Agenda

Ordinary Meeting of Council

Tuesday, 28 May 2019
6:30pm
 Ordinary Meeting of Council 
Tuesday, 28 May 2019 at 6:30pm 
to be held at the Moonee Valley Civic Centre 

TO

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

Officers:  Ms Kendrea Pope  Acting Chief Executive Officer  
Mr Steven Lambert  Director City Services  
Ms Natalie Reiter  Director Planning and Development  
Mr Gil Richardson  Director Asset Planning and Strategic Projects  
Ms Allison Watt  Acting Director Organisational Performance  
Ms Cindy Edwards  Acting 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, 14 May 2019.

5. Declarations of Conflict of Interest

6. Presentations
   Nil.

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15. Close of Meeting

KENDREA POPE
Acting Chief Executive Officer
PETITIONS AND JOINT LETTERS

7.1 Petition - Flemington Community Hub

Author: Emily Chiles - Governance Officer
Directorate: Organisational Performance

Summary
Council has received a petition in two parts, each part has a slightly different preamble or ‘prayer’ even though the request is the same.

The first part received via Change.org with 162 signatures, requests Council to reconsider the location of a new community hub in Flemington.

The second part is a hard copy with 42 signatures, requesting Council to reconsider the proposed location for the Flemington Community Hub at Debney’s Park, and that no new building be located on the parkland between the DHHS land and the oval.

Recommendation
That Council resolves to:

1. Receive and note the online and hard copy petition.
2. Refer this matter to the Director Planning and Development for investigation and reporting back to Council.
3. Advise the petition organiser accordingly.

Attachments
Nil
7.2 Petition - On-street parking along The Boulevard, Aberfeldie

Author: Emily Chiles - Governance Officer
Directorate: Organisational Performance

Summary
Council has received a petition with six signatures, opposing on street parking on The Boulevard, and would rather Council provide parking built into the nature strip on the park side of The Boulevard.

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

Attachments
Nil
## REPORTS

### 10.1 103-105 Ogilvie Street, Essendon (Lots 104 and 105, Block E, on LP 3151) - Construction of five dwellings and to construct and carry out buildings and works, including fencing, within a Special Building Overlay

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

<table>
<thead>
<tr>
<th>Planning File No.</th>
<th>MV/722/2017</th>
</tr>
</thead>
</table>
| **Proposal**      | Five dwellings facing Ogilvie Street, part double and part triple storey  
                  | Partially constructed within a Special Building Overlay |
| **Applicant**     | 2 Scale Design Pty Ltd |
| **Owner**         | Nicsam Guida Pty Ltd |
| **Planning Scheme Controls** | General Residential Zone (Schedule 1)  
                        | Special Building Overlay (SBO) |
| **Planning Permit Requirement** | Clause 32.08-6 – Construct two or more dwellings on a lot |
|                    | Clause 44.05-2 – Construct a building or construct or carry out works; and construct a fence |
| **Car Parking Requirements** | Required – 11 spaces (1 visitor)  
                                        | Proposed – 13 spaces (0 visitor) |
| **Restrictive Covenants** | None |
| **Easements**     | Drainage and sewerage easement at south-western corner |
| **Site Area**     | 1,717 square metres |
| **Number Of Objections** | 14 |
| **Consultation Meeting** | 2 May 2018 |
Executive Summary

- The application seeks planning approval for the construction of five dwellings over two lots, partially within a Special Building Overlay. The site has an area of 1,717 square metres and is located on the western side of Ogilvie Street, 90 metres north of the intersection with Spencer Street.

- The application was advertised with 14 objections received. Concerns were raised primarily in relation to overdevelopment of the site and wider area, car parking and traffic impacts, neighbourhood character, bulk and scale, off-site amenity impacts, infrastructure impacts and waste collection.

- A Consultation Meeting was held on 2 May 2018, attended by Councillors Gauci Maurici and Lawrence, objectors, the permit applicant and Council’s Planning Officer. No resolution was achieved at this meeting.

- The application was referred to the floodplain management authority (Melbourne Water) due to the presence of the Special Building Overlay; Melbourne Water had no objection subject to conditions and notes on any permit issued. The application was referred internally to Council’s Arborist, Environmental Sustainable Design (ESD) Officer, Development Engineering (Drainage) Unit and Traffic and Transport Unit. Conditions of permit are imposed where necessary to address their various requirements.

- The application was amended under Section 57A of the Planning and Environment Act 1987 (the Act) on 2 November 2018 in an attempt to address concerns regarding the streetscape presentation, as well as car parking and access design requirements. A second attempt to address these issues was made in another Section 57A amendment on 4 April 2019, making more meaningful changes to the architectural theme of the development to better respect the character of the area.

- With the changes made in the latest amendment, the proposal is considered an appropriate design response which successfully addresses the existing context as well as the constraints of the site. 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 now 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, with a condition imposed to meet the standard requirement for overlooking. Partial variations of 0.2 to 0.7 m are considered acceptable for the street setback and building height standards, as well as for the location of the ground level garage of Dwelling 1 opposite a first floor north-facing window.

- Overall, this assessment report finds the proposal demonstrates an adequate level of compliance with the relevant policies and provisions of the Moonee Valley Planning Scheme. It is recommended 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/722/2017 for the construction of five dwellings and to construct and carry out buildings and works, including fencing, within a Special Building Overlay at 103-105 Ogilvie Street, Essendon (Lots 104 and 105, Block E, on LP 3151), subject to the following conditions:

Endorsement conditions

1. Before the development starts, an application must be made for the consolidation of Lots 104 and 105, Block E, on LP 3151. 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) Modifications to Dwellings 2, 3 and 4 to comply with Standard B7 of Clause 55.03-2 (Building height) of the Moonee Valley Planning Scheme;
   b) The decking at the rear of each dwelling provided with screening or otherwise modified to comply with Standard B22 of Clause 55.04-6 (Overlooking) of the Moonee Valley Planning Scheme;
   c) Details of all retaining walls;
   d) A notation that a minimum clearance height of 2.1 metres is provided to garages with doors in an open position;
e) Pedestrian visibility splays to be clearly illustrated to comply with Clause 52.06-9 of the Moonee Valley Planning Scheme, ensuring any structures and planting have a maximum height of 900mm;

f) Swept path diagrams demonstrating vehicles can safely and efficiently access each driveway with on street parking occupied, along with any associated modifications;

g) All grades and grade changes, including at the property boundary, must be in accordance with the requirements of the planning scheme;

h) Deletion of tandem car spaces shown within the accessways of Dwellings 1 to 3;

i) The location of letterboxes shown on the ground floor and elevation plans, as indicated on the first floor plan;

j) Amended garden area plan subtracting all decking with a finished floor level of 800mm above natural ground level in accordance with Clause 32.08-4 of the Moonee Valley Planning Scheme;

k) The ‘11 metre building height regulation’ annotation on the elevation plans amended to correctly illustrate the mandatory maximum height limit for land subject to inundation under Clause 32.08-10 of the Moonee Valley Planning Scheme;

l) Notations on the plans to accord with the Sustainable Design Assessment (SDA) required by Condition 8;

m) A landscape plan as required by Condition 9; and

n) The requirements of Melbourne Water Conditions 25 to 36.

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. An amended STORM Rating Report must be submitted simultaneously with the submission of amended plans in accordance with Condition 2. The STORM Rating Report must correctly show the suitable treatment of stormwater from all balcony areas and obtain a minimum 100% to comply with Clause 22.03-4 (Stormwater Management) of the Moonee Valley Planning Scheme.

5. A minimum 30 days prior to any building or works commencing, 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.

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

7. A 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.

8. Before the development commences, an amended Sustainable Design Assessment (SDA) that outlines proposed design initiatives must be submitted to and approved by the Responsible Authority. The SDA must be generally in accordance with the SDA submitted with the application, but modified as follows:
   a) Any changes required by Condition 2 of this permit.

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.

9. 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.

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.

10. The garden areas shown on the endorsed plan and schedule must only be used as gardens and must be constructed, completed and maintained in a proper, tidy and healthy condition to the satisfaction of the Responsible Authority. Any
tree or shrub damaged, removed or destroyed must be replaced by a tree or shrub of similar size and variety to the satisfaction of the Responsible Authority.

**Development conditions**

11. 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.

12. 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.

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

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

15. 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.

16. 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.

17. 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.

18. 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.

19. Before the two existing street trees are removed to facilitate new crossovers, the applicant must advise the Responsible Authority of the method of removal and safety measures to be implemented. The removal of the trees must be undertaken to the requirements and satisfaction of the Responsible Authority. Any replacement trees planted must be to the satisfaction of the Responsible Authority. All costs associated with the removal and replacement/replanting of the street trees must be borne by the permit applicant and their replacement must be completed to the satisfaction of the Responsible Authority before the buildings approved by this permit are occupied.

20. The following protection measures must be undertaken for existing street trees, other than those referenced in the previous condition, and the nature strip:

a) the nature strip and street trees, other than those referenced in the previous condition, located within the frontage of the subject 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, other than those referenced in the previous condition, 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 and/or dumped on any nature strip during construction.

21. 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.

22. 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.
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.

23. 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.

24. 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.

**Melbourne Water conditions**

25. The dwellings must be constructed withFinished Floor Levels set no lower than 45.84 metres to AHD which is 300mm above the applicable flood level of 45.54 metres to AHD.

26. The garages must be constructed with finished surface levels set no lower than 45.69 metres to AHD, which is 150mm above the applicable flood level of 45.54 metres to AHD.

27. A setback of 5.2 metres in total along the western boundary will be required to allow for the free flow of flood waters. This setback must be set at natural ground level and be free of any solid structures such as sheds, masonry fencing, swimming pools or water tanks.

28. No buildings or structures are permitted within the easement and any proposed development within the vicinity of the drain must be designed to ensure there is no detrimental impact upon its structural integrity and performance.

29. The depth of the footings must be adequate to satisfy the angle of repose relative to the drain as per Melbourne Water's specification. Refer to the Melbourne Water Web site Standard Drawing: 'Angle of Repose - Footing Design' for details.

30. Prior to the commencement of works, Melbourne Water requires a statement from a structural engineer certifying that the footings for the swimming pools have been designed to allow future excavations of the pipeline trench adjacent to the swimming pools, without impacting on the stability of the swimming pools. Screw piles and friction piles are not acceptable.

31. No trees or shrubs will be permitted in the easement or within 3 metres from the drain. Refer to Melbourne Water's planting guidelines found on our web site.

32. The decking must be constructed with unenclosed foundations to allow for the passage of overland flows.

33. All swimming pool equipment must be located above the level of the decking or set no lower than 45.84 to AHD.
34. Imported fill must be kept to a minimum on the property and only be used for the sub floor areas of the dwellings, garages and driveway ramps.

35. Prior to the issue of an Occupancy Permit, a certified survey plan, showing finished floor levels (as constructed) to AHD, must be submitted to Melbourne Water to demonstrate that the floor levels have been constructed in accordance with Melbourne Water's requirements.

36. Any new fences or gates must be 50% open style of construction to allow for the passage of floodwaters/overland flows.

**Expiry condition**

37. 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: Cw=0.4, tc=10mins, tso=5mins, ARI 1 in 5. An ARI of 1 in 10 shall be used for storage and the greater of post development Cw or Cw=0.80.

- All 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 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.

- Preliminary information available at Melbourne Water indicates that the above property is subject to overland flooding from the Hoffmans Road Main Drain. For a storm event with a 1% chance of occurrence in any one year, the flood level for the property is 45.54 metres to Australian Height Datum (AHD).

- The property is in close proximity to Melbourne Water's Hoffmans Road Drain underground stormwater drain, a 1.275mm diameter drain constructed in 1958. It is the developers’ responsibility to avoid any use or development that would adversely impact upon the underground drain. Such impacts may arise from the construction of below ground floor levels or activity that involves pile driving / ground anchors.

- The location of the underground drain may be obtained by using 'Melbourne one call" service, telephone 1100.

- A minimum lateral clearance for asset replacement is required from the outside edge of the Hoffmans Road Drain to the proposed swimming pools.

1. Introduction

1.1 Subject Site and Surrounds
The site comprises two lots located on the western side of Ogilvie Street, approximately 90 metres north of the intersection with Spencer Street. The site is generally square in shape with a frontage of 40.24 metres and a site area of approximately 1,717 square metres.

Figure 2 – Subject Site
The site has a slope of approximately 5 metres from the north-eastern corner to the south-western corner. A drainage and sewerage easement is located at the south-western corner of the site. No covenants or other title restrictions affect the land.

The site currently accommodates two single storey dwellings. One is constructed of weatherboard and set back approximately 6.82 metres from the street, and the other constructed of brick with a street setback of approximately 5.72 metres. Each dwelling is provided with a single vehicle accessway along a side boundary leading to a garage or carport. The front setback is occupied by landscaped front gardens accommodating numerous trees and shrubs, with one dwelling having a brick front fence and the other unfenced. A Special Building Overlay affects a large section of the site primarily around the rear open space areas of each dwelling, intersecting both the western and southern boundaries.

The surrounding land is within a General Residential Zone, with a Special Building Overlay affecting certain flood prone areas. Residential development in proximity of the subject site is varied, with a mixture of single dwellings on large allotments as well as numerous examples of multi-unit developments as seen immediately to the south and east of the land.

The immediate and wider area has gradually experienced infill development occurring on similar sized lots to the subject land. The newer multi-dwelling developments sit alongside both older and newly constructed single homes, with dwellings being between one to three 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 numerous public reserves and schools, as well as the Keilor Road Activity Centre approximately 600 metres to the north.

1.2 Proposal

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

<table>
<thead>
<tr>
<th>Table 1</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Dwellings</td>
<td>5 triple storey, 4-bedroom dwellings</td>
</tr>
<tr>
<td>Car spaces</td>
<td>13</td>
</tr>
<tr>
<td></td>
<td>A reduction of one visitor car space is sought</td>
</tr>
<tr>
<td>Max building height</td>
<td>10.7 metres</td>
</tr>
<tr>
<td>Site coverage</td>
<td>47.11%</td>
</tr>
<tr>
<td>Permeability</td>
<td>46.65%</td>
</tr>
<tr>
<td>Garden area (35% req.)</td>
<td>43.82%</td>
</tr>
</tbody>
</table>

Permission is also sought to construct and carry out buildings and works, including fencing, within the Special Building Overlay covering the south-western portion of the site.
Refer **Attachment C** – Advertised Plans (separately circulated).

On 11 November 2018, the application was amended under Section 57A of the Act with changes aimed at improving the streetscape presentation of the development and to modify ramp gradients to meet the relevant planning scheme and Australian standards. These plans did not represent a meaningful change from those originally advertised.

On 4 April 2019, the application was amended under Section 57A of the Act for a second time incorporating the following key changes:

- Introduction of a hipped roof form to each dwelling, with no increase in overall height
- Application of a lighter palette of external materials and finishes
- Minor adjustments to ground and first floor level street setbacks, with no change to any minimum setbacks
- Increased second floor level street setbacks as follows:
  - Dwelling 1 increased from 6.7 to 7.75 metres
  - Dwelling 2 increased from 6.7 to 7.2 metres
  - Dwelling 5 increased from 7.7 to 8.7 metres
  The second floors of Dwellings 3 and 4 remain set back 9.25 metres from the street
- Increased second floor level rear boundary setbacks as follows:
  - Dwelling 2 increased from 20.14 to 22.89 metres
  - Dwellings 3 and 4 increased from 19.03 to 20.92 metres
  - Dwelling 5 increased from 7.7 to 8.7 metres
  The second floors of Dwellings 1 and 4 remain set back 20.14 and 20.02 metres respectively from the rear boundary
- Internal break between first floors of Dwellings 2 and 3 increased from 2.48 to 3.08 metres
- Internal break between second floors of Dwellings 2 and 3 increased from 5.77 to 6.06 metres
- Internal break between second floors of Dwellings 3 and 4 increased from 4.07 to 4.47 metres
- Increased setbacks to the garages of Dwellings 1 to 3, of between 600 to 1.3 metres, and subsequent corrections to gradients and finished floor levels with no increase in building or wall heights
- Subsequent internal reconfigurations.

