Agenda

Monday, 17 July 2017

Ordinary Meeting of Council
Council Chambers, Ivanhoe Service Centre
275 Upper Heidelberg Road, Ivanhoe

- Council Meeting commencing at 7.00pm

- Public Forum commencing at the conclusion of the Council Meeting
Acknowledgement of the Traditional Owner, the Wurundjeri willam people

“Our Meeting is being held on the Traditional Land of the Wurundjeri willam people, and on behalf of Banyule City Council, I wish to acknowledge them as the Traditional Owners. I would also like to pay my respects to the Wurundjeri Elders, past and present, and to the Elders of other Aboriginal peoples who may be here today.”

Apologies and Leave of Absence

Confirmation of Minutes
Ordinary Meeting of Council held 26 June 2017

Presentation
A presentation will be made regarding the launch of a DVD produced by Council’s Maternal & Child Health (MCH) team celebrating 100 years of Service.

Disclosure of Interests

1. Urgent Business

REPORTS:

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   Nil

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   8.1 La Trobe University Sports Park - Stadium Development Agreement................................................................................................73
9. Notices of Motion
   Nil

10. General Business
    Closure of Meeting

    **Audio Recording of Council Meetings**
    Please note that all Council Meetings are audio recorded, with the exception of matters identified as confidential items on the Agenda. This includes public participation during the meeting. These recordings will be made available on Council’s website [www.banyule.vic.gov.au](http://www.banyule.vic.gov.au).

    The next Ordinary Meeting of Council will be held on Monday, 7 August 2017.
2.1 PETITION ABOUT PUBLIC HOUSING
REDEVELOPMENT SITES AT BARDIA STREET
AND TARAKAN STREET, HEIDELBERG WEST

Author: David Cox - Strategic Planning Co-ordinator, City Development
Ward: Olympia

EXECUTIVE SUMMARY

A petition with 17 signatures has been received from petitioners who reside in Heidelberg West, Heidelberg Heights, Rosanna, Eaglemont, Ivanhoe and Greensborough. The petition raises broad reaching concerns for redevelopment of two public housing sites in Heidelberg West.

The State Government is currently progressing planning for redevelopment of the Heidelberg West sites. It is understood that Council, community and stakeholders will have an opportunity to make a submission about this Government project in the future.

This item was deferred from the 26 June 2017 Council Meeting.

RECOMMENDATION

That:

1. Council receives and notes the petition.

2. The issues raised in the petition for future development proposals at the Bell/Bardia Streets and Tarakan Street public housing sites in Heidelberg West, be considered once there is an opportunity to make a submission to these State Government projects.

3. The lead petitioner be advised on Council’s decision.

The petition prayer is as follows:

“We, the undersigned, petition and request Council to:

(1) Oppose the massive overdevelopment of 400 units proposed at Bardia Street and Tarakan Street, West Heidelberg.

(2) Provide a comprehensive report and consultation of findings to understand the impacts of the proposed development on overcrowded schools, stretched police services and other local services.

(3) Provide detailed traffic, parking and environmental effects studies.

(4) Undertake a meaningful community consultation program similar to that undertaken for the Ivanhoe Structure Plan.”
PETITION ABOUT PUBLIC HOUSING REDEVELOPMENT SITES AT BARDIA STREET AND TARAKAN STREET, HEIDELBERG WEST cont’d

The petition is about redevelopment plans for public housing walk-up flats at Bell/Bardia Streets and Tarakan Streets in Heidelberg West. The petition comes after Department of Health and Human Services started public consultation for future development of these two sites.

The signatures are of residents from Heidelberg West, Heidelberg Heights, Rosanna, Eaglemont, Ivanhoe and Greensborough.

DISCUSSION

The sites are owned by the Victorian Government and managed by DHHS, planning is progressing for their redevelopment and more information is available from:


Council has a long-held aspiration to see housing regeneration in Heidelberg West and already has a policy and planning framework to support regeneration. Council can accept that building communities calls for leadership to ensure appropriate services, facilities and programs are available for a changing community. This includes but is not limited to education facilities, public transport infrastructure and services as well as public and social housing. Also design and improvements to major roads, police services and other community needs falls with the Victorian Government.

Whilst Council’s Housing Strategy and Planning Scheme has created the policy framework to support a renewing neighbourhood, achieving this outcome calls for Victorian Government investment to ensure higher-order infrastructure, facilities and services are available. This is particularly relevant to current and future public housing or social housing tenants who may live in Heidelberg West.

Council is currently developing a housing framework for Heidelberg West that will continue to advocate for investment into the suburb. Whilst Council can continue its advocacy for local investment, the lead petitioner is encouraged to broach this matter directly with the Victorian Government to see if future State budgets and infrastructure priorities can give greater weight to Heidelberg West’s ongoing generation.

For the Bell/Bardia Streets and Tarakan Street sites managed by DHHS, Council is aware that the Minister for Planning has established a Standing Advisory Committee that will consider the final outcomes for these Government owned sites. Council currently understands that this will include a future opportunity for Council, community and stakeholders to write a submission that may be considered by the committee. To this end, the lead petitioner is also encouraged to present a petition to DHHS and seek their feedback.

ATTACHMENTS

Nil
2.2  RIGHT OF WAY BETWEEN MANTON STREET AND CAPE STREET, HEIDELBERG - PETITION FOR PARKING RESTRICTIONS

Author: Bailey Byrnes - Transport Planning Team Leader, City Development
Ward: Ibbott

EXECUTIVE SUMMARY

A petition with 13 signatures has been received from residents of Cape Street and Manton Street, Heidelberg.

The intent of the petition is for Council to install parking restrictions along the Right of Way between Manton Street and Cape Street, Heidelberg, due to safety concerns raised by the residents.

An investigation will be undertaken to determine whether the request for parking restrictions is supported. Once the investigation is complete, a further report will be provided to Council for consideration.

RECOMMENDATION

That Council:

1. Receives and notes the petition.
2. Investigate the potential to install parking restrictions along the Right of Way between Manton Street and Cape Street, Heidelberg.
3. Receive a further report on the findings and recommendations of the investigation.
4. Advise the primary petitioner of Council’s resolution.

DISCUSSION

A petition with 13 signatures has been received from residents of Cape Street and Manton Street, Heidelberg.

The petition prayer is as follows:

“We request Banyule Council to impose parking restrictions along ROWY (street between Cape Street and Manton Street) in Heidelberg.”
Supporting information provided with the petition identifies the following factors behind the request for parking restrictions.

1. Safety concerns due to parked vehicles on through traffic, and a duty of care to the residents owed by Banyule City Council.
2. The impact of parked cars along the Right of Way on adjacent properties.

An investigation will be completed to determine whether parking restrictions are warranted along the Right of Way. Following the completion of the investigation, a further report detailing the findings and recommendations will be provided to Council for consideration.

ATTACHMENTS

Nil
4.1 WARRINGAL PARKLANDS AND BANYULE FLATS ECOLOGICAL AND CONSERVATION VALUES ASSESSMENT

Author: John Milkins - Environmental Sustainability Co-ordinator, City Development
Ward: Griffin

EXECUTIVE SUMMARY

This report presents the results of a two and a half year assessment of the ecological and conservation values of Warringal Parklands and Banyule Flats. This work was undertaken in response to a Council resolution to prepare Heritage and Environment Assessments for the Warringal Parklands and Banyule Flats.

The heritage assessment work was undertaken first and reported to Council in mid-2015. The *Warringal Parklands and Banyule Flats Ecological and Conservation Values Assessment* has now been completed.

This environmental assessment involved:

- A desktop review of over 180,000 records of fauna and flora species;
- Targeted seasonal field surveys across two (2) years; and
- A summary report and assessment of ecological and conservation values of the study area.

The assessment found the Warringal Parklands and Banyule Flats to be of State conservation significance.

Management recommendations for the Warringal Parklands and Banyule Flats were also provided to preserve the site’s ecological integrity and raise community awareness of its value.

It is being recommended that the assessment be provided to the North East Link Authority and local State and Federal MPs to underscore the conservation significance of the study area and assist in planning for any possible future works.

RECOMMENDATION

That Council:

1. Endorses the finding of State biological significance for the Warringal Parklands and Banyule Flats, as determined by the *Warringal Parklands and Banyule Flats Ecological and Conservation Values Assessment*, May 2016.

2. Notes that the study area contains international migratory bird species and wetland vegetation communities that are nationally endangered.
CITY PLAN

This report is in line with Council’s City Plan key direction to “protect and enhance our natural environment”.

BACKGROUND

This report presents the results of a two and a half year assessment of the ecological and conservation values of Warringal Parklands and Banyule Flats. The study area is shown in Figures 1 and 2 below. This work was undertaken in response to a Council resolution to prepare Heritage and Environment Assessments for the Warringal Parklands and Banyule Flats.

The heritage assessment work was undertaken first and reported to Council in mid-2015. The subsequent Warringal Parklands and Banyule Flats Ecological and Conservation Values Assessment, undertaken by a specialist ecological consultant, has now been completed. A copy of the assessment is provided in Attachment 1.

The scope of the environmental assessment was to investigate and report on the ecological and conservation values of the study area, and also to provide management recommendations for the maintaining the site values identified.

The assessment was undertaken in three stages:

- Stage 1. Desktop Review of existing information regarding the ecological, wetland and conservation values of the study area and results presented in a preliminary report. This involved the collation of approximately 180,000 observations of flora and fauna from the local area;

- Stage 2. Targeted Field Surveys over a biennial timeframe to obtain a full botanical and faunal inventory, investigate occurrence of rare or threatened flora and fauna within the study area to document the presence of high value conservation species (such as those listed under international migratory agreements, and/or National/State significant species or community listings); and

- Stage 3. Reporting on the aforementioned desktop review and targeted field survey results; and providing a detailed assessment of the ecological values and conservation significance of the study area.
Figure 1 - Warringal Parklands Study Area
Assessment of Environmental Significance

The assessment determines that Warringal Parklands and Banyule Flats are assigned State significance for biological (biodiversity) conservation.

The State significance rating was assigned due to four factors:

- Ecological Integrity: due to the presence of intact and extensive stands of wetland vegetation and important waterbird populations;
- Richness and Diversity: due to the presence of wetland vegetation communities and fauna including waterbirds;
- Rarity and Conservation: due to the presence of endangered wetland communities and rare or threatened waterbird species; and
- Representation of Type: due to its importance in demonstrating typical examples of endangered/uncommon wetland vegetation communities.
WARRINGAL PARKLANDS AND BANYULE FLATS ECOLOGICAL AND CONSERVATION VALUES ASSESSMENT cont’d

The assessment identified:

- 303 flora species in the study area, including seven that are rare or threatened at the National or State level. Within five kilometres of the site, 20 national/state rare or threatened species are recorded.
- 120 fauna species in the study area, including 50 that are rare or threatened at the National or State level. Within five kilometres of the site, 80 national/state rare or threatened species are recorded.

In addition, the assessment identified that there are migratory bird species and endangered wetland communities within the study area that are relevant to the National Environment Protection and Biodiversity Conservation Act 1999.

Management Recommendations

To assist Council to optimally manage the high value sites within the study area, the assessment also provides management recommendations, which include:

- Reinstating a more natural hydrological regime to the wetlands and treating polluted stormwater prior to entry;
- Management of weeds and pest animals;
- Revegetation to support the extensive works already undertaken; and
- Monitoring to detect the trajectory of species populations within the study area; assess effectiveness of management actions and facilitate community engagement.

The Bushland Management Team and the Environmental Sustainability team will continue to identify opportunities and seek funding to most efficiently and effectively meet these important recommendations.

LEGAL CONSIDERATION

Due to the presence of rare and threatened vegetation communities and migratory bird species within the study area, any proposed works are subject to State level legislation (Flora and Fauna Guarantee Act 1988) and also potentially to National legislation under the Environment Protection and Biodiversity Conservation Act 1999.

HUMAN RIGHTS CHARTER

In developing this report to Council, the subject matter has been considered in accordance with the requirements of Victoria’s Charter of Human Rights and Responsibilities.

It is considered that the subject matter does not raise any human rights issues.

ADVOCACY

It is proposed to provide the Warringal Parklands and Banyule Flats Ecological and Conservation Values Assessment, May 2016 to local State and Federal MPs as well as the North East Link Authority, Department of Environment, Land, Water and Planning and Melbourne Water to underscore the conservation significance of the study area.
OFFICER DECLARATION OF CONFLICT OF INTEREST

Section 80C of the Local Government Act 1989 (Act) requires members of Council staff, and persons engaged under contract to provide advice to Council, to disclose any direct or indirect interest in a matter to which the advice relates.

Council officers involved in the preparation of this report have no conflict of interest in this matter.

CONCLUSION

The two and a half year assessment of the ecological and conservation values of Warringal Parklands and Banyule Flats has now been completed and it is concluded that the study area has State level conservation significance due to the presence of nationally endangered international migratory bird species and wetland vegetation communities.

Management recommendations for the study area have also been provided to preserve the site’s ecological integrity and raise community awareness its value.

It is recommended to provide the assessment to local State and Federal MPs as well as the North East Link Authority, Department of Environment, Land, Water and Planning and Melbourne Water to underscore the conservation significance of the study area.

ATTACHMENTS

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<thead>
<tr>
<th>No.</th>
<th>Title</th>
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<tbody>
<tr>
<td>1</td>
<td>Attachment 1 - Warringal Parklands &amp; Banyule Flats Ecological and Conservation Values Assessment 2017 FINAL</td>
</tr>
</tbody>
</table>
5.1 60 BUCKINGHAM DRIVE, HEIDELBERG - APPLICATION FOR A PLANNING PERMIT FOR A FUNCTION CENTRE (P434/2017)

Author: Elizabeth Fleming - Development Planning Team Leader, City Development
Ward: Ibbott

EXECUTIVE SUMMARY

The proposal is for Buildings and works associated with the proposed use of the land for the purpose of a licensed Place of assembly (Function Centre) to be used between the following hours of operation:

- Monday to Friday 9AM-10:30PM (and until 7PM in the grounds external to the homestead building); and
- Saturday and Sunday 9AM-11PM (and until 8PM in the grounds external to the homestead building).

It is considered that the proposed use does not adequately comply with State and Local planning policies and in the absence of critical information that provides certainty that the general amenity of the residential area will not be compromised beyond reasonable limits the proposal is not supported.

