development does not fully comply with the setback requirements to adjoining properties, the proposal is appropriate as:

- The site is located within a Commercial 1 Zone where this form of development is prevalent.
- The ground level setback of between 0 and 3 metres is located abutting a pedestrian walkway and communal garden of the adjoining property at 1A Regent Street and the rear open space area and car parking area of 2 Bank Street. The proposed setbacks are sufficient to maintain the amenity of these areas as the existing site conditions include a wall along the edges of the communal open space are of 1A Regent Street. The proposal seeks to informally increase the length of the laneway creating a 3 metre separation between the subject site and 2 Bank Street. This change provides an area on-site for loading and unloading and waste collection separate from the residential sections of the building.
The upper levels are generally setback in accordance with the DDO3 requirements with the areas of non-compliance being associated with the screening skin of the development.

Landscaped areas are provided at level 1 to soften and visually screen the development from the adjoining property at 1A Regent Street and provide greater internal amenity within the development.

Precinct Specific Guidelines
The proposed development provides an awning to Mt Alexander Road which returns partially along Regent Street to provide weather protection to pedestrians.

The vehicular access point is to Regent Street. Additionally, the existing crossover to Regent Street will be reduced in width and located further to the west to increase the distance between the accessway and the intersection with Mt Alexander Road. The existing crossovers to Mt Alexander Road will be removed and reinstated with kerb and channel, increasing on-street parking within Mt Alexander Road.

The proposed scale and form of the development, while higher than the existing double storey character of the streetscape, is appropriate as it is consistent with the emerging character along Mt Alexander Road and presents a visually interesting form to the streetscapes.

DDO3 Design Objectives
The proposed development meets the Design Objectives of the DDO3 as:

- The proposed built form is of a high architectural standard and will present as a visually dynamic and varied built form which will enhance the appearance of Mt Alexander Road.

- The proposed development will not unreasonably impact upon the adjoining properties in terms of appearance, amenity and streetscape presentation.

- There are no adjoining heritage properties that will impact upon the proposal.

- The development incorporates appropriate ESD design initiatives.

- The development provides an active frontage to Mt Alexander Road and Regent Street, including the provision of weather protection to provide a pedestrian friendly environment.

- The development locates the vehicular access to Regent Street and encourages public transport usage.

3.3 Does the Proposal Comply with Clause 52.06 (Car Parking)?
The proposal provides car parking as set out in the table below:
Table 2

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Requires</th>
<th>Proposed</th>
<th>Difference</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Bedroom Dwellings (x4)</td>
<td>4</td>
<td>4</td>
<td>0</td>
</tr>
<tr>
<td>2 Bedroom Dwellings (x12)</td>
<td>12</td>
<td>13</td>
<td>+1</td>
</tr>
<tr>
<td>3 Bedroom Dwellings (x2)</td>
<td>4</td>
<td>4</td>
<td>0</td>
</tr>
<tr>
<td>Residential Visitor</td>
<td>3</td>
<td>0</td>
<td>-3</td>
</tr>
<tr>
<td>Retail (608sqm)</td>
<td>24</td>
<td>6</td>
<td>-18</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>47</strong></td>
<td><strong>27</strong></td>
<td><strong>-20</strong></td>
</tr>
</tbody>
</table>

The proposed development requires a car parking reduction of 20 car spaces, being 3 residential car spaces and 18 retail car spaces less one surplus space provided for the 2 Bedroom Dwellings.

It is considered the proposed reduction is generally acceptable in this instance as:

- The site is located within an established commercial area where this form of development is encouraged
- A tram line operates along Mt Alexander Road
- Ascot Vale train station is located within walking distance to the southwest of the subject site
- There is sufficient parking within the surrounding area to cater for the proposed reduction.

The application has been referred to Council’s Development Engineering (Traffic) Department who considered the residential visitor car spaces and two additional retail car spaces should be provided on-site. Additionally, a number of minor alterations to the development plans were identified, which will form permit conditions. In relation to requiring additional parking on-site, it is considered that providing visitor parking on-site is not appropriate in this instance given the need to provide these spaces within the basement level. Given the site is located adjacent to public transport and there is sufficient on-street parking in the area, it is appropriate to support the reduction in visitor parking. It is also noted the removal of the existing crossovers to Mt Alexander Road will facilitate additional on-street parking.

It is considered appropriate to include a condition requiring two additional retail spaces within the basement level given the individual sizes of retail tenancies 1 and 3.

The application was referred to VicRoads, who do not object to the removal and reinstatement of the crossovers to Mt Alexander Road.

3.4 Does the Proposal Comply with the requirements of Clause 58?

The proposal is considered to generally comply with the provisions of Clause 58 as set out in the assessment table (refer to Appendix C). The following points of exception are assessed below:
Table 3

<table>
<thead>
<tr>
<th>ResCode Standard</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clause 58.5-2 (Standard B18 – Building Entry and Circulation Objectives)</td>
<td>The proposed internal corridors for levels 1, 2 and 3 do not provide for natural light and ventilation. It is considered the proposed design response is acceptable in this instance given the minimal length of the corridors proposed and their width at 1.8 metres.</td>
</tr>
<tr>
<td>Clause 58.07-1 (Functional Layout Objective)</td>
<td>The main bedroom dimensions of 3.2 metres by 3 metres does not comply with the 3.4 metre by 3 metre requirement of this Standard. It is considered the variation is acceptable and the bedrooms provide usable and functional layouts and the area of non-compliance proposed is minor.</td>
</tr>
</tbody>
</table>

3.5 Objections

The following table provides a discussion of the concerns raised within the objections to the application:

Table 4

<table>
<thead>
<tr>
<th>Issue</th>
<th>Officer Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Overall height</td>
<td>Refer to Section 3.2 for discussion.</td>
</tr>
<tr>
<td>Loss of daylight</td>
<td>The proposed development will not significantly impact upon daylight access to the adjoining residential properties.</td>
</tr>
<tr>
<td>Loss of views</td>
<td>It noted that views are not specifically protected under the Moonee Valley Planning Scheme.</td>
</tr>
<tr>
<td>Overlooking</td>
<td>Appropriate screening measures are proposed to limit overlooking into the adjoining residential properties.</td>
</tr>
<tr>
<td>Parking and traffic</td>
<td>Refer to Section 3.3 for discussion.</td>
</tr>
<tr>
<td>Neighbourhood character</td>
<td>The subject site is located within a Commercial 1 Zone and the Neighbourhood Character Policy does not apply to the proposal.</td>
</tr>
<tr>
<td>Devaluation of properties</td>
<td>This is not a planning consideration.</td>
</tr>
<tr>
<td>Waste collection</td>
<td>The application has been referred to Council’s Waste Management Department who does not object to the submitted Waste Management Plan.</td>
</tr>
<tr>
<td>Safety</td>
<td>Refer to Section 3.4 of this report for discussion. It is considered the development will not impact on the safety of the surrounding streetscapes given the mix of proposed uses and the ability for vehicles to exit the site in a forwards direction.</td>
</tr>
</tbody>
</table>
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.

Additionally, consideration has been given to the requirements of Section 60(1B) of the *Planning and Environment Act 1987* with respect to the number of objections received, and it is determined that the proposal would not have a significant social effect.

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

**Appendices**

Appendix A: Objector Location
Appendix B: Advertised Plans (separately circulated)
Appendix C: Clause 58 Assessment.
Objectors List for MV/720/2017 at 421-431 Mt Alexander Road, ASCOT VALE

<table>
<thead>
<tr>
<th>Objector Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>3 East Street, ASCOT VALE VIC 3032</td>
</tr>
<tr>
<td>1 Regent Street, ASCOT VALE VIC 3032</td>
</tr>
<tr>
<td>2/1a Regent Street, ASCOT VALE VIC 3032</td>
</tr>
<tr>
<td>7/1a Regent Street, ASCOT VALE VIC 3032</td>
</tr>
<tr>
<td>3 Regent Street, ASCOT VALE VIC 3032</td>
</tr>
<tr>
<td>13 Bank Street, ASCOT VALE VIC 3032</td>
</tr>
<tr>
<td>4/1a Regent Street, ASCOT VALE VIC 3032</td>
</tr>
<tr>
<td>2 Bank Street, ASCOT VALE VIC 3040</td>
</tr>
</tbody>
</table>
**Appendix C**

**MV/720/2017 – 421-431 Mt Alexander Road, Ascot Vale**

Clause 58 (Apartment Developments) of the Moonee Valley Planning Scheme

Where there is non-compliance, see main report.

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard</th>
<th>Complies with Objective</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>D1 – Urban Context Objectives</strong></td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td><strong>D 2 – Residential Policy Objectives</strong></td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td><strong>D 3 – Dwelling Diversity Objective</strong></td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td><strong>D 4 – Infrastructure Objectives</strong></td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td><strong>D 5 – Integration with the Street Objective</strong></td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td><strong>D6 – Energy Efficiency Objectives</strong></td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td><strong>D7 – Communal Open Space Objective</strong></td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td><strong>D8 – Solar Access to Communal Outdoor Open Space Objective.</strong></td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td><strong>D9 – Safety Objective</strong></td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td><strong>D10 – Landscaping Objectives</strong></td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td><strong>D 11 – Access Objective</strong></td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td><strong>D 12 – Parking Location Objectives</strong></td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td><strong>D 13 – Integrated Water and Stormwater Management Objectives</strong></td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td><strong>D 14 – Building Setback Objectives</strong></td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td><strong>D 15 – Internal Views Objective</strong></td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td><strong>D16 – Noise Impact Objectives</strong></td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td><strong>D 17 – Access Objective</strong></td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td><strong>D 18 – Building Entry and Circulation Objectives</strong></td>
<td>X</td>
<td>✓</td>
</tr>
<tr>
<td><strong>D 19 – Private Open Space Objective</strong></td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td><strong>D 20 – Storage Objective</strong></td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td><strong>D 21 – Common Property Objectives</strong></td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td><strong>D 22 – Site Services Objectives</strong></td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Title and Objective</td>
<td>Complies with Standard</td>
<td>Complies with Objective</td>
</tr>
<tr>
<td>-------------------------------------------</td>
<td>------------------------</td>
<td>-------------------------</td>
</tr>
<tr>
<td>D 23 – Waste and Recycling Objectives</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>D 24 – Functional Layout Objective</td>
<td>X</td>
<td>✓</td>
</tr>
<tr>
<td>D 25 – Room Depth Objective</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>D 26 – Windows Objective</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>D 27 – Natural Ventilation Objectives</td>
<td>✓</td>
<td>✓</td>
</tr>
</tbody>
</table>

✓ - complies, X - non-compliance, N/A - Not Applicable
9.6 Planning Scheme Amendment C182 Update - Heritage Overlay 62, 64, 66 and 68 Buckley Street, Essendon

File No: FOL/17/11
Author: Corina de Araujo
Strategic Planner
Directorate: Planning & Development

Purpose
To recommend that Council formally adopt Amendment C182, which proposes to apply a permanent Heritage Overlay to the properties at 62, 64, 66 and 68 Buckley Street, Essendon.

Executive Summary
- On 24 April 2017 Council received a request for demolition (DEMO/170/2017) for the property at 66 Buckley Street, Essendon. The approval of this application would result in complete demolition of the property.
- This property is identified as having potential local heritage significance in Council’s adopted Heritage Gap Study 2014 as part of small cluster (precinct) of Federation-era properties at 62-68 Buckley Street, Essendon. As a result, Council officers referred the demolition request to its Heritage Advisor for comment.
- The Heritage Advisor noted that the demolition of 66 Buckley Street, Essendon would jeopardise the significance of the precinct overall. The Heritage Advisor advised Council to seek to apply heritage controls to all the properties. This is consistent with the process adopted by Council at the Ordinary Meeting on 26 May 2015 to seek to apply heritage controls for buildings which meet identified criteria and are under threat of demolition.
- Council sought additional advice from Context Pty Ltd, external heritage consultants, who prepared a draft citation for the 62-68 Buckley Street, Essendon precinct. The draft heritage citation is provided in Appendix A.
- For the reason outlined, Council wrote to the Minister for Planning (Minister) on 3 October 2017 and requested interim controls be applied to 66 Buckley Street, Essendon through Amendment C181. Under delegation from the Minister, interim heritage controls were granted until 30 October 2018.
- At the Ordinary Meeting on 26 September 2017, Council resolved to obtain authorisation from the Minister to prepare and publicly exhibit the Moonee Valley Planning Scheme Amendment C182. At the same meeting, Council resolved to refer all unresolved submissions received during exhibition to Planning Panels Victoria (Panels).
- Amendment C182 was formally exhibited from 16 November 2017 to 14 December 2017. Four submissions supporting the amendment were received indicating that a Panel process was not required.
This report provides the necessary justification to formally request that the Minister adopt and update the planning scheme maps to apply permanent heritage controls to the properties.

A copy of the explanatory report and amendment documentation for Amendment C182 can be found at Appendix B.

Recommendation

That Council:

1. Having complied with Part 3 of the Planning and Environment Act 1987, and in accordance with Section 29(1), formally adopt Moonee Valley Planning Scheme Amendment C182 in accordance with the revised map in Appendix B.

2. Submit Moonee Valley Planning Scheme Amendment C182 to the Minister for approval pursuant to Section 31(1) of the Planning and Environmental Act 1987.

Background

On 24 April 2017 Council received a request for demolition (DEMO/170/2017) for the property at 66 Buckley Street, Essendon. The approval of this application would result in complete demolition of the property. The property forms part of a small precinct of Federation-era properties that have been identified as having local heritage significance in the Heritage Gap Study 2014.

The advice received indicated that Council should request for an interim Heritage Overlay to be applied to 66 Buckley Street, Essendon until permanent heritage controls could be considered for the precinct. The advice noted that the demolition of 66 Buckley Street, Essendon would compromise the heritage significance of the overall precinct. This assessment is based on the process adopted by Council at the Ordinary Meeting on 26 May 2015.

In addition to referring the matter to the Heritage Advisor, Council officers also sought advice from Context Pty Ltd, external heritage consultants, who prepared a heritage assessment and draft citation of the precinct. They describe the small precinct as being of high architectural quality and integrity, and of local historic significance because they provide evidence of strong growth of housing building in the area from 1906.

Discussion

On 3 October 2017, Council wrote to the Minister requesting interim heritage controls for 66 Buckley Street, Essendon through Amendment C181. Under delegation from the Minister, interim controls were granted until 30 October 2018, during which time a decision regarding permanent controls for the precinct will have been made.

Council prepared Amendment C182 seeking to apply a permanent Heritage Overlay to the precinct, consisting of properties at 62, 64, 66 and 68 Buckley Street, Essendon. Specifically the amendment proposes to:
• Update the Schedule to Clause 43.01 Heritage Overlay of the Moonee Valley Planning Scheme to include the subject properties
• Amend part of Planning Scheme Map 12HO to include the subject land in the Heritage Overlay

Amendment C182 received four submissions.

Submission 1
This submission supported the proposed amendment and noted that overdevelopment in the area has resulted in the loss of historic homes.

Submission 2
This submission supported the proposed amendment and noted that demolishing 66 Buckley Street, Essendon would negatively impact the aesthetics of the streetscape, and compromise the heritage significance of the precinct. The submission also outlined that the proposed heritage protection should be cognisant of the commercial uses at 62 and 68 Buckley Street, Essendon.

Submission 3
This submission provided new evidence regarding a rear extension that was added circa 1986 to main building at 66 Buckley Street, Essendon. The information was referred to Context Pty Ltd and the draft citation was modified to reflect this. The revised citation can be found at Appendix C – refer to page 11 for track changes. The submission supported the amendment but also included plans for future extensions to the main building at 66 Buckley Street, Essendon that were not in the scope of the amendment process. A clarification of support was received in writing on 20 December 2017.

Submission 4
This submission supported the proposed amendment and noted that demolishing the properties would produce negative impacts to the character of the neighbourhood. The submission also included traffic and parking concerns related to development in the area.

Consultation
Amendment C182 was formally placed on public exhibition from 16 November 2017 to 14 December 2017, and included direct notification to the property owners. Further consultation methods included:
• Letter to Heritage Victoria and relevant Ministers
• Notices in the local papers
• Information displayed at the Civic Centre, and
• Information on the Council and Department of Environment, Land, Water and Planning websites.
Implications

1. Legislative
   Amendment C182 is consistent with Ministerial Direction relating to the form and content of Planning Schemes under Section 7(5) of the Planning and Environment Act 1987.
   There are no human rights implications as a result of this report.

2. Council Plan / Policy
   In presenting this report, Council is working to achieve its strategic objective to identify and protect places of local heritage significance in accordance with Council Plan 2017-21 Theme 3: Sustainable living - Connected, well designed municipality, thriving neighbourhoods, accessible places and spaces - Growth and development is well managed.

3. Financial
   The Strategic Planning operational budget will cover the costs associated with the amendment process.

4. Environmental
   Amendment C182 seeks to have a positive environmental impact by protecting places of historical significance and reducing waste implications from proposed demolitions.

Conclusion
Amendment C182 will assist Council in implementing the findings of Heritage Gap Study 2014, and preserve places of important historical significance on the City of Moonee Valley.

The amendment was exhibited for four weeks. During this time, four submissions supporting the amendment was received, indicating that a Planning Panel process is not required.

It is recommended that Council adopt Amendment C182 and resolve to submit the amendment, proposing permanent heritage controls, to the Minister for approval.

Appendices
Appendix A: Draft Heritage Citation - 62-68 Buckley Street, Essendon (separately circulated)
Appendix B: Explanatory Report and Exhibition Documents (separately circulated)
Appendix C: Revised Draft Citation (Track Changes) - 62-68 Buckley Street, Essendon (separately circulated).
9.7 Planning Scheme Amendment C186 Update - Heritage Overlay 5 Alma Street, Aberfeldie

File No: FOL/18/32
Author: Corina de Araujo
Strategic Planner
Directorate: Planning & Development

Purpose
To inform Council on the progress of Amendment C186, including the outcome of the public exhibition period.

Executive Summary
- On 5 June 2017 Council received planning permit application MV/389/2017 seeking permission to construct three dwellings at 5 Alma Street, Aberfeldie. Approval would result in complete demolition of the existing property.
- The property is identified as having potential individual heritage significance as an Interwar period dwelling of high integrity in Council’s adopted Heritage Gap Study 2014. As a result, Council officers referred the permit application to its heritage advisor for comment.
- Council’s heritage advisor indicated that Council should seek to apply heritage controls to the property. This is consistent with the process adopted by Council at the Ordinary Meeting on 26 May 2015 to seek to apply heritage controls for buildings which meet identified criteria and are under threat of demolition.
- Council sought additional advice from Context Pty Ltd, external heritage consultants, who prepared a draft heritage citation for 5 Alma Street, Aberfeldie. A copy of the draft heritage citation is provided in Appendix A. They noted the property has local historic, architectural and aesthetic significance for the City of Moonee Valley.
- For the reasons outlined, Council wrote to the Minister for Planning (Minister) on 3 October 2017 requesting interim controls be applied to 5 Alma Street, Aberfeldie through Amendment C185. Under delegation from the Minister, interim heritage controls were granted until 30 October 2018.
- At the Ordinary Meeting on 26 September 2017, Council resolved to obtain authorisation from the Minister to prepare and publicly exhibit the Moonee Valley Planning Scheme Amendment C186. At the same meeting, Council resolved to refer all unresolved submissions received during exhibition to Planning Panels Victoria (Panels).
- Amendment C186 was formally exhibited from 16 November 2017 to 14 December 2017. One unresolved submission was received, requiring the Amendment proceed to the panel process.
- A copy of the explanatory report and amendment documentation for Amendment C186 is provided in Appendix B (separately circulated).
On 13 November 2017 planning permit application MV/389/2017 lapsed in accordance with Section 54B of the Planning and Environment Act 1987. This is due to the applicant not supplying the requested information within the prescribed timeframe.

Recommendation
That Council:
1. Receive and note this report.
2. Refer unresolved submissions to an independent panel Planning Panel pursuant to Section 23(1)(b) of the Planning and Environment Act 1987, and in accordance with the resolution adopted at the Ordinary Meeting on 26 September 2017.

Background
On 5 June 2017 Council received planning permit application MV/389/2017 seeking permission to construct three dwellings at 5 Alma Street, Aberfeldie. Approval would result in complete demolition of the existing property. The property was identified in the Heritage Gap Study 2014 as having potential individual heritage significance as an Interwar period dwelling of high integrity. In addition, Council’s heritage advisor raised concerns regarding the potential demolition of the existing property due to its potential landmark value as an individual site.

The advice indicated Council should request an interim Heritage Overlay be applied to 5 Alma Street, Aberfeldie until permanent heritage controls could be considered for the site. This assessment is based on the process adopted by Council at the Ordinary Meeting on 26 May 2015.

In addition to referring the matter to the heritage advisor, Council officers also sought advice from Context Pty Ltd, external heritage consultants, who prepared a heritage assessment and draft citation for the property. They describe the property as having local historic, architectural and aesthetic significance for the municipality.

Discussion
The property at 5 Alma Street, Aberfeldie is an interwar bungalow enhanced by the high degree of integrity of the site as a whole, and its retainment of its characteristic front garden and original front fence and garage.

On 3 October 2017 Council wrote to the Minister requesting an interim Heritage Overlay for 5 Alma Street, Aberfeldie through Amendment C185. Under delegation from the Minister, interim controls were granted until 30 October 2018, during which time a decision regarding permanent control for the site should be made. As of 13 November 2017, the permit application to construct three dwellings on the site lapsed due to the applicant not supplying the requested information pursuant to Section 54B of the Planning and Environment Act 1987.

