

# **ORDINARY COUNCIL MEETING**

**TUESDAY 27 NOVEMBER 2018**

## **AGENDA**

### **VISION**

*Whether you live here or visit, you will see how much we value our natural beauty, how connected our communities are, and how balanced growth makes this the best place in the world.*

### **COUNCILLOR COMMITMENT**

*We'll be truthful, represent the community's needs, be positive and responsive and always strive to do better.*

## NOTES FOR QUESTIONS AND SUBMISSIONS FROM THE PUBLIC

(In accordance with the 2015 Council Meeting Guidelines – Public Participation)

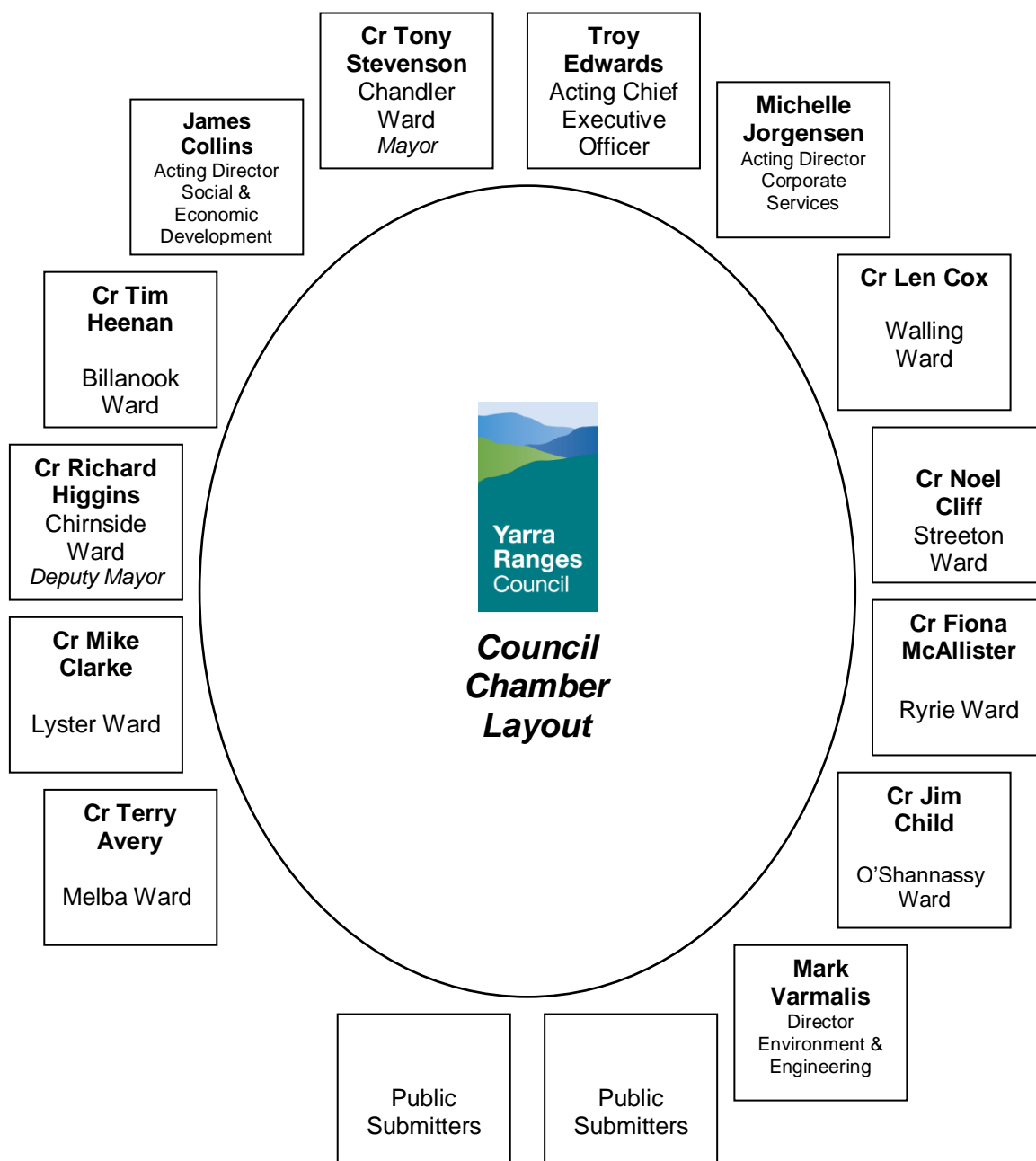
**The public is invited to submit questions to the Ordinary Council Meeting** by completing [the form on the Council's website](#); or via [email](#). Your question must be received **no later than 5.00pm on the day before** the [Council meeting date](#). Questions relating to items on the agenda, or which are the same as previous questions, will not be considered.

A question will not be accepted if, in the opinion of the Chief Executive Officer, it appears to be derogatory, defamatory or embarrassing to any Councillor, member of staff, ratepayer or member of the public. A limit of one question per person per meeting will apply. Multiple parts to a question will be treated as multiple questions. A maximum of 15 minutes will be allocated to 'Question Time' at each meeting. As far as practicable, questions will be considered in the order they were received. Your question will be read out on the night and if possible will be answered by the appropriate officer. If a question cannot be answered on the night or if time constraints restrict the ability to read out a question, it will be answered in writing in accordance with Council's normal correspondence procedures. You are welcome to attend the meeting and hear the answer to your question, but it is not a requirement. If your question is addressed on the night, we will provide a copy of the answer to you in writing in the days following the meeting.

**Submissions to Council on matters not listed on the Ordinary Council Meeting agenda** will generally be heard before the items listed on the agenda. The subject should not relate to matters on the agenda for the meeting, or matters that have been already considered by Council or to operational issues. You must provide the required information at least eleven **(11) days before the meeting** you wish to attend to the Governance Team, to allow for consideration of your request and appropriate arrangements to be made.

You should provide sufficient copies of any supporting information you want to be distributed to all Councillors and this will be circulated upon request. A copy of any supporting electronic presentation needs to be given to Governance Team **by midday** of the date of the meeting to ensure compatibility with the Shire's computer system.

**Submissions in relation to a specific item on the agenda** for consideration will be invited to come forward by the Chair in the order items are listed. For planning applications and policy issues, the Chair will invite one person to speak on behalf of any objectors and one person to speak on behalf of the applicant. For other matters on the agenda, only one person will be invited to address Council, unless there are opposing views. At the discretion of the Chair, additional speakers may be invited for items of large interest. Submissions must be made in a way that is respectful of Councillors and staff. You should make sure that you are present at the meeting when the item you wish to speak about is considered, as there will no opportunity for you to speak after the Chair has invited speakers and councillors have begun to consider the item.



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# YARRA RANGES COUNCIL

AGENDA FOR THE 484<sup>TH</sup> ORDINARY COUNCIL MEETING TO BE HELD ON TUESDAY 27 NOVEMBER 2018 COMMENCING AT 7:00PM IN COUNCIL CHAMBER, CIVIC CENTRE, ANDERSON STREET, LILYDALE

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1. COUNCIL MEETING OPENED
2. INTRODUCTION OF MEMBERS PRESENT
3. APOLOGIES AND LEAVE OF ABSENCE
4. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

## RECOMMENDATION

*That the Minutes of the Ordinary Council Meetings held 23 October 2018 and 13 November 2018, as circulated, be confirmed.*

## 5. DISCLOSURE OF CONFLICTS OF INTEREST

*In accordance with section 79 of the Local Government Act 1989.*

## 6. QUESTIONS AND SUBMISSIONS FROM THE PUBLIC

*In accordance with Clause 83 of Meeting Procedures and Use of Common Seal Local Law 2015*

### SUBMISSIONS FROM THE PUBLIC

#### ***Yarra Valley Soccer Club***

Mr Andrew Woolley, President of the Yarra Valley Soccer Club will be speaking in regard to the club's strategic plan.

#### ***Art of Place Project***

Mr Darcey Duggin will be speaking with regard to the Art of Place project at Burrinja cultural centre.

### QUESTIONS TO COUNCIL

There have been no questions from the public received prior to the agenda being printed.

## 7. BUSINESS PAPER

### SOCIAL AND ECONOMIC DEVELOPMENT

No. of Pages – 23

#### 7.1 Planning Application YR-2017/983 - 239-241 Maroondah Highway, Chirnside Park

##### APPLICATION DETAILS

<b>Site Address</b>	239-241 Maroondah Highway, Chirnside Park VIC 3116
<b>Application No.</b>	YR-2017/983
<b>Proposal</b>	Use & Development of Place of Assembly (Function Centre), Development of a Tavern and Retail Premises (convenience restaurant), Liquor Licence, the Reduction in Car Parking Rate, associated Vegetation Removal and Variation of Access to Road Zone Category 1 (RDZ1)
<b>Existing Use</b>	Retail
<b>Owner</b>	GPT Funds Management Pty Limited
<b>Applicant</b>	The GPT Group
<b>Zone</b>	C1Z - COMMERCIAL 1 ZONE
<b>Overlays</b>	DDO11 - DESIGN AND DEVELOPMENT OVERLAY - SCHEDULE 11, DCPO1 - DEVELOPMENT CONTRIBUTIONS PLAN OVERLAY - SCHEDULE 1
<b>Objections</b>	35
<b>Reason for Council Decision</b>	More than ten (10) objections
<b>Ward</b>	Chirnside

##### SUMMARY

The application seeks permission for the Use & Development of Place of Assembly (Function Centre), Development of a Tavern and Retail Premises (convenience restaurant), Liquor Licence, a Reduction in the applicable Car Parking Rate, associated Vegetation Removal and Variation of Access to Road Zone (RDZ1).

Under the provisions of the Commercial 1 Zone, planning permission is required for the use of the land for a function centre (place of assembly) and for associated buildings and works. Planning permission is also required for the development of a tavern and retail premises (convenience restaurant).

Planning permission is also required for the proposed buildings and works under the Design & Development Overlay (Schedule 11), for a reduction in the applicable car parking rate required under Clause 52.06 Car Parking, for the sale and consumption of liquor in association with the tavern under Clause 52.27 Licensed Premises, to vary access to a Road Zone Category 1 under Clause 52.29, and for the associated removal of three (3) trees pursuant to Clause 51.03 (previously Clause 53) of the Planning Scheme.

The proposal forms part of the overall redevelopment of the Chirnside Park Shopping Centre, comprising buildings and works to the southern portion of the site with a new ground floor tavern and function space above, located adjacent to the existing Reading Cinemas; together with an additional food and drink tenancy immediately south of the existing strip of food and drink tenancies.

The application involves a net loss of 45 existing car spaces, with the removal of a total of fifty-two (52) car parking spaces and addition of 7 car spaces. No additional car parking spaces are to be provided for the proposed use and development which require 305 new car spaces pursuant to Clause 52.06 of the Scheme.

The application was advertised and has received 35 objections. The objection grounds primarily relate to traffic, parking, access, safety, social impacts of liquor licence, changed family environment of cinema, location, history and visual impact of proposal.

The proposal is consistent with commercial zone objectives, as the use and development of the land for a function centre, tavern and convenience restaurant is within a major activity centre, and there is sufficient car parking capacity within the shopping centre to cater for the car parking demand associated with these land uses and the proposed loss of 45 spaces. The proposal is satisfactory when assessed against the relevant policies and provisions of the Yarra Ranges Planning Scheme and the Planning and Environment Act 1987. Accordingly, it is recommended that the application be supported and a Notice of Decision to Grant a Planning Permit be issued.

## RECOMMENDATION

***That Council resolve to approve Planning Application YR-2017/983 for the Use & Development of Place of Assembly (Function Centre), Development of a Tavern and Retail Premises (convenience restaurant), Liquor Licence, the Reduction in Car Parking Rate, associated Vegetation Removal and Variation of Access to a Road Zone Category 1 (RDZ1) at 239-241 Maroondah Highway, in Chirnside Park and issue a Notice of Decision to Grant a Permit subject to the conditions in Attachment 1 to the report.***

## SITE LOCATION AND DESCRIPTION

The site is formally described as land in Plan of Consolidation 362787W in Certificate of Title Volume 10993, Folio 229.

The subject site is irregular in shape with a total site area of 11.98 hectares and is occupied by the Chirnside Park Shopping Centre, which is located at the north-western corner of the intersection of Maroondah Highway/Edward Road/Manchester Road in Chirnside Park.

The applicant advised that the Shopping Centre opened in 1979 as a convenience centre serving the local community and has incrementally expanded over the years and now consists of key tenancies including Kmart, Target, Woolworths, Coles and Aldi and comprises a floor area of approximately 37,900 square metres (sqm), which is serviced by a total of 2,036 on-site car parking spaces.

Topographically, the land falls to the centre of the site with the highest point in the north-east. The north and north-east part of the site consist of steep contours with a concrete crib retaining wall encircling the car park area. The south-west of the site is slightly elevated and slopes to the centre of the site. There is scattered vegetation throughout the car parking areas, with more significant vegetation located along the Maroondah Highway site frontage.

The bulk of the Shopping Centre is concentrated within the north of the site and generally consists of a two-storey built form, with under-croft car parking and retail above. The area of the proposed works is located to the south-west of the site. It consists of a Reading Cinema and smaller pad sites, including several food and drinks premises, shops and a service station.

Within the south-west corner of the site, which is the subject site for the proposal is the Readings Cinema. A small group of food and drinks premises are located along the south-eastern boundary of the site, including a Nandos, Subway and Noodle Box. To the north-west along Kimberley Drive is a third building occupied by a number of tenancies, including Rivers, Dick Smith Electronics, a TAB and Planet Surf. All development is oriented inwards with the rear of buildings facing the road frontages of Kimberley Drive and Maroondah Highway.

Vehicle access to the shopping centre is from seven access points, including two access points onto Maroondah Highway, one serving the main Centre and one serving the south-west portion of the site.

There are also three access points on Kimberley Drive; two of these provide access to the under-croft parking area in the main shopping centre and one adjacent to the service station. There is also one access point onto View Point Drive and one access point on El Centro.

In addition to the under-croft car parking, at-grade car parking is located on the north, east and southern side of the shopping centre.

At-grade car parking, comprising approximately 174 spaces, is located centrally and to the south along the Maroondah Highway site frontage. The key vehicular access point to this precinct is via Maroondah Highway.

## **SURROUNDING AREA**

The Chirnside Park Shopping Centre is within the Chirnside Park Major Activity Centre. The Activity Centre is elongated and extends over 2 kilometres in length north to south, divided by Maroondah Highway. The Chirnside Park Shopping Centre is located to the north of the activity centre, a Homemakers Centre and bulky goods to the south and an emerging mix of uses to the east side of the highway. The area is undergoing substantial transformation with several large sites undergoing redevelopment.

The Shopping Centre site is reasonably well serviced by public transport, with 10 bus routes operating in and around the Centre, providing connections to nearby railway stations, other retail and administrative centres and the Melbourne CBD. In addition, the local Telebus services operate between Chirnside Park Shopping Centre and surrounding residential areas providing services to variable destinations on demand.

## ***Adjoining Properties***

The properties to the north, east and west of the Centre are predominately residential dwellings, with properties to the south being predominately commercial uses. Maroondah Highway is a road in Road Zone Category 1 and Edward Road is a road in Road Zone Category 2. The area of the proposed works is located to the south-west of the shopping centre and the immediate surrounding area is described as follows:

The land to the north of the site (technically north-east) comprises part of Chirnside Park Shopping Centre, between the main Centre and the area of works. This area is occupied predominantly by at-grade car parking and automotive services including Kmart Tyre and Auto, UltraTune, Bob Jane T-Marts and a Caltex Service Station.

Maroondah Highway adjoins the site to the east, on the opposite side of which is Hungry Jacks and Red Rooster convenience restaurants. The development is well set back from Maroondah Highway, given the substantial Highway road reserve which incorporates part of Council's 'Green Spine' project.

Kimberley Drive adjoins the south (technically south-west) site boundary, on the opposite side of which is residential development, characterised by detached dwellings within the 'Chirnside Village' including a large (4.1 hectare), excavated, undeveloped site fronting Maroondah Highway to the east of Old Melbourne Road. The vacant, excavated site had a permit that was issued in 2012 for a multi-level mixed use development, including residential, retail and commercial uses.

Kimberley Drive also adjoins the west of the site (technically north-west) site boundary, on the opposite side of which is a new residential development which is currently under construction. The development is known as the Gardens Estate, characterised by townhouse development.

## **HISTORY**

<b>Application Number and Decision Date</b>	<ul style="list-style-type: none"> <li>Planning Application YR-2018/87 has recently been approved by way of a Notice of Decision for the conversion of a retail clothing store to the north-west along Kimberley Drive to a licensed restaurant, including the provision of an outdoor seating area. The application proposes a total of 200 seats for patrons, both inside and in outdoor dining areas.</li> <li>Planning Permit YR-2016/1021 approved 16 October 2018 allowed buildings and works to extend the existing shopping centre, business identification signage, a reduction in car parking requirement, variation to easement E-1, E-2 &amp; E-10, alteration of access to a Road Zone Category 1 and associated removal of vegetation.</li> <li>Permit YR-2016/1021 has implications for the proposal because the application is to extend the Chirnside Park Shopping Centre providing an additional 10,568m<sup>2</sup> floor space, which includes 8,128m<sup>2</sup> retail, 330m<sup>2</sup> office, 1400m<sup>2</sup> childcare centre (120 places) and 620m<sup>2</sup> medical centre (10 practitioners). It is proposed to demolish the existing 382 car parking spaces to facilitate the extension of the Centre and provide 696 spaces including 628 spaces that will be located within a three-level deck car park and 68 spaces in the at-grade to the south of the addition. Access will be from the internal accessway to the north of the site (first floor level) and</li> </ul>
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	<p>from View Point Drive to the third level.</p> <ul style="list-style-type: none"> <li>Pursuant to Clause 52.06-5, the development allowed by Permit YR-2016/1021 will have a statutory car parking requirement of 397 additional spaces. The proposal will result in a net gain of 314 spaces and thus, the permit allowed a car parking reduction under Clause 52.06-3 for the removal of the existing spaces (382) and replacement with 696 spaces (i.e. a deficit by 83 spaces).</li> <li>Planning Permit YR 2016/1277 for Buildings and works for the construction of a clock tower, approved January 2017.</li> <li>Planning Permit YR-2011/1536 for Buildings and works to construct an extension to shopping centre, association business signage, car parking, tree removal and use of part of the land for a restricted recreation facility, approved 9/7/2013.</li> <li>Planning Permit YR-2010/1213 for Display of advertising signage, approved 12/11/2010.</li> <li>Planning Permit YR-2000/483 for Advertising signs for petrol station, approved 9/6/2000.</li> <li>Planning Permit YR-2000/1628 for Development of food premises complex and associated car parking, approved 20/12/2000.</li> <li>Planning Permit YR-1999/1076 for the use and develop a cinema complex, entertainment and games areas, restaurant, fast food restaurant, stand-alone convenience restaurant, video shop, 2 automotive service related facilities, petrol sales outlet &amp; reduced car parking, approved 25/10/1999.</li> </ul>
<b>VCAT History</b>	<p>YR-2011/1536 'Buildings &amp; works to construct an extension to existing shopping centre (Chirnside Park Shopping Centre) associated business identification signs, car parking dispensation, tree removal and use part of the land for the purpose of restricted recreation facility (gymnasium)'.</p> <p>This permit was issued by Council. However, two conditions were contested by the applicant relating to (a) the access way and (b) a car parking management plan to manage parking overflow during all times except the peak shopping periods. This was resolved with the applicant by a VCAT Consent Order.</p>
<b>Other History</b>	Not applicable

## PROPOSAL

The application proposes the Use & Development of Place of Assembly (Function Centre), Development of a Tavern and Retail Premises (convenience restaurant), Liquor Licence, the Reduction in Car Parking Rate, associated Vegetation Removal and Variation of Access to Road Zone (RDZ1).

The proposal will form part of the overall redevelopment of the Shopping Centre, comprising redevelopment of the southern portion of the site with a new tavern and function space above, located adjacent to the existing Reading Cinemas. An additional food and drink tenancy is proposed immediately south of the existing strip of food and drink tenancies.

The proposal will involve minor demolition works, the construction of two new buildings, reconfiguration of car parking and inclusion of new landscaping and kerbing. The key aspects of the proposal include:

The Demolition and Removal of:

- Fifty- two (52) car parking spaces and associated areas of pavement, together with the removal of three (3) trees from the site to accommodate the proposed development.
- The southern side of the existing food and drink premises.
- Partial demolition of the existing canopy above the cinema entry.

Tavern and Function Centre

- Buildings and works for a double storey building comprising a tavern at ground floor and a function centre space at first floor, which will be located immediately north-east of the existing Reading Cinemas.
- The tavern will have a total internal floor area of 778 square metres, plus a 170 square metre outdoor beer garden with retractable roof above.
- The function centre space at first floor level will have a floor area of 411 square metres, plus a 77 square metre balcony which wraps around the northern and eastern sides of the building.
- The building will have a maximum height of 8.80 metres and will be setback a minimum of 12.53 metres from the eastern site boundary (Maroondah Highway).
- External materials and finishes for the building include fibre cement sheet cladding (mixture of dark and light tones), metal sheet cladding (adonised black finish), exposed steel members (black powder coated finish) hardwood timber cladding and feature plywood cladding to beer garden walls and various soffits.
- Both the tavern and function centre space above are proposed to operate seven (7) days per week between the hours of 10:00am to 1:00am (next day).
- A maximum 742 patrons have been proposed for the Tavern and Function Space.
- Sale and consumption of liquor is proposed within both the tavern and function centre areas.

Convenience Restaurant

- A new single storey food and drink premises is proposed immediately south of the existing strip of food and drinks tenancies adjacent to the eastern (Maroondah Highway) site boundary.
- The tenancy will have a total internal floor area of 165 square metres.
- This building will have a maximum height of 5.0 metres and will be setback between 1.10m – 2.32m from Maroondah Highway.

- External materials and finishes include precast concrete walls painted to match colour of existing tenancies.
- A formalised 'alfresco zone' is proposed along the western side of the strip of existing and new food and drink / convenience restaurant tenancies. The alfresco zone will be provided with timber posts and rafters above outdoor seating areas, with plants supported by wires between posts.
- A maximum 28 patrons have been proposed for the Convenience Restaurant.
- No hours have been proposed for the Convenience Restaurant, as the use is 'as of right'.
- No end users are proposed to occupy the convenience restaurant.

#### Tree Removal and Landscaping

- Removal of Trees 5, 6 and 7 from within the site (Refer to Attachment 17). These trees have been identified to be 'Planted' trees and so are exempt from planning permission under Clause 52.17.
- The application indicates that Trees 5, 6 and 7 within the site would need to be removed. Given the proximity of the proposed new tenancy (to the south of the existing retail premises) to Tree 9, Council's Arborist advised that this tree may also require removal. All trees to be removed within the site were afforded a 'Moderate' arboricultural value.

Tree No	Botanical Name	Common Name	Height (m)	DBH (cm)	Comments
5	<i>Eucalyptus sideroxylon</i>	Red Ironbark	12m	39,28,32	Moderate
6	<i>Eucalyptus sideroxylon</i>	Red Ironbark	14m	38,34,32	Moderate
7	<i>Eucalyptus sideroxylon</i>	Red Ironbark	10m	44 at 1m	Moderate
9	<i>Eucalyptus scoparia</i>	Wallangarra White Gum	12m	33	Moderate

- New landscaping and tree planting is proposed across the car park and areas surrounding the proposed tavern and food and drink tenancies, together with a row of trees lining the interface between the site frontage and Maroondah Highway.

#### Access and Car Parking

- To accommodate the proposed buildings and works, it is proposed to demolish/remove a total of fifty-two (52) existing car parking spaces and associated areas of pavement. The new layout will include seven (7) new car parking spaces (including one disabled space), resulting in a total loss of forty-five (45) car spaces.
- The default car parking rate set by the car parking provisions of the Planning Scheme determines that the proposal will result in an additional car parking demand of 305

car spaces, of which a reduction is sought for these spaces in addition to the loss of 45 existing spaces.

- Existing vehicle access points to the shopping centre site will be unchanged by the proposal; however, several internal vehicle accessways throughout the car park are being modified as part of this development.
- The provision of a new pedestrian link and formal crossing from Maroondah Highway to the site to provide direct access from Maroondah Highway into the precinct.

#### Loading/Unloading

- Two (2) new loading bays are also proposed as part of the development, including one immediately south of the new food and drink tenancy and one immediately south of the proposed tavern.

#### Bicycle Facilities

- The proposed provision of 11 bicycle hoops (i.e. 22 bicycle parking spaces) across the site positioned to cater for the visitors and staff demands.

#### Signage

- No signage has been proposed as part of this application.

For further detail, refer to Attachments 5-15.

### **PLANNING CONTROLS**

<b>Zoning:</b>	Clause 34.01 Commercial 1 Zone
<b>Overlay:</b>	Clause 43.02 Design and Development Overlay schedule 11 Clause 45.06 Development Contributions Plan Overlay
<b>State Planning Policy:</b>	Clause 11 Settlement Clause 15 Built Environment and Heritage Clause 17 Economic Development Clause 18 Integrated Transport
<b>Local Planning Policy:</b>	Clause 21.04-2 Commercial Land Use Clause Clause 21.05 Settlement Clause 21.06 Built Form Clause 21.07 Landscape Clause 22.05 Vegetation Clause 22.06 Chirnside Park Activity Centre
<b>Schedule to Clause 51.03</b>	Vegetation removal Section 3.0
<b>Other Requirements:</b>	Clause 52.06 Car parking Clause 52.27 Licensed Premises Clause 52.29 Land adjacent to a Road Zone Category 1 Clause 52.34 Bicycle Facilities Clause 65.01 Decision Guidelines

For further information on the planning controls refer to Attachment 2.

## CULTURAL HERITAGE MANAGEMENT PLAN (CHMP)

The application has been checked against the requirements of the Aboriginal Heritage Act 2006 as to the need for the requirement of a Cultural Heritage Management Plan (CHMP). It has been assessed that a CHMP is not required as the site is not subject to Cultural Sensitivity.

## EXTRACTIVE INDUSTRY

The subject site is not located within 500m of land on which a work authority has been applied for or granted under the Extractive Industries Development Act 1995.