The supporting documentation provided in the applicants arboricultural assessments fail to accurately plot trees on-site and in particular has not included all trees that may be impacted upon by the proposed carpark layout. The ongoing health of a number of significant trees within the proposed car park may be compromised resulting in eroding the environmental and significant landscape qualities of the area.

It is considered that the intensity of the proposed use will unduly impact upon the natural and residential amenity of the area. Peer reviews of supporting documentation submitted with the application demonstrates that there are further questions surrounding whether the proposed use in its submitted form can reach an acceptable balance weighing up the competing policies and controls contained within the Banyule Planning Scheme.

Uncertainty surrounding noise abatement measure has been raised causing concern that the use will have a negative impact on the abutting wildlife corridor and the level of disturbance acceptable under Environment Protection Authority requirements for residential area noise under SEPP 1 and SEPP2.

Nonetheless, it is considered that the adaptive re-use and exposure of a heritage (Graded B) State significant building is weighted in favour of the proposed use, however at this time the intensity and likely impacts on the vegetated character of the area mean that the proposal should not be supported at this time.
RECOMMENDATION

That Council having complied with Section 52, 58, 60, 61 and 62 of the Planning and Environment Act 1987, issue a Refusal to Grant a Planning Permit in respect of Application No. P434/2017 /2015 for Buildings and works associated with the proposed use of the land for the purpose of a licensed place of assembly (Function Centre) at 60 Buckingham Drive, Heidelberg on the following grounds.

1. The siting of the proposed building and works specifically those applicable to the proposed car parking are contrary to both the existing and preferred character of the neighbourhood and will have a detrimental impact on the amenity of the immediate abutting residential properties and is contrary to Clauses 15 – Built Environment and Heritage and 15.01-1 – Urban Design, 21.06 - Built Environment, 22.02 - Residential Neighbourhood Character Policy (Garden Suburban Precinct 2) and 22.04 – Non-Residential Use in Residential Zones Policy of the Banyule Planning Scheme;

2. The siting of the proposed building and works specifically those applicable to the proposed car parking are contrary to both the existing and preferred character area, resulting in the eroding of the spacious and well landscaped character of the site. Specifically the proposed buildings and works within the car park will have a negative impact on the visual aesthetics of the of the Significant Landscape Overlay- Schedule 1 (at Clause 42.03) and is contrary to Clauses 15 – Built Environment and Heritage and 15.01-1 – Urban Design, 21.06 - Built Environment, 22.02 - Residential Neighbourhood Character Policy (Garden Suburban Precinct 2) and 22.04 – Non-Residential Use in Residential Zones Policy of the Banyule Planning Scheme;

3. The proposed use, number of patrons, location of car parking and hours of operation would be likely to result in an adverse amenity impact upon local residences by way of noise, would be contrary to Clauses 13.04-1 Noise abatement, 15.01-1 – Urban Design, 17 - Economic development, 21.04 – Land use, 22.04 – Non-Residential Use and Development in Residential Zones and Clause 52.27 – Licensed Premises of the Banyule Planning Scheme;

4. The proposed inclusion of an acoustic wall within the car parking areas is likely to result in an unacceptable impact on the natural environment, specifically having due regard to those tree #20 #21 #22 #23 #25 where the proposed works are sited within the Tree Protection Zone and in turn fails to adequately respond to the objectives of the Significant Landscape Overlay Schedule 1 (at Clause 42.03); and

5. The proposed buildings within the car park fails to reasonably demonstrate compliance with the requirements of the Environmental Significant Overlay(4) at clause 42.01 of the Banyule Planning Scheme specifically in the context of the #283 (Deodora Cedar) within the table section 5- of the schedule 4.
Planning Permit Application: P434/2017
Development Planner: Ms Liz Fleming
Address: 60 Buckingham Drive HEIDELBERG
Proposal: Buildings and works associated with the proposed use of the land for the purpose of a licensed Place of assembly (Function Centre)
Existing Use/Development: Formerly a Single Dwelling- Banyule Homestead (Heritage Building)
Restrictive covenant: N/A
Applicant: Buckingham Drive Pty Ltd
Notification (Advertising): Nil
Notices to surrounding properties
Sign on site
Objections Received: 115
Ward: Ibbott
Cultural Heritage Management Plan (CHMP) required: Yes – the CHMP prepared demonstrates that the areas of limitation that the works may result in land disturbances is with the carpark which has undergone significant land disturbance in the past. This report has been authorised by the relevant WRAP.
Conflict of Interest: In accordance with Section 80C of the Local Government Act 1989, the report officer has no conflict of interest to disclose in relation to this application.
Planning controls: Control
Permit
triggered?
Neighbourhood Residential Zone Yes
Environmental Significance Overlay (ESO) Yes
Significant Landscape Overlay (SLO) Yes
Heritage Overlay (HO) No
Special Building Overlay (SBO) No
Clause 52.06: Car parking
Clause 52.17: Native Vegetation
Policies considered: Clause 17: Economic development
Clause 21.04: Land Use
Clause 21.06: Built Environment
Clause 21.08: Local Places
Clause 22.03: Safer Design Policy
Clause 22.05: Business Plan Policy
Current amendments: Nil relevant
PROPOSAL

The application proposes:

- Use and development of the land as a place of assembly (function centre)
- The function centre would operate between 9am and 10.30pm Monday to Friday and 9am to 11pm Saturday and Sunday. The external areas would not be used after 7pm Monday to Friday and 8pm on Saturday and Sunday
- A total of 160 patrons are proposed to be on site at any time
- Provision of a liquor license to support the use
- Buildings and works to improve the car park, convert an existing garage to a kitchen and to provide acoustic fencing
- Provision of 48 car parking spaces on the land

OFFICER DECLARATION OF CONFLICT OF INTEREST

Section 80C of the Local Government Act 1989 requires members of Council staff, and persons engaged under contract to provide advice to Council, to disclose any direct or indirect interest in a matter to which the advice relates.

Council officers involved in the preparation of this report have no conflict of interest in this matter.

BACKGROUND

There has been much interest over the years in the Homestead, and it is recognised as being a community asset due to its grand stature in such a prominent location overlooking the Banyule Flats and its heritage significance. In 1995 the Homestead was sold and transferred into private ownership. A number of works were then carried out to the homestead to convert accommodate modern day living as a dwelling.

In 2010 the landowner decided to lodge and application an application (our ref.P905/2010) for the subdivision of the southernmost portion of the site and the construction of three additional dwellings, including works within the drip line of protected trees and associated tree removal.

An application for the buildings and works was also pursued with Heritage Victoria for the same development of the land which was granted a heritage permit (Heritage Vic Ref. P14284) subject to conditions. Heritage Permit No. P14284 for a four lot subdivision and conservation works was subsequently granted by Heritage Victoria on the 31st August 2011. However Council refused the associated planning permit application. The Victorian Civil and Administrative Tribunal (VCAT) also found in favour of Council’s position and upheld their decision to issue a Refusal to Grant a Planning Permit.
More recently (over the last 12 months) the current landowners pursued two permit applications with Heritage Victoria. One of the heritage applications was deemed minor works limited to landscaping works within the grounds surrounding the Homestead building and the other that involved more substantial works to the heritage building and external area including the provision for a sizable ‘temporary’ marquee to be positioned on the tennis court in the north-western corner of the site.

Council made a submission to Heritage Victoria that specifically raised the question of procedural fairness particularly in the context in the absence of a planning application for the proposed use of the land for a function centre and a lack of community consultation regarding the carrying out of works particularly when it came to light that the works were in preparation for a use other than a single dwelling and therefore raised concerns of ‘planning-by-stealth’ as well as a case of unlawful tree removal that resulted in infringements being issued.

The heritage application for the more substantive works to the Homestead was withdrawn from Heritage Victoria to pursue this use application with Council. A formal determination of the proposed works to the homestead was not reached by Heritage Victoria and therefore the nature or extent of possible implication to the heritage fabric is not known.

It is however acknowledged that any planning permit cannot be acted upon until such permissions are also obtained from Heritage Victoria. Without these permission the whole pursuit to use the site as a function centre would fall over.

**SUBJECT SITE AND SURROUNDING AREA**

The site is located on the eastern side of Buckingham Drive on the top of the escarpment overlooking the Banyule Flats Reserve to the east. The site comprises an elongated parcel of land with a frontage to Buckingham Drive of 137.6 metres and a maximum depth of approximately 85 metres. The site has a total area of approximately 9,085 square metres.

The site rises some 12 metres from south to north. The two storey historic homestead is located in the northern, more elevated, half of the site within an extensive landscape setting. A 2.4 metre wide drainage and sewerage easement extends along and within the full length of the eastern boundary of the site.

The Homestead enjoys an ‘A’ grade status in the heritage citation and is listed on the Victorian Heritage Register (ref. H926).

The main building was constructed in 1846 with more recent additions made in the late 1990’s.

A more detailed explanation of the site and the Homestead’s history can be found in Council’s Heritage Citation ([Attachment 3](#)).
Figure 1: Site Location - 60 Buckingham Drive, Heidelberg

Source: Exponare :GIS 2017

PUBLIC NOTIFICATION

Formal notification of the application was given by the erection of two site notices on the Buckingham Drive frontage of the site. Letters were also sent to adjoining property owners and occupiers and those parties who previously wrote to Council objecting to the Heritage Victoria application and a notice was placed in the Heidelberg Leader for consecutive weeks:

A summary of the objections received to date are as follows:

- Noise from patrons on leaving premises late at night.
- Noise from patrons in the grounds and associated amplification;
- Undesirable behaviour;
- Lack of parking on site;
- Increased traffic
- Obstructing access for emergency vehicles
- Intoxicated patrons in area;
- Use is incompatible with residential neighbourhood;
- Potential for increased crime
- Significant impact on the heritage buildings;
- Proposed use for a function centre is in appropriate;
- The Homestead should remain to be used as a dwelling;
- Documentation supporting the application is in correct; and
- Loss of property value
REFERRAL COMMENTS

A number of Council Departments have been involved with the guidance of this assessment.

EXTERNAL REFERRALS

None triggered under the Banyule Planning Scheme for the nature of the works.

As already noted there will be the need for the applicants to make application to Heritage Victoria separate to this application for the proposed buildings and works that will be advertised and open for submission to be made pursuant to section 77 of the Heritage Act.

INTERNAL REFERRALS

ENGINEERING SERVICES - TRAFFIC COMMENTS

Referral - Summary of findings- full version found in attachment 2

<table>
<thead>
<tr>
<th>Clause 52.06: No. of spaces</th>
<th>Complies - 48 spaces are required under the planning scheme which have been proposed on-site. Accordingly, it is considered that the parking provided is satisfactory. The development will not be entitled to any parking permits in the event parking restrictions are installed, and every effort should be made to encourage patrons and staff to park onsite.</th>
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<tbody>
<tr>
<td>Buckingham Drive is classified as a local road (residential class 2) in Council's road register. Such roads can be expected to accommodate up to 2,000 vehicles per day. With current traffic volumes are around 371 vehicles per day (and up to 38 vehicles during the peak hour), the projected volumes generated by the use would continue to be within the expected limits. This increase is not considered to be detrimental to the surrounding road network.</td>
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<tr>
<td>Clause 52.06: Design</td>
<td>Design standards 1 – 7 generally compliant with the need to make provision for a disabled parking.</td>
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<tr>
<td>Vehicle Crossings</td>
<td>NA – Existing vehicle crossing to be utilised</td>
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<td>Permit Conditions</td>
<td>Standard condition would have been required has Council supported this application</td>
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DEVELOPMENT PLANNING ARBORIST

Council’s arborist has indicated that further information is necessary to consider the impact of the proposed carpark on protected vegetation. Detailed comments are available in attachment 2.
ENVIRONMENTAL HEALTH

| Environmental Health | Following discussion with Council's Health Department and should Council support the application the following requirements would be necessary and should be included as a condition/notation on any Planning permit. In summary these standard conditions relate to following:
|                    | • Food Act Premises
|                    | • Trade Waste
|                    | • Noise from commercial and industrial premises (café's, factories, non-residential)
|                    | • Residential Noise |

PROPERTY SERVICES

As the land manager of the abutting park lands Council’s Property Services have made recommendation that should be reflected on notes should the application be supported.

ENVIRONMENTAL SUSTAINABILITY

Council’s Environmental Sustainability Coordinator as provided the following comments:

…the potential impacts of noise and light spill on wildlife from the proposed reception centre at 60 Buckingham, please note that Banyule Flats is of State conservation significance for biodiversity.

My recommendation is the inclusion of a permit condition for a dense vegetative buffer on the perimeter of the site facing the Banyule Flats, comprising understorey shrubs from the attached documentation - EVC 55 Plains Grassy Woodland, Sub community, River Re gum Terrace/ Valley.

Please note that I concur with the Arborist’s referral response (D17/92017) regarding the necessity of further detail on tree impacts, noting in particular the presence of two ESO 4 trees on site – IDs 281 and 283…”

If the application was to be supported a condition would require dense low level landscaping as stated above through the means of an amended landscape plan.
**PLANNING CONTROLS**

<table>
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<th>State Planning Policy Framework</th>
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<tbody>
<tr>
<td>Clause 13.04-1 Noise abatement</td>
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<td>Clause 15- Built Environment and Heritage; and</td>
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<td>Clause 15.01-1: Urban Design</td>
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<th>Local Planning Policy Framework</th>
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<tr>
<td>Clause 22.02- Neighbourhood Character Guidelines</td>
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<td>Clause 22.03 Safer Design Policy;</td>
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<td>Clause 22.04- Non- Residential Uses and Development Policy</td>
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<th>Zone</th>
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<tr>
<td>Clause 32.09 – Neighbourhood Residential Zone- Schedule 3</td>
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<tr>
<td>Proposed buildings and works associated with a section 2 use-Planning Permit required use.</td>
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<tr>
<td>Clause 42.01 –Environmental Significance – Schedule 4</td>
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<td>Clause 42.03 – Significant Landscape – Schedule 1</td>
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<td>Clause 43.01 – Heritage – Schedule 13</td>
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<th>Particular provisions</th>
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**TECHNICAL CONSIDERATION**

**CONSISTENCY WITH STATE AND LOCAL PLANNING POLICY**

Clause 17.01-1(Business) of the *Banyule Planning Scheme* has the objective to encourage development which meet the communities’ needs for retail, entertainment, office and other commercial services and provides net community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities.