Council prepared Amendment C186 seeking to apply a permanent Heritage Overlay to 5 Alma Street, Aberfeldie. Specifically the amendment proposes to:

- Update the Schedule to Clause 43.01 Heritage Overlay of the Moonee Valley Planning Scheme to include the subject site
Amend Planning Scheme Map 11HO to include the subject land in the Heritage Overlay

Amendment C186 received one submission. This submission opposed the proposed amendment, and included a further heritage assessment of the site undertaken by heritage consultants Lovell Chen. The assessment notes several inaccuracies in the exhibited draft heritage citation, in particular, the existing garage which according to their assessment, has been extensively modified and does not contribute to the integrity and significance of the property as a whole (as described in the original heritage citation). Lovell Chen’s assessment concluded that the local heritage significance of the property has been overstated.

The submission was referred to Context Pty Ltd who provided their comments in writing to Council officers on 11 January 2018. Their response stated that the only inaccuracy accepted is that the garage has been extended to the south, yet this extension has made little difference to the presentation of the house as seen from the north and north-west. They conclude that the integrity of the property and its distinctive design provide a sound basis for its inclusion as an individual significant place.

**Consultation**

Amendment C186 was formally placed on public exhibition from 16 November 2017 to 14 December 2017, and included direct notification to the property owners. Further consultation methods included:

- Letter to Heritage Victoria and relevant Ministers
- Notices in the local papers
- Information displayed at the Civic Centre, and
- Information on the Council and Department of Environment, Land, Water and Planning websites.

**Implications**

1. **Legislative**

   Amendment C186 is consistent with Ministerial Direction relating to the form and content of Planning Schemes under Section 7(5) of the *Planning and Environment Act 1987*.

   There are no human rights implications as a result of this report.

2. **Council Plan / Policy**

   In presenting this report, Council is working to achieve its strategic objective to identify and protect places of local heritage significance in accordance with Council Plan 2017-21 Theme 3: Sustainable living - Connected, well designed municipality, thriving neighbourhoods, accessible places and spaces - Growth and development is well managed.
3. Financial

The Strategic Planning operational budget will cover the expenses associated with the amendment and panel processes.

4. Environmental

Amendment C186 seeks to have a positive environmental impact by protecting places of historical significance and reducing waste implications from proposed demolitions.

Conclusion

Amendment C186 will assist Council in implementing the findings of the Heritage Gap Study 2014, and preserve places of important historical significance for the City of Moonee Valley.

The Amendment was exhibited for four weeks. During this time, one unresolved submission was received, requiring that the Amendment proceed to an independent review under the Planning Panel process.

It is recommended that Council receive this report and resolve to request a Planning Panel Hearing to consider the Amendment.

Appendices

Appendix A: Draft Heritage Citation - 5 Alma Street, Aberfeldie
Appendix B: Explanatory Report and Exhibition Documents (separately circulated).
## HERITAGE CITATION REPORT

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<td>Address</td>
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<td>House</td>
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**Significance Level**: Local

**Recommended Heritage Protection**: VIHR - HI - PS -

**Architectural Style**: Interwar Period (c.1919-c.1940)

### Integrity

The integrity of the house and grounds (including front fence, garage, and garden) is remarkably high, other than for the replacement grey cement roof tiles. Replacement of the roof tiles was possibly necessitated due to the low roof pitch. Presumably unpainted cement tiles were first fitted. The timber pergola has been rebuilt, but appears to be an original design. Similarly, the ripple iron side fence is new, but the previous fence could have been the same.

### History and Historical Context

**Thematic context**

This place is associated with the following themes in the Moonee Valley Thematic Environmental History (MVTEH):

- **Theme 2**: Peopling Victoria's Places and Landscapes; 2.7: Promoting Settlement (Developing townships and private housing estates)

- **Theme 6**: Building Towns, Cities and the Garden State; 6.3: Shaping the Suburbs (Expanding services to meet demands); 6.7: Making Homes for Victorians (Establishing homes for the wealthy, working class homes, middle class homes)

Many of the first land purchases in the Moonee Valley area through the 1840s and 1850s were of very large blocks, with smaller lots sold along the Saltwater (Maribyrnong) River and Moonee Ponds Creek. Some land became farms but other land may have been purchased as speculative ventures. Almost all of the land in Moonee Valley had been sold by the 1860s.

In June 1888, the Aberfeldie Investment Company Limited advertised the 'Aberfeldie Estate' bounded by Buckley Street to the north, Park Street (now Park Crescent) to the south, Aberdeen Street to the west, and Waverley Street to the east ('Aberfeldie Estate', Esmond 1888).

Bounded south and west by the Maribyrnong River, the locality was initially settled as riverside estates (Victorian Places, 2017). In spite of earlier attempts to subdivide this land for sale, located some two kilometres from the Moonee Ponds railway station (estab. 1860) and until the tram along Maribyrnong Road to the river commenced in 1906, the area that became known as Aberfeldie was slow to develop.

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**House**: Hermes No 196174  
**Place Citation Report**: 09-Oct-2017 04:20 PM
HERITAGE CITATION REPORT

The Aberfeldie Ward of the City of Essendon was introduced in 1912. Prior to that, areas later listed as Aberfeldie were included as part of Moonee Ponds. It is believed that the suburb's name came from a property, 'Aberfeldie, at the corner of Park Crescent and Aberfeldie Street' (Victorian Places, 2017).

Aberfeldie became a more populous area in the first decades of the twentieth century. With increased population in the 1910s and 1920s, local residents were successful in agitating Council to provide adequate recreational grounds, parks, and community facilities. In 1913 Essendon High School was built, in the north of Aberfeldie on Buckley Street.

In the post-WWII years, with high birth rates and massive immigration programmes, Moonee Valley experienced perhaps its greatest era of residential development and areas such as Aberfeldie (along with West Essendon, Niddrie, Avondale Heights and Airport West) saw development of public housing (1945) and, at the same time, private home owners rapidly filled remaining land exemplifying the postwar dreams of all Australians to own their own homes.

Place History
The brick residence on the corner site at no. 5 Alma Street is situated on land that was part of the 'Aberfeldie' estate of Mr James Robertson. Robertson owned a residence named Aberfeldie at the corner of Park Crescent and Aberfeldie Street, and the land bounded by the Maribyrnong River on the southwest border (Victorian Places 2017).

The subdivisions of the Estate were first advertised for sale in June and July 1888, and the Estate was described as a 'most fashionable locality in Victoria - the Toorak of the north', boasting 'charming views' of the city, bay, Dandenong Ranges, and Mt Macedon (Argus 5 July 1888:2). The subject land at the southeast corner of Beaver and Alma streets was allotment 19 of section E, measuring 71 x 150 feet with a frontage to Alma Street (Aberfeldie Estate', Essendon 1888).

The 1888 land sale was followed by an economic depression, and much of the Estate land remained as open land until the turn of the twentieth century (Victorian Places, 2017). In November 1915, 48 allotments were re-advertised for public auction (Essendon Gazette and Kellar, Bulla and Broadmeadows Reporter 18 November 1915:2).

Despite the street names already appearing in the 1888 subdivision plan, neither Alma nor Beaver streets were included in the street directories until 1915, presumably due to the lack of residential development. Houses were gradually developed in the east side of Beaver Street throughout the late 1910-20s (S&Mc 1892, 1912-28).

One of Melbourne and Metropolitan Board of Works (MMBW) sewerage maps surveyed around this period shows that the subject site was empty until the late 1920s (MMBW Scale 400-feet-to-1-inch no 99, dated 1933, but surveyed earlier). Although full residential development of Aberfeldie was not realised until the early post war period, it is evident that, built in 1929, the house at no. 5 Alma Street was, relatively, a later development in the neighbourhood.

The house at no. 5 Alma Street is likely to have been built in 1929 or early 1930; first appearing in the street directory in 1930. The first occupier was an Edward McGwigan, commercial traveller, who resided at the house until around 1931-32 (S&Mc 1930-31), until c.1932 when the next occupant, Henry William Coussins, munitions inspector, moved in (S&Mc 1933). The Coussins family stayed in the premises until 1941-42 (S&Mc 1942; Electoral Roll, 'Essendon' 1943).

The subject property was put up for sale in November 1950. The house was described as a 'substantial brick residence' situated in 'a high position, convenient to buses and close to schools'. By this time, the house comprised an entrance hall, lounge with a bay, a dining room, three bedrooms, an enclosed sleepout, renovated kitchen and bathroom, a brick garage and storage shed (Age 21 October 1950:21).

References
HERITAGE CITATION REPORT


Age, as cited.

Australian Electoral Commission, Electoral Roll, as cited.

Essendon Gazette and Keilor, Bulla and Broadmeadows Reporter, as cited.

Living Histories 2002, Moonee Valley City Council Thematic Environmental History, prepared for the City of Moonee Valley.

Melbourne Metropolitan Board of Works (MMBW) Detail Plan, as cited, State Library of Victoria.

Sands & McDougall, Melbourne and Suburban Directories (S&Mc), as cited.


Description

Physical Description

Description

5 Alma Street, Aberfeldie, is an asymmetrically designed villa designed to address not only the principal Alma Street frontage, but also the Beaver Street frontage.

The return verandah and fenestration addresses both frontages, as do the two gables. The house combines an eclectic and rich combination of styles with an unusually high standard of detailing.

It has a strong sense of horizontality, deriving from the wide verandah and the low pitched hipped roof. This is punctuated by the two projecting gables, which terminate the return verandah. This low building form comes from the Craftsman houses in the west coast of USA. Terra cotta finials punctuate the roofline.

The wide colonnaded return verandah is the most striking feature of the house. Six pairs of short precast cement square fluted columns with brick bases support the verandah roof and its extension past front bay window. Such paired colonnades were used by architects such as Walter Butler at 12 Lassell Road, Toorak, in 1916. This idiom is possibly derived from colonial buildings in South East Asia, such as the former Dutch East Indies, or from an Indian Bungalow style. The brick balustrade has separate openings for the two entrance doors.

The walls are unpainted roughcast with a red brick base extending to the window sills, and repeated on the verandah balustrade. The red brick work has cinder brick highlights. Matching materials are used for the front fence, but in a different configuration. The house is of particular note for the unusual quality of roughcast, especially under the verandah where it has been protected from weather. The long low fence matches the materiality of the house.

The two bay windows are of note for the leaded glass with a distinctive vertically oriented geometric pattern on both upper and lower sashes of the double hung windows. These are located below the front gable and on verandah return.

The paired front doors are fully glazed in a vertically oriented geometric pattern with timber glazing bars. The design is
HERITAGE CITATION REPORT

repeated for the second entrance on the verandah return. This gives the house an ambiguity with respect the main entrance.

The verandah has a patterned terra cotta tiled floor.

The house is sited with equal setbacks from both frontages with a simple path system entered from the corner gateway under the timber pergola. The brick and roughcast front fence, as noted above, is designed to extend the house design along the street frontage and it returns along Beaver Street as a foreground to the return verandah. The simple landscape design of the path layout with beds for annuals and minimal permanent planting is characteristic of the interwar period. The lack of large plants in the front garden ensured the house remained the dominant feature of the corner site.

The large double garage is of a design that is rare for the period in the manner that the gabled roof and final match the house. It retains its original industrial grade roller shutter doors.

Comparative Analysis

There are other substantial and elaborately-designed corner houses in Aberfeldie which were built during the interwar period and which are in the Moonee Valley Heritage Overlay. Some of these houses are included in the Heritage Overlay for their individual significance. Others are within residential precincts in the Heritage Overlay.

HO007 Riverview Estate, Aberfeldie. Within this residential precinct two houses in particular are closely comparable to 5 Alma Street. They are 10 and 30 Leslie Road and both are places of individual significance within the Precinct. They share largely similar integrity of the site as a whole when viewed from the street. Both are corner houses of comparable high architectural quality, high standards of detailing, and high intactness as 5 Alma Street. They are also comparable as large single dwellings on garden allotments with original low front fences. Designed to address both street frontages, both houses have comparable landmark qualities as 5 Alma Street.30 Leslie Road appears to have been extended at the back (with similar Federation-era detailing and gable end treatment but different ridge detailing and roof pitch) and a new double carport/garage. It is not known if the garage at 10 Leslie Street is original, or has been modified or designed to be sympathetic to the style of the house and re-using terra cotta slate tiles from another roof plane not visible from the street. The villa at 5 Alma Street is of comparable architectural quality relative to 10 and 30 Leslie Road, and of comparable or higher intactness and integrity in terms of the site as a whole.

HO173 ‘Barter’, 393 Buckley Street, Aberfeldie. Built in 1921, 393 Buckley Street is comparable to 5 Alma Street in terms of the period in which it was built (interwar), its eclectic design, and combination of styles with an unusually high standard of detailing. It differs, however, in that it is a considerably more modest residence than the villa at 5 Alma Street and not a landmark corner building. Furthermore, the villa at 5 Alma Street is of considerably higher quality and intactness. The integrity of the 5 Alma Street property as a whole is also higher than at 393 Buckley Street.

HO2 1-9 Dalene Street, Essendon. In nearby Essendon, the interwar brick villa and Bungalow style residences in this residential precinct in the Heritage Overlay are comparable in terms of the period in which they were built (interwar), the architectural style, elegant proportions and detailing of the houses. The precinct includes houses on corner sites, such as the house on the corner of Glass and Crisp streets which, like 5 Alma Street, is oriented to both street frontages. 5 Alma Street is a grander, more elegantly designed, and a more intact example than the example on the corner of Glass and Crisp streets.

Widening the comparative sample beyond Moonee Valley, 5 Alma Street emerges as an excellent example of substantial and elaborate post-Federation and interwar houses built on corner allotments. Many are landmark buildings, specifically designed to make maximum benefit of their siting. They often have two principal facades as well as corner entrances to provide an elongated entry path, sometimes with some form of entry pergola. They are often of larger or more elaborate
HERITAGE CITATION REPORT

designs than surrounding houses constructed at the same time. Local people of substance, including doctors, keen to
demonstrate their status, often built such houses. With the exception of the status of the first occupant (a commercial
traveller), 5 Alma Street shares many of these qualities and features, and because of the integrity of the site as a whole,
remains as one of relatively few comparable examples.

Some examples include two well-known houses, now demolished:
- 'Shamen' 1050 Malvern Road, Toorak, built by Beaver and Purnell 1916
- Grange Road, Toorak (on Travalla Avenue).
Some surviving examples include:
- 57a Droop Street, Footscray - a highly intact, interwar Bungalow with quirky high quality architectural detailing,
  original front fence, original garden features.
- 46 Stevenson Street, Kew - a highly intact interwar Bungalow of high architectural quality, on a corner site, designed
to address both streets, with original front fence, original or early garden paths, and original garage. Like 5 Alma Street, the
garage design matches the house.

Discussion
In comparison with other early twentieth century houses on corner allotments in Aberfeldie that are included in the
Heritage Overlay, 5 Alma Street is of comparable and, in some instances, higher architectural quality and intactness.
Further, as a substantial and elegant villa on a prominent corner site, 5 Alma Street compares favourably with 10 and 30
Leslie Road in terms of its landmark value.

The integrity of the house and grounds (including front fence and garage) is remarkably high, other than for the
replacement grey cement roof tiles. In this regard, 5 Alma Street compares favourably with 10 and 30 Leslie Road,
Aberfeldie, both of which are identified as individually significant places within the Riverview Estate Precinct. This
integrity distinguishes 5 Alma Street (and 10 and 30 Leslie Road) from other interwar corner houses in Aberfeldie in the
Heritage Overlay of similar architectural quality.

The house, its intact associated features, and the integrity of the site as a whole, compare favourably with some of the
best-known interwar landmark corner houses in Melbourne.

Statement of Significance

What is Significant?
The property at 5 Alma Street, Aberfeldie, built in c.1929-30, is significant. The house is an asymmetricaly designed
villa, designed to address not only the principal Alma Street frontage, but also the Beaver Street frontage. The house is
sited with equal setbacks from both frontages with a simple path system entered from the corner gateway under the
timber pergola. The house combines an eclectic and rich combination of styles with an unusually high standard of
detailing, including unpainted roughcast walls with a red brick base that extend to the window sills, repeated on the
verandah balustrade, geometric pattern leadlight windows and original fully glazed doors with vertically oriented
geometric pattern with timber glazing bars. The red brick walls have clinker brick highlights. The house has a strong
sense of horizontality, derived from the wide verandah and the low pitched hipped roof punctuated by the two projecting
gables that terminate the return verandah.

The garden, with simple path layout and beds for annuals and minimal permanent planting, which is characteristic of
interwar gardens, is significant. The original long low fence, which matches the materiality of the house but in a different
configuration, is also significant. The large double garage, with gabled roof and finial designed to match the house, and
the original industrial grade roller shutter doors are also significant.

Non-original alterations and additions to the house are not significant, including the replacement grey cement roof tiles.
HERITAGE CITATION REPORT

The ripple iron side fence and timber pergola are sympathetic in style but not significant.

**How is it significant?**
5 Alma Street, Aberfeldie, is of local historic, architectural and aesthetic significance to the City of Moonee Valley.

**Why is it significant?**
Historically, 5 Alma Street, Aberfeldie, is significant for the evidence it provides of key phases in the development of Aberfeldie as a suburb in the first decades of the twentieth century. Aberfeldie was first subdivided from the earlier riverside estates in 1888 but, located some distance from train and tram services, it did not develop significantly until the 1910s and 1920s. Built in c.1929-30, 5 Alma Street was, relatively, a later development in the neighbourhood. (Criterion A)

Aesthetically, 5 Alma Street is significant as an interwar villa that exhibits many features typical of the interwar brick Bungalow style, a popular form of domestic architecture in the suburbs during the 1920s, with elements that recall both California and India Bungalow idioms. Typical features of the styles include the strong horizontality of its roof form, the visually prominent low-pitch roof, the wide colonnaded return verandah, the grouped verandah posts, roughcast rendering, shingled panel above the corner bay window, and geometric pattern leadlight glazing, and projecting timber window frames. Also significant is the simple landscape design of the path layout with beds for annuals and minimal permanent planting, which are characteristic of gardens from the interwar period. The lack of large plants in the front garden ensured the house remained the dominant feature of the corner site. (Criterion D)

The aesthetic quality of 5 Alma Street is enhanced by the high degree of intactness of the house and its original features and detailing, and by the high degree of integrity of the site as a whole which retains its characteristic front garden, original front fence, and garage. The large double garage is significant for its design, rare for the period in the manner that the gabled roof and final match the house. It retains its original industrial grade roller shutter doors. (Criteria D and B)

Aesthetically, 5 Alma Street is distinguished by its high architectural quality and intactness. The house combines an eclectic and rich combination of styles with an unusually high standard of detailing. The house is of particular note for the unusual quality of roughcast, especially under the verandah where it has been protected from weather. The two bay windows are of note for the leaded glass with a distinctive vertically oriented geometric pattern on both upper and lower sashes of the double hung windows. These are located below the front gable and on verandah return. The wide colonnaded return verandah is the most striking feature of the house. Six pairs of short precast cement square fluted columns with brick bases support the verandah roof and its extension past front bay window. (Criterion E)

Aesthetically, 5 Alma Street is significant as a landmark. The design of the house, the striking architectural features, its corner siting, and low scale front garden augment this landmark quality. (Criterion E)

The integrity of the house and grounds (including the garden, front fence and garage) is remarkably high, other than for the replacement grey cement roof tiles. In this regard, 5 Alma Street compares favourably with 10 and 30 Leslie Road, Aberfeldie, both of which are identified as individually significant places within the Riverview Estate Precinct. The integrity of 5 Alma Street distinguishes it from other interwar corner houses in Aberfeldie in the Heritage Overlay that were built in a similar style and which are of similar architectural quality. The intactness of the house, its landmark quality, and the integrity of the site as a whole, compare favourably with some of the best-known interwar landmark corner houses in Melbourne. (Criterion E)
HERITAGE CITATION REPORT

Recommendations 2017

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Other Recommendations

Add to Heritage Overlay as a significant place. The HO is to apply to the whole of the property as defined by the title boundary.

This information is provided for guidance only and does not supersede official documents, particularly the planning scheme. Planning controls should be verified by checking the relevant municipal planning scheme.
9.8 Proposed Activities & General Amenities Local Law 2018 - Update

File No: FOL/17/11
Author: Carey Patterson
Manager Regulatory & City Compliance
Directorate: City Services

Purpose
To seek approval to commence the statutory consultation process for the development of a new *Activities and General Amenities Local Law 2018*. The new Local Law is required to be adopted by Council prior to the sun setting of the existing Moonee Valley City Council *General Purposes Local Law 2008*, which will expire on 18 August 2018.

Executive Summary
- Council is required to review and develop a new Local Law every 10 years, in accordance with the *Local Government Act 1989* (*the Act*). Council’s existing *General Purpose Local Law 2008* is due to expire on 18 August 2018.
- The proposed replacement, *Activities and General Amenities Local Law 2018*, has been under development since April 2017, and is now at the stage to be presented to Council for consideration and endorsement for it to proceed to the public consultation stage required under *the Act*.
- A copy of the proposed *Activities and General Amenities Local Law 2018* is attached as Appendix A for consideration and comment.
- Part of the Local Law development process requires the development of a Community Impact Statement to be attached to the proposed Local Law as a reference document. This statement provides an overview of the changes that are proposed to be introduced with the new Local Law. This document is attached as Appendix B.
- Under the provisions of *the Act*, Council is to undertake community consultation and invite submissions to be heard by Council prior to resolving to formally adopt the proposed *Activities and General Amenities Local Law 2018*.
- This report identifies the proposed consultation process that will be undertaken. Part of the consultation process will include a number of smaller focus group meetings with the various Traders Associations that are operating within the municipality.
Recommendation

That Council:

1. Endorse the proposed *Activities & General Amenities Local Law 2018* and the draft Community Impact Statement for the purposes of consultation and to assist with the submission process.