The changes listed above do not affect the description of the proposal in Table 1.

Refer **Attachment D** – Amended 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

Local Planning Policy Framework
Clause 21.01 Municipal Profile
Clause 21.03 Vision
Clause 21.04 Sustainable Environment
Clause 21.05 Housing
Clause 21.06 Built Environment
Clause 21.10 Social and Physical Infrastructure
Clause 22.03 Stormwater Management (Water Sensitive Urban Design)

Zoning and Overlays
Clause 32.08 General Residential Zone (Schedule 1)
Clause 44.05 Special Building Overlay

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>
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<tr>
<th>Table 2</th>
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<tbody>
<tr>
<td><strong>External Referrals</strong></td>
</tr>
<tr>
<td>Melbourne Water (s55)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Internal Referrals</strong></th>
<th><strong>Comments/Conditions</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Arborist</td>
<td>No objection subject to standard conditions.</td>
</tr>
<tr>
<td>Development Engineering (Drainage)</td>
<td>No objection subject to standard conditions.</td>
</tr>
</tbody>
</table>
TUESDAY 28 MAY 2019
AGENDA – ORDINARY COUNCIL MEETING

Environmental Sustainable Design (ESD) Officer

Amendments required to submitted BESS and STORM assessments, along with corresponding changes and annotations on plans.

Traffic and Transport

No objection subject to conditions

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 notices displayed on site for 14 days. Fourteen (14) objections were received from the properties listed within Attachment A of this report.

The amended plans were not required to be advertised pursuant to Section 57B of the Act, as they do not transform the proposal nor result in any material detriment. The changes represent a reduction in the scale of the development along with adjustments to parking and access and the overall architectural language.

2.5 Consultation Meeting

A Consultation Meeting was held on 2 May 2018, which was attended by Councillors Gauci Maurici and Lawrence, objectors, the applicant and Council’s Planning Officer. In response to some of the concerns discussed at the meeting, the applicant formally amended the design to better respect the character of the area as mentioned above.

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 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. There is adequate kerbside space for bins to be placed for Council collection.

The proposal complies with objectives and strategies of Clause 21.10-2 (Integrated Water Management), which seek to minimise the impact of flooding on the community and manage development in flood prone areas. This will be achieved through the conditions required by the floodplain management authority, which had no objection to the application.

The proposal has the potential to comply with Clause 22.03 (Stormwater Management – Water Sensitive Urban Design) by providing adequate on-site stormwater treatment. A condition of permit will require the submission of an amended STORM assessment, which achieves a minimum 100% rating.

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

The subject land is identified as being within character area ‘Garden Suburban 6’ within the Moonee Valley Neighbourhood 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 significant slope and flood level considerations that has influenced development on the western side of Ogilvie Street. Substantial setbacks to the street and rear boundary ensure the development achieves a comfortable fit with the character of setbacks nearby, respecting the rhythm of built form in each street. The setback ensures the rear boundary is free of built form, aside from decking, proximate to the neighbouring secluded private open space areas to the north, south and west. The setback will accommodate appropriate landscaping to supplement the existing significant tree, providing visual relief to these sensitive interfaces.
The height of the development at three storeys is consistent with the character of the area. Through graduated building heights and increased setbacks to upper levels, the development achieves an appropriate transition in scale to surrounding built form. The upper floors of each dwelling are contained centrally, and articulated to reduce their dominance as viewed from the street. Setbacks provided from the street, side and rear boundaries and increased physical separation between the first and second floors serve to break up a continuous multi-storey built form, and maintain the presence of views between buildings within the streetscape. The ‘attached’ presentation to the street at the ground level of the development is mitigated through the submersion of the garages below street level as well as increased setbacks to minimise the visibility and prominence of the garages as viewed from the street.

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 hipped roofing and skillion roof sections at varying heights creates visual interest and responds to the roof forms seen in the immediate surrounds. Render in a combination of white, light and dark grey finishes are applied to each level along with timber cladding across the first and second floors, articulating and reducing visual bulk whilst 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. Trees and shrubs are provided within the raised planters in the front garden, concealing the driveways and semi-basement garages. Planting is also provided 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.

• Front fencing is provided through the rendered terraced walls of the raised garden beds in the front setback between 390 to 740mm in height. These rendered terraced walls are compatible with the varied character of fencing in the street, and will maintain views of landscaping as sought by the precinct profile.

• Garaging is suitably concealed behind and beneath the façade of each dwelling, submerged below ground level, and appearing recessive to the street with increased setbacks and the use of landscaping to the garden beds enclosing the entry ramps.

3.3 Is the provision and design of car parking acceptable?

The subject site is not located within the Principal Public Transport Network (PPTN) catchment area. The applicable car parking rates for the application are therefore at Column A of Clause 52.06-5. 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>13</td>
</tr>
<tr>
<td>Visitors</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>11</strong></td>
<td><strong>13</strong></td>
</tr>
</tbody>
</table>

The proposal provides the required number of on-site car parking for each proposed dwelling, and seeks a reduction of one visitor car space, which is considered an appropriate outcome. There is adequate parking available in the immediate area to accommodate the low visitor parking demand for a development of this scale. The design of the proposed vehicle crossings also allows for a suitable level of on-street parking in front of the site. It is not anticipated the proposed development will generate an unreasonable impact or have an adverse effect on the local road network.

Council’s Traffic and Transport Unit has no objection to the proposed development on parking or traffic grounds, and recommended modifications to the design of car parking and access arrangement. These conditions will be included on any permit issued, with the one variation.

The recommendation to modify the gradient below the tandem ‘visitor’ car spaces of Dwellings 1 to 3 would potentially raise the garages, which were lowered to improve their streetscape presentation. A related concern involves the potential for an additional car to attempt to park in the remaining length of the accessways. Modifying the length and levels of the
accessway any further would create an unacceptable character outcome in this instance. A condition will instead require the deletion of these car spaces, as each dwelling is provided with the required two spaces in their garage. It is also noted that the spaces are located on private driveways and could not be used as visitor parking for the development as a whole.

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>
<thead>
<tr>
<th>Table 4</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>ResCode Standard</strong></td>
</tr>
<tr>
<td>Clause 55.03-1</td>
</tr>
<tr>
<td>Clause 55.03-2</td>
</tr>
<tr>
<td>ResCode Standard</td>
</tr>
<tr>
<td>------------------</td>
</tr>
</tbody>
</table>
| Clause 55.04-4 Standard B20 North-facing windows | There are four north-facing habitable room windows within three metres of the site, associated with the neighbouring dwelling at 101A Ogilvie Street. The development generally provides compliant setbacks from the southern boundary at each level as set out below:  
GF wall height – 3.9 to 4.9 metres  
GF B20 setback – 1.18 to 1.78 metres  
GF proposed setback – 2.2 metres  
1F wall height – 6 to 7.4 metres  
1F B20 setback – 2.44 to 3.48 metres  
1F proposed setback – 3.5 to 3.95 metres  
2F wall height – 9 to 9.6 metres  
2F B20 setback – 4.68 to 5.68 metres  
2F proposed setback – 4.76 to 6.04 metres  
The garage of Dwelling 1 is constructed on the boundary opposite a north-facing habitable room window at the first floor level of the neighbouring dwelling to the south. The standard requires a setback of 1 metre for this wall, which is not considered necessary as the wall of the garage sits below the neighbouring window. The garage has no impact on solar access to the window and providing the setback required would not provide any benefit to the amenity of the neighbouring dwelling. A variation is therefore appropriate. |
| Clause 55.04-6 Standard B22 Overlooking | Ground, first and second floor habitable room windows are provided with raised sill heights or fixed obscure glazing to a minimum height of 1.7 metres from finished floor level where required.  
The rear deck areas of each dwelling have potential direct views into the neighbouring secluded private open space areas on each side due to the slope of the site and their height above natural ground level. A condition of permit will require the deck areas to be screened or otherwise modified to ensure compliance with this clause. |
3.5 Does the proposal comply with the applicable zone and overlay requirements?

General Residential Zone
The subject site has an area of 1,717 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 600.95 square metres) as garden area at ground level on a lot of this size. The proposal provides for 43.8%, or approximately 752.4 square metres of garden area. The submitted garden area appears to include rear deck areas that are raised above 800mm from natural ground level, which should be subtracted from the garden area as defined under Clause 73.01. A condition of permit will resolve this issue and ensure the development complies with the mandatory requirement.

It is noted that in the case of Sargenton 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. Applying the mandatory garden area to each lot separately 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 height of the proposal is within the mandatory maximum under the zone pursuant to Clause 32.08-10. The site has a slope and is located in a Special Building Overlay, in which case the mandatory maximum height is 12 metres above the minimum floor level determined by the floodplain management authority. Melbourne Water determined that the minimum floor level for the dwellings is to be 45.84 metres AHD, resulting in a mandatory maximum building height of 57.84 metres AHD. The highest point of the development is 57.42 metres AHD, at the roof ridge of Dwellings 3 and 4.

Special Building Overlay
The application complies with the decision guidelines of the Special Building Overlay at Clause 44.05 of the Moonee Valley Planning Scheme. The relevant floodplain management authority, Melbourne Water, had no objection to the proposal subject to a number of conditions and notes which will form part of any permit issued.

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>Overdevelopment, excessive building coverage</td>
<td>The development will replace two existing dwellings with five new dwellings on a large 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. It is noted that the development complies with the relevant ResCode standard for building site coverage.</td>
</tr>
<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 involve an acceptable increase in the extent vehicle crossings, designed in a manner that would minimise impacts on the supply and operation of on-street car parking. Conditions on any permit issued will ensure the design of accessways and parking areas accords with the relevant standards, including for pedestrian visibility and safety.</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>Visual bulk and scale</td>
<td></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. The approval of a dwelling at 90A Deakin Street under planning permit MV/795/2015 was considered in this assessment. The modifications to the rear deck areas to comply with Standard B22 ensure potential privacy impacts for this dwelling would be addressed.</td>
</tr>
<tr>
<td>Issue</td>
<td>Officer Response</td>
</tr>
<tr>
<td>-----------------------------------</td>
<td>---------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Lack of landscaping</td>
<td>The extent of landscaping within the front gardens of each dwelling is acceptable and accords with the preferred character statement for the precinct. Landscaping provided to the rear will maintain the vegetated character established by the secluded open space areas to the rear of nearby dwellings.</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 subdivision stage through the relevant authorities. Council’s Development Engineering Unit and Melbourne Water had no objection to the proposal subject to conditions.</td>
</tr>
<tr>
<td>Selection of materials, durability</td>
<td>The materials chosen are considered to be appropriate in this context as discussed under Section 3.2 of this report. The composition and durability of building materials is not considered under the planning assessment framework. The materials will be required to meet the applicable regulations through the building permit process, in the event a planning permit is issued.</td>
</tr>
<tr>
<td>Waste storage and collection</td>
<td>There are adequate areas for bins to be placed on the street for Council collection.</td>
</tr>
<tr>
<td>Environmental impacts, pollution from additional vehicles</td>
<td>The proposed residential development would not pose any unreasonable environmental risks, and will incorporate sustainable design initiatives through the submission of a Sustainable Design Assessment. The potential pollution from traffic generated by the development cannot be considered at the planning stage. Future residents will decide what type of vehicle they will ultimately own, which would determine their environmental impact.</td>
</tr>
<tr>
<td>Impact on property values</td>
<td>The potential impact on property values cannot be considered within the planning assessment framework.</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

On 26 June 2018, Council adopted the MV2040 Strategy as its long-term plan for the city. It is considered that the proposal is consistent with the relevant strategic directions set out in the MV2040 Strategy, including:

- Strategic Direction 3: A city where people are healthy and safe
- Strategic Direction 5: A city with housing for all
- Strategic Direction 14: A city that is green and water-sensitive
- Strategic Direction 16: A city that is cool and climate-adapted
- Strategic Direction 17: A city that fosters local identity
- Strategic Direction 18: A city of high-quality design
- Strategic Direction 20: A city in a beautiful landscape setting

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 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 Table (separately circulated)
C: Advertised Plans (separately circulated)
D: Amended Plans (separately circulated)
10.2 15 Nicholas Court Keilor East (Lot 292 on PS 146002W) - Construction of five dwellings to the rear of the existing dwelling

Author: Kate Murphy - Statutory Planning  
Directorate: Planning and Development

<table>
<thead>
<tr>
<th>Planning File No.</th>
<th>MV/795/2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposal</td>
<td>Construction of five dwellings to the rear of the existing dwelling</td>
</tr>
<tr>
<td>Applicant</td>
<td>Pino Limoli</td>
</tr>
<tr>
<td>Owner</td>
<td>NCTK P/L</td>
</tr>
<tr>
<td>Planning Scheme Controls</td>
<td>General Residential Zone</td>
</tr>
<tr>
<td>Planning Permit Requirement</td>
<td>Clause 32.08-6 – Construction of two or more dwellings on a lot</td>
</tr>
</tbody>
</table>
| Car Parking Requirements (Clause 52.06) | Required: 12 car spaces  
Proposed: 14 car spaces |
| Bicycle Requirements | N/A |
| Restrictive Covenants | None |
| Easements         | None |
| Site Area         | 2,106.2 square metres |
| Number Of Objections | 24 objections from 18 properties |
| Consultation Meeting | 20 March 2019 |
Executive Summary

- The application seeks approval for the construction of five double story dwellings at the rear of the existing dwelling.
- The site area is approximately 2,106 square metres, located at the end of Nicholas Court, Keilor East.
- The application was advertised and 24 objections from 18 properties were received. Concerns were raised in relation to over-development, neighbourhood character, waste management, impacts on traffic and parking and amenity impacts.
- A Consultation Meeting was held on 20 March 2019 and was attended by Councillor Byrne, objectors, the permit applicant and Council’s Planning Officer.
- The application was referred to various internal departments who have not objected to the application, subject to conditions on any issued planning permit.
- The proposal demonstrates an appropriate level of compliance with the relevant policies and provisions of the Moonee Valley Planning Scheme. It proposes intensification in a well-established residential area generally proximate to commercial, community and public facilities. The architectural response is considered appropriate within the site context and presents a high level of articulation.
- The proposal achieves an acceptable level of compliance with the Standards of Clause 55, with three areas of non-compliance. There are variations associated with the habitable window setbacks to common property and the first floor setback of Dwelling 6 to the eastern title boundary. A further minor non-compliance relating to site services will be addressed via conditions on any permit issued.
- This report recommends Council issues a Notice of Decision to Grant a Permit, subject to conditions.
Recommendation

That Council:

Issue a Notice of Decision to Grant a Permit in relation to Planning Permit Application No. MV/795/2018 for the construction of five dwellings to the rear of the existing dwelling at 15 Nicholas Court, Keilor East (Lot 292 on PS 146002W), subject to the following conditions:

Endorsement 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 be in an electronic format. The amended plans must be generally in accordance with the plans submitted and assessed with the application but modified to show:

   a) The ground floor setback of Dwelling 6 to the western title boundary to be a minimum of 1.0 metre to comply with Standard B17 (Side and Rear Setbacks) of Clause 55.04-1 of the Moonee Valley Planning Scheme;

   b) The water tanks to Dwelling 6 to be relocated to allow convenient access;

   c) The details of the front fence to be included in the colours and materials schedule;

   d) The provision of 300mm trench grates at the entrance of all garages;

   e) Swept path diagrams, prepared by a suitably qualified person, that demonstrate that a B85 vehicle with clearance lines can enter and exit the garages of all garages and the site;

   f) All garages to have a headroom clearance of at least 2.1 metres with the garage door open;

   g) The mailboxes modified or relocated to comply with the requirements of Clause 52.06-9 of the Moonee Valley Planning Scheme;

   h) The accessway gradient to be no steeper than 1:10 for the first 5 metres from the frontage to comply with Clause 52.06-9 of the Moonee Valley Planning Scheme;

   i) The grades across all tandem car spaces to be no steeper than 1:20 to comply with Clause 52.06-9 of the Moonee Valley Planning Scheme;

   j) A note to state that all works will be carried out in accordance with the endorsed Arborist Report prepared by Ashton Consulting dated October 8 2018;

   k) Any modifications as a result of the submission of a Waste Management Plan in accordance with Condition 7;

   l) All BESS annotations and measures in accordance with Condition 4; and

   m) An amended Landscape Plan in accordance with Condition 6.
When approved, these plans will be endorsed and will form part of this permit.