Clause 21.02-1 has a vision for Economic Development and encourages support of developments of a thriving and sustainable local economy that will contribute to prosperity for Banyule and its people. It is policy (Clause 22.05-3) to promote economic development consistent with community needs.

The use will be an adaptive re-use of a state significant heritage building. In principle this is considered an appropriate use of a heritage building on the basis that it will support its ongoing retention and maintenance into the future. However, the intensity of the proposed use must also be acceptable in terms of the amenity of the surrounding residential area and in turn meet the broader policy objectives of the Banyule Planning Scheme.

The proposed use is considered to be consistent with Clause 15.01 (Built form and heritage) however the need to limit noise generated on the site has called for an acoustic wall to be proposed which is substantive and in proximity to the property abutting to the south.
It is considered that the proposal does not sufficiently meet Clause 21.06 (Built Environment), Clause 22.02 (Residential Neighbourhood Character), Clause 22.03 (Safer Design) and Clause 22.04 (Non-residential use and development in residential zones). Specifically, the detail and key components of this proposal fail to provide a positive contribution to the local urban character of the area which would enhance the public realm while minimising detrimental impact on neighbouring properties. The impacts on the urban environment in this instance outweigh the positive aspects of the proposal which relate to a functional sense of place and cultural identity.

The proposal is also generally consistent with the objectives of Clause 12 (Environmental and Landscape Values) and Clause 21.05 (Natural Environment) as it minimises the loss vegetation (including native vegetation) however the supporting documents do not reasonably substantiate that the design response of the car park and acoustic wall will not unnecessarily impede on the tree protection zones of existing trees on site.

**CLAUSE 32.09 NEIGHBOURHOOD RESIDENTIAL 1 ZONE (NRZ)**

The proposed use is not prohibited nor is it uncommon to have uses other than residential uses within residential zones. However this has to be acceptable having due regard to the local neighbourhood context. Set out at clause 32.09-12 of the Neighbourhood Residential Zone is a series a of considerations that generally aligns with the objectives of Council’s local policy at Clause 22.04 of the Banyule Planning Scheme (Non- Residential Use Policy).

The use is not one that should be overlooked as these types of uses are realistic and are mostly accommodated on larger parcels of land and within larger existing buildings. The site was previously used as an art gallery with associated functions until the property transferred to private ownership in 1995. Of note, art gallery is a use that is also nested within the hierarchy of places of assembly defined by the planning scheme.

The number of patrons and proposed hours of operation have the potential to have an adverse amenity impact upon the neighbouring dwellings to the north, and south of the site. That being said this is a matter that could be minimised through the implementation of restrictive conditions. Although it is acknowledged that this would seek to require a significant variation in the proposed hours, patron numbers and the inclusion of other supporting material to provide further substantive evidence that the extent and nature of the works in the carpark would not have an impact on the vegetative character of this section of the site and that the existing trees would continue to remain in good health and make a contribution to the area.

Furthermore, there has been doubt raised in relation to the details of the acoustic wall and if it is to be effective in ameliorating noise impacts and the likely resultant impacts this wall is likely to have on other areas of consideration i.e. visual dominance and the health of significant trees. Due consideration has been made through the referral of an acoustic report both internally and externally for review.
CLAUSE 22.04: NON-RESIDENTIAL USE AND DEVELOPMENT IN RESIDENTIAL ZONES POLICY

In principle the use is considered acceptable however there are significant shortcomings evident in the supporting documentation submitted by the permit applicant raising doubt that the proposal in its submitted form can co-exist in the landscaped residential setting at the intensity proposed for the reasons outlined below.

Preferred Location

It is considered the non-residential use is located where there is a demonstrable need for the proposed facility or service. There are no suitable nearby commercial centres that will be able to accommodate this use given the nature of use and its requirements for a large land area. The use will not isolate dwellings from the surrounding residential area.

Siting and Design

The proposed building is a suitable alternative use however the scale and intensity of such a use is considered to be problematic recognising that substantive works would be required to take place in order to accommodate 160 patrons internal to the building. In the absence of a Heritage Victoria permit there is no certainty that the proposed works would be supported, this however, is a matter for Heritage Victoria to consider and it is noted that a change of use could not take place on site until these permissions were granted.

Furthermore, the Homestead is made up of many individual rooms over two levels. The ground floor future works to be considered by Heritage Victoria, seek to make one of the rooms to be a size of 107sqm. Under the Buildings Regulation a use of this nature is required to allow a floor to patron ratio of 1sqm to 1 patron. It is not clear how the room configuration of the building could be adapted to allow a function of 160 patrons particularly recognising that functions are normally either seated or standing in the one area. Noting that the largest area is 107sqm a considerable number of patrons would need to be reduced to see that the applicable Building Regulations are met.

It is also evident that the placement of the acoustic wall as proposed with the supporting acoustic report in proximity to the neighbouring residential property is intrusive and unacceptable particularly in the context of the neighbouring secluded private open space of the southern abutting property and possibly the Banyule Flats.

In addition the placement of such a substantial wall for the proposed length of the southern boundary is inconsistent with the objectives of the Residential Neighbourhood Character Policy with much of this proposal not applicable to the nature of the proposed works given the applicable permit triggered. However, the suggested scale and placement of the acoustic wall is very much at odds with the prevailing character of the area which is well landscaped and free of walls to the height constructed with proximity to a side or rear property boundaries.
Landscape and Amenity

Indicative landscaping on the development plans demonstrates that adequate areas will be available around the site to provide landscaping. The design and layout of the proposed car park however has not demonstrated that the extent of works reasonably protects the health of the trees within this area nor is there any evidence that the proposed 3 metre acoustic wall can be constructed in its proposed location along the southern boundary without compromising a number of trees where the wall would need to encroach the tree protection zones of trees that are sought to be retained.

Council’s arborist has requested that the applicant resolve this. In the absence of any certainty that the development will not cause detriment to a significant number of trees that are protected by the Environmental Significant Overlay and Significant Landscape Overlay the proposal should not be supported. Furthermore should the acoustic wall result in the loss in canopy planting then this is not an appropriate option. It will compromise the contribution that the building makes to both the heritage importance of the site and the landscape aesthetic that continues to be enjoyed from the public realm.

Therefore, the suggestion of acoustic walls and landscape buffers is likely to conflict with the importance of the relationship and the value the Homestead contributes to the landscape setting which was key in the VCAT findings under the previous townhouse development proposal (referred to earlier within this report) that subsequently was Refused. Emphasis was placed on the Homestead’s setting and the impacts the former proposal was likely to have on the area and as a result failed to meet the objectives of the Significant Landscape Overlay.

This policy also provides that non-residential uses should not adversely affect the amenity, privacy or the convenience of nearby residents by way of noise, traffic, parking, lighting, odours, disturbance associated with hours of operation, or loss of security. Nonetheless, it is noted that a noise and amenity plan could be required by condition.

Arboricultural considerations

Council’s arborist has assessed the vegetation to be removed from the site and the impact of the proposed works upon the vegetation to be retained.

The assessment of the trees appears not to have taken into account the environmental and landscape values of the trees. Whilst no trees are proposed for removal the encroachment into tree protection zones may result in the demise of trees and require further planning permissions. The loss of vegetation will have a detrimental impact upon the visual and landscape amenity of the site and surrounding area. This would be contrary to the objectives of the Significant Landscape Overlay.

In terms of the trees to be retained, concern has been expressed regarding the extent of development encroachment into the tree protection and structural root zones of these trees and the likely impact such activity will have on their future health and stability. As identified within the Internal arboricultural assessment outlined above, concern has also been expressed in relation to the proximity and nature of works to trees and the likely future pressure for lopping and removal.
Significantly, the Bunya Bunya Pine which is located on the northern side of the driveway is listed in Council’s Significant Trees Register as Tree 281 and together with a second tree on the property, is the basis for the site being covered by an Environmental Significance Overlay. Council’s arborist has previously expressed concern that buildings and works are proposed over a significant extent of the tree protection zone of this tree and that no assessment of the impact of the proposed works upon this tree has been made in the applicant’s arborist report. A copy of the data sheet on this tree from Council’s Significant Trees Register is shown in attachment 5.

For the reasons outlined above, the proposal is considered to have an unacceptable impact upon vegetation on the site.

In light of the above comments and in the absence of the necessary reports and supporting evidence to reach an informed conclusion that the trees that exist are not impacted upon a cautionary approach should be taken. If the proposal was to be supported then this would have resulted in the need to re-surface the carpark in Lilydale toppings only and there would be no excavation, or change in grades of the existing natural ground level.

A Tree management plan would have also been required to see that the trees in question are protected during the clearing of the surface to be utilised by way of a car park had Council been in the position of supporting the application with the number of car parking spaces proposed.

Traffic and Car Parking

- **Car parking should be located at the side or at the rear of the property.**
- **Car parking should not dominate the development or street frontage.**

Whilst the site accommodates an existing car park this has become redundant over time and grown over. The area nominated for the purposes of a carpark is in the same location as the former carpark when the site was host to other non-residential uses.

PARTICULAR PROVISIONS

**CLAUSE 52.06 CAR PARKING**

Pursuant to Clause 52.06-2 Provision of car parking spaces, prior to a new use commencing the car parking spaces required under Clause 52.06-5 must be provided on the land, or a permit granted allowing a reduction in the required spaces.

Table 1 of Clause 52.06-5 Number of car spaces required requires 0.3 car spaces to be provided to each patron permitted at a Place of Assembly. Council’s Traffic Engineer has confirmed that the application specifies a total of 160 patrons which generates a car parking requirement of 48 spaces. It is implied that this rate for this type of use includes staff numbers and deliveries.
Council’s Traffic Engineer has advised that the number of car parking provided meets the statutory requirements and whilst there may be an increase in the number of traffic movements experience along Buckingham Drive Council’s Traffic Department are satisfied that the total number of projected volumes will not exceed those that are expected to be accommodated on a classified local street (residential class 2) which under the guidelines for roads it is identified as being up to 2000 movements.

Future road treatments and car parking restrictions on street are likely should there be a commercial use occupying the premises in which those who visit the site would not be permitted to park on the street in the absence of a residential parking permit.

In response to setting the proposed acoustic wall away from the southern boundary and providing for additional landscaping between the southern property boundary and the acoustic wall, this would have required the deletion of all 17 car parking spaces closest to the south boundary resulting in an overall reduction in car parking from 48 to 31 spaces and in turn seeing that the numbers of patrons reduced to 103 patrons to ensure there is no waiver of car parking pursuant to clause 52.06. It is also noted that a disabled space would have been required as would a nominated space for deliveries, therefore allowing for no more than 100 patrons on-site.

**CLAUSE 52.27 LICENCED PREMISE**

Pursuant to **Clause 52.27**, a permit is required to use land to sell or consume liquor if a licence is required under the Liquor Control Reform Act 1998. In this case the application is for a General Liquor Licence.

A premises licence is sought which would authorise the consumption of liquor on the premises as defined by the ‘red line’ both on and off the licensed premises. Pubs, hotels and taverns would normally hold a general license. The proposed trading hours fall within the hours that the Victorian Commission for Gambling and Liquor Regulation indicate as ordinary trading hours for a license.

The purpose of Clause 52.27 is:

- To ensure that licensed premises are situated in appropriate locations, and;
- To ensure that the impact of the licensed premises on the amenity of the surrounding area is considered.

The decision guidelines of Clause 52.27 direct attention to the impact of the sale and consumption of alcohol on the surrounding area along with hours of operation and patron numbers.

An important consideration in this assessment is the impacts from the use on the abutting residential properties and the eastern abutting parklands Banyule Flats at the rear of the building on the surrounding properties as the proposed redline includes much of the gardens that surround the Homestead Building of the site.

The size of the indoor area (within the Homestead) is constrained with the largest of the spaces proposed to be a ball room of 107sqm and it appears that the rear yard may be an attractive option to the operator to use for patron use particularly for the proposed number of patrons that could reasonably be accommodated within the building.
Noise impacts on the nearby residential area have been considered by an acoustic report prepared and submitted on behalf of objector parties and has genuinely raised concern in regard to amplified music, speaker/ presenters and noise generation in and around the carpark due to the arrival and leaving of patrons. Council has also engaged the expertise of SLR Consulting to review the submitted documentation and have concluded that there aspects of the proposal that require further consideration particularly in light of the unfavorable findings that are summarised in Attachment 6.

Outdoor smoking may also cause detrimental impact on nearby residential rear yards due to the short distance between the site and the Residential Zone. This in turn would result in the opening of doors causing internal noise within the venue to emanate externally.

It is considered that had the limitation of the concerns been in the context of proposed hours of operation, it is likely that the application could have been supported with a reduction and restriction to a maximum of 100 patrons and a limit to only one function a day including the entering in to a Noise and Amenity Action Plan.

The hours would have been restricted to the following hours of operation which would have also extended to the ability to consume liquor on the premises between the following hours:

- Monday to Friday and Sundays* (9AM-6PM)
  (Both in internal and in the grounds external to the homestead building);
- Saturdays 9AM-11PM
  (until 8PM in the grounds external to the homestead building).
- * Note: Sundays maybe use until 10pm where a public holiday may fall on the following Monday.

CONCLUSION

The proposed development is not consistent with State and Local Planning Policies, including Council’s non-residential use and development in residential zones policy and objectives of the Residential Neighbourhood Character Policy of the Banyule Planning Scheme. The proposed operation hours and intensity of use is likely to have an unreasonable detrimental impact on the subject land, the environment, amenity of surrounding land uses and the vegetated character of the area. The extent and nature of the impacts cannot be supported in its current form.

ATTACHMENTS

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<td>6</td>
<td>Acoustic Review (Council Engaged) - Summary of Findings</td>
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5.2 40 UPPER HEIDELBERG ROAD, IVANHOE - PLANNING APPLICATION FOR A MIXED USE DEVELOPMENT COMPRISING 111 DWELLINGS, CAFE AND COMMERCIAL FLOORSPACE (P1498/2016)

Author: Nick Helliwell - Major Developments Planner, City Development
Ward: Griffin

EXECUTIVE SUMMARY

The proposal seeks approval to construct a mixed use development of up to 10 storeys above ground level that will have a maximum height of 36.03m, on land at 40 Upper Heidelberg Road, Ivanhoe.