## STAKEHOLDER VIEWS

### External Referrals

Authority	Consent/Objection – Summary of Conditions
<b>VicRoads</b>	<p>No objection to the proposal with the following advice:</p> <ul style="list-style-type: none"> <li>It is observed that proposed works are unlikely to impact adversely on the safety and performance of the Maroondah Highway.</li> <li>The Council is required to be satisfied that adequate parking within the site is provided to cater for overall parking demand of the shopping centre.</li> </ul>

### Internal Referrals

Department	Summary of Response
<b>Development Engineer</b>	<p>Consents to the overall proposal, subject to conditions.</p> <p>The engineer has further provided an assessment which supports modification of the applicable car parking rate for a tavern from 0.4 to 0.31 based on empirical data; the level of car parking available within the commercial centre to support the requested reduction; and the walkability from the subject site to the proximate parking areas subject to the upgrade of the existing pedestrian and lighting arrangements.</p>
<b>Waste Management</b>	<p>Consents to the proposal in relation to the submitted Waste Management Plan.</p>
<b>Arborist</b>	<p>Consents to the proposal, subject to conditions with the following discussion:</p> <p><i>The proposal is for tree removal and development of two buildings. Trees #5, 6 and 7 have been proposed for removal and the applicants arborist has identified an additional tree - Tree #9 as requiring removal due to the installation of a retaining wall.</i></p> <p><i>These trees are non-indigenous, planted, mature, natives that provide screening and shade. They offer limited habitat value and their removal could be permitted if a detailed landscape plan showing a minimum of 2 for 1 tree replanting was submitted.</i></p>

***Objections and Consultation***

✓Mail      ✓Sign      ✕ Local Newspaper

Refer to Attachment 3 for location of notified properties and objectors plan.

Number of Objections: Thirty six (36).

Issues raised in objections include the following:

- Traffic, Parking, Access
- Safety
- Social Impacts & Liquor Licence
- Change the family environment of cinema
- Location
- History
- Visual impact
- Shopping Centre no longer a viable option to go to
- Potential of the tavern to be used as a nightclub.

A community consultation meeting was held on 30 April 2018 that was attended by the Ward Councillor, Planning Officers, Engineer, owners representatives and a number of community members (objectors). The above issues were all tabled for discussion, and the loss of car parking spaces as proposed was considered to be of major concern.

**ASSESSMENT/ KEY ISSUES**

The proposal has been assessed against the applicable State and Local Planning Policy provisions, zone and overlay requirements, Clause 52.06 Car Parking, Clause 52.27 Licensed Premises and Clause 52.29 Land adjacent to a Road Zone Category 1 provisions. Having regarded the requirements of the planning scheme and the concerns raised by objectors the proposal is found to be an acceptable outcome subject to conditions.

The development of this site will see the achievement of Council's objectives and policies for the area which seek to encourage economic development which will provide a positive economic boost to the Chirnside Park Shopping Centre and overall activity centre. The following assessment identifies the key issues requiring further discussion.

***State Planning Policy Framework***

State and local policy encourages the concentration of a mix of uses in activity centres to meet community needs and maximise accessibility to facilities and services. Chirnside Park is identified as one of Yarra Range's two major activity centres, with opportunities for

intensive redevelopment. The proposed area of works is located within the Town Centre Precinct of the Activity Centre, in which future land uses are to reinforce the role of the Centre as the primary retail area and focus of pedestrian orientated activities.

Chirnside Park is a designated Activity Centre in accordance with Clause 11 of the Yarra Ranges Planning Scheme. The proposed extensions are in accordance with objectives and purposes of the State Planning Policy framework as the development will consolidate and enhance the existing activity centre. The proposal will result in a vibrant mix of uses within an activity centre, in an area that is highly accessible to the community in accordance with the activity centre objectives of the clause.

The development is also consistent with the purpose of Clauses 15 and 17 as it will positively contribute to the urban environment and provide additional retail floor area within an existing commercial centre which will meet the needs of the growing local and regional population. The proposal will improve an existing precinct within the Chirnside Park Shopping Centre. The development will incorporate high quality design, thereby enhancing the character of the Shopping Centre and contributing positively to the appeal of the Activity Centre as a whole, in accordance with Clause 15 (Built Environment and Heritage).

The addition will expand the range of uses within the activity centre providing additional retail and entertainment facilities, function space and food and beverage options within an existing commercial centre that will meet the needs of a growing local and regional population.

### ***Local Planning Policy Framework***

In terms of local policy, the proposal would intensify the use of currently underutilised land on the subject site as envisaged in Clause 21.03 (Vision). It would also introduce a mix of uses that would reinforce the established role of the Chirnside Park Activity Centre on a site that can comfortably accommodate the anticipated parking demand and traffic generation without detracting from the amenity for the area in accordance with the objectives of Clause 21.04 (Land Use).

The development would contribute to a vibrant, mixed use precinct and incorporate environmentally sustainable design initiatives, contributing to a distinctive and appealing gateway to Yarra Ranges in accordance with the objectives of Clause 21.05 (Settlement).

The development has been sensitively designed to complement the scale of the existing Centre and will incorporate high quality design and materials that contribute to a sense of place and will enhance the public realm and pedestrian amenity in accordance with the objectives of Clause 21.06 (Built Form). The development has been designed to integrate with the scale and features of the existing shopping centre.

The proposed uses would encourage out of hour's activity on site and enhance the existing cinema function by introducing a mix of complementary entertainment facilities, as well as daytime food and drink uses. The proposal would help contribute to an active and appealing public realm area within the Precinct that will promote pedestrian activity, and ultimately feed into the surrounding area in accordance with the town centre objectives within Clause 22.06 (Chirnside Park Activity Centre).

Furthermore, local policy at Clause 22.06 encourages land uses within the Precinct to comprise a mix of high intensity retail, entertainment and other commercial activities. Thus, the proposed uses comprising a convenience restaurant and a sports bar are entirely consistent with objectives of local policy for the Chirnside Park Town Centre Precinct.

### ***Requirements of the Commercial 1 Zone***

The applicant has proposed that the land be used for multiple retail purposes, including a potential 24/7 convenience restaurant with a maximum 28 patrons (no end user has been specified), and a Tavern (Sporting Globe) with an associated function centre element. The tavern and function centre are proposed to operate together seven (7) days per week between the hours of 10:00am to 1:00am (next day), and accommodate a combined maximum 742 patrons to the site. The applicant reasons that the proposed maximum patronage is expected to be more aligned with major sporting events and may not be an everyday norm.

Notably the Yarra Ranges Planning Scheme denotes that the use of the land for a convenience restaurant and tavern is 'as-of-right' under the Commercial 1 Zone. As such the assessment of the proposal may only consider the use of the land for a function space in association with the Sporting Globe Tavern against the relevant decision guidelines of the Commercial 1 Zone. In contrast, each of the other proposed land uses may be considered from a Buildings and Works perspective only under the Commercial 1 Zone, and against the additional building design requirements of the Design and Development Overlay Schedule 11.

### **The Interface with Adjoining Zones, especially the Relationship with Residential Areas**

The site does not have a direct sensitive interface. Maroondah Highway which is a road in a Road Zone Category 1 adjoins the site to the east and Kimberley Drive to the south is zoned Mixed Use and the land to the north which forms part of the Shopping Centre is zoned for commercial purposes. The land to the east, on the opposite side of Maroondah Highway is currently occupied by convenience restaurants and a service station. The land to the south is currently vacant, however there is the potential for a future mixed use development, including residential uses on site. The land to the west over Kimberley Drive comprises the most sensitive interface, including a new residential townhouse estate.

The proposed uses will result in additional after-hours activity on site, which naturally, has the potential to impact on proximate residential uses. The site however, benefits from significant separation from the residential uses and this, coupled with appropriate management, will ensure the proposed uses will not result in undue amenity impacts for existing or future residents.

It is noted that the use of the land for a tavern is as-of-right in the zone. An assessment of the amenity impact relating to the sale and consumption of liquor in the tavern is discussed later in the report.

### **The Effect that Existing Uses may have on the Proposed Use**

The proposed uses will be located within the existing Shopping Centre site, with the existing surrounding uses that are to be retained including a cinema, shops and various food and drink tenancies. The cinema is currently the anchor use in the area of the proposal, attracting activity to the southern end of the Shopping Centre, with the cinema



currently providing the key out-of-hours activity. The proposed uses are intended to complement the existing uses on site, providing further out-of-hours activity to contribute to a vibrant precinct that promotes outdoor activity.

Given the nature of the existing uses, no conflict is expected to arise between the operation of the existing and proposed uses. The new venues will support public realm activity, which in turn, is likely to attract additional customers to the existing uses on site and vice versa. Furthermore, the introduction of the entertainment facilities will create further activity in the Precinct once the main Shopping Centre closes, supporting the existing cinema function.

#### The Drainage of the Land

The existing site currently comprises predominantly hard standing areas, with most of the Precinct covered with impermeable car parking areas. The proposed development will not significantly increase impermeable surfaces, and rather will introduce additional areas of soft landscaping. It is expected that the site will be adequately drained as part of this proposal.

#### The Effect of Traffic to be Generated on Roads

The main concern with the proposal relates to car parking provision. This is discussed in more detail under the car parking assessment.

#### ***Design and Built Form***

The assessment of the design of the proposed built form will be guided by the response of the built form to the specified requirements of Design and Development Overlay Schedule 11 (DDO11).

It is noted that local policy at Clauses 21.06 and 22.06 detail general design objectives encouraging a distinctive and visually interesting activity centre which promotes pedestrian activity. These objectives are further refined in DDO11 which outlines specific design criteria for the Activity Centre. The design requirements of DDO11 can be varied, provided the design objectives and outcomes of the Overlay are achieved.

#### Building Appearance

The proposal comprises two new buildings, which are varying in height and scale, yet all designed to complement existing built form on-site. The cinema will remain the most prominent building within the Precinct, with the new components comprising a mix of single and double storey built form.

The proposal has been designed to enhance visual interest and, in contrast to existing development, incorporates finishes to complement the natural environment. The external finishes will comprise a mix of natural concrete, timber, steel and glazing, set amongst new landscaping to further soften the view of development. An appropriate balance of glazing and solid materials has been achieved to ensure active frontages at ground level and a vibrant pedestrian environment. Importantly, the use of external finishes will be consistent throughout the development and will contribute to a distinct and visually identifiable 'Slow Food Precinct'.

### Interface with Public Places

The existing development within this Precinct is currently oriented internally with the rear of buildings forming the interface with street frontages to Kimberley Drive and Maroondah Highway. The DDO encourages the creation of active frontages along Kimberley Drive and Maroondah Highway.

The proposed tavern / function space is oriented to provide an outlook to the north-east and east, creating significant opportunities for passive surveillance over the eastern car park area and Maroondah Highway.

The design of the development accords with design objectives of the DDO and will improve the interface of the development with surrounding land. Activity to street interfaces has been provided where reasonable, with non-active frontages incorporating landscaping and materials to ensure visual interest. Physical and visual links are provided between the buildings to adjoining land to ensure permeability throughout the site and encourage movement from surrounding land into the Precinct.

### Landscaping

Landscaping that will be consistent with the character of the area will be provided. A landscape plan will be required to be endorsed as part of any approval.

### Access and Parking

The proposal will require the reconfiguration of car parking within the Slow Food Precinct. Existing car parking areas located to the north and north-east of the cinema will be partially removed to accommodate this development and the car park layout is being slightly revised accordingly. All existing vehicular access points to the subject site will remain unaltered by the proposal, with only minor modifications to the internal vehicle accessways proposed.

The proposed accessways and car parking layout have been designed generally in accordance with the requirements of Clause 52.06. The car parking areas will enable efficient manoeuvrability throughout the site for vehicles. Furthermore, the Precinct has been designed to minimise conflict between pedestrians and vehicles, with pedestrian areas clearly delineated and crossings provided on all key pedestrian routes.

Naturally, vehicle movements within the southern portion of the subject site will increase as a result of the proposed development. The proposal is expected to generate up to 81 and 100 vehicle movements during the Friday and Saturday peak hours respectively. It is anticipated that the majority of additional traffic generated by the proposal will be served via the three closest access points to the Slow Food Precinct (two to Maroondah Highway and one to Kimberley Drive).

The loss of 45 car spaces and no additional provision for 305 car spaces required by the proposal is a valid concern for the proposal and discussed in further detail in the car parking section of this report.

### Building Height & Setbacks

The proposed Tavern and Function Space to the north-east of the cinema adopts a two-storey scale. In accordance with the Town Centre Precinct requirements of DDO11, the proposed building height will not exceed 13.5 metres, with a maximum height of 8.80 metres.

The proposed convenience restaurant adopts a single-storey scale to remain consistent with the scale of the adjoining strip of food and drink tenancies. The maximum height of this building is 5.50 metres.

Thus, all proposed development is consistent with the preferred height of the Precinct under the DDO11 and will integrate seamlessly within the existing built form.

The setbacks of the buildings do not satisfy the requirement recommended by the DDO. It is however noted that the built form nearest to the street is single storey in scale and will remain largely consistent with the existing built form associated with the existing strip of shops along the eastern side of the site.

The proposed 20 metre setback to the double storey Tavern / Function Space building at ground floor level, with the upper level recessed a further 2.0 metres from the ground floor wall, is considered appropriate in this context given that this setback is generally consistent with the existing minimum setback of the cinema building to the south.

Whilst the footprint of the new retail tenancy is sited closer to the Maroondah Highway boundary, the single storey scale of this tenancy effectively mitigates visual bulk upon the Maroondah Highway corridor whilst remaining largely consistent with the scale of the built form comprising existing strip of shops along this eastern interface. The provision of a row of new tree plantings along the eastern interface (as depicted on the landscape concept plan) will appropriately soften the eastern interface as perceived from Maroondah Highway.

### Public/Private Interface

The proposed tavern / function space is oriented to provide an outlook to the north-east and east, creating significant opportunities for passive surveillance over the eastern car park area and Maroondah Highway.

Provision of an east-facing beer garden and substantial glazing at ground floor level will enhance the interface to Maroondah Highway by providing late night activity at a pedestrian level, which will positively contribute to the vibrancy of the southern end of the precinct, which currently lacks visual interest and activity. The car parking area to the east will be landscaped to complement the adjoining green spine and soften the visual expanse of the hard-stand area. Furthermore, the inclusion of a pedestrian link and formal crossing which provides direct access from Maroondah Highway into the precinct, will promote movement through the site from surrounding land.

The proposed convenience restaurant tenancy does not provide a direct active frontage to Maroondah Highway, but rather, provides a tenancy which is oriented in a manner that is consistent with the existing strip of food and drink tenancies. To enable passive surveillance to the west, south and south-east, glazing is proposed to wrap around the respective facades of the tenancy. This glazed treatment will contribute to the visible activity from these interfaces, whilst the provision of landscaping along the eastern site

boundary will appropriately relate to the vegetated character of Maroondah Highway. Furthermore, the proposed alfresco zone along the western side of the food and drink tenancies will contribute significantly to the pedestrian activity internally within the precinct.

Overall, the above assessment demonstrates that the proposal is generally consistent with the design guidelines relating to building appearance, interface with public places, landscaping and the design requirements of the Town Centre Precinct.

In order to manage construction impacts associated with the development, a condition of any permit granted will require the submission of a detailed construction management plan. A more detailed discussion regarding the access and car parking element is set out below.

### ***Car Parking***

In support of the development the applicant has submitted two Traffic Impact Assessment (TIA) reports. The first identified that the applicant was seeking a reduction of 175 car parking spaces (required for 334 patrons to the proposed uses, and the loss of 45 parking spaces). After formally amending the application under Section 57A of the Planning and Environment Act 1987, the second report sought a reduction of 350 spaces (required for a combined 770 additional patrons to the proposed tavern and convenience restaurant onsite and the loss of 45 parking spaces). A new and empirically adjusted parking rate of 0.18 spaces per patron was also proposed in this report, however later adjusted to 0.31 after the applicant submitted comparative survey data from Sporting Globe Tavern in Werribee. The location of this operation is of high relevance due to its similar proximity to the Melbourne CBD and car ownership rates based on Census data (2016), which shows that 65% of households in Yarra Ranges have access to two or more cars compared to 59% of households in City of Wyndham (Werribee). The applicant has advised that the second TIA report proposes alternate and higher patron numbers for the proposed tavern/function centre, in order to accommodate the needs of a new tenant (Sporting Globe) intending to make use of the building.

Within both TIA reports it was identified that the Chirnside Park Shopping Centre currently includes approximately 2,036 car parking spaces, with 751 of these spaces located within a convenient distance (200m) of the 'Slow Food Precinct' being the area which is affected by the application.

The proposal involves the removal of 52 existing car parking spaces to accommodate the new development layout, and replacement of no more than 7 of these spaces with new parking spaces, thereby resulting in an overall loss of 45 spaces within the Slow Food Precinct.

Pursuant to Clause 52.06-5 (Car Parking), the following car parking requirements apply under the Planning Scheme:

- 0.3 spaces to each patron permitted for a 'Convenience Restaurant'
- 0.4 spaces to each patron permitted for a 'Tavern' and 'Function Centre'.

Based on the above parking rates, the statutory car parking requirement for the proposal is as follows:

Use	Area / Number of patrons	Planning Scheme requirement	Number of car spaces required
<b>Convenience Restaurant</b>	28	0.3 spaces to each patron permitted	8
<b>Tavern/ Function centre</b>	742	0.4 spaces to each patron permitted	297
<b>Total</b>			<b>305</b>

The proposed uses and their statutory parking requirement in addition to the loss of 45 spaces mean the proposal will result in a deficit of 350 car spaces not being provided in support of the proposed multi use development.

The applicant's previous TIA assessment had presented a case that a parking rate of 0.25 spaces per patron for the convenience restaurant and 0.18 spaces per patron for the tavern & function centre were more appropriately suited car parking rates.

However since then as part of the section 57A amendment, the applicant has provided revised comparative survey data from a similar commercial operation (where the distance from the CBD and car ownership levels are generally more equivalent to the subject site - see Attachment 19). The survey data later provided in response to this request showed that the car parking demand rate for Sporting Globe Werribee varied between 0.21 and 0.38, with an average rate of 0.31 parking spaces required per patron between 5-9pm on a peak Friday night. Based on this data, a modified empirical parking rate of 0.31 parking spaces per patron is considered appropriate, and would mean that the tavern and function centre is anticipated to generate a demand for the use of 230 car parking spaces on the land during peak operating times (half this during the lunch time period). Combined with the car parking demand for the convenience restaurant, this generates the demand for 238 parking spaces for the proposal.

In seeking to justify the suitability of onsite parking to account for the loss of 45 car parking spaces, and the additional average demand for 230 car spaces at night and 115 during midday within the shopping centre car park, the applicant in the latest TIA has conducted recent car parking demand surveys during the peak or busiest weekly shopping centre operating times of 6pm on a Friday, midday 12pm on a Saturday and 8pm on a Saturday night. Bearing in mind the need for supporting parking locations to be within a reasonable walking distance from the proposed uses, the car parking availability has been measured from what the applicant has designated as 'proximate parking areas', otherwise nominated in Attachment 16 as parking areas 6, 8, 9, 10 & 11 (car parks located within 200m of the proposal).

The figures provided in the TIA advise that when deducting the 45 lost spaces from the site, 693 spaces would be available for use in the evening and 677 during midday within the proximate parking areas. Consequently at 6pm on a surveyed Friday night, 404 spaces were found to be occupied, at 12pm midday Saturday 330 spaces were occupied and during 8pm on a Saturday night 366 spaces were occupied. For the sake of simplifying this assessment, the two evening demand figures have been combined below to average out to 385 spaces occupied during evening hours.

To further ensure accuracy of parking demand, the applicant in the recently prepared TIA considered the likely additional demand of the recently approved 'Groove Train' restaurant development, which equates to an additional demand of 29 spaces during the midday period and 58 spaces during the evening.

Consequently when combining the surveyed/ existing midday and average evening car parking demands, together with the additional car parking demand of the Groove Train restaurant development, and that of the proposed land uses behind this application, a total combined demand of 673 spaces in the evenings and 474 spaces during the midday period is then established.

For the purposes of considering this car parking reduction within the proximate parking area, these figures are positive, as when deducting them from the total parking spots available for use in this general location (693 spaces in the evening and 677 during midday), a surplus of 20 unoccupied spaces remains during the evening and 203 spaces unoccupied spaces during midday, demonstrating that the site has ample parking availability to support this request.

Given the extensive patron numbers proposed by the tavern and function centre to operate as part of the Sporting Globe sports bar chain, it is considered necessary to condition the patron numbers to be no greater than 742 patrons onsite at any one time. It is also important to bear in mind that patron numbers as high as 742 would not be the norm and are in reality to be anticipated predominantly during major sporting occasions such as Melbourne Cup or Grand final day, where sporting interest will be higher than usual in Melbourne.

Notably during the evening periods, and as acknowledged by the applicant, there would be less car parking availability within proximate parking locations 9, 10 & 11, and a much higher availability within areas 6 & 8 which would be located the greatest geographical distance from the location proposed for the Sporting Globe tavern and convenience restaurant. After carrying out a site inspection with a senior Engineering Officer, it was observed that there is limited pedestrian connectivity to these more distant parking areas, which raises valid safety concern given the relatively poor lighting arrangement within the proximate parking areas.

Given alcohol consumption has the potential to lead to anti-social behaviour and safety concerns, it is considered appropriate to recommend conditions for permit that would seek to upgrade the lighting arrangements within the proximate parking areas to meet current Australian Standards as well as to enhance the level of pedestrian safety to guide patrons moving through the proximate parking areas. This would also greatly benefit pram users or those with limited mobility moving through the shopping centre.

It is relevant to note that the Traffic Impact Assessment has not had oversight of the car parking impact that the Eastern Expansion will have on the general precinct during its construction period, of which parking areas 4 & 5 will be temporarily lost (390 spaces), but will eventually provide for an additional 299 spaces onsite upon completion. Notably car parking areas 1, 2, 3, 7, 12 & 13 which have not been relied on in support of the proposal, would remain and collectively continue to offer 895 spaces to visitors to the precinct.

It is important to recognise that based on recent parking surveys conducted during peak visiting times to the precinct, and in the event that parking areas 4 and 5 are lost presuming the Planning Permit for the Eastern Expansion is acted upon first, there would

be a displaced car parking demand of approximately 128 vehicles on a typical Friday evening and 211 vehicles during midday on a Saturday. Notably in this part of the precinct during a typical Friday evening, parking areas 1, 2, 3, 7, 12 & 13 collectively account for approximately 427 unoccupied parking spaces, which is more than sufficient to cater for the lost parking spaces from parking areas 4 and 5. Consequently these figures also demonstrate there is even greater parking availability to cater for the proposed convenience restaurant, tavern and function centre evening demand outside of the proximate parking areas, although the applicant does not rely on this.

During a recent midday period on a Saturday, the applicant's TIA recorded that approximately 211 parking spaces were occupied in parking areas 4 & 5, whilst it was further observed that only 53 unoccupied spaces remained within parking areas 1, 2, 3, 7, 12 & 13. These figures demonstrate that there is not sufficient space in the northern parking areas to cater for the displacement of parking from areas 4 and 5. However when considering approximately 203 unoccupied car parking spaces were surveyed within the proximate parking areas further south during the midday period, even after the additional car parking demand associated with the proposed convenience restaurant, tavern & function centre has been factored in, there would be ample car parking spaces in this part of the site to cater for the displacement from parking areas 4 and 5. Notably proximate parking areas 6 & 8 alone, which are located relatively nearby to the main shopping centre were surveyed to contain a substantial 167 unoccupied spaces during the midday period.

With these figures in consideration, and the high level of parking availability within the broader precinct to cater for both the existing and proposed demand, and the temporary losses of parking areas 4 & 5, it is considered that the possible future construction of the Eastern expansion should not form a valid reason to refuse the dispensation sought.

### ***Traffic***

In terms of vehicle access, the Centre is currently provided with seven vehicle crossovers to the surrounding road network as follows:

- Unsignalised left-in/left-out access point to Maroondah Highway
- Signalised access to Maroondah Highway (full turning movements)
- Unsignalised t-intersection to View Point Drive
- Unsignalised t-intersection to El Centro
- Three unsignalised t-intersections to Kimberley Drive.

The vehicle access to the site will remain unchanged.

A comprehensive traffic generation, impact and distribution assessment has also been conducted, and provided in a report by the applicant's traffic consultants. Based on similar developments and the projected patron numbers, the site is expected to generate up to 81 and 100 vehicle movements during the Friday and Saturday peak hours respectively.

Applying these movements to the existing access points and traffic volumes, a maximum degree of saturation of 0.36 and queuing distance of 78.0m at the Maroondah Highway access (the closest to the site) would be generated, which is considered a nominal

increase and within the capacity of the intersection and overall site. The analysis accounts for existing traffic movement counts, including the approved Eastern Precinct and Groove Train developments.

### ***Bicycle Parking***

The development allows for the provision of 11 bicycle hoops (i.e. 22 bicycle parking spaces) across the site positioned to cater for visitor and staff demands. These hoops are currently only shown on the landscape concept plan, but will be required to be shown on the site plan as a condition of any permit granted.

### ***Decision Guidelines of Clause 56.27 – Licensed Premises***

Amongst other things such as the hours of operation, patron numbers, and the general impact of licensed premises on the amenity of an area, the decision guidelines of clause 52.27 require consideration of the cumulative impact of the existing and proposed liquor licences in the area.

The decision guidelines at clause 52.27 of the Scheme, includes the consideration of the impact of the sale or consumption of liquor on the amenity of the surrounding area, the impact of the hours of operation and number of patrons on the amenity of the surrounding area and the cumulative impact of any existing licensed premises and the proposed licensed premises on the amenity of the surrounding area.

The tavern & function centre will be located to the north-east of the existing cinema building. The applicant has advised that the tavern will operate as a sports bar and restaurant and is proposed to operate between 6am to 1am (next day), seven days a week. It will contain 742 seats and will include the serving of food, as well as alcohol to its patrons for consumption on-premises. Numerous television screens will be provided within the premises for the viewing of sports. A beer garden is also proposed at the south-eastern corner of the new building.

The function space is located directly above the tavern and is reliant upon the tavern for primary access to the first-floor space. It is expected that the function space will be operated by the tavern management, however will accommodate pre-booked private functions only and is proposed to operate between 6am to 1am (next day), seven days. The function centre would cater for a portion of the maximum 742 patrons anticipated onsite.

The area proposed for the sale and consumption of liquor (red line) consists of the tavern, beer garden and the function centre. The impact of the proposed tavern and function space uses on the amenity of the surrounding area must be considered.