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

3. A published BESS report (or equivalent) must be submitted simultaneously with amended plans in accordance with Condition 1 and must comply with Clause 21.04-3 (Ecologically Sustainable Development) of the Moonee Valley Planning Scheme.

4. A minimum 30 days prior to any building or works commencing, all 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 treatment measures written by the author of the WSUD Response and STORM or MUSIC model approved pursuant to this permit, or licensed installing/commissioning plumber, or similarly qualified person or company. This report must be to the satisfaction of the Responsible Authority and must confirm that all WSUD treatment measures specified in the WSUD Response and STORM or MUSIC model have been completed and implemented in accordance with the approved report.

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

6. Before the development starts, and before any trees or vegetation are removed an amended landscape plan and schedule to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The amended landscape plan and schedule must be prepared by a person or firm with suitable qualifications to the satisfaction of the Responsible Authority, drawn to scale and in an electronic format. The amended landscape plan and schedule must be generally in accordance with the landscape plan submitted with the application but modified to show:
   a) Any changes in accordance with Condition 1 of this permit;
   b) Protective fencing in accordance with the submitted Arborist Report.
c) The use of drought tolerant species;
d) The common accessway to be aggregate concrete or paving in place of bitumen;
e) Features such as paths, paving and accessways;
f) The following proposed vegetation to be replaced with indigenous planting;
   - Lagerstroemia Yama (Crepe Myrtle);
   - Hebe (Hebe Blue Gem);
   - Pittosporum (Silver Sheen);
   - Choisya ternate (Mexican orange blossom);
g) All Environmental Sustainable Design (ESD) design solutions in accordance with the successful STORM/BESS report/s;
h) All planting abutting the accessway(s) and land frontage to have a maximum mature height of no more than 900mm in accordance with Clause 52.06-89(Design Standards for car parking) of the Moonee Valley Planning Scheme; and
i) An appropriate irrigation system.
When approved, the amended landscape plan and schedule will be endorsed and will form part of this permit.
Landscaping in accordance with the endorsed landscape plan and schedule must be completed before the building is occupied.

7. Before the development starts, an Amended Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The Amended Waste Management Plan must be in accordance with the City of Moonee Valley’s ‘Waste Management Plans – Guidelines for Applicants’ in relation to expected recycling rates and bin capacities.
When approved the Waste Management Plan will be endorsed and will form part of this permit.
The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

8. 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.

End Endorsement Conditions

Melbourne Water Conditions

9. The storage of plant equipment or materials and the passage of construction vehicles along or across Melbourne Water's water supply pipe reserve is not permitted.

10. Any new fence located along the eastern boundary must be constructed on the title boundary at the full Developer/Owner cost.

11. Surplus building materials must not be dumped on Melbourne Water's pipe reserve during or when the works are completed.

12. Any new landscaping located within three (3) metres of the eastern boundary must comply with Melbourne Waters asset protection planting guidelines.

13. Any new or modified stormwater connection to Melbourne Water's drainage system must obtain separate approval from Melbourne Water's Asset Services Team.

14. A Site Environmental Management Plan (SEMP) must be submitted to Melbourne Water for approval, specifying relevant actions in a practical way to ensure that they are implemented effectively. The SEMP must include a site map detailing the location and design of all measures including the following:
   a) Silt fencing;
   b) Access tracks;
   c) Spoil stockpiling; and
   d) Trenching locations.

End Melbourne Water Conditions

Development Conditions

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

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

   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.

17. 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.
18. Before the buildings approved by this permit are occupied, concrete vehicular crossing(s) must be constructed to suit the proposed driveway(s) in accordance with the Responsible Authority’s specification and any obsolete, disused or redundant vehicle crossing(s) must be removed and the area reinstated to footpath, nature strip and kerb and channel to the satisfaction of the Responsible Authority.

All vehicle access points must be located a minimum of 1.0 metre from any infrastructure including service pits. Alternatively, such assets may be incorporated into the crossover with the prior written consent of the Responsible Authority and the relevant servicing authority/agency. Subsequent works and costs in association with relocation and/or amendment must be incurred at the owner’s cost, to the satisfaction of the relevant servicing authority/agency and the Responsible Authority.

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

a) Constructed;

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

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

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

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

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

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

b) Not be used for any other purpose,

to the satisfaction of the Responsible Authority.

20. The existing street tree in front of 15 Nicholas Court must not be removed or damaged as a result of the permitted development.

21. 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.

22. 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.

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

24. The garden areas shown on the endorsed plan and schedule must only be used as gardens and must be constructed, completed and maintained in a proper, tidy and healthy condition to the satisfaction of the Responsible Authority. Any tree or shrub damaged, removed or destroyed must be replaced by a tree or shrub of similar size and variety to the satisfaction of the Responsible Authority.

25. This permit will expire if:
   a) The development does not start within two (2) years of the date of issue of this permit, or
   b) The development is not completed within four (4) years of the date of issue of this permit.

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

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

**Permit Notes:**

- This is not a building permit under the Building Act. A separate building permit is required to be obtained for any demolition or building works.
- Before the development starts, the permit holder must contact Moonee Valley City Council on 9243 8888 regarding legal point of discharge, vehicular crossings, building over easements, asset protection, road consent/occupancy etc.
- No on street parking permits will be provided to the occupiers of the land.
- 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 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: \( C_w=0.4, \ t_c=10\text{mins}, \ t_{so}=5\text{mins}, \text{ARI 1 in 5} \). 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 CSMP application required to be submitted via Council website. Please use following link to council webpage:

1. Introduction

1.1 Subject Site and Surrounds

The subject property is located on the southeast corner of Nicholas Court, Keilor East. The site is located adjacent to the Steele Creek Reserve to the east, and Rosehill Park Easement to the south.

The site is an irregular shape with a frontage of 13.52 metres, and a total site area of 2,106 square metres. There are no covenants or easements registered on title.

The site currently accommodates a double storey rendered dwelling with a flat roof.

Figure 2 – Subject Site (15 Nicholas Court, East Keilor)
The surrounding land is within a General Residential Zone. The area is characterised by residential developments on large allotments, with emerging unit developments in the wider area. The site has only one direct residential abuttal, at 17 Nicholas Court.

The character of the area is largely influenced by the topography of Nicholas Court. Due to the steep slope on the western side of the street, large single dwellings are the dominant style of housing in this locality. External materials are a mixture of brick and rendered finishes, with warm and light colours making up the majority of the streetscape. Roof forms in the area are predominantly pitched roofs, although it is noted that the existing dwelling on subject site features a flat roof form.

1.2 Proposal

The proposal seeks to construct five double-storey dwellings to the rear of the existing dwelling. The existing dwelling (Dwelling 1) will remain, however will be modified to present similarly in architectural style to the new dwellings. Dwellings 2, 3, 4 and 6 feature reverse-living, with the main kitchen and living areas on the first floor. All dwellings have two car spaces in the form of double garages, with the exception of Dwelling 5 which has a single garage and tandem car space.

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

Refer Appendix B Plans (separately circulated).

2. Background

2.1 Relevant Planning History

There is no relevant planning history for the subject site.

2.2 Planning Policies & Decision Guidelines

Planning Policy Framework

- Clause 11.01-1R1 Settlement – Metropolitan Melbourne
- Clause 11.02-1S Supply of Urban Land
- Clause 15 Built Environment and Heritage
- Clause 15.01-5s Neighbourhood Character
- Clause 15.02 Sustainable Development
Clause 16  Housing
Clause 19  Infrastructure
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 21.04-7  Waste
Clause 21.05  Housing
Clause 21.06  Built Environment
Clause 22.03  Stormwater Management (Water Sensitive Urban Design)

Zoning
General Residential Zone

Overlays
None

Particular and General Provisions
Clause 52.06  Car Parking
Clause 53.18  Stormwater Management in Urban Development
Clause 55  Two or More Dwellings on a Lot and Residential Buildings
Clause 64  General Provisions for Use and Development of Land
Clause 65  Decision Guidelines
Clause 66.02  Use and Development Referrals
Clause 71.02-3  Integrated Decision Making

2.3 Referrals
The following external referrals were undertaken:

Table 3

<table>
<thead>
<tr>
<th>External Referrals</th>
<th>Comments/Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>AusNet Transmission Group (Section 55)</td>
<td>No objections.</td>
</tr>
</tbody>
</table>

The following internal referrals were undertaken:
<table>
<thead>
<tr>
<th>Internal Referrals</th>
<th>Comments/Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Traffic and Transportation Unit</td>
<td>No objections, subject to standard traffic conditions, the provision of amended swept path diagrams and the submission of a Waste Management Plan.</td>
</tr>
<tr>
<td>Development Engineering (Drainage) Unit</td>
<td>No objection, subject to standard drainage conditions.</td>
</tr>
<tr>
<td>Property Department</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Landscape Architect</td>
<td>No objection, subject to landscaping conditions.</td>
</tr>
</tbody>
</table>

2.4 Public Notification of the Application

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

As a result, 24 objections were received from 18 properties identified within Appendix A of this report.

The objections are discussed at Section 3.5 of this report.

Melbourne Water was also given notice of this application under Section 52 of the Planning and Environment Act 1987. A response was received noting that Melbourne Water had no objection to the proposal, subject to conditions.

2.5 Consultation Meeting

A Consultation Meeting was held on 20 March 2019, which was attended by Councillor Byrne, Objectors, the Permit Applicant and Council’s Planning Officer. No resolution was achieved at this meeting.

3. Discussion

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

The relevant State and Local Planning Policy Framework objectives are considered to have been satisfied by the proposal. The surrounding area is generally typified by large family homes, and provides very little housing choice. It is an area well serviced with schools, shops, recreation facilities and with a moderate level of public transport. The policy framework objectives broadly encourage increased density in locations to provide housing diversity and take advantage of existing public transport and community and commercial services. Relevant policy guidance is contained within ‘Plan Melbourne 2017-2050: Metropolitan Planning Strategy’ and Clauses 11, 15, 16, 18 and 21.05, which all seek to increase the residential supply in these areas.
The site offers an opportunity for redevelopment considering its size and location in a residential area. The site offers excellent access to public green space for residents. The proposed development responds to the objectives and strategies of 21.06 (Built Environment). The key concepts of this clause are assessed against the relevant Neighbourhood Character Precinct Profile Guidelines in Section 3.2.

The proposal complies with Clause 21.04 (Sustainable Environment) and Clause 22.02 (Storm Water Management) through the use of ecological sustainable design principles as highlighted within the submitted BESS assessment and STORM reports. Condition will be included on any permit issued requiring additional details on the development plans and an amended BESS report to be submitted.

The proposal accords with objectives of Clause 21.04-4 (Waste) as it relates to encouraging the use of recycling and achieving best practice in waste minimisation. A condition of the permit will require private waste collection and a waste management plan.

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

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

- The proposed built form is contemporary in style and reflective of the character in the surrounding area.

- The presentation to the street will not change considerably as a result of the development, as the existing dwelling will be retained with the new dwellings to be located behind this existing dwelling.

- While an absence of permeable fencing abutting the adjoining reserve will prevent interaction of the ground floor with the adjoining reserve, as the primary secluded private open space for the dwellings are at ground level, it is considered the provision of more solid fencing is appropriate to ensure a level of privacy. However, the balconies at first floor level will all have a good outlook to the public green space to enhance the amenity of the development.

- The proposal includes alterations to the existing dwelling at 15 Nicholas Court, to ensure this dwelling blends in with the new dwellings to be constructed to the rear. The flat roof form on this dwelling will be retained, and there will be minor changes to the building envelope at the rear, which will not be visible from the streetscape. The colours and materials will be altered but will remain warm and light in tone to accord with character of the streetscape.

- The siting and massing of the development is consistent with the pattern of development in the immediate and wider area and is responsive to its site context. In particular, the dwellings will have staggered setbacks at ground floor level, to provide definition to the individual dwellings. At first floor level, there will be spacing between the dwellings which provides
visual breaks to the development. The development is configured so the majority of the built form is central to the site, so that bulk is minimised when viewed from the adjoining reserve and residential properties.

- The height of the development at two storeys (7.715 metres) is consistent with the surrounding built form and predominant height in the streetscapes.
- The setback of Dwelling 1 (the existing dwelling) from the street frontage is not changing as a result of the development. The front fence will also be retained, and painted to match the new development. A condition of the permit will require the fence to be included on the colours and materials schedule.
- The dwellings are articulated through the use of varied setbacks at ground and first floor level.
- The dwellings are designed with a mixture of skillion roofing with eaves, and flat roofs. This is considered appropriate in the streetscape which features a variety of roofing forms, including flat roof forms.
- The double-garages are acceptable and are recessed behind the dwelling entries.
- The materials and finishes are consistent with the preferred character and incorporates light and warm colours common in the surrounding area. The use of bricks at ground floor level is a good response to the predominant character of the streetscape.
- The site provides sufficient space for planting to accord with the Garden Court character of the area. A condition of the permit will require the provision of an amended landscape plan.

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

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

**Table 5**

<table>
<thead>
<tr>
<th>Number of dwellings</th>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>One five-bedroom dwelling</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Five three-bedroom dwellings</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>Visitor car space</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>12</strong></td>
<td><strong>14</strong></td>
</tr>
</tbody>
</table>

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

The application was referred to Council’s Traffic and Transportation Unit who do not object to the proposal, subject to conditions on the permit addressing the following outstanding items:
- The swept path diagrams prepared by Traffic Works do not display the clearance lines of the B85 design vehicle as required under Clause B3.2 of AS2890.1-2004 (i.e. 300mm clearance)

- A condition of any permit issued will require a headroom clearance of 2.1m with the garage door in an open position

- A condition of any permit issued will require mailboxes to be modified to accord with the pedestrian visibility splay requirements of Clause 52.06-9 of the Moonee Valley Planning Scheme

- The grade from the property boundary is to not exceed 1:10 for the first 5 metres in accordance with Clause 52.06-9 of the Moonee Valley Planning Scheme.

- Grades across car spaces are to not exceed 1:20 in accordance with Clause 52.06-9 requirements of the Moonee Valley Planning Scheme.

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

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

**Table 6**

<table>
<thead>
<tr>
<th>Res Code Standard</th>
<th>Response</th>
</tr>
</thead>
</table>
| Clause 55.03-10 (Standard B15 – Parking Location) | The standard requires a setback of 1.5 metres between habitable windows and shared accessways.  
The setbacks from the windows to Bedroom 2 of Dwelling 4 and the living room of Dwelling 5 are 800mm and 750mm respectively.  
The setback from the windows to Bedroom 3 of Dwelling 6 to the accessway is 1.3 metres.  
The intent of this standard is to reduce the potential for vehicular noise for future occupants of the dwellings.  
A variation to the standard is acceptable in this instance, as due to ESD requirements all windows in the development are double-glazed. This is considered to reduce the potential for amenity impacts from noise and therefore the objective of the clause is met. |
| Clause 55.04-1 (Standard B17 – Side and Rear Setbacks) | Dwellings 1 to 5 of this development are fully compliant with Standard B17.  
Dwelling 6 is non-compliant at ground floor level, as the setback is 900mm from the western title boundary, compared to 1.0 metre required under the standard. |
A condition of the permit will require the ground floor setback to be increased to 1.0 metres to comply with the standard. At first floor level, the setback from the living room and stairs is 1.9 metres and 1.575 metres respectively. Under Standard B17, the requirement for walls of this height would be 2.34 metres and 1.81 metres respectively. These variations are considered acceptable as the setback is from the Steele Creek Reserve, and is not considered to create any amenity impacts, nor will it present issues in terms of neighbourhood character.