2. Place a notice in the Victorian Government Gazette, the Moonee Valley Leader and on Council’s website, advising of Council’s intention to make the *Activities & General Amenities Local Law 2018*, in accordance with sections 119 and 223 of the *Act*, stating:
   a) The purpose and the general purport of the proposed Local Law;
   b) That a copy of the proposed Local Law and Community Impact Statement can be obtained from Council offices or from Council’s website; and
   c) That any person affected by the Local Law may make a submission relating to the proposed Local Law under Section 223 of the Act, and that submissions will be received from 22 February 2018 to 30 March 2018. The closing date for submissions will be the close of business on 30 March 2018.

3. Authorise the establishment of a Special Committee consisting of all Councillors, to consider any submission received.

4. Authorise the CEO to arrange the time and date of the Special Committee if required.

5. Request a further report be provided to Council at the completion of the submission process.

Background

The *Act* provides the context for developing local laws. Local laws are designed to regulate activities that could impact on community safety or affect the use of community facilities and public space. Moonee Valley’s existing *General Purposes Local Law, 2008* was developed and adopted by Council and will expire on 18 August 2018.

In April 2017, Council commenced the review of its existing Local Law, using best practice principles provided by Local Government Victoria in their ‘Guidelines for Local Laws Manual’. The proposed *Activities & General Amenities Local Law 2018* and Community Impact Statement have both been developed and are now presented for Council consideration and to be endorsed by Council for public consultation in accordance with the Sections 119 and 223 of the *Act*.

The Community Impact Statement is an essential part of the development of Council’s Local Law, and is expected to outline to the public how they can input their views into the scope and content of the Local Law. It is also expected to provide justification of the reasons for Council adopting a particular regulatory approach to a certain issue.
A proposed communications plan outlining the timelines for advertising, undertaking public consultation, seeking of submissions and adoption of the proposed Local Law is attached as Appendix C.

Discussion

Council is required to review and develop a new Local Law every 10 years in accordance with the Act. Moonee Valley’s existing General Purposes Local Law 2008, ceases to operate on 18 August 2018. An extensive review has been undertaken with the intention to develop a new Local Law, which will commence when the existing General Purposes Local Law 2008 is revoked or expires.

In April 2017, consultation commenced internally to identify current issues associated with the enforcement of Council’s existing Local Law. Internal consultation and information sessions were held during July, August and September 2017, seeking opinions on the value of the current controls and suggestions about what should be addressed in a new Local Law.

A dedicated session was also held with Moonee Valley business traders groups to ascertain opinions on existing controls and the direction that any new controls should take. This session considered current controls that apply to commercial activities such as outdoor dining, street trading, displaying goods for sale and advertising signs on footpaths.

Running concurrently with consultation sessions, information on the Local Law review will be advertised on Council’s website, in the Moonee Valley Leader and the Valley Life advertorial placed by Council in the local newspapers. Posters will also be placed in all Council customer service areas.

Act and guideline requirements

The Act sets out a number of restrictions and limitations on Local Laws, such as a requirement that a local law must not be inconsistent with any Act or regulation and that a local law cannot duplicate or be inconsistent with any Planning Scheme in operation in any municipal district.

There are specific matters in Schedule 8 of the Act which must be taken into account when developing a local law. These include requirements that:

- A local law cannot make unusual or unexpected use of powers
- Consideration be given to national competition policy principles
- Competition is not restricted, unless overriding community benefits that outweigh the costs can be demonstrated
- The objectives of the local law can only be achieved by restricting competition

Section 119 of the Act also sets out the statutory process that the Council public notice is required to follow. This includes;

- Advertising and hearing of submissions prior to formal adoption of a proposed local law
- Council must advertise any local law that it intends to make
- Council must consider any public submissions it receives about a local law before adopting it
The ‘Guidelines for Local Laws Manual’ (the Guidelines), known as the ‘best practice principles’ introduced by Local Government Victoria, have been used to prepare the proposed Activities & General Amenities Local Law 2018 and all the associated supporting documentation, including a Community Impact Statement.

The Guidelines are designed to assist councils to ensure that the regulatory approach adopted involves the least burden or the greatest advantage to its community. The Guidelines are summarised as follows:

- The key aim is to improve transparency, accessibility, consistency, efficiency, accountability and enforceability of local laws
- Councils need to consider whether there is a possible alternative to creating a local law that better suits the needs of the community, because it imposes burdens of compliance on the community and enforcement on the council
- Local laws should incorporate relevant council policies
- Councils must produce a Community Impact Statement for all new or materially altered local laws which, amongst other things, need to be able to demonstrate a real need for a particular local law
- Overlap, duplication, inconsistency or conflict with existing legislation or local planning schemes must be avoided

The development the proposed Activities & General Amenities Local Law 2018 is extremely important for both Council and the community. This will ensure that Council is in a position to efficiently deal with community issues and meet increased levels of expectation.

Community Impact Statement

The Community Impact Statement is a detailed public statement that accompanies any proposal to make or amend a local law and inform the community of the consultation process that applies under section 223 of the Act.

The content of the statement includes a broad range of information such as:

a) Council’s reasons for seeking to adopt the proposed local law
b) Why Council had adopted a particular regulatory approach and why other approaches had been rejected
c) An indication of the section of the community and business that may be impacted by the law and
d) Information about anticipated costs both to those potentially affected by the local law and to Council in administration and enforcement of the law

Process to date

The review of the existing Local Law and the establishment of a Local Law review team commenced in April 2017 to identify issues and trends that have occurred and evolved since the existing Local Law was introduced in August 2008.

To date, the following processes and meetings have occurred with all of the internal services that are affected by the existing General Purposes Local Law 2008.

- Undertaken extensive background and research into area currently controlled through the Local Law
• Internal and external consultation on the existing Local Law to:
  o Internal staff, management and Council
  o Key stakeholders and advisory committees
• Community and business consultation
• Development of draft Activities & General Amenities Local Law 2018.

Incorporated documents

One of the key changes in the new Local Law format will be the incorporation of various documents, policies and procedures which will allow the new Local Law to:
• Be readily updated to incorporate changes to legislation, trends and the use of new and emerging technologies
• Be more performance focussed in its outcomes
• Provide greater detail on the manner in which permit applications are made, assessed and managed
• Ensure the subject matter experts control the process i.e. Horticulture & Public Space Services identify when trees can be removed, Technical Services determine the control measures for connection to the Council drainage network
• Incorporate the procedures and documents which will allow for more transparency in the decision making process

Consultation

Section 119 of the Act sets out the statutory process of providing a public notice that Council is required to follow. This includes advertising and hearing of submissions prior to formal adoption of a proposed Local Law.

Council must advertise a proposed Local Law and must consider any public submissions it receives relating to the content of the Local Law before adopting it.

The proposed Activities & General Amenities Local Law 2018 will be made available to the public through the public consultation process as required under Section 223 of the Act.

Submissions can be made through:
• making a written submission via the Council website
• attending a public meeting to be held during the consultation period at a date to be determined
• making a written submission direct to Council in relation to the proposed Local Law pursuant to Section 223 of the Act

Council officers will also accept general feedback on the proposals from members of the local community. This feedback will be taken into consideration when preparing the final version of the proposed Activities & General Amenities Local Law 2018 and the Community Impact Statement.

The Community Impact Statement will be updated and amended, and persons affected by the proposed Activities & General Amenities Local Law 2018 will be informed of the proposed Local Law and the subsequent changes that will be introduced.
Implications

The development of the proposed Activities and General Amenities Local Law 2018 crosses over and is influenced by a number of pieces of legislation such as:

- Charter of Human Rights and Responsibilities Act 2006
- Local Government Act 1989
- Environment Protection Act 1970
- Public Health and Wellbeing Act 2009
- Infringements Act 2006
- Summary Offences Act 1966
- Road Safety Act 1986
- Food Act 1984
- Building Act 1993
- Metropolitan Fire Brigades Act 1958
- Graffiti Prevention Act 2007
- Road Management Act 2004
- Occupational Health and Safety Regulations 2007
- Environment Protection (Residential Noise) Regulations 2008
- Noise Control Guidelines – Environment Protection Authority – Publication 1254 – 2008 or subsequent publications
- Domestic Animals Act 1994

1. Council Plan / Policy

In presenting this report, Council is working to achieve its strategic objective to foster a culture of accountability and transparency in accordance with Council Plan 2017-21 Theme 5: Resilient organisation - A resilient organisation that is sustainable, innovative, engaging and accountable - Good governance is everyone’s responsibility.

2. Financial

The costs associated with community consultation and the statutory processes to develop the proposed Activities & General Amenities Local Law 2018 are funded from Council’s Economic Development and City Compliance Department operational budgets.

3. Environmental

There are no direct environmental implications associated with the preparation and reception of this report.
Conclusion

The development of the proposed *Activities & General Amenities Local Law 2018* has involved research and extensive internal consultation. It is appropriate to commence the extensive external (business and community) consultation and consideration of the draft Local Law and the associated Community Impact Statement.

The next step is to undertake a public consultation process in accordance with Section 223 of the Act, to ensure the correct statutory requirements are followed in relation to the hearing and considering of any submissions that are received following the public consultation process. Once this has been undertaken, the Council will consider the proposed *Activities & General Amenities Local Law 2018* for eventual adoption and implementation.

Appendices

Appendix A: Proposed Activities & General Amenities Local Law (separately circulated)
Appendix B: Local Law Community Impact Statement
Appendix C: Activities & General Amenities Local Law 2018 - Communication Plan.
PART A – General Comments

Background

In accordance with s.111 of the Local Government Act 1989 (Act) Councils may make local laws for or with respect to any act, matter or thing in respect of which the Council has a function or power under the Act or any other Act.

Local laws therefore enable Councils to implement controls that reflect the different circumstances, needs and objectives of each Council.

Council’s current General Purposes Local Law 2008 which commenced on 28 August 2008 is a broad based local law that regulates and controls certain activities within the municipality including the use of Council land and roads. It contains measures intended to protect community assets, such as requiring a permit to be obtained before works on Council land or roads can be commenced.

Since the adoption of Council’s General Purposes Local Law 2008, Council has successfully regulated activities within the municipality and enforced breaches where necessary. The General Purposes Local Law 2008 is due to expire on 28 August 2018.

A review of Council’s existing Local Law commenced in April 2017 and included an internal consultation process with various Council departments responsible for enforcing and administering Local Laws. It is proposed that Council’s Activities and General Amenities Local Law 2018, will replace the existing General Purposes Local Law 2008 on its expiry.

The objectives of the proposed Activities and General Amenities Local Law 2018, are to provide for the peace order and good government of Moonee Valley City Council by:

1. Regulating and controlling uses and activities on Council land and roads so that the Council is aware of uses or activities which may:
   a. be detrimental to the amenity of the area or the enjoyment of facilities on land or roads;
   b. cause damage to Council and community assets;
   c. create a danger or expose others to risk;
   d. interfere with the safety and convenience of people travelling on or using Council land or roads; and
   e. impede free and safe access for people, in particular those with sight and movement impairment or disabilities.

2. Managing, regulating and controlling activities and uses on any land which:
(a) may be dangerous, cause a nuisance or be detrimental to the amenity of the area or the environment;
(b) are directed at maintaining neighbourhood harmony and a healthy and safe environment for residents and visitors;
(c) promotes community expectations and demands about their lifestyle and the availability of goods and services provided to them; and
(d) creates a sense of community pride in the Municipal District and which promotes Moonee Valley as a place to live and do business.

(3) Identifying activities and uses that are not permitted and
(4) providing for the administration of the Council’s powers and functions so that they can be applied, having regard to the objectives in subclauses (1) and (2), in a fair and practicable way.

The proposed Local Law adopts a streamlined approach, significantly reducing the size of the document by removing duplicative clauses. Council will otherwise retain its Governance Local Law 2009 which is due to expire in September 2019. A timeline developed for the review, drafting and consultation process is provided below.

Legislative Requirements

The Act sets out a number of restrictions and limitations on developing local laws, including the requirement that a local law must not be inconsistent with any Act or regulation and it cannot duplicate or be inconsistent with the Planning Scheme.

There are specific matters in Schedule 8 of the Act which must be taken into account when developing a local law, including the requirement that a local law not make unusual or unexpected use of powers and consideration must be given to national competition policy principles. In addition, a local law must not restrict competition unless it can be shown that there are overriding community benefits and the objectives of the local law can only be achieved by restricting competition.

The Act also requires Councils to have regard to any guidelines published by the Minister for Local Government about the preparation, content and format of local laws and information to be included in any explanatory documents prepared in relation to local laws. Guidelines published by the Minister in 2010 have been considered during the review and development of the proposed Local Law and this document.

The Process

The proposed Local Law results from an extensive review and analysis of the existing Local Law and takes into consideration the requirements of the Act and community views.

The following matters were also taken into consideration -

- What controls are needed?
- What is the risk both to Council and the community if certain controls are not in place?
- Is there any relevant State legislation that may be available to deal with the matter?

In April 2017, consultation commenced internally to identify current issues associated with the enforcement of Council’s existing Local law. Council officers who work with the current Local Law on a daily basis, have been involved in the preliminary stages of the review identifying...
areas that worked well, areas that did not work well, controls thought to be no longer needed and possible new controls that may be required over the life of the next Local Law.

Several sessions were also held with officers, team leaders and coordinators from various Council departments that exercise functions under the current Local Law and their input into future changes or enhancements were obtained. This has helped to improve the functionality of the proposed Local Law particularly where legislation has been enacted since the introduction of Council’s current Local Law such as the Road Management Act 2006 which superimposed controls on a range of road functions already exercised by Councils under the Act.

Discussion also focused on any new controls that might be needed and whether Council should become involved in some matters at all such as noise complaints as whilst Councils currently have the power to regulate domestic noise, the powers regulating noise emanating from other sources is less clear.

Another consideration is whether Council can meet expectations once controls are included in a Local Law. This involved giving consideration to the following matters:

- Have circumstances changed since the Local Law was originally made?
- Does Council have sufficient resources available to adequately administer and enforce the Local Law; and
- Can provisions be improved to add to the clarity and enforceability of the controls?

An analysis of the complaints and concerns primarily raised by community members that were referred to Council’s Local Laws department over the last three years was also undertaken. The complaints concerned noise, waste control and litter from commercial properties.

The following matters were considered as part of the review process:

- identification of all permits issued by Council and referenced in the local law;
- aligning the definitions of the local law with other relevant legislation and policies;
- aligning the local law with relevant policies or introduction of a procedures and protocol;
- improving the ability for Council to control behaviors in parks and public land;
- adopting a consistent approach to the enforcement of nature strips (subject to adoption of draft policy);
- review of the number of animal and birds that may be kept without a permit;
- identifying control measures to manage activities from Council managed land;
- improving the ability for Council to manage potential nuisance uses and activities from residential and commercial premises such as:
  - noise
  - waste including litter
  - management of storm water
- introducing additional requirements for management of commercial waste;
- introducing a schedule of penalty units for offences;
- introducing a mechanism to review penalty provisions;
- introducing incorporated documents to provide flexibility should the proposed Local Law need to be amended to reflect community expectations and matters as they develop or arise.

Structure of the proposed Local Law

The format of the proposed Local Law has been changed to more clearly identify and highlight key components. It endeavors to be more comprehensive in its content through the
incorporation of Council procedures and operating guidelines which will provide greater clarity and transparency to the community on the Council decision making process when dealing with local law issues.

It further ensures that a consistent approach is undertaken should a matter progress to the Magistrates’ Court as part of the enforcement process.

PART B – Comments on proposed Local Law

| Measures of success of proposed Local Law | Council will measure the success of the Local Law by:
| - monitoring the type of complaints and the levels of compliance in relation to the local law requirements;
| - monitoring compliance levels for managing Council assets;
| - monitoring success in reducing nuisance and inconvenience in relation to traffic and road impacts associated with building works service authorities. Council will report to the community on the satisfaction levels with the Local Law. |

| Existing legislation that might be used instead | The proposed Activities and General Amenities Local Law 2018 will supplement existing state legislation administered and enforced by Council |

| State legislation more appropriate | In circumstances where Council has considered State legislation is more appropriate to deal with particular issues, those clauses have been removed in favour of relying on the State legislation. |

| Overlap of existing legislation | Council does not consider that any provision of the proposed Activities and General Amenities Local Law 2018, overlaps with State legislation |

| Overlap of planning scheme | Council does not believe that any provision of the proposed Activities and General Amenities Local Law 2018, overlaps, duplicates or is inconsistent with the Planning Scheme |

| Risk assessment | Council has adopted a risk management approach to the review and development of the proposed Activities and General Amenities Local Law 2018. |

| Legislative approach adopted | Council believes in the minimum imposition on the community through its Local Law. The proposed Activities and General Amenities Local Law 2018, reflects |
this approach by providing:

- reasonable penalties;
- a minimum number of provisions which create offences;
- where possible, provision for permits rather than prohibition of activities;
- reasonable and appropriate permit conditions which will be relied on if a decision is made to issue a permit under the local law; and
- reasonable enforcement procedures including provision of giving warnings where appropriate, provision of an internal review process for infringement notices and refusal of permit applications.

Council has ensured that the proposed Activities and General Amenities Local Law 2018 –

- is expressed plainly and unambiguously and in a manner which is consistent with the language of the Act and in accordance with modern standards of drafting applying in Victoria;
- is not inconsistent with the principles, objectives or intent of the Act;
- does not make unusual or unexpected use of the powers conferred by the Act under which the local law is made having regard to the general objectives, intention or principles of that Act;
- does not embody principles of major substance or controversy or constrain any matter which principles or matters should properly be dealt with by an Act and not by subordinate legislation;
- does not unduly trespass on rights and liberties of the person previously established by law;
- does not unduly make rights and liberties of the person dependent upon administrative and not upon judicial decisions;
- is not inconsistent with principles of justice and fairness; and
- does not overlap or conflict with other statutory rules or legislation.

Restriction of competition

Council has conducted a review of the proposed Activities and General Amenities Local Law 2018, in accordance with the National Competition Principles. Competition will be restricted in some instances because-

- the benefits of the restriction to the community as a whole outweigh the costs; and
- the objectives of the proposed local law can only be achieved by restricting competition.

Penalties

The penalty amounts established in the proposed Local Law are designed as a deterrent and are considered to be appropriate. They are in line with the State Government’s penalty regime, will be reviewed annually and are scaled to reflect the impact of the offence on the community.

Schedule 2 of the proposed Activities and General Amenities Local Law 2018, outlines the penalty for offences under the various sections of the Local Law provisions.