The building would include a food and drink premises (café) of 270sqm, a commercial space of 450sqm and 111 residential apartments. Five basement levels would provide car parking for 232 vehicles (64 spaces more than the standard Banyule Planning Scheme requirement), 150 bicycle spaces (115 spaces more than the standard requirement), 25 motorcycle parking spaces and associated building services. It is also proposed to waive the requirement for a loading bay associated with the café use.

The proposal is a significant departure from the preferred height of 19m and built form setbacks to Upper Heidelberg Road and the Hurstbridge railway line that are contained within the Design and Development Overlay, Schedule 11 and its reference document, the Ivanhoe Structure Plan 2012 (Revised December 2014) under the Banyule Planning Scheme.

Whilst the design of the proposal is considered to have architectural merit, it is not considered that the design merit outweighs the proposals failure to meet the height, built form, landscape, streetscape and street level activation objectives of the Design and Development Overlay, Structure Plan, and the considerations under the Commercial 1 Zone.

For these reasons the proposal is considered unacceptable.

RECOMMENDATION

That Council having complied with Section 52, 58, 60, 61 and 62 of the Planning and Environment Act 1987, resolves to issue a Notice of Decision to Refuse a Planning permit in respect of Application No. P1498/2016 for “buildings and works for the construction of a mixed use development between eight and ten stories in height; use of the land as dwelling; waiver of the loading bay requirements of Clause 52.07 of the Banyule Planning Scheme and creation and alteration of access to a road in a Road Zone, Category 1”, at 40 Upper Heidelberg Road, Ivanhoe, on the following grounds:
Strategic context

1. The limited extent of commercial use at street level facing Upper Heidelberg Road is considered to be contrary to the mixed use role of the Ivanhoe Activity Centre contrary to Clauses 17 (Economic development), 21.04 (Land use), 21.08 (Local Places) and the purpose of the Commercial 1 Zone at Clause 34.01 of the Banyule Planning Scheme.

Siting, design and neighbouring residential amenity

2. The siting and design of the proposed development will have an overbearing visual impact upon neighbouring properties and the views of the site from the surrounding area and will have an adverse impact upon local visual amenity contrary to Clauses 15.01-1 (Urban Design), 21.04-1 (Housing), 21.06 (Built Environment), 21.08 (Local Places) and 43 (Design and Development Overlay, Schedule 11) of the Banyule Planning Scheme.

Mass, bulk, scale and neighbourhood character

3. The mass, bulk and scale of the built form of the proposal is contrary to the preferred character of the neighbourhood, particularly as envisaged under the Ivanhoe Structure Plan, and would erode the spacious and well landscaped character of the area and have an adverse visual impact on the streetscape character contrary to Clauses 15.01-1 (Urban Design), 21.04-1 (Housing), 21.06 (Built Environment), 21.08 (Local Places), and 43 (Design and Development Overlay, Schedule 11) of the Banyule Planning Scheme.

Open space/landscaping

4. Inadequate building setbacks and landscaping space has been provided within the Upper Heidelberg Road and Hurstbridge railway line site boundaries to provide canopy tree planting and landscaping to adequately soften views of the development from the street and neighbouring land and enhance the landscape character of the area contrary to Clauses 15.01-1 (Urban Design), 21.04-1 (Housing), 21.06 (Built Environment), and Clause 43 (Design and Development Overlay, Schedule 11) of the Banyule Planning Scheme.

Car parking

5. The oversupply of car parking on the site is contrary to the transport sustainability objectives of Clauses 21.02 (Vision and Strategic Framework), 21.04 (Land Use), 21.07 (Transport and Infrastructure) and 22.05 (Environmentally Sustainable Development) of the Banyule Planning Scheme.
**THE PROPOSAL**

The application proposes the construction of a mixed use development of up to 10 storeys in scale, noting that the ground floor level has a double storey scale with a floor to ceiling height of 7 metres. The building would have a maximum height to Upper Heidelberg Road of 28.23 metres and to the Hurstbridge railway line of 36.03 metres above ground level to the roof of the structure. This does not include the height of roof top plant and equipment, including a kitchen exhaust for the café.

The proposal comprises the following:

- Food and drink premises (café) with an area of 270sqm at ground level;
- Commercial floor space with an area of 450sqm at ground level;
- A public piazza/civic space with an area of 1,180sqm at ground level;
- 111 dwellings comprising 5 x 1 bed, 96 x 2 bed and 10 x 3 bed apartments;
- Car parking for 232 cars, 150 bicycles, 25 motorcycles and including 111 storage rooms within five basement car parking levels.

The built form of the proposal comprises a single ‘A’ shaped structure with a café, commercial space and pedestrian and vehicle entry in the northern part of the site.

A large publically accessible open space area is proposed in the southern apex of the site. The shape of the building inherently provides for two light wells which are open to the sky and extend the full height of the building.

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**Planning Permit Application:** P1498/2016  
**Development Planner:** Nick Helliwell (Major Projects Planner)  
**Address:** 40 Upper Heidelberg Road, Ivanhoe  
**Proposal:** Buildings and works for the construction of a mixed use development of between eight and ten stories in height; use of the land as dwelling; waiver of the loading bay requirements of Clause 52.07 of the Banyule Planning Scheme and creation and alteration of access to a road in a Road Zone, Category 1  
**Existing Use/Development:** Vacant land  
**Applicant:** Planning and Property Partners Pty Ltd  
**Zoning:** Commercial 1 Zone  
**Overlays:** Design and Development Overlay, Schedule 11  
Vegetation Protection Overlay, Schedule 3  
**Notification (Advertising):** Two signs on site, notices to surrounding property owners/occupiers and notice in the local newspaper  
**Objections Received:** 43 (at the time that the report was prepared)  
**Ward:** Griffin
The northern elevation of the building is constructed to the site boundary up to the sixth floor with the two levels above this stepping back between 4.1 and 21 metres (approximately). The eastern building elevation is setback from the boundary with the railway line between 0 metres at ground floor level and 5.3 metres at the top level. The western building elevation is setback to Upper Heidelberg Road 0.6 metres at ground level and up to 5 metres at top level. Due to the slope of the land across the width of the site from east to west, the building scale ranges from 8 to 10 storeys. The basement car park is accessed from a single entry from Upper Heidelberg Road.

The proposed café faces on to Upper Heidelberg Road and the public piazza/civic space with the lobby entry to the commercial space and apartments located beyond.

The architecture of the building is contemporary and when viewed from Upper Heidelberg Road comprises an elevated built form rising up on slender pillars above the ground level piazza, pedestrian entry and commercial uses. Above this is the central section of the building which comprises five levels with a recessed upper form over two levels. The building has a visually prominent prow facing south with each of the eastern and western elevations displaying different architectural treatment.

A variety of materials are used in the design including glass laminated brass mesh, anodised aluminium, steel and perforated concrete.

Onsite hard and soft landscaping is proposed in the ground floor terrace area which includes café seating, communal tables and seating areas and raised planting areas.

A copy of the architectural plans and shadow diagrams form Attachment 1 to this report.

OFFICER DECLARATION OF CONFLICT OF INTEREST

Section 80C of the Local Government Act 1989 requires members of Council staff, and persons engaged under contract to provide advice to Council, to disclose any direct or indirect interest in a matter to which the advice relates.

Council officers involved in the preparation of this report have no conflict of interest in this matter.
BACKGROUND

The subject site was previously used for the purpose of a petrol station and motor mechanic but is currently vacant. It is noted that there have been a number of permits issued in relation to the site. The most relevant planning history is as follows:

- Planning Application P285/00 for an eight level apartment building with six levels above Upper Heidelberg Road and two basement levels was refused by Council on 27 November 2000. The applicant sought a review of Council’s decision at the Victorian Civil and Administrative Tribunal (VCAT). The Tribunal supported Council’s refusal of the application on the basis that the scale and bulk of the proposal was not appropriate in the context of the site having regard to the relevant policies within the scheme. However, they concluded that a modified proposal with a reduced scale which could/would sit more comfortably within the topography and serve as a gateway treatment to mark the entry to the Ivanhoe Shopping Centre would be possible while still making a positive contribution to urban consolidation policies.

- Planning permit P760/2006 was issued at the direction of VCAT on 6 August 2007. The permit allows for buildings and works for the construction of multi-level building including three levels of basement car parking, 69 dwellings located over three levels and commercial and retail floor space at street level. The specific permit triggers included:
  - Use of the premises for dwellings.
  - Reduction in the standard car parking requirement associated with use of the land for dwellings and shop.
  - Waiving of the requirement for a loading bay.
  - Alteration to vehicular access to the site.

This permit has been extended three times with the final extension being granted on 17 August 2015. The development must now be commenced by 6 August 2017 and be completed by 6 August 2019. The use of the land must also commence by 6 August 2019. No plans have been endorsed under the permit.

SUBJECT SITE AND SURROUNDING AREA

The subject site is located on the east side of Upper Heidelberg Road at the southern end of the Ivanhoe Shopping Centre. The site is triangular in shape and has the following dimensions:

- Northern boundary: 43.38m
- Western boundary: 113.54m (Upper Heidelberg Road)
- Eastern boundary: 119.80m (Hurstbridge railway line)
- Site area: 2,455m²
The land is sited on a ridgeline that extends along Upper Heidelberg Road and slopes up to the north and west. The site itself has a fall of 7.7 metres from Upper Heidelberg Road to the railway line.

The site also contains a 1.22 metre wide drainage easement which is located approximately central to the site and runs parallel with the northern site boundary.

The site was previously used for the purpose of a petrol station and associated mechanical repairs workshop. The buildings which occupied the site for the petrol station have been removed.

Except for a few small trees and shrubs the site is largely overgrown with grass and weeds.

To the north of the site is a three storey brick building which includes two levels built to the front and side boundaries and is used as offices. The third level is recessed substantially from the front boundary. Basement car parking underneath and at the rear of the building is provided using the slope of the land.

Opposite the site on the north west corner of Upper Heidelberg Road and Waverley Avenue is the Ivanhoe Catholic Church. This is an angular concrete building rising to three storeys at its highest point and with a copper steeple forming one of the highest structures at the southern end of the Ivanhoe Shopping Centre.

On the south west corner of Upper Heidelberg Road and Waverley Avenue at 19-33 Upper Heidelberg Road is a single storey brick building currently used as an aged care facility. Planning permission was recently refused for a part five, part six storey building. An appeal to VCAT has been lodged however at this stage no hearing has been held.
To the south of the nursing home on the west side of Upper Heidelberg Road are residential buildings which generally provide a substantial front setback planted with extensive trees, shrubs and lawn.

To the east of the railway reserve is a residential area which is generally downhill from the subject site. The dwellings situated to the east of the site are located on Waterdale Road and Lower Heidelberg Road. These dwellings vary from single-storey to double-storey and are predominantly from the interwar to post-war era.

PUBLIC NOTIFICATION AND CONSULTATION

This application was advertised by way of two signs being erected on the Upper Heidelberg Road frontage of the site, notices sent to surrounding owners and occupiers and a notice in the local newspaper. Given the scale of the proposal, the public notice period was extended to three weeks, being more than the statutory requirement.

As part of the public notification process, two public information sessions were held and were attended by approximately 150 community members. The public information sessions provided an overview of the proposal, an opportunity to ask questions about the proposal and process and to view the supporting information.

Residents were also given the opportunity to view the proposal on Council’s engagement and consultation platform ‘Shaping Banyule’.

To date, one letter of support for the proposal has been received and a total of 43 objections. Details of the objections include:

- Excessive height, given that the height is above the preferred structure plan height
- Lack of landscaping to soften views of the building
- Unsightly windswept piazza including issues with its future use and management
- Increased traffic and car parking issues
- Increased noise from additional residents
- Amenity impacts from overshadowing and overlooking
- Loss of views to Mount Dandenong
- Impacts during construction

Notice of the proposal was also given to VicTrack and Yarra Valley Water. VicTrack included comments within a referral response from Public Transport Victoria, while Yarra Valley Water raised no objection to the proposal.
REFERRAL COMMENTS

The application was referred to VicRoads and Public Transport Victoria as required by Section 66 of the Banyule Planning Scheme. Internal referral comments were also sought from Council’s Landscape, ESD consultant, Arborist, Urban Designer, Community Safety Officer and Engineering Services. A summary of the comments is included below:

VicRoads

VicRoads raise no objection subject to a parking plan for couriers and delivery vehicles to service both the proposed commercial uses on the site and alterations to the accessway to prevent right hand turn movements to and from site to Upper Heidelberg Road along with the appropriate directional signage that is to be displayed.

Public Transport Victoria

Public Transport Victoria (including VicTrack) raised no objection subject to conditions to minimise disruption to services and impact upon the operation of the public transport infrastructure around the site.

Landscape Architect

Council’s Landscape Architect raised concerns in relation to the lack of landscaping on the eastern elevation to create a foil to views from the east; appropriateness of the two species of deciduous trees selected with regard to windy, hot and shallow growing conditions; limited space for canopy tree planting within the site; and lack of detail of planting area depths.

ESD

Council’s ESD adviser raised no objection subject to conditions requiring the ESD commitments to be shown on plan where possible and included in an updated Sustainable Management Plan.

Arborist

Council’s arborist raised no objection as the eight trees on the site are low retention value, weeds and not protected under the Vegetation Protection Overlay applicable to the site.

Urban Designer

Council’s consultant Urban Designer has suggested key refinements to reduce the overall building height to 7 storeys (maximum height 25m); upper level setbacks to a minimum of 4.5m at level four, five and six to the northern boundary; improved legibility of residential entry from Upper Heidelberg Road; an additional retail/commercial space to the south of the public open space; and improved legibility of pedestrian access to the commercial tenancy.
Strategic Planning

Council’s strategic planning team outlined the need to activate street frontages with ground floor uses, the need for more retail floor space and the need for breaks in the built form with respect to long range views.

Community Safety

Council’s Community Safety Officer had not raised any concerns at the time the report was prepared.

Engineering Services

Council’s Engineering Services unit acknowledge the location of the development within the Ivanhoe Activity Centre and its proximity to public transport infrastructure. Concerns regarding the oversupply of car parking above the requirements of Clause 52.06 of the Planning Scheme and the negative impact this would have on achieving sustainable transport objectives have been raised.

No objection was raised in relation to drainage subject to conditions to address onsite detention of stormwater.

