Agenda

Ordinary Meeting of Council

Tuesday, 12 March 2019
6:30pm
Ordinary Meeting of Council

Tuesday, 12 March 2019 at 6:30pm
to be held at the Moonee Valley Civic Centre

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

Officers:  Mr Bryan Lancaster  Chief Executive Officer
Mr Steven Lambert  Director City Services
Ms Kendrea Pope  Director Organisational Performance
Ms Natalie Reiter  Director Planning and Development
Mr Gil Richardson  Director Asset Planning and Strategic Projects
Mr Petrus Barry  Manager Statutory Planning
Ms Allison Watt  Manager Governance and Communications
Business:

1. Opening

2. Reconciliation Statement

3. Apologies and Leave of Absence

4. Confirmation of Minutes
   Ordinary Meeting of Council held on Tuesday, 26 February 2019.

5. Declarations of Conflict of Interest

6. Presentations
   Nil.

7. Petitions and Joint Letters
   7.1 Petition - Sherbourne Street residents ........................................5

8. Public Question Time

9. Reports from Special Committees
   9.1 Grants Assessment Special Committee Minutes ..........................6

10. Reports
    10.1 39 Woorite Place and 44 Borva Drive, Keilor East (Lots 850 and 851 on LP 13189) - Construction of five double storey dwellings and to construct and carry out buildings and works, including fencing, within an Environmental Significance Overlay (ESO2) ...............12
    10.2 21 Lucknow Street Travancore (Lots 1, 2 and 3 on Title Plan 540218) - Demolition of a garage, swimming pool and tennis court, partial demolition of a dwelling and the construction of an extension including a first floor addition, garage, swimming pool and an outbuilding within a Heritage Overlay area.................................34
    10.3 Amendment C195 Heritage Controls - 89 Glass Street, Essendon.......46
    10.4 2017 Heritage Study - Stage 2...................................................51
    10.5 Hockey Lane Road Declaration ....................................................56
    10.6 Proposed Lease - Victoria State Emergency Service .......................65
    10.7 Grants Assessment Special Committee Charter Update .....................69
    10.8 Councillor Expenses Report - 1 October 2018 to 31 December 2018 ..............................................................................................................................71

11. Notices of Motion
    11.1 Notice Of Motion No. 2019/02 - North Essendon Junction...........72
11.2  Notice Of Motion No. 2019/03 - ANZAC Horse Ramp at Essendon Station
11.3  Notice Of Motion No. 2019/04 - VCAT Monthly Report
11.4  Notice Of Motion No. 2019/05 - Safety lighting in public open spaces
11.5  Notice Of Motion No. 2019/06 - Planning application processes

12.  Urgent Business

13.  Delegates Reports

14.  Confidential
   14.1  East Keilor Leisure Centre redevelopment progress update

15.  Close of Meeting

BRYAN LANCASTER
Chief Executive Officer
PETITIONS AND JOINT LETTERS

7.1 Petition - Sherbourne Street residents

Author: Tracey Classon - Governance Officer
Directorate: Organisational Performance

Summary
Council has received a petition with eight signatures, requesting the following:
Revert Sherbourne Street Essendon, to one-way from Buckley Street.
The changes made to Sherbourne Street to open it up to traffic entering from Buckley and Rose streets has significantly increased the traffic and number of speeding cars in the already busy and narrow Sherbourne Street, greatly increasing the risk to school children, local children and pedestrians.
Residents would like to see traffic restrictions returned to how they were before the changes to the Buckley Street level crossing.

Recommendation
That Council resolves to:
1. Receive and note the petition.
2. Refer this matter to the Director Asset Planning and Strategic Projects for investigation and reporting back to Council.
3. Advise the petition organiser accordingly.

Attachments
Nil
9.1 Grants Assessment Special Committee Minutes

Author: Emily McBlack - Community Grants Officer
Directorate: Planning and Development

1. Purpose
1.1 To present for noting the Grants Assessment Special Committee minutes for the 2018/19 Round One Biannual and Social Support Grants.

2. Background
2.1 On 27 March 2018, Council resolved to delegate decision making powers (pursuant to Section 86 of the Local Government Act 1989), to establish a Grants Assessment Special Committee (Special Committee) of Council to make funding decisions on Community Grants (Biannual Grants including the Social Support stream). On 27 March 2018, the Council Seal was placed on the Instrument of Delegation. Membership of the Committee includes Councillors (8), community members (5), and ex-officio/ non-voting Council officers (2).

3. Issues
3.1 The impact assessment Attachment A notes the high community demand for this program with an average oversubscription rate (i.e. funds requested versus approved) of 70 per cent over the past 5 rounds since the 2016/17 financial year.
3.2 The Special Committee is working well, with a high level of engagement between Council and the community around investment in positive and important local projects.
3.3 The Special Committee minutes for the 2018/19 Round One Biannual and Social Support Grants are provided as Attachment B (confidential). This report also includes:
   3.3.1 Biannual and Social Support Grants 2018-19 Round 1 - Funding Awarded (Attachment C).
   3.3.2 Summary of Biannual and Social Support Grants applications received and funding awarded (Attachment D).

Recommendation
That Council resolves to note the minutes from the Grants Assessment Special Committee meeting on 12 November 2018 (Attachment B – confidential and Attachment C), for Round One of the 2018/19 Biannual and Social Support Grants.
TUESDAY 12 MARCH 2019
AGENDA – ORDINARY COUNCIL MEETING

Attachments
A: Impact assessment
B: Minutes of the Grants Assessment Special Committee Meeting 12 November 2018 (separately circulated) (confidential)
C: Biannual and Social Support Grants 2018-19 Funding Awarded (separately circulated)
D: Ordinary Report Grants Assessment Special Committee Reports 12 March 2019 (separately circulated)
Impact assessment

1. Relationship to Council commitment MV2040 or Council Plan
   1.1 Theme 1: Fair (Qeente Boordup)
   1.2 Theme 2: Thriving (Bandingith)
   1.3 Theme 3: Connected (Yaninion Maggolee)
   1.4 Theme 4: Green (Wunwarren)
   1.5 Theme 5: Beautiful (Nga-Ango Gunga)

2. Legislative obligations
   2.1 As per the Council resolution of 27 March 2017 and pursuant to Section 86 of the Local Government Act 1989, Council resolved to establish a Grants Assessment Special Committee of Council to make funding decisions on Community Grants (Biannual Grants including the Social Support stream).
   2.2 The Committee meetings were closed to the public pursuant to Section 89(2)(d) of the Local Government Act 1989 due to discussions relating to contractual matters and sensitive applicant information. As such, the minutes of both Committee meetings are deemed confidential and have been circulated separately.
   2.3 The program responds to the principle of equity as outlined under the Charter of Human Rights and Responsibilities Act (2008). Specifically the recognition of equity before the law and the recognition to participate in public life. The aim of which is to have a decision making system that results in the equitable distribution of resources, ensuring that the needs of the community especially those experiencing some form of disadvantage are addressed.
   2.4 Section 3 of the Local Government Act 1989 outlines the primary objective of Councils is ‘endeavouring to achieve the best outcomes for the local community through leadership and good governance’.
   2.5 Section 136 outlines the principles of sound financial management to which any policy governing the distribution of financial resources must align.

3. Legal implications
   3.1 n/a

4. Risks
   4.1 n/a

5. Social impact assessment
   5.1 There were 23 community groups or organisations funded in Round One 2018/19 Biannual & Social Support Grants.
5.2 The last five grants rounds have been heavily oversubscribed (70%) in relation to number of applications received and funding levels requested; demonstrating a gap in the Community Funding Program’s ability to meet community needs within current budget levels.

5.3 The graphs below highlight the levels of oversubscription in relation to number of applications received and funding levels requested across the last five Grants rounds.

![Funds requested vs approved](image)

![Applications received vs funded](image)

6. Economic impact assessment

6.1 Round Two 2018/19 will be running a specific Business Grants stream. There were no businesses funded in Round One 2018/19 Biannual Grants.

6.2 A key component of the Community Funding program is the volunteer contribution to funded projects and the impact this has on local community. From 2015 to 2018, 2940 volunteers have contributed to
projects funded by the Community Funding program. This represents a significant financial contribution and return on Council investment, but also provides volunteers with the benefits of meeting new people, learning new skills, gaining experience and improving self-worth.

6.3 The graph below outlines a return on investment (ROI) comparison between the whole program budget and the monetary value of the volunteer hours contributed over the projects (and the comparable cost of Council staff working the volunteer hours involved in the process).

![ROI Comparison of Total Biannual Grant Budget vs. Volunteer Hour $ Value of Grant Projects](image)

7. Environmental impact assessment

7.1 The Community Funding program uses an online management system for both application and Committee assessment processes resulting in a significant reduction in paper use.

8. Reputational impact assessment

8.1 n/a

9. Financial implications

9.1 In November 2018, the Grants Assessment Special Committee (Committee) held a meeting to assess and award Round One of the 2018/19 Biannual and Social Support Grants; funding 23 applications with a value of $178,930.

9.2 The total operational budget of the 2018/2019 biannual grants program is $397,196.

9.3 This leaves a total of $218,266 for Round Two 2018/19 Biannual and Social Support Grants.

10. Sensitivity / scenario analysis
10.1  n/a

11.  Conflict of interest declaration

11.1  All conflicts of interest identified by Committee members were managed in accordance with standard Council meeting procedure and in accordance with the Local Government Act 1989. It should be noted that not all applications for funding were discussed in detail in the Committee meetings if they received a lower score during the individual assessment process undertaken in October 2018. This process is outlined in the decision making framework prioritising the highest ranking applications, which was adopted by Council on 27 March 2018, as part of the establishment of the Grants Assessment Special Committee.

12.  Consultation undertaken or planned

12.1  A key objective in the establishment of the Grants Assessment Special Committee of Council was to directly involve community in decision making around grants assessment and funding, including delegation of Council’s decision making powers under the Local Government Act 1989. To this end, membership of the Committee includes Councillors (8), community members (5), and ex-officio/ non-voting Council officers (2). Community members are selected through an Expression of Interest process.

12.2  The Committee meetings were closed to members of the public due to the confidential nature of grant application material pursuant to section 89(2)(d) of the Local Government Act 1989.

12.3  Following the awarding of funding, all applicants were advised of outcomes in writing and a list of the successful applications was posted on Council’s website. Council also offers successful and unsuccessful applicants an opportunity to meet with Council officers.

12.4  In anticipation of the Committee’s community membership needing to be refreshed later this year, Council has recently undertaken a recruitment process.
### 10.1 39 Woorite Place and 44 Borva Drive, Keilor East (Lots 850 and 851 on LP 13189) - Construction of five double storey dwellings and to construct and carry out buildings and works, including fencing, within an Environmental Significance Overlay (ESO2)

**Author:** Lachlan Orr - Senior Statutory Planner  
**Directorate:** Planning and Development

<table>
<thead>
<tr>
<th>Planning File No.</th>
<th>MV/472/2018</th>
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| **Proposal**      | Five double-storey, four-bedroom dwellings  
                   Three facing Woorite Place and two facing Borva Drive  
                   Partially constructed within an Environmental Significance Overlay |
| **Applicant**     | Apt Architecture Pty Ltd |
| **Owner**         | KBW Trading Pty Ltd |
| **Planning Scheme Controls** | General Residential Zone (Schedule 1)  
Environmental Significance Overlay (Schedule 2) |
| **Planning Permit Requirement** | Clause 32.08-6 – Construct two or more dwellings on a lot; and construct a front fence within 3 metres of a street  
Clause 42.01-2 – Construct a building or construct or carry out works; and construct a fence |
| **Car Parking Requirements** | Required – 10 spaces  
Proposed – 10 spaces |
| **Restrictive Covenants** | 1715059 and 1974068, neither affect the proposal |
| **Easements**     | 3.05 metre wide drainage and sewerage easement along eastern boundary |
| **Site Area**     | 1,288 square metres |
Executive Summary

- The application seeks planning approval for the construction of five double storey dwellings over two lots, and construct and carry out buildings and works, including fencing, within an Environmental Significance Overlay. The site has an area of 1,288 square metres and is located at the south-eastern corner of the intersection between Woorite Place and Borva Drive.

- The application was advertised with 12 objections received. Concerns were raised primarily in relation to car parking and traffic impacts, overdevelopment of the site and wider area, neighbourhood character, bulk and scale, off-site amenity impacts, infrastructure impacts and waste collection.

- A Consultation Meeting was held on 23 January 2019, attended by Councillors Byrne and Sipek, objectors, the permit applicant and Council’s Planning Officer. No resolution was achieved at this meeting.

- Notice of the application was given to Exxon Mobil due to proximity to a jet fuel pipeline. The application was referred internally to Council’s Arborist, Environmental Sustainable Design (ESD) Officer, Development Engineering (Drainage) Unit, Traffic and Transport Unit and Waste Strategy and Planning Officer. No objections were received, with conditions of permit imposed where necessary.

- The proposal is considered to be an appropriate design response which successfully addresses its unique physical characteristics and corner location. The development will result in a moderate intensification of housing in accordance with state and local policy direction in this context. The design of the dwellings accords with the existing and preferred character of the area.

- The proposal achieves a high level of compliance with the objectives and standards of ResCode. Conditions are imposed to meet the standard requirements for walls on boundaries, overlooking, internal views and site services. A variation is considered acceptable for a partial encroachment of Dwelling 1 into the required street setback to Woorite Place.

- Overall, 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. It is recommended that a Notice of Decision to Grant a Permit be issued subject to conditions.
Recommendation

That Council issue a Notice of Decision to Grant a Permit in relation to Planning Permit Application No. MV/472/2018 for the construction of five double storey dwellings and construct and carry out buildings and works, including fencing, within an Environmental Significance Overlay (ESO2) at 39 Woorite Place and 44 Borva Drive, Keilor East (Lots 850 and 851 on LP 13189), subject to the following conditions:

1. Before the development starts, an application must be made for the consolidation of Lots 850 and 851 on LP 13189. Alternatively, an application for the subdivision of the land in accordance with the approved development layout must be made. Within 3 months of the registration of the plan of subdivision, a copy of the new title to the land must be submitted to the Responsible Authority.

2. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The amended plans must be drawn to scale with dimensions and an electronic copy must be provided. The amended plans must be generally in accordance with the plans submitted and assessed with the application but modified to show:
   a) The length of each title boundary clearly noted on the ground floor plan;
   b) Walls and doors around the laundry areas of Dwellings 1 and 5 to be accurately drawn on the ground floor plan;
   c) Dwellings 4 and 5 accurately labelled on the first floor plan to correspond with all other plans;
   d) Walls at the south-eastern corner of the first floor of Dwelling 3 to be accurately drawn on the first floor plan;
The 900mm high fencing dividing the front gardens of Dwellings 2 to 5 to be accurately shown on all relevant elevation plans and perspective views;

The location of the garage of the neighbouring dwelling at 42 Borva Drive to be accurately shown in proximity to the southern title boundary, along with any necessary relocation of structures and planting associated with Dwellings 3 and 4;

The materials used for the front fencing clearly annotated on the ground floor and elevation plans, as well as the materials and finishes schedule;

The average height of walls along the eastern and southern boundaries to comply with Standard B18 of Clause 55.04-2 (Walls on boundaries) of the Moonee Valley Planning Scheme;

The obscure glazing to east and south facing first floor habitable room windows noted as also being either fixed or having a restricted opening up to 1.7 metres from finished floor level to comply with Standard B22 of Clause 55.04-6 (Overlooking) of the Moonee Valley Planning Scheme;

The window to Bedroom 3 of Dwelling 4 treated to comply with Standard B23 of Clause 55.04-7 (Internal views) of the Moonee Valley Planning Scheme;

The west-facing ground floor windows to the open plan kitchen and living area of Dwelling 2 either deleted or provided with a setback of at least 1 metre from any secluded open space area of another dwelling within the development;

The bin storage areas of Dwellings 2, 4 and 5 designed to blend in with the development and be suitably concealed as viewed from the street;

A notation that a minimum clearance height of 2.1 metres is provided to garages with doors in an open position;

A notation that tandem car spaces are provided with a maximum gradient of 1:20;

A notation that boundary fencing will taper in height to a maximum of 900mm within the pedestrian visibility splay of the accessway to Dwelling 4;

The crossover and accessway of Dwelling 3 relocated further east to provide a minimum distance of 10.8 metres from the crossover of Dwelling 2 measured at the kerb, with subsequent modifications to landscaping;

All permeable areas, including decking, clearly annotated in accordance with the approved STORM assessment;

Notations on the plans to accord with the Sustainable Design Assessment (SDA) required by Condition 6;

A landscape plan as required by Condition 7; and

A notation that the development is to be carried out in accordance with the Tree Management Plan required by Condition 9.

When approved, these plans will be endorsed and will form part of this permit.
3. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.

4. A minimum 30 days prior to any building or works commencing, a Construction and Site Management Plan (CSMP) must be submitted to and be approved by the Responsible Authority detailing the construction activity proposed and the site and environmental management methods to be used. The CSMP must be in accordance with Moonee Valley City Council’s CSMP’s Guidelines and Template.

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

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

5. A maximum 30 days following completion of the development, a Water Sensitive Urban Design (WSUD) Maintenance Program must be submitted to and approved by the Responsible Authority which sets out future operational and maintenance arrangements for all WSUD measures. The program must include, but is not limited to:
   a) Inspection frequency;
   b) Cleanout procedures;
   c) As installed design details/diagrams including a sketch of how the system operates; and
   d) A report confirming completion and commissioning of all WSUD Response initiatives by the author of the WSUD Response and STORM or MUSIC model approved pursuant to this permit, or similarly qualified person or company. This report must be to the satisfaction of the Responsible Authority and must confirm that all initiatives specified in the WSUD Response and STORM or MUSIC model have been completed and implemented in accordance with the approved report.

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

6. Before the development commences, the Sustainable Design Assessment (SDA), inclusive of STORM and amended BESS assessments, prepared by Frater Consulting Services dated 3 October 2018 is to be updated as required by Condition 2 and submitted to the Responsible Authority for endorsement. The SDA must achieve all minimum requirements, meet best practice standards and be to the satisfaction of the Responsible Authority for approval. Upon approval the SDA will be endorsed as part of this planning permit. The development must incorporate the sustainable design initiatives outlined in the endorsed SDA to the satisfaction of the Responsible Authority.

7. Before the development starts, or any trees or vegetation removed, an amended landscape plan (an electronic copy) prepared by a suitably qualified person or firm shall be submitted to and approved to the satisfaction of the Responsible Authority. The landscape plan must be drawn to scale, with
dimensions, and be generally in accordance with the landscape plan submitted with the application but modified to show:

a) Any changes as required by Condition 2; and
b) Details of any tree protection measures as required by Condition 9.

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

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

8. 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.

9. Before the development starts, a Tree Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The Tree Management Plan must be prepared by an arborist with suitable qualifications to the satisfaction of the Responsible Authority and must provide recommendations and set out actions required to minimise damage to the health of the River Red Gum located within the Environmental Significance Overlay, Schedule 2, at the rear of 37 Woorite Place as a consequence of the approved development.

When approved, the Tree Management Plan will be endorsed under the planning permit.

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

All works in the endorsed Tree Management Plan to, or affecting, the nominated tree must be supervised by a suitably qualified arborist, to the satisfaction of the Responsible Authority.

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

11. 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.

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

13. Service units, including air conditioning units, must be visually and acoustically screened to the satisfaction of the Responsible Authority.

14. 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.

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

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

16. 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.

17. 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, access lanes and the waste and loading zone 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.
18. The following street tree and nature strip protection measures must be undertaken:

   a) The nature strip and street trees located within the frontage of the land must be barricaded out using portable cyclone fencing for the duration of the development. Costs of such fencing must be borne by the developer and/or permit holder;

   b) No pruning of the nature strip and street trees located within the frontage of the land is to be undertaken by any party other than Moonee Valley City Council; and

   c) No building materials are to be stacked or dumped on any nature strip during construction, to the satisfaction of the Responsible Authority.

19. 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.

20. 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.

21. Before the buildings approved by this permit are 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.

22. The development must be provided with external lighting capable of illuminating access to each garage, car parking space and pedestrian walkways. Lighting must be located, directed and shielded and of limited intensity so that no nuisance or loss of amenity is caused to any person within or beyond the land.

23. This permit will expire if one of the following circumstances applies:

   a) The development is not commenced within two (2) years from the date of issue of this permit, or

   b) The development is not completed within four (4) years from the date of issue of this permit.
Before the permit expires, or within six (6) months afterwards, the owner or occupier of the land may make a written request to the Responsible Authority to extend the expiry date.

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

**Permit Notes**

- This is not a building permit under the *Building Act 1993*. 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 property to pre-development levels in accordance with the following: $C_w=0.4$, $t_c=10$mins, $t_{so}=5$mins, $ARI$ 1 in 5. An $ARI$ of 1 in 10 shall be used for storage and the greater of post development $C_w$ or $C_w=0.80$.

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

- A requirement for 300mm wide trench grates at the entrance of each garage and driveway may be made.

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

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

- Existing levels along the property line and easements must be maintained. All proposed levels must match to existing surface levels along the property boundary and/or easement. Council will not accept any modifications to existing levels within any road reserve or easement.

- 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 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.

1. **Introduction**

1.1 **Subject Site and Surrounds**

The site comprises two lots located on the corner of Woorite Place and Borva Drive, Keilor East. The site is irregular in shape with a curved frontage of 33.31 metres to each street, and a site area of approximately 1,288 square metres.
Figure 2 – Subject Site (view from Woorite Place)

The site is generally flat. A drainage and sewerage easement is located along the eastern boundary, and there are two covenants which prohibit quarrying activities and the manufacture of pottery wares. An Environmental Significance Overlay affects the south-eastern corner of the site protecting a River Red Gum located in the rear of the neighbouring property at 37 Woorite Place.

Figure 3 – Subject Site (view from Borva Drive)

The site currently accommodates two single storey dwellings. One is constructed of brick with a hipped roof and set back approximately 7.6
metres from Woorite Place, and the other constructed of brick with a skillion roof and set back approximately 7.5 metres from Borva Drive. Each is provided with two crossovers and accessways which lead to car parking facilities in front and alongside the dwelling. The front setbacks are occupied by landscaped front gardens accommodating numerous trees and shrubs, with one dwelling having a brick and timber front fence and the other unfenced.

The surrounding land is within a General Residential Zone. Residential development around the subject site is varied with a mixture of single dwellings on large allotments along with multi-unit developments, which have generally occurred on single properties in side-by-side configurations or tandem arrangements of two to four dwellings. The newer multi-dwelling developments sit alongside both older and newly constructed single homes, with dwellings between one to two storeys in scale. The character of built form in the area is varied architecturally, reflecting the different periods in which development has taken place. The land is located proximate to public reserves and schools, with the Centreway Neighbourhood Activity Centre approximately 300 metres to the south-east and the Calder Freeway located 150 metres to the north.

1.2 Proposal

It is proposed to construct five dwellings, summarised as follows:

| Table 1 |
|------------------------|-------------------|
| Dwellings              | 5 double storey, 4-bedroom dwellings |
| Car spaces             | 10 (2 each)       |
| Max building height    | 8.14 metres       |
| Site coverage          | 49.72%            |
| Permeability           | 39.59%            |
| Garden area (35% req.) | 36.6% of the overall site |

Permission is also sought to construct and carry out buildings and works, including fencing, within an Environmental Significance Overlay at the south-eastern corner of the site.

Refer Attachment C - Plans (separately circulated).

2. Background

2.1 Relevant Planning History

There are no historical planning applications relevant to the site.

2.2 Planning Policies, Controls and Provisions

Planning Policy Framework

Clause 11 Settlement

Clause 15 Built Environment and Heritage
Clause 16 Housing
Clause 19 Infrastructure

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

Zoning and Overlays
Clause 32.08 General Residential Zone (Schedule 1)
Clause 42.01 Environmental Significance Overlay (Schedule 2)

Particular, General and Operational Provisions
Clause 52.06 Car Parking
Clause 55 Two or More Dwellings on a lot and Residential Buildings
Clause 65 Decision Guidelines
Clause 71.02-3 Integrated Decision Making

2.3 Referrals
The following referrals were undertaken:

| Table 2 |
|---|---|
| **External Referrals** | **1. Comments/Conditions** |
| 2. Exxon Mobil (s52) | 3. No objection. |
| **Internal Referrals** | **4. Comments/Conditions** |
| 5. Arborist | 6. No objection subject to condition requiring submission of a tree management plan prior to commencement. |
| 7. Development Engineering (Drainage) | 8. No objection subject to standard conditions. |
| 9. A future application to remove or vary the easement may be required as part of the Build over Easement approval process. |
| 10. Environmental Sustainable Design (ESD) Officer | 11. No objection subject to conditions requiring an amended Sustainable Design Assessment (SDA) and annotations on plans. |
12. Traffic and Transport

13. No objection subject to conditions relating to crossover design, internal garage clearance heights and gradients of tandem car spaces.

14. Waste Strategy and Planning Officer

15. No objection, adequate kerbside space for Council waste collection.


2.4 Public Notification of the Application

Pursuant to Section 52 of the Planning and Environment Act 1987 (the Act), the original application was advertised by mail to adjoining and surrounding properties and two notices displayed on site for 14 days.

Twelve (12) objections were received from the properties listed within Attachment A of this report.

2.5 Consultation Meeting

A Consultation Meeting was held on 23 January 2019 which was attended by Councillors Byrne and Sipek, objectors, the permit applicant and Council’s Planning Officer. No resolution was achieved at this meeting.

3. Discussion

3.1 Does the proposal comply with the relevant planning policy framework?

The proposal is considered to accord with the relevant objectives and strategies contained within Planning Policy Framework and Local Planning Policy Framework.

Clauses 11 (Settlement), 16 (Housing) and 21.05 (Housing) seek to encourage urban consolidation in locations which take advantage of existing commercial and community services and transport linkages. The subject site is well serviced by community and commercial amenities, and its location is considered to lend support for a moderate intensification of residential development such as that proposed. The proposal contributes to the objective of housing diversity by providing alternative dwelling sizes and types which will cater for the increasingly diverse needs of future residents.

The proposal is considered to address the policy objectives relevant to the built environment and urban design contained within Clauses 15 (Built Environment and Heritage) and 21.06 (Built Environment). The Moonee Valley Neighbourhood Character Study 2012, along with the included Moonee Valley Neighbourhood Character Precinct Profiles 2012, is a reference document within Clause 21.06-1 (Neighbourhood Character) which provides guidance and an assessment tool for new residential development. The built form and neighbourhood character considerations of the application are discussed in Section 3.2 of this report.
The proposal complies with the objective and strategies of Clause 19.01-3S (Pipeline infrastructure), noting the proximity of the site to the Somerton Jet Fuel Pipeline approximately 90 metres to the west. Notice of the application was given to Exxon Mobil which had no objection, stating that the development would not physically impact on or change the risk profile of the pipeline.

The proposal is considered to be capable of compliance with Clause 21.04-3 (Ecologically Sustainable Development), through the submission of a SDA outlining design attributes and initiatives throughout the proposal. Council’s ESD Officer had no objection, subject to conditions requiring minor amendments to the SDA as well as notations on the plans.

The development complies with Clause 21.04-7 (Waste) with appropriate provision for the storage and collection of waste from the site. The application was referred to Council’s Waste Strategy and Planning Officer who had no objection to the proposal, noting there is adequate kerbside space for bins to be placed for Council collection.