The penalty amounts will be reviewed annually through the Council budget process to remain in line with community expectations.
| **Permits** | A number of provisions in the proposed Activities and General Amenities Local Law 2018 require permits for various activities to be obtained. |
| **Fees** | The proposed Local Law allows Council to set fees annually and this will be done as part of the budget process. |
| **Performance standards or prescriptive** | Where appropriate and possible, Council has adopted a performance based approach to various provisions of the proposed Local Law. |
| **Comparison with neighboring and like Councils** | In drafting the proposed Local Law, Council examined the Local laws of the following neighboring Councils – Darebin City Council, Yarra City Council, Melbourne City Council, Maribyrnong City Council and Moreland City Council.  
The purpose of conducting exercise was to assess the similarities and differences between the Councils to ensure a best practice approach was adopted in the drafting of the proposed Local Law. |
| **Charter of Human Rights** | Council considered the relevant provisions of the Victorian Charter of Human Rights and Responsibilities Act 2006 in the development of the Proposed Local Law to ensure that it does not encroach upon a person’s basic human rights, freedoms and responsibilities.  
As a public authority, Council appreciates its obligation to ensure that local laws are interpreted and applied consistently with human rights. Council has assessed the proposed Local Law for compatibility with the Charter and has found no inconsistencies.  
The limitations are legitimate, reasonable and proportionate to the objectives and values of a free and democratic society. |
| **Consultation meetings** | The communications plan identifies a number of public meetings with  
- Local Traders Association  
- Workshops  
- Local Residents  
In addition, a stall will be available at the Moonee Valley Festival to seek community feedback.  
This will likely result in some changes to the current proposed local law which will be reported back to Council following the consultation process. |
| **Submissions** | A submission process will be conducted in accordance with the legislative requirements prescribed under section 223 of the Act. These requirements outline the process for consulting with the public and calling for submissions. This includes;  
Council to publish a public notice calling for written submissions in relation to the proposed Local Law. |

<table>
<thead>
<tr>
<th>Directorate</th>
<th>Responsible Manager</th>
<th>Document No</th>
<th>Document ID</th>
<th>Approval Date</th>
<th>Review Date</th>
</tr>
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<tbody>
<tr>
<td>City Services</td>
<td>Regulatory &amp; City Compliance</td>
<td>17/313542</td>
<td>EHR-POL06</td>
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</table>
Those submissions are then considered by the Council as part of the consultation process. Where agreed to by Council, the changes will be incorporated into the final version of the proposed Local Law and then put to Council for adoption.
## Consultation Timeline

<table>
<thead>
<tr>
<th>Stage</th>
<th>Activity Description</th>
<th>February</th>
<th>March</th>
<th>April</th>
<th>May</th>
<th>June</th>
<th>July</th>
<th>August</th>
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<tbody>
<tr>
<td>Stage 1: Community Consultation &amp; 5233 process</td>
<td>Publish statutory notices in local papers and Government Gazette inviting submissions</td>
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<td></td>
<td>Conduct Information Sessions</td>
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<td>Council committee to hear submissions</td>
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<td>2-11 April 2018</td>
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<td></td>
<td>Amend draft following submissions if required</td>
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<td></td>
<td>Brief Council of changes made as a result of Public Consultation</td>
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<td>15/05/18</td>
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<tr>
<td>Stage 2: Production of Proposed Local Law</td>
<td>Make final changes to CIS</td>
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<td>Prepare final approved copy of UL &amp; CIS</td>
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<td>Adoption of Local Law by Council</td>
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<td>26/06/2018</td>
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<tr>
<td></td>
<td>Follow up Statutory Requirements and processes</td>
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<td></td>
<td>Expiration of existing local law</td>
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# Communications Plan

<table>
<thead>
<tr>
<th>Title</th>
<th>Activities &amp; General Amenities Local Law 2018</th>
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</thead>
<tbody>
<tr>
<td>Project type</td>
<td>New program, awareness campaign, event, consultation</td>
</tr>
<tr>
<td>Business unit</td>
<td>Regulatory &amp; City Compliance</td>
</tr>
<tr>
<td>Project officer</td>
<td>Brooke Ranken</td>
</tr>
<tr>
<td>Comms contact</td>
<td>Sarah Schwager</td>
</tr>
</tbody>
</table>

**Key dates**

- Stage one: (formal consultation) February – March 2018
- Stage two: (Statutory process) March – June 2018

**Stage 1: November 2017 – February 2018**

- Councillor endorsement to go to consultation:
  - Councillor workshop 21 November 2017
  - Councillor Strategic Briefing 30 January 2018
  - Councillor Meeting 13 February 2018 – seeking endorsement to exhibit for public consultation

  **Formal public consultation 22 February to 30 March 2018,**

  **Including information sessions and workshops**

**Stage 2: March – June 2018**

- Council Committee established to hear any S223 submissions;
- 3rd April Hearing of submissions (TBC)
- Changes to be incorporated into the draft Local Law
- Draft Local Law updated based on consultation process – April/May
- Draft Local Law to go to Council for adoption – 5th June
- Promote new Local Law and changes (if adopted) – June - July

**Target audience**

- **External:** Local traders and trader associations
  - Victoria Police
  - Current permit holders
  - Residents

- **Internal:**
  - City Compliance
  - Technical Permits
  - Asset Protection
The Local Government Act 1989 provides the context for developing local laws. Local laws are designed to regulate activities that could impact on community safety or affect the use of community facilities and public space. Moonee Valley’s existing General Purposes Local Law was developed in 2008 and will expire on 18 August 2018.

In April 2017, Council commenced the review of its existing local law using best practice principles provided by Local Government Victoria in their ‘Guidelines for Local Laws Manual’. The proposed ‘Activities & General Amenities Local Law (2018)’ and Community Impact Statement have both been developed to the stage to seek Council approval to commence public consultation and input into the content and the issues being covered and addressed. The public consultation process is required to be in accordance with the Sections 119 and 223 of the Local Government Act 1989 which provides a structured approach to consulting and obtaining feedback into this process.

As part of the process the development of a Community Impact Statement is an essential part of the Council Local Law and it is expected to outline to the public how they can input their views into the scope, content and extent of the Local Law powers. It is also expected to provide justification of the reasons for Council adopting a particular regulatory approach to a certain issue.

Changes to the Local Law are aimed at simplifying the Local Law whilst providing more detail through the incorporation of the process and procedures that operate in the background of the local laws process.

This ensures the Local Law is more transparent and the various areas that are empowered through the process are more accountable for their actions and interpretation of the particular requirements of the local law.

This process also ensures the public has the opportunity to make a submission in a formal sense to the Council in accordance with the statutory requirements or to just have a say and provide input into the recommended process being proposed under the local law which could ensure the process is modified to reflect the issues raised.

- A summary of the changes includes:
  - The Local Law will be more focused on performance outcomes rather than the previous prescriptive approach being outlined within the text of the Local Law.
  - Procedures and process will be detailed in the documents referenced as part of the Local Law.
  - Will be based on Best Practice model detailed in the Local Government manual
  - Increased penalties for non-compliance.
For more information and advice on how to make a submission contact the City Compliance unit on 9243 1754 or email Ladmin@mvc.c victorian.gov.au.

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<tr>
<th>Supporting documentation</th>
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<tr>
<td>Partners/ sponsorship</td>
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</tbody>
</table>
Checklist

Media:
- Media alert
- Media release
- Photo opportunity

Advertising:
- Press advertising
  - Publication(s):
    - Ad size:
    - Advertorial
    - Adshel
    - Real estate boards

Other publications or design:
- Poster (e.g. A3, 50 copies)
- Flyer (e.g. DL, 5,000 copies)
- Postcard
- Plasma screen
- Designed document/booklet
- Digital publication/flipbook
- Teaser animation
- Infographic
- Other

Newsletters:
- Valley View (Dec/Jan and Feb/March)
- E-Connect
- Moonee Valley Active
- Hello Flemington
- Environment Update
- Aged newsletter
- Disability newsletter
- Clocktower e-newsletter
- Incinerator e-newsletter
- Libraries e-newsletter
- Strategic Planning e-newsletter
- Direct letter/mail-out

What’s on listing:
- Direct letter/mailout

Website:
- Web update
- Short URL
- Web banner
- Council event calendar
- Have your say section

Social media:
- Facebook
- Twitter
- Instagram
- YouTube
- Facebook advertising
- Twitter advertising
- Libraries Facebook
- Libraries Twitter
- Clocktower Centre Facebook
- Incinerator Gallery Facebook
- Youth Development Facebook
- Business in MV Facebook
- Maternal and Child Health Facebook

Internal:
- Councillor Update/CEO Weekly Update
- MV Express
- Edna news item
- Edna banner
- Valley Update
9.9 Community Facility Management Policy Update

File No: FOL/18/32
Author: Craig Dodson
Community Planning Officer
Directorate: Planning & Development

Purpose
To provide an update on the delivery and outcomes of the community engagement and transition plan delivered to hirers of Council facilities impacted by the community facility management policy per Council resolution, 22 August 2017.

Executive Summary
- The Community Facility Management Policy (policy) has been developed as an operational document to guide the management of, and access to community facilities owned by Council. Refer Appendix A.
- At its Ordinary Meeting on 22 August 2017, Council adopted the community facility management aims, objectives and booking prioritisation and noted the adoption of the policy as an adopted operational policy.
- The intent of the policy is to create a fair system for the booking and management of Council managed facilities.
- As Council transitioned to the new operational arrangements, an engagement and transition plan was delivered to communicate and manage changes with existing regular hirers of facilities under the policy.
- Regular hirers impacted by the policy were contacted by letter on Friday 21 September 2017 to notify of the adoption of the policy and updated hire procedures.
- Five community information sessions were held between Monday 2 October and Thursday 19 October to further explain the upcoming changes, including the release of booking forms and procedures for 2018.
- The community information sessions were well attended with 45 groups and over 220 people attending. As expected there was a low turnout from groups not significantly impacted by the new framework.
- Following the community information sessions Council officers contacted every group who had been identified as being significantly impacted by the new policy. Groups were offered the opportunity to attend individual meetings with Council officers to work through any issues and identify what further support was required during the transition to the new framework.
- These meetings were positively received and Council officers have continued working with groups to minimise any negative impacts from the implementation of the new framework.
• As outlined in the policy, hirers may be eligible to receive a further heavily subsidised rate for facility hire. An internal project control group reviewed applications from groups who were recommended to receive the further subsidised rate, as identified by the managers of facilities under the policy. Forty-six groups were identified as being eligible to receive the further special subsidy rate and have been approved by Council’s executive (for full list refer Appendix B).

• As anticipated, the introduction of the new framework has resulted in the modification of bookings for several groups in 2018, which will result in better usage of facilities and allowing new groups to access facilities that were previously booked, but not actually used.

• The engagement and transition plan has been successfully delivered and Council officers have worked through issues and identified what further support is required for individual groups during the transition to the new framework.

• At an operational level Council will continue to use the community facility management framework to develop policies to improve facility management, utilisation and the community’s experience of using them.

Recommendation
That Council notes the delivery and outcomes of the community engagement and transition plan delivered to hirers of Council facilities impacted by the Community Facility Management Policy.

Background
The Community Facility Management Policy (policy) has been developed as an operational document to guide the management of, and access to community facilities owned by Council (refer Appendix A). The objectives of the Policy are: ensure priority of use of council facilities is given to the most in need; ensure optimal use of facilities is achieved; ensure there is fit for purpose use; and that there is fair and equitable distribution of access to Council’s facilities.

At its Ordinary Meeting on 22 August 2017, Council adopted the community facility management aims, objectives and booking prioritisation, and noted the adoption of the Community Facility Management Policy as an adopted operational policy.

The policy aims to improve access to, and use of, facilities. It seeks to ensure that all hirers have the same opportunity to use and benefit from these facilities and services, particularly vulnerable communities and community groups servicing local residents.

Council now has one policy that covers the hire of all of Council’s facilities. This includes community halls, neighbourhood centres, community centres and various other Council owned and managed facilities. In the past, Council has had different facility booking practices across each facility, which has been confusing for customers and variations in process, access and fees charged to users.
From 1 January 2018, the new schedule of booking rates will apply. The new rates take into account different users in order to limit the impact of the fee changes. The new fees and charges schedule ensures that there is consistency in the hiring rates across Council managed facilities. Each customer will be treated the same across each facility. Council will provide a subsidy on the standard room hire rate to all community groups.

Hirers may be eligible to receive a further subsidised rate if they are an organisation or group whose charter directly services low or no income earners or on consideration of:

- The community benefit their service/activity provides;
- The demographic profile of members/participants benefiting from the service; and
- The capacity the organisation and members/participants have to pay (and other subsidies the organisation has received).

The fees and charges for regular hirers in 2018, as approved in the Council Budget process. Fees are based on the hire of facility by one group, not charged per person used.

**Discussion**

**Engagement and transition plan**

An engagement and transition plan was delivered to communicate and manage changes with existing hirers of Council facilities (as well as council departments). A specific transition plan was developed for each regular hirer (145 in total) outlining anticipated financial impact of the policy, the responsible staff member to lead communication with the hirer and a strategy for initiating contact and addressing anticipated issues.

The transition plan was developed in consultation with members of the project working group and the respective Managers of the Community Planning, Leisure, Community Strengthening and Family and Children’s Services departments.

Regular hirers were contacted by letter on Friday 21 September 2017 to notify of the adoption of the Policy and updated hire procedures for 2018. The targeted communication included:

- an introductory letter tailored to their classification;
- a FAQs document; and
- a listing of venues and applicable fees and charges listing.

**Community information sessions**

The letter sent to all regular hirers on Friday 21 September invited them to attend one of a series of community information sessions to further explain the upcoming changes, including the release of booking forms and procedures for 2018.

The sessions were designed to provide an opportunity for hirers to provide feedback, ask further questions and discuss the changes with Council staff.

Council held five individual community information sessions, as outlined below, to provide tailored content specific to different types of hirers:
- **Regular hirers with no special circumstances** – groups not considered eligible to receive further subsidies and not significantly impacted by the new framework.

- **Guaranteed special circumstance financial subsidy recipients** – groups who had been pre-assessed to receive the special circumstance financial subsidy.

- **Likely special circumstance financial subsidy recipients** – groups who had been pre-assessed as likely to receive the special circumstance financial subsidy, subject to further assessment following receipt of booking applications.

- **Flemington Community Centre hirers** – a separate session was held at the recommendation of the Community Planning department.

- **Playgroups hiring Lincoln Road and Rhonda Davis** – a separate session was held at the recommendation of the Family and Children’s Services Department.

The information sessions were held between Monday 2 October and Thursday 19 October 2017.

The information sessions were well attended with 45 groups of the 145 regular hirers, and over 220 people attending. As expected there was a low turnout amongst groups that were not significantly impacted by changes in the new framework.

A summary of each information session is outlined in Table 2 below:

**Table 2. Community information session summary**

<table>
<thead>
<tr>
<th>Session</th>
<th>Summary</th>
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<tbody>
<tr>
<td><strong>Regular hirers with no special circumstances</strong></td>
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<tr>
<td>Monday 2 October, 5.30pm – 7.30pm, Clocktower Centre</td>
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<tr>
<td>25 attendees from the following groups: Avondale Calisthenics College, Essendon Daytime Group, Essendon Football Club Cheer Squad, Fusion Calisthenics College Inc, Moonee Valley Life Activities Club, Robert Burns Club of Melbourne, Essendon Scrabble Club, Strathmore Community Garden, Western Christian Fellowship, Essendon Essentials Sewing Guild</td>
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| - The new framework was generally well received and most questions centred on operational issues.  
- Consensus from the audience was that the new fees and charges schedule was fair.  
- There was discussion between similar type groups (some charged in the past and others not) which helped to illustrate the need for a new framework.  
- No major follow up actions were required following the session. |

| **Guaranteed special circumstance financial subsidy recipients**  |
| Tuesday 3 October, 1.30pm – 3.30pm, Clocktower Centre |
| 75 attendees from the following groups: Circolo Pensionati Italiani groups from Airport West, Ascot Vale, Essendon, |
| - Following Council’s presentation there were strong objections from groups having to pay fees for the first time.  
- There was a request from groups that they should be given a special exemption from paying fees.  
- Further explanation was needed on |
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<tr>
<th>Session</th>
<th>Summary</th>
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</thead>
</table>
| **Moonee Ponds, Niddrie and North West Essendon Greek Pensioners and Elderly of Avondale Heights, Greek Senior Citizens Club of Airport West, Italian Pensioners Group of Keilor, Maltese Senior Citizens Airport West, Niddrie Ladies Probus** | the fees and charges schedule and how it applied per group, not per individual.  
- Council officers highlighted the services Council provides to the local aged population, in response to questioning. |
| **Likely special circumstance financial subsidy recipients**  
Monday 9 October, 1.30pm – 3.30pm, Clocktower Centre  
70 attendees from the following groups: Essendon Senior Italian Citizens, Avondale Heights / East Keilor Senior Citizen Group, East Keilor Bocce Club, Essendon & District Garden Club, East Keilor Bocce Club, Greek Elderly Citizens Club of Moonee Valley, Italian Seniors Ascot Vale, Italian Seniors of East Keilor and Avondale Heights, Niddrie Seniors Walking Group | The session followed a similar path to the guaranteed special circumstance financial subsidy recipient's information session, with:  
- strong objections from groups having to pay fees for the first time.  
- there was a request from groups that they should be given a special exemption from paying fees.  
- Council officers highlighted the services Council provides to the local aged population, in response to questioning. |
| **Flemington Community Centre Hirers**  
Monday 9 October, 6pm – 8pm, Flemington Community Centre  
15 attendees across the following groups: North Melbourne Chinese Dance Group, Rabita Sister's Group (ERIS), Somali Language School, Eritrean Community School, U3A |  
- No major issues raised.  
- There was consensus that the new fees and charges schedule was fair and reasonable and that those groups who were eligible for the further subsidy would be financially better off.  
- There was strong approval for the implementation of a uniform framework and fees and charges. |
| **Playgroups hiring Lincoln Road and Rhonda Davis**  
Thursday 19 October, 6pm – 8pm, Clocktower Centre  
35 attendees across the following groups: Montgomery Park Playgroup, New Parent Playgroups, Avondale Heights Grandparents Playgroup, Grandparents Group, Dad’s playgroup, Kylie Barker playgroup, Thursday morning playgroups, Lincoln Rd mother's group |  
- There was disagreement with Council’s definition of vulnerable and priority populations and a request for consideration playgroups to be added to the list of groups in this category.  
- Concerns were raised with the need to obtaining sensitive information from playgroup members regarding financial capacity.  
- Concerns were raised about the difficulty in establishing processes to manage the collection and processing of payments for groups that do not have a formal structure. |
Community information session follow up meetings

Following the community information sessions Council officers contacted every group who had been identified as being highly impacted by the policy. Groups were offered the opportunity to attend individual meetings with Council officers to work through any issues and identify what further support was required during the transition to the new framework.

These meetings were positively received and Council officers have continued working with groups to minimise any negative impacts from the implementation of the new framework.

Individual agreements for groups with complex hire arrangements

A number of groups that regularly hire Council facilities under the policy have complex hire arrangements (multi facility use, multi organisational use, existing alternate tenure arrangements etc.) that required further consultation and individual agreements to be developed.

Individual facility hire agreements will be developed for the following organisations outlined below:

**U3A**

U3A currently hire rooms across nine different facilities and have an extremely high usage volume with over 3,000 hours of bookings to take place in 2018. Under Council’s previous hire policies, U3A were paying for venue hire in some venues and not in others.

Applying the new framework fees and charges across all U3A individual bookings would have resulted in a significant fee increase that would have been beyond the financial capability of U3A.

Given the large volume of hire undertaken and alignment of U3A activities with Council priorities in the aged and disability sector, it was identified to transition U3A into a separate license or hire agreement, maintaining a similar total fee hire from 2017, to manage their hire in 2018.

A meeting was held with U3A representatives on 13 October 2017 where Council outlined the plan to transition U3A to a separate agreement. U3A were happy to agree to this strategy and appreciative of Council recognising their services.

Upon receiving further advice from Council’s property services team it was identified that the development of a single license agreement would not be possible, due to U3A booking multiple facilities. Council officers are currently developing a separate facility hire agreement for U3A.

**YMCA**

YMCA currently hire rooms at the Avondale Heights Library and lease rooms at the Cooper Street Community Centre.

A meeting was held with YMCA representatives on 28 November 2017 where Council outlined the plan to transition U3A to a separate hire or license agreement.

Council officers are currently developing a separate facility hire agreement for YMCA.
**Cohealth**

Cohealth currently hire rooms across three different facilities and have a high usage volume with over 250 individual bookings taking place in 2018.

A meeting was held with cohealth representatives on 11 November 2017 where Council outlined the plan to transition cohealth to a separate hire agreement.

Council officers are currently developing a separate facility hire agreement for cohealth.

**Groups receiving the special circumstances financial subsidy**

As outlined in the Policy (see Appendix A) Hirers may be eligible to receive a further subsidised rate if they are an organisation or group whose charter directly services low or no income earners or on consideration of:

- The community benefit their service/activity provides;
- The demographic profile of members/participants benefiting from the service; and
- The capacity the organisation and members/participants have to pay (and other subsidies the organisation has received).

In the 2018 regular hire application forms, applicants were asked to provide further information about their group and activity, based on the criteria above, to determine their eligibility to receive the special circumstances financial subsidy.

The project control group reviewed applications from groups who were recommended to receive the further subsidised rate, as identified by the managers of facilities under the Policy. 46 groups were identified as being eligible to receive the further special subsidy rate (for full list refer Appendix B).

**Requests for exemption from hire fees**

Council received correspondence from the following groups requesting an exemption from paying hire fees under the community facility management framework.

- Avondale Keilor East Citizens Club
- Italian Pensioners Group of Keilor
- Overland and Milleara Gardens Playgroup
- Avondale Heights Grandparents Playgroup
- Moonee Valley Life Activities Club

Council responded to each group via a letter from the Chief Executive outlining the position that Council will not be approving an exemption from fees for any group. The groups were then encouraged to work with their lead contact at Council to discuss further support they require in transitioning to the new framework.

**Transition for playgroups**

To support a smooth transition under the new framework for playgroups hiring at the Rhonda Davis and Lincoln Road centres (who have previously not paid hire fees), it has been approved by Council’s Executive Team that the hire fees will apply from 1 July 2018. This will provide time to develop options and support for payment of hire fees by individuals and groups without committee structures and bank accounts etc.
Avondale Heights Grandparents Group

Following the attendance of the Avondale Heights Grandparents Group at Council’s Public Forum on 21 November 2017 to express concern over the impact of the framework to their group, Council officers have made contact to set up a meeting to discuss opportunities for the group to apply for funding through Council’s grants program. The group advised they are unable to attend meetings in 2017 due to other commitments and have requested to meet early in 2018, which Council will facilitate. As this group is a playgroup, it will not be impacted by the policy changes until July 2018. Council officers will continue liaising with all playgroups in the coming months.

Better usage of facilities

As anticipated, the introduction of the new framework has resulted in the modification of bookings for several groups in 2018, which will result in better usage of facilities and allowing new groups to access facilities that were previously booked, but not actually used.

For example, at the Burley Griffin Neighbourhood Centre the East Keilor Bocce Club was booking the facility all day on Saturday. In discussions with officers to modify their bookings it was established they only needed the booking on a Saturday for access to switch the light on / off to play bocce at the outside courts. As a result of cancelling this booking the Essendon United Football Club and its junior female soccer players can now access the centre while they use the adjacent sports field.

Community forum hosted by offices of the Federal Member for Maribyrnong and State Members for Niddrie and Essendon

Officers were made aware that a community forum would be hosted by the Offices of the Federal Member for Maribyrnong and the State Members for Niddrie and Essendon on Friday 24 November 2017 in relation to the changes to Council’s community facility hire. Council was not invited to attend the forum, however, the Chief Executive and Council officers attended. At the request of the organisers, Council officers presented information reiterating the changes in the new framework and answered questions from the audience.

At the forum Council reiterated its commitment to continue to provide further support and guidance about the impacts of the changes to groups as the implementation of the framework continues.

Further to the forum the Chief Executive also wrote to all Local Members across Moonee Valley to inform them of the policy and associated framework.