These proposed uses will be located to the east of the site, with a separation of over 100 metres from the nearest residential area. Generally, venues that serve meals such as the proposed tavern are at less risk of excessive alcohol consumption than those that do not, with patrons leaving the premises considered less likely to have an adverse impact on the surrounding area through anti-social behaviour. Given the lack of other after-hour entertainment facilities within the immediate surrounds, the activity occurring because of the proposed tavern and function space is expected to be contained within the Slow Food Precinct, with activity generally ceasing when the venues close at 1:00am (next day).



External seating in the beer garden is proposed and therefore a degree of external patron noise is expected from the premises. Noise would also be created by the placement of external speakers in this area. Given the potential for noise disturbance to be caused to the surrounding residences, an acoustic report was voluntarily provided by the applicant to address concerns (see Attachment 20). This report advised that noise emissions from the beer garden would comfortably comply with SEPP N-2 limits for emissions from commercial premises, both in the night and day time periods, and largely due to the generous setback distances of the beer garden to the nearest residences, and the significant screening support that is already provided by the existing cinema building.

This report also included a number of recommendations to ensure that noise levels within the beer garden remain at a reasonable level (compliant with SEPP N-2 limits), all amplified music originating from within the tavern is well contained by the closure of all external windows and doors, and the external glazing of the tavern be complemented with 10mm thick laminated glass. Subject to conditions requiring compliance with the recommendations of this acoustic report, and for the required external glazing to be shown on plan, any noise impacts associated with the proposal should be considered as suitably attenuated.

The proposed uses will not result in a cluster of licensed premises and there are no other licensed premises within 100 metres of the site and less than 10 within 500 metres of the site. As such, the proposal is not expected to result in negative cumulative impacts on the surrounding area.

As discussed, given the nature of the activity, the distance and segregation from surrounding residential uses, and by requiring compliance with the recommendations of the submitted acoustic report, the proposed use of a tavern and function centre is not expected to result in undue amenity impacts on surrounding residents.

In the event of Council support for the proposal, a Security and Amenity Management Plan will be required to be submitted and endorsed as part of any approval, to specify measures to ensure that the sale and consumption of liquor on the land will not be detrimental to the amenity of the area.

### ***General Issues:***

#### **Tree Removal**

The removal of the trees is triggered under the requirement of Clause 51.03 of the Scheme. The exemptions at Schedule 1 of Clause 51.03 do not apply to the proposal. Under schedule 11 to the Design and Development Overlay, there are no permit requirements for the removal of existing trees, but there is a requirement to consider the planting of canopy trees in landscape plans.

The application proposes the removal of 3 native trees (No's 5, 6 & 7), whilst Council's arborist also recommends the removal of Tree No 9 due to its proximity to the proposed works – See Attachment 17. All four of these onsite trees have been regarded by Council's arborist as being of fair health, fair to poor structure and ultimately assessed to be of 'Moderate' arboricultural value. Despite the fact they are native (a mix of Eucalyptus sideroxylon and Eucalyptus Scoparia), they are not significant enough so as to warrant retention and resulting redesign of the proposal. These trees will each be required to be offset at a 2:1 ratio in the event a permit is granted.

New landscaping and tree planting is proposed on a concept plan across the car park and areas surrounding the proposed tavern and food and drink tenancies, together with a row of trees lining the interface between the site frontage and Maroondah Highway. In the event of Council support for the proposal, the applicant will be required to submit a more detailed landscape plan to be endorsed and so ensure these outcomes come to fruition.

### Waste Management

A Waste Management Plan was submitted in support of the proposed tavern and convenience restaurant. The report indicated that Chirnside Park Shopping Centre is owned and managed by The GPT Group and has 115 retail tenancies, with a Gross Lettable Area (GLA) of 37,900 square metres.

The report provides details of current and predicted operational waste and recycling generation by tenants, equipment requirements, recommended resource management programs, tenant engagement strategies, waste contractor standards, and ongoing reporting systems.

The planned new tenancies will use a combination of existing equipment located at the Pad Site. In the case of the Tavern tenancy, dedicated bins stored in the Tavern's Loading Dock area will be provided. The submitted report provides details of bin sizes, storage area requirements, and collection frequencies for all recommended equipment.

The proposed new waste management and recycling systems will be implemented in conjunction with a tenant engagement and education program, in partnership with GPT's sustainability team and waste contractor Haulaway.

### Development Contributions Plan Overlay

The Chirnside Park Development Contributions Plan (DCP) has been developed to support the funding of infrastructure in the Chirnside Park Major Activity Centre (MAC).

*Section 5.2. Stipulates project costs as: Each item in the DCP has a cost specified for either capital works or land acquisition. These costs are listed in Appendix A - DCP Infrastructure Project Sheets. The costs are expressed in March 2012 dollars and will be indexed annually in accordance with the indexation method specified in this DCP.*

The development contributions calculations have been discussed with the applicant and will be required as a condition on the permit.

### Issues Highlighted in the Objections

Within the multiple objections received to the proposal, the majority cited concerns with traffic, parking & access; safety; social impacts associated with the sale of liquor; visual impact; and the potential use of the tavern as a night club. The most part of these issues have been considered in the above assessment and therefore will not be further addressed. With regard to the potential use of the tavern as a night club, it is important to recognise that this is a speculative statement and not what is being proposed to Council, therefore this concern is not able to be given further consideration.

## CONCLUSION

The proposal will provide for the intensification of land use within the Town Centre of the Chirnside Park Activity Centre with a mix of uses to meet the needs of a growing local and regional population.

The development application has been assessed in accordance with Section 60(1) of 'The Act' and all relevant instruments and policies. The proposal is considered to be consistent with the objectives of state planning policies, local planning policies and the relevant zone and overlay provisions of the Planning Scheme. As such, approval is recommended.

## ATTACHMENTS

- 1 Conditions (*published separately*)
- 2 Planning Policy (*published separately*)
- 3 Advertising (*published separately*)
- 4 Aerial and Site Context Plan (*published separately*)
- 5 Demolition Plan (*published separately*)
- 6 Site Plan (*published separately*)
- 7 Ground Floor Layout - Tavern (*published separately*)
- 8 First Floor Function Space Layout (*published separately*)
- 9 Floor Layout Plan - Convenience Restaurant (*published separately*)
- 10 Tavern Elevations 1 (*published separately*)
- 11 Tavern Elevations 2 (*published separately*)
- 12 Convenience Restaurant Elevations (*published separately*)
- 13 Schedule of Materials and Colours (*published separately*)
- 14 Cross- Section Plan (*published separately*)
- 15 Concept Landscape Plan (*published separately*)
- 16 Proximate Parking Areas (*published separately*)
- 17 Tree Removal Plan (*published separately*)
- 18 GTA Traffic Report (*published separately*)
- 19 Werribee TSG Survey Results (*published separately*)
- 20 Acoustic Report (*published separately*)

**7.2 Planning Application YR-2008/1679/D - 86 Olinda-Monbulk Road, Olinda**

<b>APPLICATION DETAILS</b>	
<b>Site Address</b>	86 Olinda-Monbulk Road (Lot 2 PS344121), Olinda
<b>Application No.</b>	YR-2008/1679/D
<b>Proposed amendment</b>	<p>Proposed amendments to the current permit:</p> <ul style="list-style-type: none"> <li>• Amend preamble to include food and drink premises</li> <li>• Change in operation hours of the food and drink premises</li> <li>• Display of one internally illuminated sign</li> <li>• Display of six business identification signs</li> </ul>
<b>Existing land uses</b>	Restricted recreation facility, art display, licenced premises, food & drink premises, flower farm, dwelling
<b>Owner</b>	<p>Mocun Pty Ltd  2 Gair Close  BERWICK VIC 3806</p>
<b>Applicant</b>	<p><i>T Qian</i>  <i>C/- Fd Architects Pty Ltd</i>  6 Read Street  TEMPLESTOWE VIC 3106</p>
<b>Zone</b>	GWZ2 - GREEN WEDGE ZONE - SCHEDULE 2
<b>Overlays</b>	<p>BMO - BUSHFIRE MANAGEMENT OVERLAY,  EMO - EROSION MANAGEMENT OVERLAY,  RO66 - RESTRUCTURE OVERLAY - SCHEDULE 66,  SLO9 - SIGNIFICANT LANDSCAPE OVERLAY - SCHEDULE 9</p>
<b>Objections</b>	16
<b>Reason for Council Decision</b>	Over 10 objections
<b>Ward</b>	Chandler

**SUMMARY**

The application proposes to amend planning permit YR-2008/1679 as follows:

- Amend planning permit preamble to include food and drink premises
- Change in operation hours of the food and drink premises from the current closing time of 7:00pm to 10:00pm seven days per week
- Display of one internally illuminated sign and six business identification signs.

The application to amend the current permit was advertised and sixteen objections were received and fifteen submissions of support were also received.

The key concerns of local residents relate to amenity impacts on neighbouring residential properties, the excessive amount of signage, impacts on the landscape character, transformation of the use, breaches of the current planning permits and traffic and parking problems in the area.

It is recommended the amendments be approved subject to a reduction in the proposed operating hours of the food and drink premise and deletion of six business identification signs.

It is recommended that a Notice of Decision to amend Planning Permit YR-2008/1679/D be issued as per Attachment 1 of this report.

## **RECOMMENDATION**

***That Council resolve to approve Planning Application YR-2008/1679/D for Use & development of a restricted recreation facility, art display, licenced premises, dispensation of car parking & removal of ten trees at 86 Olinda-Monbulk Road (Lot 2 PS344121), Olinda and issue a Notice of Decision to Grant a Planning Permit subject to the conditions in Attachment 1 to the report.***

## **DISCLOSURE OF CONFLICTS OF INTEREST**

The author of this report does not have a conflict of interest.

## **SITE LOCATION AND DESCRIPTION**

The subject site is located on the western side of the Olinda-Monbulk Road and northern side of Howard Road, opposite Cloudehill Nursery and to the south-west of the Olinda Golf Course. The site is formally identified on title as Lot 2 on PS 344121T and no restrictive covenants apply. The site is irregular in shape with an overall area of 7.27 hectares. The land is located within the Green Wedge Zone – Schedule 2.

A large portion of the site has historically been used as a plant nursery (flower farm) and continues to be used for this purpose. It contains structures such as sheds and greenhouses ancillary to the flower farm, a single dwelling and the tea house that is the subject of this amendment. There is also a car parking area located at the south-east corner of the site providing 46 car parking spaces and additional 10 staff car parking spaces to the north-west of the tea house.

The tea house has a general liquor licence to serve alcohol from within the existing building, from the decked areas that abut the north, south and west elevations and from the two gazebos (planning permit YR-2006/741/A).

The site slopes from east to west, from about 100 metres AHD at Olinda Monbulk Road to 40 metres AHD at the rear of the site. The site is well vegetated with mainly exotic trees, some native trees and understorey vegetation.

## SURROUNDING AREA

Surrounding land use is comprised of a range of recreational uses and facilities (national parks, small scale botanical gardens, public swimming pool, community house and golf courses), tourism operations (accommodation nurseries and cafes/restaurants, including Woolrich Retreat, The Gallery B&B, Cloudehill Garden & Nursery, Seasons Restaurant and Diggers Garden Shop) and rural residential properties (with the closest neighbouring dwelling approximately 36 metres to the south of the subject site).

## HISTORY

<b>Application Number and Decision Date</b>	<p>There have been a number of permits approved for this site but the following three permits relate to the operation of the Olinda Tea House:</p> <ul style="list-style-type: none"> <li>• <u>Planning permit YR-2001/921</u> was approved on 15 August 2001 for a <i>Change of use from an Art Gallery to a Food &amp; Drink Premises and reduction in car parking</i>. The food and drink premises (café) ancillary to the plant nursery use was approved with a maximum seating capacity of 32 persons and operating hours 7:00am to 7:00pm, 7 days a week. This permit was amended on 20 May 2014 to increase the patron numbers to 74 (YR-2001/921/A).</li> <li>• <u>Planning permit YR-2006/741</u> was approved on 21 July 2006 for a <i>Change of use for general liquor licence</i>, and increase maximum seating capacity to 44 persons. This permit was amended on 7 May 2014 to be consistent with the number of patrons in permit YR-2001/921/A. This permit allows the service of alcohol from 7:00am to 7:00pm.</li> </ul> <p>The amendments to planning permits YR-2001/921 and YR-2006/741 were assessed concurrently.</p> <ul style="list-style-type: none"> <li>• <u>Planning Permit YR-2008/1679</u> was approved on 19 August 2009 following a decision made at a Council meeting. The permit allows <i>Use &amp; development of restricted recreation facility, art display, licenced premises, dispensation of car parking &amp; removal of ten trees</i>.</li> </ul> <p>This permit (YR-2008/1679) included the redevelopment of the cafe, with endorsed plans showing the cafe included within the new multi-purpose building (known as the tea house) with a total of 44 seats. The building has a total floor space of 375m<sup>2</sup> with 273m<sup>2</sup> of decking surrounding the building. The building comprises a multi-purpose room, cafe, service areas, kitchen, store room and amenities. The cafe area occupies approximately 144m<sup>2</sup> of the building with the associated decking having an area of 72m<sup>2</sup>, totalling approximately 216m<sup>2</sup>.</p> <p>The above permit and plans have been amended several times prior to the current application. These amendments include:</p> <ul style="list-style-type: none"> <li>• <u>A</u> (approved on 25 March 2010) – minor changes to the endorsed plans, which included alterations of materials to satisfy building code requirements and addition/modification of two doors.</li> <li>• <u>B</u> (approved on 9 January 2014) – increase the number of people permitted within the Restricted Recreation Facility (Condition 8) from 20 people to 40 people.</li> <li>• <u>C</u> (approved 30 September 2014) – Change from specific celebration dates (New Years Day, Australia Day, Chinese New Year, Valentines Day, Labour Day, Easter, Anzac Day, Mothers Day, Queens Birthday, Fathers Day, Melbourne Cup Day, Halloween, Christmas Day, Boxing</li> </ul>
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	Day, New Years Day) to 15 days per calendar year. Refer to Attachment 9 for a copy of planning permits YR-2001/921/A, YR-2006/741/A and YR-2008/1679/C.
<b>VCAT History</b>	Nil
<b>Other History</b>	Council's planning compliance department is currently investigating the display and/or illumination of business identification signage and hours of operation.

## PROPOSAL

The proposal is described as follows:

### ***Amend Permit Preamble***

The applicant proposes to amend the current permit preamble for YR-2008/1679, which is:

- *Use & development of a restricted recreation facility, art display, licenced premises, dispensation of car parking & removal of ten trees.*

The applicant proposes to change the permit preamble to add as underlined:

- *Use and development of a restricted recreation facility, art display, use of a food and drink premises, licenced premises, dispensation of car parking and removal of ten trees.*

Amending the permit permeable to include the display of signage was not proposed by the applicant, however as part of the planning process it is recommended for this to be included.

### ***Operation hours***

The applicant proposes a change in operation hours of the food and drink premises from 7:00am - 7:00pm (seven days per week) to 7:00am - 10:00pm (seven days per week).

### ***Display of signs***

The display of the six non-illuminated business identification signs across the frontage of the site adjacent to the car parking with the following features:

- Dimensions of 1.85 metres x 0.91 metres
- Overall height of 3 metres due to the erection of a metal frame
- Signs erected at right angles to the front boundary.

The display of one internally illuminated business identification sign with the following features:

- Sign centrally located along the frontage of the site at right angles to the boundary

- Sign diameter of 1200mm
- Total height of sign that is erected on a metal frame of 4.5 metres
- Sign erected at right angles to the front boundary.

Refer to the Proposed Signage Plan in Attachment 6.

It is noted there are no proposed changes to numbers of approved parking and patrons, vegetation removal or changes to general liquor licence conditions.

Officers also recommend consolidating planning permits that relate to the Olinda Tea House operations. This requires planning permits that were approved in 2001 and 2006 to be transferred across to planning permit YR-2008/1679. This involves adding the relevant conditions from the planning permits approved in 2001 and 2006 to planning permit YR-2008/1679.

## PLANNING CONTROLS

<b>Zoning:</b>	Clause 35.04 – Green Wedge Zone Schedule 2 (GWZ2)
<b>Overlay:</b>	Clause 42.03 – Significant Landscape Overlay – Schedule 9 Clause 44.06 – Bushfire Management Overlay Clause 44.01 – Erosion Management Overlay Clause 45.05 – Restructure Overlay
<b>State Planning Policy:</b>	Clause 15 – Built Environment and Heritage Clause 17 – Economic Development Clause 17.03 – Tourism
<b>Local Planning Policy:</b>	Clause 21.07 – Landscape Clause 22.04 – Advertising Signs
<b>Schedule to Clause 51.03:</b>	Schedule to Clause 51.03
<b>Other Requirements:</b>	Clause 52.05 – Signs Section 72 of the Planning and Environment Act 1987. Section 73 of the Act states that sections 47 to 62 of the Act apply to any application to the responsible authority to amend permit.

For further information on the planning controls refer to Attachment 2.

## CULTURAL HERITAGE MANAGEMENT PLAN (CHMP)

The application has been checked against the requirements of the Aboriginal Heritage Act 2006 as to the need for the requirement of a Cultural Heritage Management Plan (CHMP). It has been assessed that a CHMP is not required.



## EXTRACTIVE INDUSTRY

The subject site is not located within 500 metres of land on which a work authority has been applied for or granted under the Extractive Industries Development Act 1995.

## STAKEHOLDER VIEWS

### *External Referrals*

Authority	Consent/Objection – Summary of Conditions
Nil	Not applicable

### *Internal Referrals*

Department	Summary of Response
Nil	Not applicable

### *Objections and Consultation*

✓Mail      ✓ Sign

Number of Objections: 16 objections

Number of Submissions of Support: 15 submitters

A total of 16 objections were received for the proposed amendment to the planning permit. The following issues were raised:

- Signs
  - The number and size of signs is excessive giving a cluttered and repetitive appearance
  - Inappropriate LED lights and lighting across the frontage is excessive in a Green Wedge Zone
  - Out of character for the rural residential area
- Zoning/Use of land
  - An expansion of this commercial use is inappropriate in a Green Wedge Zone and will fundamentally alter the use of the property
  - A food and drink premises includes a restaurant, hotel takeaway food premises, tavern and gambling
  - Use has changed from a multi-purpose hall and art gallery
- Tree removal is opposed
- Amenity Impacts

- Already operating outside permitted hours, patron numbers and failure to comply with current permit conditions
  - Noise from loud music, car park and outdoor area
  - Increased light pollution
  - Misleading facts in covering submission.
- Hours of Operation
  - Extended hours will encourage unwanted behaviour, particularly in the summer period and detracts from liveability of this area
  - Other business close before 10pm and operation hours are longer than existing restaurants in the area
  - Negative impact on wildlife in the vicinity
- Bushfire risk
  - No consideration for the safe evacuation of patrons if a critical event occurs
- Traffic and Car Parking
  - Insufficient parking given the use advertises for up to 150 patrons
  - Existing parking and traffic problems
  - Overflow parking along the roadway and coach parking

### Submissions of Support

There were 15 submissions in support of this application to amend the permit. There was one further submission, with names only and no addresses or phone number provided.

The submissions were generally from local Bed & Breakfast and tourism operators and tourism associations.

These submissions state that there is a strong need for restaurants to open until 10:00pm as there is a lack of eating venues open in the evening which limits the number of guests staying in the Dandenong Ranges. They felt that extended trading hours would encourage visitors to stay longer in the area, which would be beneficial to many local businesses.

### Consultation Meeting

A consultation meeting was held on 18 October 2018 that was attended by 23 people, the applicant, Council's Planning Officers, Council's Coordinator of Traffic & Transport, and the Ward Councillor.

The applicant outlined the proposal and the objectors explained their concerns which were mainly associated with amenity impacts on the rural residential area (noise, illumination, and visual appearance), breaches of current planning permit, traffic and car parking.

There were three primary groups at the consultation meeting:

- Local residents, including adjoining neighbours
- Local B&Bs and Tourism operators in support of the business and the application
- Land owner and staff.

No agreements were reached on the night but all parties had the opportunity to raise their concerns or show their support for the application.

#### Applicant Response to Consultation Meeting

In response to the issues identified in the objections and discussed at the consultative meeting, the applicant has amended the 'without prejudice' documentation as follows:

1. Reduce the operating hours to:

– Monday	10:00am – 9:00pm	(varied from 7:00am-10:00pm)
– Tuesday	10:00am – 9:00pm	(varied from 7:00am-10:00pm)
– Wednesday	10:00am – 9:00pm	(varied from 7:00am-10:00pm)
– Thursday	10:00am – 9:00pm	(varied from 7:00am-10:00pm)
– Friday	10:00am – 10:00pm	(varied from 7:00am-10:00pm)
– Saturday	9:00am – 10:00pm	(varied from 7:00am-10:00pm)
– Sunday	9:00am – 10:00pm	(varied from 7:00am-10:00pm)

2. The removal of two of the smaller signs. This will result in the proposed total of 5 signs, including one internally illuminated sign (in the centre) and four smaller non-illuminated signs.

Objectors were given the opportunity to respond to these changes to raise additional concerns or withdraw their objection.

No objections have been subsequently withdrawn. Five further objections from existing objectors and two submissions from people in support have been received.

### **ASSESSMENT/ KEY ISSUES**

The application has been assessed against Section 72 of the Planning and Environment Act 1987 ("the Act") which can only consider the specific amendment applied for under this application as discussed in the proposal section.

It should be noted that Planning Permit YR-2008/1697 has been lawfully issued for the use & development of a restricted recreation facility, art display, licenced premises, dispensation of car parking & removal of ten trees and consequently the use of the land which currently operates under the permit is not up for review. It is important to note that this application is an amendment to an existing approved planning permit and the matters that can be considered under this application are limited to the proposed changes stated above.

In determining the appropriateness of this amendment application, the matters and the decision guidelines which are relevant in the planning scheme can only be considered.

The application proposes a series of amendments to Permit YR-2008/1679 for the retrospective approval of signage, changes to hours of operation and the inclusion of the food & drink premises (approved under YR-2001/921) in planning permit YR-2008/1679/D.

A key policy related in the Yarra Ranges Planning Scheme is to ensure that proposals for retail, commercial and recreation facilities outside of activity centres are only considered where the proposed use or development is of net benefit to the community in the region served by the proposal.

The Olinda Tea House has changed ownership in 2017 and neighbouring residents have raised concerns about the impacts on their residential amenity due to non-compliance with operating hours, number of patrons, display of signage and noise emanating from the premises. Council must therefore consider this application in light of the current performance record of this operator.

Based on the assessment that follows, it is considered that the change in the operating hours until 10:00pm has potential to impact the amenity of the nearby dwelling located to the south (90 Olinda-Monbulk Road). A reduction of operating hours until 9:00pm for Monday to Thursday and Sunday evenings would be a reasonable compromise. This will result in a net benefit to the community in terms of supporting viability of complementing existing tourist facilities, including accommodation in the Dandenong Ranges, whilst also ceasing activities earlier on Monday to Thursday and Sunday to minimise amenity impacts on nearby residents.

### ***Hours of Operation***

The application initially applied to increase the operating hours from 7:00am to 10:00pm, seven days per week. The current permitted operating hours (approved under planning permit YR-2001/921/A) is 7:00am to 7:00pm, seven days per week.

The current operating hours until 7:00pm prevents a full dinner service from being provided. The applicant indicated that the restricted trading hours until 7:00pm impacts on the economic viability of the business.

Given the large number of objections to the proposal, the applicant has offered to reduce the hours of operation on Monday to Thursday from 10:00pm to 9:00pm. It is considered the reduction of hours early in the week is acceptable to allow operation of an evening meal for visitors to the region and improve the business's ongoing viability.

The proposal also includes operation on a Sunday until 10:00pm. It is recommended the hours be reduced to 9:00pm to limit the amenity impacts on neighbouring properties at the end of the weekend.

The change in operation would align the closing time with other restaurants in the township of Olinda, as well as along main tourist routes outside of the township area (Refer to Attachment 7). There are several restaurants along main tourist routes open to a minimum of 9:00pm on weekdays and weekends, including:

- Cuckoo Restaurant (508 Mount Dandenong Tourist Rd, Olinda)
- Coonara Springs (129 Olinda-Monbulk Rd, Olinda)

- Rose Cottage Restaurant (251 Olinda-Monbulk Rd, Monbulk)
- The Watering Hole Tavern (250 Olinda-Monbulk Rd, Monbulk).

The applicant also indicated in the without prejudice documentation they would be willing to amend the operating hours in the mornings in order to reduce the overall length of time that the tea house would be open. On weekdays the proposed opening times would be changed from 7:00am to 10:00am and on weekends the proposed opening times would be changed from 7:00am to 9:00am. This is considered to be an acceptable outcome as it reduces the overall operating hours, which in turn reduces amenity impacts that may be experienced by the nearby dwelling and wildlife. It is noted that the tea house does not currently open at the permitted time of 7:00am; however it may provide some certainty to the nearby residents if there is a change of owners in the future.

The objectors indicate there are noise impacts associated with the use of the existing two gazebos in the evening. These structures are located less than 30 metres from the nearest dwelling and have caused amenity impacts on neighbouring properties. It is therefore recommended that use of the gazebos cease at 7:00pm on any day to reduce amenity impacts to the south. This will be included as an additional condition on the planning permit.

Whilst understanding the objectors concerns about the existing and potential amenity impacts of the use on the surrounding area, the site holds an existing general liquor licence to operate until 7:00pm that allows for the supply of liquor and consumption of liquor by a patron of the licenced premises. There are no changes proposed to the hours of the liquor licence (see further comments below).

### ***Advertising Signs***

The application seeks the retrospective approval of the six business identification signs and display of one internally illuminated business identification sign along the frontage of the site.

Objectives of Clause 22.04 'Advertising signs' relevant to the proposal include:

- *Signs provide appropriate and effective identification of businesses and other land uses requiring identification.*
- *Signs do not detract from the amenity and streetscape or landscape character of the surrounding area.*
- *Sign clutter is avoided or reduced so as to maintain or enhance the built and natural environments of the Shire and in order to maximise the effectiveness of individual identification signs.*

There are also specific provisions for Rural Areas in Clause 22.04-3 that states signs are to be:

- *Unobtrusive and fit with the rural landscape character of the area.*
- *Limited to the minimum necessary to identify the premises.*

- *Appropriate to the scale of the development and the size of the site.*
- *Of colours that are unobtrusive and compatible with the surrounding landscape.*
- *Only illuminated if they relate to a permitted business which operates at night and only if there will be no spillage of light that causes a distraction to motorists or adjoining residents.*

Pursuant to Clause 52.05 'Signs', the Green Wedge Zone is Category 3 - High amenity areas. The purpose of Category 3 is to *ensure that signs in high-amenity areas are orderly, of good design and do not detract from the appearance of the building on which a sign is displayed or the surrounding area.*

The proposed display of the six business identification signs and internally illuminated business identification sign fail to satisfy the objectives of the policy at Clause 22.04-3, as the signs are obtrusive along the road frontage and do not fit in with the rural landscape character of the area. It is also considered that the proposed number of signs is excessive, combined with the associated illumination causes visual clutter along the frontage and has the potential to distract motorists.