The water tanks to Dwelling 6 have not been located appropriately so as to be installed and maintained conveniently. A condition of the permit will require these to be relocated to comply.

The subject site is located within 60 metres of a major electricity transmission line. The development was thus referred to SPI Ausnet, the relevant electricity transmission authority, who did not object to the proposal. The proposal is deemed to comply with the requirements of this clause.

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

<table>
<thead>
<tr>
<th>Issue</th>
<th>Officer Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Neighbourhood Character</td>
<td>Refer to Section 3.2 of this report for discussion.</td>
</tr>
<tr>
<td>Overdevelopment</td>
<td>The proposal is compliant with the requirements for site coverage, permeability, gardens and maximum building height and is therefore considered to be an appropriate development of the subject site. The proposed density of the development is consistent with the site’s location within an established residential area and urban consolidation objectives of the Planning Policy Framework.</td>
</tr>
<tr>
<td>Waste management</td>
<td>A condition on any permit issued will require the submission of a Waste Management Plan.</td>
</tr>
</tbody>
</table>
3.7 **Will the development impact upon the existing trees on adjoining properties?**

The subject site is located proximate to established trees on the road reserve and on the adjoining property at 17 Nicholas Court. The drainage reserve, which adjoins the site to the east, does not have any established trees within 4 metres of the subject site. An Arborist Report, prepared by Ashton Consulting, was submitted which identified a number of tree protection measures to ensure the retention of these trees. A condition ensuring these measures are followed will be included on any permit issued.

3.8 **Aboriginal Cultural Heritage Significance**

The subject site is located within an area of Aboriginal Cultural Heritage Significance. The proposed development requires the submission of a Cultural Heritage Management Plan (CHMP). A CHMP has been prepared and approved for the subject site.

### 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).

<table>
<thead>
<tr>
<th>Traffic, safety and emergency vehicles</th>
<th>Refer to Section 3.3 of this report for discussion.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Car Parking</td>
<td>Refer to Section 3.3 of this report for discussion.</td>
</tr>
<tr>
<td>Property Values</td>
<td>This is not a planning consideration under the Planning and Environment Act 1987 or the Moonee Valley Planning Scheme.</td>
</tr>
<tr>
<td>Future Occupants and renters</td>
<td>This is not a planning consideration under the Planning and Environment Act 1987 or the Moonee Valley Planning Scheme.</td>
</tr>
<tr>
<td>Construction Period Impacts</td>
<td>A condition on any permit issued will require the submission of a Construction Management Plan.</td>
</tr>
<tr>
<td>Construction materials and combustible cladding.</td>
<td>A colours and materials schedule is to be required as a condition of any permit issued.</td>
</tr>
<tr>
<td>Flooding and stormwater management</td>
<td>The proposal has been reviewed by Council’s Development Engineering (Drainage) Department who have no objection to the proposed development. A condition of any permit issued will require the provision of an on-site detention system.</td>
</tr>
<tr>
<td>Impact on water pressure</td>
<td>This is not a planning consideration under the Planning and Environment Act 1987 or the Moonee Valley Planning Scheme.</td>
</tr>
</tbody>
</table>
5. **Council Plan / Policy**

On 26 June 2018, Council adopted the MV2040 Strategy as its long-term plan for the city. It is considered that the proposal is consistent with the relevant strategic directions set out in the MV2040 Strategy, including:

- Strategic Direction 3: A city where people are healthy and safe
- Strategic Direction 5: A city with housing for all
- Strategic Direction 14: A city that is green and water-sensitive
- Strategic Direction 16: A city that is cool and climate-adapted
- Strategic Direction 17: A city that fosters local identity
- Strategic Direction 18: A city of high-quality design
- Strategic Direction 20: A city in a beautiful landscape setting

6. **Conclusion**

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

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

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

**Attachments**

A: Objector List (separately circulated)
B: Development Plans (separately circulated)
C: Clause 55 of the Moonee Valley Planning Scheme (separately circulated)
10.3  10 Grange Road Airport West (Lot 1 on TP584306B) - Construction of three dwellings

**Author:** Justin Scriha - Senior Statutory Planner  
**Directorate:** Planning and Development

<table>
<thead>
<tr>
<th>Planning File No.</th>
<th>MV/1014/2017</th>
</tr>
</thead>
</table>
| **Proposal**      | Construction of three triple storey dwellings  
|                   | - Three four bedrooms |
| **Applicant**     | ARG Planning PTY LTD |
| **Owner**         | E De Sair |
| **Planning Scheme Controls** | General Residential Zone  
|                   | Design and Development Overlay  
|                   | Schedule 9 (DDO9) |
| **Planning Permit Requirement** | Clause 32.08-6 – Construct two or more dwellings on a lot |
| **Car Parking Requirements** | Requires – 6 car spaces  
| **(Clause 52.06)** | Provides – 6 car spaces |
| **Restrictive Covenants** | Covenant No. B193195 – affects the proposal (see Section 3.5 of this report) |
| **Easements** | 2.44 metre wide drainage and sewerage easement along the rear (east) boundary |
| **Site Area** | 596.3 square metres |
| **Number Of Objections** | 17 |
| **Consultation Meeting** | 16 May 2018 |
Executive Summary

- This application seeks planning approval for the construction of three triple storey dwellings on the lot. The site has an area of 596.3 square metres and is located on the north-eastern corner of the intersection of Grange and Fullarton Roads.

- The application was advertised with 17 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, on-site amenity impacts and precedence.

- A Consultation Meeting was held on 16 May 2018, attended by Councillors Byrne and Sipek, objectors, the permit applicant and Council’s Planning Officer. No formal resolution was achieved at this meeting, however, following the meeting the application was amended in accordance with Section 57A of the Planning and Environment Act 1987 to reduce the number of dwellings proposed from five to three.

- The amended plans were readvertised and no additional objections or submissions were received, nor were any of the original objections withdrawn.

- The application was referred internally to Council’s Development Engineering (Drainage) Unit, Traffic and Transport Unit and Property Services Unit. No objections were received, with conditions of permit imposed where necessary.

- The land is subject to restrictive covenant no. B193195 which imposes a height limit for all buildings of 25 feet (7.62 metres). However, planning permit MV/85/2019 allowing the variation of the covenant to impose height limit of 9.2 metres was approved by Council on 11 April 2019. The proposed development will comply with the modified covenant subject to a minor reduction in height (approximately 0.05 metres).

- 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 internal views and storage. A variation is considered acceptable for street setback, side and rear setbacks and solar access to open space.

- 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/1014/2017 for the construction of three dwellings at 10 Grange Road, Airport West (Lot 1 on TP584306B), subject to the following conditions:

Covenant Condition

1. Before the development starts, the variation of restrictive covenant no. B193195 as approved by planning permit MV/85/2019 must be registered with the Land Titles office. Within 3 months of the registration of the plan of subdivision, a copy of the new covenant to the land must be submitted to the Responsible Authority.

End Covenant Condition

Endorsement Conditions

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 be in an electronic format. The amended plans must be generally in accordance with the plans submitted and assessed with the application but modified to show:

   a) The maximum building height of the development to be no higher than 9.2 metres above natural ground level;

   b) The provision of eaves or similar canopy features to the dwellings;

   c) The balconies of Dwellings 2 and 3 modified to achieve compliance with Standard B23 of Clause 55.04-7 (Internal Views) of the Moonee Valley Planning Scheme;
d) Dimensions of all storage sheds/enclosures noted on the plans to demonstrate compliance with the volume requirement of Standard B30 of Clause 55.05-6 (Storage) of the Moonee Valley Planning Scheme;

e) All storage enclosures and bicycle parking facilities located within the garages of the dwellings to be constructed/designed so as not to interfere with the areas set aside for car parking;

f) All internal garage doors to open outwards;

g) The following notations provided on the plans (unless the approved BESS report is amended):
   i. A ‘Building User’s Guide’ is to be provided to all future dwelling occupants by the developer;
   
   ii. 4 star dishwashers to be installed by the developer for each dwelling.

h) An amended Landscape Plan in accordance with Condition 7.

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, all 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 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.

6. 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.

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;
b) An appropriate irrigation system; and

c) Additional planting along the northern and eastern boundaries of the site with selected species with a minimum metre height of 4 metres to assist in screening the development.

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.

End Endorsement Conditions

Development Conditions

8. 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.

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

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

11. 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.

12. 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.

13. 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.

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

   a) Constructed;
   b) Available for use in accordance with the endorsed plans;
   c) Properly formed to such levels and drained so that they can be used in accordance with the endorsed plans;
   d) Finished with a permanent trafficable surface (such as concrete, asphalt or paving); and

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.

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

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

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

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

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

17. 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.

18. 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.

19. The garden areas shown on the endorsed plan and schedule must only be used as gardens and must be constructed, completed and maintained in a proper, tidy and healthy condition to the satisfaction of the Responsible Authority. Any tree or shrub damaged, removed or destroyed must be replaced by a tree or shrub of similar size and variety to the satisfaction of the Responsible Authority.

**End Development Conditions**

20. This permit will expire if:
   a) The development does not start within two (2) years of the date of issue of this permit, or
   b) The development is not completed within four (4) years of the date of issue of this permit.

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

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

**Permit Notes**

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

- Before the development starts, the permit holder must contact Moonee Valley City Council on 9243 8888 regarding legal point of discharge, vehicular crossings, building over easements, asset protection, road consent/occupancy etc.

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

- 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 required on-site detention system must be designed to limit the rate of stormwater discharge from the property to pre-development levels in accordance with the following: Cw=0.4, tc=10mins, tso=5mins, ARI 1 in 5. An ARI of 1 in 10 shall be used for storage and the greater of post development Cw or Cw=0.80.

- 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 CSMP’s 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 or in person at 9 Kellaway Avenue, Moonee Ponds.

1. Introduction

1.1 Subject Site and Surrounds

The subject site is located on the north-eastern side of the intersection of Grange Road and Fullarton Road, Airport West. The Calder Freeway is approximately 60 metres south of the site.

The site is irregular in shape with a frontage to Grange Road of 15.24 metres, a maximum depth of 40.17 metres and a total area of 596.3 square metres.

The land is encumbered by restrictive covenant no. B193195 which prohibits the construction of any building taller than 25 feet (7.62 metres) - refer to Sections 2.1 and 3.5 of this report. In addition, there is a 2.44 metre wide drainage and sewerage easement located along the rear (eastern) boundary of the lot.

The lot is currently accommodated by a single storey brick veneer dwelling.
Figure 2 – Subject site (10 Grange Road, Airport West)

The surrounding land to the north of the Calder Freeway is included in the General Residential Zone. Residential developments proximate to the subject site are varied, with a mix of single dwellings on large allotments and multi-unit developments.

The site and its surrounds is also affected by Schedule 9 of the Design and Development Overlay which is in place to manage growth and development within proximity to Essendon Airport. It is noted that the development considered by this report does not trigger a permit under this overlay as the maximum height above ground level of the proposal is lower than 80 metres AHD.

The character of the area can be described as transitional, with the emergence of newer contemporary double storey dwellings. External materials are a mixture of brick, weatherboard and rendered finishes in differing colours. Building frontages vary from single to double frontages. Roof forms in the area are predominantly hipped with some examples of gabled-ended roof forms. Medium density development is common in this part of Airport West, with numerous nearby examples of three dwelling sites. It is also noted that a three dwelling development has recently been approved for No. 11 Grange Road which is directly opposite the subject site.

1.2 Proposal

It is proposed to construct three triple storey dwellings in a tandem arrangement across the depth of the site. Each dwelling has four bedrooms and is designed in a reverse living arrangement.

It should be noted that the application was amended in accordance with Section 57A of the Planning and Environment Act 1987 on the 29 June 2018. The amendment was submitted following a Consultation Meeting
(refer to Section 2.5 of this report) and resulted in the reduction of the number of dwellings proposed from five to three, as well as some minor built form changes. The proposal as advertised is summarised as follows:

Table 1

<table>
<thead>
<tr>
<th>Development summary</th>
<th>Original proposal</th>
<th>Amended proposal</th>
</tr>
</thead>
<tbody>
<tr>
<td>No of dwellings</td>
<td>5 dwellings</td>
<td>3 triple storey dwellings</td>
</tr>
<tr>
<td></td>
<td>(4 X triple storey &amp; 1 X double storey)</td>
<td></td>
</tr>
<tr>
<td>No of car spaces</td>
<td>5 car spaces</td>
<td>6 car spaces</td>
</tr>
<tr>
<td>Max Building Height (Maximum 11 metres)</td>
<td>9.25 metres</td>
<td>9.25 metres</td>
</tr>
<tr>
<td>Site Coverage</td>
<td>58.3%</td>
<td>54.5%</td>
</tr>
<tr>
<td>Permeability</td>
<td>30.14%</td>
<td>30.7%</td>
</tr>
<tr>
<td>Garden Area (Mandatory 30%)</td>
<td>30.14%</td>
<td>30.39%</td>
</tr>
</tbody>
</table>

Refer Attachment C Decision Plans and Attachment D Original Plans (separately circulated).

2. Background

2.1 Relevant Planning History

Planning application MV/85/2019 was approved by Council on 11 April 2019 and allowed the variation of restrictive covenant no. B193195 to increase the height restriction to 9.2 metres from 25 feet (7.62 metres).

2.2 Planning Policies & Decision Guidelines

Planning Policy Framework

Clause 11.01-1R1 Settlement – Metropolitan Melbourne
Clause 11.02-1S Supply of Urban Land
Clause 15 Built Environment and Heritage
Clause 15.01-5S Neighbourhood Character
Clause 15.02 Sustainable development
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 21.04-3 Ecologically Sustainable Development
Clause 21.04-7 Waste
2.3 Referrals

No external referrals were undertaken.

The following internal referrals were undertaken:

Table 2

<table>
<thead>
<tr>
<th>Internal Referrals</th>
<th>Comments/Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Traffic and Transport Unit</td>
<td>No objection subject to standard parking and crossover conditions.</td>
</tr>
<tr>
<td>Development Engineering (Drainage)</td>
<td>No objection subject to standard drainage conditions.</td>
</tr>
<tr>
<td>Property Services</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, with one notice displayed on site for 14 consecutive days.

As a result, 17 objections from 17 properties were received and identified within Attachment A of this report.
The application was also readvertised following the submission of amended plans in accordance with Section 57A of the Planning and Environment Act 1987. No further objections or submissions were received as a result of this process.

The objections are discussed at Section 3.5 of this report.

2.5 Consultation Meeting

A Consultation Meeting was held on 16 May 2018, which was attended by Councillor Byrne, Councillor Sipek, Objectors, the Permit Applicant and Council’s Planning Officer. There was no resolution achieved.

As discussed in Sections 1.2 and 2.4 of this report the application was amended in accordance with Section 57A of the Planning and Environment Act 1987 to reduce the number of dwellings proposed from five to three following the Consultation Meeting, but it is noted that no objections were withdrawn following the readvertising of the application.

3. Discussion

3.1 Does the proposal comply with the relevant Planning Policy Framework?

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

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

The proposal complies with Clause 21.04-3 (Ecologically Sustainable Development) and Clause 22.03 (Storm Water Management) through the use of ecological sustainable design principles as highlighted within the submitted BESS assessment and STORM reports, subject to appropriate conditions on any permit issued requiring additional plan notations.

The proposal accords with objectives of Clause 21.04-7 (Waste) as it relates to encouraging the use of recycling and achieving best practice in waste minimisation. Waste collection will be undertaken by Council’s waste collection services.
3.2 Does the proposal accord with the preferred character of the area?

The subject land is identified as being within character area ‘Garden Suburban 7’ 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 proposed contemporary built form of the development is consistent with the emerging character of the area.

- The siting and massing of the development is generally consistent with the pattern of development which has occurred in the immediate and wider area. The development is offset from both side boundaries and its upper floor levels are generally well recessed from sensitive interfaces to the north and east of the site. The development responds to the preferred character statement of the precinct as it provides front façade articulation at the Grange Road interface through the use of recesses, particularly at the second floor level.