PLANNING CONTROLS

The planning controls applicable to the site are outlined in Table 1 below:

Table 1: Applicable Planning Controls

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<th>Control</th>
<th>Clause</th>
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<tr>
<td>Commercial 1 Zone</td>
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POLICIES CONSIDERED

The relevant Planning Scheme Policies are outlined in Table 2 below:

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<td>Housing (including sub clauses)</td>
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<td>Safer Design Policy</td>
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<tr>
<td>Environmentally Sustainable Development</td>
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RELEVANT AMENDMENTS

Amendment VC136 was gazetted on 13/04/2017. This introduced new design standards for apartment buildings through the introduction of Clause 58 of the Banyule Planning Scheme. It is noted that this clause has transitional provisions and therefore does not apply to the assessment of the current application given that the planning application was lodged with Council before the amendment date.

TECHNICAL CONSIDERATION

In assessing the proposal, the following specific considerations require discussion:

- Suitability of the land use for the site
- Height, form and detailed design of the building
- Compliance with the Guidelines for Higher Density Residential Development
- Traffic and parking
- Environmentally Sustainable Design outcome

Suitability of the land use for the site

The site presents an appropriate opportunity to provide a range of land uses on a site in a Major Activity Centre which has been vacant land since 2006/7. The proposed range of uses responds to a number of key elements of the Municipal Strategic Statement including objectives relating to commercial and residential development.
Whilst the uses proposed are considered appropriate for the site, increased retail/commercial activity should be provided at ground level facing Upper Heidelberg Road. Council’s 2014 Ivanhoe Structure Plan puts the subject site in the Centre’s core, with the Vision for the Centre’s core including a focus on retail activity for ground floors, with offices and/or apartments above. This vision picks up on the Government’s 2005 Activity Centre Design Guidelines (Department of Sustainability and Environment) which highlight a need for activated street frontages along Upper Heidelberg Road, including at the subject site.

There is a need to support retail and commercial growth in the Centre. In this respect, the Commercial 1 Zone and the Structure Plan envisage the extension of the traditional commercial strip south to the railway bridge. This outcome calls for activated street frontages to support retail (and potentially commercial) floor space growth within ground floors that have frontage onto the street.

The need for ground floor retail floor space growth has recently been reviewed with a new Economic Information Base for Banyule’s Activity Centres. A recently produced 2017 Activity Centres Assessment (draft May 2017) has reconfirmed that local population growth will generate demand for an additional 11,500sq.m of retail floor space across the Centre.

Given the Structure Plan’s direction to focus retail growth along and near Upper Heidelberg Road, this projection adds further weight to achieving more ground floor retail on the subject site than is currently proposed. If this is not achieved, and because there are limited opportunities to grow the centre’s retail core beyond the Commercial zone, there will be increased pressure for non-residential uses in abutting residential areas. This outcome conflicts with Council’s Structure Plan and increased retail/commercial activity is required at ground level facing Upper Heidelberg Road.

For this reason it is considered that the land use mix is inappropriate and does not provide for a suitable level of commercial activation at ground level.

**Height and form of the building**

The site is located within Precinct 5 (Upper Heidelberg Road) at Part 11 of the schedule to the Design and Development Overlay. The proposal, being 28.23 to 36.03 metres in height to the roof of the building (nine to ten storeys in scale), does not adequately respond to the setting of the site and the policies and planning scheme provisions which apply with respect to the height and form of the building. The roof height is therefore between 9 and 17 metres (approximately 3 to 6 storeys) higher than that anticipated by the Design and Development Overlay provisions.
The proposal encroaches into the preferred 3 metre ground level building setbacks intended for landscaping by up to 2.4 metres along both Upper Heidelberg Road and the railway line. On these site boundaries, the basement levels of the building extend up to the site boundary leaving no in ground planting space for trees and landscaping to soften the built form. The northern boundary is permitted to be built to the boundary and the design does this. Above 9 metres in height (second floor level), the Upper Heidelberg Road elevation provides a zero to 3.5 metre setback through the height of the building where a 6 metre setback is required under the DDO. The eastern elevation provides a 0 to 6 metre setback where a 3.5 metre setback is required. The northern elevation is required to be setback 3 metres where a setback of zero to 4.5 metres is provided.

The proposed height and non-compliance with built form setbacks was raised as a concern early in the assessment of the proposal and the applicant has sought to continue with the original proposed design. The height and built form is not considered to represent an acceptable outcome with regard to the decision guidelines of the Design and Development Overlay and the Built Environment requirements for Precinct 5 (Upper Heidelberg Road) for the following reasons:

- The greater height, built form and lack of onsite landscaping space results in an outcome that is unduly bulky and visually intrusive which does not allow the development to make a transition to neighbouring dwellings or the surrounding area;
- The site itself has a fall to the east of 7.7 metres and the built form does not step down with the slope of the land, exacerbating the overall height;
- The design does not allow for enhanced vegetation and landscape improvements of the site, including the planting of new canopy trees;
- Upper levels do not provide visual interest with balconies that are visually recessed from adjoining streets and laneways;
- The street level frontage is not sufficiently activated and engaging;
- The eastern side wall above street level that is visible from the public domain has not been designed to create an attractive façade to the same degree as the Upper Heidelberg Road façade.

In addition, it is a broad policy objective for the Ivanhoe Activity Centre to encourage new development to take advantage of the topography of the centre and long range views, including to the Dandenong Ranges and surrounding landscape. The proposal has sought to achieve this outcome through the provision of the double storey height plaza within the undercroft of the southern part of the building. Whilst this is considered to be an interesting design response, it is not considered that this suitably achieves the outcome envisaged and only preserves this view for people in the immediate frontage of the site.

A detailed assessment against the Design and Development Overlay, Schedule 11 is included as Attachment 2.

Guidelines for Higher Density Residential Development

In assessing the acceptability of the more detailed design elements of the proposal, including such matters as design and development equity, consideration of the Guidelines for Higher Density Residential Development is required. A detailed assessment against the Guidelines is included as Attachment 3.
The proposal is not considered to meet a number of key components of the Guidelines including neighbourhood character, height and massing and street setbacks. The proposal is therefore considered to be contrary to the Guidelines.

**Traffic, car and bicycle parking**

The car parking rates under Clause 52.06 of the Banyule Planning Scheme generate a requirement for 168 spaces. This includes 101 spaces for the 1 and 2 bed dwellings, 20 for the 3 bed dwellings, 22 residential visitor spaces, 25 spaces for the commercial floor space (based on an office car parking rate) and 10 spaces for the cafe.

The proposal includes 232 car parking spaces and therefore generates an oversupply of 64 car spaces. Whilst the design of the car park is considered acceptable subject to conditions, the oversupply of car parking within an Activity Centre is not considered to be a good outcome in terms of traffic movements and congestion and is not supported.

Clause 52.34 requires the provision of 35 bicycle parking spaces to be provided on the land. The proposal includes 150 spaces.

Whilst the oversupply of 115 bicycle parking spaces is welcomed and does support sustainable transport objectives by promoting greater use of alternative transport modes, this oversupply does not however outweigh the oversupply of car parking and the impact this would have on the road network.

In terms of the car park layout, there are some design and layout modifications required which would reduce this figure by 10 spaces. These could be included as conditions if a permit were to be issued.

The vehicle access and generation from this proposal has been assessed by VicRoads and considered to be able to be accommodated within the surrounding road network without issue subject to a right turn ban into and out of the site.

**Sustainability**

Clause 22.05 of the Banyule Planning Scheme requires that developments achieve best practice in environmentally sustainable design. The applicant has provided a Sustainability Management Plan which is considered acceptable and highlights the key initiatives being:

- All dwellings will be naturally cross ventilated;
- Room floor depths to habitable rooms allows good daylight access to all living areas;
- Average 6.8 Star NatHERS rating across all apartments;
- Centralised gas hot water system;
- 25Kw solar panel system on the roof of the building;
- Individual metering for hot/cold water, electricity and communal areas;
- Water efficient fixtures and fittings;
A STORM report that demonstrates best practice has been submitted that relies on a minimum 1,678m² of roof connected to a minimum 30,000 litre tank and connected to toilet flushing in all toilets onsite (equivalent 270 beds/occupants) and connected to landscape irrigation;

•  Good shading throughout the development;
•  150 bicycle parking spaces provided for residents, staff and visitors.

Further improvement opportunities include using a mix of concrete with recycled material components and recycled steel throughout the project and FSC accredited sustainable timber. However overall it is acknowledged that the proposal represents a very good environmentally sustainable design outcome.

**Objector concerns**

The majority of the objector concerns have been addressed in the report and attachments, however further discussion is required on the following matters:

**Overshadowing**

The proposal, albeit taller than the current surrounding context, will not unreasonably overshadow any sensitive property. The shadows cast will primarily be towards commercial buildings. The additional shadow cast where this development exceeds the structure plan height, will be immaterial to the surrounding properties.

**Increased noise from future use and development of the site**

An acoustic assessment of the proposal was undertaken to support the proposal. This assessment focussed on the internal acoustic treatment for the building but also refers to noise associated with the future use of the land and the impact of the building on surrounding noise levels. Whilst no detailed assessment was undertaken of the impact of the building on existing noise, this report recognises that the building will lead to a potential change in the environmental noise levels on the surroundings due to possible noise reflections from the façade. Based on the irregular façade treatment of the elevations, the report considers that this will act as an acoustic diffuser for the noise impinging on the façade, thereby minimising the magnitude of any acoustic reflection to neighbouring residences.

In terms of the potential noise impact of the proposed commercial use on neighbouring land and residences, the land is located within the Ivanhoe Activity Centre and is identified for both residential and commercial use in the Planning Scheme. Any potential adverse impact from the commercial use of the land would impact those dwellings on the site and other users of the land before affecting land and users further afield. Having said this, Council should consider the need for conditions to control the potential amenity impacts of the commercial use of the land if a permit was to issue. This would also apply in relation to building services such as ventilation and cooling/heating.
In relation to the potential noise impact from having more dwellings or residents in the proposed building, it is a well-established planning principle that possible noise from residents is not a proper planning basis to refuse a proposal. The use of the land is a legitimate and proper use of the land which is envisaged under the zone. This is supported by State and Local Planning Policy. Consequently, excessive resident noise and poor behaviours are regulated through other jurisdictions such as Council’s Local Laws or the Victoria Police. Possible noise from new residents is not a reason for refusing this proposal.

Traffic and car parking impacts during construction

Should a planning permit be issued for the development, these matters would be controlled through Council’s General Local Law No.1 (2015) and any Construction management Plan approved for the development.

CONCLUSION

It is considered that the site provides a good opportunity for a large scale mixed use development incorporating commercial and residential land uses. Whilst the proposed architecture of the proposal demonstrates some elements of design excellence and is considered to have strong architectural merit, the proposal is a significant departure from the preferred recommended height of 19m and built form setbacks to Upper Heidelberg Road and Hurstbridge railway line.

In this respect it is not considered that the design is so outstanding that this should outweigh the height, built form, landscape, streetscape and street level activation objectives of the Commercial 1 Zone and Design and Development Overlay.

For the reasons outlined in this report, the proposal is not considered to be consistent with the design response sought for the site under Banyule Planning Scheme and therefore should not be supported.

ATTACHMENTS

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<td>Assessment Against Design and Development Overlay, Schedule 11</td>
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<td>3</td>
<td>Assessment Against Guidelines for Higher Density Residential Development</td>
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5.3 NORTH EAST LINK PROJECT ACTION PLAN - IMPLEMENTATION UPDATE

Author: Michelle Herbert - Senior Transport Engineer, City Development

Previous Items
Council on 3 April 2017 (Item 5.2 - North East Link Project Action Plan)

EXECUTIVE SUMMARY

The North East Link Project Action Plan, adopted by Council on 3 April 2017, outlines Council’s commitment to work with the community to advocate for the completion of the Metropolitan Ring Road and to identify a future vision for Rosanna Road.

Four goals and nine actions have been identified in the Action Plan which will address the issue of advocating for and facilitating discussion on the possible route options for the completion of the Metropolitan Ring Road. The Plan will also play a part in helping to improve Rosanna Road.

This report outlines the progress made to date on the Action Plan:

- Confirming Council’s position on the North East Link as an Orbital Route enabling the completion of the Metropolitan Ring Road.
- Convening the North East Link Forum, attended by 700 residents on 30 May 2017.
- Convening the group of north east Councils – Banyule, Boroondara, Knox, Manningham, Maroondah, Nillumbik and Yarra Ranges - directly affected by the North East Link, to discuss and advocate for early inclusion in the project to the North East Link Authority on behalf of their Councils and communities.
- Meetings with VicRoads and Duncan Elliott, CEO, North East Link Authority.
- Completion of road safety improvements at the intersection of Rosanna Road and Lower Plenty Road.
- Continued advocacy to VicRoads for improvements to Rosanna Road.

RECOMMENDATION

That Council:

1. Note the North East Link Project Action Plan update included as Attachment 1, and continue to implement the Action Plan.
2. Continue to advocate for the North East Link as an orbital road.
3. Explore further opportunities to improve the safety of Rosanna Road with VicRoads.
CITY PLAN
This report is in line with Council’s City Plan key direction to “support sustainable transport”.

BACKGROUND
The North East Link Focus Group was established in August 2016 to provide a formal mechanism for Council to consult with representatives of the community in the development of an action plan advocating for the North East Link. The Focus Group, comprising ten community members, worked in collaboration with Council to develop a North East Link Project Action Plan, which was adopted by Council on 3 April 2017.

The North East Link Project Action Plan identifies four goals and nine actions which assist in advocating for and developing route options for the completion of the Metropolitan Ring Road and identifying a future vision for Rosanna Road.

The four goals of the Action Plan are to:

- Jointly advocate for the completion of the Metropolitan Ring Road;
- Facilitate and encourage discussion on potential route options for the completion of the Metropolitan Ring Road;
- Determine the vision of Rosanna Road;
- Promote the Action Plan.

More information on the nine actions is available in Attachment 1.

LEGAL CONSIDERATION
There are no direct legal implications arising from the recommendation contained in this report.

HUMAN RIGHTS CHARTER
In developing this report to Council, the subject matter has been considered in accordance with the requirements of Victoria’s Charter of Human Rights and Responsibilities.

It is considered that the subject matter does not raise any human rights issues.

