Agenda

Ordinary Meeting of Council

Tuesday, 24 July 2018
6.30pm
TO:

Members:  Cr John Sipek               Mayor
                      Cr Samantha Byrne   Deputy Mayor
                      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 Steven Lambert   Director City Services
                      Ms Natalie Reiter   Director Planning & Development
                      Mr Petrus Barry     Acting Director Organisational Performance
                      Mr Gil Richardson   Acting Director Asset Planning & Strategic Projects
                      Ms Allison Watt     Manager Communications & Governance
                      Ms Vera Mitrovic-Misic Acting Manager Statutory Planning
Business:

1. Opening

2. Apologies

3. Confirmation of Minutes
   Ordinary Meeting of Council held on Tuesday, 10 July 2018.

4. Declarations of Conflict of Interest

5. Presentations

6. Petitions and Joint Letters

7. Public Question Time

8. Reports by Mayor and Councillors
   Written and verbal reports presented to the Council by the Mayor and Councillors .................................................................5

9. Reports
   9.1 16 Brees Road, East Keilor (Lot 179 on PS094984) - Construction of three dwellings ..........................................................11
   9.2 1032-1036 Mt Alexander Road, Essendon (Lot 5 on LP 4120 and Lot 1 on TP 298948C) - Use and development of a multi-storey residential apartment building within a Design and Development Overlay (DDO3) and alteration of access to a road in a Road Zone, Category 1 ........................................................................36
   9.3 Reviewing Statutory Planning Protocols ........................................63
   9.4 Draft Nature Strip Policy..................................................................75
   9.5 Environmental Upgrade Finance Program ........................................109
   9.6 Review of Right of Way Policy Abutting Developments .................118
   9.7 Return of the 2018 General Revaluation ...........................................127
   9.8 Draft Gifts, Benefits and Hospitality Policy .......................................131
   9.9 Draft Meeting Procedure Protocol .....................................................134
   9.10 Notices of Motion Quarterly Report ................................................138
   9.11 Report on Assemblies of Councillors - June to July 2018 ..............141

10. Notices of Motion
    Nil.
11. Urgent Business

12. Confidential Reports
   12.1 Phone Replacement Proposal ................................................................. 148

13. Close of Meeting

BRYAN LANCASTER
Chief Executive Officer
8.1 REPORTS BY MAYOR AND COUNCILLORS

File No: FOL/18/32
Author: Marita McLeod
Administration Officer - Councillor Support
Directorate: Organisational Performance

Recommendation
That reports by the Mayor and Councillors be received.

8.1 Report by Mayor, Councillor Sipek

30 May 2018 Participated in photo opportunity with The Leader newspaper for Council’s Winter Fest
31 May 2018 Chaired Grants Assessment Committee decision meeting
1 June 2018 Participated in photo opportunity with The Leader newspaper promoting FIFA World Cup Promotion

Opened “Standing Still, Looking Back, Looking Forward” Exhibition at the Incinerator Gallery, Moonee Ponds
3 June 2018 Attended “Vesak Day” celebration held at Quang Minh Buddhist Temple, Braybrook

Opened Winter Music Festival at the Clocktower Centre, Moonee Ponds
5 June 2018 Chaired Special Council Meeting

Chaired Strategic Briefing Session
6 June 2018 Attended meeting with Chief Executive Officer and Georgie Crozier MP regarding Council’s Advocacy Strategy

Attended 2nd Ramadan Dinner hosted by Inner North West Blue Light and Victoria Police at Estonian House, Brunswick West

Attended “Meet the Playwright – Hannie Rayson” held in Council Chambers
8 June 2018 Attended Family Iftar Dinner – Celebrations for Ramadan at Flemington Community Centre
9 June 2018 Attended on site meeting with Niddrie resident
10 June 2018 Attended event at ICKA Club, Keilor East
<table>
<thead>
<tr>
<th>Date</th>
<th>Event Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>12 June 2018</td>
<td>Attended briefing with Manager Leisure regarding upcoming FIFA World Cup screening event and 2018 Spirit of Moonee Valley event.  &lt;br&gt; Chaired Ordinary Meeting of Council.</td>
</tr>
<tr>
<td>13 June 2018</td>
<td>Chaired Sports and Community Organisations Portfolio Advisory Committee meeting.</td>
</tr>
<tr>
<td>14 June 2018</td>
<td>Attended Commemorative Plaque Ceremony held at the Depot for former staff member.  &lt;br&gt; Chaired Overland Reserve Project Control Group meeting.  &lt;br&gt; Opened Council’s “Gardening In Small Spaces” event held at Avondale Heights Library and Learning Centre.</td>
</tr>
<tr>
<td>15 June 2018</td>
<td>Attended on site meeting at Centreway, Keilor East with traders.</td>
</tr>
<tr>
<td>16 June 2018</td>
<td>Attended Flemington Annual Multicultural EID Festival at Flemington Community Centre.</td>
</tr>
<tr>
<td>17 – 20 June 2018</td>
<td>Attended National General Assembly of Local Government Conference held in Canberra.</td>
</tr>
<tr>
<td>18 June 2018</td>
<td>Attended afternoon tea with Governor General His Excellency The Hon. Peter Cosgrove.</td>
</tr>
<tr>
<td>24 June 2018</td>
<td>Opened Council’s “Winter Music – Songs of Love and War” at St Martin de Porres, Avondale Heights.</td>
</tr>
<tr>
<td>25 June 2018</td>
<td>Attended meeting with Director City Services regarding Aged Care services.</td>
</tr>
<tr>
<td>26 June 2018</td>
<td>Attended meeting with Chief Executive Officer and Stakeholder regarding a local business.</td>
</tr>
<tr>
<td></td>
<td>Attended Place Name Proposal meeting with Governance Officer.</td>
</tr>
<tr>
<td></td>
<td>Chaired Ordinary Meeting of Council.</td>
</tr>
<tr>
<td>8.2</td>
<td><strong>Report by Councillor Byrne</strong>  &lt;br&gt; 31 May 2018</td>
</tr>
<tr>
<td></td>
<td>1 June 2018</td>
</tr>
</tbody>
</table>
4 June 2018  Attended ANZAC Centenary Community Coordinating Committee meeting

5 June 2018  Attended Special Council Meeting
Attended Strategic Briefing Session

6 June 2018  Attended meeting with Jackie Fristacky for mentoring

12 June 2018  Opened Morning Music Launch Season Two at the Clocktower Centre, Moonee Ponds
Attended Ordinary Meeting of Council

14 June 2018  Attended Council’s “Gardening In Small Spaces” event held at Avondale Heights Library and Learning Centre

16 June 2018  Attended Flemington Annual Multicultural EID Festival at Flemington Community Centre

18 June 2018  Attended Audit Committee meeting

23 June 2018  Attended Ladies Day supporting “Share the Dignity” at Doutta Stars Football Club,

26 June 2018  Attended Place Name Proposal meeting with Governance Officer
Attended Ordinary Meeting of Council

Throughout reporting period – Attendances at planning application sites and meetings with residents in relation to issues of concern

8.3 Report by Councillor Cusack
30 May – 26 June 2018  Leave from Council
26 June 2018  Attended Ordinary Meeting of Council

8.4 Report by Councillor Gauci Maurici
30 May – 26 June 2018  Maternity Leave from Council
26 June 2018  Attended Ordinary Meeting of Council

8.5 Report by Councillor Lawrence
1 June 2018  Attended briefing with Acting Director on Buckley Street Level Crossing
Attended “Standing Still, Looking Back, Looking Forward” Exhibition at the Incinerator Gallery, Moonee Ponds

3 June 2018  Attended Buckley Street Level Crossing protest held in Rose Street, Essendon
5 June 2018
Attended Special Council Meeting
Attended Strategic Briefing Session

6 June 2018
Attended meeting with Chief Executive Officer
Chairled Consultation briefing and meeting in relation to 53 Hayes Road, Strathmore planning application
Attended “Meet the Playwright – Hannie Rayson” held in Council Chambers

12 June 2018
Attended Ordinary Meeting of Council

15 June 2018
Attended Western Chances Good Business Forum held at Zinc, Federation Square, Melbourne
Attended Presidents Night of Rotary Club of Essendon

17 – 20 June 2018
Attended National General Assembly of Local Government Conference held in Canberra

21 June 2018
Attended meeting with resident

23 June 2018
Attended Strathmore Street Party as part of Council’s “Strathmore 20-minute neighbourhood pilot project”

26 June 2018
Attended Ordinary Meeting of Council

8.6 Report by Councillor Marshall

31 May 2018
Attended Grants Assessment Committee Decision meeting

5 June 2018
Attended meeting with Manager Community Planning and resident regarding discussions on Australia Day
Attended Special Council Meeting
Attended Strategic Briefing Session

12 June 2018
Attended Ordinary Meeting of Council

14 June 2018
Attended Moonee Valley Sustainability Champions meeting

18 June 2018
Attended Wingate Committee meeting

19 June 2018
Attended meeting with Director Planning and Development regarding discussion on Planning Scheme Review

20 June 2018
Attended Flemington Association meeting

26 June 2018
Attended Ordinary Meeting of Council
Throughout reporting period – Attendances at planning application sites and meetings with residents in relation to issues of concerns

8.7 **Report by Councillor Nation**

30 May – 26 June 2018  Verbal Report

8.8 **Report by Councillor Sharpe**

30 May – 26 June 2018  Verbal Report

8.9 **Report by Councillor Surace**

<table>
<thead>
<tr>
<th>Date</th>
<th>Activity</th>
</tr>
</thead>
<tbody>
<tr>
<td>31 May 2018</td>
<td>Opened Council’s Moonee Valley Principal’s Breakfast</td>
</tr>
<tr>
<td></td>
<td>Attended East Keilor Leisure Centre for Celebration of 30 years’ service for three staff members</td>
</tr>
<tr>
<td></td>
<td>Attended Grants Assessment Committee Decision meeting</td>
</tr>
<tr>
<td>1 June 2018</td>
<td>Attended briefing with Acting Director on Buckley Street Level Crossing</td>
</tr>
<tr>
<td>2 June 2018</td>
<td>Attended Avondale Heights Football Club Ball</td>
</tr>
<tr>
<td>3 June 2018</td>
<td>Attended Buckley Street Level Crossing protest held in Rose Street, Essendon</td>
</tr>
<tr>
<td>4 June 2018</td>
<td>Attended on site meeting with Niddrie resident</td>
</tr>
<tr>
<td></td>
<td>Attended ANZAC Centenary Community Coordinating Committee meeting</td>
</tr>
<tr>
<td>5 June 2018</td>
<td>Attended on site meeting with resident of Essendon</td>
</tr>
<tr>
<td></td>
<td>Attended Strategic Briefing Session</td>
</tr>
<tr>
<td>6 June 2018</td>
<td>Attended meeting with Manager Governance and Communications to discuss proposed Notice of Motions</td>
</tr>
<tr>
<td>7 June 2018</td>
<td>Attended meeting with resident</td>
</tr>
<tr>
<td></td>
<td>Attended “The Future is West” Launch hosted by LeadWest held at Parliament House, Melbourne</td>
</tr>
<tr>
<td>12 June 2018</td>
<td>Attended meeting with Manager Leisure to discuss Art Works</td>
</tr>
<tr>
<td></td>
<td>Attended meeting with Planning Officers and resident regarding planning application for 2 Heather Avenue, East Keilor</td>
</tr>
<tr>
<td></td>
<td>Attended Ordinary Meeting of Council</td>
</tr>
<tr>
<td>17 – 20 June 2018</td>
<td>Attended National General Assembly of Local Government Conference held in Canberra</td>
</tr>
</tbody>
</table>
26 June 2018

Attended on site meeting with resident in Corio Street, Aberfeldie

Attended Ordinary Meeting of Council
## REPORTS

### 9.1 16 Brees Road, East Keilor (Lot 179 on PS094984) - Construction of three dwellings

**File No:** FOL/18/32  
**Author:** Grant Michell  
**Directorate:** Planning and Development

<table>
<thead>
<tr>
<th>Planning File No.</th>
<th>MV/762/2017</th>
</tr>
</thead>
</table>
| **Proposal**            | Construction of three dwellings, comprising:  
                           - Double storey height.  
                           - Basement garage for Dwelling 1.  
                           - Tandem parking for Dwellings 2 and 3. |
| **Applicant**           | Your Design Group Pty Ltd |
| **Owner**               | Mr Pasquale Versace |
| **Planning Scheme Controls** | General Residential Zone |
| **Planning Permit Requirement** | Clause 32.08-6 – to construct two or more dwellings on a lot. |
| **Car Parking Requirements** | Required: 6 car spaces  
                                    Proposed: 6 car spaces |
| **Bicycle Requirements** | N/A |
| **Restrictive Covenants** | None |
| **Easements**           | A 1.83 metre wide sewerage and drainage easement is located along the northern boundary. |
| **Site Area**           | 639m² |
| **Number Of Objections**| 27 objections from 26 properties. |
| **Consultation Meeting**| 18 April 2018 |
Executive Summary

- The application seeks approval for the construction of three double storey dwellings.
- The site area is approximately 639m², located on the northwest corner of Brees Road and College Parade, East Keilor.
- The application was advertised and 27 objections from 26 properties were received. Concerns were raised in relation to over-development, neighbourhood character, scale, number of dwellings, impacts on traffic and parking, construction and precedent.
- A Consultation Meeting held on 18 April 2018 was attended by Councillors Sipek and Byrne, Objectors, the Permit Applicant and Council's Planning Officer. There was no resolution achieved.
- The application was referred to various internal departments who have not objected to the application subject to conditions on any issued planning permit.
- The proposal demonstrates an appropriate level of compliance with the relevant policies and provisions of the Moonee Valley Planning Scheme. It proposes intensification in a well-established residential area proximate to public transport, commercial, community and public facilities. The architectural response is considered appropriate within the site context and presents a high level of articulation.
- The proposal achieves an acceptable level of compliance with the Standards of Clause 55, with one technical area of non-compliance. The variation associated with the front setback of Dwelling 3 is 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.
- This report recommends Council issues a Notice of Decision to Grant a Permit, 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/762/2017 for the construction of three dwellings at 16 Brees Road, East Keilor (Lot 179 on PS094984), subject to the following conditions:

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

   a) The sill heights of all windows;
   b) The front porch for Dwelling 3 to be no more than 3.6 metres in height;
   c) A Landscape Plan in accordance with Condition 4 of this permit;
   d) A notation stating that all habitable room windows required to be screened are in accordance with Clause 55.04-6 (Standard B22 Overlooking) of the Moonee Valley Planning Scheme and to be restricted to opening no more than 150mm;
   e) In accordance with Condition 3, a prominent note on all plans and elevations stating: ‘Refer to endorsed BESS Report for all Environmental Sustainable Design, commitments and requirements’;
   f) All crossovers to be a maximum of 3 metres in width and construction in accordance with Moonee Valley Council’s Vehicle Crossing Policy and to match the crossovers;
   g) The annotation of all permeable surfaces in accordance with the submitted STORM report;
   h) Details of the western boundary fence to the rear of the secluded private open spaces areas of Dwellings 1 and 2;
   i) The Mona Lisa bicycle spaces to be a minimum of 1.5 metres above finished floor level; and
   j) The ramp grades for the tandem car spaces of Dwellings 2 and 3 must be no steeper than 1:20 in the direction of parking and 1:16 in all other directions.

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 published BESS report must be submitted simultaneously with the submission of amended plans and to be in accordance with Clause 21.04 (Sustainable Environment) of the Moonee Valley Planning Scheme.

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 in an electronic format to and approved by the Responsible Authority. The landscape plans and schedule must be prepared by a person or
firm with suitable qualifications to the satisfaction of the Responsible Authority, drawn to scale with dimensions and show:

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

b) A planting schedule of all proposed vegetation (trees, shrubs and ground covers) which includes, botanical names, common names, pot size, mature size and total quantities of each plant;

c) The use of drought tolerant species;

d) The provision of at least 2 canopy trees within the front setback of Dwelling 1, 1 canopy tree within the front setbacks of Dwellings 2 and 3, and 1 canopy tree within the rear of Dwelling 2 and Dwelling 3, which are able to achieve a minimum mature height of 4 metres;

e) Features such as paths, paving and accessways;

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

g) 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

h) An appropriate irrigation system.

When approved, the landscape plans 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.

At all times, the landscaping plan must be maintained in good order in accordance with the endorsed landscape plan and schedule and to the satisfaction of the Responsible Authority.

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 trees or shrub damaged, removed or destroyed must be replaced by a tree or shrub or similar size and variety to the satisfaction of the Responsible Authority.

6. A minimum 30 days prior to any buildings 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 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 this purpose.

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

11. 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 space 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.

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

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

Before the development starts a Drainage Layout Plan, including computations and manufacturers 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.

14. 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.

15. The street tree within College Parade 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.

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

17. 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 and the use is not commenced 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 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.

- 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 calculations: $C=0.4$, $t_c=5\text{mins}$, ARI 1 in 5. An ARI of 1 in 10 should be used for storage and the greater of post development $C$ or $C=0.80$.

- All drainage works undertaken must be in accordance with the requirements of Stormwater Drainage Requirements for Development Works as prepared by the Moonee Valley Planning Scheme.

- All works undertaken within any existing road reserves must accord with the requirements of Moonee Valley City Council's Asset Permit and Protection Department and be to the satisfaction of the Responsible Authority.

- Council will not accept any modifications to the existing levels within the road reserve. Any changes in levels to match existing surface levels along property boundary lines must be made within the property boundary.

- The development authorised by this permit will require the submission of a Construction and Site Management Plan (CSMP) prior to the commencement of any works. All CSMPs are required to be made via Council’s new online system at [http://www.mvcc.vic.gov.au/planning-and-building/planning/construction-site-management-plans.aspx](http://www.mvcc.vic.gov.au/planning-and-building/planning/construction-site-management-plans.aspx) or in person at 9 Kellaway Avenue, Moonee Ponds.

- No on street parking permits will be provided to the occupiers of the land.

1. **Introduction**

1.1 **Subject Site and Surrounds**

The subject property is located on the northwest corner of Brees Road and College Parade, Keilor East. The site is located approximately 180 metres southeast of Rosehill Park and 560 metres west of St Bernard’s College.

There is a sewerage and drainage easement along the site’s northern boundary and there are no registered restrictive covenants on title.

The subject site currently accommodates a single storey brick dwelling with a pitched roof.
The surrounding land is within a General Residential Zone. Residential developments proximate to the subject site are varied, with a mix of single dwellings on large allotments and multi-unit developments.

The character of the area can be described as transitional, with the provision of newer contemporary double storey dwellings and a number of multi-unit developments further to the south east. External materials are a mixture of brick, weatherboard and rendered finishes in differing colours. Building frontages vary from single to double frontages. Roof forms in the area are predominantly hipped with some examples of gabled-ended roof forms.

1.2 Proposal

The proposal seeks to construct three double storey dwellings. Dwelling 1 includes a basement level with two car spaces and access to Brees Road. Dwellings 2 and 3 are oriented to College Parade and are provided with parking in a tandem arrangement. Each dwelling includes three bedrooms.

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 (Maximum height 12m)</td>
</tr>
<tr>
<td>Site Coverage</td>
</tr>
<tr>
<td>Permeability</td>
</tr>
<tr>
<td>Garden Area (Mandatory 30%)</td>
</tr>
</tbody>
</table>
Refer Appendix B Plans.

2. **Background**

2.1 **Relevant Planning History**
No previous planning applications have been determined for the subject site.

2.2 **Planning Policies & 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

**Local Planning Policy Framework**

- Clause 21.01 Municipal Profile
- Clause 21.02 Key Issues and Influences
- Clause 21.03 Vision
- Clause 21.04 Sustainable Environment
- Clause 21.05 Housing
- Clause 21.06 Built Environment
- Clause 22.03 Stormwater Management (Water Sensitive Urban Design)

**Zoning**

- Clause 32.08 General Residential Zone

**Overlays**

N/A

**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 undertaken.

The following internal referrals were undertaken:
Table 2

<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>No objection subject to standard parking and crossover conditions.</td>
</tr>
<tr>
<td>Development Engineering (Drainage)</td>
<td>No objection subject to 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, 27 objections from 26 properties were received and identified within Appendix A of this report. The objections are discussed at Section 3.5 of this report.

2.5 Consultation Meeting

A Consultation Meeting was held on 18 April 2018, which was attended by Councillors Sipek and Byrne, Objectors, the Permit Applicant and Council’s Planning Officer. There was no resolution achieved.

3. Discussion

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

The relevant State and Local Planning Policy Framework objectives are considered to have been satisfied by the proposal. The policy framework objectives broadly encourage consolidation of urban allotments in locations which can provide housing diversity and take advantage of existing public transport and community and commercial services. Relevant policy guidance is contained within ‘Plan Melbourne 2017-2050: Metropolitan Planning Strategy’ and Clauses 11, 15, 16, 18 and 21.05, which all seek to increase the residential supply in these areas.

The site offers an opportunity for redevelopment considering its size, corner position, and location in a residential area, which already features a range of dwelling densities. The proposed development responds to the objectives and strategies of 21.06 (Built Environment). The key concepts of this clause are assessed against the relevant Neighbourhood Character Precinct Profile Guidelines in Section 3.2.

The proposal complies with Clause 21.04 (Sustainable Environment) and Clause 22.02 (Storm Water Management) through the use of ecological sustainable design principles as highlighted within the submitted BESS
assessment and STORM reports, subject to appropriate conditions on any permit issued requiring additional details on the development plans and an amended STORM report showing all impermeable areas.

The proposal accords with objectives of Clause 21.04-4 (Waste) as it relates to encouraging the use of recycling and achieving best practice in waste minimisation. Waste collection will be undertaken by Council’s waste collection services.

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

The subject land is identified as being within character area ‘Garden Court 3’ within the Moonee Valley Neighbourhood Precinct Profiles 2012. The development is considered a suitable response to the immediate context and the preferred character statement of the precinct as follows:

- The proposed built form is contemporary in style and reflective of the emerging character in the surrounding area.
- The siting and massing of the development is consistent with the pattern of development which has occurred in the immediate and wider area and is responsive to its site context.
- The height of the development at two storeys (8 metres) is consistent with the surrounding built form and predominant height in the streetscapes.
- The setbacks of the dwellings from both street frontages is appropriate and maintains areas for landscaping to contribute to the garden character of the area.
- The spacing of the dwellings at the upper level is acceptable and limits the visual dominance of the development to College Parade.
- The dwellings are provided with pitched roofs and eaves to maintain the surrounding pattern of development.
- The developer has stepped the development in accordance with the slope of the land to limit visual dominance and maintain the prevailing built form of the area.
- The materials and finishes are consistent with the preferred character and incorporates creams and greys common in the surrounding area.
- Garaging has been incorporated within the built form and recessed behind the front walls of the dwellings.
- The basement garage for Dwelling 1 is acceptable as the basement ramp has been tapered at the front setback to limit the presentation of a void within the setback. Additionally, the garage door is incorporated within the design of the dwelling to limit is visual presentation.
- Front fencing is not proposed, which is consistent with the surrounding built form and views of the landscaped frontages are maintained. It is acknowledged there is an area of fencing to College Parade associated with Dwelling 1, however this is acceptable as it encloses an area of secluded private open space is 5.8 metres in length.
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>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Three bedroom dwellings (3)</td>
<td>6</td>
</tr>
<tr>
<td><strong>Totals</strong></td>
<td>6</td>
</tr>
</tbody>
</table>

The development fully complies with the statutory parking requirements of Clause 52.06-5 of the Moonee Valley Planning Scheme.

The design of car spaces and accessways generally complies with the requirements of Clause 52.06-9, including the provision of pedestrian visibility splays.