The proposal has the potential to comply with Clause 22.03 (Stormwater Management – Water Sensitive Urban Design) by providing adequate on-site stormwater treatment. Council’s ESD Officer reviewed and had no objection to the submitted STORM assessment, which achieves a minimum 100% rating. A condition of permit will ensure all deck areas are permeable in accordance with the STORM report, while standard conditions will ensure a Site Management Plan (as part of a broader Construction Management Plan) and Maintenance Program will be submitted for endorsement at the appropriate time.

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

The subject land is identified as being within character area ‘Garden Court 4’ within the Moonee Valley Neighbourhood Character Precinct Profiles 2012.

The development is considered an acceptable response to the immediate context and the preferred character statement of the precinct as follows:

- The design response is consistent with both the emerging and preferred character of the area, and respects the nature of built form in the immediate surrounds. The proposal has a contemporary architectural theme which will positively contribute to the built form character of the area, whilst achieving a respectful and site responsive design outcome.

- The siting and massing of the proposal is compatible with the pattern of development that has occurred in the surrounding area, having regard to the irregular curved dimensions of the site and surrounding land around the intersection. Ample setbacks to each street will achieve a comfortable fit with the character of setbacks nearby, respecting the rhythm of built form in each street. There is minimal built form within the south-eastern corner of the site, alongside the neighbouring secluded private open space areas. This area will
accommodate landscaping to supplement the existing significant tree, providing visual relief to the sensitive residential interfaces of the site.

- The height of the development at two storeys is consistent with the preferred character of the area. The upper floors of each dwelling are contained centrally and articulated to reduce their dominance as viewed from the street. Physical breaks of between 2 to 3.7 metres from each side boundary, and internally between Dwellings 1 and 2 (4.47 metres) and Dwellings 1 and 5 (3 metres). This avoids a continuous multi-storey built form, and maintains the presence of views between buildings within the streetscape.

- The development is well articulated through a variety of setbacks, window forms, roofing styles, materials and colours/finishes that together achieve a contemporary and responsive built form. The use of contemporary gabled roof forms at varying heights creates visual interest and responds to the roof forms seen in the immediate surrounds. The roofing is finished with a metal cladding, rather than tiled roofing as referenced in the precinct profile, which is considered appropriate in this context where there are examples of metal roofing due to its proximity to the border of the precinct. The ground level of the development will be finished entirely of brick in accordance with the precinct profile, with contrasting light and dark brown colours. The upper levels are finished with white or natural timber cladding, articulating and reducing their visual bulk while referencing the weatherboard dwellings seen in the area.

- The submitted landscape plan provides a comprehensive planting theme which will contribute to the garden character of the area. A total of 19 trees will be provided throughout the development, with mature heights ranging from 4 to 20 metres. These are mainly distributed within the front gardens, with some located in the rear secluded private open space areas which will improve internal amenity as well as soften the visual impact of built form to neighbouring dwellings.

- A 900mm front fence is proposed to each street. This is an appropriate outcome within the existing and preferred character of the area, and will achieve the open garden setting sought by the precinct profile. The fence appears to be constructed of light timber pickets, however there are no annotations to confirm the material. This will be addressed through a condition of any permit issued.

- The secluded private open space area of Dwelling 1 is located along the frontage nearest to the intersection, and will be enclosed with a 1.7 metre high fence. This is considered acceptable as the high fencing occupies a comparatively limited length of the frontage to the proposed 900mm high fencing, as well as being consistent with similar high fencing to the street seen immediately to the east and on the opposite side of Borva Drive to the west.
• Garaging is suitably recessed within the façade of each dwelling, sitting behind the more prominent entry porches and ground level study/bedrooms to achieve a modest presentation to the street.

3.3 Is the provision and design of car parking acceptable?

The subject site is located within the Principal Public Transport Network (PPTN) catchment area, being within 400 metres of bus routes operating along Milleara Road to the east. The applicable car parking rates for the application are therefore at Column B of Clause 52.06-5, which in this case does not require any visitor’s parking spaces.

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

**Table 3**

<table>
<thead>
<tr>
<th>Component</th>
<th>Requires</th>
<th>Provides</th>
</tr>
</thead>
<tbody>
<tr>
<td>Five four-bedroom dwellings</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>Total</td>
<td>10</td>
<td>10</td>
</tr>
</tbody>
</table>

The proposal provides the required amount of on-site car parking, designed in accordance the design standards at Clause 52.06-9.

As discussed under Section 2.3 of this report, Council’s Traffic and Transport Unit has no objection to the proposed development on parking or traffic grounds. Conditions were recommended to ensure a minimum clearance height of 2.1 metres within each garage with the door open, to ensure a maximum grade of 1:20 for tandem car spaces, to taper fencing within the visibility splay of Dwelling 4 and to ensure a minimum distance of 10.8 metres between the crossover of Dwellings 2 and 3 at the kerb to allow two on-street car spaces. These conditions will be included on any permit issued.

3.4 Does the proposal comply with the objectives and standards of ResCode?

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

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

**Table 4**

<table>
<thead>
<tr>
<th>ResCode Standard</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clause 55.03-1</td>
<td>The site is located on a corner. In determining the minimum setbacks under Table B1 of Standard B6, Woorite Place is the front street and Borva Drive is the side street.</td>
</tr>
<tr>
<td>Standard B6</td>
<td></td>
</tr>
<tr>
<td>Street setback</td>
<td></td>
</tr>
<tr>
<td></td>
<td>The standard requires a minimum front setback of</td>
</tr>
<tr>
<td>ResCode Standard</td>
<td>Response</td>
</tr>
<tr>
<td>------------------</td>
<td>----------</td>
</tr>
<tr>
<td>7.8 metres to Woorite Place to match that of the neighbouring dwelling at 37 Woorite Place. A minimum setback of 3 metres is required to Borva Drive. The proposal generally meets or exceeds the minimum setbacks of the standard, with the exception of a partial encroachment around the north-western corner of Dwelling 1 to Woorite Place around the curved frontage of the site. This variation is considered to be an acceptable outcome, having regard to the irregular dimensions of the site and its interface with the intersection. The visual intrusion of Dwelling 1 will be minimal given the manner in which the footpaths and nature strip expand around the street corner, directly opposite the area of encroachment. Having regard to the character of setbacks in the immediate surrounds and the corner location of the site, the development would present an appropriate design response whilst making efficient use of the site. Articulation is provided to the street through staggered setbacks, varied materials and design features that ameliorate the visual impact of the dwellings. A substantial level of landscaping will be provided throughout the street frontages with low front fencing, which will allow an appropriate level of integration to the street and maintain the garden setting of the area.</td>
<td></td>
</tr>
<tr>
<td>Clause 55.04-2 Standard B18</td>
<td>The development involves construction along the eastern and southern boundaries, associated with Dwellings 3 and 4. The length of the garage of Dwelling 3 along the eastern boundary is 6.47 metres, while the length of the garage and laundry of Dwelling 4 along the southern boundary is 8.3 metres. Both are within the maximum of 16.65 metres allowed by the standard. The maximum height of these walls is approximately 3.3 metres, which is less than the 3.6 metres allowed by the standard. The average height of the walls is not shown but appears to be slightly greater than the 3.2 metres under the standard. A condition of permit will require the average height to comply with the standard for both boundary walls.</td>
</tr>
<tr>
<td>Clause 55.04-6 Standard B22</td>
<td>East and south facing habitable room windows at first floor level are noted as having obscure glazing</td>
</tr>
<tr>
<td>ResCode Standard</td>
<td>Response</td>
</tr>
<tr>
<td>------------------</td>
<td>----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Overlooking</td>
<td>up to a height of 1.7 metres from finished floor level. A condition of permit will ensure these are also either fixed or provided with a restricted opening to comply with this clause. Otherwise, first floor habitable room windows are oriented either internally or to each street so that there are no direct views to any habitable room or secluded private open space area within the 9 metre distance set out in this standard. Direct overlooking at ground level is prevented by boundary fencing.</td>
</tr>
<tr>
<td>Clause 55.04-7</td>
<td>A condition of permit will ensure the first floor window of Bedroom 3 of Dwelling 4 is treated to comply with this clause, where it has views to the secluded private open space of Dwelling 2. Internal overlooking is otherwise limited in accordance with the standard by internal fencing, as well as the siting of first floor habitable room windows so that they do not overlook more than 50% of a neighbouring secluded private open space area.</td>
</tr>
<tr>
<td>Standard B23</td>
<td></td>
</tr>
<tr>
<td>Internal views</td>
<td></td>
</tr>
<tr>
<td>Clause 55.06-4</td>
<td>Mailboxes, bin storage areas and other domestic serves are provided in a convenient and accessible manner for each dwelling as required by the standard. A condition of permit will ensure the bin enclosures of Dwellings 2, 4 and 5 are designed to blend in with the development and be suitably concealed as viewed from the street.</td>
</tr>
<tr>
<td>Standard B34</td>
<td></td>
</tr>
<tr>
<td>Site services</td>
<td></td>
</tr>
</tbody>
</table>

3.5 Does the proposal comply with the applicable zone and overlay requirements?

General Residential Zone

The subject site has an area of 1,288 square metres. Pursuant to Clause 32.08-4 of the Moonee Valley Planning Scheme, there is a mandatory requirement to provide a total of 35% (or 450.8 square metres) as garden area at ground level on a lot of this size. The proposal provides for 36.6%, or approximately 471.4 square metres of garden area. However, in the case of *Sargentson v Campaspe SC 2018*, the Victorian Civil and Administrative Tribunal (VCAT) found that the garden area requirement is applicable to an allotment rather than the overall site. This means that each of the two 644 square metre lots which form the subject site would need to provide the mandatory 30% (or 193.2 square metres) of garden area.
Applying the mandatory garden area to each lot separately would result in non-compliance, but more importantly, would create a distorted outcome for the subject site. A condition of permit will therefore require the consolidation of the two lots prior to the endorsement of any plans and commencement of works, which will ensure compliance with both the mandatory garden area requirement and the findings of VCAT in the above matter.

The two storey height of the proposal is well within the mandatory maximum of 11 metres or three storeys under the zone pursuant to Clause 32.08-10.

**Environmental Significance Overlay**

The south-eastern corner of the subject site is affected by an Environmental Significance Overlay (ESO2). The ESO2 encompasses the Tree Protection Zone (TPZ) surrounding a River Red Gum tree located in the rear yard of 37 Woorite Place, close to the shared boundary. A planning permit is required to construct or carry out buildings and works within this overlay, as well as to construct fencing. The rear ground floor and deck of Dwelling 3 is located within the overlay along with minor encroachments from Dwellings 2 and 4, as illustrated in Figure 4 below.

The development has been reviewed by Council’s Arborist, who had no objection subject to a condition requiring a tree management plan for endorsement. The plan will outline tree protection measures to ensure the health and integrity of the tree throughout and after construction.

It is also noted that the proposed works result in an encroachment of 46.13 square metres, or 7.3%, into the total TPZ area of 629.9 square metres. This is within the maximum of 10% allowed under the relevant Australian Standard AS4970-2009 Protection of Trees on Development Sites.

![Figure 4 – Plan showing extent of works within TPZ/ESO2](image)
3.6 Objections (Discussion)

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

**Table 5**

<table>
<thead>
<tr>
<th>Issue</th>
<th>Officer Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Traffic and parking impacts</td>
<td>As discussed under Section 3.3 of this report, the proposal will provide adequate on-site car parking for each dwelling and the design standards of Clause 52.06-9 will be met. Whilst it is acknowledged the area may experience levels of congestion in terms of street traffic and on-street parking, it is not considered the development would impact on these to an unacceptable degree. Council’s Traffic and Transport Unit had no objection to the application on these grounds. It is noted that the dwellings will utilise existing crossovers, modified in a manner that would not minimise impacts on the supply and operation of on-street car parking.</td>
</tr>
<tr>
<td>Pedestrian safety</td>
<td></td>
</tr>
<tr>
<td>Overdevelopment</td>
<td>The development will replace two existing dwellings with five new dwellings on a substantial site. The proposal is considered to achieve a suitable balance between the expected housing growth and the preferred character of the area, and represents an appropriate level of intensification in this context.</td>
</tr>
<tr>
<td>Neighbourhood character</td>
<td>As discussed under Section 3.2 of this report, the development is considered to be an appropriate design response.</td>
</tr>
<tr>
<td>Off-site amenity impacts (i.e. overlooking, overshadowing, noise)</td>
<td>The proposal complies with the relevant standards and objectives of Clause 55 (ResCode) as they relate to the protection of amenity on neighbouring properties, with conditions imposed to ensure compliance with the overlooking requirement as discussed above.</td>
</tr>
<tr>
<td>Impacts on vegetation</td>
<td>Impacts on the significant tree near the south-eastern corner of the site will be managed through a condition of permit as discussed in Section 3.5 of this report, whilst a separate condition will ensure street trees are protected through construction.</td>
</tr>
<tr>
<td>Infrastructure impacts</td>
<td>The development would not cause an unreasonable burden on infrastructure within the area, noting that any necessary connections/upgrades are dealt with at the</td>
</tr>
<tr>
<td>Issue</td>
<td>Officer Response</td>
</tr>
<tr>
<td>-------</td>
<td>------------------</td>
</tr>
<tr>
<td>subdivision stage through the relevant authorities. Council’s Development Engineering Unit had no objection to the proposal subject to conditions.</td>
<td>Waste storage and collection Subject to a condition discussed under Section 3.4 of this report, waste storage areas on site will be provided and designed in an appropriate manner. As discussed under Section 3.1 of this report, there are adequate areas for bins to be placed on the street for Council collection.</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 Act 2006* (Section 18 – Taking part in public life).

5. **Council Plan/Policy**

In presenting this report to Council, it is achieving its strategic objective to ensure there is clear direction for growth and proactive management of development in the city in accordance with MV2040 Strategic Direction 18: A city of high-quality design.

6. **Conclusion**

The application has been assessed against the relevant provisions of the Planning Policy Framework, Local Planning Policy Framework, zoning and overlay controls and the relevant provisions of the Moonee Valley Planning Scheme. It is considered the proposal demonstrates compliance with the requirements of these provisions and policies.