Moonee Valley Leader article

On the 13 December 2017, the Moonee Valley Leader published a front page article on community facilities fees. Council felt several key facts were not included in the article which would have fully informed the readers. Subsequently Council has raised these issues with the editor of the Moonee Valley in relation to the article.

Next steps

At an operational level Council will continue to use the community facility management framework to develop policies to improve facility management, utilisation and the community’s experience of using them.
The Community Facility Management Policy will guide the ongoing management of, and access to community facilities owned by Council.

Consultation
Council held five community information sessions between Monday 2 October and Thursday 19 October 2017 to provide further information about the new framework and answer questions and concerns from the community. The information sessions were well attended with 45 groups out of the 145 regular hirers of Council facilities and over 200 people attending.

The Chief Executive and Council officers also attended a community forum hosted by offices of the Federal Member for Maribyrnong and State Members for Niddrie and Essendon on Friday 24 November 2017. At the request of the organisers Council officers presented information reiterating the changes in the new framework and answered questions from the audience.

Implications

1. Legislative
The Victorian Charter of Human Rights and Responsibilities 2006 requires councils to consider human rights in developing laws, policies and delivering services. This Policy has adopted a human rights framework by embedding the values of inclusion, access and participation by all.

The Community Facility Management Policy addresses the following Council Plan 2017-21 commitments:

- Objective 3.1 Priorities 3.1.1.1.2 Develop and simplify the booking system for community spaces.
- Objective 1.2 Priorities 1.2.1.1.9 Improve access to and use of community facilities, particularly to vulnerable communities and community groups that service Moonee Valley population.
- Objective 2.3 Priorities 2.3.1.1.7 Review community facility management practices to maximise use and council’s return on investment.”

2. Financial
The 2017/18 Council Budget adopted a new room hire fees and charges schedule for the 2018 calendar year in line with briefings regarding the community facility management project in March 2017.

3. Environmental
There are no environmental implications as a result of this project.
Conclusion

The engagement and transition plan has been successfully delivered and Council officers have worked through issues and identified what further support is required for individual groups during the transition to the new framework.

As anticipated, the introduction of the new framework has resulted in the modification of bookings for several groups in 2018, which will result in better usage of facilities and allowing new groups to access facilities.

At an operational level Council will continue to use the community facility management framework to develop policies to improve facility management, utilisation and the community’s experience of using them.

Appendices

Appendix A: Policy - Community Facility Management
Appendix B: CFMF approved subsidised hirers.
POLICY TITLE  |  Community Facility Management Policy  
POLICY TYPE  |  Operational 
DIRECTORATE  |  Planning and Development 

PURPOSE
Community facilities are vital for service delivery, social interaction, connectedness and place making. Moving forward, it is critical they remain relevant and able to fulfill a central role in Moonee Valley’s community life. To ensure this occurs, Council is working to improve how we plan for, manage and develop community facilities using a more coordinated and evidence-based approach.

At a strategic level, this framework will guide provision of Council community facilities to 2040 and will be encapsulated in the MV2040 Strategy currently being developed.

At an operational level, this framework will develop policies to improve facility management, utilisation and the community’s experience of using them.

To this end, the Community Facility Management Policy (Policy) has been developed as an operational document to guide the management of, and access to community facilities owned by Council. Council is committed to an improved experience for our customers and a more consistent management approach by all council departments. This means implementing a fair, transparent and consistent approach when managing and providing access to its diverse range of community facilities.

The aim of this policy is to ensure the greatest community benefit can be achieved by the utilisation of facilities managed by Council. The objectives of this policy are:

- Priority of use – ensure community facilities are used for activities where significant community benefit and demand is evident.
- Optimal use of facilities – ensure the unique purpose of the facility is matched to the hire activities.
- Fit for purpose use – ensure hires are using a facility that matches their participant numbers and profile.
- Fair and equitable – ensure facilities are affordable and accessible to the community.

SCOPE
This policy applies to all of Council’s hire agreements.

All uses of Council-managed spaces must have an agreement in place.

Generally, these occur through either leases, licences or hire agreements. The applicable types of agreements for community facility use include:

<table>
<thead>
<tr>
<th>Directorate</th>
<th>Responsible Manager</th>
<th>Document No</th>
<th>Approval Date</th>
<th>Review Date</th>
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<tr>
<td>Planning and Development</td>
<td>Manager Community Planning</td>
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<td></td>
<td></td>
</tr>
</tbody>
</table>

Page 1 of 4
- Hire agreement – casual or regular hire of a room/s within a Council facility for a specified time/s in consideration for a payment (this Policy).
- Lease – exclusive possession of a facility for an agreed term in consideration for a payment (related policy: Council Property Leasing Policy).

This policy applies to all groups, entities and individuals (hirers) wishing to access Council owned and operated community facilities through hire agreements. Generally, hire agreements are used to hire multi-purpose rooms available in the following facility types:

- Community halls
- Community centres
- Neighbourhood centres
- Sports pavilions
- Libraries
- Early years’ centres.

Hire agreements provide hirers with access to a Council managed space for a specific day and time. The hirer must comply with the terms and conditions that form part of the hire agreement.

Council reserves the right to refuse hire where the user either:

- Has not adhered to hire terms and conditions in the past or has failed to adhere to relevant Council policy, procedures or processes in making bookings.
- Is in debt to Council.
- Has core objectives, principles or policies that conflict with Council’s own adopted plans, strategies and positions.

RESPONSIBILITY

Responsibility for development, implementation, reporting and evaluation of this Policy and its associated guidelines, is accommodated within the Planning and Development Directorate, and currently sits within the Community Planning department.

In ensuring a whole of Council approach, Council and its officers are responsible for adherence to this Policy.

POLICY

Priority of access

The Victorian Charter of Human Rights and Responsibilities 2006 requires councils to consider human rights in developing laws, policies and delivering services. This Policy has
adopted a human rights framework by embedding the values of inclusion, access and participation by all.

For the purpose of this Policy, priority of access is split into 2 categories:

1. Booking priority – access to facility.
2. Financial priority – access to further financial subsidy.

1. **Booking priority**

   Access to Council facilities are prioritised to the following hirers in the following order:
   - Services supporting vulnerable and priority populations
   - Local community groups
   - Organisations providing services which support the local community
   - Residents and other private bookings
   - Commercial and other organisations.

   Based on previous venue hire statistics it is expected that the largest volume of bookings will be by local community groups.

   All bookings must be made on a Council community facility application form relevant to the requested facility and must meet restrictions on hire conditions as outlined in the terms and conditions of hire.

2. **Financial priority**

   The Policy acknowledges that fees will be applied for all facilities hired by Council. Discounts are applied per the below:
   - Room size – small rooms (<60m2) – 40% discount
   - Community groups – further 60% discount
   - Regular hirers – further 45% discount
   - Full day hirers – (8 hours+) – further 10% discount

   Discounts are applied in a cumulative way, not summative. The fees and charges are adopted annually through Council budget process.

   Hirers may be eligible for a further 80% subsidy if they are an organisation or group whose charter directly services low or no income earners (as identified by proof of health care card, pension card, student card, Centrelink assistance), or alternatively, Council will also consider subsidy on consideration of the following:

   - Type of service/activity/programs the booking enables and how it demonstrates significant community benefit.
   - Consideration of the demographic profile of members/participants benefiting from the service.
The capacity the organisation and members/participants has to pay (and other subsidies the organisation has received).

FEES AND CHARGES
All fees and charges for use of Council facilities are approved within Council's annual budget process.

Bookings of facilities for Council programs and activities are at no charge. Council may make bookings for an event or activity for which they are partnering with external groups or agencies. It is expected that Council would play a significant role in the planning, coordination, delivery or funding of any activity for which such a booking is made.

CONSULTATION
Internal staff consultations were held to seek feedback on the development of this Policy including members of a dedicated facility managers working group, which included representatives from all facilities within the scope of this project.

An engagement and transition plan will communicate and manage changes with existing hirers of Council facilities affected by this policy.

REVIEW & EVALUATION
This policy will be reviewed annually. The Manager Community Planning will report to council on the outcome of the review and make recommendations for amendment, alteration or a substitution of a new policy if considered necessary.

RELATED DOCUMENTS
- Moonee Valley Community Funding Guidelines 2017/18
- Moonee Valley Community Financial Support Policy
- Moonee Valley Next Generation 2035 Community Vision
- Moonee Valley Council Plan
- Moonee Valley Diversity, Access and Equity Policy
- Moonee Valley Council Property Leasing Policy
- Moonee Valley Sporting Grounds & Pavilion Seasonal Allocation Policy
Groups recommended to receive the further subsidy

<table>
<thead>
<tr>
<th>Groups</th>
<th>Organisation description</th>
<th>Over 50% of the following MVCC priority populations participating</th>
<th>Subsidy from MVCC or other</th>
<th>Limited financial capacity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Avondale Heights / East Keilor Senior Citizen Group</td>
<td>Senior citizen community group</td>
<td>Pensioners, disabled, health care card holders</td>
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<td>East Keilor Bocce Club</td>
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<tr>
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<tr>
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<td>Groups</td>
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<td>Over 50% of the following MVCC priority populations participating</td>
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<td>Y-art</td>
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<td>Friends for Life</td>
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<td>Brailink Lifemoves</td>
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<td>ANGET</td>
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<td>Opera Nazionale Peri Caduti Senza Croca Inc</td>
<td>Multicultural senior citizen community group</td>
<td>Pensioners</td>
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<td>Groups</td>
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<td>Essendon &amp; District Diabetes support group</td>
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<td>Groups</td>
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<td>Essendon and District Garden Club</td>
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<td>Anglicare Financial Counselling</td>
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</tbody>
</table>
9.10 Council Plan 2017-21 progress report for July-December 2017

File No: FOL/18/32
Author: Marianne McArthur
Corporate Planning Officer
Directorate: Organisational Performance

Purpose
To report back to Council and the community on our progress this year in implementing the Council Plan 2017-21 (Council Plan).

Executive Summary
This report reviews our progress in implementing the Council Plan in 2017/18, for the period 1 July to 31 December 2017.

Recommendation
That Council receive and note the report.

Background
Council is implementing an extensive list of actions in 2017/18 to deliver on the Council Plan. This report provides an update on progress in implementing those actions for quarters 1 and 2.

Discussion
- Our progress for 2017/18 is reported in three appendices:
  - Appendix A summarises the overall status of actions to deliver on the Council Plan in 2017/18. As at 31 December 2017, 89 per cent of actions were “on track”, six per cent were complete, two per cent were off track, and three per cent were not yet scheduled to start.
  - Appendix B reviews the progress achieved with major initiatives to implement the Council Plan. Major initiatives are significant actions identified in the 2017/18 Annual Budget to implement the Council Plan.
  - Appendix C reviews the progress achieved on other actions.
- Some of the key achievements for the period July to December 2017 include:
  - Awarding a contract for the architectural design of the East Keilor Leisure Centre redevelopment.
  - Establishing ten Portfolio Advisory Committees to assist Council in delivering on its long term strategic objectives.
  - Securing a $300,000 grant from the Melbourne Water Living Rivers funding program to construct Woodlands Park wetland.
- Engaging 25 women from migrant and refugee backgrounds in the Stepping Stones to Small Business Program.

- Awarding contracts to construct the Rosehill Park Easement, which will improve pedestrian access to open space, and to replace the Fenton Street Hockey synthetic surface (northern pitch).

A Quarter 3 report will be presented to Council in May 2018, and a full-year report will be issued in October as part of the Annual Report. The full-year report will include results of performance against the Council Plan strategic indicators, which measure success in implementing our objectives. This data is available only on an annual basis.

**Consultation**

The nature of this report does not require any public consultation.

**Implications**

1. **Legislative**

   The *Local Government (Planning and Reporting) Regulations 2014* require Council to disclose in its Annual Report whether it has conducted Council Plan reporting at least every six months.

2. **Council Plan / Policy**

   In presenting this report, Council is working to achieve its strategic objective to foster a culture of accountability and transparency in accordance with Council Plan 2017-21 Theme 5: Resilient organisation - A resilient organisation that is sustainable, innovative, engaging and accountable - Good governance is everyone's responsibility.

3. **Financial**

   No financial implications.

4. **Environmental**

   No environmental implications.

**Conclusion**

Council is making steady progress in implementing its Council Plan commitments.

**Appendices**

Appendix A: Overall status of Council Plan actions - Report to Council - Q1 and Q2 2017-18

Appendix B: Major Initiatives Report to Council - Q1 and Q2 2017-18

Appendix C: Progress achieved on other actions - Report to Council - Q1 and Q2 2017-18 (separately circulated).
Council Plan 2017-21 progress report

The chart below shows how we are progressing with actions to implement the Council Plan in 2017/18, as at 31 December 2017.
**AGENDA – ORDINARY COUNCIL MEETING**

**ITEM 9.10 - APPENDIX B**

<table>
<thead>
<tr>
<th>No</th>
<th>Major Initiative</th>
<th>Status</th>
<th>Q1 Progress comments</th>
<th>Q2 Progress comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Promote positive mental health in education settings through community education,</td>
<td>Presentation of first Aid Initiative to</td>
<td>Negotiating partnership with Melbourne University Twin Aids Research Project. Have</td>
<td></td>
</tr>
<tr>
<td></td>
<td>programs and public campaigns, including a Young People’s Mental Health</td>
<td>Councilors at briefing. Advisory Committee</td>
<td>met with both Elwood College and Buckley Park Secondary College, who are keen to</td>
<td></td>
</tr>
<tr>
<td></td>
<td>First Aid Initiative in schools.</td>
<td>established; partners identified In-principle.</td>
<td>partake in the project pending recruitment of matched secondary schools.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Training to commence in second quarter 17/18</td>
<td>Discussions around timing have begun with Mount Alexander College.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>(February and April).</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Work with regional partners (Preventing Violence Together and Inner North West</td>
<td>CEO endorsed and signed Preventing Violence</td>
<td>Attended planning sessions to identify shared actions for preventing violence</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Primary Care Partnership) to collectively monitor and evaluate primary prevention</td>
<td>Together (PVT) Plan. Memorandum of Understanding signed for community</td>
<td>against women for inclusion in the new Action Plan. To be endorsed by the PVT</td>
<td></td>
</tr>
<tr>
<td></td>
<td>of violence against women initiatives.</td>
<td>champions project.</td>
<td>Executive Governance Group in Quarter 3.</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Transition community funding to align with a neighbourhood place-based approach in</td>
<td>Auditor Report on Community Funding</td>
<td>Grants Evaluation Report and assessment process options presented at Councilor</td>
<td></td>
</tr>
<tr>
<td></td>
<td>order to target areas where funding is most needed and address health inequalities.</td>
<td>presented to Council for voting in September</td>
<td>Briefing in November and Council meeting in December 2017. Recommendations</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>2017. Recommendations include simplifying fund</td>
<td>include adoption of a section 86 Special Committee to replace current Grant Panel</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>ing streams, integrating Sponsorship</td>
<td>structure for next round of Grants. Neighbourhood Profiles to be used to determine</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>stream to be cancelled and Community</td>
<td>funding priorities in 13 neighbourhoods. This will be presented at annual Grants</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Service Subsidy stream more integrated with</td>
<td>Assessment Panel (or Special Committee if recommendation is adopted) in Quarter 3</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>social procurement and service planning.</td>
<td>to inform funding recommendations for next round of grants.</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Review and redevelop the General Purposes Local Law to protect and enhance local</td>
<td>Internal consultation underway, Development</td>
<td>Continued with internal consultation and development of new requirements and proposed Draft of Local Law commenced.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>amenity in line with community standards.</td>
<td>of draft 2018 Local Law commenced.</td>
<td>Draft Community Impact Statement. Held Strategic Briefing with Councilors on the</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>process for developing the proposed Local Law. Now preparing the document (in its final</td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td>version for presentation to Council in February for approval to commence public</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>consultation process.</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Promote volunteering to increase community cohesion and resilience.</td>
<td>Volunteer Management Policy Implementation Plan</td>
<td>Training program for staff developed for the coming year. Briefing delivered for 25</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>developed. Previous year’s volunteer recognition</td>
<td>managers regarding legal requirements and risks associated with volunteer management.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>event reviewed. Infographic and report</td>
<td>Project commenced to develop an online induction program for volunteers in partnership</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>developed for distribution to Council’s Volunteer</td>
<td>with Municipal Association of Victoria. Redevelopment and planning commenced for future</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Management Committee (Internal).</td>
<td>volunteer recognition events and activities.</td>
<td></td>
</tr>
</tbody>
</table>
Friendly and safe
An equitable, inclusive and healthy community

<table>
<thead>
<tr>
<th>No</th>
<th>Major Initiative</th>
<th>Status</th>
<th>Q1 Progress comments</th>
<th>Q2 Progress comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>6</td>
<td>Build partnerships with key service providers to support the implementation of the National Disability Insurance Scheme in Moonee Valley.</td>
<td>First briefing completed with Councillors to develop an understanding of current disability service provision, the roll out and implications of the NDIS. Endorsement of timeline for decision-making. First workforce briefing completed September 2017.</td>
<td>Implementation of Community consultation, including neighbourhood based drop in sessions, survey postcard and NDIS information sessions. The National Disability Insurance Agency (NDIA) has informed Council of the planned transition for current clients who are likely to be NDIS eligible. This transition will be fully implemented by early 2019. The NDIA estimate that 60% of Council’s current clients with a disability will be eligible for the NDIS. This information was used as part of the Service planning development for the Disability, Access and Inclusion unit.</td>
<td></td>
</tr>
<tr>
<td>No.</td>
<td>Item Information</td>
<td>Status</td>
<td>21 May 2017 completion</td>
<td>Q2 Progressed completion</td>
</tr>
<tr>
<td>-----</td>
<td>----------------------------------------------------------------------------------</td>
<td>------------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------------------------</td>
<td>-----------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>7</td>
<td>Introduce a Developer Contribution Plan Overlay (DCP) so that new development contributes to the infrastructure required to service population growth.</td>
<td>![Status Icon] On track</td>
<td>Demand analysis complete. Infrastructure projects developed for inclusion in DCP.</td>
<td>Infrastructure projects reviewed, catchment areas developed and indicative infrastructure changes determined. These will be reviewed updated in line with Council’s capital works planning and long term financial planning. Draft DCP progressing, relevant components currently being tested and external peer reviews being undertaken.</td>
</tr>
<tr>
<td>8</td>
<td>Implement initiatives to green and cool the municipality, including the Urban Forest Renewal Program and Street Tree Planting Program and the Neighbourhood Greening Program.</td>
<td>![Status Icon] On track</td>
<td>Street Tree Planting and Urban Forest Renewal: Year 7 is currently 60 per cent complete. Currently finalising resident requests for planting. Neighbourhood greening for the 2017 planting season is now complete.</td>
<td>The required portion of year 7 street tree planting and urban forest renewal is now complete with the shift to establishment maintenance and summer irrigation now underway. 2017 planting items for Neighbourhood Greening now in establishment maintenance phase, including summer irrigation, planting and design underway for the 2018 Greening Program.</td>
</tr>
<tr>
<td>9</td>
<td>Improve the amenity of streetscapes through civil design work for the Moonee Ponds activity centre (MPAC) and upgrades to the Union Road streetscape from The Parade to Rosebery Street.</td>
<td>![Status Icon] On track</td>
<td>Preparation of the MPAC Streetscape and Public Space Plan to inform review and future streetscape design. Procurement underway for Union Road Streetscape Stage 2. Functional design and site information underway for Union Road Streetscape Stage 3.</td>
<td>Transport analysis scoping underway to inform MPAC. Tender evaluation underway for Union Road Streetscape Stage 2. Civil design underway for Union Road Streetscape Stage 3.</td>
</tr>
<tr>
<td>10</td>
<td>Playground Renewal Program – replace and renew playgrounds within neighbourhood, district and regional parks, including utilising natural features as play objects to enable children to connect with nature.</td>
<td>![Status Icon] On track</td>
<td>Site inspections and playground design scope completed.</td>
<td>Playground designs and costing prepared. Companies selected for quotation, with construction scheduled to commence in Quarter 3.</td>
</tr>
<tr>
<td>11</td>
<td>Family &amp; Children Services facilities outdoor play space improvements - improve outdoor play space areas to meet appropriate standards and regulations.</td>
<td>![Status Icon] On track</td>
<td>Proposed program for renewal works has been completed and approved by Family and Children’s Services. Renewal works have commenced at a number of locations; approximately 70 per cent of the planned works have been completed for the year to date. The remaining planned works are on target to be completed by end of February 2018.</td>
<td>Approximately 70 per cent of the planned works have been completed for the year to date. The remaining planned works are on target to be completed by end of February 2018.</td>
</tr>
<tr>
<td>12</td>
<td>Further develop water sensitive urban design projects at Aberfeldie Park, Woodlands Park, and Queens Park.</td>
<td>![Status Icon] On track</td>
<td>Documentation underway for Woodlands Park. Appointment underway for Rosehill Park wetland documentation. Preparing plans to complement Water Sensitive Urban Design (WSUD) work at Woodlands Park and secure the Living Rivers funding of $60,000. Preparing plans for Rosehill Park Wetland as per Living Rivers funding.</td>
<td>Undertake civil documentation for the Rosehill Park Wetland, as per Melbourne Water funding agreement. Completed documentation for Woodlands Park and Salmon Reserve to complement wetland works. Successful grant submission announcement to construct Woodlands Park wetland, $300,000 from Melbourne Water’s Living Rivers funding has been announced for the 2010/11 financial year.</td>
</tr>
<tr>
<td>No</td>
<td>Status</td>
<td>Action</td>
<td>Details</td>
<td></td>
</tr>
<tr>
<td>----</td>
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<td>---------</td>
<td></td>
</tr>
<tr>
<td>13</td>
<td>Walking and Cycling Strategy, Dean Street underpass - detailed design 90 per cent complete. Works to be tendered. Latest October/November. Evans Street - Functional design completed. Montague Street Boardwalk - structural repairs completed. Surface treatment to be applied.</td>
<td>Implement the Walking and Cycling Strategy including Dean Street underpass and a walkability initiative to get more people walking in Mooree Valley.</td>
<td>On track</td>
<td></td>
</tr>
<tr>
<td>14</td>
<td>Procurement process.</td>
<td>Rosehill Park Easement - construct a pathway to improve pedestrian access to open space.</td>
<td>On track</td>
<td></td>
</tr>
<tr>
<td>15</td>
<td>System specifications regulated and confirmed with Council teams responsible for facility bookings.</td>
<td>Develop and simplify the booking system for community spaces.</td>
<td>On track</td>
<td></td>
</tr>
<tr>
<td>16</td>
<td>Delivered 5 highly successful sustainability education events, engaging 169 local residents. Delivered 1 Schools Environment Forum.</td>
<td>Deliver sustainability programs to residents, businesses and schools.</td>
<td>Off track</td>
<td></td>
</tr>
<tr>
<td>17</td>
<td>EPC Edison - audit on hold until Feb 19. School has declined offer of Green Travel Plan grant and MIND, BODY, PEDAL program. St Therese’s - Inception meeting held, audit completed, plan for upgrades forwarded to the school and notification letter distributed. School has declined offer of Green Travel Plan grant and MIND, BODY, PEDAL program. ERC East Keilor - Inception meeting held, audit completed, consultation completed, all capital works proposed completed. Active path implementation is in progress. Will start working with the school to develop their Green Travel Plan in Feb 2018.</td>
<td>Implement the Better Moves Around Schools Program to improve safety around schools and encourage walking and cycling to school.</td>
<td>Completed</td>
<td></td>
</tr>
</tbody>
</table>