The application was referred to Council’s Development Engineering (Traffic) Department who do not object to the proposal subject to conditions relating to the crossover construction and ramps for Dwelling 2 and 3. Appropriate conditions have been included to address these matters.

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

The proposal is considered to generally comply with the provisions of Clause 55 as set out in the assessment table (refer to Appendix C). The following points of exception are assessed below:

**Table 4**

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clause 55.03-1 (Standard B6 Street Setback)</td>
<td>The proposed porch for Dwelling 3 is 3.6 metres in height and as such, is not an allowable encroachment into this Standard. It is considered appropriate to include a condition on any permit issued requiring the height of the porch for Dwelling 3 to be reduced in height to not more than 3.59 metres. The front setbacks for Dwelling 1 and Dwelling 2 fully comply with this requirement.</td>
</tr>
<tr>
<td>Clause 55.03-5</td>
<td>The proposed kitchen areas for Dwellings 2 and 3 are provided with little direct daylight access given the location of the laundry areas. It is acceptable in this instance given the orientation of the site and the passive daylight from the living room areas.</td>
</tr>
<tr>
<td>Clause 55.03-8 (Standard B13 Landscaping)</td>
<td>A landscape plan was not submitted with the application. It is considered appropriate to include a condition requiring the submission of a landscape plan demonstrating appropriate landscaping of the development.</td>
</tr>
</tbody>
</table>
Clause 55.04-2 (Walls on Boundaries)
The proposed wall on the western boundary exceeds 3.6 metres in height. This variation is acceptable as the area of non-compliance is minimal in area and due to the slope of the site.

Clause 55.04-6 (Standard B22 Overlooking)
It is appropriate to include a condition requiring all first floor habitable room windows be screened in accordance with Clause 55.04-6 (Standard B22 Overlooking) of the Moonee Valley Planning Scheme. Additionally, all sill heights of the first floor windows will be required by condition on any permit issued.

3.5 Objections (Discussion)
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>Traffic and Parking</td>
<td>Refer to Section 3.4 of this report for discussion.</td>
</tr>
<tr>
<td>Neighbourhood Character</td>
<td>Refer to Section 3.2 of this report for discussion.</td>
</tr>
<tr>
<td>Lack of Landscaping</td>
<td>The site includes sufficient areas within the front setbacks and rear areas of the development for an appropriate landscaping response. Additionally, a condition has been included requiring the submission of a Landscape Plan to clearly demonstrate appropriate landscaping throughout the site.</td>
</tr>
<tr>
<td>Overdevelopment</td>
<td>The proposed density of the development is consistent with the site’s location within an established residential area and urban consolidation objectives of the State Planning Policy Framework.</td>
</tr>
<tr>
<td>Overlooking</td>
<td>Refer to Section 3.4 of this report for discussion.</td>
</tr>
<tr>
<td>Overshadowing</td>
<td>The proposed development complies with Clause 55.04-5 (Standard B21 Overshadowing) of the Moonee Valley Planning Scheme.</td>
</tr>
<tr>
<td>Visual Bulk</td>
<td>Refer to Section 3.2 of this report for discussion.</td>
</tr>
<tr>
<td>Noise Impacts</td>
<td>The proposed development will not result in noise above that commonly found within an urban environment.</td>
</tr>
<tr>
<td>Construction Impacts</td>
<td>This is not a planning consideration. However, a condition has been included requiring the submission of a Construction Management Plan to ensure that the development limits impacts to the surrounding area.</td>
</tr>
<tr>
<td>Issue</td>
<td>Officer Response</td>
</tr>
<tr>
<td>------------</td>
<td>-----------------------------------------</td>
</tr>
<tr>
<td>Precedent</td>
<td>This is not a planning consideration.</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 considered 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 within the recommendation section.

Appendices

- Appendix A: Objector Location
- Appendix B: Advertised Plans
- Appendix C: Clause 55 Assessment Table
Objectors Location for MV/762/2017 at 16 Brees Road, EAST KEILOR

**Objector's Location**

<table>
<thead>
<tr>
<th>Address</th>
<th>Location</th>
<th>Postcode</th>
</tr>
</thead>
<tbody>
<tr>
<td>14 Brees Road, EAST KEILOR</td>
<td>VIC 3033</td>
<td></td>
</tr>
<tr>
<td>27 Brees Road, EAST KEILOR</td>
<td>VIC 3033</td>
<td></td>
</tr>
<tr>
<td>45 Brees Road, EAST KEILOR</td>
<td>VIC 3033</td>
<td></td>
</tr>
<tr>
<td>121 Brees Road, EAST KEILOR</td>
<td>VIC 3033</td>
<td></td>
</tr>
<tr>
<td>79 Brees Road, EAST KEILOR</td>
<td>VIC 3033</td>
<td></td>
</tr>
<tr>
<td>4 Trent Court, EAST KEILOR</td>
<td>VIC 3033</td>
<td></td>
</tr>
<tr>
<td>2 College Parade, EAST KEILOR</td>
<td>VIC 3033</td>
<td></td>
</tr>
<tr>
<td>4 College Parade, EAST KEILOR</td>
<td>VIC 3033</td>
<td></td>
</tr>
<tr>
<td>31 Brees Road, EAST KEILOR</td>
<td>VIC 3033</td>
<td></td>
</tr>
<tr>
<td>13 Brees Road, EAST KEILOR</td>
<td>VIC 3033</td>
<td></td>
</tr>
<tr>
<td>23 Brees Road, EAST KEILOR</td>
<td>VIC 3033</td>
<td></td>
</tr>
<tr>
<td>15 Brees Rd Alley, EAST KEILOR</td>
<td>VIC 3033</td>
<td></td>
</tr>
<tr>
<td>2 Devon Avenue, EAST KEILOR</td>
<td>VIC 3033</td>
<td></td>
</tr>
<tr>
<td>35 Brees Road, EAST KEILOR</td>
<td>VIC 3033</td>
<td></td>
</tr>
<tr>
<td>25 Brees Rd, EAST KEILOR</td>
<td>VIC 3033</td>
<td></td>
</tr>
<tr>
<td>33 Brees Road, EAST KEILOR</td>
<td>VIC 3033</td>
<td></td>
</tr>
<tr>
<td>5 Brees Road, EAST KEILOR</td>
<td>VIC 3033</td>
<td></td>
</tr>
<tr>
<td>14 Brees Road, EAST KEILOR</td>
<td>VIC 3033</td>
<td></td>
</tr>
<tr>
<td>6 Clover Court, EAST KEILOR</td>
<td>VIC 3033</td>
<td></td>
</tr>
<tr>
<td>4 Clover Court, EAST KEILOR</td>
<td>VIC 3033</td>
<td></td>
</tr>
<tr>
<td>46 Brees Road, EAST KEILOR</td>
<td>VIC 3033</td>
<td></td>
</tr>
<tr>
<td>8 Medway Rd, KEILOR</td>
<td>VIC 3036</td>
<td></td>
</tr>
<tr>
<td>1 Devon Avenue, EAST KEILOR</td>
<td>VIC 3033</td>
<td></td>
</tr>
<tr>
<td>19 Brees Road, EAST KEILOR</td>
<td>VIC 3033</td>
<td></td>
</tr>
<tr>
<td>17 Brees Road, EAST KEILOR</td>
<td>VIC 3033</td>
<td></td>
</tr>
<tr>
<td>37 Brees Road, EAST KEILOR</td>
<td>VIC 3033</td>
<td></td>
</tr>
<tr>
<td>2 Trent Court, EAST KEILOR</td>
<td>VIC 3033</td>
<td></td>
</tr>
</tbody>
</table>
16 BREES ROAD, KEILOR EAST

TOWN PLANNING APPLICATION
PROPOSAL FOR THREE RESIDENTIAL DWELLINGS

TP01  Neighbourhood Description Plan
TP02  Design Response Plan
TP03  Basement & Ground Floor Plan
TP04  First Floor Plan
TP05  Elevations
TP06  Shadow Diagrams
TP07  Shadow Diagrams

YOUR DESIGN GROUP

PROPOSED DWELLINGS
A1: 16 BREE'S ROAD, KEILOR EAST

COVER SHEET

PAGE 26
MV762/2017 – 16 Brees Road, East Kellor
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><strong>B1 - Neighbourhood Character</strong></td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td><strong>B 2 - Residential Policy</strong></td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td><strong>B 3 - Dwelling Diversity</strong></td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td><strong>B 4 - Infrastructure Objectives</strong></td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td><strong>B 5 - Integration with the Street Objective</strong></td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td><strong>B6 - Street Setback Objective</strong></td>
<td>X</td>
<td>✓</td>
</tr>
<tr>
<td><strong>B7 - Building Height Objective</strong></td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td><strong>B8 - Site Coverage Objective.</strong></td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td><strong>B9 - Permeability Objectives</strong></td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td><strong>B10 - Energy Efficiency Objectives</strong></td>
<td>✓ subject to condition</td>
<td>✓</td>
</tr>
<tr>
<td><strong>B 11 - Open Space Objective</strong></td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td><strong>B 12 - Safety Objective</strong></td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td><strong>B 13 - Landscaping Objectives</strong></td>
<td>✓ subject to condition</td>
<td>✓</td>
</tr>
<tr>
<td><strong>B 14 - Access Objectives</strong></td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td><strong>B 15 - Parking Location Objectives</strong></td>
<td>✓</td>
<td>✓</td>
</tr>
</tbody>
</table>

**B16 – Parking Provision**

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.

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard</th>
<th>Complies with Objective</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B 17 - Side and Rear Setbacks Objective</strong></td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td><strong>B 18 - Walls on Boundaries Objective</strong></td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td><strong>B 19 - Daylight to Existing Windows Objective.</strong></td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td><strong>B 20 - North-facing Windows Objective</strong></td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td><strong>B 21 - Overshadowing Open Space Objective</strong></td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td><strong>B 22 - Overlooking Objective</strong></td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td><strong>B 23 - Internal Views Objective</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>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>✓</td>
<td>✓</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>N/A</td>
<td>N/A</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**

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard</th>
<th>Complies with Objective</th>
</tr>
</thead>
<tbody>
<tr>
<td>B 35 – Energy Efficiency Objectives</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>B 36 – Communal Open Space Objective</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>B 37 – Solar Access to Communal Outdoor Space Objective</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>B 38 – Deep Soil Areas and Canopy Trees Objective</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<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
9.2  1032-1036 Mt Alexander Road, Essendon (Lot 5 on LP 4120 and Lot 1 on TP 298948C) - Use and development of a multi-storey residential apartment building within a Design and Development Overlay (DDO3) and alteration of access to a road in a Road Zone, Category 1

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

<table>
<thead>
<tr>
<th>Planning File No.</th>
<th>MV/15/2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposal</td>
<td></td>
</tr>
<tr>
<td>• Construction of a six storey building containing 28 dwellings</td>
<td></td>
</tr>
<tr>
<td>• Interface to Cliff Allison Reserve to the rear</td>
<td></td>
</tr>
<tr>
<td>• Car parking spaces and bicycle facilities provided as required at ground and basement levels.</td>
<td></td>
</tr>
</tbody>
</table>

| Applicant         | Parkside Constructions Pty Ltd C/- ARG Planning Pty Ltd |
| Owner             | Andrew Lawrence and Elizabeth Tinney |

Planning Scheme Controls
Commercial 1 Zone
Design and Development Overlay, Schedule 3
Abuts a Road Zone Category 1

Planning Permit Requirement
Clause 34.01-1 – Use of the land for dwellings
Clause 34.01-4 – Construct a building or construct or carry out works
Clause 43.02-2 – Construct a building or construct or carry out works
Clause 52.29 – Create or alter access to a road in a Road Zone, Category 1

Car Parking Requirements
Required – 46 car spaces
Proposed – 47 car spaces

Bicycle Requirements
Required – 9 bicycle spaces
Proposed – 20 bicycle spaces

Restrictive Covenants
None

Easements
None

Site Area
1,132 square metres

Number Of Objections
6

Consultation Meeting
N/A
Executive Summary

- The application seeks planning approval for the construction of a six storey building containing 28 dwellings above two levels of basement car parking.
- The site has an area of approximately 1,132 square metres and is located on the eastern side of Mt Alexander Road, approximately 100 metres north of the intersection with Brewster Street. The site comprises two lots located within the North Essendon Activity Centre, currently occupied by a medical centre and a dwelling.
- The application was advertised and six objections received. The concerns raised mainly related to visual bulk and scale, neighbourhood character, overdevelopment, internal amenity, car parking and traffic and off-site amenity impacts. A Consultation Meeting was not held as less than ten objections were received.
- The application was externally referred to VicRoads. The application was internally referred to Council’s Commercial Property Unit, Development Engineering Unit (Drainage and Traffic), Environmental Sustainable Design Officer, Waste Projects Officer and Urban Designer. The requirements of these various areas are addressed through conditions of any permit issued, where required.
- At a height of six storeys, the proposed development provides a suitable level of intensification in a strategically appropriate context. The design response is highly resolved and will positively contribute to the Mt Alexander Road Corridor, as well as its immediate interfaces. The development achieves a high level of compliance with the relevant State and Local Planning directives and guidelines for higher density built form.
- The proposal achieves a high level of compliance with the standards of Clause 58 (Apartment Developments). A condition of any permit issued will be imposed to ensure technical compliance for accessible apartment layouts.
- This assessment report finds that the proposal demonstrates an adequate level of compliance with the relevant policies and provisions of the Moonee Valley Planning Scheme and recommends that the proposal be supported subject to conditions.

Figure 1 – Aerial photo of the subject site and surrounds
Recommendation

That Council issue a Notice of Decision to Grant a Permit in relation to Planning Permit Application No. MV/15/2018 for the use and development of a multi-storey residential apartment building within a Design and Development Overlay (DDO3) and alteration of access to a road in a Road Zone, Category 1 at 1032-1036 Mt Alexander Road, Essendon (Lot 5 on LP 4120 and Lot 1 on TP 298948C) subject to the following conditions:

1. Before the building approved by this permit is occupied, an application must be made for the consolidation of Lot 5 on LP 4120 and Lot 1 on TP 298948C. Alternatively, an application for the subdivision of the land in accordance with the approved development layout must be made prior to the occupation of the building.

2. Before the development commences, 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 amendments to the car parking and access design and ESD notations as shown on the amended plans dated 16 May 2018 (Revision D);
   b) The provision of a mountable island between the entry and exit lanes;
   c) The extra car space must have a clearance height of less than 2.1 metres for no greater than the first 1 metre in length or alternatively must be designated as a small car space;
   d) The material used below the south-facing habitable room windows on levels 1 and 2 to be clearly annotated;
   e) Dimensions of all door openings, paths and the design of doors and circulation areas within accessible bathrooms to be clearly shown for at least 50% of dwellings in accordance with Table D4 and Standard D17 of Clause 58.05-1 (Accessibility) of the Moonee Valley Planning Scheme;
   f) The provision of 300mm wide trench grates at the bottom of the basement ramps;
   g) Any changes to the stormwater treatment measures and associated annotations as a result of Conditions 4 and 5;
   h) Any changes as a result of Condition 8;
   i) A landscape plan as required by Condition 9; and
   j) The requirements of VicRoads (Condition 29).

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

3. The use and development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
4. An amended STORM Rating Report must be submitted simultaneously with the submission of amended plans in accordance with Condition 2. The STORM Rating Report must correctly show the suitable treatment of stormwater from all balcony areas and obtain a minimum 100% to comply with Clause 22.03-4 (Stormwater Management) of the Moonee Valley Planning Scheme.

5. 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.

6. 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.

7. 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.

8. Before the development commences, an amended Sustainable Management Plan (SMP) that outlines proposed design initiatives must be submitted to and approved by the Responsible Authority. The SMP must be generally in accordance with the SMP submitted with the application, and as amended on 16 May 2018, but modified as follows:
a) Any changes as required by Condition 2 of this permit; and
b) A corrected raingarden design detail.

Upon approval the SMP will be endorsed as part of this planning permit. The development must incorporate the sustainable design initiatives outlined in the endorsed SMP to the satisfaction of the Responsible Authority.

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

a) Any changes as required by Condition 2 of this permit;
b) A complete and fully detailed planting schedule;
c) Design details of planter structures at the upper levels; and
d) An appropriate irrigation system for all ground and upper level planting.

When approved the amended landscape plans will be endorsed and will form part of this permit. Landscaping in accordance with the endorsed landscape plans must be completed before the development is occupied.

10. 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.

11. Before the development commences, the Waste Management Plan prepared by Leigh Design Pty Ltd dated 12 December 2017 is to be updated as required by Condition 2 and submitted to the Responsible Authority for endorsement. 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.

12. Before the development commences, 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) A car parking layout generally in accordance with the relevant requirements of the Australian Standards for Off-Street Car Parking AS/NZS 2890.1-2004 (including ramp grades and dimensions, column location, headroom clearance, etc.);
b) Arrangements for the provision and allocation of car spaces to accord with the endorsed development plans;
c) The management of the residential and visitor parking spaces and security arrangements for occupants of the development, including the provision of an intercom system at the security entrances;

d) Lighting of parking areas, entries and exits;

e) Ventilation of parking areas;

f) Proposed signage to direct occupants and visitors to their designated spaces;

g) No charge being made for car parking without the consent of the Responsible Authority;

h) The entry point and exit point to be provided with appropriate signage and line marking; and

i) Traffic calming measures for inclusion within the accessways and car parking areas on site, including rubber speed humps and speed restrictions as appropriate.

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.

13. Before the construction of the development authorised by this permit commences, other than demolition and works required by the environmental assessment process, a contamination assessment of the land must be submitted to and approved by the Responsible Authority. The assessment must be:

a) Carried out by a suitably qualified environmental professional with suitable qualifications who is a member of the Australian Contaminated Land Consultants Association (Victoria);

b) Carried out in accordance with the Potentially Contaminated Land General Practice Note (Department of Sustainability & Environment June 2005) to the satisfaction of the Responsible Authority; and

c) Paid for by the owner or permit holder along with all costs and expenses associated with the preparation of the Site Contamination Assessment Report and those incurred by the Responsible Authority to review the report.

The Site Contamination Assessment Report must include:

a) A review of the site history, including previous land uses and activities that may have had the potential to cause contamination of the land, and including anything known about the likelihood and significance of any contamination of the land;

b) An assessment of the level, nature and distribution of any contamination within, or in close proximity to, the land;
c) Details of any provisions, recommendations and requirements (including but not limited to, clean up, construction, ongoing maintenance or monitoring) required to effectively address and manage any contamination within the land; and

d) Recommendations as to whether the land is suitable for the use for which the land is proposed to be developed and whether an Environmental Auditor should be appointed under section 53S of the *Environment Protection Act 1970* (EP Act) to undertake an Environmental Audit in accordance with the provisions of the EP Act.

14. If the assessment required by Condition 13 results in a recommendation that an Environmental Auditor does not need to be appointed under section 53S of the EP Act to undertake an Environmental Audit in accordance with the provisions of the EP Act, and this recommendation is accepted by the Responsible Authority:

a) The development authorised by this permit must not be undertaken unless the Site Contamination Assessment Report clearly states that the land is currently or following remediation or other works, will be suitable for the sensitive use for which the land is proposed to be developed;

b) The development authorised by this permit must not be undertaken until compliance is achieved with any provisions, recommendations and requirements that the Site Contamination Assessment Report states must be implemented and complied with before the development commences (pre-commencement conditions);

c) If there are any pre-commencement conditions, then before the construction of the development authorised by this permit commences, a letter prepared by a suitably qualified environmental professional who is a member of the Australian Contaminated Land Consultants Association (Victoria) which states that the pre-commencement conditions have been complied with must be submitted to the Responsible Authority;

d) The development authorised by this permit must not be occupied until compliance is achieved with the provisions, recommendations and requirements that the Site Contamination Assessment Report states must be implemented and complied with before the development is occupied (pre-occupancy conditions);

e) Before the development authorised by this permit is occupied, a letter prepared by a suitably qualified environmental professional who is a member of the Australian Contaminated Land Consultants Association (Victoria) which states that all pre-occupancy conditions have been complied with must be submitted to the Responsible Authority;

f) If any provision, recommendation or requirement of the Site Contamination Assessment Report requires any ongoing maintenance or monitoring, the owner of the land (or another person in anticipation of becoming the owner of the land) must enter into an agreement with the responsible authority pursuant to Section 173 of the *Planning and Environment Act 1987* (Agreement). The Agreement must:
i. Provide for the undertaking of the ongoing maintenance and monitoring as required by the Assessment Report; and,

ii. Be executed before the sensitive use for which the land is being developed commences;

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

15. If the assessment required by Condition 13 results in a recommendation that an Environmental Auditor be appointed under section 53S of the EP Act to undertake an Environmental Audit in accordance with the provisions of the EP Act, before the construction of the development authorised by this permit commences, the Environmental Auditor appointed under section 53S of the EP Act must undertake an Environmental Audit in accordance with the provisions of the EP Act and issue:

a) A Certificate of Environmental Audit for the land in accordance with section 53Y of the EP Act (Certificate); or

b) A Statement of Environmental Audit for the land in accordance with section 53Z of the EP Act (Statement);

and the Certificate or Statement must be provided to the Responsible Authority.

16. If, pursuant to Condition 15, a Statement is issued:

a) The development authorised by this permit must not be undertaken unless the Statement clearly states that the land is suitable for the sensitive use for which the land is being developed;

b) The development authorised by this permit must not be undertaken until compliance is achieved with the terms and conditions that the Statement states must be complied with before the development commences (pre-commencement conditions);

c) Before the construction of the development authorised by this permit commences, a letter prepared by a suitably qualified environmental professional who is a member of the Australian Contaminated Land Consultants Association (Victoria) which states that the pre-commencement conditions have been complied with must be submitted to the Responsible Authority;

d) The development authorised by this permit must not be occupied until compliance is achieved with the provisions, recommendations and requirements that the Statement states must be implemented and complied with before the development is occupied (pre-occupancy conditions);

e) Before the development authorised by this permit is occupied, a letter prepared by a suitably qualified environmental professional who is a member of the Australian Contaminated Land Consultants Association (Victoria) which states that all pre-occupancy conditions have been complied with must be submitted to the Responsible Authority;
f) If any term or condition of the Statement requires any ongoing maintenance or monitoring, the owner of the land (or another person in anticipation of becoming the owner of the land) must enter into an agreement with the responsible authority pursuant to Section 173 of the Planning and Environment Act 1987 (Agreement). The Agreement must:
   i. Provide for the undertaking of the ongoing maintenance and monitoring as required by the Statement; and
   ii. Be executed before the sensitive use for which the land is being developed commences;

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

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

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

19. 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.

20. 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.

21. 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.

22. 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.

23. 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 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 and on-street parking bays. 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.

24. 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.

25. 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.

26. 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.

27. Before the building approved by this permit is occupied, all boundary fencing must be erected. The cost of such fencing must be met by the owner and carried out to the satisfaction of the Responsible Authority.
28. 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.

VicRoads condition

29. The crossover and driveway must be constructed to the satisfaction of the Responsible Authority and at no cost to the Roads Corporation prior to the commencement of use hereby approved.

End of VicRoads condition

30. 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 and the use is not commenced within four (4) years from the date of issue of this permit.

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

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

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 property to pre-development levels in accordance with the following: Cw=0.4, tc=10mins, tso=5mins, ARI 1 in 5. An ARI of 1 in 10 shall be used for storage and the greater of post development Cw or Cw=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.
- 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.

• The development authorised by this permit will require the submission of a Construction and Site Management Plan (CSMP) prior to the commencement of any works. All CSMPs are required to be made via Council’s new online system at http://www.mvcc.vic.gov.au/planning-and-building/planning/construction-site-management-plans.aspx or in person at 9 Kellaway Ave, Moonee Ponds.

• The proposed development requires the construction of a crossover. Separate approval under the Road Management Act for this activity may be required from VicRoads. Please contact VicRoads prior to commencing any works.