Whilst it is noted that there is some cantilevering of the first floor and balconies over the ground floor at the Grange Road and southern interfaces, this is not considered to be inconsistent with other dwellings and developments in the area where minimal to zero first floor recession is also provided. The irregular frontage of the lot also assists in this regard because it will obscure views of the cantilevered built form over the shared accessway.

- The ‘reverse living’ layout of the development is suitable in this instance. Each dwelling is provided with generously sized service yards along the north and eastern sides of the site which successfully references the detached nature of development in the area. In addition, the siting of the living areas and cantilevered balconies of Dwellings 2 and 3 on the southern interface of the site creates an opportunity for passive surveillance of the adjoining reserve and is therefore considered to be a good urban design outcome.

- It is acknowledged the prevailing building typology in the area is of single and double dwellings and the proposal for three triple storey dwellings represents an departure from the established character in this regard. However, as discussed above, the recession provided to the second floor level of the dwellings successfully minimises the visual impact of the development from Grange Road. It is also considered that the subject site is uniquely suited to development of
a higher intensity owing to its prominent corner location and relative lack of sensitive interfaces. Finally, the dwellings have been provided with modest floor to ceiling heights (2.7 metres at ground floor, 2.55 metres at the first floor and 2.4 metres at the second floor) so as to minimise the overall building height. This is a successful approach as a maximum height of 9.25 metres is considered to be modest for a three storey development. The provision of a flat roof is also significant in this regard. Additionally, it appears from the submitted plans the adjoining double storey dwelling at No. 12 Grange Road has a similar maximum height (77 metres AHD) to the proposal (maximum height of 77.1 metres AHD). This is further evidence of the appropriateness of the proposal in terms of form and bulk.

- The development is highly articulated through the use of varied setbacks, porch treatments and a variety of materials and finishes and will present a contemporary and visually interesting built form to this residential location. The ground level of the development will be finished entirely of brick in accordance with the precinct profile. The upper levels are finished with white, grey or concrete finished render which is broken up by cement and timber cladding. The selected palette of colours and materials is considered to achieve a suitable balance between contemporary design and respect for the existing dwelling stock.

- As discussed, the dwellings each have flat roofs which is acceptable for three storey buildings under the design guidelines of the precinct profile. The absence of a roof pitch reduces the bulk and scale of the development which is particularly beneficial given the extent of built form across the depth of the site. To further adhere to the guidelines, a condition of any permit issued will require that eave or canopy features are added to the dwellings to complement the existing roof styles in the area.

- Sufficient areas within the front, side and rear setbacks are provided for an acceptable landscaping response, including canopy tree planting to contribute to the garden character of the area.

- A 1 metre high timber and steel picket front fence is proposed across the Grange Road interface, responding to the established streetscape character and ensuring that views to front landscaping will be maintained.

- Car parking is concealed within the site with the garage of each dwelling fronting the shared accessway. Further, the proposed utilisation of the existing crossover entry to the development results in no impact on the availability of on-street parking and existing infrastructure services.
3.3 Is the provision and design of car parking acceptable?

Table 3

<table>
<thead>
<tr>
<th>Component</th>
<th>Requires</th>
<th>Provides</th>
</tr>
</thead>
<tbody>
<tr>
<td>Three four-bedroom dwellings</td>
<td>6</td>
<td>6</td>
</tr>
<tr>
<td>Total</td>
<td>6</td>
<td>6</td>
</tr>
</tbody>
</table>

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

Council’s Traffic and Transport Unit had no objection to the proposed development on parking or traffic grounds subject to demonstrating that vehicles can suitably access the garages and exit the site in a forwards direction. This was subsequently satisfied by the applicant with the submission of additional swept path diagrams (refer Attachment E Swept Path Diagrams (separately circulated)). Accordingly, no further conditions are required on this aspect.

Conditions were recommended to ensure all internal garage doors open outwards and that the provision of bicycle parking within the garages is clear of the areas set aside for car parking. These 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 technically 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 Standard B6 Street Setback</td>
<td>This standard requires a minimum setback to Grange Road of 7.1 metres. The development proposes a minimum setback of 5.35 metres to the first floor balcony of Dwelling 1, and 6.35 metres to the ground floor building line. A variation to the standard is considered to be acceptable primarily due to the site’s location on a prominent corner. In addition, it is considered that the proposed front setback does not significantly deviate from the predominant street setback pattern found in the area, as there are a number of examples of dwellings and buildings with similar or closer setbacks within the immediate vicinity (most notably at Nos. 14 and 15 Grange Road and 14 and</td>
</tr>
<tr>
<td>ResCode Standard</td>
<td>Response</td>
</tr>
<tr>
<td>------------------</td>
<td>----------</td>
</tr>
<tr>
<td>16 Fullarton Road)</td>
<td>It is therefore considered that the proposed street setback is respectful of the existing neighbourhood character, makes efficient use of the site, and subsequently complies with the objective. A variation to the standard is acceptable in this instance. Finally, it is noted that the street setbacks of the front wall of the first and second floor levels of Dwelling 1 comply with this standard.</td>
</tr>
<tr>
<td>Clause 55.03-8 Standard B13 Landscaping</td>
<td>A condition of any permit issued will require the Landscape plan be amended to address appropriate irrigation methods and to increase the provision of screen planting along the north and east boundaries of the site.</td>
</tr>
<tr>
<td>Clause 55.04-1 Standard B17 Side and Rear Setbacks</td>
<td>The second floor level of the development does not comply with this standard along the north elevation – a minimum setback of 4.09 metres is required (based on maximum wall heights of 9 metres) in lieu of the provided setbacks of 3.5 metres. It is considered the amenity impacts associated with this variation are minimal, particularly for Dwelling 3 which is opposite existing boundary walls at the adjoining property. Dwelling 2 is also partially opposite these boundary walls, whilst the remainder of this interface consists of a driveway. Additionally, the development achieves full compliance with Standard B19 (Daylight to Existing Windows) and there are no overshadowing impacts as a result of the variance given the site’s location to the south of the adjoining property. It is consequently determined that the application meets the objective of this clause and that a variation to the standard is appropriate.</td>
</tr>
<tr>
<td>Clause 55.04-7 Standard B23 Internal views</td>
<td>There is potential for internal overlooking between the balconies of Dwellings 2 and 3 – a condition of any permit issued will require that this is rectified.</td>
</tr>
<tr>
<td>ResCode Standard</td>
<td>Response</td>
</tr>
<tr>
<td>------------------</td>
<td>----------</td>
</tr>
<tr>
<td>Clause 55.05-5 Standard B29 Solar Access to Open Space</td>
<td>The balconies of Dwellings 2 and 3 are unable to meet the setback requirement of this standard due to their positioning to the south of the development. This is an acceptable outcome in this instance because both dwellings are also provided with generous service yards that have a direct northern aspect. A variation to the standard is therefore appropriate.</td>
</tr>
<tr>
<td>Clause 55.05-6 Standard B30 Storage</td>
<td>A condition of any permit issued will require that dimensions for all storage areas are provided to ensure that they meet the volume requirement of this standard. In addition to this, a further condition will ensure that the stores do not interfere with the areas set aside for car parking.</td>
</tr>
</tbody>
</table>

3.5 Does the proposal contravene covenant no. B193195?

As noted in Section 2.1 of this report, planning permit application MV/85/2019 to vary restrictive no. B193195 was recently approved by Council. Condition 1 of planning permit MV/85/2019 subsequently reads as follows:

This permit has no force or effect until a Plan of Variation of Covenant suitable for proceeding under Section 23 of the Subdivision Act 1988 showing the variation of Covenant (B193195) as follows:

Replacing words:

‘...And the said Jay Kay Investments Pty Limited for itself and its successors assigns and transfers covenants with the Commonwealth of Australia its successors assigns and transferees and the registered proprietor or proprietors for the time being of the land remaining untransferred in Certificate of Title Volume 8069 Folio 766 that he she or it as the case may be will not erect or allow or permit to remain or to be erected any building or erection of any nature whatsoever and will not plant or grow nor allow to permit to be planted or grown any tree, shrub or vegetation of any nature whatsoever on the land hereby transferred or any part thereof which exceeds a height of twenty-five feet above the surface of the said land...’

With

‘...And the said Jay Kay Investments Pty Limited for itself and its successors assigns and transfers covenants with the Commonwealth of Australia its successors assigns and transferees and the registered proprietor or proprietors for the time being of the land remaining untransferred in Certificate of Title Volume 8069 Folio 766 that he she or it as the case may be will not erect or allow or permit to remain or to be erected any building or erection of any nature whatsoever...’
whatsoever and will not plant or grow nor allow to permit to be
planted or grown any tree, shrub or vegetation of any nature
whatsoever on the land hereby transferred or any part thereof which
exceeds a height of 9.20 metres above the surface of the said
land….’

The Plan of Variation of Covenant must be submitted for
endorsement to the satisfaction of the Responsible Authority and
registered with the Land Titles office.

It is noted that the plans currently under consideration show a maximum
building height of approximately 9.25 metres. A condition of any permit
issued will therefore require the building height to be lowered to no more
than 9.20 metres. An additional permit condition will be imposed to ensure
the Plan of Variation of Covenant approved by MV/85/2019 is registered
with the Land Titles office prior to the commencement of the development.

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 provides adequate on-site car parking for each dwelling and the design standards of Clause 52.06-9 are 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. Further, Council’s Traffic and Transport Unit had no objection to the application on these grounds. As previously highlighted, the development will utilise and upgrade the existing crossover entry thereby eliminating any impacts on the supply and operation of on-street car parking and existing infrastructure services.</td>
</tr>
<tr>
<td>Overdevelopment, dwelling density and triple storey built form</td>
<td>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. It is also noted the proposal has been reduced from five to three dwellings which is considered to be more appropriate for the site and in keeping with the emerging pattern of medium density development within the area.</td>
</tr>
<tr>
<td>Issue</td>
<td>Officer Response</td>
</tr>
<tr>
<td>-------------------------------------------</td>
<td>-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</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, visual bulk, noise)</td>
<td>The proposal generally complies with the relevant standards and objectives of Clause 55 (ResCode) as they relate to the protection of amenity on neighbouring properties. There is one instance of non-compliance relating to the setbacks from the northern boundary of the second floor level to each dwelling, however it is not considered that this results in unreasonable detriment as discussed in Section 3.4 of this report.</td>
</tr>
<tr>
<td>On-site amenity impacts (poor internal vehicle access and lack of storage)</td>
<td>As discussed, the design of car parking and the accessway is suitable for safe and efficient vehicular movements as demonstrated by the additional swept path diagrams submitted (see Attachment E Swept Path Diagrams (separately circulated)). In terms of storage the development complies with the relevant ResCode standard subject to minor conditions.</td>
</tr>
<tr>
<td>Precedent</td>
<td>This is not a valid planning consideration.</td>
</tr>
</tbody>
</table>

4. Human Rights

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

5. Council Plan/Policy

On 26 June 2018, Council adopted the MV2040 Strategy as its long-term plan for the city. It is considered that the proposal is consistent with the relevant strategic directions set out in the MV2040 Strategy, including:

- Strategic Direction 3: A city where people are healthy and safe;
- Strategic Direction 5: A city with housing for all;
- Strategic Direction 14: A city that is green and water-sensitive;
- Strategic Direction 16: A city that is cool and climate-adapted;
- Strategic Direction 17: A city that fosters local identity;
- Strategic Direction 18: A city of high-quality design; and
- Strategic Direction 20: A city in a beautiful landscape setting.
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 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: Decision Plans (separately circulated)
D: Original Plans (separately circulated)
E: Swept Path Diagrams (separately circulated)
10.4 Update on Response to Notice of Motion 2017/20 - Smart City

Author: Natalie Reiter - Director Planning and Development
Directorate: Planning and Development

1. Purpose

1.1 To provide a further report as requested at the Ordinary Meeting of Council on 22 May 2018 which responded to the initial Notice of Motion 2017/20 – Moonee Valley as a Smart City.

2. Background

2.1 In July 2017 a Notice of Motion (2017/20) was unanimously supported calling for a report considering the following:

2.1.1 Identifies how Moonee Valley can transition to a Smart City in 2040;

2.1.2 Discusses strategies to optimise Moonee Valley’s capacity to achieve this aim including positioning Moonee Valley to access government funding, form critical partnerships (public and private) and participate in local, regional and national projects;

2.1.3 Identifies those current and planned initiatives that are direction setters towards making Moonee Valley a Smart City through the integration of new and digital technologies and their application to improve Council’s delivery of goods and services, management of information and ongoing improvement through application of next generation technologies; and

2.1.4 Considers the benefits for the residents of Moonee Valley especially the most vulnerable in our community and businesses.

2.2 In response, Councillors received a report detailing Moonee Valley has a number of initiatives underway to move to the status of being a ‘smart city’, including:

2.2.1 Online booking system for community facilities

2.2.2 Smart Parking system which provides remote monitoring of length of time cars are parked as well as facilitating an ‘App’ so that people can identify available car-spaces remotely

2.2.3 Commencing installation of free Wi-Fi in our community hubs/sporting pavilions

2.2.4 Opening up our community hubs/sporting pavilions for co-working

2.2.5 New MV Council App allowing easier access to information and payment options from your smart phone.

2.3 The report also committed to continuing to identify appropriate initiatives to leverage value from available technologies to deliver value for our community, expected to include: number plate
recognition cameras so those with permits do not need to display the paperwork.

2.4 Councillors sought an Update report to be provided in May 2019.

3. Issues

3.1 Council is resource challenged to continue to respond to the need to be a ‘Smart City’. The federal grant application we submitted in 2018 was unsuccessful, and we are not aware of future federal grants for Smart Cities.

3.2 While the initiatives underway 12 months ago have been implemented, and future steps are in progress, keeping pace with the pace of transformation is likely to continue to be a challenge for all. The following paragraphs provide an update of initiatives discussed in the last ‘Smart Cities’ report:

3.2.1 The online booking system for Council’s community facilities was activated in late 2018. Some 1,435 events have been entered into the new booking system since its activation. Currently the online system allows the community to access and book 33 spaces over 21 facilities. Since the online portal went live in December 2017, 237 events created by casual hirers.

3.2.2 The online booking system is also used for regular hirers, these being groups that provide regular activities locally (for example our seniors clubs). These groups will have more capacity to make, modify and delete their bookings in 2020 through online systems.

3.2.3 Further facilities, such as some sports infrastructure, will be added to the online booking portal in coming weeks. Council is investigating and planning on including additional resources such as playgrounds that are close to facilities already listed in the portal.

3.2.4 Smart Parking system provides remote monitoring of length of time cars are parked as well as facilitating an ‘App’ so that people can identify available car-spaces remotely is now in place in Moonee Valley. The ‘Park Moonee Valley’ App is available via the App Store and a communications campaign is underway to encourage locals to actively use the live parking data to facilitate finding parking.

3.2.5 Council has installed free Wi-Fi at the following community hubs:

- Bradshaw Street Community Hall
- Canterbury Street Stables
- Clocktower and The Point (Arts and Culture)
- Crown Street Stables
- Depot Men’s Shed
- Emerald Street Community Hall
- Flemington Community Centre
• Food Services
• Incinerator Gallery
• Kellaway Neighbourhood Centre
• Niddrie Hub
• Ratcliff Community Hall.

3.2.6 The new MV Council App ‘Valley View’ has been launched allowing easier access to information and payment options from your smart phone.

3.2.7 Free Wi-Fi has been launched in the Essendon Activity Centre and is soon to be available in Queens Park and Woodlands Park. Free Wi-Fi is also planned for the following sporting pavilions during 2019:
• Cross Keys Pavilion
• Boeing Reserve
• Fairbairn Park Pavilion
• Ormond Park.

3.3 New ‘Smart City’ initiatives underway over the past 12 months have been largely internally focussed as the organisation equips itself to serve our customer base. A digital strategy has been prepared and work is underway to deliver upon this strategy include the following:

3.3.1 Smart Bins have been successfully trailed at Queens Park, Boathouse and Woodlands Park. The bins minimise the number of trips to maintain the bins by sending a notification to the Operations team when they approach their maximum capacity, and by automatically compacting the bin’s contents, allowing several times the capacity of standard bins.