**Status**

- **On track**
- **Completed**
- **Off track**
- **Not started**

- **Walking and Cycling Strategy, Dean Street underpass:** Detailed design 90 per cent complete and project has approval from Melbourne Water. Construction anticipated to commence March 2018. Evans Street road safety audit completed.
- **Walkability initiative:** Belgrave Leisure (Aston Vale Leisures Centre), Wingate Ave Community Centre and Wurnu Junction engaged to guide initiatives in Aston Vale and Avondale Heights. Social marketing and communications plan established. Human Resources department and Community Planning partnership for Healthy Mooree Valley reinvigorated and staff walking group scoped for promotion in Quarter 3.
### Sustainable living

* A connected, well-designed municipality, thriving neighbourhoods, accessible places and spaces

<table>
<thead>
<tr>
<th>No</th>
<th>Action Item</th>
<th>Status</th>
<th>C1 Progress Comments</th>
<th>C2 Progress Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>10</td>
<td>Implement the Transport Safety Strategy to improve road safety for all.</td>
<td>![progress](on track)</td>
<td>Road safety improvements - designs being completed for Mascaren Street and Eldorado Crescent, Rachelle Road and Rosehill Road, Broxan Street, and Aldin Street. Puckle Street 49km electronic signage plans and consultation completed, awaiting tender documents. Moorine Ponds shared path upgrades, Erin Street, Ormond Road, various areas in Strathmore progressing. Laneway activation project commenced. Quarterly meetings with VicRoads and Victoria Police commenced. Council Safe Driver handbook progression update. Council kindergartens and maternal health centres provided with road safety resources for parents. Speed trailer contract awarded, weekly placement has commenced.</td>
<td>Mascaren and Eldorado Crescent, Rachelle &amp; Rosehill Roads - assigned to design engineers for design. Broxan Crescent - zebra crossings to be built in the next few months. Puckle Street 49km plans and consultation completed and approved by VicRoads, awaiting on Jamieson to progress. Erin Street - detailed design near completion. Surveys completed for Ormond Road, various areas in Strathmore project progressing. Laneway project progressing, final designs near completion. Quarterly meeting VicRoads and Victoria Police held 28 Nov 17. Crash statistics for 2017 received. Safe driver handbook still progressing. Speed trailer continued to be placed in local streets and around schools weekly. Christmas safety messages commenced from 18 Dec 2017. Child restraint fitting day planning commenced. Next sessions for Wise Driver commenced. Staff training for safe returns attendance commenced.</td>
</tr>
</tbody>
</table>
### ITEM 9.10 - APPENDIX B

<table>
<thead>
<tr>
<th>No</th>
<th>Brief Title</th>
<th>Status</th>
<th>C1 - Issues &amp; Comments</th>
<th>C2 - Project/Program Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>19</td>
<td>East Keller Leisure Centre redevelopment - design and document the proposed redevelopment.</td>
<td>![Not started]</td>
<td>Tenders closed for the detailed design of this project in February 2017 and tenders closed for the project management of the entire project in April 2017. The project management contract has been awarded and it is proposed for Council to consider the award of the design contract in December 2017. Until the design contractor has been appointed and dates can be confirmed, this project has been identified as off track.</td>
<td>A contract was awarded for the architectural design of the new facility during Quarter 2 and the detailed design work commenced in December 2017 with a number of project kick-off meetings. Initial advice from the architect is that the design will be at least 25 per cent complete by the end of the fiscal year.</td>
</tr>
<tr>
<td>20</td>
<td>Fairbairn Park (Middle) pavilion improvements - complete a multi-use sports and community pavilion, replacing two existing pavilions and demolishing one pavilion.</td>
<td>![Not started]</td>
<td>Fairbairn Park pavilion will be completed by the end of October 2017.</td>
<td>The completion of Fairbairn Park has been delayed due to the connection of power to the site, which did not occur until early December 2017. The building and the surrounding infrastructure will be completed by the end of January 2018.</td>
</tr>
<tr>
<td>21</td>
<td>Prepare options for the development of a Niddrie Community Hub, including relocation of the Niddrie Library.</td>
<td>![Not started]</td>
<td>Affordability and procurement option research undertaken.</td>
<td>Value capture work being finalised and developer Expression of Interest prospectus drafted.</td>
</tr>
<tr>
<td>22</td>
<td>Ferntree Gully Synthetic Soccer Field replacement - replace the synthetic surface to the northern pitch.</td>
<td>![Not started]</td>
<td>Contract has been awarded. Works will start in January 2019.</td>
<td>Works will commence mid to late January 2019, expecting completion by the end of February 2019.</td>
</tr>
<tr>
<td>23</td>
<td>Pilot the Stepping Stones to Small Business Program in partnership with the Brotherhood of St. Lawrence to assist culturally and linguistically diverse women to establish micro businesses.</td>
<td>![Completed]</td>
<td>Worked with Brotherhood of St. Lawrence to attract 25 women from migrant and refugee backgrounds to attend the Stepping Stones Program, which is aimed at improving work outcomes. Undertook a Council communications plan to promote the opportunity of joining this program. Connected Brotherhood of St. Lawrence with local community services.</td>
<td>Presented a ‘welcome to business in Mornington Peninsula’ concept and a link program participants with local businesses. Evaluated and reviewed the Stepping Stones Program for potential 2018 delivery at Ferntree Gully Community Centre.</td>
</tr>
<tr>
<td>No</td>
<td>Establish a Business Transformation Program to identify and deliver improvements to Council services.</td>
<td>Status</td>
<td>Status</td>
<td>C1: Progress comments</td>
</tr>
<tr>
<td>----</td>
<td>-------------------------------------------------------------------------------------------------</td>
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<tr>
<td>24</td>
<td>The Business Transformation Program was established and a program of improvement works was developed. A Continuous Improvement Framework was created, along with a Continuous Improvement Capability Program that builds organization-wide skills in business improvement.</td>
<td>On track</td>
<td>On track</td>
<td>A project governance group has been established to manage and prioritize continuous improvement projects to achieve alignment with community and Council priorities. Key improvement projects have been established, including projects to increase council utilisation, to streamline statutory planning processes, to increase efficiency and effectiveness of asset management, to improve the capital works project management framework, to further enhance livestreaming of Council meetings, and to increase the functionality of the Councillor portal.</td>
</tr>
</tbody>
</table>

25. Perform renewable energy, water and energy efficiency upgrades on Council buildings.

- Requests for quotation for solar systems and lighting upgrades underway.
- Installation of solar systems, lighting upgrades and other building energy and water efficiency works underway.

26. Coordinate a program of community engagement to inform MY540.

- Phase 2 Community Engagement commenced.
- Phase 2 Community Engagement concluded.

27. Develop specifications for consolidating core information technology applications onto a single platform and undertake a joint procurement exercise with partner councils.

- Developed requirements for the upcoming tender process for the Enterprise Resource Platform (ERP). The joint procurement with other councils is not proceeding.
- The tender was released to the market in October and the responses were assessed by the evaluation committee. The evaluation committee will continue with the evaluation in Quarter 3, with the vendor likely to be appointed by no later than Quarter 4.

28. Seek financial support from all levels of government, community organisations and private investment for the development of community infrastructure (for example, funding to improve shared community facilities within Victorian schools through the State Government’s Shared Facilities Fund).

- On track.
- On track. Executive Team is seeking to actively advocate for major initiatives for the municipality. External consultancy is being utilised to assist in mapping out a plan to pursue this more actively in 2018.

29. Establish ten portfolio advisory committees to assist council in delivering on long term strategic objectives.

- Successfully launched a welcome event for all newly appointed Portfolio Advisory Committees (PAC) members on 18 July 2017. The PACs then commenced their formal meetings in August 2017. Terms of Reference were established for the PACs and the objectives for each PAC will be finalised by the end of quarter 3.
- The Council Committee Structure has been reviewed and updated to ensure strategic alignment to the Council Plan 2017-21 and Council’s long-term strategy – MY540. A total of 17 meetings have occurred with over 34 hours of enthusiastic involvement from PAC members. The PACs have provided input on development of MY540. PAC meetings recommence in February 2018, with the aim to finalise objectives for the following PACs: Environment, Community Wellbeing, Integrated Transport, Strategic Planning, Sports & Community Organisations, Inclusion Diversity Equity Access and Future Communities. A PAC progress report was presented to Council on 14 November 2017.
9.11 Niddrie Business Precinct Special rate and Charge Declaration

File No: FOL/18/32
Author: Joy Saunders
Business Development Officer
Directorate: Planning & Development

Purpose

The purpose of this report is to declare a special rate and charge for the Niddrie Business Precinct commencing on 1 July 2018 and ending on 30 June 2023.

Executive Summary

- At the Ordinary Meeting on 26 September 2017, Council gave notice of its intention to declare a special rate and charge for the Niddrie Business Precinct seeking submissions from business and property owners liable to pay the Niddrie Special Rate and Charge. Refer (Appendix A – separately circulated).

- In accordance with sections 163(1A) and 163B(3) of the Local Government Act 1989, public notices appeared in *The Moonee Valley Leader* on Wednesday 11 October 2017 requesting submissions and objections.

- Separate letters enclosing a copy of the public notice were forwarded to all business and property owners within the Niddrie Business Precinct.

- The Special Rate and Charge will apply to 224 rateable properties within the Niddrie Business Precinct and will raise $125,000 in the first year and increase in $5,000 increments per year for a five year period from 1 July 2018 to 30 June 2023. The Special Rate and Charge will collect $675,000 over the five year period.

- Council received four (4) objections from approximately 440 business operators and property owners who were written to within the Precinct. Refer (Appendix B).

- There is support and commitment from local traders to renew the Special Rate and Charge for a further five years and a Business Plan has been developed to demonstrate that commitment. Refer (Appendix C – separately circulated).
Recommendation
That Council:

1. Having considered all submissions received and taken account of all objections lodged and complied with the requirements of sections 163A, 163B and 223 of the Local Government Act 1989 (Act), and otherwise according to law, hereby declares a Special Rate and Charge under section 163(1) of the Act for the purposes of defraying expenses to be incurred by Council in providing funds to the incorporated body known and operating as the Niddrie Trader’s Association (Traders Association), which funds, subject always to the approval, direction and control of Council, are to be used for the purposes of funding a part-time Shopping Centre Coordinator, promotional, advertising, marketing, business development and other incidental expenses as approved by Council and agreed to from time to time between Council and the Traders Association, all of which are associated with the encouragement of commerce, retail and professional activity and employment in the Niddrie Business Precinct (Business Precinct).

2. Endorse that the criteria which form the basis of the declaration of the Niddrie Special Rate and Charge are the ownership and the capital improved value of rateable land used, or reasonably capable of being used, for commercial retail or professional purposes, which rateable land is situated within the geographical area in which the properties described in paragraphs 7 and 8 of this declaration are included.

3. In declaring the Niddrie Special Rate and Charge, is performing functions and exercising powers in relation to peace, order and good government of the municipal district of the City of Moonee Valley, in particular the encouragement of commerce, retail activity and employment opportunities within the area for which the Niddrie Business Precinct is declared.

4. Endorse the total cost of the performance of the function and the exercise of the power by Council (in relation to activities associated with the encouragement of commerce, retail activity and employment opportunities in the area for which the Niddrie Special Rate and Charge is declared); and confirm that the total amount of the special rate and charge to be levied by Council is referrable to an amount of $125,000 in the first year and increase in $5,000 increments, for a five year period (year five will collect $150,000) collecting a total of $675,000.

5. Set the period for which the Niddrie Special Rate and Charge is declared and will remain in force is a period of five years commencing 1 July 2018 and ending on 30 June 2023.

6. Note amounts have respectively been assessed by –
   a) an 80 per cent special rate component calculated and assessed by multiplying the capital improved value of each property in the boundary by a rate in the dollar (adjusted annually);
   b) a 20 per cent fixed special charge component assessed as a flat charge of $111.11 in the first year;
   c) the Special Rate and Charge will be capped at a maximum amount of $5,000 per rated property.
7. Define that the area for which the Niddrie Special Rate and Charge is declared, as all of the land referred to as the Business Precinct, as identified and shown on the plan set out in the attachment forming a part of this declaration (Appendix A – Schedule 1 – separately circulated).

8. Define the land in relation to which the Niddrie Special Rate and Charge is declared as all that rateable land described in the listing of rateable properties set out in the attachment forming a part of this declaration (Appendix A – Schedule 2 – separately circulated).

9. Levy the Special Rate and Charge by sending a notice of levy in the prescribed form annually to the person who is liable to pay the Special Rate and Charge, which will require that the Special Rate and Charge must be paid by two instalments, to be paid by the dates which are fixed by Council in the notice.

10. Consider cases of financial and other hardship and may reconsider other payment options for the Niddrie Special Rate and Charge.

11. Endorse that no incentives will be given for payment of the Niddrie Special Rate and Charge before the due date for payment.

12. Considers that there will be a special benefit to the persons required to pay the Niddrie Special Rate and Charge because there will be a benefit to those persons that is over and above, or greater than, the benefit that is available to persons who are not subject to the Special Rate and Charge, and directly and indirectly as a result of the expenditure of the Special Rate and Charge the viability of the Business Precinct as a business, commercial and retail area, and the value and the use, occupation and enjoyment of the properties and the businesses included in the Niddrie Special Rate and Charge will be maintained or enhanced through increased economic activity.

13. For the purposes of having determined the total amount of the Niddrie Special Rate and Charge to be levied under the scheme, further considers and formally determines for the purposes of sections 163(2)(a), (2A) and (2B) of the Act that the estimated proportion of the total benefits of the Scheme to which the performance of the function and the exercise of the power relates (including all special benefits and community benefits) that will accrue as special benefits to all of the persons who are liable to pay the special rate and charge is in a ratio of 1:1 (100 per cent). This is on the basis that, in the opinion of Council, all of the services and activities to be provided from the expenditure of the Niddrie Special Rate and Charge are marketing, promotion and advertising related and will accordingly only benefit those properties and businesses included in the scheme that are used, or reasonably capable of being used, for retail, commercial or professional purposes.

14. Authorise the Chief Executive or the person for the time being acting in that position, for the purposes of paragraph 14 of this resolution, to prepare the funding agreement between Council and the Traders Association by which administrative arrangements in relation to the Niddrie Special Rate and Charge are confirmed, such agreement being to ensure that at all times, and as a precondition to the payment of any fund by Council to the Traders Association, Council is and remains, legally responsible for approving, directing and controlling the expenditure of the proceeds of the Niddrie Special Rate and Charge in accordance with its obligations under the Local Government Act 1989.
to do so, and such funding agreement to be submitted to Council for sealing.

15. Enters into a funding agreement with Niddrie Traders Association to enable the administration of proceeds of the Niddrie Special Rate and Charge for the period of the Special Rate and Charge.

16. Give notice to all owners and occupiers of properties included in the Niddrie Special Rate and Charge and all persons who have lodged a submission and/or objection in writing of the decision of Council to declare and levy the Niddrie Special Rate and Charge commencing on 1 July 2018, and the reasons for the decision.

17. Confirm that for the purpose of paragraph 16, the reasons for the decision of Council to declare the Niddrie Special Rate and Charge are that –
   a) There is minimal objection to the Scheme and it is otherwise considered that there is a broad level of support for the Special Rate and Charge from all property owners and occupiers;
   b) Council considers that it is acting in accordance with the functions and powers conferred on it under the Local Government Act 1989, having regard to its role, purposes and objectives under the Act, particularly in relation to the encouragement of commerce, retail activity and employment opportunities in and around the Scheme area;
   c) All persons who are liable or required to pay the Niddrie Special Rate and Charge and the properties respectively owned or occupied by them will receive a special benefit in the form of an enhancement or maintenance in land values and/or a maintenance or enhancement in the use, occupation and enjoyment of the properties; and
   d) The basis of distribution of the Niddrie Special Rate and Charge amongst those persons who are liable or required to pay the Special Rate and Charge is considered to be fair and reasonable.

18. Advise the Traders Association of the matters specified in paragraphs 1, 14 and 15 of this resolution.

Background

The Niddrie Special Rate and Charge has been operating since 1992 in the Business Precinct and it is considered that the services provided from the proceeds have provided a special benefit to the rated businesses and properties within the boundary. The current Niddrie Special Rate and Charge will expire on 30 June 2018.

The services that have been provided from the proceeds of the Special Rate and Charge, all being marketing-related, have been designed to benefit the commercial and business and property owners in the Niddrie Business Precinct. The Niddrie Special Rate and Charge currently raises $120,000 annually.

The Niddrie Traders Association provided a written request in May 2017 that Council declare a new Special Rate and Charge for the Niddrie Business Precinct.
Discussion

Submissions

Council received four (4) objections from approximately 440 business operators and property owners who were written to within the precinct. Refer (Appendix B).

Summary of submissions

One of the objections received was on the grounds that they derived little benefit from the promotional and marketing strategies implemented by the Niddrie Traders Association due to their businesses being located near the periphery of the Special Rate and Charge boundary. Another business owner located within the Niddrie Shopping Centre felt there was no benefit and tenants were expected to contribute to a Centre levy for marketing as well.

Two objections received from property owners were on the grounds of there being undue additional financial stress on their tenants. There is also a perceived lack of Council contribution to the budget.

The Niddrie Traders Association has developed a draft Business Plan (Appendix C – separately circulated) to guide marketing and promotion for the business precinct over the next five years.

In consideration of all the submissions, this report recommends that each commercially rateable property included in the Niddrie Business Precinct boundary is required to pay the Special Rate and Charge and will receive a special benefit because the viability of the business precinct as a commercial, retail and professional area will be enhanced through economic activity.

Consultation

Council has consulted extensively with the Niddrie Traders Association, business operators and property owners throughout the process.

In July 2017, a survey was sent to all business and property owners within the Niddrie Business Precinct seeking feedback on the current rate and whether or not they support its renewal. There were 220 letters sent in total with 64 completed and returned (29 per cent). The low rate of return implied passive endorsement. Of those who responded, 46 per cent indicated support for the rate.

A Public Notice in accordance with sections 163(1A) and 163B(3) of the Local Government Act, appeared in The Moonee Valley Leader Wednesday 11 October 2017, requesting submissions and objections.

Every property owner and trader involved within the Niddrie Special Rate and Charge boundary was notified via letter which included copies of the advertisement placed in The Leader, and detailed information regarding how to make a submission or objection to the Special Rate and Charge. Submissions were required to be lodged with Council by 5pm on Friday 17 November 2017 and verbal submission/s heard at a Section 223 Committee hearing on Monday 4 December 2017. None of the submitters requested to speak and so the hearing committee meeting was not required. Councillors on the hearing committee have considered the submissions and recommended that this report be referred to the full Council.
Implications

1. Legislative
   In accordance with Section 163 of the Local Government Act 1989 Council must determine a number of matters when considering a new Special Rate or Charge. These matters are addressed in this report.

2. Council Plan / Policy
   In presenting this report, Council is working to achieve its strategic objective to support the growth of activity centres as entertainment precincts that have a high level of activity day and night to increase the vitality of precincts and the viability of businesses in accordance with Council Plan 2017-21 Theme 4: Vibrant and diverse - Celebrating diversity, promoting participation, and creating a strong economy - Our local economy is strong.

3. Financial
   Council’s contribution to the special rate and charge is the provision of resources for set up and administration. This is included in the operational budgets of the various departments involved.

4. Environmental
   The special rate and charge aims to support local businesses which in turn supports the local community. By shopping locally, residents can reduce traffic congestion and related impacts to the environment.