1. Introduction

1.1 Subject Site and Surrounds

The subject property is located on the eastern side of Mt Alexander Road, Essendon, approximately 100 metres north of the intersection with Brewster Street. The site is composed of two lots and is irregular in shape with a 26 metre frontage and an overall site area of approximately 1,132 square metres. The land falls approximately 2 metres from north to south. The site is currently occupied by two single storey buildings with one used as a dwelling and the other as a medical centre.

![Subject Site (View from Mt Alexander Road near south-western corner)](image)

The site is located within the North Essendon Activity Centre and along Mt Alexander Road which is affected the Design and Development Overlay (Schedule 3 – Mt Alexander Road Corridor). Properties to the north and south are located within the Commercial 1 Zone, but have been developed for predominantly residential purposes. A development of three single
storey dwellings is located immediately to the north, with a common driveway abutting the boundary of the site. Land further north has been developed with multi-storey apartment buildings ranging from four to seven storeys in height. Land to the south, separated from the site by a laneway has been developed with a three to five storey apartment buildings with small offices at ground level as well as a food and drink premises on the intersection with Brewster Street. The laneway continues around the rear of the site, separating it from the Cliff Allison reserve to the east.

The character of the area is varied, reflecting the high degree of infill development which has occurred. Built form is increasingly characterised by multi-storey apartment buildings which has replaced the lower scale built form that once inhabited the area. The subject site is located in proximity of major arterial roads, public reserves, primary and secondary schools as well as local businesses. The Route 59 tram travels along Mt Alexander Road immediately to the west. Glenbervie railway station is located approximately 700 metres to the north-east, and Essendon railway station is located approximately 600 metres to the south.

1.2 Proposal

It is proposed to construct a multi-storey residential apartment building summarised as follows:

Table 1

<table>
<thead>
<tr>
<th>Residential</th>
<th>28 dwellings comprising:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>• 2 x 1 bedroom</td>
</tr>
<tr>
<td></td>
<td>• 13 x 2 bedroom</td>
</tr>
<tr>
<td></td>
<td>• 13 x 3 bedroom</td>
</tr>
<tr>
<td>Car parking</td>
<td>47 car spaces over two basement levels, including:</td>
</tr>
<tr>
<td></td>
<td>• 42 spaces for residents</td>
</tr>
<tr>
<td></td>
<td>• 5 spaces for visitors</td>
</tr>
<tr>
<td></td>
<td>Vehicle access provided via a basement access ramp at the south-western corner, extending 13 metres along the laneway and 2.1 metres along the Mt Alexander Road frontage</td>
</tr>
<tr>
<td>Bicycle spaces</td>
<td>20 spaces provided at ground and basement level</td>
</tr>
<tr>
<td>Building height</td>
<td>20.1 metres (6 storeys)</td>
</tr>
</tbody>
</table>

Refer Appendix A - Plans (separately circulated).

Following comments from Council’s Environmental Sustainable Design (ESD) Officer and Development Engineering (Traffic) Unit, amended plans were informally submitted on 16 May 2018, summarised as follows:

• Modifications to basement entry ramp, including provision of a passing area and increased pedestrian visibility splays.
• Basement ramps reduced in width to prevent potential confusion with two way access.
• Additional details and dimensions provided for parking areas and accessways, including the location of columns.
• Updated Sustainable Management Plan with additional daylight assessment for ground level dwelling, including additional notations on plans.

Refer Appendix B – Amended Plans (separately circulated).

2. Background

2.1 Relevant Planning History
Records show one historical planning application from 1981 relating to the use of 1032 Mt Alexander Road as a medical clinic. This has no bearing on the consideration of the current application.

2.2 Planning Policies & Decision Guidelines

State Planning Policy Framework
Clause 9 Plan Melbourne
Clause 10.01 Integrated Decision Making
Clause 11 Settlement
Clause 11.06 Metropolitan Melbourne
Clause 13 Environmental Risks
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 21.04 Sustainable Environment
Clause 21.05 Housing
Clause 21.06 Built Environment
Clause 21.07 Activity Centres
Clause 21.09 Transport
Clause 22.03 Stormwater Management (Water Sensitive Urban Design)

Zoning and Overlays
Clause 34.01 Commercial 1 Zone
Clause 43.02 Design and Development Overlay (Schedule 3)

Particular and General Provisions
Clause 52.06  Car Parking  
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 referrals were undertaken:

Table 2

<table>
<thead>
<tr>
<th>External Referrals</th>
<th>Comments/Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>VicRoads (s55)</td>
<td>No objection subject to a condition and permit note</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Internal Referrals</th>
<th>Comments/Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commercial Property</td>
<td>No objection</td>
</tr>
<tr>
<td>Development Engineering</td>
<td>Standard conditions</td>
</tr>
<tr>
<td>(Drainage)</td>
<td></td>
</tr>
<tr>
<td>Development Engineering</td>
<td>No objection to plans amended on 16 May 2018 subject to additional conditions relating to pedestrian sight lines, the installation of a mountable dividing island and the design of the extra car space in the basement</td>
</tr>
<tr>
<td>(Traffic)</td>
<td></td>
</tr>
<tr>
<td>Environmental Sustainable Design</td>
<td>No objection to Sustainable Management Plan amended on 16 May 2018, subject to resolution of raingarden detail</td>
</tr>
<tr>
<td>(ESD) Officer</td>
<td></td>
</tr>
<tr>
<td>Urban Designer</td>
<td>Support for proposed development in terms of height, scale and design detail</td>
</tr>
<tr>
<td></td>
<td>Concern regarding daylight access to north-facing ground floor dwelling (resolved through a supplementary daylight assessment received 16 May 2018)</td>
</tr>
<tr>
<td>Waste Projects Officer</td>
<td>No objection</td>
</tr>
</tbody>
</table>

2.4 Public Notification of the Application

Pursuant to Section 52 of the Act, the application was advertised by mail to surrounding properties and notices displayed on site for 14 days.

A total of six objections were received from the following properties:
• 102/1024, 1A/1028, 1B/1028, 2/1028, 3/1028 and 4/1028 Mt Alexander Road, Essendon.

The concerns raised in these objections are discussed under Section 3.7 of this report.

2.5 Consultation Meeting

Pursuant to Councils Statutory Planning Protocols 2011, a Consultation Meeting was not required as less than 10 objections were received through the notification process.

3. Discussion

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

The relevant State and Local Planning Policy Framework clauses are considered to be met.

The proposal complies with the provisions of Clause 10.01 (Integrated Decision Making). The proposal suitably addresses aspects of economic, environmental and social well-being by balancing differing objectives in favour of net community benefit and sustainable development for the benefit of present and future generations.

Clauses 11 (Settlement), 16 and 21.05 (Housing) seek to encourage urban consolidation in locations which take advantage of existing commercial and community services and public transport. The location of the site within the North Essendon Activity Centre indicates this is a suitable context for the proposed development, with Clause 21.07 (Activity Centres) providing encouragement and guidance for higher intensification in this area. The physical and locational characteristics of the site lend further support, being situated located on an arterial road along the Principal Public Transport Network (PPTN) and within walking distance of two railway stations. The proposal provides an increase housing opportunities to meet growing population needs, providing a diversity of housing choice in a well serviced area with access to a variety of transport options and local/community services.

Pursuant to Clause 13.03-1 (Use of Contaminated and Potentially Contaminated Land), the historical use of the neighbouring reserve as a quarry presents a high risk for site contamination. The proposed residential use is classified as a ‘sensitive use’. Therefore, an environmental site assessment is to be undertaken by a suitably qualified environmental professional prior to the commencement of the proposed use, which will be required as a condition on any permit granted to ensure the site is suitable for residential purposes.

Policy guidelines relevant to the built environment and urban design, Clauses 15 and 21.06, are discussed in detail under the following section.

Clauses 18 and 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, reducing reliance on private vehicle ownership and encouraging sustainable modes of transportation.

The proposal complies with the objectives and strategies of Clause 21.04 (Sustainable Environment) through the use of ecologically sustainable design principles. In response to comments from Council's ESD Officer, an amended Sustainable Management Plan was informally submitted and will be incorporated as a condition of permit along with associated annotations on the plans.

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. Council's Waste Projects Officer had no objection subject to the submitted waste management plan, which will be implemented through a condition of permit.

The proposal complies with Clause 22.03 (Stormwater Management – Water Sensitive Urban Design) by providing adequate on-site stormwater treatment, demonstrated through the submission of a STORM assessment achieving a minimum 100% rating.

3.2 Does the proposal represent an appropriate built form outcome?

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 (Urban Design Principles) provides the main assessment criteria 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.

The Urban Design Guidelines for Victoria 2017 are a policy guideline in support of this clause, which provide high level guidelines for the development of functional and enjoyable places throughout Victoria. The guidelines contained at Element 2 (Movement Network) and Element 5 (Buildings) are of relevance to this application, which are considered to be satisfied for reasons discussed in greater detail below.

Clause 21.06-4 (Urban Design) provides further objectives and strategies which echo the key urban design principles contained within Clause 15.01-2 and the Urban Design Guidelines for Victoria 2017.

It is considered the proposed development complies with Clauses 15.01-2 and 21.06-4, as discussed below:
Context

The proposed development is considered to be appropriate in its context within the Essendon North Activity Centre, assisting in achieving the objectives of the centre as well as the relevant precinct. The design response is considered to be appropriate given the size and location of the site within the Activity Centre, with good access to a range of services including public transport, schools and numerous amenities.

The design response has adequately considered its immediate surrounds as well as its role within the activity centre. The scale, siting, massing and detailed design appropriately responds to the existing context and strategic directive for this location. It will not unreasonably impact upon the amenity of the public realm as ample setbacks are provided from the front side and rear boundaries. The development has a height of six storeys and would be the one of the tallest buildings in this section of the Mt Alexander Road corridor. Given the characteristics of the site and the overall design response as discussed throughout this report, the development is considered to be an appropriate outcome.

The height is suitably managed through an exemplary architectural theme. Upper levels are both physically and visually recessive from surrounding vantage points, with a strong three storey podium providing a street wall and the visual reference point along Mt Alexander Road. The development successfully balances consideration of the existing context and strategic directive for this location, and will not unreasonably impact upon the general amenity of adjoining properties.

The Public Realm

The development would generally make a positive contribution to both the street and neighbouring reserve, achieving an appropriate level of integration between the public and private realm and enhancing the built environment. The design of the street facing dwellings and the residential entrance/lobby area achieves active interfaces around the building. The incorporation of balconies at the upper floor levels provides appropriate articulation of the building façade and maximises opportunities for visibility and passive surveillance. Vehicle and pedestrian entries are well defined and clearly identifiable from the public realm.

Safety

The development provides active frontages which will establish surveillance and security to the street. Glazing to active uses at ground level across the frontage, as well at the upper levels, provide for passive surveillance of the streetscape. This will improve the urban environment by increasing public safety and security.

Landmarks, Views and Vistas

There are no significant monuments or landmarks 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.
Pedestrian Spaces

The entry and lobby area is readily identified from the street, leading to the lift and stairwell providing access to the upper levels. The integrated layout of the entrance area between the street and the internal circulation areas facilitate a high level of residential amenity and ease of movement, including the movement of furniture, emergency access and escape.

Heritage

The site is not subject to a Heritage Overlay and is not immediately adjacent to any heritage buildings. The proposed development does not mimic any existing heritage characteristics found nearby, in accordance with the provisions of the Burra Charter 1999.

Consolidation of Sites and Empty Sites

The proposed development involves the consolidation of two properties, providing a design response that will positively contribute to the built environment. The emerging character of the immediate surrounds features a variety of multi storey buildings in various configurations, and the consolidation of the site would establish an appropriate rhythm within the current streetscape.

Light and Shade

Shadows cast by the development over the public realm are appropriately mitigated by the recessive nature of the proposed building. The proposal would not unreasonably impact on daylight access to the street or neighbouring reserve.

Energy and resource efficient

The development of a multi-level development offers a number of environmentally sustainable outcomes. These include the sharing of floors, walls and ceilings, which assist in the prevention of excessive heat gain and loss. This sharing of floors, walls and ceilings also makes efficient use of resources and building materials.

The proposed development provides a built form designed to maximise the use of natural daylight and ventilation to all dwellings. The use of planter boxes to prevent internal views throughout the development avoids the need for privacy screening, optimising dwelling outlook and internal amenity as well as improving the visual appearance of the building.

A condition of permit will ensure an amended Sustainable Management Plan is provided for endorsement and that the nominated sustainable design initiatives are implemented.

Architectural quality

The development provides a high level of architectural quality and urban design benefit, which will positively contribute to the built environment. The development provides an excellent response to the site’s location and context through a cohesive and engaging architectural design. The building incorporates contrasting render finishes along with horizontal and
vertical cladding that together create an attractive, legible architectural theme.

The three storey podium is finished with a light render broken up vertically with a dark render and planter boxes to the balconies, creating an articulated and attractive street wall. The levels above are treated with lightweight cladding and curved horizontal elements to ensure a recessive presence, with the uppermost level concealed through generous setbacks from each boundary.

A high level of articulation and visual interest is provided along the side elevations and in particular the rear elevation to the reserve, where the building is staggered and broken into three distinct sections in response to the splayed rear boundary. Planting is continued around the building and to the upper levels.

Landscape Architecture

Adequate landscaping has been provided at ground level above to provide a green edge to the streetscape, as well as to the northern residential interface and the rear boundary facing the reserve. These areas will accommodate tree planting which will filter views of the building. Planting is also provided at each level which will soften the appearance of the development and enhance internal amenity for residents. This design response is consistent with the requirements of Clause 58.03-5 (Landscaping) of the Moonee Valley Planning Scheme and is appropriate for a commercially zoned site within an Activity Centre area.

3.3 Does the proposal comply with the requirements of the Commercial 1 Zone and Design and Development Overlay, Schedule 3?

Commercial 1 Zone

A permit is required under the Commercial 1 Zone for both the use of the land for dwellings and buildings and works.

The proposal is considered to address the relevant decision guidelines at Clause 34.01-8. The use of the land for dwellings is appropriate in this location as the majority of surrounding sites have been developed for residential purposes. The inclusion of a commercial use at this section of the road is not considered to be an imperative in achieving the purpose of the zone, also noting the desired outcomes located at Clause 34.01-2. Nonetheless, the street-facing ground floor dwelling has been designed with an adaptable layout which could be converted to a small office.

The urban design and built form outcomes of the proposed building are considered a good response to the site and surrounding area as discussed under Sections 3.2 and 3.4 of this report.

Design and Development Overlay, Schedule 3

The subject site is located within Schedule 3 of the Design and Development Overlay, which applies to land along the Mt Alexander Road Corridor. The overlay implements design objectives for new development, and sets out preferred heights and setbacks for various areas. The Mt Alexander Road Corridor Urban Design Guidelines 2010 are incorporated
as a reference document and form part of the decision guidelines of the overlay.

The site is located within Precinct C1, with the relevant preferred heights and setbacks set out in the table below:

**Table 3**

<table>
<thead>
<tr>
<th></th>
<th>DDO3 (C1)</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Preferred maximum height</td>
<td>18m (5 storeys)</td>
<td>20.1m (6 storeys)</td>
</tr>
<tr>
<td>Front setback (up to 7.5 metres in height)</td>
<td>0</td>
<td>2.2m</td>
</tr>
<tr>
<td>Front setback (above 8 metres in height)</td>
<td>2m</td>
<td>2.2m</td>
</tr>
<tr>
<td>Front setback (above 11 metres in height)</td>
<td>2-8.37m</td>
<td>2.2-9.13m</td>
</tr>
<tr>
<td>Rear setback (below 11 metres in height)</td>
<td>4m</td>
<td>0.35-7.5m</td>
</tr>
<tr>
<td>Rear setback (above 11 metres in height)</td>
<td>4-10.2m</td>
<td>2.7-13.25m</td>
</tr>
</tbody>
</table>

The proposed development meets the general design objectives and decision guidelines of the overlay and the Mt Alexander Road Corridor Urban Design Guidelines 2010 by achieving the following outcomes:

- The development respects the established streetscape presentation along Mt Alexander Road and provides a suitable built form which responds to the existing, emerging and preferred character of the area.

- The contemporary built form reflects the varied built form seen within the streetscape, while incorporating materials, finishes and a landscaping theme that provides a high level of internal amenity. This is considered to positively respond to the existing, emerging and preferred character of the area and also meets the design objective of the overlay which seeks to achieve excellence and diversity in architecture.

- Whilst the proposed development exceeds the preferred maximum height by one storey, it also only exceeds the preferred height of 18 metres by 2.1 metres which demonstrates a relatively minor variation. The uppermost level of the building is provided with appropriate setbacks from each boundary that will effectively limit views from the street, the reserve and neighbouring properties.

- The building meets the preferred setbacks from the front boundary, noting that balconies are allowed to encroach up to 2.5 metres ahead. The partial variations to the preferred rear setbacks are largely due to the splayed rear boundary of the site, where the building presents a modulated and articulated form which will contribute positively to the built form character along the western side of the reserve. The siting of the overall siting and massing of the development provides an appropriate response to the opportunities and constraints of the site.
• The development uses materials and finishes that respond to the prevailing character elements of the surrounding area. External materials and finishes provide visual interest to each elevation, whilst balconies increase articulation and ensure passive surveillance of the street, reserve and the laneway.

• Aside from the laneway to the south, the development is generally not constructed to any boundary.

• A suitable level of landscaping is provided at ground floor level, designed to address the residential character of the streetscape as well as to soften the impact of the development to sensitive interfaces. Planting is also provided at the uppermost level through planter boxes.

• The layout and appearance of car parking facilities, through the use of basement parking from a secondary road is appropriate and has a minimal presence within the façade of the building.

• ESD principles will be suitably incorporated into the design of the proposed dwellings as demonstrated through the submitted Sustainable Management Plan.

3.4 Is the design and provision of car parking appropriate?

A summary of the car parking requirements for the proposal is set out in the table below:

Table 4

<table>
<thead>
<tr>
<th>Component</th>
<th>Requires</th>
<th>Provides</th>
</tr>
</thead>
<tbody>
<tr>
<td>One-bedroom dwellings (x2)</td>
<td>2</td>
<td>2 (-)</td>
</tr>
<tr>
<td>Two-bedroom dwellings (x13)</td>
<td>13</td>
<td>14 (+1)</td>
</tr>
<tr>
<td>Three-bedroom dwellings (x13)</td>
<td>26</td>
<td>26 (-)</td>
</tr>
<tr>
<td>Residential visitors</td>
<td>5</td>
<td>5 (-)</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>46</strong></td>
<td><strong>47 (+1)</strong></td>
</tr>
</tbody>
</table>

The proposal satisfies the requirement of Clause 52.06-3 for on-site car parking provision, with surplus parking provided for the two-bedroom dwellings.

The application was referred to Council’s Development Engineering (Traffic) Unit, who raised concerns with the layout of the parking and access arrangement, mainly due to potential two-way traffic conflict and pedestrian view lines to the southern laneway. These have been addressed through the plans amended on 16 May 2018 (Appendix B – separately circulated), which will be incorporated through condition of any permit issued. Further changes were also recommended to provide a mountable island at the basement access point, and to address a reduced clearance height for the extra car space. Additional conditions will address these requirements.
The requirements of VicRoads will also be addressed by a permit condition, complying with Clause 52.29.

3.5 **Is the design and provision of bicycle facilities appropriate?**

A summary of the bicycle facilities requirement is set out in the table below:

Table 5

<table>
<thead>
<tr>
<th>Use</th>
<th>Requires</th>
<th>Provides</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dwellings</td>
<td>9</td>
<td>20 (+11)</td>
</tr>
</tbody>
</table>

The development exceeds the required provision for bicycle facilities for each component and provides them in a conveniently accessible manner.

3.6 **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 point of exception, where the standard has not been met, is discussed in the following table:

Table 6

<table>
<thead>
<tr>
<th>ResCode Standard</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clause 58.05-1</td>
<td>All apartments are generally capable of meeting the dimensions required by this standard. To ensure full compliance with the requirements of</td>
</tr>
<tr>
<td>(Accessibility)</td>
<td>this standard, a condition of permit will require the following notations to be provided for at least 50% of the dwellings:</td>
</tr>
<tr>
<td>Standard D17</td>
<td>- A clear path with a minimum width of 1.2 metres connecting the dwelling entrance to the main bedroom, an adaptable bathroom and the living area.</td>
</tr>
<tr>
<td></td>
<td>- The dimensions of all dwelling and main bedroom entry doors to be at least 850mm.</td>
</tr>
<tr>
<td></td>
<td>- Doors to adaptable bathrooms to meet the design requirements of Table D4 (either sliding, or removable hinges).</td>
</tr>
<tr>
<td></td>
<td>- Adaptable bathrooms provided with the required path to circulation under Table D4 where relevant.</td>
</tr>
</tbody>
</table>

3.7 **Objections (Discussion)**

The following table provides a discussion of the concerns raised within the objections to the application:
### Table 7

<table>
<thead>
<tr>
<th>Issue</th>
<th>Officer Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Visual bulk and scale Excessive height</td>
<td>The development is considered to be an appropriate design response to the physical opportunities and constraints of the site as discussed under Section 3.2 of this report.</td>
</tr>
<tr>
<td>Overdevelopment</td>
<td>In light of the level of housing intensification encouraged by policy and the Activity Centre context of the site, the proposal is considered to represent an appropriate degree of change and growth.</td>
</tr>
<tr>
<td>Traffic/car-parking impacts</td>
<td>The provision of parking and generation of traffic are considered to be acceptable, subject to modifications discussed under Section 3.4 of this report.</td>
</tr>
<tr>
<td>Pedestrian safety</td>
<td>With the changes shown on the informal amended plans discussed under Section 3.4 of this report, pedestrian visibility splays will be provided around the basement access ramp which will ensure view lines between vehicles and pedestrians utilising the laneway. A condition requiring a mountable island between the entry and exit lanes will ensure vehicles approach the intersection with the laneway at a 90 degree angle, further improving pedestrian safety.</td>
</tr>
<tr>
<td>Off-site amenity impacts (noise, overlooking, overshadowing)</td>
<td>As discussed throughout this report and in light of compliance with the relevant requirements of Clause 58, it is not considered that the development would result in unreasonable impacts on the amenity of neighbouring properties. Services are suitably located and concealed within the roof plant enclosure.</td>
</tr>
<tr>
<td>Impact on solar panels</td>
<td>Survey information and aerial photography indicates that there are no existing solar panels which would be affected by the development. It is noted that the shadow cast by the proposal would leave space for panels to be installed without shade on the roof of the neighbouring building to the south.</td>
</tr>
<tr>
<td>Stormwater, flooding impacts</td>
<td>Standard conditions required by Council’s Development Engineering (Drainage) Unit will ensure stormwater run-off and on site drainage is designed and approved in accordance with the relevant standards.</td>
</tr>
</tbody>
</table>
### Issue

| Light spill | It is not considered that the proposed residential development would result in any detrimental light spill to neighbouring properties. A standard condition of permit will ensure any lighting to accessways and communal areas is appropriately limited to prevent both internal and off-site amenity impacts. |
| Construction impacts | A condition of any permit issued would require the submission of a Construction and Site Management Plan prior to the commencement of any works. |

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

### Appendices

- Appendix A: Plans (separately circulated)
- Appendix B: Amended Plans (separately circulated)
- Appendix C: Apartment Developments Assessment
APPENDIX C

MV/15/2018 – 1032-1036 Mt Alexander Road, Essendon
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>D1 - Urban Context Objectives</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>D2 - Residential Policy Objectives</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>D3 - Dwelling Diversity Objective</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>D4 - Infrastructure Objectives</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>D5 - Integration with the Street Objective</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>D6 - Energy Efficiency Objectives</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>D7 - Communal Open Space Objective</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>D8 - Solar Access to Communal Outdoor Open Space Objective</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>D9 - Safety Objective</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>D10 - Landscaping Objectives</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>D11 - Access Objective</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>D12 - Parking Location Objectives</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>D13 - Integrated Water and Stormwater Management Objectives</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>D14 - Building Setback Objectives</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>D15 - Internal Views Objective</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>D16 - Noise Impacts Objectives</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>D17 - Accessibility Objective</td>
<td>✓</td>
<td>Condition</td>
</tr>
<tr>
<td>D18 - Building Entry and Circulation Objectives</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>D19 - Private Open Space Objective</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>D20 - Storage Objective</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>D21 - Common Property Objectives</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>D22 - Site Services Objectives</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>D23 - Waste and Recycling Objectives</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>D24 - Functional Layout Objective</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>D25 - Room Depth Objective</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>D26 - Windows Objective</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>D27 - Natural Ventilation Objectives</td>
<td>✓</td>
<td>✓</td>
</tr>
</tbody>
</table>

✓ – Complies
x – Non-compliance
N/A – Not applicable
9.3 Reviewing Statutory Planning Protocols

File No: FOL/18/32
Author: Petrus Barry
Acting Director Organisational Performance
Directorate: Planning and Development

At its meeting on 10 July 2018 Council resolved that the matter be deferred to the meeting to be held on 24 July 2018.