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 therefore, recommended that Council issue a Notice of Decision to Grant a Permit in accordance with the conditions contained within the recommendation section above.
Attachments

A: Location of Objectors (separately circulated)
B: ResCode Assessment (separately circulated)
C: Plans (separately circulated)
10.2 21 Lucknow Street Travancore (Lots 1, 2 and 3 on Title Plan 540218) - Demolition of a garage, swimming pool and tennis court, partial demolition of a dwelling and the construction of an extension including a first floor addition, garage, swimming pool and an outbuilding within a Heritage Overlay area

Author: Ersin Yuksel - Statutory Planner
Directorate: Planning and Development

<table>
<thead>
<tr>
<th>Planning File No.</th>
<th>MV/760/2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposal</td>
<td>1. Demolition of a garage, swimming pool and tennis court; 2. Partial demolition of a dwelling; 3. Construction of an extension; including a first floor addition, garage, swimming pool and an outbuilding within a Heritage Overlay area.</td>
</tr>
<tr>
<td>Applicant</td>
<td>Ms Heather Jane De Luise</td>
</tr>
<tr>
<td>Owner</td>
<td>Ms Heather Jane De Luise</td>
</tr>
<tr>
<td>Planning Scheme Controls</td>
<td>General Residential Zone Heritage Overlay (HO134)</td>
</tr>
<tr>
<td>Planning Permit Requirement</td>
<td>Clause 43.01 – Demolition and construct a building and carry out works</td>
</tr>
<tr>
<td>Car Parking Requirements</td>
<td>N/A</td>
</tr>
<tr>
<td>Bicycle Requirements</td>
<td>N/A</td>
</tr>
<tr>
<td>Restrictive Covenants</td>
<td>None</td>
</tr>
<tr>
<td>Easements</td>
<td>None</td>
</tr>
<tr>
<td>Site Area</td>
<td>1,344 square metres</td>
</tr>
<tr>
<td>Number Of Objections</td>
<td>11</td>
</tr>
<tr>
<td>Consultation Meeting</td>
<td>30 January 2019</td>
</tr>
</tbody>
</table>

Executive Summary
- The application seeks approval for the demolition of a garage, swimming pool and tennis court, partial demolition of a dwelling, and the construction of an extension, including a first floor addition, garage, swimming pool and outbuilding within a Heritage Overlay area.
The site is approximately 1,344 square metres and is located on the south-western side of Lucknow Street, Travancore and is currently developed with a double storey Georgian style dwelling.

The application was advertised and 11 objections were received. Concerns were raised in relation to the contemporary architectural style of the extension, demolition, removal of trees, site layout and massing, height, visual bulk, car parking, precedent for similar developments in the future and property devaluation.

A Consultation Meeting was held on 30 January 2019, which was attended by Councillor’s Cusack and Marshall, the Permit Applicant’s Architect, Objectors and Council’s Planning Officer. No resolution was achieved at this meeting.

The proposal was internally referred to Council’s Heritage Advisor who supported the partial demolition and double storey extension.

The proposal achieves compliance with the requirements of the Heritage Overlay and the City of Moonee Valley Heritage Guidelines 2016. The proposal depicts an appropriate built form that provides a high level of internal amenity and protects the amenity of the adjoining heritage properties within the site context of Lucknow Street.

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

Recommendation

That Council issue a Notice of Decision to Grant a Permit in relation to Planning Permit Application No. MV/760/2018 for the Demolition of a garage, swimming pool, tennis court, partial demolition of a dwelling, and the construction of an extension, including a first floor addition and an outbuilding within a Heritage Overlay area, subject to the following conditions:
1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The amended plans must be drawn to scale with dimensions and an electronic copy must be provided. The amended plans must be generally in accordance with the plans submitted and assessed with the application but modified to show:
   a) An amended STORM assessment, treatment measures and annotations in accordance with Condition 3.

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

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

3. An amended STORM assessment report must be submitted simultaneously with the submission of amended plans in accordance with Condition 1. The STORM Assessment must obtain a minimum 100% to comply with Clause 22.03-4 (Stormwater Management) of the Moonee Valley Planning Scheme.

4. A minimum 30 days prior to any building or works commencing, all Water Sensitive Urban Design (WSUD), Design 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.

5. A maximum 30 days following completion of the development, a WSUD Maintenance Program must be submitted to and approved by the Responsible Authority which sets out future operational and maintenance arrangements for all WSUD measures. The program must include, but is not limited to:
   a) inspection frequency;
   b) cleanout procedures;
   c) as installed design details/diagrams including a sketch of how the system operates; and
   d) a report confirming completion and commissioning of all WSUD Response initiatives by the author of the WSUD Response and STORM 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 have been completed and implemented in accordance with the approved report.

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

6. A minimum 30 days prior to any building or works commencing, a Site Management Plan must be submitted to and approved by the Responsible Authority detailing the site and environmental management methods to be used. The plan must include, but is not limited to:
a) A statement or report outlining all construction measures to be taken to prevent litter, sediments and pollution from entering the stormwater systems.

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

7. The materials, colours, decoration and/or finishes to be applied to the exterior of the building or works as described on the drawings or schedules endorsed to this permit must not be altered without the consent of the Responsible Authority.

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

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

10. A minimum 30 days prior to any building or works commencing, a Construction and Site Management Plan (CSMP) must be submitted to and be approved by the Responsible Authority detailing the construction activity proposed and the site and environmental management methods to be used. The CSMP must be in accordance with Moonee Valley City Council's CSMP's guideline and templates.

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

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

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

12. This permit will expire if:

a) the development does not start within two (2) years of the date of issue of this permit, or

b) the development is not completed within four (4) years of the date of issue of this permit.

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

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

- This is not a building permit under the Building Act. A separate building permit is required to be obtained for any demolition or building works.
- This land is located within a Heritage Overlay control area. Planning permission is required for any additional works to the land in accordance with Clause 43.01 of the Moonee Valley Planning Scheme.
- 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.
- This application was not assessed against the requirements of Clause 54, or the minimum garden area requirements of Clause 32.08-4, of the Moonee Valley Planning Scheme.

1. Introduction

1.1 Subject Site and Surrounds

The subject site is located on the south-western side of Lucknow Street in Travancore and is developed with a double storey dwelling, which is protected by a Heritage Overlay. The site is on a square lot, yielding a total site area of approximately 1,344 square metres.

The heritage property is architecturally, an externally complete double storey dwelling which is a comfortably sized upper suburban home in the new style of period reflecting classical revival architecture. The heritage property is identified as being Georgian in style with Spanish and Mediterranean inspirations that make up the design detailing of the heritage place.

![Subject site (21 Lucknow Street, TRAVANCORE)](image)

Figure 2 – Subject site (21 Lucknow Street, TRAVANCORE)

The surrounding area is generally zoned residential and is within Heritage Overlays. The surrounding area includes an intact inter-war heritage street where a number of Californian bungalows, art deco and Georgian
dwellings are found. To the south of the site is Mount Alexander Road, identified as part of the Principal Transport Network. Flemington Primary School is located to the east of the site.

The immediate area has seen modest extensions made to the rear of the properties where the front facades have been retained.

1.2 Proposal

It is proposed to undertake demolition works and the construction of alterations and additions to an existing dwelling in a Heritage Overlay area. The proposal can be summarised as follows:

- Demolition of a garage, swimming pool and tennis court;
- Partial demolition of a dwelling;
- Construction of an extension including:
  - First floor addition;
  - Garage;
  - Outbuilding; and
  - Swimming pool.

The land has a Permeability of 28.5% and a Site Coverage of 43.6%.

The proposal is exempt from the requirements of the minimum garden area requirements of Clause 32.08 (General Residential Zone) of the Moonee Valley Planning Scheme as the only permit trigger is the Heritage Overlay.

Refer Appendix A Plans (separately circulated)

2. Background

2.1 Relevant Planning History

Planning Permit MV/243/2013 for the partial demolition and construction of a front fence and cross over in a Heritage Overlay Area was approved and endorsed by Council on 17 June 2013.

2.2 Planning Policies & Decision Guidelines

Planning Policy Framework

Clause 15 Built Environment and Heritage
Clause 15.03 Heritage
Clause 16 Housing
Clause 19.03-3S Stormwater

Local Planning Policy Framework
Clause 21.01 Municipal Profile
Clause 21.02  Key Issues and Influences
Clause 21.03  Vision
Clause 21.05  Housing
Clause 22.01  Heritage
Clause 21.06  Built Environment
Clause 22.03  Stormwater Management (Water Sensitive Urban Design)

Zoning
Clause 32.08  General Residential Zone

Overlays
Clause 43.01  Heritage Overlay

Particular and General Provisions
Clause 53.08  Stormwater Management in Urban Development
Clause 65  Decision Guidelines

2.3 Referrals

The following referrals were undertaken:

<table>
<thead>
<tr>
<th>External Referrals</th>
<th>Conditions/Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>The site did not require the referral of any external bodies.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Internal Referrals</th>
<th>Conditions/Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Environmental Sustainable Design (ESD) Officer</td>
<td>An amended STORM report to be submitted, which only includes the extension.</td>
</tr>
<tr>
<td>Heritage Advisor</td>
<td>No objection.</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 and two signs displayed on site for 14 days.

Council received 11 objections and is attached within Appendix B of this report. The objections are discussed further in Section 3.4 of this report.

2.5 Consultation Meeting

A Consultation Meeting was held on 30 January 2019, which was attended by Councillor’s Cusack and Marshall, the Permit Applicant’s Architect, Objectors and Council’s Planning Officer. No resolution was achieved at this meeting.
3. Discussion

3.1 State Planning Policy Framework

The proposal demonstrates a high level of compliance with the objectives and strategies of Clause 21.05 through the proposal increasing housing provision, in order to meet the demands of a growing population. Moreover, the proposal is part of the diversity of housing choice in a well-established area with good access to community services and public transport.

The proposal is part of a group of buildings which are subject to Heritage Overlay controls. Clause 21.06-1 (Neighbourhood Character) seeks to ensure that any new development maintains and enhances residential streetscape quality and character, which this proposed development achieves through built form, colours and materials. However, as the subject site is affected by a Heritage Overlay, this is the overriding assessment in this instance.

The proposal is in keeping with the nature of the heritage place and its surrounds. Clause 21.06-2 (Heritage) encourages new development which is sympathetic to the surrounding building and encourages appropriate renovations and restoration in heritage places. It is deemed that the proposal will not adversely impact on the nature of the heritage place and adjoining properties as the proposed development will have a built form which will be appropriately setback from the front boundary, be largely obscured by the existing ridge line of the dwelling and will use finishes and materials which are appropriate to the heritage place. The proposed extension makes use of construction materials and methods, which will result in the remaining heritage building being the focal point of the subject site and the surrounding heritage place. A more detailed assessment is in Section 3.2 of this report.

The proposal has the ability to comply with the water sensitive urban design principles regarding STORM, subject to conditions on any permit issued.

3.2 Does the proposal comply with the decision guidelines of the Heritage Overlay and the City of Moonee Valley Heritage Guidelines 2016?

The purpose of the Heritage Overlay is to ensure that demolition and development does not adversely affect the significance of a heritage place and its surrounds.

The proposal is considered to be in accordance with the relevant decision guidelines of the Heritage Overlay and Heritage Guidelines 2016 for the following reasons:

- It is proposed to demolish a garage at the side of the property and construct a new garage which would be setback 11.158 metres from the front title boundary and is setback 1.9 metres from the front façade of the heritage place. Although the garage is set closer to the street than the existing garage (which is measured at approximately
17 metres), it proposes to use materials that would match the existing dwelling. With regard to the roofing, this is to be reconstructed to match the existing roof form and be a continuation of the existing dwelling. The reconstruction of the garage and the setback is acceptable and would not detract from the heritage place.

It is also proposed to demolish the swimming pool and the tennis court which are located within the secluded private open space of the dwelling. The demolition of the swimming pool and the tennis court is acceptable as they do not impact the appearance of the heritage place or are protected within the Schedule of the Heritage Overlay.

- The partial demolition is limited to the internal layout and the first floor of the building. The partial demolition is considered to be acceptable, given the front façade, side elevations and front fence will be kept unaltered.

- The proposed double storey extension at the rear is consistent with other heritage extensions approved in the immediate and wider context of Travancore and surrounding suburbs. The presentation and setback of the first floor extension does not protrude to the streetscape, given it has been setback at least two bedroom widths from the front walls of the dwelling, meeting the City of Moonee Valley Heritage Guidelines 2016. The proposed first floor is setback 16.721 metres from the front title boundary and 5.5 metres from the proposed garage and 7.3 metres from the front façade of the heritage place.

Part of the first floor (bedroom 3 walk-in-robe) is located on the western side of the property, which may be visible from the street, however the viewline assessment required in the City of Moonee Valley Heritage Guidelines requires that the proposal is assessed from a central position based on the width of the original façade. Oblique viewlines are not considered to make part of this assessment. The proposed bedroom 3 walk-in-robe wall would be constructed in the same colour as the existing heritage place and would be setback 16.721 metres from the street and extend 4.923 metres from the western boundary. The siting of the western room and the view in the streetscape is not a dominant feature of the proposal and is in accordance with the City of Moonee Valley Heritage Guidelines 2016 as there is a clear delineation of the heritage place and the contemporary extension at the rear.

- The first floor extension will not have any unreasonable visual impacts and maintains the heritage significance of the existing dwelling. The contemporary built form, coupled with colours and material that are distinguishable from the existing house, is consistent with this type of development and respects the existing heritage place. The development provides a positive response to the Heritage Guidelines.

- The first floor extension has been setback from the side boundaries with the use of varied setbacks and a variation of materials and
finishes. The extension to the heritage place will present a visually interesting built form to the rear adjoining dwellings with the inclusion of a black metal spandrel and white powder coated metal fins further provide visual interest to the rear extension.