Conclusion

The renewal for the Niddrie Special Rate and Charge has the support and endorsement of the Niddrie Traders Association. It is considered that all of the commercial, retail and professional properties in the Niddrie Business Precinct will derive a special benefit from the expenditure of Special Rate and Charge funds and the viability of the business precinct as a commercial and retail centre will be further enhanced.

The intention to declare a Special Rate and Charge by way of renewal has invited public comment and provided Council the opportunity to review the proposed rate in light of public submissions before its ultimate declaration.

The renewal of the special rate and charge provides a sound financial basis for the Niddrie Traders Association to respond to economic challenges and to promote the Niddrie Business Precinct for another five year period. The economic vibrancy of Niddrie is dependent on traders working cohesively to protect and enhance their investment in the Moonee Valley community.

Appendices

Appendix A: Niddrie Business District Proposed Declaration of Special Rate and Charge (separately circulated)
Appendix B: Special Rate and Charge Niddrie Business Precinct objections
Appendix B: Objections/Submissions

Intention to declare a special rate and charge for the Niddrie Business Precinct 2018 to 2023

This document includes full extracts including supporting documentation, technical drawings and/or letters provided with submissions.

A total number of 4 submissions have been received. None of the submitters have requested to present at this meeting.
All correspondence received - Intention to Declare a Special Rate and Charge for the Niddrie Business Precinct 2018 to 2023

<table>
<thead>
<tr>
<th>Name</th>
<th>Business</th>
<th>Type</th>
<th>Date</th>
<th>Request</th>
<th>Officer Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Anthony Dobinson</td>
<td>Business Owner Paint Spot Niddrie 390 Keilor Road</td>
<td>Written Objection</td>
<td>16 October 2017</td>
<td>Objection No perceived benefit</td>
<td>This Keilor Road business is within the boundaries of the Niddrie Special Rate and Charge. It is considered all commercial, retail and professional properties will derive a special benefit from the expenditure of the special rate and charge funds.</td>
</tr>
<tr>
<td>2. Phill Harrison</td>
<td>Property Manager on behalf of the Jalcam Pty Ltd</td>
<td>Written Objection</td>
<td>31 October 2017</td>
<td>Objection Undue additional financial stress on tenants. Lack of Council contribution to the overall budget</td>
<td>The properties owned by Jalcam Pty Ltd are located within the boundaries of the Niddrie Special Rate and Charge and have various business tenants. It is considered all commercial, retail and professional properties will derive a special benefit from the expenditure of the special rate and charge funds. Council contributes to the administration and renewal of the Special Rate and Charge. This is estimated to be $20,000 which is not taken from the funds collected. 100% of the Special Rate and Charge is paid to the Niddrie Traders Association.</td>
</tr>
<tr>
<td>3. Jim Dellis</td>
<td>Shop 10/383 Keilor Road</td>
<td>Written Objection</td>
<td>16 November 2017</td>
<td>Objection No perceived benefit</td>
<td>This Subway franchise business is located in Niddrie Shopping Centre and within the boundaries of the Niddrie Special Rate and Charge. It is considered all commercial, retail and professional properties will derive a special benefit.</td>
</tr>
<tr>
<td>Name Business</td>
<td>Type</td>
<td>Date</td>
<td>Request</td>
<td>Officer Comment</td>
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<td>-------------------------------------------------------------------------------------------------</td>
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</tr>
<tr>
<td>4. Pasquale and Livia Barletta</td>
<td>Written Objection</td>
<td>16 November 2017</td>
<td>Objection</td>
<td>This property is located within the boundaries of the Niddrie Special Rate and Charge. It is considered all commercial, retail and professional properties will derive a special benefit from the expenditure of the special rate and charge funds.</td>
<td></td>
</tr>
</tbody>
</table>

benefit from the expenditure of the special rate and charge funds.
From: Anthony Dobinson [mailto:anthonydobinson@paintspot.com.au]
Sent: Monday, 16 October 2017 1:07 PM
To: Business@MVCC <business@mvcc.vic.gov.au>
Cc: 'David Tite' <davidtite@paintspot.com.au>
Subject: ATTN: Bryan Lancaster, OBJECTION TO THE SPECIAL RATE AND CHARGE. 390 Keilor Rd, Niddrie

Hi Bryan,

I am the owner of Paint Spot Niddrie which is located at 390 Keilor Rd, Niddrie of which I am the tenant. I have attached as evidence the transfer of lease where it states that I am responsible to pay all outgoings to the property under which the special rate and charge applies. I am writing to inform you that I OBJECT to the Special Rate and Charge. I feel the additional costs to the business aren’t beneficial to the growth of my business. As the store is located at the North Western end of the shopping strip that relies more on “Foot Traffic”, all promotional activity and events held tend to focused on the Central and Hoffmans Road end of the precinct. As my store is more reliant on the ability of my customers driving to my store I feel the funds saved in the event of abolishing the special rate and charge would be better spent on other forms of marketing and promotion specific to my business. Please feel free to call should you require any further clarification.

Regards,

Anthony Dobinson
Director - Paint Spot Niddrie
390 Keilor Road, Niddrie
P. +613 9379-1960
F. +613 9379-5660
31 October 2017

Mr Bryan Lancaster
Chief Executive
Moonee Valley City Council
PO Box 896
MOONEE PONDS VIC 3050

Dear Mr Lancaster

OBJECTION: FORMAL OBJECTION TO PROPOSED SPECIAL RATE & CHARGE IN NIDORIE BUSINESS DISTRICT 2018 – 2023

We wish to express our objection to the proposed extension of the current special rate levy.

On behalf of the landlord, Jalcom Pty Ltd our objections are summarized as follows:

* Undue additional financial stress on tenants.
* Lack of contribution by council to the overall budget.

It is our position that while many of the initiatives of the Tradesmen Plaza are positive and well received, many of them are inherently council roles and as such a contribution should be made by council towards the budget. This would reduce the pressure on our tenants and reduce the impact of the proposed 20% increase.

Nidorie businesses are suffering from the likes of Latrobe, and the downturn in the retail spending. It is the role of council, through already collected council rates to help and work in this area to create prosperity and growth.

Undue additional financial stress on tenants:

* The current special levy has added further financial stress on the tenants with little impact.
* The current program has focused on Wallis Mall through activities and upgrades.
* There has been very little effort or programming for retail live east of Hofmann Road.
* The council rates should be funding street initiatives, and should not be achieved through increased levies. We would propose that council contribute 50% of the proposed budget.
Funds utilised for Core Council works

- The core objectives of improved signage, information boards and directories are all council responsibilities for which our retailers pay council rates. The council should contribute to these works.
- 10% of the budget, being presentation and maintenance are inherently council roles. Graffiti removal should be provided by council through the council rates.
- Within the Marketing budget are banners for the streets, again a cost that should be borne through the council rates, not an additional special levy. The banners do not increase business to the area, and in most areas, councils fund these themselves. They are of aesthetic benefit to the whole community and should be paid for by the community through collective-council rates.

We strongly object to any further unusual financial burden on the retailers of Niddrie and object to council not contributing to the overall fund.

Kind Regards,

Phil Harrison
Property Manager
M: 0413 660 509
D: 69 5613 8407
E: pharrison@burgessrawson.com.au
From: Jim Dellis
To: Business@MVCC
Subject: Niddrie Special Rip Off Rate & Charge

To whom it may concern,

I would like to declare that I object to the proposal of Niddrie Special Rip Off rate and charge for the following reasons:

Based on the current activities and outcomes achieved by the Niddrie Traders Association, most of the activities and promotional attempts of the past have primarily concentrated in the Niddrie Mall area and very little focus and activity has occurred and flowed east of Hoffman's road. As a shop owner at Niddrie Centre I have not experienced any major activity at the center organised by the Niddrie Traders Association, and the very little activity that has been there has had no benefits to us traders and shoppers. I see similar trends repeating if this new levy is introduced. There is very little strength, history and reputation to work from that indicates that this levy will make a difference.

Some of the previous funds spent on previous activity have been for graffiti removal which shouldn't be the cost of shop owners. This should be an incurred cost by council which are already paid for by tax dollars which we already pay!

It is very unclear what the funds will be spent on and how they will be prioritized. I believe it is ludicrous to be asking shop owners for funds to pay for activities which don't explain in any detail how these funds will benefit how they will be prioritized. Relying on a hand full of committee members to supposedly represent the diverse range shop owners has not work up until now and will not work in the future.

As a shop owner at Niddrie Central I pay $4000 per annum of my own income on advertising, promotions and sponsorship of sporting clubs. This has worked successfully at our store in attracting customers to our store and the shopping center. I am also charge $1400 promotional levy by my own landlord for promotional strategies/activities at the Niddrie Central. I am not prepared to give away additional funds to council and a committee that mainly represents the Niddrie Mall area and by reputation has not made a difference to Niddrie shopping precinct and in particular Niddrie Central.

The information provided states that the purpose of funding is to employ a Shopping center co-ordinator and for advertising, marketing and business development. Niddrie Central already charges us a shop owners these services. These funds are duplication of services/activity and funds!

Retail wise, the past 3 years have been difficult times for shop owner. Rates, utilities, rent, outgoings, food cost, labour cost have increased dramatically, which is impacting on shop owners/tenants. This is not the time to be charging extra funds.

If you as a greedy council decide to go through with this, then their needs to be guaranteed outcomes for what the funds will deliver to Niddrie and represent the diverse group of shops and locations.

And last of all, the consultation process is flawed. To believe that all shop owners will respond as I have by email or in person is naive and not a inclusive process. Many shop owners that I know do not have the ability and confidence to respond in this format. This approach is not the most inclusive way to attain a majority response. I would be important that council report back on how many responses they receive with name and details of respondents. If the representation is low/minimal will council base their decision on limited information?

Regards

Jim Dellis
Mobile: 0424 055 007
Shop10/383 Keilor Road, Niddrie
From: Sam Bogusa [mailto:s.r.bpmp@spio.net.au]
Sent: 16 November 2017 21:20
To: Business@MVCC <business@mvcc.vic.gov.au>
Subject: Objection to Special Rate-Niddrie Business Precinct

Dear Bryan, we wish to submit an objection to the proposed special rate for Niddrie Business Precinct. Whist we would like to support business development activities, we face constant challenges of securing tenants. This rate then creates further financial burdens. As landlords we feel we have not benefited from the scheme.

Your sincerely

Pasquale & Livia Barletta

485A Keilor Rd, Niddrie
9.12 Flemington Business Precinct Special Rate and Charge Declaration

File No: FOL/18/32
Author: Joy Saunders
Business Development Officer
Directorate: Planning & Development

Purpose
The purpose of this report is to declare a Special Rate and Charge for the Flemington Business Precinct commencing on 1 July 2018 and ending on 30 June 2023.

Executive Summary
- At the Ordinary Meeting on 26 September 2017, Council gave notice of its intention to declare a Special Rate and Charge for the Flemington Business Precinct seeking submissions from business and property owners liable to pay the Flemington Special Rate and Charge. Refer (Appendix A – separately circulated).

- In accordance with sections 163(1A) and 163B(3) of the Local Government Act 1989, public notices appeared in The Moonee Valley Leader on Wednesday 11 October 2017 requesting submissions and objections.

- Separate letters enclosing a copy of the public notice were forwarded to all business and property owners within the Flemington Business Precinct (including those located on Racecourse Road from Coronet Street to Epsom Road which forms the extension of the geographical area).

- The Special Rate and Charge will apply to 124 rateable properties within the Flemington Business Precinct and will raise $60,000 in the first year and increase in $2,500 increments per year for a five year period from 1 July 2018 to 30 June 2023. The Special Rate and Charge will collect $310,000 over the five year period.

- Council received one (1) objection from approximately 250 business operators and property owners who were written to within the Precinct. Refer (Appendix B).

- There is support and commitment from local traders to renew the Special Rate and Charge for a further five years and a Business Plan has been developed to demonstrate that commitment. Refer (Appendix C – separately circulated).
Recommendation
That Council:

1. Having considered all submissions received and taken account of all objections lodged and complied with the requirements of sections 163A, 163B and 223 of the Local Government Act 1989 (Act), and otherwise according to law, hereby declares a Special Rate and Charge under section 163(1) of the Act for the purposes of defraying expenses to be incurred by Council in providing funds to the incorporated body known and operating as the Flemington Chamber of Commerce (Chamber), which funds, subject always to the approval, direction and control of Council, are to be used for the purposes of funding a part-time Shopping Centre Coordinator, promotional, advertising, marketing, business development and other incidental expenses as approved by Council and agreed to from time to time between Council and the Chamber, all of which are associated with the encouragement of commerce, retail and professional activity and employment in the Flemington Business Precinct (Business Precinct).

2. Endorse that the criteria which form the basis of the declaration of the Flemington Special Rate and Charge are the ownership and the capital improved value of rateable land used, or reasonably capable of being used, for commercial retail or professional purposes, which rateable land is situated within the geographical area in which the properties described in paragraphs 7 and 8 of this declaration are included.

3. In declaring the Flemington Special Rate and Charge, is performing functions and exercising powers in relation to peace, order and good government of the municipal district of the City of Moonee Valley, in particular the encouragement of commerce, retail activity and employment opportunities within the area for which the Flemington Special Rate and Charge is declared.

4. Endorse the total cost of the performance of the function and the exercise of the power by Council (in relation to activities associated with the encouragement of commerce, retail activity and employment opportunities in the area for which the Flemington Special Rate and Charge is declared); and confirm that the total amount of the Special Rate and Charge to be levied by Council is referrable to an amount of $60,000 in the first year and increase in $2,500 increments, for a five year period (year five will collect $70,000) collecting a total of $325,000.

5. Set the period for which the Flemington Special Rate and Charge is declared and will remain in force is a period of five years commencing 1 July 2018 and ending on 30 June 2023.

6. Note amounts have respectively been assessed by –
   a) an 80 per cent special rate component calculated and assessed by multiplying the capital improved value of each property in the boundary by a rate in the dollar (adjusted annually);
   b) a 20 per cent fixed special charge component assessed as a flat charge of $96.00 in the first year;
   c) the Special Rate and Charge will be capped at a maximum amount of $5,000 per rated property.
7. Define that the area for which the Flemington Special Rate and Charge is declared, as all of the land referred to as the Business Precinct, as identified and shown on the plan set out in the attachment forming a part of this declaration (Appendix A – Schedule 1 - separately circulated).

8. Define the land in relation to which the Flemington Special Rate and Charge is declared as all that rateable land described in the listing of rateable properties set out in the attachment forming a part of this declaration (Appendix A – Schedule 2 - separately circulated).

9. Levy the Special Rate and Charge by sending a notice of levy in the prescribed form annually to the person who is liable to pay the Special Rate and Charge, which will require that the Special Rate and Charge must be paid by two instalments, to be paid by the dates which are fixed by Council in the notice.

10. Consider cases of financial and other hardship and may reconsider other payment options for the Flemington Special Rate and Charge.

11. Endorse that no incentives will be given for payment of the Flemington Special Rate and Charge before the due date for payment.

12. Considers that there will be a special benefit to the persons required to pay the Flemington Special Rate and Charge because there will be a benefit to those persons that is over and above, or greater than, the benefit that is available to persons who are not subject to the Special Rate and Charge, and directly and indirectly as a result of the expenditure of the Special Rate and Charge the viability of the Business Precinct as a business, commercial and retail area, and the value and the use, occupation and enjoyment of the properties and the businesses included in the Flemington Special Rate and Charge will be maintained or enhanced through increased economic activity.

13. For the purposes of having determined the total amount of the Flemington Special Rate and Charge to be levied under the scheme, further considers and formally determines for the purposes of sections 163(2)(a), (2A) and (2B) of the Act that the estimated proportion of the total benefits of the Scheme to which the performance of the function and the exercise of the power relates (including all special benefits and community benefits) that will accrue as special benefits to all of the persons who are liable to pay the special rate and charge is in a ratio of 1:1 (100 per cent). This is on the basis that, in the opinion of Council, all of the services and activities to be provided from the expenditure of the Flemington Special Rate and Charge are marketing, promotion and advertising related and will accordingly only benefit those properties and businesses included in the scheme that are used, or reasonably capable of being used, for retail, commercial or professional purposes.

14. Authorise the Chief Executive or the person for the time being acting in that position, for the purposes of paragraph 14 of this resolution, to prepare the funding agreement between Council and the Chamber by which administrative arrangements in relation to the Flemington Special Rate and Charge are confirmed, such agreement being to ensure that at all times, and as a precondition to the payment of any fund by Council to the Chamber, Council is and remains, legally responsible for approving, directing and controlling the expenditure of the proceeds of the Flemington Special Rate and Charge in accordance with its obligations under the Local Government Act 1989 to do so,
and such funding agreement to be submitted to Council for sealing.

15. Enters into a funding agreement with Flemington Chamber of Commerce to enable the administration of proceeds of the Flemington Special Rate and Charge for the period of the Special Rate and Charge.

16. Give notice to all owners and occupiers of properties included in the Flemington Special Rate and Charge and all persons who have lodged a submission and/or objection in writing of the decision of Council to declare and levy the Flemington Special Rate and Charge commencing on 1 July 2018, and the reasons for the decision.

17. Confirm that for the purpose of paragraph 16, the reasons for the decision of Council to declare the Flemington Special Rate and Charge are that –
   a) There is minimal objection to the Scheme and it is otherwise considered that there is a broad level of support for the Special Rate and Charge from all property owners and occupiers;
   b) Council considers that it is acting in accordance with the functions and powers conferred on it under the Local Government Act 1989, having regard to its role, purposes and objectives under the Act, particularly in relation to the encouragement of commerce, retail activity and employment opportunities in and around the Scheme area;
   c) All persons who are liable or required to pay the Flemington Special Rate and Charge and the properties respectively owned or occupied by them will receive a special benefit in the form of an enhancement or maintenance in land values and/or a maintenance or enhancement in the use, occupation and enjoyment of the properties; and
   d) The basis of distribution of the Flemington Special Rate and Charge amongst those persons who are liable or required to pay the Special Rate and Charge is considered to be fair and reasonable.

18. Advise the Chamber of the matters specified in paragraphs 1, 14 and 15 of this resolution.

Background

The Flemington Special Rate and Charge has been operating since 1992 in the Business Precinct and it is considered that the services provided from the proceeds have provided a special benefit to the rated businesses and properties within the boundary. The current Flemington Special Rate and Charge will expire on 30 June 2018.

The services that have been provided from the proceeds of the Special Rate and Charge, all being marketing-related, have been designed to benefit the commercial and business and property owners in the Flemington Business Precinct. The Flemington Special Rate and Charge currently raises $57,500 annually.

The Flemington Chamber of Commerce provided a written request in May 2017 that Council declare a new Special Rate and Charge for the Flemington Business Precinct and extend the boundary to include the commercial, retail or professional businesses along Racecourse Road from Coronet Street to Epsom Road.
Discussion

Submissions

Council received one (1) objections from approximately 250 business operators and property owners who were written to within the precinct. Refer Appendix B.

Summary of submissions

a) The one objection received was on the grounds that the business is a logistics business. It is located within the boundaries of the Flemington Special Rate and Charge but perceives no benefit as their customers are from throughout Australia with little or none being local. Increasing the number of visitors to Flemington to shop does not increase his business. Officer recommendation is to not include this business.

The Flemington Chamber of Commerce has developed a draft Business Plan (Appendix C – separately circulated) to guide marketing and promotion for the business precinct over the next five years.

In consideration of all the submissions, this report recommends that each commercially rateable property included in the Flemington Business Precinct boundary is required to pay the Special Rate and Charge and will receive a special benefit because the viability of the business precinct as a commercial, retail and professional area will be enhanced through economic activity.

Consultation

Council has consulted extensively with the Flemington Chamber of Commerce, business operators and property owners throughout the process.

In July 2017, a survey was sent to all business and property owners within the Flemington Business Precinct seeking feedback on the current rate and whether or not they support its renewal. There were 220 letters sent in total with 16 completed and returned. The low rate of return implied passive endorsement. Of those who responded, 40 per cent indicated support for the rate.

A Public Notice in accordance with sections 163(1A) and 163B(3) of the Local Government Act, appeared in The Moonee Valley Leader Wednesday 11 October 2017, requesting submissions and objections.

Every property owner and trader involved within the Flemington Special Rate and Charge boundary was notified via letter which included copies of the advertisement placed in The Leader, and detailed information regarding how to make a submission or objection to the Special Rate and Charge. Submissions were required to be lodged with Council by 5pm on Friday 17 November 2017 and verbal submission/s heard at a Section 223 Committee hearing on Monday 4 December 2017. None of the submitters requested to speak and so the hearing committee meeting was not required. Councillors on the hearing committee have considered the submissions and recommended that this report be referred to the full Council.
Implications

1. Legislative

In accordance with Section 163 of the Local Government Act 1989 Council must determine a number of matters when considering a new Special Rate or Charge. These matters are addressed in this report.

2. Council Plan / Policy

Theme 4: Vibrant and Diverse

Strategic objective 1: Support economic growth and development in the municipality.

Economic Development Strategy 2014

Economic Theme 1: Active precincts for all.

To achieve these outcomes, the implementation of a special rate and charge will assist shopping centres like the Moonee Ponds Business District to remain vibrant and successful.

3. Financial

Council’s contribution to the special rate and charge is the provision of resources for set up and administration. This is included in the operational budgets of the various departments involved.

4. Environmental

The special rate and charge aims to support local businesses which in turn supports the local community. By shopping locally, residents can reduce traffic congestion and related impacts to the environment.