The applicant has offered to reduce the number of business identification signs from six to four. Whilst this is an improvement to the original proposal, it is still excessive and creates visual clutter that distracts from landscape character. It is therefore recommended that only the large internally illuminated sign is permitted and the six business identification signs (non-illuminated signs) are not permitted.

Whilst concerns were raised by objectors that the six business identification signs are floodlit, this does not form part of the proposal. It is understood that the landowner has switched off the floodlights on the six business identification signs. The only sign proposed to be illuminated is the large business identification sign located centrally along the frontage.

The applicant indicated in the planning submission that the illumination would be switched on after sunset and switched off at the business closing time. During the winter the sign would be illuminated from 5:30pm and in summer the sign would be illuminated from 7:30pm.

This sign will provide adequate identification of the use from the roadway. The illumination of the large sign is appropriate during operation hours and will assist to indicate to tourists that the business is currently open. Provided this sign is the only illuminated sign at the frontage and a 'warm' (i.e. more natural) light, rather than a 'white light', it is considered acceptable in this rural setting. A condition that limits sign illumination, as well as 'warm' illumination shown on amended plan is recommended.

The overall structure height for the internally illuminated business identification sign is 4.5 metres. Whilst this structure is considered to be quite high, the business identification sign is 1.76 metres to 2.96 metres above ground level. The structure is made from a metal frame; however the weathering of the metal gives it a rusted appearance that is natural in tone. There are tree canopies near the sign, which enables the sign's appearance to be softened by this vegetation. There is an existing business identification sign located centrally to the tea house frontage. It is recommended for this sign to be removed as is it being replaced by the internally illuminated business identification sign.

***Consolidation of Existing Permits***

It is also recommended that planning permits YR-2001/921/A and YR-2006/741/A are consolidated with current planning permit YR-2008/1679, and the aforementioned planning permits cancelled to enable the Olinda Tea House to operate under one planning permit, rather than three separate planning permits.

The existing use is currently operating under three planning permits. It is recommended that planning permits YR-2001/921/A and YR-2006/741/A (what they allow and associated permit conditions) be incorporated into YR-2008/1679/D. This would also require planning permits YR- 2001/921/A and YR-2006/741/A to be cancelled, which is a recommended permit condition.

This course of action is recommended as one permit for the Olinda Tea House would make it simpler for permits and conditions to be audited, as well as providing clarity for the community, Olinda Tea House owners and Council. The applicant is not seeking to increase patron numbers permitted in the permit.

Planning permit YR-2006/741 was issued for a change of use for a general liquor licence. Condition 5 of this permit states the permitted hours of operation are between 7:00am and 7:00pm. These hours are shorter than proposed for the food and drink premises.

Council planning officers suggested during the preliminary assessment, the hours in the general liquor licence to be extended at the same time as the proposed hours for the food and drinks premises. The applicant advised that they will not be extending the liquor licence hours at this time.

However, given the changes to operating hours of the food & drink premise are recommended for approval, it is also considered this may result in the applicant applying to extend the liquor licence in the foreseeable future and the amenity impacts have been considered on that basis.

It is recommended that the existing planning permit conditions from YR-2001/921/A and YR-2006/741/A are incorporated into YR-2008/1679. Refer to Attachment 11 for details of these conditions.

***Other Objectors Concerns*****Vegetation Removal**

There is no proposed tree removal associated with this application.

**Bushfire Risk and Evacuation**

The Bushfire Management Overlay applies to the subject site, however the provisions of the overlay and Clause 53.02 'Bushfire Planning' are not required to be considered given that no building extensions are proposed. Planning Permit YR-2008/1679 currently contains CFA conditions.

### Planning Policy and Food and Drink Premises in Green Wedge Zone

The objectors are concerned that inclusion of a food and drink premises may result in use as a hotel, take-away food premise, tavern or gambling. These concerns are unfounded as the site already holds a permit for this use as part of planning permit YR-2001/921 that changes the use from an art gallery to a food and drink premises.

This application seeks to consolidate the use into the one permit that corresponds with the existing floor area of the Olinda Tea House.

### Transformation of Green Wedge Zone land

The purpose of the Green Wedge Zone is to recognise, protect and conserve green wedge land for its agricultural purposes, as well as tourism opportunities. The subject site contains not only the tea house but also a functioning plant nursery. This use is consistent with the purposes of the Green Wedge Zone.

It is noted that Condition 7 of YR-2001/921/A states that the café must be used as ancillary to the plant nursery on the site. In a site visit undertaken by Council officers, it was observed that the plant nursery is still operational. The plant farm grows various species including Camellias, Hydrangeas, Rhododendrons, Pieris, Clethra and Magnolia. Refer to photos in Attachment 10.

It is recommended Condition 7 of planning permit YR-2001/921/A, among other conditions, is added to planning permit YR-2008/1679/D, which requires the café to be ancillary to the plant nursery.

### Traffic and Car Parking

The objectors raised concerns about traffic generated by the tea house and the over flow of vehicles parking on both sides of Olinda-Monbulk Road. The application does not include any changes to the number of patrons and as a result there will not be an increased demand for car parking. A total of 56 car spaces is provided for the Olinda Tea House, which includes six parallel car spaces on the western side of Olinda-Monbulk Road. Council's Traffic & Transport Officers are aware of the concerns that have been raised and this will be investigated further.

### Breaches of Planning Permit

It was indicated by objectors that the business has been open outside its permitted hours of operation and holding/promoting events for a number of patrons that exceeds 114 allowed under the planning permit (74 patrons associated with the food and drink premises and 40 patrons associated with the use of the multi-purpose hall). This matter is known to Council's planning compliance department and appropriate enforcement action has been taken in response to the concerns raised by local residents. Further enforcement action has been taken in relation to business signage and it is noted that some signage has since been removed.

These matters will continue to be monitored for compliance.



## CONCLUSION

Assessment of this application requires a balancing of a number of competing objectives including the viability of the business and surrounding tourist operations, specifically tourist accommodation in the area. It is considered the proposed amendments to the permit will have community benefits by allowing the business to provide a dinner service to tourists in the area.

Consideration must also be given to the fact that the use already has planning permits that allow operation of a food and drink premises with a general liquor licence on this site. It is therefore recommended that a balanced outcome is required that allows some increased trading hours whilst also addressing potential off-site impacts by way of additional conditions of approval. A reduction in proposed trading hours, removal of signs and restriction of use of the gazebos after 7:00pm are recommended to be included as additional conditions on the permit.

## ATTACHMENTS

- 1 Proposed Permit Conditions (*published separately*)
- 2 Planning Scheme Controls (*published separately*)
- 3 Notification Map (*published separately*)
- 4 Locality Plan (*published separately*)
- 5 Aerial Map of Property (*published separately*)
- 6 Plans (*published separately*)
- 7 Restaurant Opening Hours (*published separately*)
- 8 YR-2008/1679 - Council Report (*published separately*)
- 9 Planning Permits (*published separately*)
- 10 Photos of Flower Farm (*published separately*)
- 11 Permit Conditions (YR-2001/921/A and YR-2006/741/A) (*published separately*)

**7.3 Planning Application YR-2018/31 - 1533 Burwood Highway, Tecoma VIC 3160**

<b>APPLICATION DETAILS</b>	
<b>Site Address</b>	1533 Burwood Highway, Tecoma VIC 3160
<b>Application No.</b>	YR-2018/31
<b>Proposal</b>	Building and works to construct a retail premises (shop), five dwellings and reduction in car parking requirements
<b>Existing Use</b>	Vacant land
<b>Owner</b>	A & D Co Pty Ltd 1 Azalea Street VERMONT VIC 3133
<b>Applicant</b>	Mr S O'Brien C/- Universal Planning PO Box 234 DONCASTER HEIGHTS VIC 3109
<b>Zone</b>	C1Z - Commercial 1 Zone
<b>Overlays</b>	DDO14 - Design And Development Overlay - Schedule 14, BMO2 - Bushfire Management Overlay - Schedule 2
<b>Objections</b>	13 and one petition
<b>Reason for Council Decision</b>	More than 10 objections received to the proposal
<b>Ward</b>	Lyster

**SUMMARY**

The application seeks permission for the development of land for a retail premises (shop), five dwellings and reduction in car parking requirements.

Under the provisions of the Commercial 1 Zone, planning permission is required for buildings and works to construct a shop and dwellings on the land.

A planning permit is also required for buildings and works in the Design and Development Overlay Schedule 14 and for buildings and works associated with retail and accommodation in a Bushfire Management Overlay.

Planning permission is also required under Clause 52.06 for a reduction in the applicable car parking requirements set out under the Planning Scheme.

The application was advertised and received thirteen (13) objections and one petition against the proposal. The objection grounds primarily relate to inconsistency with town character, visual bulk, building height, urban design, storm water runoff, traffic, car parking & garbage collection.

The proposal is consistent with commercial zone objectives, as they relate to the development of the land for retail purposes (shop) and shop top accommodation, which are considered appropriate 'as of right' uses within an established commercial precinct.

The proposal is satisfactory when assessed against the relevant policies and provisions of the Yarra Ranges Planning Scheme and the Planning and Environment Act 1987. Accordingly, it is recommended that the application be supported and a Notice of Decision to Grant a Planning Permit be issued.

## **RECOMMENDATION**

***That Council resolve to approve Planning Application YR-2018/31 for Building and works to construct a retail premises (shop), five dwellings and reduction in car parking requirements at 1533 Burwood Highway, Tecoma VIC 3160 and issue a Notice of Decision to Grant a Permit subject to the conditions in Attachment 1 to the report.***

## **SITE LOCATION AND DESCRIPTION**

The subject site is formally described on title as Lot 1 on Title Plan 753031A, Title Volume 5466, Folio 146.

The subject site is rectangular in shape with a total site area of 825sqm, located on the north side of Burwood Highway and approximately 15.5 metres west of the intersection with Sandells Road.

The site contains no building features being cleared land and is completely devoid of vegetation. Vehicle access is provided to the rear of the site by way of a 6.2m wide carriageway easement that provides vehicle access from Sandells Road through to the shops located to the immediate west of the subject site. There is also a 2m wide drainage and sewerage easement located along the rear northern boundary.

Topographically, the site has a fall of approximately five metres moving from south (Burwood Highway frontage) to north across site.

The copy of title submitted with the application confirms the site is not affected by a restrictive covenant.

## **SURROUNDING AREA**

The area surrounding the site largely consists of the Tecoma commercial precinct away to the east and west, and established residential settings away to the north and south of the subject site.

Services and facilities located within close proximity of the subject site include the commercial centre associated with the Tecoma Township, a bus stop located approximately 50 metres west along Burwood Highway associated with bus route 693, the Tecoma train station located approximately 183m away to the south, and the Upwey Recreation Reserve located approximately 580 metres to the northwest.

See Attachment 4 for further aerial context.

## Adjoining Properties

The properties to the immediate east and west include the Salvation Army building and Tecoma McDonalds. Car parking and vehicular access associated with both properties is located to the rear and makes use of the same carriageway access arrangement which runs through the subject site.

Away to the north are two low density residential properties known as 1/89 & 2/89 Sandells Road. The separate addresses are the product of a former subdivision that has been carried out in the past. A wooden fence of paling design separates the rear of the subject site from these properties.

To the south and located across the Burwood Highway is a school, medical practice, residences and a BP petrol station.

## HISTORY

<b>Application Number and Decision Date</b>	<ul style="list-style-type: none"> <li>Planning Application YR-2002/1708 for Construction of extensions to tearooms (toilets), Liquor Licence &amp; creation of car parking at rear of site, approved on 23/01/2003.</li> <li>Planning Application YR-2004/1674 for a three lot subdivision and creation of easement, approved on 18/03/2005.</li> <li>Planning Application YR-2008/816 for Development of supermarket, retail premises, waiver of car parking, variation to access to RDZ1, removal of vegetation and removal of Easement No E-8 on PS529078M, refused on 17/11/2009.</li> <li>Planning Application YR-2012/1301 for Creation of Easement, withdrawn on 18/12/2012.</li> </ul>
<b>VCAT History</b>	Not applicable.
<b>Other History</b>	Not applicable.

## PROPOSAL

The application proposes Buildings and works to construct a retail premises (shop), five dwellings and a reduction in the applicable car parking requirements.

### Shop

- The ground floor shop would have a total retail floor space of 154m<sup>2</sup>.
- The shop would be setback 1.49m from the front boundary.
- A specific end use has not been nominated for the shop.
- Internal access is proposed to the lobby area servicing the accommodation onsite.
- Clear glazing is intended to be used along the shop front.

**Accommodation**

- A total of five dwellings are proposed on site with two rows of 2 and 3 dwellings proposed in tandem formation.
- Two shop top dwellings which would function as apartments are to be located above the ground floor shop (Dwellings 1 & 2). Both dwellings would overhang the 1.49m ground floor front setback.
- These two dwellings would both contain:
  - Open plan living, dining and kitchen areas,
  - A master bedroom with ensuite & a second bedroom,
  - Main bathroom area,
  - Balconies (Unit 2's enclosed) overlooking the Burwood Highway,
  - Rear terraces with access to rooftop garden areas (external storage to be located in these areas),
  - Internal access to be gained from the ground floor lobby area.
- Three dwellings are to be located to the rear which would function as terraced town houses (Dwellings 3-5). These three dwellings would each contain:
  - Double car garages (tandem style) on the ground floor level with access to the carriageway easement at the rear of the site,
  - Storage areas within the garages,
  - Open plan living, dining and kitchen areas, main bathroom area, bedroom and rear balconies on the first floor level,
  - Two bedrooms (one with ensuite) and a second bathroom area on the second floor level and rear balconies.
  - Access to these dwellings would be gained from a side passageway to the west of Dwelling 1.
  - Each dwelling would have a terrace courtyard area to the south in front of the dwelling entry points.

**General Dimensions**

- Total site coverage of 477m<sup>2</sup> (58%),
- A maximum building height of 9.145m above natural ground level,
- A maximum site cut of 1.34m,
- A range of materials and finishes to the external aspects of the building including a combination of light and dark timber cladding; timber battens; glass balustrades; dark non-combustible metal cladding; and metal roofing.

### **Car Parking**

- Dwellings 1 & 2 require one car parking space each which is located to the rear of the site across the carriageway easement.
- Dwellings 3, 4 & 5 are each serviced by double car garages (tandem style) on the ground floor level.
- The required single visitor car parking space is shown to the rear of the site across the carriageway easement.
- The shop requires six car parking spaces to be provided on the land. Whilst the applicant has provided only two to the rear of the site across the carriageway easement, permission has been sought for a reduction in four car parking space.

### **Waste**

- The applicant has proposed a private waste collection to occur onsite.
- A bin store enclosure is shown on plan located across the carriageway easement and adjacent to the visitor car parking space.
- This bin enclosure would service both the shop and dwellings on the land.

For further detail, refer to Attachments 5-13.

### **PLANNING CONTROLS**

<b>Zoning:</b>	Clause 34.01 Commercial 1 Zone
<b>Overlay:</b>	Clause 43.02 Design and Development Overlay Clause 44.06 Bushfire Management Overlay
<b>State Planning Policy:</b>	Clause 11.02-1S Supply of urban land Clause 15.01-2S Building Design Clause 16.01-2R Housing Opportunity Areas Clause 16.01-2S Location of residential development Clause 17.01-1S Diversified Economy Clause 17.02-1S Business
<b>Local Planning Policy:</b>	Clause 21.04-1 Residential Land Use Clause 21.04-2 Commercial Land Use Clause 21.05 Settlement Clause 21.06 Built Form
<b>Schedule to Clause 53:</b>	Not applicable
<b>Other Requirements:</b>	Clause 52.06 Car parking Clause 65.01 Decision Guidelines

For further information on the planning controls refer to Attachment 2.

## CULTURAL HERITAGE MANAGEMENT PLAN (CHMP)

The application has been checked against the requirements of the Aboriginal Heritage Act 2006 as to the need for the requirement of a Cultural Heritage Management Plan (CHMP). It has been assessed that a CHMP is not required.

## EXTRACTIVE INDUSTRY

The subject site is not located within 500m of land on which a work authority has been applied for or granted under the Extractive Industries Development Act 1995.

## STAKEHOLDER VIEWS

### *External Referrals*

Authority	Consent/Objection – Summary of Conditions
Country Fire Authority	Consents to the proposal, subject to the Bushfire Management Plan submitted in support of the application being endorsed.

### *Internal Referrals*

Department	Summary of Response
Development Engineer	Consents to the proposal, including reduction of four car parking spaces. This is subject to conditions required to manage vehicle movements in the carriageway and drainage within the site.
Arborist	Consents to the proposal, subject to conditions including the provision of a detailed paving and drainage plan to protect the vegetation on the adjoining property to the west.
Waste Management	Consents to the proposal in relation to the submitted Waste Management Plan.

### *Objections and Consultation*

✓ Mail    ✓ Sign (2)    ✗ Local Newspaper

Number of Objections: 13 and one petition

Issues raised in the objections include the following:

- Inconsistency with town character
- Excessive visual bulk
- Excessive building height
- Poor urban design

- Potential storm water runoff
- Traffic & car parking
- Garbage collection.

A consultative meeting was held on 6 September 2018 that was attended by Planning Officers, Development Engineer, the applicant and 3 objectors. The above issues were all tabled for discussion, with a focus falling on the upper floor bulk of the proposal and the quality of urban design.

## **ASSESSMENT/ KEY ISSUES**

The proposal has been assessed against the applicable State and Local Planning Policy provisions; zone and overlay requirements; and Clause 52.06 Car Parking. Having regard to the requirements of the planning scheme and the concerns raised by objectors the proposal is found to be an acceptable outcome subject to conditions.

The development of this site will see the achievement of Council's objectives and policies which seek to encourage the provision of greater housing diversity, as well as activation in general of Commercial centres located within the Yarra Ranges region. The following assessment identifies the key issues requiring further discussion.

### ***State and Local Planning Policy***

There is a strong emphasis in both state and local planning policy that commercial developments consider the development of shop top housing in tandem with retail buildings on the ground level in order to contribute to the activation of commercial centres, such as the Tecoma Township. This is on the basis that the resultant building scale is compatible with the local urban character from a built form perspective, entrances to accommodation avoid conflicting with commercial premises, and sufficient off-street car parking is provided, relative to the general parking demand in the area. According to local policy it is also of significant consequence whether the proposed commercial land use reinforces and enhances the established role of the centre, and whether the resulting built form provides a continuity of retail display windows at the ground floor level.

By nominating a ground floor retail area with clear glazing facing the pedestrian thoroughfare along Burwood Highway, as well as a small entryway at ground level less than 2m in dimension to provide access to shop top dwellings 1 & 2, the proposal provides an acceptable outcome at ground level. This is supported by the retail premises having a generous 154sqm floor area to provide for future commercial opportunities on site. These aspects all considered, the proposed retail premises/ shop will make a positive addition to the Burwood Road streetscape. The matters of whether or not the proposal provides enough car parking and is of an acceptable built form are discussed within individual sections in the assessment below.



### **Built Form and Urban Design**

The built form to the proposal needs to comply with the requirements of the Commercial 1 Zone as they relate solely to buildings and works, and the design objectives of the Design and Development Overlay Schedule 14 (DDO14).

The Commercial 1 Zone directs that an acceptable built form outcome must endeavour to activate the frontage to pedestrian areas through careful design, include a variety of treatments to the building façade in order to provide for visual interest, and ensure that the objectives, standards and decision guidelines of Clause 55 are generally well met, where relevant or applicable. The Design and Development Overlay provides for more specific requirements for built form to abide by, including:

- *New development should reinforce the pattern of existing development in the town centre with mostly narrow fronted shops and strongly articulated facades.*
- *The siting and setbacks of new buildings should reflect the generally established spacing of buildings in the town centre and to maintain views to background vegetation.*
- *Building heights should not exceed a height of two storeys (7.5 metres).*
- *New buildings should adopt, in a contemporary style, classic Dandenongs design themes that incorporate elements such as timber and natural materials, asymmetrical design, wide span pitched rooflines and front gables.*
- *Verandahs should be provided on the street frontage of buildings to provide weather protection.*
- *Big box structures with bland facades, and building bulk that is out of proportion with other elements of the town centre, are discouraged.*
- *The massing of larger buildings should be articulated through design treatments including the use of openings, different materials, textures and colours.*
- *The design of new buildings should relate to the topography of sloping sites and minimise the extent of earthworks.*
- *New buildings should be constructed with zero setbacks from the main street frontage.*

The aim of these most significant and collective design controls within the Overlay is to ensure that town centres within the Dandenong Ranges continue to sit comfortably in the landscape, maintain view lines within reason, and contribute positively to the often irregularly aligned built form character that is unique to a number of hillside township settlements such as Tecoma.

The most notable aspect of the proposal is that it proposes a double storey built form fronting towards Burwood Highway which ranges from 7.3 to 8.3 metres in height, and is inclusive of a number of recessive and pitched building elements to both diminish the visual profile of the building, and to an extent mimic the character of the township. Although the DDO14 advises that building heights should not exceed 7.5 metres, the photo montage provided in support of the application (see Attachment 14) demonstrates

that the building would not unreasonably obstruct view lines of the Dandenong Ranges, as shown when approaching the site travelling north on foot along McNichol Road. This is the true test as to whether the height of the building is appropriate across its only sensitive interface, and provides assurance that the building would sit comfortably within the broader landscape, despite the building slightly exceeding the preferred building height.

It is also important to acknowledge that the DDO14 in identifying a preferred maximum building height of 7.5 metres is in essence identifying that it is an acceptable planning outcome for mixed use buildings fronting the Burwood Highway streetscape to be double storey in profile, subject to the right design. The current plans do not satisfy this broader test of design quality, due to the second storey elevation fronting the Burwood Highway presenting as a boxy structure, within which it appears little consideration has gone into how it can be broken up to provide a higher standard of visual interest. In response to concerns raised during the community consultation meeting around the suitability of the design, the applicant has prepared and provided a concept plan which shows a greater variation in external cladding materials and finishes, deletion of the rooftop gardens for Dwellings 1 & 2, and a second additional roof pitch above bedroom 1 of dwelling 2 (see Attachment 15).

These changes have provided for a greater contrast of external building materials, which in tandem with the recessional cove in between the balcony & bedroom 1 of dwelling 2, and the partially recessed first floor elevation of dwelling 1, ensures that the boxy appearance of the upper floor would be satisfactorily diminished and disguised. In order to ensure that these concept changes are realised on plan, a condition of any permit granted would require that the plans are amended to accord with this modifications shown on this concept plan. A second condition of any permit granted would also require a suitable plant species complementary of the proposed building materials be planted in the road reserve fronting the site in order to assist the above building elements in breaking up the built form of the proposal.

It is also worthy of note that the applicant has designed the front elevation to provide a certain level of transition between the building design of Tecoma McDonalds to the west which has a flat roofed low lying building appearance, and the salvation army building to the east which has a multi gabled roofing structure. This is shown by the inclusion of hipped roofing elements on the eastern side of the building which lower in height into a square roofing form above bedroom 1 of dwelling 1, and then drop down to the adjacent front balcony area of this dwelling which sits almost parallel with the rooftop of Tecoma McDonalds. This is considered to be a constructive way of bridging the diversity in built form either side of the subject site and in keeping with DDO expectations around providing for proportionate building volumes in development. The inclusion of balcony areas overlooking the streetscape would also provide for improved passive surveillance of the Burwood Road streetscape and therefore the improved safety of pedestrians, particularly during the night.

Notably the front elevation does not propose a front verandah over the footpath to assist with providing for weather protection; however it is observed that the 1.49m front setback of the ground floor shop and the subsequent overhang of the upper floor could inadvertently provide for the same outcome for pedestrians. Whilst the DD014 encourages that buildings should have zero front setbacks, this is not a mandatory requirement under the Overlay. The proposal in this instance seeks to be in keeping with Tecoma McDonalds, which has a reduced front wall setback of approximately 2 metres, in order to allow for outdoor dining under a verandah structure which in part extends to the front boundary.

Given a precedent has already been set next door, the proposed ground floor setback of 1.49 metres would not be out of context and could provide for a similar outcome, were the shop to be used as a café in the future. In this instance a small front boundary setback in this location of the Tecoma Township is considered appropriate.

In terms of the overall development, it has been designed in such a fashion that it endeavours to step down with the natural fall across the site from south to north and in doing so respects the preferred maximum building height of 7.5 metres. This is clearly depicted on the eastern and western elevations which show that Dwellings 3, 4 & 5 falls away at least 1.6 metres in height from the proposed buildings located to the front of the site. Although these rear buildings would also exceed the preferred maximum building height by 1.69 metres, the upper floor is well recessed to ensure that the rear elevation is effectively broken up and would avoid presenting any 'sheer wall' effects to the residential properties away to the north. Notably the development also includes a 1.34m deep cut into natural ground level to help lower the built form profile to the rear and reduce the extent of visual bulk away to the north.

### ***Rescode and Amenity***

Both the Commercial 1 Zone Decision Guidelines and the Design Objectives of the DDO14 advocate that the development must be well considered of the various objectives and standards of Rescode. Generally speaking the development meets the majority of tests set by the relevant standards, although in a relative sense given the site is a commercial property and therefore built form and amenity considerations carry less weight than they otherwise would in a purely residential context.

First and foremost the development includes zero side setbacks and significant walls along boundaries. This is considered appropriate in a Commercial Zone, where attached built form is desired, particularly from a streetscape activation perspective. Although the standard is not met in relation to this objective, the outcome is highly acceptable in this context.

Site coverage by buildings is shown on plan at 58% which would meet the relevant standard under Rescode, however the extent of hard surfaces across the site would be non-compliant in line with the applicable objective and standard of Rescode. Again this is not unusual within a Commercial Zone where buildings are often observed to occupy an entire site area. A condition of any permit granted will be required to ensure that all storm water runoff from the property is suitably captured and dispersed, so that flooding impacts are not caused to any of the surrounding properties.