- The extension is concealed from the street and located within the ‘backyardscape’ of the dwelling, away from sensitive interfaces. The section which is visible from the street, which is limited to the western side of the extension is minor and is considered to be in accordance with the City of Moonee Valley Heritage Guidelines 2016.
- The flat roof form which is a contemporary addition, is concealed from the street and reduces the bulk when viewed from the adjoining properties located within the right-of-way to the south.
- The construction of an outdoor swimming pool, alfresco area, deck and outbuilding is considered to be acceptable as it provides a recreation use to the private open space area.
- The materials and finishes complement the surrounding built form and are consistent with this form of development. The materials and finishes meet the City of Moonee Valley Heritage Guidelines by respecting the existing heritage place and the surrounding heritage properties.
- The location, bulk, form and appearance of the proposed building will not have an adverse effect on the significance of the adjoining heritage places of Lucknow Street.

Overall, the demolition and proposed extension and addition at 21 Lucknow Street, Travancore is considered to comply with the decision guidelines of the Heritage Overlay and the Guidelines outlined in the City of Moonee Valley Heritage Guidelines 2016.

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

The application is exempt from the car parking requirements of Clause 52.06 (Car parking) of the Moonee Valley Planning Scheme as it is not for a new single dwelling.

### 3.4 Objections

The following table provides a discussion of the concerns raised by the objectors to the application:

**Table 4**

<table>
<thead>
<tr>
<th>Issue</th>
<th>Officer Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Upper level will be clearly visible from the street</td>
<td>See section 3.2 of this report for discussion.</td>
</tr>
<tr>
<td>Design not in keeping with heritage place</td>
<td>The contemporary design of the extension meets the City of Moonee Valley Heritage Guidelines by respecting the scale, form, setbacks, cladding</td>
</tr>
<tr>
<td>Issue</td>
<td>Officer Response</td>
</tr>
<tr>
<td>----------------------------------------------------------------------</td>
<td>------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Issue Officer Response materials, colour palette and siting of nearby heritage buildings. In addition, contemporary design that re-interprets and contains components of the character of the subject heritage building and precinct are acceptable.</td>
<td></td>
</tr>
<tr>
<td>Visual bulk and form to the street</td>
<td>The proposal as discussed in Section 3.2 is generally setback from the ridge line of the main roof and not visible from the street. The minor protrusion of the Bedroom 3 walk-in-robe would not detract from the roof line of the garage and is acceptable.</td>
</tr>
<tr>
<td>Adversely affect the character and appearance of the heritage place</td>
<td>See section 3.2 of this report for discussion.</td>
</tr>
<tr>
<td>First floor would extend beyond roof line</td>
<td>See Section 3.2 of this report for discussion.</td>
</tr>
<tr>
<td>Demolition</td>
<td>The demolition of the garage, swimming pool and tennis court and the partial demolition of the rear and first floor of the dwelling has been accepted by Council’s Heritage Advisor as they do not impact the appearance of the heritage place.</td>
</tr>
<tr>
<td>A retreat is unnecessary in the addition</td>
<td>The internal configuration and internal layout of the proposed extension is not a planning consideration.</td>
</tr>
<tr>
<td>The demolition and reconstruction of the garage would detract from the openness and grace of the original spacious place</td>
<td>The existing and proposed garaging are both double width and are both setback 1.62 metres from the western title boundary. It is not considered that the proposed garage positioning would detract from the spaciousness of the front open space.</td>
</tr>
<tr>
<td>Provide eye level street view perspectives from 45 degrees from the street</td>
<td>The City of Moonee Valley Heritage Guidelines 2016 requires a view line assessment from directly opposite the property at an eye height of 1.6 metres. An assessment from an oblique view of 45 degrees from the street does not make part of the heritage assessment. The proposal as such meets the City of Moonee Valley Heritage Guidelines 2016.</td>
</tr>
<tr>
<td>Construction vehicles would impact access to</td>
<td>This is not a planning consideration, however, a Construction and Site Management Plan would be required to be submitted to Council’s Technical</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>
**Issue** | **Officer Response**
--- | ---
access from the laneway | Permits Unit for approval, as required by a condition on any permit issued.
On-street car parking | This is not a planning consideration as this is for an application for an extension and is exempt from an assessment against Clause 52.06 (Car parking) of the Moonee Valley Planning Scheme.
Extension would set a precedent to other dwellings | The Moonee Valley Planning Scheme allows for the redevelopment of heritage places. The proposal, considered on its merits, is not held to set a precedent to other dwellings.
Demolition of trees | The site is not impacted by an Environmental Significance Overlay or have tree controls within the Heritage Overlay Schedule. As such, a planning permit is not required for the removal of trees.
Devaluation of properties | The devaluation of properties is not a planning consideration.

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. **Council Plan/Policy**
In presenting this report to Council, it is achieving its strategic objective to ensure there is clear direction for growth and proactive management of development in the city in accordance with MV2040 Strategic Direction 18: A city of high-quality design.

6. **Conclusion**
The application has been assessed against the relevant provisions of the State Planning Policy Framework, Local Planning Policy Framework, Zoning Controls and relevant Particular and General Provisions, and the Decision Guidelines at Clause 65 of the Moonee Valley Planning Scheme.

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

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

**Attachments**
A: Plans (separately circulated) 📄
B: Objector list (separately circulated) 📄
10.3 Amendment C195 Heritage Controls - 89 Glass Street, Essendon

Author: Andrew Kelly - Coordinator Strategic Planning
Directorate: Planning and Development

1. Purpose

1.1 This report is presented to Council in accordance with Resolution 3 on this item (below) at its Ordinary Meeting of 29 January 2019. It provides an update to Council on Resolutions 1 and 2 and recommends how Council should proceed with Amendment C195 and the interim heritage controls applied to the property on 6 December 2018.

2. Background

2.1 At its Ordinary Meeting of 29 January 2019, Council resolved as follows:
   i. Requests the CEO to write to the Minister of Planning, highlighting concerns the Panel for Amendment C195 had regarding the ineffectiveness of protection of 89 Glass Street, requesting the Minister consider opportunities to improve effective protection through the interim heritage controls.
   ii. Obtains a report on the estimated cost of restoring the property to the condition it was in prior to the amendments to its exterior made in 2018.
   iii. Brings a further report to a future Ordinary Council Meeting in relation to this matter.

2.2 In accordance with Resolution 1, a letter was sent to the Minister of Planning in response to the first resolution on 18 February 2019. (Attachment B).

2.3 In accordance with Resolution 2, two quotes have been obtained for the estimated cost of restoring the property to the condition it was in prior to the changes made to its exterior in 2018 (Attachment C and Attachment D). The quotes are for $96,794 and $104,650 respectively (both excluding Goods and Services Tax).

2.4 Since the Ordinary Meeting of 29 January 2019, correspondence has been received from Best Hooper Lawyers on behalf of the owner of the property (Attachment E). The letter indicates “should Council continue to pursue the matters contained in its resolution of 29 January 2019, we put you on notice that any loss or damage suffered by our client as a result of the Council resolution (including legal costs associated with continuing to respond to these matters) may be pursued”. The correspondence included a letter on behalf of the owner to the Minister for Planning indicating the works to the property were undertaken lawfully and requesting the interim heritage controls be removed.
3. Issues

3.1 The report on this item to the Ordinary Meeting of 29 January 2019 recommended Council should note the Planning Panel's recommendations and resolve to abandon Amendment C195. It also recommended the appropriate steps be taken to delete the interim heritage controls which apply to the property.

3.2 The Planning Panel concluded the changes made to the property after the interim heritage protection request was made by Council, resulted in the property not meeting the threshold for protection. Quotes have been obtained to provide an indication of the cost of restoring the property to the condition it was in prior to the changes made to its exterior in 2018.

3.3 Given the circumstances of this case, it would be appropriate for Council to write to the Minister for Planning requesting consideration be given to strengthening interim heritage controls to ensure no changes to a property can occur until the application of permanent controls has been determined. Concerns could also be expressed about the length of time it takes for interim heritage controls to be applied.

Recommendation

That Council resolves to:

a. Note the estimated cost of restoring the property to the condition it was in prior to the changes made to its exterior in 2018.

b. Request the Minister for Planning to consider strengthening interim heritage controls to ensure no changes to a property can occur until the application of permanent controls has been determined.

c. Raise concerns with the Minister for Planning regarding the time it takes for interim heritage controls to be determined and the damage to a property that can occur before application.

d. Note the recommendations of the Planning Panel’s report for Amendment C195 to the Moonee Valley Planning Scheme pursuant to Section 27 of the Planning and Environment Act 1987.

e. Abandon Amendment C195 in accordance with Section 23(1) of the Planning and Environment Act 1987 in accordance with the recommendation of the independent Planning Panel.

f. Advise the Minister for Planning in writing of Council’s decision to abandon Amendment C195 in accordance with Section 28 of the Planning and Environment Act 1987.

g. Request a Ministerial Amendment under Section 20(4) of the Planning and Environment Act 1987 to delete the interim Heritage Overlay (HO449) which applies to 89 Glass Street, Essendon and is due to expire on 30 April 2019.

h. Notify all submitters of Council’s decision to abandon Amendment C195 and to request the deletion of the interim Heritage Overlay (HO449).
Attachments

A: Impact assessment
B: Letter to Minister for Planning - 4 February 2019 (separately circulated)
C: Quote - ID Constructions Glass Street Quote 14 February 2019 (separately circulated)
D: Quote - MD Nevill Glass Street - 18 February 2019 (separately circulated)
E: Correspondence - Best Hooper Lawyers 5 February 2019 (separately circulated)
Impact assessment

1. Relationship to Council commitment MV2040 or Council Plan
   1.1 This item relates to the MV2040 Beautiful theme Strategic Direction 17: “A city that fosters local identity” and Objective 17.2 “Celebrate the heritage of our city”.

2. Legislative obligations
   2.1 This item relates to Council’s obligations under the Planning and Environment Act 1987.

3. Legal implications
   3.1 Following the recommendations of the report will ultimately result in the property not being subject to any heritage controls.
   3.2 Correspondence has been received from the Legal Representative representing the property owner (at Attachment E) advising, “Should Council continue to pursue the matters contained in its resolution of 29 January 2019, we put you on notice that any loss or damage suffered by our client as a result of the Council resolution (including legal costs associated with continuing to respond to these matters) may be pursued”.

4. Risks
   4.1 Per 3.1, should Council decide to pursue heritage controls for the property contrary to the advice of the Planning Panel, there is the risk that the Minister for Planning will disagree and that the property owner will seek to recover losses or damages.

5. Social impact assessment
   5.1 Not applicable.

6. Economic impact assessment
   6.1 None.

7. Environmental impact assessment
   7.1 Only in respect of the potential loss of the existing property.

8. Reputational impact assessment
   8.1 Should Council decide to pursue heritage controls for the property contrary to the advice of the Planning Panel, there is the risk that the Minister for Planning may not have as positive view of Council than was previously the case.

9. Financial implications
   9.1 None other than that referred to in 4.1 above.
10. Sensitivity / scenario analysis
   10.1 Not applicable.

11. Conflict of interest declaration
   11.1 No officer involved in the preparation of this report has any direct or indirect interest in this matter or the decision.

12. Consultation undertaken or planned
   12.1 Consultation was undertaken during the formal planning scheme amendment process. Submitters will be notified of Council’s decision.
10.4 2017 Heritage Study - Stage 2

Author: Fiona McDougall - Senior Strategic Planner
Directorate: Planning and Development

1. Purpose

1.1 To seek authorisation from the Minister for Planning to prepare and exhibit Planning Scheme Amendment C201moon, which proposes to apply the Heritage Overlay to 60 individual places, 18 precincts, one serial listing and nine precinct extensions; and to request the Minister for Planning to apply interim heritage controls to these places whilst permanent controls are sought under the above amendment.

2. Background

2.1 On 25 November 2015, Council adopted the Heritage Gap Study 2014. The Gap Study identifies potential gaps in Moonee Valley’s heritage overlays and outlines a prioritised work program and structure to undertake future heritage studies.

2.2 On 22 March 2016, Council adopted the Moonee Valley Heritage Study 2015. The study identifies shops and shopping strips, commercial buildings, transport-related places including stables, industrial places and suburban infrastructure and community-use buildings that warrant the application of the heritage overlay.

2.3 Amendment C164 implemented the recommendations of the Moonee Valley Heritage Study 2015 to apply the heritage overlay to 54 places, three precincts, one group listing and two precinct extensions. The Minister for Planning approved the amendment on 10 August 2017.

2.4 On 13 June 2017, Council resolved to commence the Moonee Valley 2017 Heritage Study. The study focuses on interwar, Victorian and Edwardian places and precincts and extensions to existing Heritage Overlay precincts.

2.5 On 19 September 2016, a Notice of Motion (NOM/2016/6) was carried unanimously to prioritise work for the Edwardian residential precinct in Edinburgh Street, Flemington. An assessment of this precinct has been undertaken as part of the 2017 Heritage Study. The advice received concludes that Edinburgh Street does not meet the threshold for local significance due to reduced streetscape visual consistency and cohesion, intrusive non-contributory buildings and unsympathetic changes to contributory buildings.

3. Issues

3.1 The Moonee Valley 2017 Heritage Study recommends the application of the heritage overlay to 60 individual places, 18 precincts, one serial listing and nine precinct extensions (Attachment B and Attachment C). Inclusion of these properties in the heritage overlay will provide greater certainty and clarity for developers and the community (Attachment D).
3.2 Precincts and precinct extensions from the Gap Study now include 119 and 139 properties respectively which were not originally identified in the Gap Study. Based on discussion with officers of the Department of Environment Land Water and Planning (DELWP) about the best way to proceed with the Amendment, individual places which had not been identified in the Gap Study have not been proposed for protection at this time due to lack of strategic justification (not being listed in the Gap Study).