Conclusion

The renewal for the Flemington Special Rate and Charge has the support and endorsement of the Flemington Chamber of Commerce. It is considered that all of the commercial, retail and professional properties in the Flemington Business Precinct will derive a special benefit from the expenditure of Special Rate and Charge funds and the viability of the business precinct as a commercial and retail centre will be further enhanced.

The intention to declare a Special Rate and Charge by way of renewal has invited public comment and provided Council the opportunity to review the proposed rate in light of public submissions before its ultimate declaration.

The renewal of the special rate and charge provides a sound financial basis for the Flemington Chamber of Commerce to respond to economic challenges and to promote the Flemington Business Precinct for another five year period. The economic vibrancy of Flemington is dependent on traders working cohesively to protect and enhance their investment in the Moonee Valley community.
Appendices

Appendix A: Flemington Business Precinct Special Rate and Charge Proposed Declaration (separately circulated)
Appendix B: Special Rate and Charge Objections 2017
Appendix C: Flemington Chamber of Commerce Business Plan 2018 (separately circulated).
Appendix B: Objections/Submissions

Intention to declare a special rate and charge for the Flemington Business Precinct 2018 to 2023

This document includes full extract including supporting documentation, technical drawings and/or letters provided with submissions.

A total number of 1 submission have been received. This submitter has not requested to present at this meeting.
All correspondence received - Intention to Declare a Special Rate and Charge for the Flemington Business Precinct 2018 to 2023

<table>
<thead>
<tr>
<th>Name Business</th>
<th>Type</th>
<th>Date</th>
<th>Request</th>
<th>Officer Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. John Hands Property and Business Owner, 17-31 Newmarket Street, Flemington</td>
<td>Written Objection</td>
<td>17 November 2017</td>
<td>Objection</td>
<td>The Special Rate and Charge boundaries are set by the Traders Association. This business, until 2016/17, has not been invoiced to pay the Special Rate and Charge. We believe there is a case for this business to be exempted due to the nature of the customers. This is not a retail business that relies on passing traffic. It is the only warehouse located within the Special Rate and Charge boundaries and as such receives little benefit.</td>
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</tbody>
</table>
From: John Hands [mailto:jhands@kha.com.au]
Sent: Friday, 17 November 2017 11:54 AM
To: Business@MVCC <business@mvcc.vic.gov.au>
Subject: OBJECTION to Special Rate Charge

Mr Bryan Lancaster
Chief Executive
Moonee Valley City Council
P O Box 126
Moonee Ponds. Vic. 3039

Special rate and charge

OBJECTION

I am writing as Owner/Director of Evorglim P/L which owns the property situated at 17-31 Newmarket Street Flemington and as Owner/Director of Ken Hands Agencies which operates the business situated at 17-31 Newmarket Street Flemington.

We are vehemently against the Special Rate and Charge as proposed by the MVCC as it would have zero impact or benefit to our business.

The business is a warehouse which despatches goods Australia wide to a network of resellers. We do not deal with end users or the public in any way from the premises or any other premises we operate.

The proposed charge of $96.00 + $770.61 = $ 866.61 would be an imposition as there would be zero benefit for the business from the charge for the following reasons.

1/ We operate a warehouse only, we are not open to the public.
2/ We operate 8am to 5pm week days only. There are no weekend hours of operation.
3/ We would not benefit from any activities planned in the area especially the Racecourse Road shopping precinct.
4/ We are not in the main shopping precinct eg Racecourse Road.
5/ No festivities or events even if held in Newmarket St on weekdays would be a benefit to us, in fact would be a hinderance because they would prevent the smooth running of our business as we have trucks and delivery vehicles constantly.
6/ Any marketing and advertising sponsored by the charge are of no benefit to us. Promotional activities would not extend to our premises and even if they did we would not participate as it would be counterproductive for us.

7/ Business is hard enough without being forced to pay a fee that will give us zero benefit.

8/ Last year was the first time we had received an invoice for the Special Rate Charge which was accidently paid through an internal error but brought the issue to our attention.

9/ No staff members live in the area so there is no benefit to them.

10/ We wish to be EXEMPT from any further Special Rate Charge for all the above reasons.

Regards,

John Hands
Ken Hands Agencies
25 Newmarket Street, Flemington, Vic, 3031

Email : jhands@kha.com.au
Mobile : +61 407 545 387
Phone : +61 3 9372 6500
Fax : +61 3 9372 6688
Web : http://www.kha.com.au
9.13 Union Road Business Precinct Special Rate and Charge Declaration

File No: FOL/18/32
Author: Joy Saunders
Business Development Officer
Directorate: Planning & Development

Purpose
The purpose of this report is to declare a Special Rate and Charge for the Union Road Business Precinct commencing on 1 July 2018 and ending on 30 June 2023.

Executive Summary
- At the Ordinary Meeting on 26 September 2017, Council gave notice of its intention to declare a Special Rate and Charge for the Union Road Business Precinct seeking submissions from business and property owners liable to pay the Union Road Special Rate and Charge. Refer Appendix A (separately circulated).
- In accordance with sections 163(1A) and 163B(3) of the Local Government Act 1989, public notices appeared in The Moonee Valley Leader on Wednesday 11 October 2017 requesting submissions and objections.
- Separate letters enclosing a copy of the public notice were forwarded to all business and property owners within the Union Road Business Precinct.
- The Special Rate and Charge will apply to 163 rateable properties within the Union Road Business Precinct and will raise $60,000 in the first year and increase in $2,500 increments per year for a five year period from 1 July 2018 to 30 June 2023. The Special Rate and Charge will collect $325,000 over the five year period.
- Council received six (6) objections from approximately 330 business operators and property owners who were written to within the Precinct. Refer Appendix B (separately circulated).
- There is support and commitment from local traders to renew the Special Rate and Charge for a further five years and a Business Plan has been developed to demonstrate that commitment. Refer Appendix C (separately circulated).
Recommendation

That Council:

1. Having considered all submissions received and taken account of all objections lodged and complied with the requirements of sections 163A, 163B and 223 of the Local Government Act 1989 (Act), and otherwise according to law, hereby declares a Special Rate and Charge under section 163(1) of the Act for the purposes of defraying expenses to be incurred by Council in providing funds to the incorporated body known and operating as the Union Road Traders (Traders Association), which funds, subject always to the approval, direction and control of Council, are to be used for the purposes of funding a part-time Shopping Centre Coordinator, promotional, advertising, marketing, business development and other incidental expenses as approved by Council and agreed to from time to time between Council and the Traders Association, all of which are associated with the encouragement of commerce, retail and professional activity and employment in the Union Road Business Precinct (Business Precinct).

2. Endorse that the criteria which form the basis of the declaration of the Union Road Special Rate and Charge are the ownership and the capital improved value of rateable land used, or reasonably capable of being used, for commercial retail or professional purposes, which rateable land is situated within the geographical area in which the properties described in paragraphs 7 and 8 of this declaration are included.

3. In declaring the Union Road Special Rate and Charge, is performing functions and exercising powers in relation to peace, order and good government of the municipal district of the City of Moonee Valley, in particular the encouragement of commerce, retail activity and employment opportunities within the area for which the Union Road Special Rate and Charge is declared.

4. Endorse the total cost of the performance of the function and the exercise of the power by Council (in relation to activities associated with the encouragement of commerce, retail activity and employment opportunities in the area for which the Union Road Special Rate and Charge is declared); and confirm that the total amount of the Special Rate and Charge to be levied by Council is referrable to an amount of $60,000 in the first year and increase in $2,500 increments, for a five year period (year five will collect $70,000) collecting a total of $325,000.

5. Set the period for which the Union Road Special Rate and Charge is declared and will remain in force is a period of five years commencing 1 July 2018 and ending on 30 June 2023.

6. Note amounts have respectively been assessed by:
   a) an 80 per cent special rate component calculated and assessed by multiplying the capital improved value of each property in the boundary by a rate in the dollar (adjusted annually);
   b) a 20 per cent fixed special charge component assessed as a flat charge of $73.62 in the first year; and
   c) the Special Rate and Charge will be capped at a maximum amount of $5,000 per rated property.
7. Define that the area for which the Union Road Special Rate and Charge is declared, as all of the land referred to as the Business Precinct, as identified and shown on the plan set out in the attachment forming a part of this declaration (Appendix A – Schedule 1 – separately circulated).

8. Define the land in relation to which the Union Road Special Rate and Charge is declared as all that rateable land described in the listing of rateable properties set out in the attachment forming a part of this declaration (Appendix A – Schedule 2 – separately circulated).

9. Levy the Special Rate and Charge by sending a notice of levy in the prescribed form annually to the person who is liable to pay the Special Rate and Charge, which will require that the Special Rate and Charge must be paid by two instalments, to be paid by the dates which are fixed by Council in the notice.

10. Consider cases of financial and other hardship and may reconsider other payment options for the Union Road Special Rate and Charge.

11. Endorse that no incentives will be given for payment of the Union Road Special Rate and Charge before the due date for payment.

12. Considers that there will be a special benefit to the persons required to pay the Union Road Special Rate and Charge because there will be a benefit to those persons that is over and above, or greater than, the benefit that is available to persons who are not subject to the Special Rate and Charge, and directly and indirectly as a result of the expenditure of the Special Rate and Charge the viability of the Business Precinct as a business, commercial and retail area, and the value and the use, occupation and enjoyment of the properties and the businesses included in the Union Road Special Rate and Charge will be maintained or enhanced through increased economic activity.

13. For the purposes of having determined the total amount of the Union Road Special Rate and Charge to be levied under the scheme, further considers and formally determines for the purposes of sections 163(2)(a), (2A) and (2B) of the Act that the estimated proportion of the total benefits of the Scheme to which the performance of the function and the exercise of the power relates (including all special benefits and community benefits) that will accrue as special benefits to all of the persons who are liable to pay the special rate and charge is in a ratio of 1:1 (100 per cent). This is on the basis that, in the opinion of Council, all of the services and activities to be provided from the expenditure of the Union Road Special Rate and Charge are marketing, promotion and advertising related and will accordingly only benefit those properties and businesses included in the scheme that are used, or reasonably capable of being used, for retail, commercial or professional purposes.

14. Authorise the Chief Executive or the person for the time being acting in that position, for the purposes of paragraph 14 of this resolution, to prepare the funding agreement between Council and the Chamber by which administrative arrangements in relation to the Union Road Special Rate and Charge are confirmed, such agreement being to ensure that at all times, and as a precondition to the payment of any fund by Council to the Chamber, Council is and remains, legally responsible for approving, directing and controlling the expenditure of the proceeds of the Union Road Special Rate and Charge in accordance with its obligations under the Local Government Act 1989 to do so,
and such funding agreement to be submitted to Council for sealing.

15. Enters into a funding agreement with Union Road Traders Association to enable the administration of proceeds of the Union Road Special Rate and Charge for the period of the Special Rate and Charge.

16. Give notice to all owners and occupiers of properties included in the Union Road Special Rate and Charge and all persons who have lodged a submission and/or objection in writing of the decision of Council to declare and levy the Union Road Special Rate and Charge commencing on 1 July 2018, and the reasons for the decision.

17. Confirm that for the purpose of paragraph 16, the reasons for the decision of Council to declare the Union Road Special Rate and Charge are that –
   a) There is minimal objection to the Scheme and it is otherwise considered that there is a broad level of support for the Special Rate and Charge from all property owners and occupiers;
   b) Council considers that it is acting in accordance with the functions and powers conferred on it under the Local Government Act 1989, having regard to its role, purposes and objectives under the Act, particularly in relation to the encouragement of commerce, retail activity and employment opportunities in and around the Scheme area;
   c) All persons who are liable or required to pay the Union Road Special Rate and Charge and the properties respectively owned or occupied by them will receive a special benefit in the form of an enhancement or maintenance in land values and/or a maintenance or enhancement in the use, occupation and enjoyment of the properties; and
   d) The basis of distribution of the Union Road Special Rate and Charge amongst those persons who are liable or required to pay the Special Rate and Charge is considered to be fair and reasonable.

18. Advise the Traders Association of the matters specified in paragraphs 1, 14 and 15 of this resolution.

Background
The Union Road Special Rate and Charge has been operating since 1992 in the Business Precinct and it is considered that the services provided from the proceeds have provided a special benefit to the rated businesses and properties within the boundary. The current Union Road Special Rate and Charge will expire on 30 June 2018.

The services that have been provided from the proceeds of the Special Rate and Charge, all being marketing-related, have been designed to benefit the commercial and business and property owners in the Union Road Business Precinct. The Union Road Special Rate and Charge currently raises $57,500 annually.

The Union Road Traders Association provided a written request in May 2017 that Council declare a new Special Rate and Charge for the Union Road Business Precinct.
Discussion

Submissions

Council received six (6) objections from approximately 330 business operators and property owners who were written to within the precinct. Refer Appendix B (separately circulated).

Summary of submissions

Three of the objections received were on the grounds that they derived little benefit from the promotional and marketing strategies implemented by the Union Road Traders Association due to their businesses being located near the periphery of the Special Rate and Charge boundary.

Two objections received were on the grounds of there being undue additional financial stress on businesses during a tough economic environment.

One objection was received from a property owner that no longer has a business operating from their building. They have requested to be exempted from paying the levy. Officer recommendation is to not include this business.

The Union Road Traders Association has developed a draft Business Plan (Appendix C – separately circulated) to guide marketing and promotion for the business precinct over the next five years.

In consideration of all the submissions, this report recommends that each commercially rateable property included in the Union Road Business Precinct boundary is required to pay the Special Rate and Charge and will receive a special benefit because the viability of the business precinct as a commercial, retail and professional area will be enhanced through economic activity.

Consultation

Council has consulted extensively with the Union Road Traders Association, business operators and property owners throughout the process.

In July 2017, a survey was sent to all business and property owners within the Union Road Business Precinct seeking feedback on the current rate and whether or not they support its renewal. There were 330 letters sent in total with 27 completed and returned. The low rate of return implied passive endorsement. Of those who responded, 40 per cent indicated support for the rate.

A Public Notice in accordance with sections 163(1A) and 163B(3) of the Local Government Act, appeared in The Moonee Valley Leader Wednesday 11 October 2017, requesting submissions and objections.

Every property owner and trader involved within the Union Road Special Rate and Charge boundary was notified via letter which included copies of the advertisement placed in The Leader, and detailed information regarding how to make a submission or objection to the Special Rate and Charge. Submissions were required to be lodged with Council by 5pm on Friday 17 November 2017 and verbal submissions heard at a Section 223 Committee hearing on Monday 4 December 2017. None of the submitters requested to speak and so the hearing committee meeting was not required. Councillors on the hearing committee have considered the submissions and recommended that this report be referred to the full Council.
Implications

1. Legislative

In accordance with Section 163 of the Local Government Act 1989 Council must determine a number of matters when considering a new Special Rate or Charge. These matters are addressed in this report.

2. Council Plan / Policy

In presenting this report, Council is working to achieve its strategic objective to support the growth of activity centres as entertainment precincts that have a high level of activity day and night to increase the vitality of precincts and the viability of businesses in accordance with Council Plan 2017-21 Theme 4: Vibrant and diverse - Celebrating diversity, promoting participation, and creating a strong economy - Our local economy is strong.

3. Financial

Council’s contribution to the special rate and charge is the provision of resources for set up and administration. This is included in the operational budgets of the various departments involved.

4. Environmental

The special rate and charge aims to support local businesses which in turn supports the local community. By shopping locally, residents can reduce traffic congestion and related impacts to the environment.

Conclusion

The renewal for the Union Road Special Rate and Charge has the support and endorsement of the Union Road Traders Association. It is considered that all of the commercial, retail and professional properties in the Union Road Business Precinct will derive a special benefit from the expenditure of Special Rate and Charge funds and the viability of the business precinct as a commercial and retail centre will be further enhanced.

The intention to declare a Special Rate and Charge by way of renewal has invited public comment and provided Council the opportunity to review the proposed rate in light of public submissions before its ultimate declaration.

The renewal of the special rate and charge provides a sound financial basis for the Union Road Traders Association to respond to economic challenges and to promote the Union Road Business Precinct for another five year period. The economic vibrancy of Union Road is dependent on traders working cohesively to protect and enhance their investment in the Moonee Valley community.

Appendices

Appendix A: Union Road Business Precinct Proposed Declaration of Special Rate and Charge (separately circulated)

Appendix B: Union Road Special Rate and Charge objections (separately circulated)

Appendix C: Union Road Traders Association Draft 5 Year Business Plan (separately circulated).
NOTICES OF MOTION

10.1 Notice of Motion No. 2018/01 - Transparency Measures

File No: FOL/18/32
From: Councillor Nicole Marshall

Take notice that at the Ordinary Meeting of Council to be held on 13 February 2018 it is my intention to move that the following actions be undertaken, as soon as practical or as otherwise indicated, to ensure that Council engages in best practice with regards to governance, accountability and transparency in its decision making:

1. Undertake a review of the way in which Council meetings are conducted in order to improve public participation and engagement.

2. By the date specified or otherwise May 2018, provide online access to the following information via the Council website under a separate “Governance and Transparency” tab as on and from the commencement of the current Council term unless otherwise specified:
   a) Property lease register;
   b) Register of delegations as per sections 87(1) and 98(4) of the Local Government Act 1989 (LGA);
   c) Register of Authorised Officers under s224 of the LGA;
   d) Councillor and staff travel register;
   e) Election campaign donations;
   f) All donations, payments and grants made by Council under the Community Support Framework;
   g) Submissions received under section 233 of the LGA;
   h) Register of annual salaries for senior officers, including the Chief Executive Officer;
   i) Register of Authorised Officers under s188 of the Planning and Environment Act 1987;
   j) Councillor gift register;
   k) Council submissions made to third parties;
   l) Conflict of interest declarations for Councillors;
   m) As soon as practicable after the adoption of the 2018/19 Council Budget, a list of future tender opportunities, including proposed advertising period;
   n) Open space contributions including the contribution total as at the commencement of this Council term and on a post code basis, the contributions made each financial year;
   o) the address of all Council owned properties valued in excess of $500K;
p) as soon as practicable after the commencement of the 2018/2019 financial year, a list of major service contracts above $750,000 including a description of the service provider and the services provided;

q) Other contributions made by planning permit applicants pursuant to the Moonee Valley Planning Scheme in connection with a planning permit;

r) A list of corporate sponsorships received by Council;

s) With effect on and from the execution of the next contract of a CEO, the CEO’s contract of employment and salary details. For the avoidance of doubt this does not include the current contract of Bryan Lancaster.

3. That the information disclosed pursuant to point 2 be updated no less frequently than every quarter other than 2s which should be disclosed upon execution of each new contract.

**Officer Comments**

The Notice of Motion is supported.

Much of this information is already publicly available and/or reported either on Council’s website, in the register of interests, in the minutes of Council meetings or in the Annual Report. This proposal would consolidate it in one place and is very similar to a model adopted by the City of Melbourne. Officers have reservations about part ‘s’ which has the potential to negatively impact Council’s recruitment for future CEOs. The CEO’s salary is already disclosed. No other Council in Victoria adopts this practice.
Notice of Motion No. 2018/02 - Establishment of Working Group with City of Melbourne

File No: FOL/18/32
From: Councillor Nicole Marshall

Take notice that at the Ordinary Meeting of Council to be held on 13 February 2018 it is my intention to move that the CEO write to Mr Ben Rimmer, CEO of the City of Melbourne requesting the establishment of a working group made up of Councillors, officers and community members from the City of Moonee Valley and the City of Melbourne to consider:

1. Options to improve connectivity from Royal Park to the Flemington Racecourse; and
2. Opportunities for cohesive planning along Racecourse Road as the shared boundary between the two municipalities.

Officer Comments

The Notice of Motion is supported.

Notice of Motion is entirely consistent with MV2040 Visioning Paper which included the following.

In 2040 Flemington will:

- Have an attractive, cosmopolitan and inclusive activity centre at Racecourse Road
- Include an excellent network of cycling and walking connections within and to other neighbourhoods.

A meeting has been scheduled with the CEO of the City of Melbourne and if this Notice of Motion is successful, the request will be added to the agenda for discussion.
10.3 Notice of Motion No. 2018/03 - Request for reintroduction of the Moonee Valley City Council Waste Calendar

File No: FOL/18/32  
From: Councillor Narelle Sharpe

Take notice that at the Ordinary Meeting of Council to be held on 13 February 2018 it is my intention to move that Council bring a report back to Council on 27 March 2018 regarding the costs associated with the printing and distribution of the MVCC Waste Calendar, with a view to re-implementing such publication for the 2019 year and beyond.

Officer Comments

The Notice of Motion is supported.

Council’s Waste, Communications and Environment teams made the decision to reduce the format of the annual waste and recycling calendar in 2018, saving design, print and distribution costs.

Consultation on the Council Plan and MV2040 told us that residents want Council to be environmentally sustainable and responsible, and reduce our amount of printing over time.

Many other councils, including Yarra, Darebin, Frankston, Hume, Nillumbik, Cardinia and Macedon Ranges have replaced their annual waste and recycling calendar with a condensed document similar, or have stopped producing a calendar, instead using online and social media tools, newsletters and local papers to communicate waste and recycling schedules.

A report will be prepared for the 27 March 2018 Ordinary Meeting of Council.
CONFIDENTIAL REPORTS

Closure of meeting to public

Recommendation
That Council resolve to close the meeting to the public pursuant to Section 89(2) of the Local Government Act 1989 to discuss the following matters:

12.1 Highball Strategic Directions

Item 12.1 is Confidential under the terms section 89(2) of the Local Government Act 1989 as it contains information relating to: (e) proposed developments.