3.3.2 ‘Compliance Suite’ requirements have gone out to tender; and responses have been received. It is expected the successful tenderer will be notified before the end of financial year with implementation before the end of the calendar year.

3.3.3 The Customer Relationship Management (CRM) module is currently out to tender with responses due mid-May and implementation expected by July 2020. The CRM will deliver a number of automated end to end streamlined processes that will enhance the experience of our customers with Council. The automated processes will reduce processing times as hand-off to the different internal teams will occur seamlessly and the required data to execute their task will be readily available.
Recommendation

That Council resolves to note the updates provided in this report and understands the transition to being a Smart City is resource challenged given the other demands on finances.

Attachments

A: Impact assessment
Impact assessment

1. Relationship to Council commitment MV2040 or Council Plan
   1.1 As outlined in MV2040 under the theme of Thriving:
      
      Strategic Direction 9: A city that is technology ready
      TARGET: Moonee Valley embraces a technology first approach to creatively meet the challenges we face.
      Objective 9.1 Be ready to adopt technology
      Objective 9.3 Leverage technology as a business enabler.

2. Legislative obligations
   2.1 Local Government Act 1989 - 3C Objectives of a Council
   2.2 (1) The primary objective of a Council is to endeavour to achieve the best outcomes for the local community having regard to the long term and cumulative effects of decisions.
   2.3 (2) In seeking to achieve its primary objective, a Council must have regard to the following facilitating objectives—
   2.4 (a) to promote the social, economic and environmental viability and sustainability of the municipal district;
   2.5 (b) to ensure that resources are used efficiently and effectively and services are provided in accordance with the Best Value Principles to best meet the needs of the local community;
   2.6 (c) to improve the overall quality of life of people in the local community;
   2.7 (d) to promote appropriate business and employment opportunities.

3. Legal implications
   3.1 There are no legal implications associated with this report. Council is

4. Risks
   4.1 Council’s smart city initiatives do not result in unacceptable data sharing or risk.

5. Social impact assessment
   5.1 There are no identified social impacts.

6. Economic impact assessment
   6.1 There are no negative economic impacts identified. Some of the smart city initiatives seek to improve the economic prosperity of our activity centres.

7. Environmental impact assessment
   7.1 There are no identified environmental impacts.
8. **Reputational impact assessment**
   
   8.1 It is a responsibility of Council to provide contemporary solutions for municipal projects, programs and problems.

9. **Financial implications**
   
   9.1 The costs associated with the smart city initiatives have been paid for from existing approved budgets.

10. **Sensitivity / scenario analysis**
   
   10.1 There are no sensitivity analysis impacts identified.

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 No specific consultations have been undertaken in relation to matters addressed in this report.
10.5 Development Contributions Plan - Costing Package

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

1. Purpose

1.1 To seek Council’s endorsement of the Development Contributions Plan (DCP) Costing Package for the purpose of Amendment C194moon exhibition.

2. Background

2.1 On 26 June 2018, Council noted the importance of the DCP and resolved to request the Minister for Planning to authorise Amendment C194moon and place the amendment on exhibition (previously referred to as Amendment C190).

2.2 The DCP will collect 17.79% of the estimated $399.7 million total cost of infrastructure projects deemed necessary to service the expected population growth to 2040. The DCP will support Council to deliver the required infrastructure in a financially sustainable way.

2.3 On 27 June 2018, a request for authorisation to prepare and exhibit the amendment was submitted to the Minister for Planning.

2.4 On 11 July 2018 the Department of Environment, Land, Water and Planning (DELWP) placed authorisation on further review and requested additional information (Attachment B). Council officers submitted the requested information on 13 August 2018.

2.5 On 30 October 2018, DELWP issued Council with conditional authorisation (Attachment C). Council officers submitted a response to the conditions as well as a request to commence exhibition on 18 January 2019.

2.6 On 30 January 2019, DELWP requested additional information specifically related to the provision of supporting documentation and costing details that informed the DCP.

3. Issues

3.1 The Costing Package (Attachment D) has been developed to provide further justification for the infrastructure costs contained in the DCP. It is anticipated the package will satisfy the outstanding matters raised by DELWP on 30 January 2019 and will allow Council to proceed with the exhibition of Amendment C194moon.

3.2 The preparation of the Costing Package identified translation differences between the DCP and the quantity surveyor documentation.

3.3 The projects where the DCP costs are greater than those provided by the quantity surveyor are Avondale Heights community hub, Overland Reserve and Ormond Park multi-purpose pavilions, Fairbairn Park (north)
and Canning Street public toilets, Afton Street, Strathnaver Reserve, Aberfeldie Park car parks.

3.4 The projects where the DCP costs are lower than those provided by the quantity surveyor are Fairbairn Park multi-purpose pavilion, Ormond Park Shared Pathways, Clifton Park car park, Fairbairn Park car park, Cross Keys Reserve car park and laneway, McIntosh Street streetscape improvements and Racecourse Road streetscape improvements.

3.5 Amendments will be made to the DCP to reflect the quantity surveyors documentation.

3.6 The DCP costing document includes values commensurate with Council’s operational and capital programs, including the long term capital works plan; costings are in 2017 dollars.

3.7 No confidential information is included in the Costing Package.

Recommendation

That Council resolves to:

a. Endorse the Development Contributions Plan Costing Package for the purpose of Amendment C194moon exhibition (Attachment D).

b. Note the Development Contributions Plan Costing Package as the sole supporting costing document for the Development Contributions Plan - Amendment C194moon.

c. Allow Council officers to make minor editing and typographical changes as required, including updates to the Development Contributions Plan and associated C194moon Amendment documents to ensure costings are accurate.

Attachments

A: Impact assessment
B: C194moon - DELWP Further Review Letter (separately circulated)
C: C194moon - DELWP Conditional Authorisation Letter (separately circulated)
D: Development Contributions Plan - Costing Package (separately circulated)
Impact assessment

1. Relationship to Council commitment MV2040 or Council Plan
   1.1 The Moonee Valley Development Contributions Plan (DCP) achieves MV2040 objective 2.2, pursuant to theme Fair QEENTE BOORDUP, to provide an accessible network of community facilities by allowing Council to collect contributions from new development towards community facilities.
   1.2 The DCP achieves Council Plan objective 5.3, infrastructure meets the needs of today and responds to future demand, by incorporating the Development Contributions Plan overlay into the Moonee Valley Planning Scheme.
   1.3 On 26 June 2018, Council noted the importance of the DCP and resolved to request the Minister for Planning to authorise Amendment C194moon and place the amendment on exhibition.

2. Legislative obligations
   2.1 Part B of the Planning and Environment Act 1987 permits Council to collect contributions from new development. 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 DCP is High (10). The measure of consequences is assessed as minor (reputation) and the measure of likelihood is almost certain.

5. Social impact assessment
   5.1 The decision will have a positive social impact with the delivery of the infrastructure items.

6. Economic impact assessment
   6.1 The decision will have a positive economic impact through new development contributing to the delivery of the DCP items.

7. Environmental impact assessment
   7.1 The decision will have a positive environmental impact as a result of upgrades to community facilities, improvements to open spaces, traffic management and streetscape infrastructure for pedestrians and cyclists.

8. Reputational impact assessment
8.1 Once the DCP is introduced into the Moonee Valley Planning Scheme, Council will be committed to delivering the identified infrastructure items for the community.

9. Financial implications

9.1 The DCP items are identified in Council’s Long Term Capital Works Plan or Council’s annual budget. It will collect 17.79% of the estimated $399.7 million from new development.

10. Sensitivity / scenario analysis

10.1 The changes in demand for non-residential floor space and dwellings may result in an under or over collection of contributions. Council is required to report annually to the Minister for Planning and review actual and emerging trends every three years. Changes to the DCP may require approval through the planning scheme amendment process.

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 will undertake notification in line with Clause 19 of the Planning and Environment Act 1987.

12.2 Specifically, notification will include:

12.2.1 An exhibition period of four (4) weeks.

12.2.2 Letters to landowners whose property has had a planning permit issued within the last two years.

12.2.3 Letters to planning consultants and building surveyors who operate in Moonee Valley.

12.2.4 Notices in the local newspaper.

12.2.5 Information displayed at Council’s Civic Centre.

12.2.6 Information on Council’s and the Department of Environment, Land, Water and Planning’s website.
10.6 Council Plan 2017-21 - Quarter three progress report for January – March 2019

Author: Sarah Carles - Corporate Planning Officer

Directorate: Organisational Performance

1. Purpose

1.1 To report back to Council and the community on our progress in implementing the Council Plan 2017-21 (Council Plan)

2. Background

2.1 An annual action plan is prepared each financial year to deliver the Council Plan, we then monitor and report on our progress through quarterly reports. This report provides an update on our progress for the period 1 January to 31 March 2019.

3. Issues

3.1 During this council term, 234 initiatives are prioritised for delivery in 2018/19. Of the 234 initiatives being delivered 198 are on track (85%), nine are completed (4%), four have not been started (2%) and 23 are off track (10%). These results indicate we are making steady progress towards the implementation of the long-term plan in MV2040.

3.2 Substantial progress has been made towards many of the initiatives which are listed as ‘off track’ in some cases due to factors beyond council’s control.

3.3 Substantial progress has also been made in the implementation of the Development Contributions Plan and in the planning controls of the Moonee Ponds Activity Centre. A number of interrelated flood modelling, design and upgrade works are listed separately and are technically behind schedule. This should not detract from the significant amount of progress being made to ensure we have a system approach and address flood and draining issues in a comprehensive and effective manner right across the catchment.

Recommendation

That Council resolves to receive and note the progress report on the implementation of the Council Plan 2017-21 action plan for the third quarter of 2018/19.

Attachments

10.7 Submission to Victorian Parliament Environment and Planning Committee's 'Inquiry into Recycling and Waste Management'

Author: Michelle Martin - Waste Strategy and Planning Officer

Directorate: Planning and Development

1. Purpose

1.1 The purpose of this report is to brief Councillors on the submission made by the Municipal Association of Victoria (MAV) to the Victorian Parliamentary Commission, on behalf of Local Government organisations regarding the ‘Inquiry into Recycling and Waste Management’.

1.2 Council will provide comments on MAV’s submission as well as a make its own direct submission to the Victorian Parliamentary Commission.

2. Background

2.1 In 2018, China’s National Sword Policy significantly reduced the amount of Australian kerbside recycling being imported and processed in China. Over the past two decades China has been the major recipient of Australian’s kerbside recycling and as a result Victoria’s recycling industry had struggled to adjust.

2.2 The current recycling challenges have given way to stockpiling and the subsequent closure of some of the very few of Material Recovery Facilities (MRF’s) available for Council’s to bring their recyclables.

2.3 As well as challenges within the recycling industry, there has been the discovery of enormous amounts of illegally stockpiled hazardous chemical waste across the state.

2.4 The MAV has highlighted in its submission that current regulatory settings across the industry are inadequate and despite numerous state agencies (ten) having waste as a core role, lack of role clarity has seen underinvestment in infrastructure and systems. It has also highlighted that despite the forewarning little preparation was done to prepare the industry for the National Sword policy. The submission recognises the key to success is including all three tiers of government, not just that in state run agencies.

2.5 The submission recognises that the lack of understanding within government and state agencies of the seriousness of these challenges has negatively affected local government service provisions and taken little account of the fact that local government bears the most costs and risks in a flawed system.

2.6 The submission identifies immediate key actions for the Victorian government to take including: Investment in recycling infrastructure, funding and supporting market development, introducing a container deposit scheme, bolstering community education and strengthening industry oversight/ regulation.
2.7 There are also key actions outlined for the federal government including: mandating product stewardship, tackling consumer packaging, strengthening the national waste policy, regulating/banning production and importation of hard to recycle materials and standardising packaging labels to certify use of recycled content.

2.8 Finally, MAV's submission identifies action for local governments, including: collaborating for market expansion, community education, buying recycled products, exploring stream separation (this is currently being trialled at the City of Yarra for glass collections) and advocating to work with federal and state government to achieve outlined reforms.

2.9 MAV has identified a lack of investment by state government with the Landfill Levy/ Sustainability Fund monies. The Sustainability Fund was estimated at $511 million on 30 June 2018. The submission asserts lack of investment into the waste and resource recovery systems has contributed to the recent challenges in the industry.

2.10 The submission mentions the growing interest in waste to energy technologies but reiterates its firm view of waste avoidance followed by reuse and recycling before such technology. As of April 2019 the Victorian government is yet to release its policy position on waste to energy.

2.11 As well as commenting on the submission from MAV, Council has produced its own submission which will be directly submitted to the Victorian Parliamentary Committee.

2.12 While reflecting most of the concerns outlined by MAV, Council's submission also emphasises the frustration of local government regarding the fair dispersion of the Sustainability fund, which is held by state government and currently used for projects unrelated to waste management. Councils, through its residents, pays large sums of landfill levy. To access monies from this fund, Councils are required to compete against other Councils to receive small amounts of money for 'grant funded' projects. This method of dispersing funds does not provide proven long term behaviour change and gives advantages to Councils who have more resources to write grant applications and deliver community projects.

2.13 Council's submission also emphasises the role of waste to energy facilities as a practical solution to a 'broken' waste and recycling system. Waste to energy facilities can work alongside the waste hierarchy to provide a robust waste/recycling system.

3. Issues

3.1 As identified in MV2040, Moonee Valley City Council has committed to diverting 90% of household waste and waste from Council operations from landfill by 2040. We acknowledge other local government organisations also have their own waste diversion commitments. To accomplish our target diversion, we need strong leadership and direction from both from state and federal government to ensure robust waste and recycling systems for now and in future.
3.2 The MAV submission is very comprehensive and touches on a range of historical issues within the industry as well as what is happening currently.

3.3 The Victorian Parliamentary Commission has extended the submission date to 29 May 2019.

Recommendation

That Council resolves to:

a. Adopt Council comments on MAV’s submission to the Parliamentary Commission for inclusion in their submission.

b. Adopt Council’s own direct submission to the Parliamentary Commission on the ‘Inquiry into Recycling and Waste Management’.

Attachments

A: Impact assessment
B: City of Moonee Valley comments on MAV submission ‘Inquiry into Recycling and Waste Management’ May 2019 (separately circulated)
C: City of Moonee Valley Submission to Victorian Parliamentary Commission ‘Inquiry into Recycling and Waste Management’ May 2019 (separately circulated)
D: MAV ‘Inquiry into Recycling and Waste Management’ - draft submission - April 2019 (separately circulated)
Impact assessment

1. Relationship to Council commitment MV2040 or Council Plan
   1.1 As outlined in MV2040:
   
   Strategic Direction 15: A city that rethinks waste
   TARGET: We divert 90 per cent of household waste and waste from
   Council operations from landfill by 2040
   
   Objective 15.1 Engage residents, businesses, early years’ services and
   schools around waste avoidance, reuse and recycling.
   
   Objective 15.2 Advocate for and invest in infrastructure and improved
   waste management systems.
   
   Objective 15.3 Ensure waste management planning manages the
   impacts of growth from new developments.

2. Legislative obligations
   2.1 Environment Protection Act 1970
   2.2 Nation Waste Policy: Less waste, more resources 2018

3. Legal implications
   3.1 There are no identifiable legal exposures which should be considered.

4. Risks
   4.1 There are no key risks associated with making a submission other than
   failing to make a submission to encourage action.

5. Social impact assessment
   5.1 There are no identified social impacts.

6. Economic impact assessment
   6.1 There are no negative economic impacts identified.

7. Environmental impact assessment
   7.1 The report seeks increased and improved action to deliver superior
   environmental outcomes.

8. Reputational impact assessment
   8.1 It is a responsibility of Council to advocate the Victorian State
   Government on behalf of its residents, for strong and consistent
   leadership from policy makers.

9. Financial implications
9.1 There are no financial impacts associated with the report although there will be financial impacts of both action and in-action on waste into the future. These implications will be reported at the appropriate time.