Purpose

To present a report that reviews Council’s Statutory Planning Protocols (Protocols) previously adopted in 1997 and amended in 2004 and 2011. The review includes information about current shortcomings, legislative requirements, data on performance and surveys conducted in respect of Consultation Meetings.

At its Ordinary meeting on 8 May 2018 Council resolved that consideration of this report be deferred to a future Ordinary Council Meeting and that consultation occur with a representative sample of those who have attended consultation meetings to obtain further information on their effectiveness.

Executive Summary

- Council’s Protocols were initially introduced in January 1997, updated in November 2004 and again in March 2011.
- The Department has benchmarked delegations and procedures with similar Councils and conducted a survey amongst 32 Victorian Councils in relation to Consultation Meetings.
- Following Council direction on 8 May 2018 a representative survey amongst attendees of Consultation Meetings over the last 12 months has concluded that Consultation Meetings should continue. A number of areas for improvement were also identified in the responses.
- Improvements to the protocols, delegations and Development Assessment Panel (DAP) operations will assist in reducing time frames for finalising planning applications. This includes the way that objections are counted for purposes of triggers to consider applications at an Ordinary Council Meeting.
- Provision is also made for simplifying some delegation processes in certain instances, such as urgent VCAT matters.
- The proposed changes to the Protocols are required to streamline and improve the planning processes as undertaken by the Statutory Planning Department and it is recommended that they be accepted.
Recommendation

That Council:


2. Updates its Instrument of Delegation pursuant to the Planning and Environment Act 1987 provisions to ensure consistency with the updated Statutory Planning Protocols.

3. Through the Statutory Planning and Technical Services Departments, provides information to the planning community and update the Council website, official forms and correspondence regarding the following:
   a) Facilitation of complaints in relation to construction activities in general and updated information on the status of Construction and Site Management Plans; and
   b) Provision of improved information, advice and examples regarding: matters that do and do not constitute a legal planning objection, the procedures following the lodgement of an objection and information regarding applications and decisions similar to the list in 5.4.1 of the Protocols.


Background

Council’s Statutory Planning Protocols were initially introduced in January 1997, updated approximately seven years later in November 2004 and again in March 2011. It is now seven years since the last review.

A number of changes to the Protocols are required to streamline and improve the planning processes as undertaken by the Statutory Planning Department.

Discussion

Since the last update of the Protocols a number of changes have taken place in the field of Planning including the advent of the Garden Area Requirements and also changes to guidelines like the Better Apartment Guidelines. This, together with an assessment undertaken of the volume, type and complexity of planning applications lodged with the Department as well as the type and frequency of objections received, were used to propose ways of improving on the statutory time frames and Local Government Performance Reporting Framework (LGPRF) measures.

The Department also undertook a survey among 32 Victorian Councils to benchmark procedures and successes of Consultation Meetings. Additional information was gathered in relation to delegations to Council and Officers.

Increased pressure to meet targets

The Department has been forced to include many more assessment actions into its operations due to new policies and changes to the planning scheme and legislation, such as the new Garden Area requirements and Better Apartment Guidelines. There
is thus increasing pressure to comply with legislated performance measures and applying rigour in questioning of assumptions, State and local best practice (including consideration of VCAT decisions) and thinking deeply about the application of the policy to the local area. Further, there must be evidence of consultation and how the views of the community have been taken into account.

**Performance**

The department has already increased its performance from achieving 54% of applications being completed within 60 days to a current rate of more than 63% for 2017-2018. This has been achieved through improved work practices and streamlining certain internal procedures, including switching to paperless applications early in 2017. The intention is to maintain these levels and continually increase the performance.

This becomes difficult where more time has to be spent on the 22% of the 1,173 applications received in the last financial year being Complex, triggering 2,150 objections. There has also been an increase in Major applications (from 35 to 42 to 47 in the respective periods from 2015, 2016 and 2017). The Department managed 71 VCAT appeals in 2017 of which 19 out of 36 hearings were listed as a "win" with a substantial increase in Consent Orders from the previous year (i.e. not requiring a hearing). The Department has also calculated the cost of more than 100 appeals to be an average of $2,600 per appeal across all those appeals.

The Statutory Planning Department prepared and submitted 82 Council Reports for 2017 (71 normal and 11 confidential items); both iterations showing an increase from previous years.

Improved performance in assessment of applications and at VCAT can be achieved if delegations are streamlined and other aspects that delay the timelines are addressed. A number of options were considered to improve the performance and timelines.

**Objections and relevance to the planning applications**

An assessment of the number of objections received to applications shows that a third of all planning applications triggered submissions from the public (2,150 objections). There is also a large number of repeat objectors to applications. This has led to the notion that the number of objectors triggering a report to be referred to the Ordinary Council Meeting be realigned to better capture neighbours that are the most affected by a proposed residential development and excluding objections that aren't based on planning matters.

**Consultation meetings**

There is no legislated requirement for Consultation Meetings and the existing agreed process included in the Protocols generally adds about 4-8 weeks to the time frame of an application. In 2016/17, 24 consultation meetings were held with 1,600 invites being mailed, which is an expensive and time consuming exercise with less than 5% of these meetings leading to any positive change to the application.

The Department surveyed officers in 32 Councils to ascertain their Consultation Meeting experiences. All Councils experienced the effort to conduct the meetings were generally not justified and not adding any value and further:

- were seldom successful and created an extraordinary amount of work;
• extended time frames;
• created high expectations with limited outcomes;
• required extensive Officer time out of hours and the cost to the Department; and
• they are not decision making or mediation meetings.

Observations from the Survey: Melton for example only conducts the meetings (during business hours) if it is felt an outcome could be achieved; Dandenong only holds them for residential applications and Hobsons Bay and Brimbank only conduct them by special invite; Only 5/11 inner-city Council Consultation Meetings were chaired by a Councillor; Kingston and Moreland sometimes have informal consultations to discuss the application with immediately impacted objectors.

In initial discussion with Councillors, the preference was that the Consultation Meetings still proceed as before but that improvements to attendance and options to limiting some meetings, were an outcome will be clearly unlikely.

Councillors in an Ordinary Council Meeting on 8 May 2018 resolved that consideration of the report on the reviewing of the Statutory Planning Protocols be deferred and “that consultation occur with a representative sample of those who have attended consultation meetings to obtain further information on their effectiveness”.

Consequently, a survey was circulated to all objectors and permit applicants who provided their e-mail addresses at Consultation Meetings held between May 2017 and May 2018.

In total 284 emails were distributed, of which 253 were successfully delivered to the sample group. By the end of the survey, a total of 63 responses were received of which 51 responses were from objectors, 9 responses were from permit applicants and 2 responses have attended as both permit applicants and objectors. In total, 57 (91.9%) of the respondents believe that Council should continue to hold Consultation Meetings. A number of recommendations to the process have been provided and have been included in Table 1 below.

Delegations

An assessment of the delegations employed by other Councils has also been undertaken and this has further advised the proposed changes to the delegations and the procedures captured in the Protocols. The main purpose of the amended delegations is to improve on the approval timeframes but still maintaining enough consultation to be certain that residents do not feel that their concerns are not properly heard and Councillor involvement is harnessed to the full.

Proposed changes to the Protocols

In light of the discussion above, a number of changes are proposed to the Statutory Planning Protocols document. These include:

• Minor typographical corrections;
• Changes to reflect the current Statutory Planning Department and staffing structure; and
• Content changes to improve system efficiency and effectiveness, such as acknowledgment of the Instrument of Delegation and clarification of “Refusal” delegations.
Content changes, with inclusion of feedback from the above-mentioned surveys to improve system efficiency and effectiveness are outlined in Table 1 below.

**Table 1**

<table>
<thead>
<tr>
<th>Section Number</th>
<th>Item</th>
<th>Proposed Change as at July 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>It is proposed that the existing Protocols document be updated as follows:</td>
</tr>
<tr>
<td>1.2</td>
<td>Role of Officers</td>
<td>Addition of “Preference be given to the use of external parties to defend a decision that differed from the officer’s recommendation.”</td>
</tr>
<tr>
<td>3.1</td>
<td>Notification</td>
<td>Addition of “these might include circumstances such as major projects with potential for broader car parking, traffic and built form implications” at the end of the third dot point.</td>
</tr>
<tr>
<td>4</td>
<td>“Amended Plans and Permits”</td>
<td>Better alignment of the delegations to decide these matters in accordance with the Instrument of Delegations</td>
</tr>
</tbody>
</table>
| 5.1            | “Delegation Protocols - General” | Deletion of “The protocols set down must be followed at all times unless authority to act to the contrary is given by the Chief Executive Officer in consultation with the Mayor.”  
Currently the Protocols are required to be reviewed and presented to Council every four years. (The last two changes have been every seven years). It is proposed that this now occurs every five years, unless otherwise requested by Council, or as required by legislation |
| 5.2.1          | “Officer Delegation Levels. Manager Statutory Planning Manager and Coordinator, Team Leaders and Principal Planners” | Titles changed to reflect current staffing structure and titles and confirmation of Officer Delegation Instrument. No change to delegation parameters.  
Clarification that an application can be considered by DAP and refused at (Specific) officer level despite a Consultation Meeting having been held.  
Specific Officer delegations to decide on the Council’s position regarding amended plans tabled at VCAT and determining the parameters within which Council’s representatives can negotiate at VCAT |
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<th>Section Number (of Protocols document)</th>
<th>Item</th>
<th>Proposed Change as at July 2018</th>
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<td>mediations, but having regard to [updated] 5.3.1 and 5.3.2 where a majority of Ward Councillors must have provided agreement and guidance (refer below).</td>
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<tr>
<td>5.2.2</td>
<td>“Officer Delegation Levels. Senior Town Planners/Subdivision Planners”</td>
<td>Removing “Subdivision Planners” from 5.2.3 and adding to this level of authority in 5.2.2 to reflect the current delegation levels</td>
</tr>
<tr>
<td>5.2.3</td>
<td>“Officer Delegation Levels. Statutory Planning Officers”</td>
<td>Confirmation as per the Instrument of Delegation that Statutory Planning Officers may sign Planning Permits where a Notice of Decision to grant a permit has already been issued; and Adding “Other delegation functions as determined by the Manager Statutory Planning” similar to the other level addressed before</td>
</tr>
<tr>
<td>5.3.1</td>
<td>“Other Delegation Parameters. Number of Objections”</td>
<td>Changing the heading from Number of Objectors to “Objections”, given the changed focus in calculating the trigger point of ten objections requiring referral to a Council Meeting. The required number of objections remains equal to or more than 10 objections for an application not to be considered under delegation and must be referred to Council for determination. The additional clarifications as previously discussed with Councillors are listed below:</td>
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<td>• More than one objection received from the same property (as opposed to actual objections) will be identified as a single objection;</td>
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<td>• NEW: Exclusion of objections (as identified by the Manager Statutory Planning) that only relate to an as-of-right component or are clearly not based on planning grounds (like precedent, devaluation of property, construction noise etc.); and</td>
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<td>• NEW: Exclusion of objections received from properties outside a radius of 500</td>
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<td>metres measured from the centre of the application site, if the application is for residential purposes only.</td>
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<td>5.3.2 a)</td>
<td>“Other Delegation Parameters. Major Projects”</td>
<td>Definition of major project applies if the value of the proposed development exceeds $10 million (instead of $5 million under existing Protocols – since 2011). The value of the proposed development has been increased to coincide with increased development costs and to reflect a more accurate definition of Major Developments as “defined” by the other triggers of major projects, which are still the same, i.e. at least one of: the number of dwellings (20), or number of storeys (4).</td>
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<tr>
<td>5.3.2</td>
<td>“Other Delegation Parameters. Major Projects”</td>
<td>Clarification Note added that: Applications that fit into the ‘Major Projects’ definition may be considered and refused under delegation, after consideration by DAP. (This has been applied all along but not clearly written into the Protocols)</td>
</tr>
</tbody>
</table>
| 5.3.2                                  | “Other Delegation Parameters. Major Projects” | Note expanded to allow the majority of Ward Councillors to agree that Planning applications and/or determination of Council’s position for VCAT matters may be approved/receive direction under delegation when they have received 10 or more “eligible” objections as per 5.3.1 or fit into the ‘Major Projects’ definition but are not deemed to be controversial (as per section 5.3.3) and have a high degree of compliance. These applications may, however, only be assessed at Council’s Development Assessment Panel (DAP) and then considered under delegation by agreement of a majority of Ward Councillors. The current Protocols were silent on the aspect of these matters being referred to DAP if more than 10 objections had been received. NOTE: The current Protocols also allowed officers to decide on Council’s position on VCAT matters (despite the size of development or number of objections), which was inconsistent with the fundamentals of the
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<td>rest of the Protocols. (Refer to the change to 5.2.1 above that rectifies this).</td>
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<td>5.3.6</td>
<td>“Other Delegation Parameters. Refusal of Planning Permit Applications”</td>
<td>A further clarification to ensure that only Officers authorised by the Instrument of Delegations can refuse planning permit applications, provided the recommendation is considered and endorsed at the Development Assessment Panel.</td>
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<tr>
<td>5.4.1</td>
<td>“Councillors Weekly Status Report”</td>
<td>Addition of new dot point:</td>
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<td>• “List of official pre-application meetings conducted in the past seven days”; And at the end of the second dot point adding:</td>
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<td>• “including indications about previous applications on the property”;</td>
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<td>Clarification provided by substituting the word ‘determined’ with ‘considered’ in the brackets as DAP does not have delegations to determine/decide planning applications.</td>
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<tr>
<td>6</td>
<td>“DEVELOPMENT ASSESSMENT PANEL (DAP)”</td>
<td>Clarification to the second dot point by substituting the word ‘decisions’ with ‘considerations’ as DAP does not have delegations to determine/decide planning applications.</td>
</tr>
<tr>
<td>APPENDIX 1</td>
<td>“Consultation Meetings Protocols and Procedures. iv. ROLES”</td>
<td>Re-wording of the fourth dot point to align with the second dot point in “Role of Councillors” that stipulates that the Ward Councillors decide amongst themselves who chairs the meeting.</td>
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<td>Role of Planning Officer</td>
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<td>Addition to the sixth dot point that the development plans be displayed on a screen for discussion purposes as a result of proposals from attendees responding to the survey on Consultation Meetings.</td>
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<td>Re-wording of the seventh dot point as a result of proposals from attendees responding to the</td>
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Statutory Planning Protocols: Summary Proposed Changes

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<td>survey on Consultation Meetings to ensure the planner provides a brief outline of the relevant planning controls prior to the discussions. Clarification in dot point 9 to reflect the current practice where planners do not provide hard copies of documentation to attendees, in the spirit of saving paper and also given the convenience to rather direct an enquiry of this nature to the appropriate internet sites.</td>
</tr>
<tr>
<td>APPENDIX 1</td>
<td>“Consultation Meetings Protocols and Procedures. iv. ROLES” Role of Councillor/s</td>
<td>Additional dot point under “Role of Councillor/s” as a result of proposals from attendees responding to the survey on Consultation Meetings: “The Chair to explain at the onset what matters can be discussed in the context of the Planning Scheme and Planning and Environment Act 1987.”</td>
</tr>
<tr>
<td>APPENDIX 1</td>
<td>“Consultation Meetings Protocols and Procedures. v. OPERATIONS”</td>
<td>Addition of dot point four: • “The applicant and all objectors will be sent an invite and clear directions to the venue in the mail (via email if details are known) and requested to accept the meeting invite. If no objectors confirm attendance, the Manager Statutory Planning can decide to cancel the proposed Consultation Meeting.” (This was mooted at the Councillor Planning Weekend). The inclusion of clear directions follows from the Survey conducted. (The wording purposely does not make provision for cancellation on the non-response from the applicant as the applicant may regard it as a way to avoid the Consultation Meeting.)</td>
</tr>
<tr>
<td>APPENDIX 1</td>
<td>“Consultation Meetings Protocols and Procedures. v. OPERATIONS”</td>
<td>Addition of two last dot points under the DAP Operations to close off on cancellation of Consultation Meetings and to provide objectors with the opportunity to address Councillors in a public forum: • “Where a consultation Meeting has been cancelled for whatever reason, all</td>
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### Statutory Planning Protocols: Summary Proposed Changes

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<td></td>
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<td>potential attendees be notified in advance of its cancellation.”</td>
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<td>• “Where a consultation Meeting has been cancelled or not arranged despite the application receiving 10 or more ‘eligible’ objections, the applicant and objectors be given advice about the procedure to submit a question to Councillors or to present their concerns to a public forum.”</td>
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<td>(This was mooted at the Councillor Planning Weekend)</td>
</tr>
<tr>
<td>APPENDIX 1</td>
<td>“Consultation Meetings Protocols and Procedures. vi. MEETING AGENDA TEMPLATE”</td>
<td>The meeting agenda template has been updated by adding a few additional notes to act as reminders about the procedures and dissemination of information. The agenda is a guide only as each chairperson has the ability and opportunity to govern the meeting within the set guidelines.</td>
</tr>
<tr>
<td>APPENDIX 2</td>
<td>“OFFICER DEVELOPMENT ASSESSMENT PANEL (DAP) - MEETING PROTOCOLS AND PROCEDURES. ii. DAP MEMBERSHIP”</td>
<td>In an attempt to improve on Officer’s time taken up by DAP meetings and in view of changes to 5.3.1 above, the DAP meetings will be split in two parts where the second part only requires attendance of the Statutory Planning Staff on the Panel: “Where applications before DAP relate to the following matters or objections, the Strategic Planning and Technical Services Staff need not be present, but a quorum of three must still be achieved: • ResCode matters (solely); • Low risk applications (building works, signage etc.); • Objections to as-of-right components; or • Objections with no planning grounds (e.g. devaluation of properties, construction noise, dust etc.)”</td>
</tr>
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</table>
Consultation

A survey was conducted among a total of 32 outer and inner metropolitan Councils regarding the Planning Consultation meeting procedure, which identified a range of approaches in relation to Consultation Meetings. A focused survey was also distributed to attendees of Moonee Valley Consultation Meetings in the last 12 months and results incorporated in the updated Protocols. Other benchmark actions included discussions with other Councils regarding their delegations to Council and Officers.

The survey results and a number of other proposals were collated and presented to the Councillors at the Planning Weekend at the end of March 2018 and the proposed changes in the report follow from these discussions and the first considerations of this report at an Ordinary Council Meeting on 8 May and 10 July 2018.

Implications

1. Legislative

Legislated time frames for Statutory Planning are incumbent on Councils to meet. Protocols for the use of delegated authority is available to officers of Council’s Statutory Planning Department under the Planning and Environment Act 1987 and the Local Government Act 1989.

The concept of major projects (major cases) was introduced within the Victorian Government’s Planning and Environment List (with VCAT) in May 2010. Sections 77, 79, 80, 82 and 87A of the Planning and Environment Act 1987 pertain to the Major Cases List.

2. Council Plan / Policy

In presenting this report, Council is working to achieve its strategic objective to promote responsible and equitable decision-making across Council 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.

The relevant Strategy as outlined in the Action Plans is “3.2.1.4, Deliver timely, high-quality statutory planning services to manage growth and development.”
3. **Financial**

There are no specific, direct budgetary or funding considerations as a result of this report although overall savings will be achieved in the Planning Department as a result of the proposed improvements.

4. **Environmental**

The report and consequences of the recommendations do not have a direct bearing on energy usage and greenhouse gas generation, water impacts, or biodiversity.

**Conclusion**

The Protocols adopted by Council in January 1997 have improved the quality and consistency of planning decision making. The Protocols have been updated twice since inception.

There is however, a need to reduce the number of applications in the system that exceed 60 days for and continue improving Statutory Planning processes and delegations. Whilst Council officers continue to identify and work on measures to reduce planning application processing times, it is anticipated that the proposed measures outlined in the report above will work to address this issue and further improve on the legislated timeframes.

**Appendices**

Appendix A: Statutory Planning Protocols - Proposed revision (separately circulated)
9.4 Draft Nature Strip Policy

File No: FOL/18/32
Author: Natalie Reiter
Director Planning and Development
Directorate: Planning and Development

Purpose
To seek endorsement of the draft Nature Strip Landscaping Policy ('Policy') for purposes of public exhibition, as set out in Appendix A (separately circulated).

Executive Summary
- Nature strips form an integral part of the urban landscape in Moonee Valley, contributing to the character of our neighbourhoods and streetscapes. In addition to their environmental value and the housing of important Council infrastructure and other services, they provide a buffer between vehicles, pedestrians and adjacent property.
- Grassed nature strips with street trees planted in the centre are the most common form of nature strip treatment in the municipality, however residents and developers are increasingly seeking alternative treatments. In some instances unauthorised landscape works have been implemented by property owners/occupiers at their own discretion.
- Any changes to nature strips, including associated works, require strict control and monitored compliance by Council due to the risk and liability associated with any such works, ranging from potential damage to infrastructure/services to pedestrian safety and driver visibility. This is in addition to considerations such as neighbourhood character, environmental impacts, etc.
- In response, Council has developed the Nature Strip Landscaping Policy to ensure clear and concise guidelines and a consist approach. The Policy provides property owners and developers with alternative treatment options, including guidelines on plantings, maintenance, environmental considerations, risk mitigation, public safety, personal liability and others. Under the Policy formal Council approval is required prior to the implementation of any alternative landscaping treatment.
- Existing treatments (in place before the date adopted in the Policy)
Recommendation

That Council:

1. Endorses the Nature Strip Landscaping Policy Appendix A (separately circulated), noting that minor corrections may be made, if necessary, prior to public exhibition.

2. Authorises the Chief Executive Officer to publically exhibit the Nature Strip Landscaping Policy for 30 days and receive submissions.

3. Provides a further report to Council, following the exhibition period.

Background

Council as the Local Road Authority is responsible for ensuring the appropriate use of the road reserve under the Road Management Act 2004 (Vic). This responsibility extends to road and non-road related infrastructure /services, as well as other uses Council may permit in the nature strip, including social and environmental activities.

Besides having a functional role, nature strips contribute to the streetscape and amenity of our neighbourhoods. Nature strips provide a buffer zone between the roadway and footpath, maintain walkability, allow space for tree planting and shade, and provide relief from hard surfaces and structures. The nature strip also plays an important role in the character of a suburb, and, as the municipality grows and becomes more densely populated, it contributes to our open and green spaces.

Although not obligated to renovate or beautify nature strips under the Act, Council is required to provide a safe environment in response to any public safety concerns and risks and to maintain its own utilities/infrastructure within the nature strip.