3.3 The Moonee Valley 2017 Heritage Study also recommends places and precincts that should form part of future studies and those that do not warrant the application of the heritage overlay (Attachment E).

3.4 The application of interim heritage controls via a ministerial amendment under Section 20(4) of the Planning and Environment Act 1987 is recommended to protect the heritage places while permanent controls are progressed.

3.5 Permanent controls are recommended for all places, precincts, precinct extensions and serial listings in Amendment C201moon.

3.6 Once the permanent controls are in places, around 80 per cent of the eight year Gap Study program will be complete with four years remaining.

3.7 The application of the interim heritage overlay for 55 Brewster Street, Essendon is in response to Council having received a demolition request on 15 February 2019 (Attachment F).

Recommendation

That Council resolves to:

a. Adopt the Moonee Valley 2017 Heritage Study (Attachment B and C - Moonee Valley 2017 Heritage Study) to assist with protecting heritage places in Moonee Valley.

b. Request a ministerial amendment, Amendment C200moon, under section 20(4) of the Planning and Environment Act 1987, to apply the interim Heritage Overlay to 60 individual places, 18 precincts, one serial listing and nine precinct extensions.

c. Request the Minister for Planning to authorise Amendment C201moon to the Moonee Valley Planning Scheme pursuant to section 8A(3) of the Planning and Environment Act 1987.

d. Subject to obtaining authorisation from the Minister for Planning, exhibit Moonee Valley Planning Scheme Amendment C201moon, in accordance with Section 19 of the Planning and Environment Act 1987.

e. Refer unresolved submissions to Amendment C201moon, to an independent Planning Panel in accordance with Section 23(1)(b) of the Planning and Environment Act 1987.

f. Notify all affected owners of the intention to pursue permanent heritage protection for the properties.

g. Note to include properties listed as requiring future work in forthcoming heritage studies.
h. Note the letter to the Minister for Planning to request to apply the interim Heritage Overlay to 55 Brewster Street and that the permanent heritage protection will be pursued through Amendment C201moon.

i. Notify the owner of 55 Brewster Street, Essendon, of the intention to pursue interim and permanent heritage protection.

Attachments

A: Impact assessment
B: Moonee Valley 2017 Heritage Study Vol 1 Precincts and Precincts Extensions - Feb 2019 (separately circulated)
C: Moonee Valley 2017 Heritage Study Vol 1 Places - Feb 2019 (separately circulated)
D: Places, Precincts and Extensions recommended for the application of the heritage overlay (separately circulated)
E: Places, Precincts and Extensions not recommended for the application of the heritage overlay and suggested future work (separately circulated)
F: Request for interim heritage controls for 55 Brewster Street Essendon (separately circulated)
Impact assessment

1. Relationship to Council commitment MV2040 or Council Plan
   1.1 Moonee Valley 2017 Heritage Study achieves Council Plan objectives 1.5 and 17.2, pursuant to themes Fair QEENTE BOORDUP, Beautiful, NGA-ANGO GUNGA, respectively and MV2040 Strategic directions 5.1.3, 5.1.4, 17.12, 17.2.4.
   1.2 At the completion of Moonee Valley 2017 Heritage Study, 70 per cent of the work program will have been completed. The remaining studies include postwar properties, trees and parks and Aboriginal places.

2. Legislative obligations
   2.1 Planning Scheme Amendment C201moon is consistent with the Ministerial Direction relating to the form and content of Planning Schemes under Section 7(5) of the Planning and Environment Act 1987. The preparation of the Amendment is also in accordance with Section 4 Planning and Environment Act 1987. There are no human rights implications as a result of this report.

3. Legal implications
   3.1 The amendment is unlikely to result in legal implications.

4. Risks
   4.1 The risk rating for the Moonee Valley 2017 Heritage Study and Planning Scheme Amendment C201moon is High (10). The measure of consequences is assessed as minor and the measure of likelihood is almost certain.
   4.2 The risk rating is based on previous heritage studies undertaken by Moonee Valley.
   4.3 Controls are appropriately designed, including external and internal consultation.

5. Social impact assessment
   5.1 The decision will have a positive impact with the recognition of these places as a connection to the past and the history of Moonee Valley.

6. Economic impact assessment
   6.1 An owner may oppose the Heritage Overlay on the grounds of impediments to property prices, however this does not constitute a reason to exclude the place, provided its heritage significance had been shown to meet the appropriate threshold.

7. Environmental impact assessment
7.1 The decision will have a positive environmental impact through protecting places of local heritage significance and minimising demolitions.

8. **Reputational impact assessment**

8.1 The decision will have a positive impact on the reputation of Council through protecting Moonee Valley's local heritage.

9. **Financial implications**

9.1 The planning scheme amendment will require funding in the 2018/19 and 2019/20 financial years and will be funded from Council’s Strategic Planning operational budget.

10. **Sensitivity / scenario analysis**

10.1 Council will honour existing planning and building permits that are affected by the *Moonee Valley 2017 Heritage Study* and the planning scheme amendment.

11. **Conflict of interest declaration**

11.1 Andrew Kelly, Coordinator Strategic Planning has a potential indirect interest as he knows (but does not have a close relationship with) the owners of one of the properties at 15-19 Hoddle Street, Essendon. He has had no communication with the owners on the subject of the *Moonee Valley 2017 Heritage Study*.

11.2 No other officer involved in the preparation of this report has any direct or indirect interest in this matter or the decision.

12. **Consultation undertaken or planned**

12.1 Council will directly notify the owners and occupiers of land affected by the amendment, providing them with an opportunity to make a submission through the formal public exhibition process. The exhibition process will provide affected parties concerned by the amendment an opportunity to make a submission. Any submitters will have the opportunity to present their submission to an independent planning panel.

12.2 The amendment process will include:

12.2.1 An exhibition period of four (4) weeks

12.2.2 Letter to Heritage Victoria

12.2.3 Notices in the local newspaper

12.2.4 Information displayed at Council’s Civic Centre

12.2.5 Information on Council’s and the Department of Environment, Land, Water and Planning websites.
10.5 Hockey Lane Road Declaration

Author: Ade Sutherland - Engineer
Directorate: Planning and Development

1. Purpose

1.1 With reference to Hockey Lane, Ascot Vale (and the surrounding area) the purpose of this report is to gain approval from Council for the proposed staged street lighting, and to declare the full extent of the constructed road a public ‘road’. The purpose is also to inform Council of the: intention to transfer land from Melbourne Water to Council; need for Council to install fire hydrants; need for water mains to be constructed; and, need for Council to clarify its responsibility (if any) to fund the new water mains.

2. Background

2.1 At time of subdivision what is now known as Hockey Lane was originally an unmade right-of-way. Since that time, the surrounding area has undergone significant change including re-alignment of the nearby Moonee Ponds Creek, reclamation of wetlands, freeway construction, and, in-fill development fronting Hockey Lane. Of particular note located along the eastern length of the Hockey Lane is the Essendon Hockey Club and associated hockey fields which generates significant vehicle traffic and demand for parking during events and training.

Figure 1: Hockey Lane

2.2 These incremental changes have caused Hockey Lane to be transformed into a well trafficked, full-width constructed local road. To accommodate this improved level of service, it has grown beyond the original right-of-way extents to now occupy adjacent properties without ever formally transfer
land ownership or declaring a public ‘road’ under the *Road Management Act 2004* (Vic).

2.3 Of the original 28 private properties that once backed on to Hockey Lane (and fronted either Myrnong Crescent or Fenton Street), most have been subdivided in the last 20 years. As a result, there are now 29 new properties that now front Hockey Lane with no alternative road access. As the number of properties fronting Hockey Lane has increased, Council has received a corresponding amplification in complaints regarding access, parking and dust from the then unmade surface. To address these issues, Hockey Lane was formally constructed in 2011 which was partially funded by property owners under a special charge scheme. Objections to the scheme were relatively minor with most residents appearing to both accept that there was a direct benefit to themselves, and that Council still bore the majority of cost.

2.4 At the time of construction street lighting was not installed along Hockey Lane due to a combination of: lack of room within the declared public ‘road’ (i.e. original right-of-way extents); and the issues faced by locating the lighting outside of this area (discussed later).

2.5 In 2017 the Melbourne Fire Brigade (MFB) then gave notice that due to inadequate access for the new properties, Council would need to install fire hydrants along Hockey Lane which would require a new water mains be constructed. The local water supply provider City West Water (CWW) has advised the cost of a new water main will be substantial, with responsibility for funding the hydrants unclear.

3. Issues

3.1 Street Lighting Provision

3.1.1 Under the *Road Management Act 2004* (Vic), Council as the road authority for Hockey Lane is responsible for providing public street lighting. In late 2018, Council commissioned and received lighting design drawings for Hockey Lane. These drawings have been submitted to Jemena and are now awaiting approval (see Attachment B), however management of the lighting and cost implications depend on the legal status of the land it is located within. If located within a declared public ‘road’, lighting is considered ‘public’, if not then it is considered ‘private’. ‘Public’ lighting is maintained and replaced by the electricity provider and electricity charged at a heavily discounted rate. ‘Private’ lighting is maintained and replaced by Council and electricity charged at full retail rates.

3.1.2 The small portion of Hockey Lane still within the original right-of-way boundary (i.e. public ‘road’) is insufficient to accommodate ‘public’ lighting. Declaring the part of Hockey Lane within Council owned land a ‘road’ is straightforward, but the process is more complicated for Crown land and other land not owned by Council. For this reason it is proposed street lighting be delivered in two stages: Stage 1 will be the original right-of-way which is largely Council owned land; and, Stage 2 will be non-Council owned land.
and remaining Council land not included in Stage 1 (refer Attachment C).

3.1.3 The majority of Hockey Lane is included in Stage 1 and includes the length containing parking bays and fronting private properties. The remainder under Stage 2 is an isolated area to the north-east. Pending Council approval, Stage 1 would be delivered under the 2019/20 Capital Works program. Stage 2 would be delivered once agreement has been reached with relevant property owners/managers (discussed later).

3.2 Road Declaration

3.2.1 Declaring a public ‘road’ under the *Road Management Act 2004* (Vic) and adding to the Register of Public Roads provides multiple benefits to Council including: limited liability to Council, clarity on the physical extent of Council’s legal responsibilities and powers, accommodation of ‘public’, and, prompt implementation (approx. 28 days) when compared to alternate means for accommodating ‘public’ utilities (i.e. creation of a road reserve or easement). Once the full extents of Hockey Lane has been declared, there will be greater flexibility in designing and accommodating any future services.

3.2.2 Declaration of a public ‘road’ involves: declaration pursuant to Section 11(1)(a) of the *Road Management Act 2004* (Vic) by notice in the *Victorian Government Gazette*; declaration of a ‘public road’ under Section 17 of the *Road Management Act 2004* (Vic); and then, inclusion on the Register of Public Roads. Council can declare a road within land it owns, or, with agreement from the property owner or land manager. Pending Council approval the area corresponding to Stage 1 would be declared within 3 months and Stage 2 declared at a later date (refer Attachment D).

3.3 Property Ownership/Transfer

3.3.1 Hockey Lane has expanded beyond the original right-of-way and now occupies 11 parcels covering the following property classes: Council right-of-way (1150m²), Council reserve (2100m²), Melbourne Water right-of-way (350m²), and, Crown land (320m²) managed by the Department of Environment, Land, Waterways and Planning (DELWP) (refer Attachment E).

3.3.2 Currently, the original right-of-way extent consists of two abutting properties fronting Hockey Lane. Occupied Council reserves largely comprise the remaining width not occupied by the Council original right-of-way, and then continues to the commencement of the 180° bend at the north-east corner (lots 20\LP9672, 1\TP910424, 1\TP911124, 3\TP911124 and 1\TP544385).

3.3.3 Occupied Melbourne Water land is located at the interface with Fenton Street and continues to bisect the 180° bend in the north-east (lot 1\TP956114P). Since realignment of Moonee Ponds
Creek, Melbourne Water no longer requires this land for access. Agreement was reached in 1981 to transfer to Council, however due to an administration error at the time, change of ownership was never lodged. Melbourne Water has confirmed it is prepared to complete the transfer of ownership with this anticipated to take place mid-2019 pending Council approval.

3.3.4 Occupied Crown land consists of two parcels located on the outer (lot 2157\PP2541) and inner corner (lot 2126\PP2541) of the 180° bend to the north-east. These parcels are in process of being transferred to Council as a result of the defunct East West Link project, with the State Government timeframes for the completion of the process unconfirmed.

3.4 Fire Hydrants / Water Mains Provision

3.4.1 Under the Water Act 1989 (Vic) s 165(2) Council is responsible for funding of fire hydrants within its municipality. The Victorian Planning Provision (VPP) s56.09-3 requires the hydrants be no more than 200m apart, and no more than 120m from the rear of a property. However those new properties now fronting Hockey Lane have been connected to the water supply via the original properties to the rear. As a result, a new water main was never constructed along Hockey Lane, and in turn, the VPP requirements to provide fire hydrant access cannot currently be fulfilled.

3.4.2 CWW has advised that to supply the hydrants a new water main will need to be constructed along Hockey Lane, and this will need to run the full length so as to create a circuit and prevent stagnation of water supply. The most expedient means of achieving this circuit today would be, in part, to use the Council recreational reserve (lot 3\TP3911124) which would result in the loss of a number of trees and need to create an easement. These negative outcomes can be avoided by waiting for the full length and extents of Hockey Lane to be declared a public ‘road’ and locating the water mains within the road reserve.

3.4.3 CWW is currently preparing design documentation with cost of construction likely to be significant. Funding for the new water main has not yet been agreed (Attachment F – confidential).