10. Sensitivity / scenario analysis

10.1 There are no sensitivity analysis impacts identified.

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 internally included: Sustainability Team and Waste Operations.

12.2 Consultation externally included: the Municipal Association of Victoria and the Victorian Parliament.
10.8 Proposed sale of land from formerly discontinued road - 16 Emerald Street, Essendon

Author: Trish Curcuruto - Property and Right of Way Officer
Directorate: Asset Planning and Strategic Projects

1. Purpose
1.1 To consider the proposed sale of land from a formerly discontinued road currently occupied by 16 Emerald Street, Essendon and consider a proposal to give public notice and hear any submissions received in regards to the proposal in accordance with section 189 and 223 of the Local Government Act 1989 (Act).

2. Background
2.1 Council has received an application from the property owner of 16 Emerald Street, Essendon in relation to land remaining untransferred from a discontinued road (subject land). The land is highlighted in green on the map in Attachment B.

2.2 The subject land was part of a road discontinued by Moonee Valley City Council in 1999. At this time, the then owner of 16 Emerald Street indicated no interest to purchase the portion of the subject land directly abutting the eastern boundary of their property.

2.3 The subject land has been fenced within the property boundary of 16 Emerald Street for some time.

2.4 The current owner of 16 Emerald Street has made an application to purchase the subject land.

3. Issues
3.1 Council received legal advice in regards to whether or not it could rely on the road discontinuance process undertaken by Moonee Valley City Council under the former Local Government Act 1958 to formalise the sale of the subject land to the applicant/occupier.

3.2 Legal advice received suggests the previous statutory process may be considered stale and it would be necessary to undertake the requirements of sections 189 and 223 of the Act to publish a public notice of the proposed sale of the subject land and hear any submissions received.

3.3 An impact assessment has been carried out in relation to the proposal and considers the process in more detail in Attachment A.

Recommendation
That Council resolves to:

1. Commence the statutory procedures in accordance with section 189 and 223 of the Local Government Act 1989 (the Act) for the proposed sale of the subject land occupied by 16 Emerald Street, Essendon;
2. Publish a notice in a local paper for Moonee Valley under section 223 of the Act advising of the proposed sale of the subject land;

3. Inform persons who wish to be heard in support of their submission that they will be heard at a committee of Council (if required), comprising of ward Councillors, in accordance with section 223 of the Act;

4. Receive a further report following the completion of the public notice process to determine whether or not Council proceed with the sale of the subject land.

Attachments
A: Impact Assessment
B: Map of land abutting 16 Emerald Street, Essendon (separately circulated)
Impact assessment

1. **Relationship to Council commitment MV2040 or Council Plan**
   
   1.1 The proposed sale of land will contribute to strategic objective “a resilient organisation that is sustainable, innovative, engaging and accountable” in accordance with Council Plan 2017-21 Theme 6: Resilient organisation (Balit Djerring-dha, which means strong partnership in Woi wurrung language).

2. **Legislative obligations**
   
   2.1 The statutory process for the sale of land is being undertaken in accordance with the requirements of the *Local Government Act 1989* (the Act) sections 189 and 223.

3. **Legal implications**
   
   3.1 Council received legal advice in regards to whether or not it could rely on the road discontinuance process undertaken under the former *Local Government Act 1958* to formalise the sale of land to the applicant/occupier.
   
   3.2 Advice received indicated the previous statutory process may be considered stale and it would be necessary to undertake the requirements of sections 189 and 223 of the Act.

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

5. **Social impact assessment**
   
   5.1 There are no direct social impacts as a result of this report.

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 implications as a result of this report.

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

9. **Financial implications**
   
   9.1 A formal letter of offer to reimburse Council for reasonable costs in undertaking the proposed sale of land process has been agreed by the applicant/occupier. The reimbursement of Council’s costs include the payment of Council’s legal and land surveyor fees and costs associated with the publication of a public notice.
   
   9.2 The land has been valued at $30,000.00 (excluding GST) in accordance with statutory requirements and the commercial terms to be agreed upon.
with the applicant/occupier should Council proceed with the sale of the subject land.

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 All necessary Council departments and service authorities have been consulted in respect to the proposal and no objections have been received.
   12.2 City West Water have advised they will require an easement in their favour due to the presence of a sewer main within the subject land.
   12.3 The statutory procedures under the Act require Council to give public notice of its intention to sell land and invite submissions from affected parties under section 223 of the Act.
   12.4 The public notice will be published in a local paper for Moonee Valley and published on Council’s website.
   12.5 Abutting property owners will be advised of the proposal in writing and informed of their right to make a submission.
10.9 5-79 Fisher Parade, Ascot Vale and 1-3 and 23-25 Kingston Avenue, Ascot Vale - Public Acquisition Overlay

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

1. Purpose

1.1 To seek endorsement to undertake preliminary site investigations in respect of land along the banks of the Maribyrnong River at the rear of 5-79 Fisher Parade and 1-3 and 23-25 Kingston Avenue, Ascot Vale affected by a public acquisition overlay (PAO) under the Moonee Valley Planning Scheme. The land included in the PAO is shown in Attachment B (PAO land).

1.2 This report is limited to site investigations of the PAO land only and does not require a decision to be made as to whether or not to proceed with the acquisition of the PAO land.

2. Background

2.1 The first reference to a pedestrian and cycling link along the Maribyrnong River in the area was in the 1929 - Plan of General Development of Melbourne. A PAO was subsequently placed in the first planning scheme for Melbourne, the Melbourne Metropolitan Interim Development Order, on 3 March 1955, as a proposed public open space reservation over the rear land of 5-79 Fisher Parade and 1-3 and 23-25 Kingston Avenue (affected properties). The PAO remains in the Moonee Valley Planning Scheme, reserving the PAO land for the purposes of public park and recreation.

2.2 Council has consistently advocated stronger planning controls on the Maribyrnong River to protect the river environs, including writing to the Minister for Planning and Minister for the Environment to introduce stronger controls. These efforts have produced a significantly stronger policy in recent years.

3. Issues

3.1 Council has undertaken some minor acquisitions along the PAO land, but there has been no attempt by Council to acquire all of the PAO land to facilitate the construction of an area for public park and recreation.

3.2 Council has considered the relevance of the PAO on various occasions. The impact assessment in Attachment A and planning history information in Attachment D provides a greater understanding of the review process and planning history that have occurred over the life of the PAO.

3.3 Owners of the affected properties have been advocates for the removal of the PAO and have previously lodged submissions to Council in this regard.

3.4 In June 1998, a Panel and advisory committee on Moonee Valley’s New Format Planning Scheme considered the suitability of the removal of the
PAO, but determined that it should remain. At that time, it was recommended that further investigations be carried out to determine ‘the exact location of the intended acquisition in relation to each property affected. It is recognised that this may require the preparation of detailed plans for the link path. The affected land owners will therefore have a clear and accurate indication of the intention of the Council, and the process of acquisition by negotiation may be hastened.’’

3.5 In order for Council to determine whether or not it will proceed with the acquisition of the PAO land, a feature survey of the affected properties will need to be carried out to determine the exact area of land required for any future acquisition by Council. To carry out each survey, it will be necessary to gain access to the affected properties. It is proposed that a letter be sent to all owners notifying them of Council’s proposal to arrange a survey of their land and request that access be provided to Council’s appointed surveyor. Council may enter the affected land to undertake the proposed survey work without the owner’s consent, if required, by serving a notice of intention to enter the land in accordance with s. 74 of the Land Acquisition and Compensation Act 1986.

3.6 A concept design would then need to be developed to determine how the land would achieve an area of public park and recreation.

3.7 A preliminary assessment of the market value of the PAO land has been carried out and is shown in the confidential Attachment C however further valuation work will be required having regard to the compensation principles set out in the Land Acquisition and Compensation Act 1986.

3.8 On completion of the proposed survey and other investigation work, a further report will need to be considered by Council to decide whether or not to proceed with the acquisition of the PAO land (or part thereof) and the construction of an area of public park and recreation.

Recommendation

That Council resolves to:

a. Authorise the preparation of a feature survey of each property included within public acquisition overly (PAO) being 5-79 Fisher Parade, Ascot Vale and 1-3 and 23-25 Kingston Avenue, Ascot Vale, including (if required) serving a notice of intention to enter land under s 74 of the Land Acquisition and Compensation Act 1986 on any owner or occupier of the affected land;

b. Engage a suitably qualified expert to prepare a concept design with indicative costings for the construction of an area of public park and recreation for all or part of the land included in the PAO;

c. Receive a further report to consider the outcome of site investigations relating to the potential acquisition of the land included within the PAO, including:

   • Acquisition process, timelines and estimated costs
• Public park and recreation concept design and indicative costings
• Property title due diligence
• Budget implications
• Communications plan

Attachments
A: Impact Assessment
B: PAO Map - Moonee Valley Planning Scheme (separately circulated)
C: Indicative Valuations, associated information and possible implications (separately circulated) (confidential)
D: Planning Background (separately circulated)
Impact assessment

1. Relationship to Council commitment MV2040 or Council Plan

In presenting this report:

1.1 Council is working to achieve its Council Plan Theme 4 – Green – Wunwarren and Objective 4.1 Our natural environment is protected and enhanced.

1.2 Council is working towards the MV2040 theme beautiful, including strategic objective 20.1 to provide open spaces that meet the needs of the community, objective 20.2 to deliver an interconnected network of open space and Initiative 59 in Ascot Vale to acquire land for new and/or expanded areas of public open space.

2. Legislative obligations

2.1 The PAO allows Council to use its compulsory acquisition powers as an acquiring authority in accordance with section 187 of the Local Government Act 1989.

2.2 An acquisition of land may occur by agreement or by a compulsory process in accordance with the Land Acquisition and Compensation Act 1986 (LACA).

3. Legal implications

3.1 If Council exercises its power to enter land under s 74 of the LACA Council must comply with the provisions of the LACA in respect of such entry.

4. Risks

4.1 Residents may be opposed to any activity which indicates that Council may proceed with an acquisition process and therefore Council may be met with resident opposition.

5. Social impact assessment

5.1 The owners in this area have on previous occasions (via submissions) indicated that they have a number of concerns associated with the PAO and creation of an area of public park and recreation including the following:

- the effect on privacy and security;
- unsightly fences;
- the loss of uninterrupted views and access to the Maribyrnong River;
- the effect on the amenity of housing;
- a bike path exists on the alternate side of the river;
- the acquisition will create a public space which could be considered to be a major detriment to the owners.

5.2 If the acquisition was to proceed the public would have access to the river and connections between the various sections of open space in this area.

These issues will be further considered in the subsequent Council report.
6. Economic impact assessment

6.1 There are no direct economic impacts as a result of this report.

7. Environmental impact assessment

7.1 Amendment C141 of the Planning Scheme introduced new interim planning controls to the Moonee Valley Planning Scheme which implemented some of the recommendations of the Maribyrnong River Valley Design Guidelines 2010. The controls apply to land immediately abutting the Maribyrnong River, including land at Fisher Parade, Ascot Vale. The controls, which are in the form of a Design and Development Overlay (DDO2), promote the protection and enhancement of the river by requiring future developments comply with a mandatory building height limit.

7.2 In addition to the DDO2, greater policy weight was provided to protect the River Environs in July 2018 when the Minister for Planning amended the Planning Scheme under a State Wide Planning Scheme Amendment (VC148). As a result of this Amendment, Clause 12 of the Moonee Valley Planning Scheme now states the river corridors, waterways, lakes and wetlands objective is ‘to protect and enhance river corridors, waterways, lakes and wetlands’.

7.3 The PAO assists to achieve the goals of DDO2 in relation to the river environs.

8. Reputational impact assessment

8.1 Recent discussions with residents in this locality indicate that they have an understanding, based upon previous dealings with Council, including submission hearings made to the Panel, that if Council proceeds with acquisitions in relation to PAO they will be:

- by negotiation/agreement,
- as result of subdivision or development applications; or
- by Council purchasing complete sites, subdividing the land and selling the remainder of the land.

8.2 A further report will be considered by Council to decide whether to proceed or not to proceed with the acquisition of the PAO (or part thereof) and the acquisition process.

8.3 Previous discussions regarding the acquisition process in 1998 need to be reviewed given only minor acquisitions have been achieved in 20 years.

9. Financial implications

9.1 Indicative financial implications in relation to acquisition of the PAO land is shown in the confidential attachment.
9.2 Costs attributed to investigating the PAO include:

- Surveying costs to identify areas of land, estimated cost $25,000 (exc GST).
- Concept design costs for the potential conversion of the land to public park and recreation estimated at $40,000.
- Property title due diligence to be resourced internally.

9.3 If Council exercises its power to enter land under s 74 of the LACA, a person who has an interest in that land may claim compensation from Council if they have sustained any financial loss or incurred any expense as a direct natural and reasonable consequence of Council’s entry onto the land.

10. Sensitivity / scenario analysis

The following options are available to Council:

10.1 The following options are available to Council:

(a) commence compulsory acquisition process;
(b) continue with the purchase of sections of land as a result of subdivision on development applications, however this approach has only resulted in some minor acquisitions; or
(c) take no action and allow the PAO to remain on the affected land indefinitely (however this may be undesirable to the owners of the affected land).

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 Internal consultation would be undertaken to develop a suitable design and costings for conversion of the land to public park and recreation.

12.2 A letter is proposed to be sent to all property owners with land included in the PAO notifying of Council’s proposal to arrange a survey and requesting that access be provided to Council’s appointed surveyor.
10.10 Proposed establishment of a special committee known as LeadWest Committee

Author: Allison Watt - Manager Governance and Communications
Directorate: Organisational Performance

1. Purpose

1.1 To provide background about the proposed change in the governance arrangements for LeadWest and to recommend that Council establishes a new Special Committee under section 86 of the Local Government Act 1989 (the Act), known as LeadWest Committee.

2. Background

2.1 LeadWest LTD (LeadWest) was established as a company in 2007 as a regional organisation for Melbourne’s west. Since this time LeadWest has had a focus on advocacy for the region and has been a nonpartisan and not-for-profit, membership based organisation.

2.2 The LeadWest Constitution provides that its objective is to foster and undertake actions that will support sustainable growth and development of the region having regard to:

- legislative requirements;
- available resources;
- existing initiatives and programs;
- economic, social and environmental values; and
- respecting individual difference between communities.

2.3 Membership of LeadWest has included all six local governments in Melbourne's west (Brimbank, Hobsons Bay, Melton, Maribyrnong, Moonee Valley and Wyndham) and companies and other organisations with substantial operations or interests that are based in Melbourne's west.

2.4 In late 2018, following consideration of the organisation’s priorities, the LeadWest Board decided to commence a strategic review process. This process reconfirmed the importance of the continued focus on the existing objective of LeadWest, but it was agreed that there was a need for a new governance model that would better provide the required structure for the organisation to fully achieve its objective going forward in a more cost effective and sustainable way.

2.5 Following detailed consideration, it was agreed in principle to transition LeadWest from a company to a Council-auspiced section 86 special committee structure, along the lines of the Inner Melbourne Action Plan model used by the cities of Melbourne, Yarra, Port Phillip, Stonnington and Maribyrnong.
2.6 The necessary process to deregister LeadWest as a company has commenced and is expected to be finalised by 30 June 2019. Following this deregistration, the new LeadWest Committee can commence. The new Committees can be established prior to the deregistration process being finalised.

3. Issues

3.1 It is proposed that the purpose of the new LeadWest Committee will be to oversee the preparation and implementation of the LeadWest Committee’s Strategic Plan and identified sub projects as adopted and agreed by member Councils. As such the new Special Committee arrangements will, among other things, be a confirmation of the importance of regional partnerships and a demonstration of the advantages that such arrangements can bring to make real and lasting positive change for the western region of Melbourne.

3.2 One of the first tasks of the Committee will be to lead the development of a new 10-year Strategic Plan and a four-year rolling implementation plan. The proposed key areas of focus for the Strategic Plan are jobs and skills; transport infrastructure and connectivity; health and wellbeing; and continuing environmental rehabilitation and sustainable development. It is envisaged that the Plan will continue to emphasise the importance of building and maintaining strong partnerships with other levels of Government, the private sector, other regional bodies and stakeholders.