Overshadowing and overlooking do not form issues to this development, as the only sensitive interface being the residential properties to the north known as 1/89 & 2/89 Sandells Road are setback approximately 14 metres from the nearest habitable room areas of dwellings 3, 4 & 5, and therefore are well outside the minimum setback distance to warrant overlooking attenuation measures. Being properties located to the north of the subject site, they cannot be overshadowed by the development. The standards around overshadowing and overlooking are comfortably met in this instance.

From an internal amenity perspective, the development makes provision for acceptable allocations of private open space per dwelling which includes secluded balcony areas for all dwellings, including on the northern orientation where possible. Storage areas are also well considered and to be located within the rear terrace areas for dwellings 1 & 2, and the

garage areas for dwellings 3, 4 & 5. Compliance with Rescode standards for private open space and external storage are sufficiently met.

Finally from a safety and surveillance perspective, it is important that the development plans appropriately show the location of all external lighting features within the rear carpark and along the western side passage way. These details will be required to be shown as a condition of any permit granted.

### ***Traffic and Car Parking***

The proposal has been assessed by Council's Traffic Engineer for compliance with the relevant requirements set out under Clause 52.06 Car parking of the Planning Scheme and has been found to form an acceptable outcome. Notably the accessway located to the rear of the site is sufficiently wide to be able to allow vehicles to comfortably turn and exit in a forward direction, and sufficient car parking allocation has been made onsite for all car parking associated with the five dwellings proposed onsite.

As touched on above the development has not provided for all car parking associated with the shop onsite, which requires six spaces to be provided on the land based on the overall shop floor area of 154m<sup>2</sup>. In summary the site plan has made provision for two spaces to the rear of the site and requires a reduction of four car parking spaces to be granted by Council.

In order to justify a reduction of four car parking spaces, the applicant conducted a car parking demand survey over a radius of 150 metres around the subject site on Saturday 21 October 2017 and Thursday 26 October 2017 between 9:00am and 6:00pm on each day. The submitted traffic report advises that the distance of 150 metres was selected based on it being judged as a reasonable walking distance for customers visiting the premises, and the times chosen for the survey due to this being the typical time period where regular business trade is occurring.

In total 162 parking spaces were surveyed, of which up to 124 were available for public use during the Saturday survey and up to 117 spaces available for the Thursday survey.

The results of the surveys showed that:

- The highest parking demand for the area during the Saturday survey was at 1:00pm when 12 of the available 124 public spaces (10 percent of capacity) were occupied. At this time, there were a minimum of 112 parking spaces available in the area.
- During the peak period for the Saturday survey, only 5 of the communal 50 parking spaces within the 'larger site' were occupied.
- The highest parking demand for the area during the Thursday survey was at 2:00pm when 69 of the available 117 public spaces (59 percent of capacity) were occupied. At this time, there were a minimum of 48 parking spaces available in the area.
- During the peak period for the Thursday survey, only 18 of the communal 50 parking spaces within the 'larger site' were occupied.

Based on the outcome of the car parking demand survey, it is clear that there are ample car parking spaces within the surrounding area to support a small parking reduction of four

car parking spaces and therefore support on this aspect of the proposal is warranted. This position is further supported by Council's Traffic Engineer and reflected within their internal assessment of the proposal.

### ***Drainage***

The application has been reviewed by Council's Drainage Engineer whom has recommended support subject to conditions which would require the applicant to install a storm water detention system on the land, as well as construct approximately 110 metres of a minimum 300mm diameter pipe drain from the subject site to Council's drainage outfall pit located to the rear 6 Sophia Grove. Notably by requiring the applicant to install this infrastructure, the surrounding properties will be benefited by more appropriately sized storm water infrastructure being in place to manage runoff and alleviate any storm water pooling issues reportedly occurring in the immediate area.

### ***Waste Collection***

The applicant has submitted a waste management plan which identifies that a private waste collection service will be used to collect all waste from the development at least once a week. The applicant has opted for private collection due to the fact that there is an insufficient road reservation available to allow for the 'pick up' & 'drop off' of bins as required to be eligible for general Council collection.

To make provision for private waste collection from the site, a bin enclosure is provided adjacent to the rear car parking spaces across the carriageway. This enclosure will house the bins associated with Dwellings 1 & 2, as well as those associated with a retail tenancy making use of the shop (to be collected 3 times per week). The bins associated with Dwellings 3, 4 & 5 will be stored within the garage areas and placed next to the enclosure on collection days for pick up. They will be required to be returned to the garage areas on the same day as collection. The owner's corporation is noted in the Waste Management Plan as being responsible for enabling the private contractor to have access to the bin enclosure on the days of waste collection.

### ***Vegetation Impacts***

An arborist report was requested as part of the application assessment due to there being a small number of trees (*Eucalyptus leucoxylon* 'Euky Dwarf') located in close proximity to the proposed buildings and works next door on the site occupied by Tecoma McDonalds. Notably there are no trees located on the subject site to be considered by this assessment.

Council's arborist reviewed this report in consideration of the scope of the proposed works and determined that the proposal has overlooked the potential impact of paving proposed at natural ground level over the tree protection and structural root zones of this vegetation and as such recommended conditions of address. This includes a condition requiring a detailed paving and drainage plan to be provided in order to ensure paving and drainage will be constructed on natural ground level using permeable materials and so both protect tree roots and provide trees enough space below ground for future root growth.

Ultimately it is considered that there is limited opportunity for new tree planting associated with the development and the neighbouring trees provide good landscape amenity, therefore their protection and retention is of high priority.

## **Bushfire**

The Country Fire Authority have reviewed the submitted Bushfire Management Statement and determined that the proposal is acceptable, subject to the development being carried out in accordance with the requirements of the submitted Bushfire Management Plan (see Attachment 16). This plan requires the building to be developed to a BAL 12.5 construction standard; a 5,000L water tank to be provided onsite for assisting with fire fighting purposes; and vegetation to be managed carefully onsite so as to prevent future bushfire risk. Given the low bushfire risk presented to the site due to the highly managed wider surrounding area for domestic purposes, the recommendations of the submitted Bushfire Management Plan are considered appropriate and worthy of support.

## **Response to objections**

The objections raised against the proposal have all been addressed in the above assessment and therefore no further comments are required on these matters.

## **CONCLUSION**

The development application has been assessed in accordance with Section 60(1) of 'The Act' and all relevant instruments and policies. The proposal is considered to be consistent with the objectives of state planning policies, local planning policies and the relevant zone and overlay provisions of the Planning Scheme and therefore it is recommended that the application be approved and a Notice of Decision be issued in accordance with Attachment 1 conditions to this report.

## **ATTACHMENTS**

- 1 Conditions (*published separately*)
- 2 Planning Policy (*published separately*)
- 3 Advertising (*published separately*)
- 4 Aerial Plan (*published separately*)
- 5 Site Context and Analysis Plan (*published separately*)
- 6 Streetscape Image (*published separately*)
- 7 Floor Layout Plan 1 (*published separately*)
- 8 Floor Layout Plan 2 (*published separately*)
- 9 Floor Layout Plan 3 (*published separately*)
- 10 Rooftop Plan (*published separately*)
- 11 North and South Elevations (*published separately*)
- 12 East and West Elevations (*published separately*)
- 13 Cross- Section Plan (*published separately*)
- 14 Photo Montage (Concept Plan) (*published separately*)
- 15 Concept Plan South Elevation (*published separately*)
- 16 Bushfire Management Plan (*published separately*)

**7.4 Planning Application YR-2018/354 - 250 & 252 Hull Road, Mooroolbark****APPLICATION DETAILS**

<b>Site Address</b>	250 & 252 Hull Road, Mooroolbark
<b>Application No.</b>	2018/354
<b>Proposal</b>	Buildings and works to construct twelve dwellings, alter access to road in a Road Zone, Category 1
<b>Existing Use</b>	Dwellings on both 250 & 252 Hull Road
<b>Owner</b>	Silver Fern Investments
<b>Applicant</b>	DCA Design
<b>Zone</b>	General Residential, Schedule 1 (GRZ1)
<b>Overlays</b>	Significant Landscape Overlay, Schedule 23 (SLO23) Design and Development Overlay, Schedule 8 (DDO8)
<b>Objections</b>	Three (3)
<b>Reason for Council Decision</b>	Called in by ward Councillor
<b>Ward</b>	Walling

**SUMMARY**

The application seeks permission for the construction of twelve dwellings and to alter access to a road in a Road Zone, Category 1.

The permit triggers under the scheme are for the construction of two (2) or more dwellings in the General Residential Zone 1, construct or carry out works in the Design and Development Overlay (DDO8) and to create or alter an access to a Category 1 Road. The proposal relates to a consolidated site comprising 250 and 252 Hull Road, Mooroolbark. Each lot is currently occupied by a detached dwelling.

The application has been advertised and 3 objections have been received.

The objection grounds primarily relate to impacts on neighbourhood character, overshadowing, walls on boundaries, visual bulk, impact on trees, parking and traffic and overshadowing of solar panels.

Overall the proposed development is considered to be an appropriate design response and is satisfactory when assessed against the relevant policies and provisions of the Yarra Ranges Planning Scheme and the Planning and Environment Act 1987. Accordingly, it is recommended that the application be supported and a Notice of Decision to Grant a Planning Permit be issued.

**RECOMMENDATION**

***That Council resolve to approve Planning Application YR-2018/354 for Buildings and works to construct twelve dwellings, alter access to road in a Road Zone, Category 1 at 250 & 252 Hull Road, Mooroolbark and issue a Notice of Decision to Grant a Permit subject to the conditions in Attachment 1 to the report.***

## **DISCLOSURE OF CONFLICTS OF INTEREST**

The author has no conflict of interest relevant to the proposal.

## **SITE LOCATION AND DESCRIPTION**

The subject site is a consolidation of Lot 448 and Lot 449 on LP53913. The subject sites are (generally) located on the south side of Hull Road. The subject sites are regularly shaped parcels comprising two lots with a combined street frontage of 36.58m and a depth of 47.24m with a total site area of approximately 1,728.04m<sup>2</sup>.

Topographically, the land has a rise of approximately 6 metres from the north east to the south west. The site is currently developed with a detached single storey dwelling on each lot. Each lot currently gains access via single width crossovers from Hull Road adjacent to the east boundary.

The site contains various landscaping in the front and rear setbacks of the existing dwellings. Five trees are located throughout the site. The site is not affected by a restrictive covenant.

## **SURROUNDING AREA**

The subject site adjoins 3 properties which are described as follows:

- East - 254 and 254A Hull Road are located to the east of the subject site. Each lot is occupied by a dwelling with a pitched tiled roof. A common driveway provides vehicular access to the development adjacent to the site's eastern boundary. Areas of secluded private open space (SPOS) are provided to the rear of each dwelling.
- South & West - The Saint Peter Julian Eymard Church and Primary School are located at 240 Hull Road, which is located to the south and west of the subject site. At the closest, the single storey school building is located approximately 5.5m from its eastern boundary and approximately 4.2m from its northern boundary. Two trees (H20 and H4) are located within these setbacks.

The site is located with the Residential Precinct of the Mooroolbark Activity Centre. It is approximately 250 metres south of the Commercial/Civic Core. This Precinct has undergone significant change in recent years with evidence of several multi-dwelling developments along Hull Road; refer to Attachment 11 for photos of surrounding developments

Key features of the emerging character of the area include:

- Smaller 2-3 storey unit developments are being more common
- A relatively consistent front setback of approximately 12 metres exists on the south side of Hull Road
- Dwellings are generally setback from both boundaries
- There is no dominant architectural style as a result of the continuing rejuvenation of housing stock in this area



- Pitched roofs remain the dominant roof form
- Contemporary developments commonly have a rendered finish in a neutral tone.

The subject site has access to the following community and commercial facilities, and public transport:

- Mooroolbark Activity Centre, approximately 235 metres to the north west;
- Mooroolbark Community Centre, approximately 200 metres to the north;
- Mooroolbark Medical Centre, approximately 560 metres to the west;
- Yarra Hills Secondary College, approximately 230 metres to the south;
- Mooroolbark Train Station, approximately 450 metres to the north west,
- Bus Route 680 which operates along Brice venue, approximately 130 metres to the north;
- Red Earth Community Park, approximately 150 metres to the north;
- Hookey Park, approximately 330 metres to the north west; and
- Carrum to Warburton Trail, approximately 200 metres to the east.

## HISTORY

<b>Application Number and Decision Date</b>	Council received an application at <b>252 Hull Road</b> in May 2015 (YR-2015/479). This proposal sought to develop the land for a three-storey building comprising 12 dwellings (in an apartment form) and an alteration of access to a road in a Road Zone Category 1, this was refused by Council.
<b>VCAT History</b>	<p>A VCAT hearing was held for the above application on 20 June 2016 where the Council decision was upheld and directed for no permit to issue.</p> <p>The follow reasons were given by the Member:</p> <p><u>REMARKS</u></p> <p>1     <i>Reasons were given orally at the conclusion of the hearing.</i></p> <p>2     <i>The Tribunal was informed that the property at No. 250 Hull Road is owned by an entity associated with the Applicant. The Tribunal is of the view that the best strategic outcome would be the consolidation of No. 250 with the subject land to provide much greater flexibility of design and avoid isolation of No. 250 as a single allotment at the end of a line of similar sized allotments fronting Hull Road</i></p>
<b>Other History</b>	Nil

## PROPOSAL

The proposal includes the construction of 12 townhouses and the removal of 5 trees.

The proposal will include:

- A site coverage of 44.22%
- A permeable surface area of 39.91%
- A maximum building height of approximately 8 metres from the natural ground level.

The key aspects of the proposal include:

#### Dwelling Composition

- The townhouses comprise:
  - 2 x double storey, three-bedroom townhouses;
  - 8 x triple storey, two-bedroom townhouses; and
  - 2 x triple storey, three-bedroom townhouses.
- Townhouses 1 and 7 comprise:
  - A double garage, two bedrooms, a bathroom and a laundry at ground floor level; and
  - An open plan kitchen living and meals area, a bedroom with an ensuite and a balcony at first floor level.
- Townhouses 2-5 and 8-11 comprise:
  - A single garage, entry and retreat and raised rear deck at ground floor level;
  - An open plan kitchen living and meals area at first floor level;
  - Townhouses 2-5 also include a west-facing balcony at first floor level; and
  - Two bedrooms and a bathroom at second floor level.
- Townhouses 6 and 12 comprise:
  - A double garage and a bedroom with an ensuite at ground floor level
  - An open plan kitchen living and meals area at first floor level
  - Townhouses 6 also includes a west-facing balcony at first floor level
  - Two bedrooms, one with an ensuite, and a bathroom at second floor level.

#### Building Form and Siting

- The pair of front dwellings (dwellings 1 and 7) is 2-storeys in height;
- The balance of the dwellings are 3-storeys in height, however they will present as 2-storey development when viewed from the east and west. This is achieved through extensive cutting within the site.

- The townhouses predominantly incorporate a flat roof design. Dwellings 1 and 7 include a skillion roof.
- The development is setback between 8.43 metres to 7.685 metres from Hull Road.
- Dwellings 1 and 7 are partially built to the side boundaries. Various side and rear setbacks are proposed to the balance of the dwellings, as set out in the table below:

Elevation	Ground floor level	First floor level	Second floor level
East	1 metre to 4.975 metres	3.765 metres to 5.025 metres	4.775 metres to 5.925 metres
West	1 metre to 5.26 metres	3.55 metres to 5.91 metres	5.02 metres to 6.97 metres
South	1.69 metres	1.69 metres	2.84 metres

### Car Parking and Access

- Vehicle access will be provided directly from Hull Road
- The existing crossovers will be removed with footpaths and kerbs to be reinstated
- A common central driveway provides vehicle access to each townhouse
- Car parking is provided in ground floor garages. 16 resident and 2 visitor car parking spaces are provided
- 6m<sup>3</sup> of storage is provided to each dwelling in the garage
- Council waste collection is proposed.

### Landscaping

- A draft landscape plan has been prepared. The plan includes landscaping in all open areas of the site including canopy trees in the front setback. A copy of the landscape plan is included in Attachment 6
- The trees to be removed are included in the table below, it should be noted that none of the trees require a permit for their removal.

Tree No	Botanical Name	Common Name	Height (m)	DBH (cm)	Comments
5	Pittosporum undulatum	Sweet pittosporum	5	14,13	NPR – weed species
6	Citrus x limon	Lemon	2	10	
7	Acca sellowiana	Feijoa tree	3	30	Multi-Stemmed at base of tree. DBH measured at base of tree.

8	Mixed hedge		4	16	Mixed hedge comprising of: Pittosporum eugenioides Cotoneaster salicifolius Ligustrum sp. Acacia sp. Callistemon sp. Pittosporum eugenioides Cupressus sp.
11	Ligustrum lucidum	Broad-leaved privet	3	10	

### National Rental Affordability Scheme (NRAS)

It is proposed to use some of the dwellings as part of the National Rental Affordability Scheme (NRAS). The National Rental Affordability Scheme (NRAS) is part of the Australian Government's long-term response to the recognition that housing affordability is an issue of significant community concern.

Of the twelve dwellings (12), eight (8) are proposed to be offered into the NRAS market, these eight (8) are the two (2) bedroom dwellings within the development.

The developer of 250 & 252 Hull Road already provides NRAS housing within Yarra Ranges in Mooroolbark (13) and Kilsyth (3), and is looking at this development to continue that contribution. This aligns with the policy direction of Clause 21.04, Objective 2 where it is encouraged to provide affordable housing components in new developments in identified consolidation areas that provide convenient access to town centres, commercial and community facilities.

Refer to Attachments 6, 7, 8 & 14 – Development plans, Arborist report, Waste Management Plan & Shadow diagrams.

Further details regarding the NRAS are provided in Attachments 9 & 10.

NRAS is not to be confused with the recently released Victorian housing initiatives announced by Minister Wynne. NRAS is a Federal initiative and was established some ten (10) years ago and looks to provide affordable rental properties in robust markets, whilst it has similar characteristics as those recently announced by Minister Wynne, NRAS has financial incentives to developers to include affordable housing and has been in operation for nearly ten (10) years.

The recent Victorian initiative was more focused on assisting Local Governments in negotiating with developers through new changes to Victoria's Planning and Environment Act 1987 to establish a framework for affordable housing, define who is eligible for affordable housing, and create a pathway for councils and developers to lock in affordable housing delivery as part of a development project. It is envisaged that the Victorian Planning Schemes will include a requirement for large scale developments to provide more affordable housing in their projects, however at this stage this is purely a voluntary program and is not legislatively required.

In essence both schemes do the same function, however NRAS has been around longer and has traction in the development community Australia wide.

## PLANNING CONTROLS

<b>Zoning:</b>	Clause 32.08 – General Residential Zone, Schedule 1
<b>Overlay:</b>	Clause 43.02 – Design and Development Overlay, Schedule 8 Clause 42.03 – Significant Landscape Overlay, Schedule 23
<b>State Planning Policy:</b>	Clause 11 Settlement Clause 12 Environmental and Landscape Values Clause 15 Built Environment and Heritage Clause 16 Housing Clause 19 Infrastructure
<b>Local Planning Policy:</b>	Clause 21.04-1 Residential Land Use Clause 21.05 Settlement Clause 21.06 Built Form Clause 21.07 Landscape Clause 22.05 Vegetation Protection
<b>Schedule to Clause 51:</b>	Not applicable
<b>Other Requirements:</b>	Clause 55 - ResCode – Two or more dwellings on a Lot Clause 52.06 – Car Parking

For further information on the planning controls refer to Attachment 2.

## CULTURAL HERITAGE MANAGEMENT PLAN (CHMP)

The application has been checked against the requirements of the Aboriginal Heritage Act 2006 as to the need for the requirement of a Cultural Heritage Management Plan (CHMP). It has been assessed that a CHMP is not required.

## EXTRACTIVE INDUSTRY

The subject site is not located within 500 metres of land on which a work authority has been applied for or granted under the Extractive Industries Development Act 1995.

## STAKEHOLDER VIEWS

### *External Referrals*

<b>Authority</b>	<b>Consent/Objection – Summary of Conditions</b>
<b>Vic Roads</b>	Consents to the proposal with conditions relating to amended plans and crossover construction, refer to Attachment 1.

**Internal Referrals**

Department	Summary of Response
<b>Development Engineer</b>	Consents to the proposal with a number of conditions including condition 1 requirements, refer to Attachment 1.
<b>Stormwater Engineer</b>	Consents to proposal with conditions, refer to Attachment 1
<b>Arborist</b>	Consents to proposal as no trees for removal require a permit and the tree impacted by the development on the neighbouring property is less than 10% within the tree protection zone, tree protection fencing is still required for these adjoining trees and conditions have been included to achieve this, refer to Attachment 1.
<b>Waste</b>	Consents to proposal with required changes to the Waste Management Report, these are included in condition 1, refer to Attachment 1.

**Objections and Consultation**

✓ Mail (49 letters sent)    ✓ 2 x Signs    ✗ Local Newspaper

Number of Objections: Three (3) objections were received, the key issues are:

- Neighbourhood character
- Overlooking
- Walls on boundary
- Visual bulk
- Impact on trees
- Parking and traffic
- Overshadowing to Solar Panels
- Property values
- Noise.

Refer to Attachment 4 – Advertising & Objectors locality plan

**ASSESSMENT/ KEY ISSUES****Planning Policy Framework**

Overall, it is considered that the proposal is consistent with the strategies and objectives of the Planning Policy Framework (PPF) including the Municipal Strategic Statement (MSS) and the Local Planning Policy Framework (LPPF). The development is appropriately sited and sensitively designed to ensure that it sits comfortably within this location. The overall design and massing is respectful of the emerging built form and landscape character of the surrounding residential area.

The site is within an identified urban consolidation area where higher density developments and more diverse housing are encouraged. This is supported by Clauses 15 - *Built Environment & Heritage*, Clause 21.04 - *Land Use*, Clause 21.05 *Settlement and* Clause 22.09 – *Mooroolbark Activity Centre*.

The proposal has responded to Objective 1 - Residential and Objective 2 - Housing Diversity under Clause 21.04-1 by the following:

- The proposal to consolidate 2 lots creates an opportunity to accommodate a higher density development.
- The site is within easy walking distance of shops, public transport, open space and schools. The site is not constrained by significant vegetation, infrastructure requirements or topography.
- The scale and design of the development is compatible with the preferred character of the surrounding area; and
- The proposal provides housing diversity through a range of dwelling sizes including 8 x 2 bedroom dwellings and 4 x 3 bedroom dwellings.

Clause 21.05 '*Settlement*' reinforces Clause 21.04-1 and highlights the hierarchy of activity centres throughout the municipality. As relevant, it seeks to establish sustainable and attractive townships that can support a range of residential, commercial, retail, community and recreational facilities and services. The proposal supports this policy objective.

Clause 21.06 '*Built Form*' includes objectives and policy for buildings in residential areas across the Shire. Development is encouraged to reflect the environmental and physical form of the surrounding neighbourhood. The development has been designed to sit comfortably within the natural topography of the area. The overall massing and scale is an acceptable outcome within this consolidation area.

The Planning Scheme also includes a range of more specific built form requirements at DDO8. A more detailed built form assessment is provided later in this report.

Clause 22.09 identifies the Mooroolbark Neighbourhood Activity Centre (MNAC), which is a Large Neighbourhood Activity Area / town Centre under the Yarra Ranges Activity Centre Network Strategy. The subject site is located within the Residential Precinct of the MNAC. Whilst Clause 22.09 does not include any specific policy objectives for the Residential Precinct, the proposal is consistent with the overarching policy objectives at Clause 22.09, which includes providing additional and more diverse quality housing by increasing density in the town centre and adjoining residential precincts within walking distance of the train station.

Based on the assessment above, it is clear that there is policy support for a higher density residential development at this location. The key issues include:

1. Is the proposed development respectful of the preferred character of the area?
2. Is the proposed development consistent with the requirements of DDO8?
3. Will the proposed development have any unreasonable off-site amenity impacts on adjoining properties?

4. Does the proposed comply with all relevant objectives of Clause 55?

**Neighbourhood Character**

There are a number of large detached dwellings on Hull Road; however, it is evident that the subject site is in an area that has undergone significant redevelopment in recent years. Given the site's designation within an urban consolidation area, there is clear expectation that the neighbourhood character will continue to evolve over time. In particular, on large lots, there is policy support (under DDO8) to support buildings of up to 11m above natural ground level, Clause 21.04 further advances support of such a development where it is Policy to *“ensure higher density residential housing in identified housing consolidation areas are within easy walking distance of shops, public transport, open space and schools and in locations where there is an absence of constraints such as significant vegetation, infrastructure requirements or steeper slopes and to encourage residential infill in the neighbourhood consolidation (General Residential Zone) areas (of Mooroolbark, Kilsyth, Healesville, Yarra Junction, Mt Evelyn and Yarra Glen”*.

Given the policy context of the site and the surrounding area, the most relevant consideration is whether the proposal is respectful of the preferred future character rather than responding to the existing character.

The proposed development is of an intensity that is consistent with the relevant policy directions and expectations. In this context, the proposal strikes the right balance between respecting the valued aspects of the existing neighbourhood character and responding to the future preferred character outcomes. Importantly, the proposal does not seek to replicate what's existing in the area. It achieves a balanced response to the applicable planning policies and provides a site-responsive design. In particular:

- The dwellings have been designed and sited to address the natural topography of the land.
- Dwellings 1 and 7 are 2 storeys. This will sit comfortably within this 1-2 storey streetscape.
- Balance of the dwellings will have a maximum height of 3 storeys. The ground floor is cut into the site so that the dwellings will generally present as a 2 storey development to the adjoining lots.
- The resulting proposed development stepped building form reduces the visual dominance of the development from Hull Road and surrounding properties.
- The front setback achieves a minimum of 7.685m and increases to 8.585m. This creates a generous area that can accommodate substantial landscaping to be provided. The setback does require a variation from *Standard B6 - Street setback* objective of Clause 55, which can be supported in this designated consolidation area.
- In most instances, side setbacks are generous and will allow for canopy planting throughout the site. This will continue to contribute to the area's landscaped character.



- Bedroom 3 of TH1 and TH7 will be constructed on the boundary; however these sections are in excess of 11m from the front boundary and will not be visually dominant from the public realm.
- The proposed building design utilises materials that are commonly found in the area.
- Other than TH1 and TH7, the development comprises flat roofs. TH1 and TH7 include skillion roofs. The combination of the roof forms is an acceptable design response in an area where more intensive developments are expected to occur.
- The centrally located separation (between TH3 and TH4, and TH8 and TH9) effectively breaks up the built form to provide visual relief.
- The proposal will have no unreasonable off-site amenity impacts on adjoining land. A detailed discussion is provided later in this report.