Recommendation

That Council resolves to:

a. Declare Hockey Lane (as land and/or approval becomes available) a public ‘road’ pursuant to Sections 11(1)(a) and 17 of the Road Management Act 2004 (Vic) and add to the Register of Public Roads.

b. Approve the proposed Hockey Lane street lighting design and deliver in two stages:

i. Stage 1: comprises land within the current road and Council reserve for delivery in the 2019/20 financial year.

c. Agrees to accept the transfer of land to Council of lot 1\TP956114P from Melbourne Water, and, Crown lots 2157\PP2541 and 2126\PP2541 from DELWP.

d. Agrees Council will need to fund the installation of fire hydrants at a later date.

e. Requests the Chief Executive Officer to clarify the responsibility for funding the new water main along Hockey Lane with City West Water.

Attachments

A: Impact assessment
B: Street lighting plan
C: Stage delivery
D: Road declaration extents
E: Land ownership
F: Legal advice (confidential)
RELATIONSHIP TO COUNCIL COMMITMENT MV2040 OR COUNCIL PLAN

The following Council Plan objectives are achieved by providing street and car park lighting that is designed to meet current design standards including long-life, low energy consumption:

1.1.1.1.1 Provide good quality facilities and programs where they are most needed.
1.1.1.1 Invest in civil infrastructure.
1.1.1.1.8 Deliver a walkability initiative to get more people walking in Moonee Valley.
2.1.1.3 Reduce the impact of development on the natural environment.
2.2.1.5 Implement master plans at key sites (i.e. Fenton Reserve Master Plan).
2.3.1.7 Upgrade infrastructure to support multiple benefits and value outcomes.
3.1.1.8 Achieve a more pedestrian friendly municipality and make walking the first choice for journeys under 2km through provision of a safe walking environment, appropriate infrastructure, enjoyable urban environment and promotional initiatives.
3.2.1.9 Create liveable 20-minute neighbourhoods.
4.2.1.1.3 Priorities new sports pavilions and facilities in poor condition and improve accessibility of sporting facilities to the wider community.
4.2.1.1.4 Continue to maintain community infrastructure, including: sports field lighting, sports field surfaces, universal designed car parks within open space, accessible toilets, circuit paths in open space; and continue to make further improvements to such infrastructure for the increased use and flexibility of these assets.
5.3.1.3 Determine the maximum utilisation and future use of Council’s assets.
5.5.1.3 Adopt and implement environmentally sustainable design standards for Council facilities.
5.5.1.6 Investigate technology that will deliver improved efficiencies for customers.

The following Council Plan objectives are achieved by transferring land to Council and containing utility services within a road reserve:

2.1.1.3 Reduce the impact of development on the natural environment.
2.1.1.8 In developing our parks and open space for active uses, ensure this is undertaken without the loss of open space.

LEGISLATIVE OBLIGATIONS

Council’s obligation once Hockey Lane is declared a ‘road’ and added to the Register of Public Roads is required to provide street lighting:

Road Management Act 2004 (Vic) Schedule 7A [1](d):

"The installation costs and the operating costs of street lighting are to be paid – in the case of street lights for a road that is not an arterial road, other than a road or part of a road referred to in paragraph (a), (b) or (c)—by the responsible road authority for that road"

and
Road Management Act 2004 (Vic) Schedule 40(1)(a):

"Statutory duty to inspect, maintain and repair public roads

(1) Subject to Part 6, a road authority has a statutory duty to inspect, maintain and repair a public road—

(a) to the standard specified in the road management plan for that public road or a specified class of public roads which includes that public road"

Responsibility for providing fire hydrants (or ‘fire plugs’) is that of Council as required under the Water Act 1989 (Vic) Section 165(2):

“A council must meet the costs of providing, installing, marking and maintaining all fire plugs that the council requires under subsection (1) to be installed in its municipal district.”

The minimum requirements for street fire hydrants is outlined in the Victorian Planning Provision (VPP) Section 56.09-3 states:

“Standard C29

Fire hydrants should be provided:
A maximum distance of 120 metres from the rear of the each lot.
No more than 200 metres apart.

Hydrants and fire plugs must be compatible with the relevant fire service equipment. Where the provision of fire hydrants and fire plugs does not comply with the requirements of standard C29, fire hydrants must be provided to the satisfaction of the relevant fire authority.”

LEGAL IMPLICATIONS

Road Declaration

Under the Road Management Act 2004 (Vic) a road authority is not open to general liability if a road is declared a road a public ‘road’, its boundaries fixed and the road is added to the road authorities Register of Public Roads. Currently the full extents of Hockey Lane have not been declared a public ‘road’ and so Council can be held liable under common law.

Road Management Act 2004 (Vic) Section 108:

“Road authority is not liable as an occupier

(1) For the avoidance of doubt, it is hereby declared that for the purposes of section 148 of the Wrongs Act 1958—

(a) a road authority is not an occupier of a road; and
(b) a road is not premises.”

RISKS

Refer to other sections within this attachment.

SOCIAL IMPACT ASSESSMENT

The installation of street lighting is anticipated to improve the sense of personal safety and security for residents and pedestrians.

The installation of street lighting is anticipated to improve road safety.

ECONOMIC IMPACT ASSESSMENT

There are no economic impacts as a result of this report.
ENVIRONMENTAL IMPACT ASSESSMENT

Lighting design was revised with LED lights replacing fluorescent lights.

The transfer of land to Council, change of status of land and location of future water mains will avoid the loss of native vegetation.

REPUTATIONAL IMPACT ASSESSMENT

By installing street lighting Council will be seen as fulfilling its legislative requirement under the Road Management Act 2004 (Vic).

By ensuring street lighting is contained within road reserve Council and ‘unmetered’ will be viewed as fiscally long-sighted and responsible.

By facilitating the later installation of water mains and fire hydrants Council will be viewed as being concerned for the safety of residents and their properties.

FINANCIAL IMPLICATIONS

There is an allocation of $58,000 in Council’s 2019/20 Capital Works Program for the installation of Hockley Lane Public lighting.

There will be approximately $7,000 in costs to transfer land to Council ownership and declaration of Hockley Lane as a public ‘road’. These cost will be funded through the Technical Services Operation Budget.

There has been approximately $3,000 in cost for legal advice regarding responsibility for providing a new water mains.

By ensuring street lighting is within the declared road reserve power is charged to Council at the discounted ‘unmetered’ rate.

By ensuring street lighting is within the declared road reserve replacement and maintenance are managed by Jemena.

SENSITIVITY/SCENARIO ANALYSIS

Failure or delay to have the parcels 1\TP956114P, 2126\PP2541 and 2157\PP2541 transferred from the Crown to Council does not prevent the declaration of the portion of Hockley Lane as a public ‘road’. This has been accommodated within the recommendations.

Note: the outcome of legal advice regarding Council’s obligations (if any) to provide water mains is for future reference and information only. It does not affect the recommendations within this report.

CONFLICT OF INTEREST DECLARATION

No officer involved in the preparation of this report have any direct or indirect interest in this matter or the decision.
CONSULTATION UNDERTAKEN OR PLANNED

CWW – on going discussions, design details and cost estimates for the installation of fire hydrants and water mains along Hockey Lane.

DELWP – on going discussions for the transfer of parcels 2126\PP2541 and 2157\PP2541 from the Crown to Council.

Local residents – local residents concerns noted and the street lighting plan developed in response.

Jemena - consulted for guidance on street lighting design. Final street lighting design to be reviewed and approved by Jemena.

Maddocks – legal advice on obligation to provide water mains along Hockey Lane.

Melbourne Water – on going discussions for the transfer of parcel 1\TP956114P from Melbourne Water to Council ownership.

MFB – on going discussions regarding the lack of hydrants in the vicinity of Hockey Lane.
10.6 Proposed Lease - Victoria State Emergency Service

Author: Morgan Brown - ActingCoordinator Commercial Property
Directorate: Asset Planning and Strategic Projects

1. Purpose

1.1 To consider a new 10 year lease to Victoria State Emergency Service (VICSES) over part of Moonee Ponds Depot at 180 Holmes Road, Moonee Ponds.

2. Background

2.1 The VICSES has a lease over part of the depot which commenced on 1 August 2011 for a period of 3 years. The lease provided 2 further terms of 3 years each and the final expiry is 31 July 2020.

2.2 The VICSES is the tenant, however the site is operated and occupied by the Essendon SES volunteer unit.

2.3 In May 2018, the State Government announced funding of $1.2 million for the Essendon SES unit.

2.4 The funding is to undertake works to the existing site. Consequently, we have received a proposal from VICSES for a new long term lease for their existing leased premises as shown in Attachment A.

3. Issues

3.1 It is proposed Council will grant a new 10 year lease to the VICSES, which will allow the VICSES to continue providing its emergency services to the local community and undertake the works.

3.2 The grant of the proposed 10 year lease with no options will provide Council with the flexibility to consider the proposed future use of the site after the lease expiry.

3.3 A visioning exercise is about to commence called the Maribyrnong River Cultural Precinct. The precinct includes the existing VICSES site. The visioning exercise will provide Council with a position and platform to ensure that the area is meeting the needs of the local community for the long term. The aim of the visioning exercise is to have Council consider a draft long term vision for this area.

3.4 If a new 10 year lease is considered, the VICSES will commence plans for the proposed works to the facility. Any works will be subject to council consent as landowner. The works will be undertaken within the existing leased area footprint.

3.5 Further information is provided in the impact assessment attached as Attachment B.
Recommendation

That Council resolves to:

a. Endorse a ten year lease with Victoria State Emergency Service for the provision of accommodation for emergency response activities including but not limited to operational response to flood, storm, tsunami, earthquake, landslide and road crash rescue, assist other agencies in emergency response activities such as VICPOL, CFA, MFB, DELWP, Parks Victoria, undertake training, administration and community resilience activities relating to emergencies.

b. Authorise the Chief Executive Officer to negotiate and finalise the lease with Victoria State Emergency Service and execute the lease on behalf of Council.

Attachments

A: Impact Assessment  

B: Existing leased area plan (separately circulated)  

Impact assessment

1. Relationship to Council commitment MV2040 or Council Plan
   1.1 The proposed lease to VICSES will contribute to strategic objective ‘People have access to the services they need’ in accordance with Council Plan 2017-21 Theme 1: Fair (Qeente boordup, which means fair in Woi wurrung language).

2. Legislative obligations
   2.1 The VICSES is a public body in accordance with the defined term in section 3 of the Local Government Act 1989 (Act) and therefore the public notice requirements of section 190 of the Act for leases longer than 10 years does not apply.

3. Legal implications
   3.1 The proposed lease to VICSES would be in the form of lease negotiated with the Municipal Association of Victoria and the VICSES as a standard template for councils entering into leases with VICSES, with any site specific and Council specific conditions included.
   3.2 The proposed lease will include a condition that will terminate the existing lease on the commencement of the new lease.
   3.3 Council officers will arrange legal review of the proposed lease to ensure that it doesn’t carry any significant risks to Council.

4. Risks
   4.1 No key risks have been identified in the preparation of this report.

5. Social impact assessment
   5.1 The grant of a longer term lease to the VICSES will allow the Essendon SES unit to continue to undertake its emergency response activities in Moonee Valley.

6. Economic impact assessment
   6.1 There are no direct economic impacts as a result of this report.

7. Environmental impact assessment
   7.1 There are no environmental impacts as a result of this report.

8. Reputational impact assessment
   8.1 There are no direct reputational impacts as a result of this report.

9. Financial implications
   9.1 The current rent under the lease is $519.69 plus GST per annum.
9.2 An annual rent of $529.04 plus GST is proposed for the new lease. The amount aligns with the rent under the existing lease with a CPI increase applied. The rent will be increased by CPI on an annual basis.

9.3 The proposed works will be undertaken at the VICSES’s expense.

10. Sensitivity / scenario analysis

10.1 Not applicable.

11. Conflict of interest declaration

11.1 No officer involved in the preparation of this report has any direct or indirect interest in this matter or the decision.

12. Consultation undertaken or planned

12.1 Council’s operations and community infrastructure teams have been consulted in the preparation of this report.

12.2 The nature of this report does not require any external consultation.
10.7 Grants Assessment Special Committee Charter Update

Author: Emily McBlack - Community Grants Officer
Directorate: Planning and Development

1. Purpose

1.1 To present the updated Grants Assessment Special Committee Charter for endorsement by Council.

2. Background

2.1 On 27 March 2018, Council resolved to delegate decision making powers (pursuant to Section 86 of the Local Government Act 1989), to establish a Grants Assessment Special Committee (Special Committee) of Council to make funding decisions on Community Grants (Biannual Grants including the Social Support stream). On 27 March 2018, the Council Seal was placed on the Instrument of Delegation. Membership of the Committee includes Councillors (8), community members (5), and ex-officio/ non-voting Council officers (2).

3. Issues

3.1 There have been two successful rounds of Biannual Grants funding using the Special Committee as the decision making mechanism (2017/18 Round Two and 2018/19 Round One). During this time, we have identified ways to improve the process which now need to be reflected in the formal documents supporting the Special Committee. These documents include the Grants Assessment Special Committee Charter (Attachment A), Appendix One: Grants Assessment Committee Decision Making Framework which is required to be updated at Section 6.1 of the document.

3.1.1 Original wording: “…The Decision Making Framework outlines the process for deciding on the final list of funding allocations at the Grants Assessment Committee meeting.”

3.1.2 Proposed wording: “…The Decision Making Framework outlines the process for deciding on the final list of funding allocations at one or a number of Grants Assessment Committee meetings.”

3.2 Other minor changes are proposed to the Charter’s Appendix One to reflect the wording changes above. Paragraph numbering has also been included to assist with referencing in meeting and administration.

Recommendation

That Council resolves to approve the updated Grants Assessment Special Committee Charter appendix update (Attachment A).
Attachments

A: Grants Assessment Special Committee Charter - Updated 20 February 2019 (separately circulated) 📄
10.8 Councillor Expenses Report - 1 October 2018 to 31 December 2018

Author: Lee McSweeney - Coordinator Governance
Directorate: Organisational Performance

1. Purpose
   1.1 To receive a quarterly report of expenses incurred by Councillors from 1 October 2018 to 31 December 2018 in the performance of their duties as elected representatives of the community.