Grassed nature strips with street trees planted in the centre are the most common form of nature strip treatment within the municipality. However, more recently it has come to Council’s attention that a number of property owners/occupiers have installed alternative landscaping treatments, which may potentially impact public safety and future maintenance of utilities/services within the nature strip.

Further to this, Council is regularly receiving requests from residents seeking to substitute the traditional grassed nature strip at the front of their properties with alternative landscape treatments and plantings, primarily to improve the street appearance and reduce maintenance.

The Nature Strip Landscaping Policy has been developed in response to this increasing number of requests and to assist both Council and property owners/occupiers in mitigating risk and public liability and to deal with compliance matters in an open and transparent manner. It also serves the purpose of educating the community and ensuring adherence to Council’s obligations under the Road Management Act 2004 (Vic).

Considering that the Policy introduces a new approach to nature strip treatment that will have a municipal wide impact, it is important that the draft Policy be consulted upon.
Discussions

The nature strip is the area of public land between the property boundary and the back of kerb, excluding any public pavement. In most cases nature strips are grassed. However, subject to adoption of the proposed Nature Strip Landscaping Policy it would be allowable under the policy guidelines to apply alternative landscape treatments.

In providing these alternative options, the policy takes into consideration important aspects, such as neighbourhood character and city image, climate change and sustainability (Melbourne’s weather is getting hotter and drier), maintenance, life cycle costs, community safety and street infrastructure. It also applies to all nature strips throughout the municipality (unless specifically specified otherwise) and must be read in conjunction with the Road Management Act 2004 (Vic) and Council’s Activities and General Amenities Local Law (2018). It does not supersede or override any other Council policies, strategies and guidelines.

The Policy content is structured around the following key headings:

- **Purpose and scope of the policy**
- **Benefits of nature strips**
- **Definitions**
- **Maintenance of nature strips**
- **Legislation and Council responsibilities**
- **Policy Guidelines**
- **Enforcement**

The Policy is implemented through a set of guidelines. These guidelines are summarised below and provide practical and user friendly information to property owners/occupiers on alternative treatment options, landscaping choices, maintenance, public safety and other relevant aspects.

- **Permissible** treatments, allow for:
  - Grasped nature strips, specifically native and drought-tolerant grasses.
  - Planting with low growing ground covers. Appendix A of the Policy *(Appendix A – separately circulated)* specifies the planting requirements in terms of mature height, planting depth, etc.
  - Organic mulch: Only to be used in conjunction with other plantings/landscaping treatments and not as the sole surface treatment and primarily limited to areas around/between plantings.
  - Planter boxes for growing produce and other vegetation. Appendix B of the Policy *(Appendix A – separately circulated)* specifies the design criteria in terms of size, height, location, etc.

- **Prohibited** treatments, restrict the use of:
  - Synthetic turf.
  - Hard surfaces such as concrete, pavers or asphalt.
Surface treatment, using a fine granitic sand or similar graded material and fine gravel. These are loose material that could end up on the footpath and if compacted to prevent this, it creates a hard surface that is not permeable.

Refer to Sections 3 and 9 of the Policy (Appendix A – separately circulated) for more detail on prohibited treatments.

- **Excavation and cultivation works**, specifying requirements to ensure safe operations and prevent damage to underground infrastructure/services and tree root systems.

- **Utilities and maintenance works** by Council and utility companies to ensure property owners and occupiers understand the importance of unrestricted access to services by utility companies when performing maintenance works and the obligation of the service provider versus that of the property owner/occupier in terms of reinstating the nature strip.

- **Risk management and safety** with the emphasis on Council’s obligation to ensure a safe environment given that the nature strip is public land, whilst also highlighting the property owner/occupier’s public liability responsibilities when altering the nature strip.

- **Enforcement** forms an important component of the Policy and any failure to comply with the Policy will trigger action by Council to ensure the property owner/occupier rectifies the issue at their own cost and in a manner directed by Council.

The Policy acknowledges the various community and environmental benefits that nature strips provide and the Guidelines attempt to enhance and promote the following environmental outcomes:

- Adding to the appearance and presentation of the city’s streetscapes and neighbourhood character.

- Reducing the amount of pollutants and storm water runoff that enters the city’s drains and surrounding waterways.

- Promoting the use of natural surfaces and materials that help cool the surrounding area and that can act as green filters to help combat climate change and reduce the carbon output.

- Limit the use of concrete, bitumen or plastic surfaces that increases stormwater run-off and heat emission.

- Supporting landscaping treatments/plantings that increase biodiversity and aesthetic appeal in urban areas.

- Allowing property owners/occupiers some level of individual expression.

- Ensuring underground services are accessible for maintenance purposes and not compromised.

- Ensuring that users of footpaths are not put at risk or inconvenienced, including pedestrians, prams pushers and wheelchair traffic.
• Allowing vehicles to park safely at the kerbside and for adequate door opening space in areas where on-street parking is permitted.

• Providing space for kerb side collection (rubbish and recycling bins).

• Allowing for visibility of motorists, cyclists and pedestrians at intersections, curves in the road and near driveways.

The policy applies to all nature strips within the municipal area. Permitting alternative landscaping treatments that will enhance the appearance and presentation of nature strips in keeping with Council’s values and statutory obligations, including community safety and wellbeing.

The Policy is implemented through a set of policy guidelines that provide clear and practical information to property owners/occupiers. Permissible and non-permissible treatments and other related issues such as maintenance, public safety and compliance are clearly articulated in the Policy.

Council approval is required to carry out works within the Road Reserve, including implementing any alternative landscape treatments other than grass. Please refer Appendix B of the Policy (Appendix A – separately circulated) for a copy of the application form.

The draft Nature Strip Policy does not cover parking on nature strips. Council’s policy regarding not supporting parking on nature strips is articulated in Moonee Valley City Council Municipal Parking Strategy; in principle, parking on nature strips is not supported and is undesirable as it:

• Is contrary to the intent of the Victorian Road Rules 2009;

• Increases asset maintenance costs to Council (through damage to public assets and increases Council’s road renewal burden);

• Decreases the visual amenity of the area;

• Restricts pedestrian, wheelchair and pram access;

• Contributes to a range of other safety issues such as visibility and speed; and

• Presents considerable on-going liability to Council.

In relation to development site sheds, this is a process that is undertaken via the Road Occupancy Permit process, whereby Council consent is required to install a site shed to facilitate the development of the land on which the nature strips abut. As stated in the previous paragraph, this policy relates to landscaping treatment only, as other matters are covered by either local laws or other legislation.

A minimal fee of $50 for each approved application will be applied to Section 32 vendor statements to Council processes.

Consultation

The Nature Strip Landscaping Policy and related Guidelines have been developed internally with input from various departments.

It is now considered appropriate that the draft Policy and Guidelines be made available for public comment, including a referral to VicRoads and external service
providers. It is to be placed on the Council website and made available at the Civic Centre and libraries across the municipality for a minimum period of 30 days.

Throughout the consultation process the scope for the policy may be refined having regard for the narrow asphalted strips particularly characteristic of Flemington.

Implications

1. Legislative

In developing the Nature Strip Landscaping Policy, specific consideration was given to the Road Management Act 2004 (Vic) and Council’s Activities and General Amenities Local Law (2018).

The Policy references the following legislation:

- Disability Discrimination Act 1992 (Cwlth)
- Local Government Act 1989 (Vic)
- Planning and Environment Act 1987 (Vic)
- Road Management (Works and Infrastructure) Reg. 2015 (Vic)
- Road Safety Act 1986 (Vic)
- Road Safety (Traffic Management) Regulations 2009 (Vic)
- Transport Integration Act 2010 (Vic)
- Planning and Environment Act 1987 (Vic)
- Moonee Valley Planning Scheme
- Moonee Valley Municipal Parking Strategy 2011

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

2. Council Plan/Policy

A key focus of the Council Plan (2017-2021), is a clean, green and beautiful city with a healthy environment and enhanced amenity (Theme 2).

In presenting this report to Council, it is promoting this strategic intent (Theme 2) and related Objectives 2.1 and 2.1, being:

- Objective 2.1: Our natural environment is protected and enhanced.
- Objective 2.2: Moonee Valley has high quality places and spaces.

3. Financial

The cost of the preparation of the Policy has been borne by Council through the Planning and Development Directorate’s operational budget in the 2016/2017 and 2017/2018 financial years.

The costs associated with the proposed community consultation process will also be accommodated through the Planning and Development Directorate’s 2018/2019 operational budget.
All costs associated with future enforcement proceedings as a result of alleged breaches with the Policy and Activities and General Amenities Local Law 2018 will be accommodated within the operational budget of the Regulatory and Civic Compliance Department.

4. Environmental

Environmental considerations have been taken into account in the drafting of the Policy. The guidelines which form part of the Policy attempts to achieve the following environmental outcomes by permitting landscape treatments that:

- Reduces the amount of pollutants and storm water runoff before water enters the city’s drains and surrounding waterways.
- Help to cool the surrounding area due to being a natural surface that does not get as hot as concrete, bitumen or plastic surfaces with less reflective surface area than roads or pavements.
- Support the growth of street trees and plants, thus increasing biodiversity and aesthetic appeal in urban areas.
- Act as green filters to help combat climate change and reduce the carbon output.

Conclusion

Nature strips form an integral part of the streetscape and is an important aesthetic element of our neighbourhoods.

Generally, nature strips are grassed with street trees planted in the centre but more recently it became evident that more residents are seeking alternative treatments to the traditional grass nature strip, mainly for maintenance and to improve the streetscape.

Council is keen to work with property owners/occupiers who wish to replace an existing grass nature strip with other plants or landscape materials and has developed the Nature Strip Landscaping Policy, which provides guidance to property owners/occupiers.

Appendices

Appendix A: Draft - Nature Strip Landscaping Policy - July 2018
Moonee Valley
Nature Strip Landscaping Policy
(Draft)

July 2018
TABLE OF CONTENTS

Introduction ............................................................................................................................................... 3
Policy Statements .................................................................................................................................... 3
Notes ...................................................................................................................................................... 5
Policy Implementation ............................................................................................................................. 5
Appendix A – Nature Strip Landscaping Guidelines ............................................................................. 7
  1. Background to Guidelines .................................................................................................................. 7
  2. Alternative Nature strip treatments ..................................................................................................... 6
  3. Prohibited Treatments ........................................................................................................................ 11
  4. Excavation and Cultivation .................................................................................................................. 19
  5. Utilities and Maintenance Work .......................................................................................................... 20
  6. Risk management and safety .............................................................................................................. 20
  7. Planting Specifications ......................................................................................................................... 20
  8. Planter Box Specifications .................................................................................................................... 21
  9. Definitions ......................................................................................................................................... 23
Appendix B – Application Form for approval to undertake works within a road reserve .................... 25

Appendices

Appendix A – Nature Strip Landscaping Guidelines
Appendix B – Nature Strip Permit Application Form

PAGE 83
Introduction

This policy applies to all nature strips within Council's road reserve throughout the municipality (unless specifically specified otherwise) and must be read in conjunction with the Road Management Act 2004 (Vic) and Council's Activities and General Amenities Local Law (2018).

The Policy does not apply to nature strips which incorporate the principles of Water Sensitive Urban Design, such as swales or rain gardens and which are required to be maintained in accordance with its design intent and planning permit requirements.

Although the Policy makes reference to footpaths, crossings, services/utilities and roadways (also located within the road reserve), these do not form part of the scope of the Policy, other than prohibiting additional planting or landscaping works within these areas under the Policy. The intent is to ensure that these assets are not adversely impacted or compromised and that public safety is not at risk.

Furthermore, it is important to note that the use of the nature strip for purposes other than landscaping treatments also falls outside the scope of this Policy.

This policy is to be read in conjunction with the Nature Strip Landscaping Guidelines (Appendix A).

Policy Statements

Personalised Nature strips

Residents wanting to landscape a nature strip must apply to Council for permit as required under the Road Management Act 2004 (RM Act) and Council's Activities and General Amenities Local Law (2018). Unless otherwise approved, all proposed works must abide by Council's Residential Nature strip Landscaping Guidelines.

Unauthorised works within a Road Reserve is a breach of the Road Management Act. As such, existing nature strips landscapes without Council consent will be reviewed against the Nature strip Landscaping Guidelines and the resident advised of any changes required. Technical Permit Officers will determine whether the nature strip works present an immediate risk of danger and any rectification works will be prioritized based on a risk assessment of the site. The property owner will be given a fair and reasonable time to rectify the works unless the level of risk warrants a more timely response. If the nature strip has been constructed as part of a street landscaping or road reconstruction project and it is in the maintenance period of the contract, any changes in levels or maintenance will be the responsibility of the contractor.
The property owner or residents of abutting properties are expected to undertake to general maintenance of nature strips. General maintenance is defined as mowing, weeding, edging and any works required in keeping the nature strip in a safe and tidy condition.

Service authorities are responsible for the reinstatement of grassed nature strips only, if damaged following its works. The reinstatement may be undertaken by Council by arrangement with the Service Authority. Repairs or new treatments other than a basic grass treatment will be the responsibility of the land owner.

Enforcement/Compliance

Council approval is required to carry out works within the Road Reserve, including implementing any alternative landscape treatments other than grass. Please refer Appendix B for a copy of the application form.

Under the Road Management Act 2004, Section 63(1) and 65, it is an offence to conduct works on roads without the consent of the coordinating road authority and for the failure to comply with the conditions on consents.

Under Clause 19 of Schedule 7 of the RM Act, Council has the power to order rectification of works where the works have not been conducted in accordance with the RM Act or previous legislation. The rectification is required to be undertaken at the other party’s expense.

Penalties for non-compliance with the order to rectify works are based on set units per offence, as prescribed in the RM Act.

Failure to obtain a permit or to comply with the Policy will require property owners to rectify the situation at their own cost as directed by Council, in accordance with the process outlined below.

Notice to comply

Where a prohibited treatment has been installed, Council has the authority to issue a 'Notice to Comply'. As a first order of protocol Council officers will write to the relevant property owner requesting that they attend to the identified problem within a defined timeframe.

Failure to comply

A failure to meet the conditions of such a Notice within the given time (usually 14 days), may result in further action by Council. This could include Court proceedings and/or compliance works authorised by Council, at the cost of the property owner/occupier.
Removal and reinstatement

Where a treatment poses an immediate safety risk or seriously affects traffic, Council is obligated to take immediate action and arrange for compliance works. This can occur without issuing a ‘Notice to Comply’, and at the cost of the property owner/occupier.

Notes

- Where an existing modified nature strip is not compliant with this policy, the resident will need to contact Council’s Local Laws unit. The resident may be required to return the nature strip to lawn grass or apply for written consent to be issued under the Road Management Act 2004 (Vic).

- When a property with a permit for planting on the nature strip is sold and the new owner is not a party to the original permit, the nature strip is to be returned to the original condition by the previous owner at the previous owner’s cost. Alternatively, the new owner of the modified nature strip may agree to take on maintenance liability by obtaining a permit.

- Council does not carry out renovation or maintenance of nature strips. It is common, accepted practice throughout Australia that the property owners or residents of abutting properties maintain the plants (excluding trees) and any landscape features on the nature strip. Generally, this amounts to weeding, mowing and edging turf.

Policy Implementation

The Policy will be effective from the date formally adopted by Council. Existing modified nature strips not compliant with this Policy may remain, however any Nature Strips containing alterations deemed to be a risk to the public, or impede on pedestrians may be issued a notice to remove offending materials.

The Manager, Regulatory and City Compliance will be responsible for implementing this policy in conjunction with the Coordinator Technical Permits as follows:

Residents

- Media releases to outline policy detail and how it affects residents of Moonee Valley City Council.
- Policy to be placed on Council’s website.
- Policy outline and Naturestrip Landscaping Guidelines flyers produced for distribution at Council offices.
- Provision of information booklet.
Staff

- Customer Service, Technical Permit officer’s staff to be briefed and provided with FAQ’s.
- Technical Permit officer’s delegated to assess and determine Nature strip Landscaping applications

This policy will be monitored as follows:

- Inspections by a Council Officer of works requested.
- Reports of non-compliance compiled by assigned staff and forwarded to Manager, Regulatory and City Compliance for enforcement.

Related Documents

- Appendix A – Nature strip Guidelines
- Appendix B – Nature Strip Permit Application Form
Appendix A – Nature Strip Landscaping Guidelines

1. Background to Guidelines

Nature strips are an important aesthetic element of our streets and an important element in contributing to the character of our neighbourhoods. Nature strips not only complement and enhance our streetscapes, they act as a buffer between vehicles, pedestrians and private property boundaries. Further, nature strips house important Council infrastructure and other utilities.

Nature strips are generally grassed, with street trees planted in the centre, and Moonee Valley is no exception, with this being the most common form of nature strip treatment throughout the municipality (refer Image 1).

![Image 1: Traditional Grassed Nature Strip](image)

As the municipality evolves, it is evident that more residents are seeking alternative treatments to the traditional grass nature strip, and Council is keen to work with property owners/occupiers who wish to replace an existing grass nature strip with other plants or landscape materials. It is for this reason that Council developed a Nature Strip Landscaping Policy and related guidelines to provide property owners with alternative treatment options, whilst also protecting the character element nature strips play in defining our neighbourhoods and municipality. Image 2 below is an example of alternative plantings.
In providing these alternative options, the policy takes into consideration important aspects such as neighbourhood character and city image, climate change and sustainability (Melbourne's weather is getting hotter and drier), maintenance, life cycle costs, community safety and street infrastructure.

The purpose of this policy is to ensure a safe, sustainable and consistent approach to the design and selection of materials used in residential nature strips throughout the City.

Although personalised nature strips can provide benefit to the Community in terms of identity and the use of drought tolerant plants, they can represent a greater safety risk to the community. As such, Council has developed this Policy to provide a Nature Strip Landscape Standard.

This Policy defines how Council will manage nature strips in the City to assist residents, property owners, authorities, Council officers, contractors, developers and those working with Council to understand the City's requirements for the construction of nature strips.

2. **Alternative Nature strip treatments**

Council supports alternative landscape treatments where the efficient and safe use of the road reserve and other services/infrastructure are not compromised and where community and environmental benefits can be demonstrated, such as beautification of the street scape, improved runoff infiltration, etc.

**Permissible** landscape treatments include:

- Native and drought-tolerant grasses
- Planting with low growing ground covers *(Refer 7 – Planting Specifications)*
- Organic mulch*
Planter boxes that are raised above ground or soil filled containers intended for growing produce and other vegetation (refer Appendix A for more detail on the design criteria, such as size, height and placement of planter boxes).

* Mulch must only be used in conjunction with other plantings/landscaping treatments and not as the sole surface treatment; mulch is to primarily be limited to areas around/between plantings. It is not allowed onto the footpath, driveways or in the kerb and channel and the level of the mulch must not extend above the level of the footpath or kerb and if applied correctly, can assist with moisture retention and dust suppression.

Any of the above treatments, other than growing grass, require Council be informed prior to commencing any works.

Lawn grass
Grassed nature strips with low maintenance drought-tolerant grasses that only require periodic mowing and weeding remain the most common form of nature strip treatment within the municipality. No notification to Council or other form of formal approval permit is required for a grassed nature strip.

Plantings
The planting of suitable vegetation, such as ground cover plants and low growing shrubs that provide a soft and visually pleasing alternative are allowed under the Policy, as it can contribute to the streetscape, especially if well maintained.

However, a number of factors need to be considered when applying this type of treatment, including safety, ease of passage for footpath users, maintenance and neighbourhood character.

The primary guidelines are summarised below and must be read in conjunction with Section 7 which provides a comprehensive set of requirements for planting within the nature strip.

➢ A minimum footpath width of 1.5 meters is to be retained.
➢ A minimum buffer zone of 0.5 meter from the back of the kerb and footpath is to be retained. Any plantings within this buffer zone must be maintained below a height of 150 millimeters.
➢ Approved plantings elsewhere within the nature strip must be maintained below a height of 500 millimeters.
A minimum clearance of 1 meter from street trees and utilities (hydrants, poles, pits and Council’s underground drainage pipes, etc.) and 9 meters from an intersection must be maintained.

Hard landscaping elements such as rocks, timber, retaining walls and ornaments must not be used. Note: Planter boxes excluded (refer Section 8 for guidance).

Adequate space must be left for placing rubbish and recycling bins for collection.

**Planter boxes**

Planter boxes that are raised above ground or soil filled containers intended for growing produce and other vegetation are permissible under the Policy. Table 1 below provides a summary of the sizing and siting requirements. For more detail on the design criteria, please refer to **Section 8**.

**Table 1: Raised Planter Box Design Criteria**

<table>
<thead>
<tr>
<th>Raised Planter Boxes</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Length</td>
<td>0.7-1.0m</td>
</tr>
<tr>
<td>Width</td>
<td>0.7-1.0m</td>
</tr>
<tr>
<td>Height</td>
<td>0.6-0.8m to top of planter box (+ 0.3m (max.) vegetation)</td>
</tr>
<tr>
<td>Spacing</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Setback from kerb: 0.5m (min.)</td>
</tr>
<tr>
<td></td>
<td>• Setback from footpath: 0.5m (min.)</td>
</tr>
<tr>
<td></td>
<td>• Distance from intersection: 9.0m (min.)</td>
</tr>
<tr>
<td></td>
<td>• Distance from vehicle crossing: 2.0m (min.)</td>
</tr>
<tr>
<td></td>
<td>• Clearance from utilities, pits or fixtures: 1.0m (min.)</td>
</tr>
</tbody>
</table>

It is recommended planter boxes within the nature strip be provided with a weed mat or geo-fabric layer on the bottom to form a separation barrier between the existing site soil and the imported growing soil or compost, to allow for improved drainage.

Also referred to as verge gardens, planter boxes can offer a number of benefits if designed and placed appropriately within the nature strip. Gardening with planter boxes can be an excellent way of getting to know your neighbours, building a strong sense of community, and adding to the biodiversity and beauty of your local street.
3. Prohibited Treatments

Prohibited landscape treatments include:

- Synthetic turf
- Hard surfaces such as concrete, pavers or asphalt
- Surface treatment, using a fine granitic sand or similar graded material and fine gravel. These are loose material that could end up on the footpath and if compacted to prevent this, it creates a hard surface that is not permeable. The loose material could also scour and enter the stormwater system, contributing to blocked pits.
- Irrigation systems or private lighting systems
- Street trees (other than those planted by Council)

Landscaping elements and treatments that do not allow for the efficient and safe use of road and/or footpath are prohibited under the Policy. The same applies to plantings and treatments that could impede the maintenance of services, including planting in open drains or changes to the gradient of the land, as the latter may cause flooding.

It is important property owners/occupiers confirm with Council that no other Council policy or guidelines are applicable prior to commencing any works, including those related to neighbourhood character, livability and sustainability.

Where a prohibited treatment has been installed, Council has the authority to issue a ‘Notice to Comply’. Failure to meet the conditions of such a Notice within the given time (usually 14 days) may result in further action by Council. This could include Court proceedings and/or compliance works authorised by Council, at the cost of the property owner/occupier.

Where a treatment poses an immediate safety risk or seriously affects traffic, Council is obligated to take immediate action and arrange for compliance works. This can occur without issuing a ‘Notice to Comply’, and at the cost of the property owner/occupier.

Where an existing modified nature strip is not compliant with this policy, the resident will need to contact Council’s Local Laws unit. The resident may be required to return the nature strip to lawn grass or apply for written consent to be issued under the Road Management Act 2004 (Vic)

Further detail regarding prohibited treatments is as follows:

- **Street Trees**

  Planting of trees by residents in the nature strip or road reserve is not permitted.
Street trees if not carefully selected can pose a danger to road and footpath users, damage paved surfaces and drains, and, not in keeping with the neighbourhood character. Instead selection and management of street trees is undertaken by Council’s arborist in accordance with Council’s Tree Management Strategy.