It is relevant to note a recent VCAT decision (*Wu v Yarra Ranges SC* [2018] VCAT 2761 – Attachment 13) for a similar development within the same Residential Precinct of the Mooroolbark Neighbourhood Activity Centre (MNAC) at 86-90 Brice Avenue, Mooroolbark, VCAT set aside Council's refusal on grounds *"that the proposed intensity of the built form and the amount of landscaping provided is not respectful of the existing neighbourhood character, nor did it adequately respond to the preferred neighbourhood character aspirations articulated in Schedule 8 to the Design and Development Overlay, particularly given that Mooroolbark is identified as a lower order activity centre"*.

VCAT found that Schedule 1 to the General Residential Zone describes land where this schedule applies as being 'lower order (neighbourhood) consolidation areas'. Furthermore, Schedule 8 to the Design and Development Overlay is titled 'Neighbourhood Centres and Rural Township Consolidation Areas'. However, this does not mean that the proposal needs to necessarily be reduced in its built form intensity. In fact, there are several specific strategies in Clause 21.04 of the planning scheme which support the proposed design response given the subject site's location and size. These strategies are:

*Ensure higher density residential housing in identified housing consolidation areas is within easy walking distance of shops, public transport, open space and schools and in locations where there is an absence of constraints such as significant vegetation, infrastructure requirements or steeper slopes.*

*Encourage higher densities in consolidation areas in the General Residential Zone which offer a choice of transportation options to reduce car dependency.*

*Provide opportunities for increased densities on aggregated lots within consolidation areas that have walkable access to shops, public transport and community facilities.*

Furthermore, VCAT considered that these strategies are also reflected in the Mooroolbark Activity Centre local policy at Clause 22.09 of the planning scheme which includes a key objective:

*"To provide additional and more diverse quality housing by increasing the dwelling density in the town centre and adjoining residential precincts within walking distance of the train station."*

This local policy does not define the Mooroolbark Activity Centre as a 'lower order' centre, nor does it specifically seek a lesser intensity of development for this centre compared to the other identified activity centres within the municipality. The design objectives of Schedule 8 to the Design and Development Overlay also support higher density development on the subject site.

At Brice Avenue, the development density of 147sqm per dwelling is similar to this proposal's density of 144sqm per dwelling. The Tribunal found that this level of development intensity is consistent with the relevant policy expectations.

The policy expectation for subdivision size in Mooroolbark in the Yarra Ranges Planning Scheme in the Subdivision provisions of DDO8 is no preferred subdivision size:

Each application should be considered on its own merits and the unique site constraints. *Wu v Yarra Ranges* establishes that rows of 3 storey dwellings, articulated by external materials and fenestration is an acceptable development outcome within the residential precinct of the MNAC.

In the previous application (YR-2015/479) at 252 Hull Road, Council found that a continue three-storey built form was an inappropriate character response at this location. This proposal, through the consolidation of lots and the changes to building typology provides an appropriate neighbourhood character response.

As per Attachment 11, when considering Neighbourhood Character, weight must also be given to the Planning Practice Note 43 - Understanding Neighbourhood Character, which describes what 'respecting character' means:

*"Respecting character does not mean preventing change. The neighbourhood standard is not intended to result in the replication of existing building stock or stop change. In simple terms, respect for the character of a neighbourhood means that the development should be designed in response to its context. Depending on the neighbourhood, there are two broad approaches to respecting character:*

- *Respecting the bulk and form of surrounding development*
- *Respecting the architectural style of surrounding development.*

*"Respecting neighbourhood character does not mean mimicry or pattern book design, or limiting the scope of design interpretation and innovation. Instead, it means designing the development in response to the features and characteristics identified in the neighbourhood"* (page 6 PPN43).

It is considered that the proposal achieves the desired neighbourhood character for this General Residential area and contributes a built form that is complementary to the contemporary housing style prevalent in the immediate area, the materials and colours are sympathetic to the colours and materials in the surrounding neighbourhood, the roof line provides a transition to the adjoining house and the development is lowered into the sloping site to minimise visual bulk to adjoining properties.

## ***Design and Development Overlay Schedule 8 (DDO8)***

### **Building Height**

The development has a maximum building height of approximately 8m from the natural ground level. For a site of this size (combined total of 1,720m<sup>2</sup>), the DDO8 contemplates a maximum building height of 11m. The Schedule to DDO8 allows;

#### **Building height**

Maximum building height Condition regarding minimum lot size

- 11 metres above natural ground level 1500m<sup>2</sup> or greater
- 9 metres above natural ground level Less than 1500m<sup>2</sup>

### **Building Form, Siting and Layout**

The proposed front setback varies between 7.685m and 8.585m, which is lesser than the 12m setback of the adjoining residential dwelling (254 Hull Road) and the 22m minimum setback of the adjoining institutional building to the west – St Peter Julian Eymard Primary School. Strict compliance with the DDO8 requirement is not met, however, on balance; this level of front setback is acceptable within the designated consolidation area.

The second-floor level includes an appropriate level of setback from the first-floor level given the site's interfaces. Additionally, the proposal includes a mixture of external materials, render (Baltic, and Dune) and timber shiplap cladding between the two levels to provide articulation and mitigate any unreasonable visual bulk impacts. The west elevation is more visible from the public realm due to the setback of the school buildings.

There are no major view lines that warrant protection and the setbacks from all boundaries will allow sufficient room for canopy tree planting.

No adjacent dwellings are protected by a Heritage Overlay. Within this designated consolidation area, the character is expected to evolve overtime. The *Wu v Yarra Ranges* Decision confirms that architecture of this type is an acceptable outcome at this location. The VCAT decision refuted Council's view on the building design by noting:

*“the Council was critical of the proposed buildings, as articulation is typically provided through the use of different materials, fenestration and balconies, rather than through the use of upper level setbacks. However, given the physical and policy context of the subject site it is considered that the proposed built forms are acceptable and that no additional recessive elements are required to further moderate the visual appearance of the development.... that the proposal is respectful of the existing and preferred neighbourhood character of the area.”*

The VCAT decision further noted that although the subject site at Brice Avenue had a slope, it was not constrained by any of its physical characteristics. The similarities between the developments in Brice Avenue and the current one in Hull Road in terms of typology, design, unit height and presentation further affirms the position that this development is appropriate for its location within the Mooroolbark activity centre.

### Driveways and Car Parking

At the initial application stage, the proposal was for two (2) entry points, however, this was not supported by VicRoads which has resulted in the development changing to be a single entry/exit point to Hull Road, a VicRoads controlled road.

All garages have been integrated into the overall design and will address the central driveway and will not be visually obtrusive from the public realm.

Turning circles have been included on town planning drawings to confirm that satisfactory turning movements can be made on-site.

### Landscaping and Front Fencing

The proposal will provide a total of 8 large canopy trees, including 5 within the front setback area, which exceeds the requirements of the DDO. An indicative landscaping plan is included in the development plans provided in Attachment 6.

No front fencing is proposed. Overall, the proposal achieves a high level of compliance with DDO8 requirements.

## ***Amenity***

### On-Site Amenity

Each townhouse is provided with windows to all habitable rooms and will not rely on borrowed daylight.

SPOS areas and balconies are provided to each townhouse. These areas benefit from northerly aspects.

SPOS areas are provided to the rear of Townhouses 2-6 and 8-12. Due to the slope of the site and the proposed cutting, these SPOS are generally at the natural ground level. Convenient access is provided to each SPOS from the living areas.

Each townhouse is provided with a secure external storage of 6 cubic metres within the garage.

### Offsite Amenity Impacts

The site includes a residential interface to the east and a less sensitive interface to the Saint Peter Julian Eymard Primary School to the south and west. The proposal has considered these interfaces and response to the relevant design guidelines of the GRZ1 and DDO8. Key responses include:

- The setbacks provided to the side and rear boundaries meet the requirements of Standard B17
- The centrally located separation between buildings of 3.2 metres provides an effective break in built form
- There are no opportunities for overlooking of SPOS to the west and south.

However, to the east there are 4 habitable room windows and 2 areas of SPOS within 9m from the proposed development. Overlooking opportunities will need to be appropriately addressed. A condition of the permit is to provide further details of screening as they are not readily visible on the provided development plans.

The shadow diagrams demonstrate that the development will cast small amounts of additional shadows to the east at 3pm. These properties will be unaffected by additional shadows prior to this time. The areas of additional shadow are primarily over the side setback and do not affect the SPOS.

Objections have been received regarding potential overlooking, these can be addressed through conditions, thus condition 1 requirements for additional screening have been included, refer to Attachment 1.

### Car Parking and Access

The proposal includes car parking in ground floor garages to each townhouse and access is proposed via a crossover to Hull Road. The proposed car parking and access arrangements have responded to the requirements of GRZ1, DDO8, Clause 52.06 and Clause 52.29. With some minor adjustments, the proposed access arrangements to Hull Road is also supported by VicRoads (a determining referral authority).

Under Clause 52.06-5, 16 car parks are required with 2 visitor car spaces and this has been provided within the development. The car parking design and layout also meets the requirements of Clause 52.06-9.

Council waste collection is proposed for the development. The proposed waste collection arrangements are supported by Council's Waste Management Department subject to conditions should a permit be granted. The conditions require minor amendments be made to the Waste Management Plan (WMP). The WMP references screening of bin storage areas from the street but no bin storage areas are included on the plans. A condition has been included to identify and require screening of the bin storage area.

### Landscaping

The proposed landscaping includes various native species including native canopy tree planting and is generally well designed providing high quality public and private spaces.

The proposed canopy tree planting contributes to visual screening of the proposed building form and is in keeping with the landscaped character of the area.

A draft landscape plan was submitted with the proposal (Attachment 6) but will require adjustments to incorporate additional measures outlined in this report and incorporate all requirements typically shown in a landscape plan.

### Garden Area

Pursuant to Clause 32.08-4, a lot with an area in excess of 650 square metres must have 35% of the site set aside as garden area at ground level.

The subject site comprises two lots, each with an area of 864.02 square metres. A minimum garden area of 35% of each lot must be provided. To meet this mandatory

requirement, a minimum garden area of 302.4 square metres must be provided on each lot.

The proposal provides 39.18% (677sqm) of garden area across both lots, and No. 250 has 306.6m<sup>2</sup> (35.5%) of Garden Area with No. 252 has 314.3m<sup>2</sup> (36.4%) of Garden Area, thus complying with the requirements on a lot basis and whole development basis. Notwithstanding this, there is no clear indication of compliance with the garden area, so a condition 1 requirement has been included for these areas to appear as a notation on the plans.

### ***Objectors Concerns:***

The following issues were raised in submissions. Most of them have been discussed earlier and are further considered below.

#### Neighbourhood Character

The design has adequately responded to the emerging and preferred character of the area. In addition, Attachment 10 provides photographs of surrounding developments in the area to demonstrate the changing character of the area. Furthermore, Planning Practice Note 43 - Understanding Neighbourhood Character is attached (Attachment 11) to provide additional guidance to assist in understanding what is considered to contribute to the character of an area. It is considered that this proposal is consistent with the above practice note.

#### Overshadowing

The proposal will result in small amounts of overshadowing to the properties to the east after 3pm. A discussion of the impacts is included in the report above. The impacts are limited and the proposal meets the objective of Clause 55.04-5. Refer to Attachment 5 for the assessment against Clause 55.04-5.

#### Walls on Boundary

The proposed walls on boundary meet the requirements of Standard B18. Walls on boundaries is not uncommon, in this instance it is limited to the two (2) front units on either side of the development. Refer to Attachment 5 for the assessment against Standard B18. It is noted that with walls on boundaries and excavations close to dwellings some disturbance may be likely, therefore a condition for a dilapidation report has been included.

#### Visual Bulk

The setbacks provided to side and rear boundaries exceed the requirement of Standard B17. The proposal is not considered to unreasonably impact the outlook or amenity of adjoining properties and responds to the emerging and preferred character of the area. Refer to Attachment 5 for the assessment against Standard B17.

#### Impact on Trees

The proposal has been referred to Council's arborist who has not objected to the proposal subject to conditions. These conditions will be included on the permit. The conditions will ensure the TPZ's of trees on neighbouring properties are protected during construction. It is important to note that the only tree impacted is located in the adjacent school grounds.

Whilst there is incursion into the TPZ of this tree, it is within tolerable limits to ensure the continued viability of the tree.

### Parking and Traffic

The proposal includes visitor and resident car parking in accordance with Clause 52.06. VicRoads has not objected to the proposal subject to conditions. These conditions will be included in the permit (conditions No 1 & 24-29). The increase in traffic generated by the proposal will not unreasonably impact the safety or operation of the surrounding road network. It is acknowledged that residents have a concern with traffic and parking, however the development complies with the required rates set out in the planning scheme.

### Overshadowing of Solar Panels

The shadow diagrams demonstrate that the solar panel on the roof of the dwelling at 252A Hull Road will not be affected by shadows cast by the proposal at the times of 9am, 12pm or 3pm as required by the planning scheme. Furthermore, the applicant also provided shadow diagrams of June to further demonstrate that no overshadowing occurs to 252A Hull Road solar panels.

### Overlooking

The development is uniquely located such that Secluded Private Open Space on 252 Hull Road is marginally affected, appropriate conditions have been included to minimise overlooking. The development also abuts the carpark of the adjoining school, whilst this is not SPOS, a condition 1 requirement has also been included to increase the balcony wall height to 1.7m.

### Property Values

An objection was received in regards to the development devaluing the objectors' property. This is not a planning ground for consideration.

### Noise

The proposal is for residential units, the noise generated is commensurate with residential uses. It is submitted that the day to day use of the units would be negligible given highway traffic and adjoining school use.

## **CONCLUSION**

The development application has been assessed in accordance with Section 60(1) of 'The Act' and all relevant instruments and policies. The proposal is considered to be consistent with the objectives of State planning policies, local planning policies and the relevant zone and overlay provisions of the Planning Scheme as outlined within the report, such that it has been recommended for approval.

**ATTACHMENTS**

- 1 Conditions (*published separately*)
- 2 Planning Scheme Provisions (*published separately*)
- 3 Aerial Map (*published separately*)
- 4 Advertising & Objections (*published separately*)
- 5 Clause 55 Assessment (*published separately*)
- 6 Development Plans (*published separately*)
- 7 Waste Management Plan (*published separately*)
- 8 Arborist Report (*published separately*)
- 9 NRAS Factsheet (*published separately*)
- 10 NRAS Quarterly Report (*published separately*)
- 11 Photos of other Developments in the area (*published separately*)
- 12 Planning Practice Note 43 - Understanding Neighbourhood Character (*published separately*)
- 13 VCAT Consent - Wu v Yarra Ranges (*published separately*)
- 14 Additional Shadow Diagrams (*published separately*)



## **7.5 Adoption of Planning Scheme Amendment C164 Little Stringybark Creek**

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<b>RESPONSIBLE OFFICER</b>	Acting Director Social & Economic Development
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### **SUMMARY**

Melbourne Water has proposed Planning Scheme Amendment (C164) to make the Little Stringybark Environmental Significance Overlay Schedule 2 (ESO2) a permanent planning control.

The current ESO2 was introduced into the Yarra Ranges Planning Scheme in 2013 to support the Little Stringybark Creek Restoration Program (LSCRP) as a temporary measure. The Little Stringybark ESO requires a minimum standard for any new developments to treat and retain stormwater. The goal is to incrementally restore the water balance in the Creek to a more natural state. The control was developed by Melbourne Water and Yarra Ranges Council with support from the University of Melbourne.

A review in 2017 of the Little Stringybark Creek showed encouraging results in water quality and the hydrological regime, and general acceptance of the ESO2 by Mount Evelyn residents. Amendment C164 was publicly exhibited from 5 April to 7 May 2018 and one objection was received, as described in this report under 'Key Issues'.

At its meeting of 26 June 2018, Council resolved to request a panel to provide an expert recommendation.

A planning panel report is now available, with a recommendation for Council to adopt C164 with minor changes to the wording of the proposed ESO2.

### **RECOMMENDATION**

#### ***That Council:***

- 1. Note the Panel's report for Yarra Ranges Planning Scheme Amendment C164.***
- 2. Adopt Amendment C164 in accordance with the Panel's recommendations.***

### **DISCLOSURE OF CONFLICTS OF INTEREST**

The author of this report does not have a conflict of interest.

### **PROPOSAL**

Melbourne Water is seeking Council's support for a Planning Scheme Amendment to replace the interim Environmental Significance Overlay applied to the catchment of the Little Stringybark Creek with a permanent control. The Environmental Significance Overlay that currently applies to this area (ESO2) is an interim planning control which expires on 18 March 2019.

The catchment of the Little Stringybark Creek has approximately 1200 properties. A map of the catchment is included in the Explanatory Report, Attachment 1.

The ESO2 requires a planning permit for all buildings and works creating impervious areas of 10 square metres or greater. There is no requirement to retrofit existing buildings or paved areas; the control applies only to newly constructed surfaces.

A planning application must be accompanied by a “Stormwater Treatment Plan” showing how the proposal satisfies the ESO2 objectives. The Stormwater Treatment Plan is referred to and developed with assistance from Melbourne Water, which is the statutory Referral Authority under the Yarra Ranges Planning Scheme. It generally results in permit requirements for some form of water sensitive urban design, such as a rain garden, water tanks, trenching or downpipe diversion.

Since the approval of the Little Stringybark Environmental Significance Overlay, approximately 69 planning permits have been approved with ESO2 permit conditions. Most permit applications have had additional permit triggers in addition to the ESO2. The ESO2 permits represent approximately 8,500 square metres of additional impervious areas being “disconnected” from the existing stormwater system, enabling implementation of a range of treatment measures, as opposed to stormwater directly entering the Little Stringybark Creek untreated.

Melbourne Water has now completed a review of the operation of the ESO2 in order to inform decisions about its future. The review shows, in summary:

- The ESO2 planning process is performing well for Council, Melbourne Water, and affected residents.
- Residents who have experienced the ESO2 process are generally accepting or supportive of the planning control.
- The monitoring results of the Little Stringybark Creek are encouraging with improvements observed for both water quality and the hydrological regime.

In addition to making the ESO2 permanent, Melbourne Water is seeking minor changes to the control, as follows:

- The ESO2’s “Application Requirements” are being updated to require a completed Stormwater Treatment Plan. This ensures that the ESO2 is considered in planning applications from the outset.
- The ESO2’s “Deemed to Satisfy” table, which sets out the suggested methods to satisfactorily treat stormwater run-off for land owners, has been modified to recognise the scale of the project in relation to the stormwater treatment.
- Minor wording changes are made to the permit trigger for buildings and works to avoid future misinterpretation.

Attachment 2 contains the exhibited version of the ESO2.

## **BACKGROUND**

The Little Stringybark Creek Restoration Program (LSCRCP) is a collaboration of Melbourne Water, Melbourne University, DELWP and Yarra Ranges Council, to restore and monitor the health of the Little Stringybark Creek. The Little Stringybark Creek was selected as a priority for restoration because, while degraded, its ecological function and environmental values could be restored at relatively low costs and within a realistic timeframe.

The project is a first ever attempt to restore the health of a creek by treating stormwater across an entire catchment. The goal of the project is to improve the health of the Little Stringybark Creek by capturing stormwater at its source, thereby limiting the amount of runoff flowing directly into the stormwater system and into the creek untreated. This is achieved by disconnecting as much hard surface area (roofs, roads, paving) as possible from the stormwater system and using water sensitive urban design to achieve a more natural runoff into the Creek. This improves the ecological function and health of the Creek and returns it to a level more consistent with the natural flow of the stream. The aim of the project is to restore the water cycle in the Creek to a near-natural state in order to restore stream health.

As part of the LSCRCP a number of stormwater treatment facilities have been constructed by Melbourne Water on public and Council land within the Little Stringybark Catchment including:

- A rain garden at Hereford Road.
- Tanks and gardens in Morrisons Reserve.
- 88 dispersed rain gardens on nature strips.

In addition, approximately 250 private landowners volunteered to participate in the project and implemented strategies such as rain water tanks or rain gardens.

### ***The Environmental Significance Overlay***

Melbourne Water worked with Council and the State Government planning team to identify a way the planning system could be used to ensure that further development in the catchment would not undermine the significant investment made.

Works with the potential to compromise the LSCRCP included anything that could lead to the creation of impervious surfaces, including curb and channel, drainage upgrades, sealing of roads, as well as new built surfaces. It was identified that the best tool available was the Environmental Significance Overlay, which provides a permit trigger for buildings and works.

### ***Memorandum of Understanding***

Some Council works are exempt from requiring a planning permit. For this reason Council entered into a Memorandum of Understanding with Melbourne Water in 2013 to ensure that new Council roads and upgrades in the Little Stringybark Catchment adhere to ESO2 requirements.

**Financial Incentives**

Assessment of a planning proposal under the ESO2 requires calculation of a Stormwater Retention Score (SRS) based on its ability to retain stormwater. In the early years of the ESO2's operation, a financial incentive was offered to residents who achieved more than a 60 per cent score. With widespread community acceptance of the project, this incentive has now been discontinued. Melbourne Water does not consider this a necessary part of the ESO2.

**Technical Assistance**

One-on-one technical advice has been provided by Melbourne Water to applicants to assist them in understanding ESO2 requirements and preparing a Stormwater Treatment Plan. This has generally involved a site meeting and follow ups. While the 2017 review of the ESO2 found this assistance to be important to the ESO2's functioning, the review did not find it necessary to maintain this in the long-term. Rather, Melbourne Water suggested it could be replaced by a combination of improvements to available information, which include:

- Strengthening technical support material.
- Developing a tailored stormwater retention calculation tool for users of the ESO2.
- Encouraging use of the "deemed to satisfy" table in the Stormwater Treatment Plan document as a way to guide applicants to meet the minimum requirements. The deemed to satisfy table has not been commonly used to date due to the technical assistance provided.

Should the ESO2 be made permanent, Melbourne Water has expressed an intention to maintain the technical assistance for a further two years, during which it will be phased out. During this time Council officers will work with Melbourne Water to develop the additional technical information that will support the implementation of ESO2 on a permanent basis.

**STRATEGIC LINKS**

The Amendment is consistent with the following theme of the Council Plan (2017-21):

Protected and enhanced natural environment – A healthier environment for future generations.

**CONSULTATION**

Formal notification of the Amendment was sent to all affected property owners by mail, and the Amendment was placed in the Mount Evelyn Mail and the Government Gazette. Notification was also sent to relevant government departments and agencies.

## **FINANCIAL IMPLICATIONS**

The financial implications of this amendment have minimal impact on resourcing of Council's Statutory Planning Department. In its first four years, the ESO2 has resulted in 89 planning permits being assessed by Council. A review of Council records indicates that the large majority of these (85 per cent) had other permit triggers, meaning that the number of additional planning applications caused by the ESO2 was 13, or roughly four per year. Should the ESO2 be made permanent, this can be expected to continue on a similar scale.

There are no financial implications of the proposed planning scheme amendment for Council, other than officer time.

Should the amendment not continue and not be made permanent, it will undermine the investment made by Melbourne Water to the project, estimated to be over \$10 million.

## **KEY ISSUES**

Two submissions were received, with one in support and one objecting. The following is a summary of the objecting submission with Panel findings on each issue raised.

### ***Submitter Issue - More Research Needed***

The submitter argued that there is a need for more research into the costs of the control to residents versus its effectiveness.

The Panel found that the ESO2 appropriately considers the cost to users of the control. Furthermore, the Panel found that the ESO2 has been effective in achieving its stated objectives. It found that the 2017 review of the ESO2 by Melbourne Water, which included resident interviews, had shown that cost to residents is not considered a significant concern.

### ***Submitter Issue - Responsibility for the Health of the Creek***

The submitter questioned whether the cost of stormwater retention should be borne by residents, or whether this should be a responsibility for Council and Melbourne Water.

The Panel considered the place of the ESO2 in the broader project to improve the health of the Creek, including the infrastructure provided by Melbourne Water. The Panel also considered the way that the ESO2 seeks stormwater retention on each property commensurate with the impervious area created by new development. The Panel concluded that it is appropriate for residents to bear some of the cost of stormwater retention given that there is a relationship between new impervious surfaces and creek health, and that the health of the waterway benefits residents.

### ***Submitter Issue - Inappropriate Earthworks***

The submitter claimed that it is contradictory for Council to allow inappropriate earthworks from development sites on one hand, while on the other hand seeking to protect the Creek through the ESO2.

The Panel found that the areas affected by the ESO2 do not encourage significant infill development, but instead seek to protect residential and landscape character. The Panel therefore concluded that there was no contradiction between the ESO2 and other policies of the planning scheme in this part of Mount Evelyn.

***Submitter Issue - Council Cannot Reinstate a Drain to a Creek on Private Land***

The submitter questioned the location of the Creek, and whether there was any benefit in salvaging a creek that had been converted to a drain in the past.

The Panel found that while some of the upper reaches of the waterway have been channelled into underground drains due to local erosion issues, most of the Creek has not been directly modified and retains the attributes of a natural stream.

***Submitter Issue - The ESO2 Requirements are Sometimes Excessive***

The submitter considered it excessive to require further stormwater retention for minor works such as a footpath.

The Panel found that the nature of the ESO2 allows Council and Melbourne Water to exercise discretion in selection of appropriate stormwater detention strategies, and allow for consideration of a number of factors such as the ability of the land to absorb and retain and absorb runoff. Therefore, the Panel found that the requirements of the ESO2 are not excessive.

***Submitter Issue - Failing Drainage System***

The submitter questioned whether the basis of the ESO2 is a failing drainage system, rather than a measure to restore the Creek, and considers that Council is shifting the costs of the failed drainage system onto residents.

The Panel found that the purpose of the ESO2 related to improvement of water quality and flow, rather than a response to a failing drainage system, and that the ESO2 is a legitimate environmental control.

***Drafting of the ESO2 Schedule***

The Panel reviewed the wording of the ESO2, finding there was an ability to improve its clarity.

The Panel recommended a number of minor changes, most notably to improve the clarity of the 'Deemed to Satisfy Table'. Council officers have now reviewed the ESO2 and made the suggested changes in coordination with Melbourne Water, as shown in Attachment 3.

The suggested changes also include removal of the reference to the 'Stormwater Treatment Plan' (STP) from the Application Requirements section, on the basis that the planning scheme should not refer to external documents. Melbourne Water had wanted to add this content to clarify that the completion of this form is needed prior to a planning application being lodged. To address this, Council will continue to provide information on its website to clarify that the STP needs to be completed in advance and submitted with a planning application.