2. Background
   2.1 Councillors while performing their duties are entitled to be reimbursed for any necessary out-of-pocket expenses. This reimbursement process for councillor expenses is prescribed by the *Local Government Act 1989*.
   2.2 The *Local Government Act 1989* and the prescribed Regulations are largely silent on the reporting requirements for councillor expenses.
   2.3 At its meeting on 26 April 2016, Council adopted Notice of Motion No. 2016/09 to receive reports on councillor expenses on a quarterly basis and to make this information available on its website.

3. Issues
   3.1 Council at its meeting on 14 August 2018 adopted a new Councillor Expenses and Reimbursement Policy which aims to assist the Mayor and Councillors in understanding the administrative support, resources and facilities available to assist them in the performance of their duties and describes the out-of-pocket expenses that may be reimbursed.

   3.2 The quarterly report provided as Attachment A identifies the quantum of councillor expenses processed by the organisation for the period 1 October 2018 to 31 December 2018 in line with the endorsed Councillor Expenses and Reimbursement Policy.

   3.3 The figures included in the report may include expenses not incurred in the reporting period but processed in this reporting period.

Recommendation

That Council resolves to:

a. Endorse the Councillor Expenses Report for the period 1 October 2018 to 31 December 2018 provided, as Attachment A.

b. Publish the Councillor Expenses Report, provided as Attachment A, on Council’s website.

Attachments

A: Quarterly Declaration of Councillor Expenses 1 October 2018 - 31 December 2018 (separately circulated) ☑️
NOTICES OF MOTION

11.1 Notice Of Motion No. 2019/02 - North Essendon Junction

From: Councillor Andrea Surace

Take notice that at the Ordinary Meeting of Council to be held on 12 March 2019 it is my intention to move that Council write to each of the following:

1. State Member for Essendon, Mr Danny Pearson MP
2. State Member for Niddrie, The Hon Ben Carroll MP
3. Minister for Transport Infrastructure, The Hon Jacinta Allan MP
4. Minister for Roads and Minister for Road Safety and the TAC, The Hon Jaala Pulford MLC

requesting they acknowledge the current unacceptable state of the North Essendon junction (Bulla Road/Keilor Road/Lincoln Road) and take immediate action to address the safety concerns at this North Essendon junction (Bulla Road/Keilor Road/Lincoln Road).

Officer Comments

The Notice of Motion is supported.

Council officers strongly support the Notice of Motion to take immediate action to address the safety concerns at the North Essendon Junction, otherwise known as the intersection of Mt Alexander Road/Keilor Road/Bulla Road/Lincoln Road.

During the development of the Fletcher, St Therese’s and North Essendon Local Area Traffic Management (LATM) studies, significant concerns were raised by the local community with regards to safety issues at the intersection of Mt Alexander Road/Keilor Road/Bulla Road/Lincoln Road.

A review of the VicRoads Crash Statistics found that there were a significant number of crashes at this intersection and that an integrated transport improvement approach into addressing road safety, congestion, pedestrian, cycling and transport issues was required.

As such, the adopted Traffic Management Plans for the Fletcher, St Therese’s and North Essendon Local Area Traffic Management studies recommended to develop a signalised intersection to replace the existing roundabout at the intersection of Mt Alexander Road/Keilor Road/Bulla Road/Lincoln Road.

In addition to the above, during the development of the North Essendon LATM feedback was received from VicRoads, indicating that over recent years a number of operational safety improvements have been made at this intersection, and that any further investigations for the signalisation would require a detailed broader corridor review.

VicRoads also provided a commitment to continue to work with Council on any future investigations and proposals.
Therefore, Council officers strongly believe that the implementation of the above will provide a safe and efficient road environment, and will greatly enhance the opportunity for cycling and walking participation in North Essendon.

This recommendation will also assist Council achieve its Transport Safety Strategy commitment to prioritise safe people and safe road, and assist us to achieve our goal of zero fatalities and serious injuries within Moonee Valley.

Draft Letters

*File:* FOL/18/2958
*Enquiries:* Anna Psarras

13 March 2019

The Hon. Danny Pearson MP
State Member for Essendon
PO BOX 605
MOONEE PONDS VIC 3039

Dear Mr Pearson

**NORTH ESSENDON JUNCTION – ROAD SAFETY ISSUES**

I am writing to you to request your assistance in recognising the current unacceptable state of the North Essendon Junction, and take immediate action to address the safety concerns at the intersection of Mt Alexander Road / Keilor Road / Bulla Road / Lincoln Road.

During the development of the Fletcher, St Therese’s and North Essendon Local Area Traffic Management (LATM) studies, significant concerns were raised by the local community with regards to safety issues at the North Essendon Junction.

A review of the VicRoads Crash Statistics found that there were a significant number of crashes at this intersection and that an integrated transport improvement approach into addressing road safety, congestion, pedestrian, cycling and transport issues was required.

As such, the adopted Traffic Management Plans for the Fletcher, St Therese’s and North Essendon Local Area Traffic Management studies recommended to develop a signalised intersection to replace the existing roundabout at the intersection of Mt Alexander Road / Keilor Road / Bulla Road / Lincoln Road.

We strongly believe that the installation of traffic signals at the North Essendon Junction will provide a safe and efficient road environment, and will greatly enhance the opportunity for cycling and walking participation in North Essendon.

This initiative will also assist Council in achieving its Transport Safety Strategy commitment to prioritise safe people and safe road, and assist us to achieve our goal of zero fatalities and serious injuries within Moonee Valley.

Your consideration on this important road safety matter is greatly appreciated.
We look forward to working together to ensure Moonee Valley’s road safety matters are addressed as a matter of priority.
Should you wish to discuss the above matter in more detail, please do not hesitate to contact Ms Anna Psarras, Coordinator Transport on 9243 9164.

Yours sincerely

Cr Narelle Sharpe
Mayor
13 March 2019

The Hon. Ben Carroll MP
State Member for Niddrie
PO BOX 554
NIDDRIE VIC 3042

Dear Mr Carroll

NORTH ESSENDON JUNCTION – ROAD SAFETY ISSUES

I am writing to you to request your assistance in recognising the current unacceptable state of the North Essendon Junction, and take immediate action to address the safety concerns at the intersection of Mt Alexander Road / Keilor Road / Bulla Road / Lincoln Road.

During the development of the Fletcher, St Therese’s and North Essendon Local Area Traffic Management (LATM) studies, significant concerns were raised by the local community with regards to safety issues at the North Essendon Junction.

A review of the VicRoads Crash Statistics found that there were a significant number of crashes at this intersection and that an integrated transport improvement approach into addressing road safety, congestion, pedestrian, cycling and transport issues was required.

As such, the adopted Traffic Management Plans for the Fletcher, St Therese’s and North Essendon Local Area Traffic Management studies recommended to develop a signalised intersection to replace the existing roundabout at the intersection of Mt Alexander Road / Keilor Road / Bulla Road / Lincoln Road.

We strongly believe that the installation of traffic signals at the North Essendon Junction will provide a safe and efficient road environment, and will greatly enhance the opportunity for cycling and walking participation in North Essendon.

This initiative will also assist Council in achieving its Transport Safety Strategy commitment to prioritise safe people and safe road, and assist us to achieve our goal of zero fatalities and serious injuries within Moonee Valley.

Your consideration on this important road safety matter is greatly appreciated.

We look forward to working together to ensure Moonee Valley’s road safety matters are addressed as a matter of priority.

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Yours sincerely

Cr Narelle Sharpe
Mayor
13 March 2019

The Hon. Jacinta Allan MP
Minister for Transport Infrastructure
Level 20, 1 Spring Street
MELBOURNE VIC 3000

Dear Minister

NORTH ESSENDON JUNCTION – ROAD SAFETY ISSUES

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Your consideration on this important road safety matter is greatly appreciated. We look forward to working together to ensure Moonee Valley’s road safety matters are addressed as a matter of priority.

Should you wish to discuss the above matter in more detail, please do not hesitate to contact Ms Anna Psarras, Coordinator Transport on 9243 9164.

Yours sincerely

Cr Narelle Sharpe
Mayor
13 March 2019

The Hon. Jaala Pulford MP
Minister for Roads
Minister for Road Safety and the TAC
Level 20, 1 Spring Street
MELBOURNE VIC 3000

Dear Minister

NORTH ESSENDON JUNCTION – ROAD SAFETY ISSUES

I am writing to you to request your assistance in recognising the current unacceptable state of the North Essendon Junction, and take immediate action to address the safety concerns at the intersection of Mt Alexander Road / Keilor Road / Bulla Road / Lincoln Road.

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This initiative will also assist Council in achieving its Transport Safety Strategy commitment to prioritise safe people and safe road, and assist us to achieve our goal of zero fatalities and serious injuries within Moonee Valley.

Your consideration on this important road safety matter is greatly appreciated.

We look forward to working together to ensure Moonee Valley’s road safety matters are addressed as a matter of priority.

Should you wish to discuss the above matter in more detail, please do not hesitate to contact Ms Anna Psarras, Coordinator Transport on 9243 9164.

Yours sincerely

Cr Narelle Sharpe
Mayor
Notice Of Motion No. 2019/03 - ANZAC Horse Ramp at Essendon Station

From: Councillor Andrea Surace

Take notice that at the Ordinary Meeting of Council to be held on 12 March 2019 it is my intention to move that Council write to each of the following:

- The Hon Ben Carroll MP, Minister for Crime Prevention, Minister for Corrections, Minister for Youth Justice and Minister for Victim Support,
- Mr Danny Pearson MP, Member for Essendon,
- The Chief Executive Officer, Level Crossing Removal Project, and
- The Executive Director, Heritage Victoria.

Requesting resolution on the reinstatement of the heritage listed ANZAC horse ramp at Essendon Station.

Officer Comments

The Notice of Motion is supported in principle. The relevant State Government Agencies (the Level Crossing Removal Project and Heritage Victoria) may be able assist in providing information in relation to the progress of the relevant matters, in addition to the relevant local Members of Parliament.

As background, a permit was issued on 7 June 2018 by the Executive Director, Heritage Victoria. The permit facilitated development for the Buckley Street Level Crossing Removal Project at the State Heritage listed, Essendon Station complex.

The permit conditions required:

- A methodology for the careful deconstruction and reconstruction of the horse ramp.
- Interpretation of the horse ramp, and the history of change at the station.
- The preparation of a photographic recording of the place.

Council has not been advised of, nor seen evidence that the relevant conditions have been complied with.
11.3 Notice Of Motion No. 2019/04 - VCAT Monthly Report

From: Councillor Andrea Surace

Take notice that at the Ordinary Meeting of Council to be held on 12 March 2019 it is my intention to move that Council request the Chief Executive Officer provide a monthly report to Council detailing Victorian Civil and Administrative Tribunal (VCAT) outcomes and costs incurred through the process of fighting developers on behalf of the City of Moonee Valley community.

Officer Comments
The Notice of Motion is supported.

VCAT outcomes are currently reported in the Weekly CEO Update to Councillors. In order to fully respond to this Notice of Motion, Officers will include both outgoings and Officer time associated with representing Council at VCAT.
Notice Of Motion No. 2019/05 - Safety lighting in public open spaces

From: Councillor Andrea Surace

Take notice that at the Ordinary Meeting of Council to be held on 12 March 2019 it is my intention to move that Council request the Chief Executive Officer provide a report to Council on the appropriate response to addressing safety concerns in open spaces within the City of Moonee Valley, including Hassett Reserve, Keilor East. This report should include consideration of Crime Prevention through Environmental Design (CPTED), including lighting as a safety response.

Officer Comments
The Notice of Motion is supported.

The report Officers will prepare will include guidelines for considering the appropriate response to safety concerns in public spaces, including parks and reserves.
Take notice that at the Ordinary Meeting of Council to be held on 12 March 2019, it is my intention to move that the CEO provide a report to a future Ordinary Meeting of Council considering opportunities to improve transparency, accuracy and the process more generally in relation to the following planning related matters:

1. Existing use rights, including how to ensure appropriate evidence gathering occurs and opportunities to notify or otherwise make aware nearby properties and residents of a proposed existing use rights claim;
2. The lodgement of petitions as part of a planning permit objection process, including the options to count petitions as more than one objection and explicitly notifying petitioners of the petition will be considered;
3. The accuracy of plans lodged with planning permit applications, including consequences where plans are misleading/incorrect and how to ensure misleading/incorrect plans are corrected and notified to objectors;
4. Clarifying the process by which people can access documents related to a planning permit application which has been determined, with a focus on making all relevant documents easily accessible;
5. The process by which objectors are notified of any amendments (whether formal or informal) to proposed plans during a planning permit process; and
6. The placement and content of advertising notices (including the descriptions required to be used) and other notices an applicant may place on site as part of an advertising process to ensure that all signs have maximum visibility and will not be likely to, whether intentionally or otherwise, mislead or deceive people regarding the proposed planning permit application.

(the Review Matters)

In providing the report, the following issues as applicable to the Review Matters should also be addressed:

1. Any legal requirements; and
2. Any current Council policy, procedure or guiding documents.

Officer Comments

The Notice of Motion is supported.

The processes mentioned in the Notice of Motion in relation to:

- existing use rights
- content of planning applications
- notification processes of applications and amendments
- consideration of objections and petitions
- access for the public to permits already determined

are all governed by applicable legislation and current internal procedures and protocols. Officers will scrutinise the current procedures with a view to improving processes where possible, and provide a response in relation to legal requirements which limit Council’s ability to amend processes.
CONFIDENTIAL REPORTS

Closure of meeting to public

Recommendation

That Council resolves to close the meeting to the public pursuant to Section 89(2) of the Local Government Act 1989 to discuss the following matters:

14.1 East Keilor Leisure Centre redevelopment progress update

Item 14.1 is Confidential under section 89(2) of the Local Government Act 1989 as it contains information relating to: (d) contractual matters.