DISCUSSION
Council commenced implementation of the Action Plan in April 2017 including:

- Confirming Council’s position on the North East Link as an Orbital Route enabling the completion of the Metropolitan Ring Road.
- Convening the North East Link Forum, attended by 700 residents on 30 May 2017.
- Convening the group of north east Councils – Banyule, Boroondara, Knox, Manningham, Maroondah, Nillumbik and Yarra Ranges - directly affected by the North East Link, to discuss and advocate for early inclusion in the project to the North East Link Authority on behalf of their Councils and communities.
- Meetings with Duncan Elliott, CEO, and other staff of the North East Link Authority.
NORTH EAST LINK PROJECT ACTION PLAN - IMPLEMENTATION UPDATE cont’d

- Awareness of the North East Link raised within the Banyule community, through information shared on Council website, Shaping Banyule and articles in The Banner.
- Continued advocacy to VicRoads for improvements to Rosanna Road.

Council convened the North East Link Forum on 30 May 2017. The event was very successful attracting over 1,000 queries and registrations from the Banyule and wider community. As the event was the first contact for many community members with the North East Link Authority, there was a lot of interest in the event. Two venues were set up for the night, with the Great Hall receiving all registered guests and a live feed to screen available in the Streeton Room. Over 700 residents attended the Forum which included a panel of speakers representing Council, North East Link Authority, VicRoads and RACV. The event was facilitated by Mr Brett McLeod.

In a first for Banyule, the event included a live feed to Facebook, which attracted over 2,500 views on the night. A two hour video of the event has been placed on the Banyule website for viewing.

Council initiated and convened the North East Link Group of Councils. The Group of Councils is advocating to the North East Link Authority around the governance and management of the North East Link project, including:

- An understanding of the Governance arrangements that will be in place.
- Broad Program availability – Timing for Council assessment and input.
- Communications and Engagement Plan for stakeholders and the community.
- Councils to be involved early in working group meetings directly with the North East Link Authority, to enable informed community discussion.
- Confirmation of the availability of funding for assessment, input and peer review.
- Security of the project for the long term and to completion.
- Understanding of any intent to set up specialist sub-committees and membership of same.

In relation to broader issues, the Group has also requested the North East Link Authority to:

- Clarify the project objectives including its role in providing for both freight and commuter demand.
- Consider the broader planning and development issues around the Green Wedge including job creation opportunities.
- Seek declaration of the North East Link as a road of national importance.
- Consider fundamental transport planning components for the north east of Melbourne including public transport and pedestrian/bicycle access, public transport on the Eastern Freeway, public transport corridor for Greensborough Highway/Rosanna Road, Hurstbridge Line upgrade and duplication of the railway line from Greensborough to Eltham.
- Allow Council input to the assumptions and options for transport modelling, freight models and forecasts, forecast land use activity levels and traffic assessment being undertaken including origin destination surveys.
- Clarify the Noise Control Plan.
- Clarify the Environmental Sustainability Plan and Social Issues.
- Clarify how land value uplift will be considered in the project and evaluation.
Council continues to advocate with VicRoads for improvements to Rosanna Road. Recent works include the completion of road safety improvements at the intersection of Rosanna Road and Lower Plenty Road. Discussions have also taken place on the possibility of relocating some power poles or removing them and undergrounding power lines on Rosanna Road to reduce the number to power pole truck strikes and improve road safety.

**FUNDING IMPLICATIONS**

Council committed $5,000 through its operating budget to the North East Link Group of Councils to fund advocacy for the North East Link.

**OFFICER DECLARATION OF CONFLICT OF INTEREST**

Section 80C of the *Local Government Act 1989* (Act) requires members of Council staff, and persons engaged under contract to provide advice to Council, to disclose any direct or indirect interest in a matter to which the advice relates.

Council officers involved in the preparation of this report have no conflict of interest in this matter.

**CONCLUSION**

The North East Link Project Action Plan, adopted by Council on 3 April 2017, outlines Council’s commitment to work with the community to advocate for the completion of the Metropolitan Ring Road and to identify a future vision for Rosanna Road.

The Action Plan identifies four goals and nine actions which assist in advocating for and developing route options for the completion of the Metropolitan Ring Road and identifying a future vision for Rosanna Road.

Council has made some progress on the Action Plan to date including:

- Confirming Council’s position on the North East Link as an Orbital Route enabling the completion of the Metropolitan Ring Road.
- Convening the North East Link Forum, attended by 700 residents on 30 May 2017.
- Convening the group of north east Councils – Banyule, Boroondara, Knox, Manningham, Maroondah, Nillumbik and Yarra Ranges - to advocate for early inclusion in the project to the North East Link Authority on behalf of their communities.
- Meetings with Duncan Elliott, CEO, North East Link Authority.
- Completion of road safety improvements at the intersection of Rosanna Road and Lower Plenty Road.
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**ATTACHMENTS**

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5.4 REVIEWING THE HEIDELBERG STRUCTURE PLAN

Author: David Cox - Strategic Planning Co-ordinator, City Development

EXECUTIVE SUMMARY

Heidelberg has become Banyule's largest Activity Centre and is significant metropolitan destination and centre for economic development and jobs growth within the LaTrobe National Employment and Innovation Cluster.

Heidelberg’s increased significance and ongoing change illustrates the need to do a review of the Centre’s Structure Plan. It is necessary to initially determine the scope of the review to inform future budget implications.

The need for investment in the Heidelberg Railway Station Precinct has become a priority. Council continues to wait for State Government leadership to do master planning for this important precinct in the centre. The Victorian Planning Authority (VPA) has said it would do this planning in the future. Council can write to the Minister for Planning, Local Members and the VPA for this master planning to begin as soon as possible.

RECOMMENDATION

That:

1. Further analysis be undertaken to inform the scope and budgeting for future, comprehensive review of the Heidelberg Activity Centre Structure Plan following a preliminary review.

2. Council write to the Minister for Planning, local members and the Victorian Planning Authority to request fast-tracked progress on a master plan for Heidelberg’s Railway Station Precinct as soon as possible.

CITY PLAN

This report is in line with Council’s City Plan key direction to “strengthen local activity and employment areas”.

BACKGROUND

Council adopted the Heidelberg Activity Centre Structure Plan (Plan) in 2010, it was taken into the Banyule Planning Scheme with Amendment C60. The Plan includes built-form guidelines that were translated into planning scheme provisions, to inform decisions for new buildings. The Plan has a 2030 planning horizon for managing change and is available from Council’s website at:

The Heidelberg Activity Centre (Centre) has its spine along Burgundy Street and Bell Street. It is characterised by significant agglomeration of medical services and allied industries around the Austin/Mercy Hospitals Complex and Warringal Private Hospital. In recent years continued investment in education facilities, commercial and residential land uses has seen Heidelberg become Banyule’s primary Activity Centre with greatest potential for floor space growth.

The Centre has a centrally located Railway Station between hospitals and shops. The Station has a public carpark and a transport interchange at Mount Street. Council’s 2010 Plan highlighted the need for significant infrastructure improvements, within a reimagined precinct for the station with new floorspace so ongoing agglomeration of medical services and allied industries could take place without expanding into nearby neighbourhoods or eroding the retailing offer along Burgundy Street.

Arising from the Government’s release of a new metropolitan planning strategy, Plan Melbourne (with a 2050 planning horizon) and policy definition for the LaTrobe National Employment and Innovation Cluster (the Cluster) by the Victorian Planning Authority (VPA), the Heidelberg Activity Centre has metropolitan significance for more investment and growth over a longer timeframe. It is now timely for Council to consider doing a future review of its Plan for the Centre.
LEGAL CONSIDERATION

There are no direct legal implications arising from the recommendations in this report.

HUMAN RIGHTS CHARTER

In developing this report, the subject matter has been considered in accordance with the requirements of Victoria’s Charter of Human Rights and Responsibilities. It is considered that the subject matter does not raise any human rights issues.

DISCUSSION

After establishing its Plan for the Centre, Council adopted a Parking Plan in 2016 and planning scheme changes for developers to provide on-site car parking and make a contribution towards public car-parking in 2017. In addition, the Government’s new residential and commercial zones were introduced in 2015.

Recently a 20 year floor-space growth assessment for the Centre’s future has been done. It found a need for more than:

- 2,300 new dwellings, mostly as apartments
- 30,000 sqm new retail floorspace
- 31,000 sqm new commercial floorspace
- 160,000 sqm new medical and health sector floorspace.

Given the need to plan for a 2050 horizon, it will be necessary to review the Centre’s development guidelines for more growth than what is outlined above.
Whilst much change has already happened in Heidelberg, there is an ongoing need for significant infrastructure investment at Heidelberg Railway Station in a reimagined precinct. Council’s 2010 Plan looked to the State Government for leadership to prepare a master plan that considered:

- Improved public transport infrastructure and services, including a new transport interchange.
- Improved car parking, bicycle infrastructure, better walkability and wayfinding.
- Pedestrian sky-bridge linking the Austin/Mercy Hospitals Complex with the railway station and Mount Street.
- New and improved public spaces and streetscapes at Mount Street.
- New medical, allied industries and commercial floor space growth to support the Centre’s floorspace growth needs in a central location away from nearby residential neighbourhoods.

The VPA has shown some interest to lead this master planning when it released a draft Framework for the Cluster. This work needs to be done as soon as possible, to ensure any development near the railway station is done in-line with a long-term vision for the station’s precinct.

**SCOPE OF REVIEW**

Completing a structure plan can take several years and requires notable funding. A carefully considered approach is needed to determine the scope of the review. Notwithstanding this, it is already known that there is a need to:

- Priority for State Government progress to do master planning at the Railway Station Precinct
- Apply a 2050 planning horizon to align with *Plan Melbourne* and ensure reviewed build-form guidelines enable the Centre’s 2050 dwelling and floor space growth capacity needs.
- Consider Council’s own community facility, infrastructure and public open space needs to support the Centre’s 2050 growth needs.

Previous structure planning used a three dimensional build-form model to test the suitability of built-form guidelines. The ability to establish a model which can assist in the understanding of future development proposals could also be explored.

The final scope of a review and estimated costs must be informed by further analysis. This will position Council to consider a budget proposal to start the review.

A preliminary review should consider a review structure plan outcomes within the study area including:

- Development approvals.
- Completed developments.
- VCAT consideration.
- Whether the structure plan objectives are being met.

In relation to the Heidelberg Railway Station Precinct, it is recommended that a request is made to the State government to fast track the master planning approval process. This is recommended given the VPA interest in this matter and the risk of future development around this precinct not adhering to an agreed planning framework.
OFFICER DECLARATION OF CONFLICT OF INTEREST

Section 80C of the Local Government Act 1989 (Act) requires members of Council staff, and persons engaged under contract to provide advice to Council, to disclose any direct or indirect interest in a matter to which the advice relates.

Council officers involved in the preparation of this report have no conflict of interest in this matter.

CONCLUSION

The Heidelberg Activity Centre has become Banyule’s largest Centre and has experienced much development in recent years. It is recognised in Plan Melbourne as having metropolitan significance, in the LaTrobe National Employment and Innovation Cluster.

There is a need to do a review of Council’s 2010 Plan for the Centre. The scope of the review will be informed by further analysis to underpin a budget proposal, so work can begin in 2018/19.

Council’s 2010 Plan identified the need for a master planned Heidelberg Railway Station Precinct. The VPA has shown interest to do this work in the future. It is now a priority for this master planning to start as soon as possible. Advocacy for this to happen can be done by writing to the Minister for Planning, Local Members and the VPA to request fast-tracked progress for this master planning to start.

ATTACHMENTS

Nil
5.5 MONTMORENCY SHOPPING VILLAGE
SPECIAL CHARGE - NOTICE OF DECISION

Author: Nicole Maslin - Senior Economic Development Officer, City Development

Previous Items
Council on 5 June 2017 (Item 5.2 - Montmorency Village Special Charge - Consideration of Submissions)

EXECUTIVE SUMMARY

Following the Council Meeting on 3 April 2017, and in accordance with the statutory process under the Local Government Act 1989 ("Act") for the declaration of a Special Charge, the public notice of Council's intention to declare a Special Charge for the Montmorency Shopping Village was advertised in “The Weekly Review - Ivanhoe and Valley” on Wednesday, 12 April 2017. A separate notice advising of Council's intention to declare the Scheme was mailed by post on 12 April 2017 to all owners and occupiers of properties included in the proposed Scheme with a copy of the public notice.

The public notice advised that any person may make a written submission under sections 163A and 223 of the Act. The public notice further advised that any person who will be required to pay the Special Charge (whether an owner or an occupier of a property included in the Scheme) has a right to object to the proposed declaration and may also make a written objection to the Council under section 163B of the Act.

The closing date for submissions and objections was on 15 May 2017. Council received by this date a total of 8 written submissions under sections 163A and 223 of the Act. All 8 submissions are in support of the proposed Scheme for a variety of reasons.

No objections to the proposed Special Charge Scheme were received.

Council formally considered submissions at its ordinary meeting on 5 June 2017 where it resolved to make a final decision in relation to the Scheme at its meeting on 17 July 2017.

This report recommends the declaring of a Special Charge for Montmorency Shopping Village commencing on July 1 2017 and concluding 30 June 2024.
RECOMMENDATION

That:

1. Council, at its ordinary meeting held 5 June 2017 having considered all submissions received and having complied with the requirements of sections 163A, 163B and 223 of the Local Government Act 1989 (Act), and otherwise according to law, hereby declares a Special Charge under section 163(1) of the Act (Special Charge) for the purposes of defraying expenses to be incurred by Council in providing funds to the incorporated body known and operating as the Montmorency Village Traders Association (Traders’ Association), which funds, administratively only and subject always to the approval, direction and control of Council, are to be used for the purposes of contracted support, promotional, advertising, marketing, business development and other incidental expenses as approved by Council and agreed to from time to time between Council and the Traders’ Association, all of which are associated with the encouragement of commerce, retail and professional activity and employment in the Montmorency Shopping Village.

2. The criteria which form the basis of the declaration of the Special Charge are the ownership of rateable land used, or reasonably capable of being used, for commercial, retail or professional purposes, which rateable land is situated within the geographical area in which the properties described in paragraphs 6 and 7 of this declaration are included and further, the classification of those properties as receiving a ‘primary’ or ‘secondary’ special benefit.

3. In declaring the Special Charge, Council is performing functions and exercising powers in relation to the peace, order and good government of the municipal district of the City of Banyule, in particular the encouragement of commerce, retail activity and employment opportunities within the area for which the Special Charge is declared.