- **Tall plants**
  Plants with a mature height of over 500mm in the nature strip or road reserve are not permitted.
  
  Tall plants can reduce the visibility and viewing distance for both road and footpath users.

- **Unsafe and invasive plants**
  Unsafe and declared noxious weeds in the nature strip or road reserve are not permitted. Refer Victoria’s **consolidated lists of declared noxious weeds and pest animals** for guidance (link provided below).


  Plants that pose a safety risk, include those that are woody, prickly, spiky, noxious and invasive.

- **Loose surfaces**
  Loose surfaces within the nature strip and road reserve are not permitted.

  Loose surfaces over time are prone to escape from the contained area, and then posing a slip hazard as well as an obstacle to prams and mobility devices. Loose surfaces are prone to weeds and establishment of invasive species and may give the appearance of providing the ability for cars to park, which is prohibited. In the case of granitic sand, increased rutting, puddling and reduced permeability are common problems.

  Examples of loose surfaces include gravel, pebbles, stones, sand, mulch and granitic sand.

  **Note:** *Mulch may be permitted where it assists with the establishment of plantings as discussed in this Policy.*

- **Paving and pavers**
  Paved areas within the nature strip and road reserve are not permitted.
Paved areas are generally considered visually unappealing, not in keeping with
neighbourhood character, encourages cars to be parked on the nature strip and
individual pavers pose a trip hazard. Further the MV2040 Green Action Plan - Water
Sensitive City outlines Council’s commitment to improve the quality of downstream
waterways by minimising the loss of permeable surfaces and reducing the amount of
rainfall runoff from hard surfaces.

In rare cases, paved nature strips have been permitted by Council where off street
parking is not available and the resident suffers from mobility impairment.

- **Artificial turf**
  
  Artificial turf within the nature strip or road reserve is not permitted.

  Artificial turf has a number of disadvantages including discoloration, dislodgment,
  compaction and/or release of toxic chemicals from foundation materials, impractical to
  match after removal or excavation, requires regular cleaning, reduced
  permeability/increased runoff, and is not self-repairing (unlike grass).

- **Raised surfaces and barriers**
  
  Raised surfaces and within the nature strip and road reserve are not permitted.

  Raised surface such as garden edging pose a trip hazard and prevents prams, mobility
devices, and children on bicycles from maneuvering around other users or obstacles.

- **Retaining walls and steps**
  
  Retaining walls and steps in any part of the road reserve are not permitted.

  In addition to posing a fall, trip and obstacle hazard, retaining walls also prevent access
to underground services and free access for maintenance vehicles. Where a retaining
wall is located adjacent to a road reserve but within a private property the owner must
ensure the wall does not:
  
  - lean or extend over the property boundary into the road reserve
  - cause the level of the road reserve to change
  - pose a danger to footpath users
  - hinder access to Council and utility assets

  **Note:** It is recommended property owners consult Council prior to commencing any
retaining wall construction to minimise the risk of non-compliance.
• Garden features

Garden features within the nature strip and road reserve are not permitted.

Garden features pose an obstacle and tripping hazard to footpath users. Example of garden features not permitted in the nature strip include (but not limited to) rocks, sleepers, statues and solar lights.

• Irrigation, water systems and water features

Water features and water supply systems in the nature strip are not permitted.

Ponds, bird baths and similar features within the nature strip pose a trip hazards and general safety risk. Water supply cannot be turned off from the road reserve, are prone to damage from loads and vehicles and prevent free access to Council and utility services. Further, those components above ground tend to be visually unappealing and detract from the neighbourhood character. Water systems and their components include sub-surface irrigation, agricultural drains, rainwater tanks, control boxes, pumps and sprinklers.

• Electrical systems

Electrical systems in the nature strip and road reserve are not permitted.

Electrical systems including electrical supply pose a safety risk to the general public in the case of accidents or interference. In particular electrical supply located below the surface poses a significant risk during excavation by Council and utilities.

• Miscellaneous items and treatments

Any items or treatment Council considers unsafe or inappropriate.

Examples of these include permanent signs, railing, basketball hoops, seating, etc. other than those installed or permitted by Council.

The Table 2 below provides a sample list and examples of prohibited treatments.
### Table 2: Sample List of Prohibited Treatments

<table>
<thead>
<tr>
<th>Prohibited Treatment</th>
<th>Examples of prohibited materials and treatments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trees and tall plants:</td>
<td>![Image of trees and tall plants]</td>
</tr>
<tr>
<td>- Any plantings must be less than 500mm in mature height</td>
<td></td>
</tr>
<tr>
<td>- Only trees planted by Council is allowed within the nature strip</td>
<td></td>
</tr>
<tr>
<td>Raised edging and surfaces:</td>
<td>![Image of raised edging and surfaces]</td>
</tr>
<tr>
<td>- Sleepers, garden edging, retaining wall, and raised beds</td>
<td></td>
</tr>
<tr>
<td>Prohibited Treatment</td>
<td>Examples of prohibited materials and treatments</td>
</tr>
<tr>
<td>------------------------------</td>
<td>--------------------------------------------------</td>
</tr>
<tr>
<td>Irrigation:</td>
<td>• Agi drains, water supply and sprinklers</td>
</tr>
<tr>
<td>Garden- and water features:</td>
<td>• Large rocks, statues, ponds and lights (including solar lights)</td>
</tr>
<tr>
<td>Loose surfaces:</td>
<td>• Gravel, granitic sand, scoria, pebbles and mulch</td>
</tr>
</tbody>
</table>

16
<table>
<thead>
<tr>
<th>Prohibited Treatment</th>
<th>Examples of prohibited materials and treatments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Paving and pavers:</td>
<td><img src="image1.png" alt="Concrete, asphalt and pavers" /></td>
</tr>
<tr>
<td>• Concrete, asphalt and pavers</td>
<td></td>
</tr>
<tr>
<td>Unsafe and invasive plants:</td>
<td><img src="image2.png" alt="Cactus, serrated tussock and cruel vine" /></td>
</tr>
<tr>
<td>• Cactus, serrated tussock and cruel vine</td>
<td></td>
</tr>
<tr>
<td>Electrical systems:</td>
<td><img src="image3.png" alt="Lighting, pumps, control boxes, power supply" /></td>
</tr>
<tr>
<td>• Lighting, pumps, control boxes, power supply</td>
<td></td>
</tr>
<tr>
<td>Prohibited Treatment</td>
<td>Examples of prohibited materials and treatments</td>
</tr>
<tr>
<td>---------------------------------------------</td>
<td>-------------------------------------------------</td>
</tr>
<tr>
<td>Miscellaneous items and treatments:</td>
<td><img src="image1.jpg" alt="Image of signs, railing, basketball hoops and seating" /></td>
</tr>
<tr>
<td>• Signs, railing, basketball hoops and seating</td>
<td><img src="image2.jpg" alt="Image of road with fencing and seating" /></td>
</tr>
<tr>
<td>Fences, stakes, log barriers and retaining walls</td>
<td><img src="image3.jpg" alt="Image of street with fencing" /></td>
</tr>
<tr>
<td>Artificial lawn</td>
<td><img src="image4.jpg" alt="Image of artificial lawn" /></td>
</tr>
</tbody>
</table>
4. Excavation and Cultivation

Before doing any excavation or cultivation of the nature strip, it is important to confirm the location of any underground services or private drains within the nature strip. An approximate location of underground services can be obtained by accessing the free online service ‘Dial Before You Dig’ on 1100 or visiting their website at https://www.1100.com.au/.

If excavation works are to be undertaken, and due to the variation in depth of Council’s drainage assets, please also contact Council’s Infrastructure Maintenance Department as some drainage pipes are only 100mm in depth. Digging must only be performed by using hand tools and limited to a depth of 150mm below the original level of the nature strip as mechanical excavation (bobcat/dingo) or cultivation (rotary hoe) may damage underground infrastructure/services and cause damage to tree root systems.

Care must be taken not to damage street trees. Please refer the AS 4970 – Protection of Trees on Development Sites which provides guidance for the planning and protection of trees during construction and landscape works.
It is furthermore important to note that some areas in the municipality are still served via overhead power lines and the use of mechanical plant and equipment such as mobile cranes, tipping trucks, etc. being operated near overhead power lines can also pose a risk. This also applies to tree pruning. Please refer the Electricity Safety (Electric Line Clearance) Regulations 2015 S.R. No. 67/2015 for more detail.

The owner/occupier are responsible for repairing any damage to infrastructure caused by any landscaping works or modification of the nature strip to the satisfaction of Council.

5. Utilities and Maintenance Work

Utility companies that supply water, gas, electricity and telecommunications may from time to time require access to the nature strip to perform maintenance/emergency works. In addition, as Council’s drainage network is mostly located within the nature strip, Council may also require access to repair damage/aging assets.

It is standard practice for utility companies to re-instate the nature strip following maintenance/emergency works, but is unlikely to re-instate residential nature strips with anything other than grass, even if an alternative landscaping treatment has been applied.

In the event that a modified nature strip is re-instated by the Infrastructure/Works Manager at own choice, Council cannot guarantee that any of the replaced plants or landscaping will match the condition that existed prior to the maintenance works.

Council will not be responsible for replacing plants or landscaping as a result of such works.

Once modified the property owner/occupier will be responsible for ensuring that the nature strip is kept tidy and safe for footpath and road users.

6. Risk management and safety

As the nature strip is public land, Council is obliged to ensure a safe environment.

Equally, before modifying the nature strip it is advisable for property owners/occupiers to confirm if they are covered under their insurance policy for public liability and, if not the owner of the property, to have written consent from the registered property owner.

Where an alternative treatment has been installed and the resident intends to later vacate the property, it is advisable to fully inform the new resident of Council’s Nature Strip and Roadside Policy requirements and public liability responsibilities. Alternatively, the nature strip can be returned to lawn grass at the owner’s choice.

7. Planting Specifications

For the life of the treatment plantings must comply with the following:
• Height (mature):
  o 150mm (max.) within 0.5m of kerb or footpath
  o 500mm (max.) elsewhere within the nature strip

• Clearance:
  o 1.0m (min.) from street trees and utilities (e.g. hydrants, poles, pits, etc.)
  o 9.0m (min.) from an intersection

• Depth (of soil preparation):
  o 150mm (max.) below level of surrounding kerb and pavement

• Must not interfere with Council’s street tree watering or WSUD systems

• Must not otherwise impact on the efficient and safe use of the road reserve and activities such as rubbish collection and street sweeping.

Further:

• Any digging within the nature strip must be performed using hand tools

• Soil to be flush with kerb and footpath, i.e. no raised edging or tapered beds

• Service pits must remain uncovered

• Any mulch must be stable and contained within the nature strip

• Where a formal footpath is absent, a clearance of 1.5m (min.) wide must be maintained for the length of the nature strip to act as an informal path.

Note:

• Should Council or a utility need to access its services, the nature strip will be reinstated with top soil and lawn seed regardless of any pre-existing treatment.

• Council cannot prevent members of the public from interfering with plants including the harvesting of produce.

8. Planter Box Specifications

For the life of the planter box, it must comply with the following:

• Length: 0.7-1.0m
Width: 0.7-1.0m
Height: 0.6-0.8m to top of planter box (+ 0.3m (max.) vegetation)
Elevation: 100mm from ground surface to base
Corners/edges: 20mm (min.) rounded radius
Setback from kerb: 0.5m (min.)
Setback from footpath: 0.5m (min.)
Distance from intersection: 9.0m (min.)
Distance from vehicle crossing: 2.0m (min.)
Clearance from utilities, pits or fixtures: 1.0m (min.)
Free of splinters and protrusions (e.g. nails, bolt heads, etc.)
Portable and able to be moved without damage or spilling
Colour and material in keeping with the neighbourhood character
Located immediately in front and/or side (if a corner block) of the owner’s property
Located on existing lawn grass
Pits located within the nature strip must remain uncovered
Must not interfere with Council’s watering, irrigation or WSUD systems
Must not otherwise impact on the efficient and safe use of the road reserve.

Specifications for planter boxes have been developed with consideration to: tripping hazards; road visibility and viewing distance; resistance to tipping by vandals; clearance for signage, street furniture and waste collection; vehicle access; maneuvering room for footpath users including those with impaired mobility; access to Council and utility services; maintaining neighbourhood character; and, risk to safety.

Note:

Should Council or a utility need to access its services the resident may be required to remove the planter box prior to commencement of works.

Council cannot prevent members of the public from interfering with a planter box including the harvesting of produce.
9. Definitions

Nature Strip
The nature strip is the area of public land between the property boundary and the back of kerb (including between the footpath and property boundary), but excluding any footpaths, crossings, paved areas, trees, furniture, structures or civil infrastructure. In most cases, a nature strip is grassed. Refer Diagram 1 below for a schematic explanation.

Diagram 1: Typical Nature Strip Setting within Road Reserve

Road Reserve
The road reserve is the area between property boundaries and usually houses the road surface and adjacent footpaths, traffic islands, crossings and nature strip. Also refer the Road Management Act 2004 (Vic) for clarification.

Roadside
The roadside is in simplistic terms described as the area bordering on the side of a road. The Road Management Act 2004 (Vic) defines it in more detail as ‘any land that is within the boundaries of a road (other than the shoulders of the road), which is not a roadway or a pathway and includes the land on which any vehicle crossing or pathway which connects from a roadway or pathway on a road to other land has been constructed.’

Footpath
A footpath, also referred to as a “pathway”, is intended for use by pedestrian and usually connects public spaces. It is not intended for other forms of traffic, such as motorized vehicles.

Crossing
A crossing can be a vehicle crossing, pedestrian crossing or even a pram crossing. A vehicle crossing is the strip of the driveway that crosses the nature strip and footpath allowing vehicles to enter and exit the property from the roadway. A pedestrian crossing similarly allows access from the roadway to the footpath. For convenience and safety purposes a crossing is usually graded (same level as the road) and not obscured by the roadside kerb.

**Utility**

Utilities refer to service infrastructure, such as water, sewerage, drainage, gas, electricity, telecommunication or other like services provided by an Authority or Service Provider that is governed by legislation.

**Permeable surfaces**

Permeable surfaces (also known as porous or pervious surfaces) allow water to percolate into the soil. In the case of nature strips it predominantly caters for rainfall runoff to infiltrate the underlying soil and has the added benefit of filtering out pollutants and recharging the water table.

**Water Sensitive Urban Design (WSUD)**

It is a planning and engineering design approach which integrates the urban water cycle, including stormwater, groundwater and wastewater management and water supply, into urban design to minimise environmental degradation and improve aesthetic and recreational appeal.
Appendix B – Application Form for approval to undertake works within a road reserve

NATURE STRIP LANDSCAPING APPLICATION FORM

PERSONAL CONTACT INFORMATION

| Name:     |  |
| Address:  |  |
| Post Code |  |

| Phone No: |   |
| M         | W |
| H         |   |

| Email:    |  |

EXISTING NATURE STRIP TREATMENT

Are there existing street tree(s) on your nature strip? Yes No

Are there existing services on your nature strip? (e.g. gas, power, water) Yes No

Note: Dial Before You Dig on 1100 or visit their website at https://www.1100.com.au/

Has the nature strip been modified (any other landscaping treatments other than grassed)? Yes No

CHECKLIST

Please provide a separate site plan/sketch of the proposed landscape works as per the example below (refer to Appendices for Planting Specifications, Planter Box Specifications and Prohibited Treatments in preparing the plan)

<table>
<thead>
<tr>
<th>Item</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Have you shown all existing services (such as gas, water, electrical etc.)?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Have you shown all existing trees (if any)?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Have you shown your property boundary, footpath, kerb and entire nature strip?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Have you shown where your bin(s) will go?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Have you shown and detailed all planter boxes (if proposed)?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Have you shown the offset distance between the footpath and new garden(s)?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Have you shown all proposed surface treatment (e.g.: turf, mulch, other)?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Does your proposal allow for clear access and site lines?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Have you informed the Owner in writing of the intended works (if the occupant and not the owner)?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Have you confirmed if you are covered under insurance policy for public liability?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Have you provided a description of your immediate streetscape and broader neighbourhood in support of your application?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Have you informed your neighbours as a courtesy?</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
PLANTING SPECIES

Please complete a table with the following headings showing all the new plants to be installed.

<table>
<thead>
<tr>
<th>Common Name</th>
<th>Botanical Name (If known)</th>
<th>Mature Height &amp; Width</th>
<th>Quantity</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Example of a Sketch Plan

Notes:

- The application must be accompanied by the applicable fee of $50.
- A minimum of four weeks is required for processing.
- The permit must be enacted upon within 90 days of issue otherwise the permit will expire and a new application must be made with Council, including the applicable application fee.
- Utility companies that supply water, gas, electricity and telecommunications may from time to time require access to the nature strip to perform maintenance/emergency works. This may affect components of your naturestrip.
9.5 Environmental Upgrade Finance Program

File No: FOL/18/32
Author: Brendan McDonagh
Senior Sustainability Officer
Directorate: City Services

Purpose
To inform Council about the opportunity for increased economic, employment and environmental outcomes for Moonee Valley enterprises afforded by Environmental Upgrade Agreements (EUAs), and the process to set-up and administer EUAs within Council.

Executive Summary
EUA’s support Council’s strategies and goals to support industries and enterprises to prosper and develop sustainably by:

- facilitating low carbon businesses
- stimulating a green economy, and
- facilitating resource efficient businesses

It also works towards achieving the targets set by MV2040 and its associated action plans. In particular:

- achieve net zero emissions for the community (Strategic Direction 13 of MV2040)
- working with businesses to transition to a low carbon economy (8.21 – 8.23 of the Zero Carbon City Action Plan)
- considering programs to encourage residents and businesses to capture and use water more sensitively (6.5 of Water Sensitive City Action Plan)
- engage with local businesses to avoid waste and increase resource efficiency (1.10 of the Waste and Resource Recovery Action Plan)
Recommendation

That Council:

1. Supports the establishment of Environmental Upgrade Agreements (EUAs);
2. Establishes the Environmental Upgrade Finance Program, commencing the first quarter of the 2018/2019 financial year;
3. Approves the appointment of the Sustainable Melbourne Fund (SMF)/Better Building Finance (BBF) to administer and support the delivery of EUAs; and
4. Notes the Chief Executive Officer has delegated authority to enter into Environmental Upgrade Agreements under this program.

Background

A EUA is an agreement between a property owner, a bank and local government that facilitates a building upgrade to improve environmental performance (reductions in energy, water and waste). EUAs allow for the tenants and building owners of commercial and industrial property to collaborate on energy, water and waste projects that will reduce the impact to the environment and reduce operating costs. Unlike other alternative finance options, EUAs allow tenants to contribute financially to the project where it makes sense to do so and help shape the project to best suit their needs. Importantly, EUA finance also offers 100 per cent project finance, very competitive interest rates and long term finance.

The Sustainable Melbourne Fund (SMF) designed and implemented the EUA program for the City of Melbourne, the first Australian municipality to offer EUAs. They are now the Third Party Administrator (TPA) for the EUA program, engaging actively with the finance and property sectors as a trusted intermediary for building owners.

The SMF:

- establishes EUA programs for municipal government;
- acts as a trusted intermediary to implement the program on behalf of Council; and
- provides ongoing monitoring and reporting.

From 9 September 2015, State Government legislation has allowed all Victorian Councils to offer EUAs to the business community.

The relationship between the SMF, Council, Property Owners and Financial Institutions is illustrated below:
Discussion

What are the benefits for council and Moonee Valley enterprises?

Through implementing EUAs, Council will be taking an innovative step to pioneer a mechanism that provides opportunities and benefits to Moonee Valley business ratepayers, to access attractive capital to improve their buildings. Upgrading buildings is a proven creator of local jobs and investment, increases environmental performance and hence asset value.

Key benefits are outlined below:

- **Low Cost Abatement.** Upgrading buildings delivers savings on utility bills, reducing the overall cost of energy for business while also reducing the impacts of climate change. EUAs are a mechanism for building owners to access attractive finance for retrofitting.

- **Overcome structural and market barriers.** EUA finance can overcome the split-incentive barrier (between owners and renters) by enabling the costs and benefits to be shared with the building occupiers. This means that building owners and tenants pay back the loan at the same time that they are benefitting from the lower costs of a more resource efficient building. If ownership or tenancy rights change, the new owners take up the loan and pay it through their rates. Without this system businesses have a disincentive to invest in efficiency because they may move premises before paying off the loan.

- **Reduce Financial Risks.** EUAs unlock private investment in local communities. There is no financial risk to local councils budgets and does not require government handouts.

- **Complementarity.** EUAs can work with any grants/subsidies available for projects through Local, State or Federal Government departments to enhance the business case for a building retrofit. As such, EUAs are a means of attracting government money into local communities.

How an EUA works – the economics and model

EUAs address an important cash flow consideration typical in commercial property ownership. The table below analyses a building owner's decision making process when considering commissioning a 30kW solar array. Under a non-EUA finance
structure the capital borrowed and repayments made are the responsibility of the building owner. In this case the building owner borrows $40,740 over 7 years requiring an annual principle and interest repayment of $7,940. Importantly, as the tenant pays all electricity costs, all savings attributable to this project will be to the benefit of the tenant. This results in an overall decrease in shareholder value (represented as a Net Present Value (NPV)) of negative $41,340.

However under a EUA, the tenant can contribute to the loan to the point where they are still better-off and shift the cash flow of the project to a positive annual cash flow. The ability for the tenant to contribute to the loan repayments means that the costs and benefits align for the building owner, resulting in an overall positive outcome for the project for both parties. Using the example below, under a EUA the building would borrow all costs associated with the solar install, including GST and by providing the property as security with the council rates being the repayment mechanism, lenders would be willing to provide up to 10 year finance at cheaper interest rates with repayments quarterly. This results in repayment costs being below current energy costs for the tenants; incentivising tenants to contribute to the repayment costs. This returns a positive NPV of $3,758 for the project to the building owner.
Better Building Finance (BBF), the administrative arm of the SMF, require that building owners obtain signed consent from tenants before entering into a EUA. In most cases however, projects are initiated by tenants who seek support from their landlords to implement sustainability initiatives.

The EUA is between the financier and the building owner. The EUA remains if tenants decide to vacate and it would be up to the building owner to secure a new tenant who accepts the existing arrangement, which will continue to provide the same financial benefit to the new tenant.

**What is the EUA application process and cost for a business?**

The SMF will charge application and ongoing processing fees to all project applications, payable by the applicants (at present, these are the Charges within the City of Melbourne. These are currently under review, but the SMF envision these to be uniform regardless of council area). An administration fee of 0.072 per cent is collected and itemised as part of the repayments.

<table>
<thead>
<tr>
<th>PROJECT SIZE</th>
<th>APPLICATION FEE ($)</th>
<th>PROCESSING FEE ($)</th>
<th>TOTAL UPFRONT FEE ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>≤ $50,000</td>
<td>600</td>
<td>N/A</td>
<td>600</td>
</tr>
<tr>
<td>&gt; $50,000 and ≤ $200,000</td>
<td>600</td>
<td>612.5</td>
<td>1,212.50</td>
</tr>
<tr>
<td>&gt; $200,001 and ≤ $400,000</td>
<td>600</td>
<td>1,350.00</td>
<td>1,950.00</td>
</tr>
<tr>
<td>&gt; $400,001 and ≤ $800,000</td>
<td>600</td>
<td>2,340.00</td>
<td>2,940.00</td>
</tr>
<tr>
<td>&gt; $800,001 and ≤ $1,400,000</td>
<td>600</td>
<td>3,630.00</td>
<td>4,230.00</td>
</tr>
<tr>
<td>&gt; $1,400,001 and ≤ $2,500,000</td>
<td>600</td>
<td>4,875.00</td>
<td>5,475.00</td>
</tr>
<tr>
<td>&gt; $2,500,001 and ≤ $4,000,000</td>
<td>600</td>
<td>6,175.00</td>
<td>6,775.00</td>
</tr>
<tr>
<td>&gt; $4,000,001 and ≤ $8,000,000</td>
<td>600</td>
<td>9,600.00</td>
<td>10,200.00</td>
</tr>
<tr>
<td>&gt; $8,000,001 and ≤ $12,000,000</td>
<td>600</td>
<td>16,000.00</td>
<td>16,600.00</td>
</tr>
<tr>
<td>&gt; $12,000,001</td>
<td>600</td>
<td></td>
<td>19,800.00</td>
</tr>
</tbody>
</table>

**Potential EUA opportunities in Moonee Valley:**

The SMF has several channel partners (mainly offering energy efficiency and renewable energy products and services) that are currently identifying opportunities across Victoria. Cherry Energy Solutions, who are a member of Council’s Energy$mart program, are also the leading facilitator/provider of EUAs within Victoria.