***Exemption from Notice and Review***

A key part of the ESO2 as it has operated so far is the exemption from notice and review requirements, which mean a cheaper and quicker planning process for applicants.

However, DELWP has indicated that due to planning scheme form and content issues, this is not a legitimate part of the ESO2 and must be removed.

DELWP advised Melbourne Water and Council that applications triggered by the ESO2 would not need to be advertised if Council determined that no potential for 'material detriment' existed, under Section 52(1)(a) of the Planning and Environment Act 1987. Typically, if the ESO2 is the only planning permit trigger for an application, Council would make this determination because the creation of stormwater retention strategies does not ordinarily cause material detriment to nearby land owners.

Given this, DELWP's view is that the exemption is not needed. However, in Council officers' experience, this ability to bypass advertising may be missed by individual planning officers in the day to day processing of planning applications. An explicit reference in the ESO2 for this exemption therefore serves a purpose.

If C164 is approved, Council officers intend to trial the ESO2 using DELWP's advice on Notice and Review. If this proves ineffective, Strategic Planning will raise this issue with DELWP with a view to reinstate an appropriate exemption clause.

***Little Stringybark Creek – A Trial for Other Areas***

The Little Stringybark Creek Restoration Program (LSCRP) was initiated by Melbourne Water as a pilot project, with an intention that if successful, it may be suitable for application in other areas of Victoria. The ESO2 is a key part of the project.

Melbourne Water has confirmed that it is still considering the potential to apply the model elsewhere. The outcome of a Planning Scheme Amendment in Yarra Ranges is likely to be a strong influencing factor in Melbourne Water's future approach elsewhere, if any.

Melbourne Water is currently preparing an updated Healthy Waterway Strategy, which will guide the need for stormwater management in prioritised catchments. Once this work is finalised, Melbourne Water will further consider whether the Little Stringybark Creek model may be applicable to other areas.

***Technical Support***

As explained above under 'Technical Assistance', Melbourne Water plans to gradually withdraw the technical support previously provided to users of the ESO2, and specifically the free site visit by a stormwater expert.

Melbourne Water has stated that improvements to information guides and a potential new calculation tool could assist ESO2 users to easily understand and implement stormwater retention requirements. While this creates some uncertainty over how effectively the ESO2 will function, it is generally accepted that the requirements of the control are not too onerous for the average person to comprehend and use.

**Scientific Evidence**

As part of Melbourne Water's 2017 review, stream monitoring results from the Little Stringybark Creek were compared against:

- Another stream managed with stormwater works
- Two control streams degraded with similar levels of urbanisation
- Three reference streams which are near pristine and not impacted by urbanisation.

The analysis shows that concentrations of suspended solids and key nutrients in both base-flows and events flows have been decreasing following the stormwater treatment works initiated in 2009. The stream flow data shows a reduction in the size of polluted storm flows, and shows that higher levels of run-off are now being retained via the retention strategies implemented by the LSCRP. While this has not yet been accompanied by improvements in ecological indicators, Melbourne Water notes that this is not a surprising result given that the water quality improvement is relatively recent. There is an expected lag in biological response to environmental conditions.

Melbourne Water has indicated that further testing is needed to fully understand the stream response.

**Environmental Impacts**

The continued application of the ESO2 and implementation of stormwater treatment measures supports a project which is delivering significant environmental benefit to Little Stringybark Creek. The ongoing effect of improved water quality and a more natural flow pattern from stormwater runoff from Water Sensitive Urban Design is a proven science. The project is an important milestone for Council in its support of the environment.

**Social Impacts**

There are no obvious social impacts associated with the proposal to make the ESO2 permanent. A broader social benefit is being realised in the improved environment within the catchment.

**Economic Impacts**

To date there has been significant financial investment and infrastructure works undertaken by Melbourne Water within the Little Stringybark Creek catchment. There are some additional costs associated with implementation of the ESO2 such as installation of rain gardens but these costs are relatively small compared to the overall costs of development such as a new dwelling.

**Risk Assessment**

There is no risk associated with this item.



## **CONCLUSION**

The proposal to make the ESO2 a permanent planning control in the Yarra Ranges Planning Scheme reflects the recent review undertaken by Melbourne Water and Council's role in the trialling of this unique planning control. This has found that the ESO2 is functioning effectively as a planning control, and the decrease in impervious surfaces in the catchment is having benefits for environmental quality.

The Panel Report has supported the views of Melbourne Water that the ESO2 is a well-considered planning control that that should be supported on a permanent basis.

## **ATTACHMENTS**

- 1 Explanatory Report
- 2 Exhibited ESO2
- 3 Proposed ESO2 for adoption

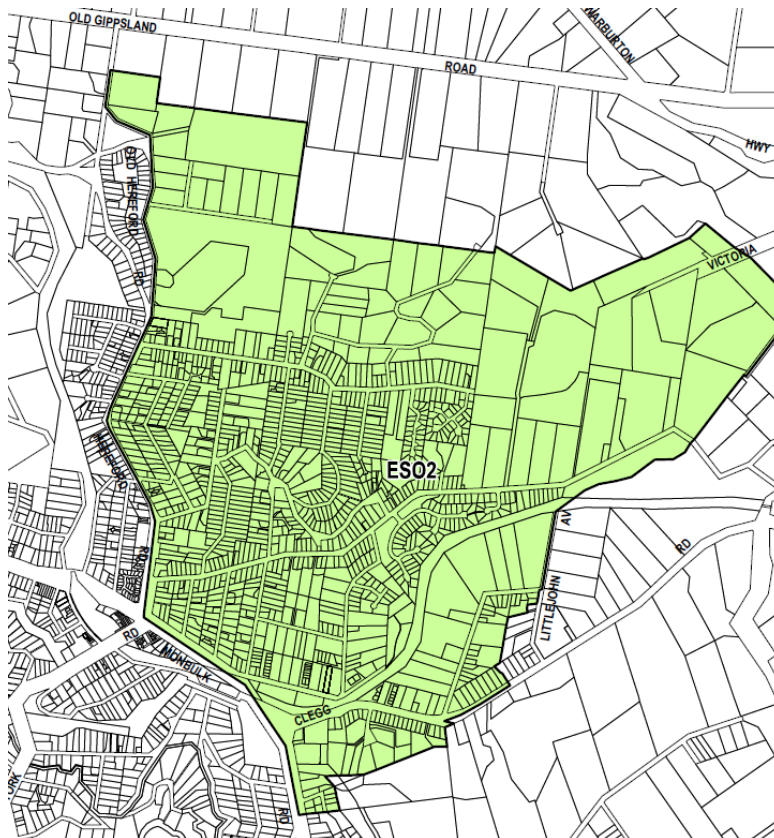
**YARRA RANGES PLANNING SCHEME****AMENDMENT C164****EXPLANATORY REPORT****Who is the planning authority?**

This Amendment has been prepared by the Yarra Ranges Council which is the planning authority for this amendment.

The Amendment has been made at the request of Melbourne Water.

**Land affected by the Amendment**

The Amendment applies to all land within Environmental Significance Overlay Schedule 2 (ESO2) as shown on the map below. This is the urban catchment of the Little Stringybark Creek, and covers approximately 1,200 properties.

**What the amendment does**

The Amendment proposes to remove the expiry date of the interim Environmental Significance Overlay Schedule 2 (ESO2) applied to the Little Stringybark Creek catchment to ensure that the objective of restoring the condition of the Little Stringybark Creek can be achieved, making the ESO2 a permanent planning control. The current expiry date is 12 March 2019.

The Amendment makes minor changes to the ESO2 based on an evaluation of the first four years of its operation, which are:

**ATTACHMENT 1. Explanatory Report**

- The 'Deemed to Satisfy' Table, which sets out suggested methods to satisfactorily treat stormwater runoff for users of the control, has been altered based on Melbourne Water's review of the ESO2;
- Minor wording changes are made to the permit trigger for buildings and works to avoid misinterpretation. The change clarifies that creation of impervious surfaces of 10m<sup>2</sup> does not require a planning permit, modifying the previous wording that creation of surfaces less than 10m<sup>2</sup> does not require a permit.

**Strategic assessment of the Amendment****Why is the Amendment required?**

The Amendment is required to support the objectives of the Little Stringybark Creek Restoration Program (LSCRCP). The LSCRCP was initiated in 2008 and aimed to restore the health of the Little Stringybark Creek by managing the quantity, timing and quality of stormwater runoff entering the creek through the use of water sensitive urban design (water cycle management) in new development throughout the creek's catchment. The LSCRCP resulted in significant investment to install stormwater control measures throughout the catchment on both private and public land.

The Environmental Significance Overlay Schedule 2 (ESO2) was introduced in September 2013 to mitigate the impact of increased stormwater runoff from new development so that the effects of the earlier LSCRCP works would not be undermined. The ESO2 was initially implemented for a 2 year period, which was later extended to allow sufficient time to assess the benefits of the LSCRCP works (Planning Scheme Amendments C122 and C147).

Scientific analysis of the Little Stringybark Creek stream monitoring results in 2017 showed encouraging results in water quality and the hydrological regime.

In order to perpetuate the benefits of the LSCRCP, this Amendment seeks to implement the ESO2 as a permanent planning control.

**How does the Amendment implement the objectives of planning in Victoria?**

The Amendment supports the following objectives of planning in Victoria set out in Section 4(1) of the Planning & Environment Act 1987:

- a) to provide for the fair, orderly, economic and sustainable use, and development of land;
- b) to provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity;
- c) to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria

**How does the Amendment address any environmental, social and economic effects?**

The continued application of the ESO2 and implementation of stormwater treatment measures supports a project which is delivering significant environmental benefit to the Little Stringybark Creek. The ongoing effect of improved water quality and a more natural flow pattern from stormwater runoff from Water Sensitive Urban Design is a proven science.

In broad terms, there is a social benefit to the improvement of the environment within the catchment.

The works required by the ESO2 have a small economic burden for land owners, who need to implement stormwater treatment measures on their properties such as water tanks or rain gardens. However, should the control be discontinued, it will undermine the scientific benefit gained from the significant investment made by Melbourne Water to the project, which is over \$10 million dollars.

## ATTACHMENT 1. Explanatory Report

**Does the Amendment address relevant bushfire risk?**

The Amendment will not contribute to bushfire risk.

**Does the Amendment comply with the requirements of any Minister's Direction applicable to the amendment?**

The amendment is consistent with the Ministerial Direction on the Form and Content of Planning Schemes under section 7(5) of the Act.

The amendment complies with Ministerial Direction No.9 – Metropolitan Strategy. The following aspects of the Metropolitan Strategy are relevant to the amendment.

Direction 6.3 – Integrate urban development and water cycle management to support a resilient and liveable city.

Direction 6.5 – Protect and restore natural habitats

**How does the Amendment support or implement the State Planning Policy Framework and any adopted State policy?**

The Amendment is consistent with State Planning Policy Frameworks of the Yarra Ranges Planning Scheme and supports relevant objectives and strategies, in particular:

Clause 12.01-1 *Protection of Biodiversity* has an objective to assist the protection and conservation of Victoria's biodiversity, and a strategy to avoid the impacts of land use and development on important areas of biodiversity. Improvements to water quality and flow in the Little Stringybark Creek will contribute to this.

12.02-3S *Bays* has an objective to improve the environmental health of the bays and their catchments. The improvement of water quality in the Little Stringybark Creek will have positive environmental effects on all downstream water bodies including the Port Phillip Bay.

12.03-1S *River corridors, waterways, lakes and wetlands* has an objective to protect and enhance river corridors, waterways, lakes and wetlands. Stormwater detention to improve the quality and flow of water in the Creek will contribute to this.

12.03-1R *Yarra River protection* has an objective to maintain and enhance the natural landscape character of the Yarra River Corridor, with a strategy to improve environmental outcomes by ensuring that development does not increase the rate or quantity of stormwater, sediment or other pollutants entering the river. Improvements to water quality and flow in the Little Stringybark Creek, as an upstream waterway to the Yarra River, will contribute to this.

Clause 12.05-1S *Environmentally Sensitive Areas* seeks to protect and conserve these areas. The Little Stringybark Creek flows through green wedge areas of the Yarra Valley and connects with significant waterways including the Yarra River.

Clause 14.02-1S *Catchment Planning and Management* seeks to assist in the protection and restoration of catchments, waterways, water bodies, groundwater, and the marine environment. The improvement of water quality will assist in the implementation of this policy.

Clause 14.02-2S *Water quality* recognises the importance of water quality to environmental health and seeks to mitigate any negative effects of development. The ESO2 extends

**ATTACHMENT 1. Explanatory Report**

beyond the scope of most planning controls concerned with water sensitive urban design in the pursuit of this aim.

Clause 19.03-3S *Water supply, sewerage and drainage* recognises the impact that drainage run-off from urban areas can have on receiving waters, and includes a strategy to improve the treatment of stormwater.

**How does the Amendment support or implement the Local Planning Policy Framework, and specifically the Municipal Strategic Statement?**

The Amendment is consistent with Local Planning Policy Frameworks of the Yarra Ranges Planning Scheme and supports relevant objectives and strategies, in particular:

Clause 21.09-1 *Biodiversity* Objective 3 aims to ensure that land use and development is assessed in the context of its potential effect on the wider catchment. The provisions of the ESO2 are specifically targeted to this consideration.

Clause 21.09-3 *Sustainability* Objective 1 seeks to ensure that land use, buildings and works are of a type, scale and design that do not impact on the natural environment, among other things. The decision guidelines of the ESO2 will assist in implementing this policy by ensuring that proposed buildings and works are accompanied by stormwater retention strategies of an appropriate scale.

**Does the Amendment make proper use of the Victoria Planning Provisions?**

The Amendment makes proper use of the Victoria Planning Provisions by applying an Environmental Significance Overlay which is the appropriate means to implement State and Local Policy addressing catchment management.

The application of a Schedule to the Environmental Significance Overlay is necessary to provide the guidance and tools needed to implement the Little Stringybark Creek Restoration Program, which aims to improve the ecological health of the Little Stringybark Creek. The overlay is required because while the VPPs address catchment issues, their scope is limited to large subdivision applications as opposed to infill development. As the Little Stringybark catchment is largely built or rural land, there is no opportunity to address infill issues or roads and drainage works through Clause 56 – *Subdivision*. Further, the proposed overlay has operated since September 2013, and its implementation measures, which are designed specifically for its catchment, have proven effective.

The schedule to the Environmental Significance Overlay will strengthen the strategic basis within the Local Planning Policy Framework.

**How does the Amendment address the views of any relevant agency?**

The Amendment has been requested by Melbourne Water, which was an active partner in the original development of ESO2 in order to facilitate the Little Stringybark Creek Restoration Program and its objective to improve the Creek's ecological health.

The Amendment implements the objectives of the State Environment Protection Policy (Waters of Victoria) (SEPP) because it aims to achieve improvements to the waters entering into the Little Stringybark Creek and the bay. The EPA is responsible for ensuring the implementation of the SEPP.

## ATTACHMENT 1. Explanatory Report

**Does the Amendment address relevant requirements of the Transport Integration Act 2010?**

The catchment is located away from public transport routes and Category 1 roads, and will not impact upon the primary transport network.

**Resource and administrative costs**

- **What impact will the new planning provisions have on the resource and administrative costs of the responsible authority?**

There are no Council funds associated with the proposed Amendment. Melbourne Water as the proponent will meet all costs associated with the Amendment including the Panel costs.

During the first four years of the ESO2, Melbourne Water has provided financial incentives for users of the control, and technical support. Melbourne Water has now ceased financial incentives and will phase out technical support over the next two years to be replaced with an updated information package. This is not anticipated to negatively affect the resource and administrative costs of Council. Melbourne Water will continue to be a Referral Authority and will provide Council with appropriate planning permit conditions through the referral process.

**Where you may inspect this Amendment**

The amendment is available for public inspection, free of charge at the following Yarra Ranges Community Links:

**Lilydale** – 15 Anderson Street, Lilydale

**Monbulk** - 21 Main Road, Monbulk

**Healesville** – 110 River Street, Healesville

**Upwey** - 40 Main Street, Upwey

**Yarra Junction** - Warburton Highway/Hoddle Street, Yarra Junction

Our Community Links are open Monday to Friday 9am to 5pm (Lilydale open at 8.30am) and Saturday 9am to 12pm.

The amendment can also be inspected free of charge at the Department of Environment, Land, Water and Planning web site at [www.delwp.vic.gov.au/public-inspection](http://www.delwp.vic.gov.au/public-inspection) and Yarra Ranges Council web site at [www.yarraranges.vic.gov.au](http://www.yarraranges.vic.gov.au) by searching "Amendment C164".

## **SCHEDULE 2 TO CLAUSE 42.01 ENVIRONMENTAL SIGNIFICANCE OVERLAY**

Shown on the planning scheme map as **ESO2**.

### **LITTLE STRINGYBARK CREEK CATCHMENT**

#### **1.0 Statement of environmental significance**

The Little Stringybark Creek is a tributary to the larger Stringybark Creek which flows into the Yarra River. The creek is located 37km from Melbourne and has an urban catchment of approximately 300 hectares at its headwaters, and a total catchment of approximately 800 hectares at its confluence with the Stringybark Creek. Development in the catchment is a mix of urban and semi rural. Part of the suburb of Mount Evelyn is located in the upper catchment while the lower catchment is rural and primarily used for grazing. The lower catchment, in particular, has sections of very good riparian vegetation where the Creek flows in a natural curving channel form.

- A restoration program for the upper part of the Little Stringybark Creek was initiated in 2008 based on evidence showing that stormwater runoff causes severe ecological degradation in the following ways:
  - A far greater volume of run-off is delivered more frequently, causing erosion and channel enlargement and destroying physical habitat
  - Unfiltered runoff is typically of poor quality with high levels of nutrients, sediment and toxicants
  - Hard surfaces prevent infiltration, potentially starving streams of vital dry weather flows (baseflow)
- The program is the first ever attempt to restore the health of a Creek by treating stormwater across an entire catchment. Protecting the natural flow regime of the Little Stringybark Creek and ensuring good water quality are critical to maintaining the biodiversity and ecological processes of this Creek as well as downstream waterways including Port Phillip Bay. Further development, in particular drainage from impervious surfaces (roofs, roads and paving), is a threat to the health of the Creek.
- The ecological protection objectives contained in this schedule have been developed specifically for the Little Stringybark Creek catchment, and are designed to prevent new buildings and works creating impervious surfaces that undermine the stormwater retention works carried out as part of the restoration program.

#### **2.0 Environmental objectives to be achieved**

To return the ecological function and health of the Little Stringybark Creek to a level consistent with a natural stream by ensuring stormwater runoff and water quality entering the Little Stringybark Creek from new development maintains:

- natural frequency of surface run-off
- natural volumes of run-off
- natural infiltration rates and volumes of run-off and
- natural concentrations of pollutants.
- The requirements for water sensitive urban design across the catchment will better manage the quantity, timing and quality of stormwater run-off entering the

## ATTACHMENT 2. Exhibited ESO2

Little Stringybark Creek, and will protect the Little Stringybark Creek from impacts associated with new development which increases impervious surfaces.

### 3.0 Permit requirement

A permit is not required to:

- Construct a building or construct or carry out works (including to construct bicycle pathways and trails) creating impervious surfaces of 10 square metres or less.
- Remove, destroy or lop any vegetation, including dead vegetation.
- Construct a fence
- Subdivide land.

An application under this schedule is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.

### 4.0 Decision guidelines

The following decision guidelines apply to an application for a permit under Clause 42.01, in addition to those specified in Clause 42.01 and elsewhere in the Scheme which must be considered, as appropriate, by the responsible authority.

Before deciding on an application to construct a building or construct or carry out works, the responsible authority will consider, as appropriate whether it can be demonstrated that the new development can achieve a minimum Stormwater Retention Score (SRS) of 6. This score indicates that 60% of stormwater run-off can be effectively mitigated through water sensitive urban design as outlined in Table 1. A number of factors were considered in setting this minimum standard, including protection of stream health, available technology, site constraints, cost and potential economic impact on developers.

Standard stormwater systems (e.g. rainwater tank, raingarden) deemed to satisfy a Stormwater Retention Score of 6 are shown in Table 1 below, with further options outlined in the Stormwater Treatment Plan Form.

- In the event that an application does not achieve a minimum SRS score of 6, the responsible authority will have regard to the following matters:
- Any comments from the relevant water management authority (Melbourne Water).
- The extent to which the development meets the objectives and requirements of this policy.
- The water sensitive urban design response.
- Opportunities for water conservation and reuse that influence the use of water sensitive urban design.
- Whether the development incorporates works to improve the quality and quantity of stormwater exiting the site.
- Whether the proposal will significantly add to the stormwater discharge or adversely affect water quality entering the catchment.
- The level of ongoing management required to achieve and maintain the desired stormwater quality measures that will be used during the construction phase to prevent a loss of stormwater quality as a result of building activities, such as silt traps.



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ATTACHMENT 2. Exhibited ESO2

- The requirements and provisions of any relevant catchment management plan, policy, strategy or Ministerial Direction.
- The capability of the land to absorb and retain runoff.
- The significance of any remnant vegetation which may be affected in meeting the objectives of this schedule.

An application must be referred in accordance with Section 55 of the Act to the referral authority (Melbourne Water) specified in the schedule to Clause 66.04, unless in the opinion of the responsible authority, the proposal satisfies requirements or conditions previously agreed to in writing between the responsible authority and the referral authority.

An application must include the following as appropriate:

- A site layout plan showing the location, size and stormwater drainage connections of proposed stormwater treatment measures.
- A completed Stormwater Treatment Plan form.
- Location of any on-site septic systems in relation to the proposed treatment measures.
- Where relevant, design details, such as cross sections, to assess the technical effectiveness of the proposed stormwater treatment measures.

**Table 1- Standard Treatment Systems Deemed to Satisfy Stormwater Retention Score of 6.**

Net increase in impervious area (m <sup>2</sup> ) from building and works proposed	Option 1: 3kL Tank* - connected to toilet - overflow to raingarden	Option 2: 3kL Tank* - connected to toilet & washing - overflow to raingarden	Option 3: 3kL Tank* - connected to toilet - overflow to trench	Option 4: 3kL Tank* - connected to toilet & washing - overflow to trench	Option 5: Raingarden only
	Minimum surface area (m <sup>2</sup> ) of raingarden:		Minimum length (m) of infiltration trench (0.45m wide):		Minimum surface area (m <sup>2</sup> ):
<b>10</b>	0	0	0	0	1
<b>50</b>	1	0	2	0	2
<b>100</b>	2	1	7	3	4
<b>150</b>	3	2	15	6	6
<b>200</b>	4	2	20	8	7
<b>250</b>	6	3	29	10	10
<b>300</b>	8	4	38	14	12
<b>350</b>	10	5	48	22	14
<b>400</b>	12	6	58	34	16
<b>450</b>	14	8	66	42	18

\* All tank options require any first flush diverter installed to discharge to land/garden or raingarden (i.e. not to be connected to the drainage system) to be Deemed to Satisfy a Stormwater Retention Score of 6.

## **SCHEDULE 2 TO CLAUSE 42.01 ENVIRONMENTAL SIGNIFICANCE OVERLAY**

Shown on the planning scheme map as **ESO2**.

### **LITTLE STRINGYBARK CREEK CATCHMENT**

#### **1.0 Statement of environmental significance**

The Little Stringybark Creek is a tributary to the larger Stringybark Creek which flows into the Yarra River. The creek is located 37km from Melbourne and has an urban catchment of approximately 300 hectares at its headwaters, and a total catchment of approximately 800 hectares at its confluence with the Stringybark Creek. Development in the catchment is a mix of urban and semi rural. Part of the suburb of Mount Evelyn is located in the upper catchment while the lower catchment is rural and primarily used for grazing. The lower catchment, in particular, has sections of very good riparian vegetation where the Creek flows in a natural curving channel form.

- A restoration program for the upper part of the Little Stringybark Creek was initiated in 2008 based on evidence showing that stormwater runoff causes severe ecological degradation in the following ways:
  - A far greater volume of run-off is delivered more frequently, causing erosion and channel enlargement and destroying physical habitat
  - Unfiltered runoff is typically of poor quality with high levels of nutrients, sediment and toxicants
  - Hard surfaces prevent infiltration, potentially starving streams of vital dry weather flows (baseflow)
- The program is the first ever attempt to restore creek health by treating stormwater across an entire catchment. Protecting the natural flow regime of the Little Stringybark Creek and ensuring good water quality are critical to maintaining the biodiversity and ecological processes of this Creek as well as downstream waterways including Port Phillip Bay. Further development, in particular drainage from impervious surfaces (roofs, roads and paving), is a threat to the health of the Creek.
- The ecological protection objectives contained in this schedule have been developed specifically for the Little Stringybark Creek catchment. They are designed to mitigate the impact of impervious surfaces created by new buildings and works, that may otherwise undermine the stormwater retention works carried out as part of the restoration program.

#### **2.0 Environmental objectives to be achieved**

To return the ecological function and health of the Little Stringybark Creek to a level consistent with a natural stream. To encourage stormwater runoff and water quality entering the Little Stringybark Creek from new development to achieve:

- natural frequency of surface run-off
- natural volumes of run-off
- natural infiltration rates
- natural concentrations of pollutants.
- The requirements for water sensitive urban design across the catchment will better manage the quantity, timing and quality of stormwater run-off entering the

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**ATTACHMENT 3. Proposed ESO2 for adoption**

Little Stringybark Creek, and will protect the Little Stringybark Creek from impacts associated with new development which increases impervious surfaces.

### **3.0 Permit requirement**

A permit is not required to:

- Construct a building or construct or carry out works (including to construct bicycle pathways and trails) creating impervious surfaces of 10 square metres or less.
- Remove, destroy or lop vegetation, including dead vegetation
- Construct a fence
- Subdivide land

An application under this schedule is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.

### **4.0 Application Requirements**

The following application requirements apply to an application for a permit under Clause 42.01, in addition to those specified elsewhere in the Scheme and must accompany an application, as appropriate, to the satisfaction of the responsible authority:

- A site layout plan showing the location, size and stormwater drainage connections of proposed stormwater treatment options
- Location of any on-site septic systems in relation to the proposed treatment measures
- Where relevant, design details, such as cross sections, to assess the technical effectiveness of the proposed stormwater treatment measures.

### **5.0 Decision guidelines**

The following decision guidelines apply to an application for a permit under Clause 42.01, in addition to those specified in Clause 42.01 and elsewhere in the Scheme which must be considered, as appropriate, by the responsible authority.