3.3 A draft Instrument of Delegation and Terms of Reference has been prepared to enable the establishment of the LeadWest Committee as at Attachment B to this report.

3.4 A feature of LeadWest since it was established in the mid 2000s is the appointment of an Independent Chairperson. This is reflected in the decision to retain this position in the new section 86 Committee arrangements and by this position continuing to be a voting member. This role has several key purposes and is important in delivering the LeadWest agenda including:

- Chairing the LeadWest Committee Meetings;
- Lead the preparation of the LeadWest Strategic Plan;
- Assist to establish and foster relationships and partnerships with State and Federal Governments, statutory authorities, local businesses, not for profit sector, regional boards and committees and other stakeholders;
- Assist the Committee to establish sound governance practices; and
- Provide leadership to the Committee.

3.5 The Terms of Reference provide for the Independent Chairperson to be appointed for a term of three years on conditions, including reimbursement of expense or remuneration, as the Committee determines. It is proposed that the Chairperson has a maximum two term appointment. Mr Jim
Williamson was appointed as the Chair of LeadWest in 2018 and it is recommended that his appointment as the inaugural Independent Chairperson of the Special Committee be made.

3.6 It is proposed that each Council resolves to appoint a Councillor (and their proxy) and each CEO (and such proxy as nominated by the CEO) to the Committee as voting members. This will mean that there are 13 voting members (including the Independent Chairperson) which will require a quorum of seven.

3.7 It is proposed that stakeholders can, when needed, attend the Meetings of LeadWest Committee but will not be voting members.

3.8 An Executive Officer will be appointed to undertake a Coordination/Project Management role and provide regular reports to the Committee.

3.9 Protocols will be established to support the operations of the Committee including Meeting Procedures and media protocols.

Recommendation

That Council resolves to:

1. Establish a Special Committee called LeadWest Committee (Special Committee) pursuant to section 86 of the Local Government Act 1989, commencing operation from 1 July 2019.

2. By Instrument of Delegation pursuant to section 86 of the Act, delegates to the Special Committee, the powers, duties and functions relevant to the LeadWest governance arrangements, in accordance with the Instrument of Delegation and Schedule in Attachment B, effective from 1 July 2019.

3. Authorise the affixation of Council’s common seal to the Instrument of Delegation.

4. Determine that the Instrument of Delegation will:
   4.1 come into force on 1 July 2019; and
   4.2 remain in force until Council determines to vary or revoke it.

5. Adopt the Terms of Reference for the Special Committee as detailed at Attachment B.

6. Appoint as voting members of the Special Committee:
   • one Councillor and their proxy from each of the Cities of Brimbank, Hobsons Bay, Maribyrnong, Melton, Moonee Valley and Wyndham, as nominated by each of those Councils from time to time, provided that a proxy will only be entitled to vote in the absence of the relevant nominated Councillor;
   • the Chief Executive Officer from each of the Cities of Brimbank, Hobsons Bay, Maribyrnong, Melton, Moonee Valley and Wyndham, and the proxy nominated by each Chief Executive Officer from time
to time, provided that a proxy will only be entitled to vote in the absence of the relevant Chief Executive Officer; and

- an Independent Chairperson.

7. Appoint:

- Cr Samantha Byrne as the Councillor delegate and Cr Andrea Surace as the proxy;
- Council’s Chief Executive Officer and the proxy nominated by the Chief Executive Officer from time to time; and
- Mr Jim Williamson, as the inaugural Independent Chairperson, to the Special Committee established by Council and by each of the Cities of Brimbank, Hobsons Bay, Maribyrnong, Melton, Moonee Valley and Wyndham.

8. Exempt all members of the Special Committee other than those nominated by Council as its representatives and the Independent Chairperson from having to submit a primary or an ordinary return.

9. Determine that the first Ordinary Meeting of the Special Committee will be held on the first scheduled meeting date of the Special Committee, held on or after 1 July 2019.

10. Require all minutes be presented to Council on the progressive implementation of the Special Committee.

Attachments

A: LeadWest Special Committee Impact Assessment (separately circulated)
B: LeadWest Instrument of Delegation and Terms of Reference May 2019 (separately circulated)
10.11 Councillor Expenses Report - 1 January 2019 to 31 March 2019

Author: Lee McSweeney - Coordinator Governance  
Directorate: Organisational Performance

1. Purpose

1.1 To receive a quarterly report of expenses incurred by Councillors from 1 January 2019 to 31 March 2019 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 endorsed 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 At its meeting on 14 August 2018, Council 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 This report identifies the quantum of councillor expenses processed by the organisation for the period 1 January 2019 to 31 March 2019 in line with the endorsed Councillor Expenses and Reimbursement Policy.

3.3 The figures published in this report (Table 1) may include expenses not incurred in the reporting period but processed in this reporting period.

3.4 Table 1 includes an adjustment to expenses published in the Councillor Expenses Report – 1 October to 31 December 2018 (Quarter 2). The Quarter 2 report recorded one month of estimated running costs for the mayoral vehicle. The figures published in Table 1 include actual running costs for the current report and adjustments applied to the Quarter 2 report.
Table 1 – Councillor Expenses Report – 1 January – 31 March 2019

<table>
<thead>
<tr>
<th></th>
<th>Carer Expenses</th>
<th>Communications</th>
<th>Conferences &amp; Seminars</th>
<th>Development &amp; Training</th>
<th>Entertainment</th>
<th>Transportation</th>
<th>Travel &amp; Acc.</th>
<th>Memberships</th>
<th>Other Costs</th>
<th>Total</th>
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<tbody>
<tr>
<td><strong>Cr Narelle Sharpe (Mayor)</strong></td>
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<td>259.02</td>
<td>348.45</td>
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<td>-</td>
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<td>-</td>
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<tr>
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<td>-</td>
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<td>-</td>
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<tr>
<td><strong>Cr Cam Nation</strong></td>
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<tr>
<td><strong>Cr Andrea Surace</strong></td>
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<td>-</td>
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<td>218.16</td>
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<td><strong>Total</strong></td>
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<td>1,667.94</td>
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<td>179.79</td>
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<td>615.91</td>
<td>-</td>
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**Recommendation**

That Council resolves to:


b. Publish the Councillor Expenses Report, provided in Table 1, on Council's website.

**Attachments**

Nil
10.12 Notices of Motion Quarterly Report

Author: Rosie Ferreira - Governance Officer  
Directorate: Organisational Performance

1. Purpose

1.1 This report provides an update on the status of Notices of Motion that have been endorsed by Council since 1 February 2019.

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

2. Background

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

2.2 Pursuant to Council’s Meeting Procedure Protocol, it is a requirement for Notices of Motion to be lodged with the Chief Executive Officer at least five days prior to the meeting at which they are intended to be moved. In the event that a Councillor who has raised a particular Notice of Motion is absent from the meeting, it can be moved by any other Councillor.

2.3 From 1 February 2019 to 30 April 2019, there have been five Notices of Motion requesting Council write to a Member of Parliament or government agency.

3. Issues

3.1 Between 10 November 2016 to 30 April 2019, Council endorsed 61 Notices of Motion presented by Councillors. Of these 61 Notices of Motion, 54 have now been successfully completed (88 per cent), while 7 are in progress.

3.1.1 Attachment A provides details of Notices of Motion for the current council term which are either in progress or require ongoing action.

3.2 From the 29 January 2019 Ordinary Meeting of Council, Notice of Motion no. 2019/01 – Review of municipal boundaries, requested a letter be sent to the Hon. Adem Somyurek MLC, Minister for Local Government. This correspondence is included as Attachment B.

3.3 For the period 1 February 2019 to 30 April 2019 there have been five Notices of Motion requesting that Council write to a Member of Parliament or Government agency.

3.3.1 Correspondence relating to Notice of Motion no.2019/02 – North Essendon Junction, from 12 March 2019 Ordinary Meeting of Council is included with this report as Attachment C.

3.3.2 Correspondence relating to Notice of Motion no.2019/03 – ANZAC Horse Ramp at Essendon Station, from 12 March 2019 Ordinary Meeting of Council is included with this report as Attachment D.
3.3.3 Correspondence relating to Notice of Motion no.2019/07 – Advocacy for increased tree canopy on Department of Education and Training sites, from 26 March 2019 Ordinary Meeting of Council is included with this report as Attachment E.

3.3.4 Correspondence relating to Notice of Motion no.2019/08 – Review of Secondary College Zones, from 26 March 2019 Ordinary Meeting of Council is included with this report as Attachment F.

3.3.5 Correspondence relating to Notice of Motion no. 2019/10 – CCTV on no.57 and 59 trams, from 9 April 2019 Ordinary Meeting of Council is included with this report as Attachment G.

Recommendation

That Council resolves to receive and note the report on the endorsed Notices of Motion that are currently in progress or ongoing, for the period 10 November 2016 to 30 April 2019.

Attachments

A: Notices of Motion report (separately circulated)
B: Correspondence NoM no. 2019/01 (separately circulated)
C: Correspondence NoM no. 2019/02 (separately circulated)
D: Correspondence NoM no. 2019/03 (separately circulated)
E: Correspondence NoM no. 2019/07 (separately circulated)
F: Correspondence NoM no. 2019/08 (separately circulated)
G: Correspondence NoM no. 2019/10 (separately circulated)
10.13 Assemblies of Councillors

Author: Tracey Classon - Governance Officer
Directorate: Organisational Performance

1. Purpose

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

2. Background

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

3. Issues

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

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

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

3.2.1 At an Assembly of Councillors, the Chief Executive Officer must ensure that a written record is kept of —

- a) the names of all Councillors and members of Council staff attending;
- b) the matters considered;
- c) any conflict of interest disclosures made by a Councillor attending under subsection (3); and
- d) whether a Councillor who has disclosed a conflict of interest as required by subsection (3) leaves the assembly.

3.3 The Chief Executive Officer must ensure that the written record of an Assembly of Councillors is, as soon as practicable —

- a) reported at an Ordinary Meeting of the Council; and
- b) incorporated in the minutes of that Council meeting.
Recommendation

That Council resolves to receive the following records of Assemblies of Councillors in accordance with section 80A(2) of the *Local Government Act 1989*.

<table>
<thead>
<tr>
<th>Assembly</th>
<th>Ordinary Council Meeting pre-meet held on Tuesday 23 April 2019 at 6.00pm. Committee Room, Civic Centre</th>
</tr>
</thead>
<tbody>
<tr>
<td>Matters considered</td>
<td>Ordinary Council Meeting agenda to be held 23 April 2019.</td>
</tr>
</tbody>
</table>
| Councillors present           | Cr Narelle Sharpe (Mayor)  
Cr Samantha Byrne  
Cr Rebecca Gauci Maurici  
Cr Richard Lawrence  
Cr Nicole Marshall  
Cr Andrea Surace  
Apologies: Cr Sipek  
Approved leave of absence: Cr Jim Cusack, Cr Cam Nation |
| Staff present                 | Bryan Lancaster (CEO)  
Kendrea Pope  
Peter Gaffney  
Natalie Reiter  
Lee McSweeney |
| Conflict of interest          | Nil.                                                                                               |

<table>
<thead>
<tr>
<th>Assembly</th>
<th>Strategic Briefing held on Tuesday 30 April 2019 at 6.00pm. Committee Room, Civic Centre</th>
</tr>
</thead>
<tbody>
<tr>
<td>Matters considered</td>
<td>1. Financial sustainability indicators in long term financial plan.</td>
</tr>
</tbody>
</table>
| Councillors present           | Cr Samantha Byrne  
Cr Jim Cusack  
Cr Rebecca Gauci Maurici  
Cr Richard Lawrence  
Cr Nicole Marshall  
Cr Narelle Sharpe  
Apologies: Crs Cam Nation, John Sipek and Andrea Surace |
| Staff present                 | Bryan Lancaster  
Natalie Reiter  
Kendrea Pope  
Steven Lambert  
Gil Richardson  
Allison Watt  
Cindy Edwards  
Maria Weiss |
| External                      | Mark Davies - Consultant                                                                          |
| Conflict of interest          | Nil.                                                                                               |
### Assembly
**Strategic Briefing held on Tuesday 7 May 2019 at 6.45pm. Avondale Heights Library and Learning Centre**

#### Matters considered
1. CISVic proposal to take over Essendon Citizen’s Advice Bureau
2. Integrated Risk Management Framework
3. Flemington Hub @ Debneys Park
4. Review of the draft agenda for the Ordinary Council Meeting to be held 14 May 2019
5. Other business / proposed Notices of Motion

#### Councillors present
- Cr Samantha Byrne
- Cr Jim Cusack (Chair)
- Cr Rebecca Gauci Maurici
- Cr Richard Lawrence
- Cr Andrea Surace
- Cr Nicole Marshall
- Cr Cam Nation

Apologies: Crs Narelle Sharpe and John Sipek

#### Staff present
- Bryan Lancaster
- Natalie Reiter
- Kendrea Pope
- Steven Lambert
- Gil Richardson
- Allison Watt
- Cindy Edwards
- Maria Weiss

#### Conflict of interest
Nil.

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### Assembly
**Ordinary Council Meeting pre-meet held on Tuesday 14 May 2019 at 6.00pm. Committee Room, Civic Centre**

#### Matters considered
1. Ordinary Council Meeting agenda 14 May 2019
2. Signage audit at sports clubs

#### Councillors present
- Cr Narelle Sharpe (Mayor)
- Cr Samantha Byrne
- Cr Richard Lawrence
- Cr Jim Cusack (6.24pm)
- Cr Rebecca Gauci Maurici
- Cr John Sipek
- Cr Nicole Marshall
- Cr Andrea Surace
- Cr Cam Nation

#### Staff present
- Bryan Lancaster (CEO)
- Steven Lambert
- Kendrea Pope
- Gil Richardson
- Natalie Reiter
- Petrus Barry
- Allison Watt

#### Conflict of interest
Cr Nation declared an indirect conflict of interest in item 11.1 on the Council Meeting agenda due to conflicting duty.

---

### Attachments

Nil
NOTICES OF MOTION

11.1 Notice Of Motion No. 2019/15 - Sharing shed and library of things

File No: FOL/18/2958
From: Councillor Nicole Marshall

Take notice that at the Ordinary Meeting of Council to be held on 28 May 2019 it is my intention to move:

That Council resolves to:

1. Receive a report at an upcoming ordinary council meeting regarding the establishment of a sharing shed and library/libraries of things in Moonee Valley. The report should address issues including:
   a. potential sites whether they be council owned/operated such as pavilions or men’s sheds etc or privately owned sites such as the Cave;
   b. the role a sharing shed could play in waste prevention/reduction as per the highest priority in the waste management hierarchy;
   c. potential community organisations that could partner in a sharing shed including the Moonee Valley Repair Café, Sharing Shed Melbourne and other local organisations and ensure these organisations are consulted with in relation to the report; and
   d. the role Council’s libraries could play in expanding the items they loan to our community (like the Sacramento Public Library of Things) and/or otherwise supporting a community-run sharing shed (like the Queensland State Library);

2. Write to the relevant State Government Ministers and Local State Members requesting the establishment of a grant funding stream to fund Councils in the establishment of sharing sheds, noting the Sustainability Fund as a potential funding source and the importance of supporting initiatives at the highest level of the waste hierarchy that involve the repair/reduction/reuse or sharing of goods;

   Approach LeadWest and its member councils and the City of Melbourne in relation to the potential to work across Councils (similar to the My Smart Garden program) to create one or more sharing shed/repair café/reverse garbage facility/facilities.
Officer Comments

The Notice of Motion is supported.

While Officers are very supportive of the intent of the motion, the only concern is resourcing in an increasingly resource-challenged environment. Priorities will need to be reconsidered and redistributed to deliver the required assessment and report.
CONFIDENTIAL REPORTS

Closure of meeting to public

Recommendation

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

14.1 Riverside Ball Protection Fencing

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