4. The total cost of the performance of the function and the exercise of the power by Council (in relation to activities associated with the encouragement of commerce, retail activity and employment opportunities in the area for which the Special Charge is declared) and also the total amount of the Special Charge to be levied by Council is referrable to an amount of $26,400 which amount will be levied in each year of the Scheme and which in total will raise an amount of $184,800 over the 7 year period of the Scheme.

5. The period for which the Special Charge is declared and will remain in force is a period of 7 years commencing on 1 July 2017 and ending on 30 June 2024.

6. The area for which the Special Charge is declared is all of the land referred to as the Montmorency Shopping Village, as identified and shown on the plan set out in the attachment forming a part of this declaration (being Attachment 1).

7. The land in relation to which the Special Charge is declared is all that rateable land described in the listing of rateable properties set out in the attachment forming a part of this declaration (being Attachment 2).
8. The contributions to the Special Charge, based on relevant property classifications in relation to “primary” or “secondary” special benefit will be declared and assessed in accordance with the Special Charge amounts set out alongside each property in the attachment forming a part of this declaration (being Attachment 2). Properties included in the ‘primary’ benefit area, that is, properties located on Were Street ground level, will be levied a Special Charge of $528 per annum. Properties included in the ‘secondary’ benefit area, that is properties located in adjoining side streets of Rattray Road, Binns Street and Station Road and those properties being on the first floor Were Street, will be levied a Special Charge of $264 per annum.

9. The Special Charge will be levied by Council sending a Notice of Levy in the prescribed form annually to the person who is liable to pay the Special Charge, which will require that the Special Charge must be paid by four instalments, to be paid in the following manner –

   (a) by one annual payment to be paid in full by the due date fixed by Council in the notice, which will be a date not less than 30 days after the date of issue of the notice; or

   (b) by four instalments, to be paid by the dates which are fixed by Council in the notice.

10. Council will consider cases of financial and other hardship, and may reconsider other payment options for the Special Charge.

11. Council considers that there will be a special benefit to the persons required to pay the Special Charge because there will be a benefit to those persons that is over and above, or greater than, the benefit that is available to persons who are not subject to the Special Charge, and directly or indirectly as a result of the expenditure proposed by the Special Charge, the viability of the Shopping Centre as a business, commercial, retail and professional area, and the value and the use, occupation and enjoyment of the properties and the businesses included in the Scheme area will be maintained or enhanced through increased economic activity.

12. Council further considers and formally determines for the purposes of sections 163(2)(a), (2A) and (2B) of the Act, that the estimated proportion of the total benefits of the Scheme to which the performance of the function or the exercise of the power relates (including all special benefits and community benefits) that will accrue as special benefits to all of the persons who are liable to pay the Special Charge is in a ratio of 1:1 (or 100%). This is on the basis that, in the opinion of Council, the total amount of the Special Charge to be levied and all of the services and activities to be provided from the expenditure of the Special Charge are marketing, promotion and advertising related and will accordingly only benefit the owners and occupiers of those properties and businesses included in the Scheme that are used, or reasonably capable of being used, for retail, commercial or professional purposes.
13. The Traders’ Association be authorised to administer the proceeds of the Special Charge on the express condition that the Traders’ Association enters into a funding agreement with Council for the period of the Special Charge.

14. Notice be given to all owners and occupiers of properties included in the Scheme and all persons who have lodged a written submission of the decision of Council to declare and levy the Special Charge commencing on 1 July 2017, and the reasons for the decision.

15. For the purposes of paragraph 15, the reasons for the decision of Council to declare the Special Charge are that –

   (a) there is no objection to the Scheme and it is otherwise considered that there is a broad level of support for the Special Charge from all property owners and occupiers;

   (b) Council considers that it is acting in accordance with the functions and powers conferred on it under the Local Government Act 1989, having regard to its role, purposes and objectives under the Act, particularly in relation to the encouragement of commerce, retail activity and employment opportunities in and around the Scheme area;

   (c) all persons who are liable or required to pay the Special Charge and the properties respectively owned or occupied by them will receive a special benefit in the form of an enhancement or maintenance in land values and/or a maintenance or enhancement in the use, occupation, and enjoyment of the properties; and

   (d) the basis of the distribution of the Special Charge amongst those persons who are liable or required to pay the Special Charge is considered by Council to be fair and reasonable.

16. The Traders’ Association be notified of the matters specified in paragraphs 1 and 13 of this resolution.

CITY PLAN

This report is in line with Council’s City Plan key direction to “support thriving commercial and retail activity”.

BACKGROUND

The process to declare a Special Charge for the Montmorency Shopping Village began with a pre-statutory phase of consultation and review in late 2016 and early 2017. Both the Traders’ Association and Council were committed to a review of the performance of the current Scheme in order to accommodate future improvements and to assist with setting new directions should the Scheme be renewed. The consultation outcomes indicated a good level of positivity and optimism for the Scheme to continue. Hence, the Traders’ Association made a formal request for Council to commence the statutory process to declare a new Special Charge Scheme.
MONTMORENCY SHOPPING VILLAGE SPECIAL CHARGE - NOTICE OF DECISION  cont’d

The key developments in the statutory process for the declaration of a Special Charge have been as follows:

- 3 April – Council report – Notice of Intention to Declare a Special Charge;
- 12 April – Public Notice of Proposed Declaration advertised in local newspaper and a copy with separate letter sent to all owners and occupiers advising of proposed Special Charge amount payable;
- 15 May – Submissions and Objections due;
- 5 June – Council report – Consideration of Submissions and Objections; and
- 17 July – Council report – Decision resolved.

LEGAL CONSIDERATION

Council requires the Montmorency Shopping Village Traders Association (an incorporated association) to have a high level of financial and management accountability of funds. This includes certain requirements identified in the funding agreement and documentation that must be submitted to Council, including quarterly reports, a budget and an audited financial report at the conclusion of each financial year. Council will ensure that, under the funding agreement, the proceeds of the Special Charge are expended by the Traders’ Association on behalf of Council, administratively only. Council is, and remains, legally responsible for approving, directing and controlling the expenditure of the proceeds of the Special Charge in accordance with its obligations under the Local Government Act 1989.

In accordance with section 185 of the Act, a person who is aggrieved by Council’s decision to impose a Special Charge may apply to the Victorian Civil and Administrative Tribunal (VCAT) for a review of the decision. Any application must be made within 30 days of the date of issue of the levy notice. Further, in accordance with section 185AA of the Act, any person may apply to VCAT for a declaration concerning the validity of Council’s decision.

HUMAN RIGHTS CHARTER

In developing this report to Council, the subject matter has been considered in accordance with the requirements of Victoria’s Charter of Human Rights and Responsibilities.

It is considered that the subject matter does not raise any human rights issues.

FUNDING IMPLICATIONS

The Montmorency Village Traders’ Association has requested and Council officers agree that the proposed Scheme raise an amount of $26,400 per annum, which is a moderate increase in relation to the current Scheme. Accordingly, based on a total of 57 properties included in the Scheme, it is proposed that each property will be levied a Special Charge as follows:

- $528 from properties receiving a ‘primary special benefit’ (located on ground floor of Were Street); and
- $264 from properties receiving a ‘secondary special benefit’ (located on first floor of Were Street, ground floor of Binns Street, Rattray Road and Station Street).
Based on the 57 rateable assessments included in the Scheme, this will raise an amount of $26,400 per annum for a period of seven years, providing a total levy of $184,800 over the period of the Scheme.

There is a strong expectation from the Traders’ Association and the business operators located in the Montmorency Shopping Village that Council will continue to contribute funding to the amounts raised from the Special Charge. Council’s separate contributions have allowed the Montmorency Shopping Village to address many of the physical development, maintenance and amenity issues that the Special Charge proceeds cannot be expended on. This contribution funding of $22,065 has been allocated in the 2017/2018 operational budget.

CONSULTATION

Consultation for this Scheme proposal has been extensive throughout the various stages of both the pre-statutory and statutory process. Council’s commitment to supporting a thorough review and consultation process, and also adopting best practice approaches to its special rate and charge renewals, supports a clear and transparent process.

This allows for all owners and occupiers to be informed of Council’s intentions for the Scheme, their rights and obligations, and also the opportunity they have to provide comment and formal feedback through each stage of the proposal.

Following this report, all owners and occupiers will be advised of Council’s decision to declare the Special Charge for the Montmorency Shopping Village and the reasons for doing so.

OFFICER DECLARATION OF CONFLICT OF INTEREST

Section 80C of the Local Government Act 1989 (Act) requires members of Council staff, and persons engaged under contract to provide advice to Council, to disclose any direct or indirect interest in a matter to which the advice relates.

Council officers involved in the preparation of this report have no conflict of interest in this matter.

CONCLUSION

Council, having at its ordinary meeting held on 5 June 2017 formally considered all of the written submissions received under sections 163A and 223 of the Local Government Act 1989 in relation to the declaration of a Special Charge for the Montmorency Shopping Village (there being no objections under section 163B of the Act), considers that all of the commercial properties in the Shopping Village will derive a special benefit from the expenditure of the proceeds on promotional, advertising, marketing and other business development activities. Council further considers that the expenditure of the Special Charge funds on such activities will encourage commerce, retail and professional activity and employment in the Montmorency Shopping Village.

It is further considered that the derived special benefit will not extend to other areas within the City of Banyule and, therefore, the declaration of the Special Charge should be confined to the area set out and in accordance with the amounts set out in the attachments to Council’s declaration of Special Charge.
### ATTACHMENTS

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5.6 WATSONIA SHOPPING CENTRE SPECIAL CHARGE - NOTICE OF DECISION

Author: Nicole Maslin - Senior Economic Development Officer, City Development
Ward: Grimshaw

Previous Items
Council on 5 June 2017 (Item 5.3 - Consideration of Submissions Watsonia Special Charge Scheme)

EXECUTIVE SUMMARY

Following the meeting of Council on 3 April 2017 and in accordance with the statutory process under the Local Government Act 1989 (“Act”) for the declaration of a Special Charge, the public notice of Council’s intention to declare a Special Charge for the Watsonia Shopping Centre was advertised in “The Weekly Review - Ivanhoe and Valley” on Wednesday, 12 April 2017. A separate notice advising of Council’s intention to declare the Scheme was mailed by post on 12 April 2017 to all owners and occupiers of properties included in the proposed Scheme with a copy of the public notice.

The public notice advised that any person may make a written submission under sections 163A and 223 of the Act. The public notice further advised that any person who will be required to pay the Special Charge (whether an owner or an occupier of a property included in the Scheme) has a right to object to the proposed declaration and may also make a written objection to the Council under section 163B of the Act.

The closing date for submissions and objections was on 15 May 2017. Council received by this date a total of 10 written submissions under sections 163A and 223 of the Act. All 10 submissions are in support of the proposed Scheme for a variety of reasons.

No objections to the proposed Special Charge Scheme were received.

Council formally considered submissions at its ordinary meeting on 5 June 2017, where it resolved to make a final decision in relation to the Scheme at its meeting 17 July 2017.

This report recommends the declaring a Special Charge for Watsonia Shopping Centre commencing July 1 2017 and concluding June 2022.
RECOMMENDATION

That:

1. Council, at its Ordinary Meeting on the 5 June 2017 having considered all submissions received and having complied with the requirements of sections 163A, 163B and 223 of the Local Government Act 1989 (Act), and otherwise according to law, hereby declares a Special Charge under section 163(1) of the Act (Special Charge) for the purposes of defraying expenses to be incurred by Council in providing funds to the incorporated body known and operating as the Watsonia Traders’ Association (Traders’ Association) which funds, administratively only and subject always to the approval, direction and control of Council, are to be used for the purposes contracted support, promotional, advertising, marketing, business development and other incidental expenses as approved by Council and agreed to from time to time between Council and the Traders’ Association, all of which are associated with the encouragement of commerce, retail and professional activity and employment in the Watsonia Shopping Centre.

2. The criteria which form the basis of the declaration of the Special Charge are the ownership of rateable land used, or reasonably capable of being used, for commercial, retail or professional purposes, which rateable land is situated within the geographical area in which the properties described in paragraphs 6 and 7 of this declaration are included and further, the classification of those properties as receiving a ‘primary’ or ‘secondary’ special benefit.

3. In declaring the Special Charge, Council is performing functions and exercising powers in relation to the peace, order and good government of the municipal district of the City of Banyule, in particular the encouragement of commerce, retail activity and employment opportunities within the area for which the Special Charge is declared.

4. The total cost of the performance of the function and the exercise of the power by Council (in relation to activities associated with the encouragement of commerce, retail activity and employment opportunities in the area for which the Special Charge is declared) and also the total amount of the Special Charge to be levied by Council is referrable to an amount of $36,850 which amount will be levied in each year of the Scheme and which in total will raise an amount of $184,250 over the 5 year period of the Scheme.

5. The period for which the Special Charge is declared and will remain in force is a period of 5 years commencing on 1 July 2017 and ending on 30 June 2022.

6. The area for which the Special Charge is declared is all of the land referred to as the Watsonia Shopping Centre as identified and shown on the plan set out in the attachment forming a part of this declaration (being Attachment 1).

7. The land in relation to which the Special Charge is declared is all that rateable land described in the listing of rateable properties set out in the attachment forming a part of this declaration (being Attachment 2).
8. The contributions to the proposed Special Charge will be declared and assessed in accordance with the Special Charge amounts set out alongside each property in the attachment forming a part of this declaration (being Attachment 2). Properties included will be liable or required to pay $550 per year.

9. The Special Charge will be levied by Council sending a Notice of Levy in the prescribed form annually to the person who is liable to pay the Special Charge, which will require that the Special Charge must be paid by four instalments, to be paid in the following manner –

(a) by one annual payment to be paid in full by the due date fixed by Council in the notice, which will be a date not less than 30 days after the date of issue of the notice; or

(b) by four instalments, to be paid by the dates which are fixed by Council in the notice.

10. Council will consider cases of financial and other hardship, and may reconsider other payment options for the Special Charge.

11. Council considers that there will be a special benefit to the persons required to pay the Special Charge because there will be a benefit to those persons that is over and above, or greater than, the benefit that is available to persons who are not subject to the Special Charge, and directly or indirectly as a result of the expenditure proposed by the Special Charge, the viability of the Shopping Centre as a business, commercial, retail and professional area, and the value and the use, occupation and enjoyment of the properties and the businesses included in the Scheme area will be maintained or enhanced through increased economic activity.