In 2013, a joint study funded by the Eastern Alliance for Greenhouse Action and the Western Alliance for Greenhouse Action (of which Moonee Valley is a member)
quantified the potential economic benefits of EUAs across Victoria. The findings for Moonee Valley were as follows:

- 5,296 viable buildings;
- $50.9 million worth of investment;
- Approximately 200 extra jobs (installers, practitioners).

While there will be obvious target areas for Council where large solar installations will have very beneficial paybacks (e.g. Essendon Fields**), the majority of EUAs signed since late 2015/early 2016 have been for small and medium sized enterprises (SMEs), and SMEs make up the majority of organisations within the municipality.

**It is noted that as Essendon Fields is on Federal Land, traditional rates are not paid. Further research is necessary to understand if an Environmental Upgrade Charge or similar arrangement could be levied.

How will the SMF support council to set-up the EUA process?

BBF will assist Council to develop the EUA offering and the EUA application and administration process. BBF will also adapt all the EUA application documentation and templates, including process flowcharts and check sheets currently in use within the City of Melbourne to best match internal requirements.

Beyond the set-up, as part of the Third Party Administrator Services, BBF will process the applications including help line support and liaise with each of the relevant departments highlighted in the table below to obtain the information required to enable the signing of EUAs in an efficient manner and participate in stakeholder engagement activities (networking events, presentations, information sessions) to promote the program.

The additional rates notice is voluntary, and it is estimated there will be 5-10 additional notices per annum.

Consultation

The nature of this report did not require any external consultation.

Internally, the Environment Team has facilitated this proposal in consultation with the Economic Development and Rates & Revenue teams within Council.

BBF presented the proposal to officers involved in this initiative, explaining the program.

BBF has also provided Council with a table of critical points and key roles across departments/teams for EUF program (1) Approval, (2) Establishment and (3) Administration. Refer to Appendix A for details.

Implications

1. Legislative

As mentioned, from 9 September 2015, State Government legislation has allowed all Victorian Councils to offer EUAs to their business community.

All legal obligations have been considered by BBF and councils who already have EUF programs. This information will be shared with Moonee Valley and applied during the ‘establishment phase’ of the program.
2. Council Plan/Policy

This proposal is aligned to the Council Plan 2017-21 Theme 3: Sustainable living - Connected, well designed municipality, thriving neighbourhoods, accessible places and spaces - People have the tools and knowledge they need to live sustainably.” The EUF is another mechanism of deliver sustainability programs and support local businesses, schools and the early learning sector.

The EUF program will also work towards achieving several environmental targets in MV2040 and its associated Green Action Plans.

3. Financial

EUA application fees are covered by the relevant businesses as outlined above.

Most administrative and promotional costs will be absorbed by the Rates & Revenue and Economic Development teams, with a potential 0.2 FTE increase to plan and implement the stakeholder engagement and strategic communications, and leverage the EUF program to its potential.

4. Environmental

In 2013, Council commissioned a report on emissions abatement options for our commercial and industrial buildings/premises to reach our community carbon neutral target by 2020. The report, titled Greenhouse Gas Emissions Modelling: Commercial and Industrial, refer to Appendix B found that EUAs would contribute to a 20 per cent reduction on 2012 business as usual levels, equivalent to extracting 72,524 tonnes of CO2 from the atmosphere. That is to say, EUAs are a logical and necessary mechanism to help our industrial and commercial areas achieve carbon neutrality.

Conclusion

EUAs afford an excellent opportunity for Council to partner with businesses within the municipality to reduce their operating costs, improve the asset value of commercial building stock and create more resource efficient enterprises.

Appendices

Appendix A: EUF Program - department roles and critical points
Appendix B: Greenhouse Gas Emissions Modelling - Commercial and Industrial (separately circulated) .
Roles for each Council department –

<table>
<thead>
<tr>
<th>Department</th>
<th>Activity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Council</td>
<td>• Pass resolution to offer EUAs in the municipality&lt;br&gt;• Provide instrument of delegation to CEO (or delegate) to sign EUAs</td>
</tr>
<tr>
<td>Legal Department</td>
<td>• Review and agree to template EUA form and other template documentation&lt;br&gt;• Ad hoc responses to legal queries regarding the EUA template&lt;br&gt;• Confirm final documentation is in order prior to execution by CEO – SMF will provide confirmation that in our opinion the documentation is complete and accurate&lt;br&gt;• Store copy of the signed EUA for Council records (e.g. in the vault)</td>
</tr>
<tr>
<td>Property Services</td>
<td>• Confirm property exists in your municipality and is used for non-residential purposes&lt;br&gt;• Levy Environmental Upgrade Charge (EUC) and issue EUC notice&lt;br&gt;• Collect quarterly EUC payments&lt;br&gt;• Provide Quarterly EUC payment summary</td>
</tr>
<tr>
<td>Finance</td>
<td>• Remit quarterly payments to Lenders&lt;br&gt;• Remit quarterly fees (any applicable) to relevant parties</td>
</tr>
<tr>
<td>Economic Development Department Team</td>
<td>• Promote EUA and EUF through existing programs and channel partners&lt;br&gt;• Conduct on the ground engagement with relevant stakeholders</td>
</tr>
<tr>
<td>Marketing &amp; Communications</td>
<td>• Assist with development of marketing collateral&lt;br&gt;• Actively seek media opportunities to promote EUA success in the municipality</td>
</tr>
</tbody>
</table>
### Critical points for EUF Program (1) Approval, (2) Establishment and (3) Administration –

<table>
<thead>
<tr>
<th>Phase</th>
<th>Outcome</th>
<th>Who</th>
<th>Actions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Interest</td>
<td>Approval</td>
<td>Eco Dev/Sustainability</td>
<td>Research and business case</td>
</tr>
<tr>
<td>Briefing Note</td>
<td></td>
<td>Leadership Team</td>
<td>Approve and present to Council</td>
</tr>
<tr>
<td>Resolution</td>
<td></td>
<td>Council</td>
<td>Resolution – delegate to CEO the power to declare and levy and environmental upgrade charge</td>
</tr>
<tr>
<td>Engaged</td>
<td>Program Establishment</td>
<td>Leadership Team</td>
<td>Engage BBF</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Eco Dev/Sustainability</td>
<td>Facilitate workshop</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Rates</td>
<td>EUC notice process</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Finance</td>
<td>EUC collection process (special rates charge)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Legal</td>
<td>Review documents</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Marketing</td>
<td>Council website, branding, EUF Program launch</td>
</tr>
<tr>
<td>Launch</td>
<td></td>
<td>Eco Dev/Sustainability</td>
<td>EUF Program launch</td>
</tr>
<tr>
<td></td>
<td>Approval</td>
<td>Eco Dev/Sustainability</td>
<td>Program update (as notified by BBF)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Rates</td>
<td>Confirm rates eligibility</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Legal</td>
<td>Review draft EUA</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Eco</td>
<td>Obtain CEO signature</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Dev/Sustainability</td>
<td>Issue EUC notice</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Rates</td>
<td>Collect ¼ EUC payments and remit</td>
</tr>
<tr>
<td>Charge Collection</td>
<td>Program Administration</td>
<td>Rates</td>
<td>Discharge EUC</td>
</tr>
</tbody>
</table>
9.6 Review of Right of Way Policy Abutting Developments

File No: FOL/18/32
Author: Andrew Ryan
Development Engineer
Directorate: Planning and Development

Purpose
This report follows a recommendation for the Right of Way Access for Abutting Development Proposals Policy to be reviewed 12 months after implementation. The review will strengthen the Policy as a result of experience gained throughout implementation.

Executive Summary
- At its Ordinary Meeting on 26 July 2016, Council adopted the Right of Way Access for Abutting Development Proposals Policy with the recommendation that the Policy be reviewed after 12 months and prior to proceeding with incorporation of the Policy into the Moonee Valley Planning Scheme.
- The review has had regard for the following:
  - Maddocks legal review of the Policy with recommendations regarding specific changes of wording/formatting.
  - Written evidence from VCAT orders and instructions, particularly, VCAT's overruling of the Policy in terms of vesting of land.
  - Internal consultation.
- In addition to general tidying, the main changes proposed to the Policy relate to:
  - vesting of land in Council. The Policy adopted by Council in 2016 stated that where existing ROW is less than 5.5m wide, the application must include a *widening of the ROW along the entire property length to accommodate a total ROW width along the property boundary of 5.5m.* … and that *the widened section of land is to be marked as R1 and vested to Council during subdivision approval stage.* Since the Policy was adopted in July 2016, Council has not successfully defended this aspect of Policy at VCAT. As such, the wording proposed now stipulates that where there is a requirement for a widening of the land per above, the land ‘may’ be required to be transferred to or be vested in Council (7.1.3 Setbacks and Widening of Appendix A – separately circulated).
  - addition of Application Requirements (at Section 8 of Appendix A – separately circulated).
Recommendation

That Council:

1. Notes the revised Policy as per the review, and having regard for VCAT outcomes reported.


3. Commences work to have the reviewed Right of Way Access for Abutting Development Proposals Policy incorporated into the Moonee Valley Planning Scheme.

Background

Right of Ways (ROWs) are commonly known as ‘laneways’, being the area of land between property boundaries which provides a legal right to pass along the area of land, usually connecting to a road.

Within Moonee Valley, ROWs cover an area of 227,000 square metres and have a combined length of 68km. Three-quarters of the ROWs are maintained by MVCC and are constructed of concrete, asphalt or bluestone. The remaining quarter are unconstructed and are not maintained by MVCC.

ROWs were often originally planned to accommodate drainage and some utilities for adjoining properties. Generally ROWs provide an overland drainage function and can sometimes be subject to flooding.

In recent years, MVCC has had an increased number of planning applications proposing vehicular access to developments via ROWs. Developments with access abutting ROWs provide the opportunity for intensification of urban land and infill development within MVCC.

The majority of ROWs within the municipality are narrow (single traffic lane) and developments proposed adjacent to the ROW need to be designed and managed in accordance with Council guidelines and standards.

Discussion

The Right of Way Access for Abutting Development Proposals Policy has been implemented over the past 2 years. In light of the experience of applying this Policy, and a legal review undertaken by Maddocks, a tracked changes version of the Policy has been prepared and is at Appendix A (separately circulated) (Maddocks legal review shown in light blue colour).

While it is considered the purpose of the Policy to provide clear guidelines for developments abutting ROWs within the municipality has been met, the Policy was not successfully defended at VCAT in terms of vesting of land in Council. The Policy adopted by Council in 2016 stated that where existing ROW is less than 5.5m wide the application must include a widening of the ROW along the entire property length to accommodate a total ROW width along the property boundary of 5.5m, … and that the widened section of land is to be marked as R1 and vested to Council during subdivision approval stage. Since the Policy was adopted in July 2016, Council has not successfully defended this aspect of Policy at VCAT. As such, the wording
proposed now stipulates that where there is a requirement for a widening of the land per above, the land ‘may’ be required to be transferred to or be vested in Council (7.1.3 Setbacks and Widening of Appendix A – separately circulated). Appendix B provides the VCAT Evidence Table showing the VCAT decisions against four aspects of the Policy – Construction; Widening/Setback; Splay; and Vesting. The table highlights VCAT support for Council decisions relating to construction, widening/setbacks and splay, but no support for the vesting of the land to Council once it had been widened. Appendix C provides the Characteristics of ROW for Widening/Setback for some of the VCAT Cases detailed in Appendix B.

The revised Policy can now be found at Appendix D (separately circulated). Given the legal review undertaken and changes informed by learnings to date, it is anticipated the revised Policy will have improved success at VCAT. Further, it is now proposed to proceed with embedding the Policy within the Moonee Valley Planning Scheme, which, once achieved, will provide the Policy greater statutory weight.

Consultation

In developing this Policy the following Departments have been consulted through an internal working group:

- Technical Services
- Statutory Planning
- City Planning
- Building, Health and Property Services
- Infrastructure Services
- Operations Delivery
- Governance.

The key Policy considerations were discussed and feedback has been sought from the group and incorporated into the Policy.

Implications

1. Legislative

There are no legislative implications associated with adopting the Policy.

2. Council Plan / Policy

In presenting this report, Council is working to achieve its strategic objective to upgrade infrastructure to support multiple benefits and value outcomes in accordance with Council Plan 2017-21 Theme 2: Green, clean and beautiful - A healthy environment and enhanced amenity - Our infrastructure meets the needs of today and can respond to future demand.

Development adjacent to ROWs should be designed and managed in accordance with the standards required by Council, for the benefit of the development and the local community.
3. **Financial**
   
   There are no financial implications associated with adopting the Policy.

4. **Environmental**
   
   There are no environmental implications associated with this report.

**Conclusion**

It is recommended Council adopt the modifications to the Right of Way Access for Abutting Development Proposals Policy. Implementation of the Policy has proven valuable in achieving better access outcomes for the community.

**Appendices**

Appendix A: Policy Review - Track changes (separately circulated)
Appendix B: VCAT Evidence Table
Appendix C: Characteristics of ROW for Widening/Setback
Table 1. VCAT Instructions/Orders written evidence

<table>
<thead>
<tr>
<th>Address</th>
<th>Description</th>
<th>Location</th>
<th>Laneway Policy Applied</th>
<th>Permit Conditions</th>
<th>VCAT Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Corner Block</td>
<td>Mid-Block</td>
<td>Construction</td>
<td>Widening/Sealback</td>
</tr>
<tr>
<td>1 Montgomery Street, Moonee Ponds</td>
<td>Construction of eight dwellings</td>
<td>YES</td>
<td>NO</td>
<td>YES</td>
<td>NO</td>
</tr>
<tr>
<td>52 Yarraville Street, Moonee Ponds</td>
<td>Construction of two dwellings</td>
<td>YES</td>
<td>NO</td>
<td>YES</td>
<td>NO</td>
</tr>
<tr>
<td>555 Buckley Street, Aberfeldie</td>
<td>Medical Centre, Alterations and additions to the building</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
<td>NO</td>
</tr>
<tr>
<td>6 Shuter Street, Moonee Ponds</td>
<td>Four storey building containing an office and six dwellings</td>
<td>NO</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>52-54 St Leonards Avon Vale</td>
<td>Construction of a multi-storey residential Building</td>
<td>YES</td>
<td>NO</td>
<td>YES</td>
<td>NO</td>
</tr>
<tr>
<td>Darebin City Council</td>
<td></td>
<td>455 High Street North</td>
<td>Construction of a three storey building for shops and apartments</td>
<td>YES</td>
<td>NO</td>
</tr>
</tbody>
</table>

Permit Conditions

MV/1016/2016 – 1 Montgomery Street, Moonee Ponds
10 Provision of a 1.0m x 1.0m corner spray to the north east of the subject site, where the Right of Way intersects with Montgomery Street.
11 The ‘concrete area’ to the east of the site, adjoining the Right of Way annotated as “IR” with a notation that this land is to be vested to Council.
12 Before the buildings approved by this permit are occupied the Right of Way is to be reinstated (adjacent to the subject site, approximately 36 meters).

MV/78/2016 – 52 Yarraville, Street Moonee Ponds
10 Obtain registration by the Land Registry of a plan of subdivision approved by the Council creating an approximately 20.61 square metre road at the rear of 52 Yarraville Street.
11 Complete the transfer of that land as a road to the Council free of monetary consideration and of costs and expenses to the Council.
12 Theожages to be setback a further 1.11 metres from the right-of-way, and this setback to be shown as a gifted area on all relevant plans.

MV/151/2016 – 333 Buckley Street, Aberfeldie
10 Obtain registration by the Land Registry of a Plan of Subdivision approved by the Council creating an approximately 36.8 square metre road at the rear of 333 Buckley Street.
11 Complete the transfer of that land as a road to the Council free of monetary consideration and of costs and expenses to the Council.
10 Before the building approved by the permit is occupied the Right of Way must be constructed from Vice Street to the Eastern boundary of the property (approx. 34m).

MV/463/2016 – 6 Shuter Street, Moonee Ponds
10 The ground floor level to be setback 2.5m from the eastern boundary with no additional reduction to the car parking proposed.
10 Notes on the plans stating “The Existing laneway along the length of the property boundary be made good and no change to the existing levels within the road reserve”.

Table 1 Notes

- Splay refers to the 1.0m x 1.0m right triangle
- Widening refers to the R.O.W being widened along the length of the property boundary (Typical for corner lots to allow passing).
- Setback refers to the proposed building being setback from the property boundary. (Typical for mid blocks to allow vehicles manoeuvring at rear of property)
- Widening and Setback can be requested at the same time.
Characteristics of R.O.W for Widening/Setback in VCAT Evidence

323 Buckley Street
(MVCC YES - VCAT NO)
Location - Mid Block

R.O.W 45m in length, unconstructed
6 Shuter Street
(MVCC YES - VCAT NO)
Location - Mid Block

R.O.W 180m in length, bluestone

52 Ngarveno Street (MVCC YES – VCAT YES)
Location - Corner Block

R.O.W – 78m length, bluestone

52-54 St Leonards Ascot Vale (MVCC YES – VCAT YES)
Location – Corner Block
R.O.W – 100m length, bluestone
9.7 **Return of the 2018 General Revaluation**

**File No:** FOL/18/32  
**Author:** Damian Hogan  
Manager Finance  
**Directorate:** Organisational Performance

**Purpose**
Council’s Contract Valuers, Rating Valuation Services, have returned the 2018 General Valuation of all properties in the City of Moonee Valley, as at 1 January 2018, in accordance with the statutory requirements and under the auspice of the Valuer-General Victoria.

In accordance with the *Local Government Act 1989*, Council must adopt the 2018 General Revaluation of all properties within the municipality biennially.

**Executive Summary**
- The 2018 valuations are based on market levels as at 1 January 2018 and will be used for the purpose of levying rates and charges.
- Council will be required to return the next general revaluation in 2019.

**Recommendation**
That Council receives and adopts the return of the 2018 General Revaluation of all properties within the municipality.

**Background**
In accordance with Section 13DC(3) of the *Valuation of Land Act 1960*, a General Revaluation of all properties within the City of Moonee Valley has been completed.

The Valuation is based on levels of value in force as at 1 January 2018 and is effective from 1 July 2018. The revaluation was undertaken by Council’s Contract Valuers, Rating Valuation Services.

**Discussion**
The table provided as Appendix A, indicates the movement of rateable property valuations since the last General Revaluation, which was adopted by Council in June 2016. The General Revaluation provides Capital Improved Value, Site Value and the Net Annual Value valuation data as at 1 January 2018. Council uses the Capital Improved Value as the basis of valuation for the levying of rates and charges.

The movement between 2016 and 2018 General Revaluations demonstrates an increase in the Capital Improved Value of rateable property within the municipality of 27.14% compared with a 14.84% increase in the previous revaluation period of 2016.

The 2016 Rateable Capital Improved Valuation has risen by $11,070,937,000 compared to the increase of $6,058,703,000 in the previous revaluation (2016) across the municipality.
Non-rateable valuation data is used for the levying of the Fire Services Property Levy where the property is not rateable under the Local Government Act 1989.

Consultation
The nature of this report does not require any consultation.

Implications

1. Legislative
   In accordance with Section 13DC(3) of the Valuation of Land Act 1960, the General Revaluation of all properties within the City of Moonee Valley is required to be performed.

   Legislation provides for the return of the valuation to Council. All data and valuations must be provided to Council in a format pursuant to Section 7 of the Valuation of Land (General and Supplementary Valuations) Regulations 2003, and contain required information listed within Form 3 Schedule 1 of this Valuation of Land Act 1960. Council’s Contract Valuers have provided Form 3 Revaluation Declaration, refer Appendix B.

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
   Valuations are the basis upon which Council levies rates. A revaluation does not mean an opportunity to increase rate revenue; it re-distributes the rate burden across and within categories of properties.

4. Environmental
   There are no environmental issues associated with this report.

Conclusion
Council is required to adopt the General Revaluation of all properties.

Council is required to return the full 2018 General Revaluation. For budget purposes the 2018/19 rate declaration will be based on the Capital Improved Values of all properties within the municipality of Moonee Valley as at 1 July 2018. The totals of Site Value, Capital Improved Value and Net Annual Value are shown in the table provided in Appendix A.

Appendices
Appendix A: General Revaluation 2018
Appendix B: Form 3 Revaluation Declaration 2018
### General Revaluation 2018

<table>
<thead>
<tr>
<th>Rateable Properties</th>
<th>Revaluation 2016</th>
<th>Revaluation 2018</th>
<th>% Movement between Revaluations</th>
<th>No. of properties 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site Value (SV)</td>
<td>$29,021,518,800</td>
<td>$39,152,094,000</td>
<td>34.91%</td>
<td>56052</td>
</tr>
<tr>
<td>Capital Improved Value (CIV)</td>
<td>$40,799,358,000</td>
<td>$51,870,295,000</td>
<td>27.14%</td>
<td>56052</td>
</tr>
<tr>
<td>Net Annual Value (NAV)</td>
<td>$2,073,423,700</td>
<td>$2,622,991,850</td>
<td>26.51%</td>
<td>56052</td>
</tr>
</tbody>
</table>
FORM 3 - VALUATION RETURN
MUNICIPAL DISTRICT OF MOONEE VALLEY
YEAR 2018- GENERAL VALUATION

Valuations of and particulars of information relating to the undermentioned rateable and non-rateable properties within the City of Moonee Valley have been made in accordance with the provisions of Section 13 DH(1) of the Valuation of Land Act 1960 as at the relevant date of Valuation - 1 January 2018.

<table>
<thead>
<tr>
<th>Number of Assessment</th>
<th>Site Value</th>
<th>Capital Improved Value</th>
<th>Net Annual Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rateable</td>
<td>$39,152,094,000</td>
<td>$51,870,295,000</td>
<td>$2,622,991,850</td>
</tr>
<tr>
<td>Non-rateable</td>
<td>$2,365,012,400</td>
<td>$3,079,648,400</td>
<td>$154,278,420</td>
</tr>
</tbody>
</table>

* Includes Levlable and Non-leviable properties

I certify that the valuations shown above are those returned by me on the 30th day of April 2018.

PHILIP THOMAS (CONTRACT VALUER)
RATING VALUATION SERVICES
30/04/2018
9.8 Draft Gifts, Benefits and Hospitality Policy

File No: FOL/18/32
Author: Allison Watt
Manager Governance and Communications
Directorate: Organisational Performance

Purpose
The purpose of this report is to present a Gifts, Benefits and Hospitality Policy for adoption by Council.

Executive Summary
- The Acceptance of Gifts, Benefits and Hospitality Policy has not been updated since 2012.
- In December last year, the Audit Committee expressed concern that the current policy and process fell short of the legislative requirements of the Local Government Act 1989 and was contrary to the guidelines provided by Local Government Victoria and requested that it be reviewed and updated.
- The policy has been reviewed and updated in line with the Victorian Public Sector guidelines and policies of other councils which are considered best practice.