12. Council further considers and formally determines for the purposes of sections 163(2)(a), (2A) and (2B) of the Act, that the estimated proportion of the total benefits of the Scheme to which the performance of the function or the exercise of the power relates (including all special benefits and community benefits) that will accrue as special benefits to all of the persons who are liable to pay the Special Charge is in a ratio of 1:1 (or 100%). This is on the basis that, in the opinion of Council, the total amount of the Special Charge to be levied and all of the services and activities to be provided from the expenditure of the Special Charge are marketing, promotion and advertising related and will accordingly only benefit the owners and occupiers of those properties and businesses included in the Scheme that are used, or reasonably capable of being used, for retail, commercial or professional purposes.

13. The Traders’ Association be authorised to administer the proceeds of the Special Charge on the express condition that the Traders’ Association enters into a funding agreement with Council for the period of the Special Charge.

14. Notice be given to all owners and occupiers of properties included in the Scheme and all persons who have lodged a written submission of the decision of Council to declare and levy the Special Charge commencing on 1 July 2017, and the reasons for the decision.
15. For the purposes of paragraph 14, the reasons for the decision of Council to declare the Special Charge are that –

(a) there is no objection to the Scheme and it is otherwise considered that there is a broad level of support for the Special Charge from all property owners and occupiers;

(b) Council considers that it is acting in accordance with the functions and powers conferred on it under the *Local Government Act* 1989, having regard to its role, purposes and objectives under the Act, particularly in relation to the encouragement of commerce, retail activity and employment opportunities in and around the Scheme area;

(c) all persons who are liable or required to pay the Special Charge and the properties respectively owned or occupied by them will receive a special benefit in the form of an enhancement or maintenance in land values and/or a maintenance or enhancement in the use, occupation, and enjoyment of the properties; and

(d) the basis of the distribution of the Special Charge amongst those persons who are liable or required to pay the Special Charge is considered by Council to be fair and reasonable.

16. The Traders’ Association be notified of the matters specified in paragraphs 1 and 13 of this resolution.

**CITY PLAN**

This report is in line with Council's City Plan key direction to “support thriving commercial and retail activity”.

**BACKGROUND**

The process to declare a Special Charge for the Watsonia Shopping Centre began with a pre-statutory phase of consultation and review in late 2016 and early 2017. Both the Traders’ Association and Council were committed to a review of the performance of the current Scheme in order to accommodate future improvements and to assist with setting new directions should the Scheme be renewed. The consultation outcomes indicated a good level of positivity and optimism for the Scheme to continue. Hence, the Traders’ Association made a formal request for Council to commence the statutory process to declare a new Special Charge Scheme.
WATSONIA SHOPPING CENTRE SPECIAL CHARGE - NOTICE OF DECISION cont’d

The key developments in the statutory process for the declaration of a Special Charge have been as follows:

- 3 April – Council report – Notice of Intention to Declare a Special Charge;
- 12 April – Public Notice of Proposed Declaration advertised in local newspaper and a copy with separate letter sent to all owners and occupiers advising of proposed Special Charge amount payable;
- 15 May – Submissions and Objections due;
- 5 June – Council report – Consideration of Submissions and Objections; and
- 17 July – Council report – Decision resolved.

LEGAL CONSIDERATION

Council requires the Watsonia Shopping Centre (an incorporated association) to have a high level of financial and management accountability of funds. This includes certain requirements identified in the funding agreement and documentation that must be submitted to Council, including quarterly reports, a budget and an audited financial report at the conclusion of each financial year. Council will ensure that, under the funding agreement, the proceeds of the Special Charge are expended by the Traders’ Association on behalf of Council, administratively only. Council is, and remains, legally responsible for approving, directing and controlling the expenditure of the proceeds of the Special Charge in accordance with its obligations under the Local Government Act 1989.

In accordance with section 185 of the Act, a person who is aggrieved by Council’s decision to impose a Special Charge may apply to the Victorian Civil and Administrative Tribunal (VCAT) for a review of the decision. Any application must be made within 30 days of the date of issue of the levy notice. Further, in accordance with section 185AA of the Act, any person may apply to VCAT for a declaration concerning the validity of Council’s decision.

HUMAN RIGHTS CHARTER

In developing this report to Council, the subject matter has been considered in accordance with the requirements of Victoria’s Charter of Human Rights and Responsibilities.

It is considered that the subject matter does not raise any human rights issues.

FUNDING IMPLICATIONS

The Watsonia Traders’ Association has requested and Council officers agree that the proposed Scheme raise an amount of $36,850 per annum, which is a moderate increase in relation to the current Scheme. Accordingly, based on a total of 67 properties included in the Scheme, it is proposed that each property will be levied a Special Charge of $550 per annum.

Based on the 67 rateable assessments included in the Scheme, this will raise an amount of $36,850 per annum for a period of five years, providing a total levy of $184,250 over the period of the Scheme.
WATSONIA SHOPPING CENTRE SPECIAL CHARGE - NOTICE OF DECISION cont’d

There is a strong expectation from the Traders’ Association and the business operators located in the Watsonia Shopping Centre that Council will continue to contribute funding to the amounts raised from the Special Charge. Council’s separate contributions have allowed the Watsonia Shopping Centre to address many of the physical development, maintenance and amenity issues that the Special Charge proceeds cannot be expended on. This contribution funding of $26,827 has been allocated in the 2017/2018 operational budget.

CONSULTATION

Consultation for this Scheme proposal has been extensive throughout the various stages of both the pre statutory and statutory process. Council’s commitment to supporting a thorough review and consultation and also adopting best practice approaches to its special rate and charge renewals, supports a clear and transparent process.

This allows for all owners and occupiers to be informed of the Council’s intentions for the scheme, their rights and obligations and the also the opportunity they have to provide comment and formal feedback through each stage of the proposal.

Following this report all owners and occupiers will be advised of Council’s decision to declare the Special Charge for the Watsonia Shopping Centre and the reasons for doing so.

OFFICER DECLARATION OF CONFLICT OF INTEREST

Section 80C of the Local Government Act 1989 requires members of Council staff, and persons engaged under a contract to provide advice to Council, to disclose any direct or indirect interest in a matter to which the advice relates.

Council officers involved in the preparation of this report have no conflict of interest in this matter.

CONCLUSION

Council, having at its Ordinary Meeting held on 5 June 2017 formally considered all of the written submissions received under sections 163A and 223 of the Local Government Act 1989 in relation to the declaration of a Special Charge for the Watsonia Shopping Centre (there being no objections under section 163B of the Act), considers that all of the commercial properties in the Shopping Centre will derive a special benefit from the expenditure of the proceeds on promotional, advertising, marketing and other business development activities. Council further considers that the expenditure of the Special Charge funds on such activities will encourage commerce, retail and professional activity and employment in the Watsonia Shopping Centre.

It is further considered that the derived special benefit will not extend to other areas within the City of Banyule and, therefore, the declaration of the Special Charge should be confined to the area set out and in accordance with the amounts set out in the attachments to Council’s declaration of Special Charge.
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7.1 ITEMS FOR NOTING

Author: Gina Burden - Manager Governance & Communication, Corporate Services

RECOMMENDATION

That Council note the following reports/correspondence:

2. Victorian Auditor General’s follow up report – Effectiveness of Support for Local Government.

The following reports and correspondence are presented for noting:

1. **Report:** MAV Achievements and Benefits Report
   - **Officer:** Gina Burden
   - **Brief explanation:**
     Banyule Council is a member of the Municipal Association of Victoria (MAV). Correspondence regarding Council’s 2017/18 membership renewal was recently received. Included with the correspondence was a detailed summary report of the MAV’s achievements over the past 12 months and a report on the benefits of MAV membership. The MAV requested that the reports be tabled at a meeting of Council so that the benefits of Council’s past and continued membership can be formally noted by Council. A copy of the summary reports are attached.

2. **Correspondence:** Victorian Auditor General’s follow up report tabled in Parliament - Effectiveness of Support for Local Government
   - **Officer:** Gina Burden
   - **Brief explanation:**
     On 22 June 2017, Council received the following email correspondence from MAV President, Cr. Mary Lalios:

     “Today the Victorian Auditor General has tabled a follow up report in Parliament to its 2015 performance report *Effectiveness of Support for Local Government*. The 2015 report examined the support provided to Victorian councils by the MAV and Local Government Victoria (LGV), and made a series of recommendations for the MAV and LGV.

     I am pleased to advise that VAGO is satisfied with the actions undertaken by the MAV. In correspondence to me, the Auditor General also thanked the MAV for its cooperation throughout the follow up audit, including providing access to information and staff to assist the audit team. There is no action that remains outstanding from the 2015 audit recommendations. Every recommendation was adopted and implemented.”
The MAV welcomes the VAGO follow up audit report conclusions, that:

- Both MAV and LGV have responded to our recommendations and have taken appropriate action to address the underlying issues identified in our 2015 audit.

- Following our audit, MAV comprehensively reviewed and updated all relevant internal governance policies and controls—including in the areas of conflicts of interest, procurement and records management. MAV also implemented an improved performance monitoring and reporting framework at both an organisational and an individual program level. While it will take time to see the full impact of these policy changes, MAV’s increased focus on probity and performance reporting should increase the transparency of its operations and accountability to its member councils.

VAGO has also noted that the MAV and LGV are now working together more strategically, and that the current review of the Municipal Association Act 1907 aims to ensure the MAV is subject to appropriate oversight while remaining primarily accountable to its member councils.”

The MAV has encouraged councils to review the VAGO follow up report which summarises the Auditor General’s view on the actions MAV has taken in response to the recommendations made. The report is available at www.audit.vic.gov.au

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7.2 ASSEMBLY OF COUNCILLORS

Author: Ellen Kavanagh - Governance Officer, Corporate Services

EXECUTIVE SUMMARY

Under the Local Government Act 1989 an Assembly of Councillors is defined 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.

In accordance with Section 80A of the Local Government Act 1989 Council is required to report as soon as possible to an Ordinary Meeting of Council a record of any assemblies of Councillors held. Below is the latest listing of notified assemblies of Councillors held at Banyule City Council.

RECORD OF ASSEMBLIES

| Date of Assembly: | 26 June 2017 |
| Type of Meeting: | Councillor Briefing |
| Matters Considered: | Items on the Council Agenda for the Ordinary Meeting of 26 June 2017 (excluding confidential items) as listed below:

2.1 Petition about public housing redevelopment sites at Bardia Street and Tarakan Street, Heidelberg West
3.1 Aged Services Solar Program Special Charge Scheme
3.2 Jets Creative Arts Program
4.1 Use of the Landfill Levy
4.2 Banning of Plastic Bags
5.1 Hurstbridge Line Improvements
5.2 Road User Safety and Road Maintenance in Lower Plenty
5.3 Future of Strathallan Open Space located in City of Darebin
5.4 Road Management Plan
5.5 Macleod Village Special Charge - Consideration of Submissions
5.6 Greensborough Town Centre Special Rate and Charge- Consideration of Submissions and Objections
5.7 Northland Urban Renewal Precinct - Joint Community Infrastructure Plan |
**ASSEMBLY OF COUNCILLORS cont’d**

| 7.1 Adoption of Council Plan 2017-2021 |
| 7.2 Adoption of Banyule's Budget for the period 1 July 2017 to 30 June 2018 |
| 7.3 Municipal Association Act Review - Council Submission |
| 7.4 Debt Management Strategic Plan 2017/2018 |
| 7.5 Rating Strategy 2017/2018 |
| 7.6 Procurement Policy |
| 7.7 Parks and Gardens Supplier Panel Contract No. 0900-2016 |
| 7.8 Assembly of Councillors |
| 8.1 Sealing of Documents |

**Councillors Present:**
- Peter Castaldo
- Mark Di Pasquale
- Rick Garotti
- Craig Langdon
- Wayne Phillips

**Staff Present:**
- Simon McMillan – Chief Executive Officer
- Allison Beckwith – Director Community Programs
- Scott Walker – Director City Development
- Geoff Glynn – Director Assets & City Services
- Marc Giglio – Director Corporate Services
- Gina Burden – Manager Governance and Communication
- Kellie O’Shea – Senior Governance Officer
- James Stirton – Manager Major Properties
- Daniel Kollmorgen – Manager Transport, Sustainability and Municipal Laws
- Fiona Athersmith - Media & Marketing Communications Officer
- Tania O’Reilly – Manager Finance and Procurement
- Joseph Tabacco - Manager Property & Economic Development
- Joel Elbourne - Manager Urban Planning & Building

**Others Present:**
- -

**Conflict of Interest:**
- -

**RECOMMENDATION**

That the Assembly of Councillors report be received.

**ATTACHMENTS**

Nil
8.1 LA TROBE UNIVERSITY SPORTS PARK - STADIUM DEVELOPMENT AGREEMENT

Author: Tom Zappulla - Leisure Facilities, Place & Partnership Co-Ordinator, Community Programs

RECOMMENDATION

That the Common Seal of Banyule City Council be affixed to the following Agreements between La Trobe University and Banyule City Council:

a. Sporting Facilities Capital Funding Agreement;
b. Development Agreement; and
c. User Agreement.

The following documents require the affixing of the Common Seal of Council:

| PARTY/PARTIES: | Banyule City Council and La Trobe University |
| OFFICER: | Thomas Zappulla |
| FILE NUMBER: | F2016/10036 |
| ADDRESS: | Kingsbury Drive, Bundoora |
| WARD: | N/A |
| BRIEF EXPLANATION: | On the 3rd of April 2017, Council resolved to enter into a Development Agreement with La Trobe University (LTU) for the development of an indoor stadium at La Trobe University’s Sports Park Precinct based on the following parameters:

- A $5M capital contribution ($2.5M in July 2017 and $2.5M in July 2018);
- Include the design and specification for the indoor stadium;
- The construction responsibilities of La Trobe University;
- The conditions surrounding Council’s capital contribution payable to La Trobe University;
- Regulate the entitlements of Council’s nominated clubs to use the indoor stadium over a term of 20 years following completion of construction;
- Confirm Council’s role with operational matters such as setting annual hire costs with La Trobe University;
- Protect Council’s rights against any future third party interest that may be created in the land.

The agreements require the affixing of the Council Seal.

ATTACHMENTS

Nil