Recommendation
That Council:
1. Adopts the Gifts, Hospitality and Benefits Policy provided as Appendix A
2. Notes the policy will be presented to the next Audit Committee Meeting on Monday 27 August 2018
3. Makes the Policy publicly available on Council’s website.

Background
At its meeting on 11 December 2017, the Audit Committee requested an update of Council’s Acceptance of Gifts and Hospitality Policy and gifts register to be reported back to it in 2018.

The Councillor Support team conducted an audit of events attended by Councillors to ensure a declaration had been reported and included on the register. This audit was completed early in 2018.

The Audit Committee also requested that the Acceptance of Gifts and Hospitality Policy be updated in line with the Victorian Public Sector guidelines and expressed concern that the current process falls short of the legislative requirements and is contrary to the guidelines provided by Local Government Victoria.
At the Council Meeting on 22 May 2018 Council resolved that the registers of gifts and hospitality received and declared by Councillors would be made publicly available on the new Transparency section of Council’s website.

**Discussion**

The Draft Gifts, Benefits and Hospitality Policy is attached as [Appendix A](#).

It replaces the Acceptance of Gifts and Hospitality Policy, which had not been updated since 2012.

As recommended by the Audit Committee, the draft policy is based on the model template developed by the Victorian Public Sector Commission and the policies of many other Victorian councils which are considered best practice.

The draft Gifts, Benefits and Hospitality Policy includes the following:

- Clear definitions of the types of gifts to which the policy applies
- The process for accepting, declining and recording offers of gifts, benefits and hospitality
- A table setting out the nominal value of the types of hospitality that might be offered
- A useful tool to assist councillors and council staff in deciding whether to accept or decline a gift, benefit or hospitality
- Updated forms for the declaration of gifts, benefits or hospitality.

The previous policy lacked detail and was open to interpretation. The draft policy is quite detailed, providing clarity to Councillors and Council officers about their legislative responsibilities under the *Local Government Act 1989*.

Once adopted, the Gifts, Benefits and Hospitality Policy will be presented to the Audit Committee on 27 August.

When the new Local Government Act comes in effect this year, there will be a legislative requirement for all Councils to develop and adopt a Councillor Gifts Policy in accordance with new regulations which will be available by July 2019.

**Consultation**

The nature of this report does not require any consultation.

**Implications**

1. **Legislative**

   The adoption of this Policy will ensure that Councillors and Council officers are able to meet their statutory responsibilities under Sections 77A, 77B, 78, 78A, 78B, 78C, 78D, 78E, 79, 79B and 79C of the *Local Government Act 1989*.

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**
   There are no budgetary or funding considerations as a result of this report.

4. **Environmental**
   There are no environmental impacts as a result of this report.

**Conclusion**

It is recommended that Council adopts the draft Gifts, Benefits and Hospitality Policy and that it be presented to the Audit Committee on Monday 27 August.

**Appendices**

9.9 Draft Meeting Procedure Protocol

File No: FOL/18/32
Author: Allison Watt
Manager Governance and Communications
Directorate: Organisational Performance

Purpose
This report is presented to Council for the purpose of adopting the draft Meeting Procedure Protocol which is an incorporated document within the Governance Local Law 2009.

Executive Summary
- The Local Government Act 1989 requires Council to make Local Laws to govern the conduct of meetings of the Council and Special Committees.
- Council’s Meeting Procedure Protocol incorporated into the Governance Local Law 2009 was endorsed in September 2009.
- The protocol was updated in July 2016 and again in October 2017 to accommodate the introduction of live-streaming of Council Meetings.
- This latest review and update of the Meeting Procedure Protocol has made a number of improvements in areas which there was a lack of structure and detail in some areas, where the protocol was open to interpretation and subjectivity and to make it easier for the live-streaming audience to understanding Council’s decision-making process.

Recommendation
That Council:
1. Adopts the draft Meeting Procedure Protocol as provided in Appendix A
3. Receives a further report on rules to govern the conduct and proceedings of public forums.

Background
Councils have a legislative requirement under Section 91 of the Local Government Act 1989 to make local laws governing the conduct of meetings of the Council and special committees.

The Moonee Valley Meeting Procedure Protocol is an incorporated document within the Governance Local Law 2009, adopted in September 2009. The protocol was updated by Council in July 2016 and again in October 2017 to accommodate the introduction of the live-streaming of Council meetings.
The purpose of the Meeting Procedure Protocol is to:

- Regulate proceedings at Council Meetings, Special Committee Meetings and other meetings conducted by or on behalf of Council where Council has resolved that the provisions of this protocol are to apply;
- Regulate proceedings for the election of the Mayor, Deputy Mayor and Chairpersons;
- Facilitate community engagement by providing opportunities at meetings for community members to express their views;
- Ensure the efficient and orderly conduct of meetings; and
- Ensure the peace, order and good government of the municipal district.

The Governance Local Law is due to sunset in 2019.

Discussion

Since its adoption nine years ago (as incorporated by reference into the Governance Local Law 2009), there have been several minor adjustments to the Meeting Procedure Protocol.

This latest review proposes a complete overhaul of the protocol, providing a clear structure and providing more detail and clarity in some areas of meeting procedure that may have previously been open to interpretation.

The introduction of live-streaming of Ordinary Council Meetings places greater onus on Councillors to ensure that the viewing audience understands the meeting proceedings and transparency around the decision-making process, given that they do not have access to business papers.

The structure of the revised protocol includes:

1. Introduction
2. Notices and agendas
3. Quorum
4. Call of the Council
5. Minutes
6. Business of a Meeting
7. Addressing the Meeting
8. Meeting Procedures
9. Motions and Amendments
10. Speaking to the Meeting
11. Conduct during Meetings
12. Procedure not in Protocol
13. Livestreaming/recording
14. Special Meetings
15. Special Committees
16. Election of Mayor/Deputy Mayor
17. Offences and penalties

The majority of the previous protocol is included, but it is now a longer and more detailed document.

Major changes include:

- Improved definitions
- Clarity around adjourning meetings and debate, closing the meeting to the public, suspending standing orders
- Clarity around motions and amendments such as procedural motions
- The removal of moving motions ‘en bloc’
- The removal of ‘formal’ and ‘informal’ amendments
- The removal of Mayor and Councillors Report and introduction of Delegates Reports
- Introduction of rescission motions
- A change to the public question time section which will enable members of the public to ask their own questions of Council

The new Local Government Act to come into effect this year will require Councils to develop and adopt Governance Rules by January 2020. Guidance from Local Government Victoria about this is expected by April 2019.

The Governance Rules must include rules for the conduct of Council and delegated committee meetings, the form and availability of meeting records, the election of the Mayor and Deputy Mayor, the procedures for declarations of conflicts of interest and other matters prescribed by the regulations.

**Consultation**

In reviewing the existing Meeting Procedure Protocol, consultation was undertaken with all Councillors and members of the Executive Team.
Implications

1. Legislative

Council has a legislative requirement under Section 91 of the *Local Government Act 1989* to make local laws governing the conduct of meetings of the Council and special committees.

As an incorporated document within Moonee Valley’s Governance Local Law 2009, it should be noted that the revised Meetings Procedure Protocol cannot be taken as amended until notice is published in the Victorian Government Gazette as per Section 112 of the *Local Government Act 1989*.

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

There are no budgetary or funding considerations as a result of this report.

4. Environmental

There are no environmental considerations as a result of this report.

Conclusion

Council’s Meeting Procedure Protocol contributes to and strengthens the foundations of sound and transparent decision-making and ensures that meetings are run efficiently and effectively. It is considered that the revised Meeting Procedure Protocol will support the Council in achieving these objectives.

Appendices

Appendix A: Draft Meetings Procedure Protocols - July 2018 (separately circulated)
9.10 Notices of Motion Quarterly Report

File No: FOL/18/32
Author: Rosie Ferreira
Governance Officer
Directorate: Organisational Performance

Purpose

This report provides an update on the status of Notices of Motion that have been endorsed by Council since 8 May 2018, up to and including 26 June 2018.

This report also presents correspondence sent to Members of Parliament and Federal and State Government agencies that has resulted from a Notice of Motion for the same period.

Executive Summary

- From 10 November 2016 to 26 June 2018, Council endorsed 43 Notices of Motion presented by Councillors. Of these 43 Notices of Motion, 33 have now been successfully completed (77 per cent), while 10 are ongoing. A report on the Notices of Motion for the current Council term is provided as Appendix A (separately circulated).

- Since the last report to Council there have been three Notices of Motion endorsed.

- From 8 May 2018 to 26 June 2018, there has been one Notice of Motion requesting Council writes to a Member of Parliament or government agency. This correspondence is provided in Appendix B.

Recommendation

That Council:

1. Receives and notes the report on the progress of all endorsed Notices of Motion for the period 10 November 2016 to 26 June 2018 as Appendix A (separately circulated).

2. Notes that there has been one Notice of Motion for the period 8 May 2018 to 26 June 2018 requesting Council writes to a Member of Parliament or Government agency; a copy of this letter is provided as Appendix B.

Background

Notices of Motion can be used by Councillors to request action in relation to a specific matter or issue. Notices of Motion must be moved, seconded and adopted in the same manner as other motions that are presented to Council for resolution.

Pursuant to Council’s Meeting Procedure Protocol, it is a requirement for Notices of Motion to be lodged with the Chief Executive Officer at least five days prior to the meeting at which they are intended to be moved. In the event that a Councillor who has raised a particular Notice of Motion is absent from the meeting, it can be moved by any other Councillor.
Discussion
Between 10 November 2016 to 26 June 2018, Council endorsed 43 Notices of Motion presented by Councillors. Of these 43 Notices of Motion, 33 have now been successfully completed (77 per cent), while 10 are in progress.

Appendix A (separately circulated) provides details of all Notices of Motion that were endorsed by Council between 10 November 2016 and 26 June 2018 and includes the current status of each.

Appendix B contains a copy of the letter to the Hon. Luke Donnellan, Minister for Roads and Road Safety, seeking improvements to signage and line marking on the Citylink Tulla Widening Project.

Consultation
The nature of this report does not require any consultation.

Implications
1. Legislative
   There are no legislative implications from the presentation of this report.

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
   There are no financial implications resulting from the presentation of this report.

4. Environmental
   There are no environmental implications resulting from this report.

Conclusion
Between 10 November 2016 to 26 June 2018, Council endorsed 43 Notices of Motion presented by Councillors. Since the last report to Council, of these 43 Notices of Motion, 33 have now been successfully completed (77 per cent), while 10 are ongoing.

For the period 8 May 2018 to 26 June 2018 there has been one Notice of Motion requesting Council writes to a Member of Parliament or Government agency.

Appendices
Appendix A: Notices of Motion Actions list (separately circulated)
Appendix B: Ministerial correspondence emanating from Notices of Motion.
The Hon Luke Donnellan
Minister for Roads and Road Safety
Level 22, 1 Spring Street,
Melbourne, VIC 3000

Dear Minister,

Re: Citylink Tulla Widening Project

Subsequent to a Council Resolution on 8 May 2018 I write this letter with a view to seeking improvements to signage and line marking on the above project.

I provide details below of specific examples to assist your deliberations:

From both the Airport West and Essendon Fields directions the pre warning, overhead signage and line marking to the English Street Bridge is considered deficient. In particular westbound drivers from English Street are not being guided into the correct turn lanes which is causing confusion approaching the signals.

With drivers on Bulla Road and the Bulla Road Bridge, the directional signage for the DFO / Calder and Tullamarine Freeways is inadequate and must be improved to provide a safe driving environment.

Finally, the traffic signal sequencing at Bulla Road and the Calder Freeway / Tullamarine Freeway westbound ramp needs urgent review. Drivers travelling north on Bulla Road are not being given priority to enter the freeway and consequently traffic queues reaching back to Woodland Street are being experienced.

In the interests of safety and transparency it may well be prudent to engage a Road Safety Auditor to assess the line marking and directional signage on the whole project and make recommendations for improvements during construction and when fully operational.

Yours Sincerely,

Bryan Lancaster
Chief Executive Officer

Cc: Ben Carroll MP, Member for Niddrie
    Danny Pearson MP, Member for Essendon
9.11 Report on Assemblies of Councillors - June to July 2018

File No: FOL/18/32
Author: Kate Evans
Governance Officer
Directorate: Organisational Performance

Purpose
The purpose of this report is to present to Council, the written records of assembly of Councillors held in accordance with the provisions of Section 80A(2)(a) and (b) of the Local Government Act 1989 ("the Act").

Executive Summary
It is a requirement of the Act that a written record of any assembly of Councillors is prepared.

Recommendation
That Council, in accordance with section 80A(2) of the Local Government Act 1989, receives the records of the following assemblies of Councillors:

<table>
<thead>
<tr>
<th>Assembly</th>
<th>Land acquisition update, 5 June 2018 at 5.45pm Committee Room, Civic Centre</th>
</tr>
</thead>
<tbody>
<tr>
<td>Matters considered</td>
<td>Potential property acquisitions</td>
</tr>
</tbody>
</table>
| Councillors present | Cr John Sipek (Mayor)  
Cr Samantha Byrne (Deputy Mayor)  
Cr Nicole Marshall  
Cr Cam Nation arrived at 5.55pm  
Cr Narelle Sharpe |
| Leave of Absence | Cr Jim Cusack, Cr Rebecca Gauci Maurici,  
Apologies | Cr Richard Lawrence, Cr Andrea Surace |
| Staff present | Mr Bryan Lancaster (CEO)  
Mr Steven Lambert  
Mr Petrus Barry  
Ms Natalie Reiter arrived at 5.55pm |
|             | Mr Gil Richardson  
Ms Allison Watt  
Ms Vera Mitrovic – Misic  
Ms Melanie Odendaal |
| Conflict of interest | Nil |
### Assembly
Committee Meeting to hear Budget Submissions, 5 June 2018 at 6pm
Council Chamber, Civic Centre

### Matters considered
- Ed Castenmiller – Drivelink program
- Graeme Sharman-Penleigh and Essendon Grammar School
- John Breen – Doutta Stars sports club
- Rose Iser – Representing concerned residents
- Ania Mortellaro – President Moonee Valley Toy Library
- Cameron McDonald – Victorian Masters Athletics

### Councillors present
- Cr John Sipek (Mayor)
- Cr Samantha Byrne (Deputy Mayor)
- Cr Richard Lawrence
- Cr Nicole Marshall
- Cr Cam Nation
- Cr Narelle Sharpe

- Leave of Absence: Cr Jim Cusack and Cr Rebecca Gauci Maurici
- Apology: Cr Andrea Surace

### Staff present
- Bryan Lancaster (CEO)
- Steven Lambert
- Petrus Barry
- Natalie Reiter
- Gil Richardson
- Allison Watt
- Damian Hogan
- Colleen Seymour
- Vera Mitrovic–Misic
- Jim Karabinis

### Conflict of interest
Nil

### Assembly
Strategic Briefing 5 June 2018 at 7pm
Council Chamber, Civic Centre

### Matters considered
- Clocktower Activation
- Disability Services Tender
- East Keilor Leisure Centre Redevelopment program update
- Community funding review
- 12 June 2018 OCM Agenda

### Councillors present
- Cr John Sipek (Mayor)
- Cr Samantha Byrne (Deputy Mayor)
- Cr Nicole Marshall
TUESDAY 24 JULY 2018

AGENDA – ORDINARY COUNCIL MEETING

<table>
<thead>
<tr>
<th>Cr Cam Nation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cr Narelle Sharpe</td>
</tr>
<tr>
<td>Cr Andrea Surace</td>
</tr>
</tbody>
</table>

Leave of Absence: Cr Jim Cusack and Cr Rebecca Gauci Maurici,
Apology: Cr Richard Lawrence

<table>
<thead>
<tr>
<th>Staff present</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bryan Lancaster (CEO)</td>
</tr>
<tr>
<td>Steven Lambert</td>
</tr>
<tr>
<td>Petrus Barry</td>
</tr>
<tr>
<td>Natalie Reiter</td>
</tr>
<tr>
<td>Gil Richardson</td>
</tr>
<tr>
<td>Allison Watt</td>
</tr>
<tr>
<td>Patricia Keenan</td>
</tr>
<tr>
<td>Matthew Pope</td>
</tr>
</tbody>
</table>

**Conflict of interest**

Cr Cam Nation declared an indirect conflict of interest in the East Keilor Leisure Centre Redevelopment Program Update due to reasons previously disclosed in writing to the CEO and left the meeting at 9.15pm and returned at the completion of the item at 10.04pm.

Cr Narelle Sharpe declared an indirect conflict of interest in the Footpath Trading Policy due to a conflicting duty as a result of her place of work; this item was not discussed.

<table>
<thead>
<tr>
<th>Assembly</th>
</tr>
</thead>
<tbody>
<tr>
<td>OCM Pre Meet, 12 June 2018 at 6.00pm</td>
</tr>
<tr>
<td>Committee Room, Civic Centre</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Matters considered</th>
</tr>
</thead>
<tbody>
<tr>
<td>12 June 2018 OCM agenda</td>
</tr>
<tr>
<td>NDIS alternate motion</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Councillors present</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cr John Sipek (Mayor)</td>
</tr>
<tr>
<td>Cr Samantha Byrne (Deputy Mayor)</td>
</tr>
<tr>
<td>Cr Richard Lawrence arrived at 6.05pm</td>
</tr>
<tr>
<td>Cr Nicole Marshall</td>
</tr>
<tr>
<td>Cr Cam Nation arrived at 6.14pm</td>
</tr>
<tr>
<td>Cr Narelle Sharpe</td>
</tr>
<tr>
<td>Cr Andrea Surace</td>
</tr>
</tbody>
</table>

Leave of Absence: Cr Jim Cusack and Cr Rebecca Gauci Maurici

<table>
<thead>
<tr>
<th>Staff present</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bryan Lancaster (CEO)</td>
</tr>
<tr>
<td>Steven Lambert</td>
</tr>
<tr>
<td>Natalie Reiter</td>
</tr>
<tr>
<td><strong>Conflict of interest</strong></td>
</tr>
<tr>
<td>--------------------------</td>
</tr>
<tr>
<td>Cr Narelle Sharpe declared an indirect conflict of interest in item 9.5 Footpath Trading Policy due to a conflicting duty as a result of her place of work and left the room at 6.15pm prior to the discussion and returned at 6.17pm once the discussion had concluded.</td>
</tr>
</tbody>
</table>

### Assembly

**OCM Pre Meet, 26 June 2018 at 5.48pm**
Committee Room, Civic Centre

#### Matters considered
OCM Agenda

#### Councillors present
- Cr John Sipek (Mayor)
- Cr Samantha Byrne (Deputy Mayor)
- Cr Jim Cusack
- Cr Rebecca Gauci Maurici
- Cr Richard Lawrence (arrived at 5.57pm)
- Cr Nicole Marshall
- Cr Cam Nation (arrived at 5.55pm)
- Cr Narelle Sharpe
- Cr Andrea Surace

#### Staff present
- Bryan Lancaster (CEO)
- Steven Lambert
- Petrus Barry
- Jessie Keating
- Kate Heissenbuttel
- Damian Hogan
- Kate McCaughey
- Vera Mitrovic - Misic
- Nikhil Aggarwal
- Allison Watt

#### Conflict of interest
Nil.

### Assembly

**Strategic Briefing 3 July 2018 at 6.10pm**
Council Chamber, Civic Centre

#### Matters considered
- LXRA Buckley Street Upgrade
- Environmental Upgrade Finance Program
- Meeting Procedures Protocol
- Gifts Policy
- EKLC Update
- Draft OCM Agenda 10 July 2018
Councillors present
Cr John Sipek (Mayor)
Cr Samantha Byrne (Deputy Mayor)
Cr Jim Cusack
Cr Rebecca Gauci Maurici
Cr Richard Lawrence
Cr Narelle Sharpe

Leave of Absence: Cr Marshall, Cr Surace
Apology: Cr Nation

Staff present
Bryan Lancaster (CEO)
Steven Lambert
Petrus Barry
Gil Richardson
Jessie Keating
Peter Gaffney
Vera Mitrovic - Misic
Paul Bennett
Melanie Lorback
Stephanie Mitten
Brendan Mc Donagh
Allison Watt

Externals
Michael Caink - LXRA
Jo Lewis - LXRA
Adam Neville - LXRA

Conflict of interest
The Mayor, Cr Sipek declared an indirect conflict of interest in Item 9.1 454-470 Racecourse Road, Flemington due to a close association as the applicant is known to him. A written disclosure was provided to the Chief Executive outlining the reasons for this conflict. Cr Sipek left the chamber at 7.04pm and returned after the discussion had concluded at 7.19pm.

Assembly
OCM Pre Meet, 10 July 2018 at 6.00pm
Committee Room, Civic Centre

Matters considered
10 July 2018 OCM agenda items 9.2, 9.3, 9.4, 9.5, 9.6, 9.7 9.8 and 12.1

Councillors present
Cr John Sipek (Mayor)
Cr Samantha Byrne (Deputy Mayor)
Cr Jim Cusack
Cr Rebecca Gauci Maurici
Cr Richard Lawrence
Cr Cam Nation
Cr Narelle Sharpe

Leave of Absence:
Cr Nicole Marshall, Cr Andrea Surace.

Staff present
Bryan Lancaster (CEO)
Steven Lambert
Background

In accordance with Section 80A (1) & (2) of the Act, the Chief Executive Officer is to ensure that a written record of an assembly of Councillors is, as soon as practicable, reported at an Ordinary Meeting of the Council; and incorporated in the minutes of that Council meeting.

Discussion

Section 3(1) of the Act defines an assembly of Councillors as a meeting of an Advisory Committee of the Council, if at least one Councillor is present, or a planned or scheduled meeting of at least half of the Councillors and one member of Council staff which considers matters that are intended or likely to be:

a) the subject of a decision of the Council; or

b) subject to the exercise of a function, duty or power of the Council, that has been delegated to a person or committee but does not include a meeting of the Council, a Special Committee of the Council, an Audit Committee established under section 139, a club, association, peak body, political party or other organisation.

Section 80A (1) and (2) of the Act provides that:

1. At an assembly of Councillors, the Chief Executive Officer must ensure that a written record is kept of —
   a) the names of all Councillors and members of Council staff attending;
   b) the matters considered;
   c) any conflict of interest disclosures made by a Councillor attending under subsection (3); and
   d) whether a Councillor who has disclosed a conflict of interest as required by subsection (3) leaves the assembly.

2. The Chief Executive Officer must ensure that the written record of an assembly of Councillors is, as soon as practicable —
   a) reported at an Ordinary Meeting of the Council; and
   b) incorporated in the minutes of that Council meeting.

Records of assemblies of Councillors, held since the last report to Council in February 2018, are provided above.

Consultation

All Council staff have been informed of Council’s obligations under the Act.
Implications

1. **Legislative**
   
   This report is presented to Council in accordance with Section 80A of the Act. As this is a mandatory reporting requirement, there are no Charter of Human Rights implications for Council.

2. **Council Plan / Policy**
   
   In presenting this report to Council, Council is achieving its Council Plan Objective 5.2: ‘Good governance is everyone’s responsibility’ and ‘is fostering a culture of accountability and transparency.’

3. **Financial**
   
   There are no financial implications resulting from the presentation of this report.

4. **Environmental**
   
   There are no environmental implications resulting from the presentation of this report.

**Conclusion**

Council has an obligation under Section 80A(2)(a) & (b) of the Act, to present all records of Assemblies of Councillors to an Ordinary Meeting of Council. By receiving and noting this report, Council is ensuring compliance with these provisions.

**Appendices**

Nil.
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 Phone Replacement Proposal
Item 12.1 is Confidential under the terms section 89(2) of the Local Government Act 1989 as it contains information relating to: (d) contractual matters.