Before deciding on an application to construct a building or construct or carry out works, the responsible authority will consider, as appropriate whether it can be demonstrated that the new development can achieve a minimum Stormwater Retention Score (SRS) of 6. This score indicates that 60% of stormwater run-off can be effectively mitigated through water sensitive urban design as outlined in Table 1. A number of factors were considered in setting this minimum standard, including protection of stream health, available technology, site constraints, cost and potential economic impact on applicants.

Standard stormwater systems (e.g. rainwater tank, raingarden) deemed to satisfy a Stormwater Retention Score of 6 are shown in Table 1 below.

- In the event that an application does not achieve a minimum SRS score of 6, the responsible authority will have regard to the following matters:
- Any comments from the relevant water management authority (Melbourne Water).

## ATTACHMENT 3. Proposed ESO2 for adoption

- The extent to which the development meets the objectives and requirements of this policy.
- The water sensitive urban design response.
- Opportunities for water conservation and reuse that influence the use of water sensitive urban design.
- Whether the development incorporates works to improve the quality and quantity of stormwater exiting the site.
- Whether the proposal will significantly add to the stormwater discharge or adversely affect water quality entering the catchment.
- The level of ongoing management required to achieve and maintain the desired stormwater quality measures that will be used during the construction phase to prevent a loss of stormwater quality as a result of building activities, such as silt traps.
- The requirements and provisions of any relevant catchment management plan, policy, strategy or Ministerial Direction.
- The capability of the land to absorb and retain runoff.
- The significance of any remnant vegetation which may be affected in meeting the objectives of this schedule.

An application must be referred in accordance with Section 55 of the Act to the referral authority (Melbourne Water) specified in the schedule to Clause 66.04, unless in the opinion of the responsible authority, the proposal satisfies requirements or conditions previously agreed to in writing between the responsible authority and the referral authority.

## ATTACHMENT 3. Proposed ESO2 for adoption

**Table 1. Standard Treatment Systems - Deemed to Satisfy**

This table presents five treatment options that are deemed to satisfy the ESO requirements\*, and shows treatment size requirements based on the amount of impervious area created. For example, if a development creates 75m<sup>2</sup> of impervious area, option 1 is to install a 3kL tank connected to toilet together with a raingarden that needs to have a surface area of 2m<sup>2</sup> (as shown in the second row for 51-100m<sup>2</sup> increase in impervious area), if a raingarden only option is preferred (option 5), the raingarden will need to be 4m<sup>2</sup>.

Net increase in impervious area (m <sup>2</sup> ) from building and works proposed:	Option 1: 3kL tank connected to toilet AND raingarden treating tank overflow that has a surface area (m <sup>2</sup> ) of:	Option 2: 3kL tank connected to toilet AND infiltration trench treating tank overflow that has a 0.45m width and a length (m) of:	Option 3: 3kL tank connected to toilet & laundry AND raingarden treating tank overflow that has a surface area (m <sup>2</sup> ) of:	Option 4: 3kL tank connected to toilet & laundry AND infiltration trench treating tank overflow that has a 0.45m width and a length (m) of:	Option 5: <u>Raingarden</u> that has a surface area (m <sup>2</sup> ) of:
<b>10- 50</b>	1	2	0	0	2
<b>51 - 100</b>	2	7	1	3	4
<b>101 - 150</b>	3	15	2	6	6
<b>151 - 200</b>	4	20	2	8	7
<b>201 - 250</b>	6	29	3	10	10
<b>251 - 300</b>	8	38	4	14	12
<b>301 - 350</b>	10	48	5	22	14
<b>351 - 400</b>	12	58	6	34	16
<b>401 - 450</b>	14	66	8	42	18

\* All tank options (1-4) require any first flush diverter installed to discharge to land/garden or raingarden (i.e. not to be connected to the drainage system).

## **7.6 Yarra Ranges Council Submission to Kaufland Stores in Victoria Advisory Committee**

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<b>RESPONSIBLE OFFICER</b>	Acting Director Social & Economic Development
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### **SUMMARY**

The Minister for Planning is facilitating the planning process for the entry of Kaufland Supermarkets into Victoria. To achieve this, a Ministerial amendment to the Planning Scheme is proposed applying the new Special Control Overlay (SCO) with an incorporated document containing planning provisions for the development of the site. The Overlay and Incorporated document effectively replace a planning permit process.

Council is not the determining authority for the amendment but is a party to the process. In this capacity, Council submitted a preliminary submission to the Kaufland Stores Advisory Committee. Due to the expedited process, Council reserved the right to add further comments to its submission to be presented at the Advisory Committee hearings.

The Advisory Committee subsequently directed Council to include further assessment of the planning controls, provide draft development conditions to the Incorporated Document, and seek a Council resolution of the revised submission prior to the hearings. Council has also drafted a revised plan to address the interface of the Kaufland site with Council's Green Spine project along the Maroondah Hwy.

The revised submission, Incorporated Document and revised plan are attached to this report.

### **RECOMMENDATION**

***That Council endorse the attached submission to be presented to the Kaufland Stores in Victoria Advisory Committee on behalf of Yarra Ranges Council.***

### **DISCLOSURE OF CONFLICTS OF INTEREST**

The author of this report does not have a conflict of interest.

### **PROPOSAL**

The attached submission will be presented to the Advisory Committee on behalf of Council. Yarra Ranges is scheduled to appear before the Advisory Committee on Thursday 13 December 2018.

### **BACKGROUND**

The Minister for Planning is expediting a process to allow Kaufland to develop supermarkets in Victoria. Council has been asked to prepare a submission to the Minister's Advisory Committee for the Kaufland Supermarket proposed for Chirnside Park.

The site is part of the land at 266 -268 Maroondah Hwy Chirnside Park. A subdivision application to create the site for Kaufland is currently with Council (YR2018/408). The subdivision permit process is entirely separate to the Ministerial amendment process – Council is the responsible authority for the permit.

The site is currently in a Commercial 1 Zone (CZ1) and has a Development Contribution Overlay Schedule 1 – (Green Spine project). The proposal to use the land for a supermarket is consistent with what would be expected in the CZ1. Council had previously approved an application for a Masters hardware store on the site, which was never developed. The contribution for the Green Spine is triggered by the subdivision permit and will not be affected by the proposed Amendment.

The Ministerial amendment proposes to apply the Specific Control Overlay with associated Incorporated Document outlining planning controls for the site. The incorporated document will be included in the Schedules to Clause 45.12 and Clause 72.04 of the Planning Scheme. The Incorporated Document overrides any Planning Scheme requirements that would prohibit use and development of the site. Similar to a planning permit, it conditions the preparation of a number of additional plans to be prepared to Council's satisfaction, including:

- Waste Management Plan
- Loading and Unloading
- Landscaping
- Car Parking
- Materials, finishes and design integrity Plan
- ESD
- Construction Maintenance Plan.

## **YARRA RANGE'S SUBMISSION**

Council's submission broadly supports the use and development of the site for a supermarket. It includes some specific comments on the design of the footpaths, parking and internal and external roads as well as the interface and connections to the Green Spine. As requested by the Advisory Committee, Council has prepared recommended conditions shown as track changes to the Incorporated Document. A revised plan of the development showing Council's Green Spine project along the Maroondah Hwy has been prepared for inclusion in the incorporated plans.

Council has raised some concerns regarding the planning controls - specifically the need to retain the Special Control Overlay once development is completed. The submission suggests a preference to return to the underlying Commercial zone once development is completed providing there are appropriate mechanisms in place to manage any ongoing use requirements.



## STRATEGIC LINKS

The development of a Kaufland store is consistent with the objectives of the Planning Scheme Clause 21.05 Major Activity Centres... *providing integrated clusters of well-designed and conveniently located businesses and employment opportunities.*

The proposal will enhance the activity centre by developing a key site. The associated development contribution will assist in the creation of the landscaped boulevard (Green Spine) along the Maroondah Highway. The Green Spine provides pedestrian and bicycle linkages to the activity centre and the wider open space and recreation network.

The proposal is being designed to respect the amenity of the future high density residential development area (Residential Growth Zone 3) at the rear of the site.

## CONSULTATION

The Advisory Committee appointed by the Minister for Planning placed the planning and development proposal out for public consultation from 1 October to 26 October 2018. The development plans were available for viewing at Kimberly Place in Chirnside Park. Direct notification was provided to surrounding land owners based on a notification area determined by Council. Advertisements were placed in the local newspapers.

The Advisory Committee hearings are scheduled to commence 23 November to 17<sup>th</sup> December 2018. All submitters have been invited to attend.

## FINANCIAL IMPLICATIONS

There are no financial implications for Council associated with the proposed Amendment to the Planning Scheme.

## KEY ISSUES

### ***Environmental Impacts***

There are no environmental impacts associated with the Amendment or development proposal.

### ***Social Impacts***

There are no social impacts associated with the proposed Amendment.

### ***Economic Impacts***

The Amendment facilitates the development of a large retail store which will provide further employment opportunities in a major activity centre. While the proposal is located outside the identified Town Centre Precinct identified in Clause 22.06 – Chirnside Park Activity Centre of the Planning Scheme, it is considered that the scale of development will not unduly compromise the role of the Town Centre Precinct as the *primary retail area*. Overall the amendment is consistent with building a vibrant and diverse activity centre that will increase services, choice, competition and employment opportunities.

***Risk Assessment***

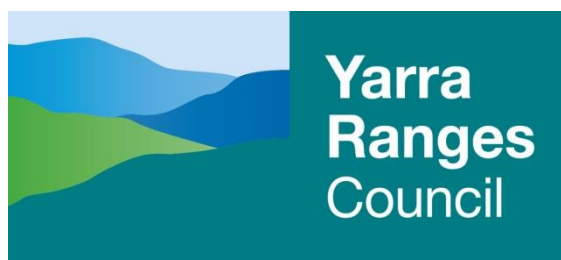
There are no risks associated with the proposed Amendment.

**CONCLUSION**

Council as a party to the Advisory Committee process has put forward a number of recommendations in the attached submission regarding the proposed Amendment and subsequent development. It is recommended Council now endorse the attached submission to be presented to the Advisory Panel for Kaufland in Victoria.

**ATTACHMENTS**

- 1 Revised Submission
- 2 Incorporated Document
- 3 Revised TP 02 Green Spine



## KAUFLAND STORES IN VICTORIA ADVISORY COMMITTEE

SUBMISSION ON BEHALF OF YARRA RANGES COUNCIL

REVISED 15 NOVEMBER 2018

SITE: 266- 268 MAROONDAH HIGHWAY, CHIRNSIDE PARK



## 1.0 INTRODUCTION

This submission is made on behalf of Yarra Ranges Council. It has been revised to address additional matters not discussed in Councils Preliminary Response, submitted in October 2018.

This submission responds to the proposed Ministerial amendment to facilitate the Kaufland Supermarket on part of the site located at 266 -268 Maroondah Hwy, Chirnside Park. The site is currently in the process of being subdivided (permit YR2018/ 408). When approved, the subdivision will create the parcel of land (Lot 90 on PS544666H / S3) to which the Special Control Overlay will be applied to facilitate the Kaufland store. The Kaufland site will be approximately 3.9 hectares.

The Ministerial amendment proposes to apply the Specific Control Overlay with associated Incorporated Document outlining planning controls for the site. The incorporated document will be included in the Schedules to Clause 45.12 and Clause 72.04. The Incorporated Document removes (or turns off) any other Planning Scheme requirements that would prohibit use and development of the site.

The Special Control Overlay requires that the use and development of the land be generally in accordance with the plans which form part of the document. The Minister for Planning will approve all architectural plans, excavation works and site preparation/ retention works and signage.

The incorporated document emulates a planning permit and conditions a number of further plans including:

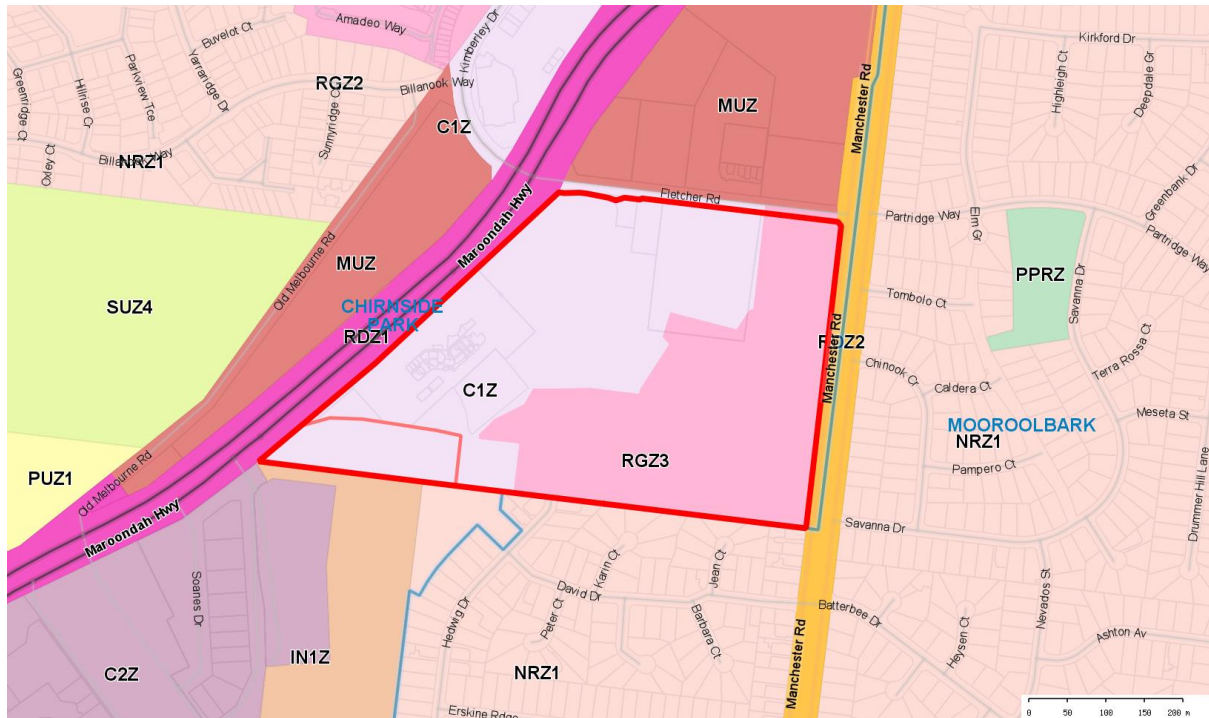
- Waste Management Plan
- Loading and Unloading
- Landscaping
- Car Parking
- Materials, finishes and design integrity Plan
- ESD
- Construction Maintenance Plan

Yarra Ranges Council will be the approving authority for the above.

## 2.0 BACKGROUND

## ATTACHMENT 1. Revised Submission

Zoning map of the subject site is provided below. Of note, the land to the rear of the site is included in the RGZ3 and is intended for high density residential development. The current site is also covered by a DCPO1. A previous permit was issued for a Masters Hardware Store on the site, which was never developed.



## 2.1 SUBDIVISION APPLICATION YR2018/408

Council is currently considering permit application YR2018/408 for a multi-lot subdivision and the creation and removal of easements on the site at 266 – 268 Maroondah Hwy, Chirnside Park.

This subdivision permit must be approved by Council – to create the Kaufland lot before the Amendment can be approved by the Minister.

Council is addressing a number of issues via the subdivision process. Of concern is the on-going access to the lot at the rear of the site (RGZ3 area) via Eastridge Drive which will be one of the primary access points to the future development. (VicRoads is working with Council to ensure they are a party to the development at the rear, due to the affect of significant residential development traffic on the Maroondah Hwy.)

The subdivision permit triggers development contributions via DCPO1. Council received a contribution of \$213,752.48 for the previous Masters Development permitted on the site by YR3014/338, which is now applied to the current Kaufland development proposal.

Council mentioned the DCPO, in its earlier submission because the Special Control Overlay allows for other planning controls to be excluded. While there is no mention of specifically excluding the DCP in the Incorporated Document, Council will not support any amendment that eliminates development from the already approved Development Contributions Overlay.

### 3.0 PROPOSED CONTROLS

The proposed Special Control Overlay is a new planning tool which first appeared in the Planning Scheme 31 July 2018. In this instance, it is being used to ensure Kaufland's entry into Victoria is in no way impeded by VCAT or normal planning processes. The existing Commercial Zone 1 would achieve the same outcome - subject to a planning permit on this site, so there is no obvious need to over-ride the existing zone. Clearly, the SCO is being used to circumvent the normal processes as opposed to addressing a unique planning issue on the site.

Councils concern with the using the Special Control Overlay are as follows:

- The exhibited SCO / Incorporated Document is not clearly written to ensure all other provisions of the Planning Scheme must be met. In other words, all other controls - which do not prohibit the development, such as the DCPO or Particular Provisions for parking or Signs must be met.
- If the Commercial Zone is turned off, the site is locked into a single development proposal and becomes exempt from any State initiated modifications or improvements to the underlying Commercial zone.
- The proposed Schedule to the SCO repeats what is stated in Clause 45.12-2 regarding expiry of the control.
- The Incorporated Document serves in lieu of a planning permit, but makes no mention of what will occur on Future Development Site A. Will this site be subject to a normal permit process? Is it outside of the Overlay area? It is suggested this site should not be included in the Overlay.
- Council initially suggested removal of the Overlay once development was completed. However, on further consideration, this would leave the development without any documented planning approval. This is because the Incorporated Document would cease once the Overlay is removed. Given permit conditions have now been proposed to be included in the Incorporated Document – the Overlay must continue to be applied as long as the Kaufland development exists on the site.
- It is noted that a further Planning Scheme amendment would be required to remove the Overlay should Kaufland cease to exist, which is cumbersome.

## 4.0 PROPOSED DEVELOPMENT

The proposed development is consistent with what would be expected in a Commercial 1 Zone in a Major Activity Centre - Chirnside Park. Council generally supports the proposal which is consistent with planning policy for this location as documented in the assessment in the exhibited Town Planning Report.

The Planning controls relevant to the site include: The *Chirnside Park Urban Design Masterplan* which was adopted by Council in September 2010. The Masterplan has been implemented into the Planning Scheme via a series of Amendments which have rezoned the former industrial land (including the Kaufland site). It has informed Local Planning Policy 22.06 *Chirnside Park Activity Centre* and the MSS particularly Clause 21.05 Settlement, Objective 2 – Major Activity Centres. The proposed Amendment is generally consistent with the strategic direction contained in these clauses.

## 5.0 INCORPORATED DOCUMENT

Council will restrict its comments to matters identified in the Incorporated Document including the attached plans. At the request of Planning and Property Partners, acting on behalf of Kaufland, a number of the following have been added as proposed conditions to the Incorporated Document.

The following should be addressed:

- Hours of operation should be included. This should be considered in conjunction with Use Condition 3 in regard to noise levels – particularly due to the interface with the residential land.
- Council would like to see an external lighting plan for the site – to assess spill impact on future residential land.
- Condition 8 Landscape Plan – the landscape buffer between Kaufland and the residential development adjacent will be an important consideration for Yarra Ranges Council when approving the Landscape plan.
- Condition 9 and 10 Car Parking – Council has a number of suggestions which should be included in these reports:
  - Reduce length of car spaces adjacent to path direct to Maroondah Highway to 4.9metres to avoid reduction of effective width of path by overhang of vehicles and enable it to function as a shared path about 2.5metres wide for bicycles.
  - Reduce length of car spaces adjacent to paths adjacent to the southwest side of the building to 4.9metres to avoid reduction of effective width of path by overhang of vehicles.

## ATTACHMENT 1. Revised Submission

- Recommend to shorten islands adjacent to end car spaces and provide minimum 0.5 metre returns on wider islands to facilitate vehicle movements and avoid vehicle and/or kerb damage.
- Recommend widening end bay car spaces to 2.9 metres to improve access to vehicle doors and minimise limitations to door opening by landscaping.
- Provide pedestrian crossings over access ways (which will require Memorandum of Authorisation from VicRoads) to connect the pedestrian paths through the car park. Memorandum of Authorisation from VicRoads is also required for the Shared Zone outside the building entrance and the Give Way Signs as they are all Major Traffic Control items.
- Traffic management plan should include pedestrian safety audit and may identify the need for additional paths.

## 6.0 INCORPORATED PLANS

All Plans which form part of the Incorporated Document TP 02 – TP 09 should be amended to be consistent with the approved subdivision plans as part of YR2018/408.

### TP-03 – EXISTING CONDITIONS PLAN

- Show carriageway easement for Dan Murphy parallel to the title boundary.

### TP –04 – PROPOSED SITE PLAN & GROUND FLOOR

#### Footpaths

- Show the proposed Green Spine along the Maroondah Highway frontage and the existing Green Spine to the north and to the south west on the plans.
- Elevated path to be replaced with 2.5 metre at grade Green Spine path adjacent to minimum 5 metre landscape buffer and batter with Kaufland site see condition and amended TP-02.
- Footpath on East Ridge Drive is shown within the Site A future development. The footpath should be shown entirely within the common property (Eastridge Drive) which will be transferred to Council. Council requires services, footpaths, and street trees to be on Council land. The setback of the title boundary to the kerb and channel (verge) should be re- aligned to the current existing Common Property boundary. This footpath should be 2.5 metres wide to ensure a shared footpath.



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ATTACHMENT 1. Revised Submission

- Footpath exiting the site on Maroondah Hwy near Fletcher Road should provide an additional direct connection to the bus stop shown on the plan.
- Footpath intersecting the Kaufland parking lot should extend into Dan Murphy car park.
- Show existing footpath at roundabout that is to be widened and/ or realigned as a shared path 2.5 metres wide and connect path from building to it. This will be in conjunction with Council's Green Spine project along the Highway.

Access

- Council supports all truck access from Fletcher Road as shown on this plan. The Town Planning report indicates truck access (entry) from Eastridge Dr which was part of the former Masters proposal.
- Council would like to see access for future development Site A from the Kaufland parking lot (as shown) rather than from Eastridge Drive, but note that may restrict functionality of vehicle access to the site.
- The proposed carriageway easement over the Dan Murphy site (proposed lot 91) along the common boundary appears to be potentially beneficial only if it provides reciprocal rights for Dan Murphy site to connect to the roundabout on Eastridge Drive. It does not provide access to the car spaces on the Kaufland site beyond the access way to Eastridge Drive – so there is no benefit at all to extend it almost the Maroondah Hwy frontage.
- Provide second access way link to the Dan Murphy car park near the Maroondah Hwy frontage to improve traffic flow through the site.

Car parking

- Show dimensions of title boundaries and width of all car spaces - including family spaces.

Other

- Provide line marked return on chevron island for left turn entry from Kaufland shared zone to Dan Murphy car park access.
- Pavement area can be reduced along the Dan Murphy boundary with 4.9 metre long car spaces while widening behind the kerb, enabling an effective landscaping strip (adding 1.2m to Dan Murphy's).
- Provide at least 10 bicycle lockers or lockable compound for at least 10 employee bicycles.

## ATTACHMENT 1. Revised Submission

- Delete pedestrian crossing of path from building at roundabout and show indicative splitter island labelled as future works.
- Confirm note regarding sewer at rear of building should be "Proposed easement over proposed realigned sewer" or similar.

## TP -09 – SIGNAGE DIAGRAMS

Council is concerned at the excessive scale of the pylon sign type 2 and does not support it. The Town Planning report indicates - *There will be one 22m high pylon sign adjacent to the Maroondah Highway frontage of the site, this will be setback approximately 20m from this frontage which is a generous setback from this highway so as not to cause a distraction from the adjoining high use roads however as noted is intended to be of a size that can be seen from the highway...*

*In the context of the site's location and commercial (minimum limitation designation) it is submitted that the signage as proposed is acceptable.*

Council strongly disagrees with the last statement and seeks a significant reduction in the scale and height of the sign. All developments along this stretch of the Highway have monument signs (Homemaker Centre, Bunnings) to remove visual clutter from the area and to enhance the view of the Green Spine. The Chirnside Park Urban Design Masterplan Section 6.3 addresses Signage as follows:

- Freestanding signage for businesses should be consistently sited and set back behind the line of the Boulevard trees
- Pole signage is preferred and individual pylons should be grouped in a series
- The pole sign should not exceed a height of 7 metres and the advertising sign should not have an area greater than 12m<sup>2</sup>.

The prominence of the site and the site's clear visibility from the Highway negate the need for such a massive sign.

## 6.1 GTA REPORT

- In Section 5.2, No mention is made of the proposed Green Spine shared paths along the Maroondah Highway frontage and the existing Green Spine to the north and to the south west.
- In Section 5.4, the secondary access from the roundabout provides access to the southern (not the northern) part of the main car parking area.
- In Section 5.5.2, an extension to the existing right turn lane on Maroondah Highway into Fletcher Road was required and was also completed.

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ATTACHMENT 1. Revised Submission

- In Section 5.6.2, The Statutory Rate for Bicycle Facilities for employees is shown as 1 space per 300sqm whereas the Clause 52.34 the rate is 1 space per 600sqm, so is satisfactory.
- In Section 5.7.1, Pedestrian link alignment from building to Maroondah Highway could be better described as southeast to northwest to avoid confusion.
- In Section 5.7.1, Statement that pedestrian connectivity to the restaurants (to the southwest) is not required is consistent with the attached plan, but is inconsistent with submitted the Town Planning plans as it does not include path from the building to the roundabout.
- In Section 5.7.1, Reference to MFB Pumper should be CFA as the site is in a CFA area, not MFB.

## 7.0 CONCLUSION

Council generally has no objection to the Kaufland proposal and looks forward to working through some of the more detailed elements presented in this submission.

Council believes the use of the Special Control Overlay, in this location, is unwarranted and creates an unnecessarily complex planning regime. The proposed Amendment - as outlined in this report - is not transparent and is inconsistent with Council and the State Government's policy to simplify planning wherever possible.

# **KAUFLAND INCORPORATED DOCUMENT**

**Incorporated document pursuant to section 6(2)(j) of the *Planning and Environment Act 1987***

## 1.0 INTRODUCTION

This document is an incorporated document in the schedule to clause 45.12 and clause 72.04 of the Yarra Ranges Planning Scheme ('Planning Scheme') pursuant to section 6(2)(j) of the *Planning and Environment Act 1987*.

The land identified in clause 3.0 of this document and shown in Appendix A may be used and developed in accordance with the specific control in clause 4.0 of this incorporated document.

If there is any inconsistency between any of the provisions of this document and the provisions of the Planning Scheme, the control at clause 4.0 of this document shall prevail over any contrary or inconsistent provision in the Planning Scheme. All other provisions of the Scheme must be met.

## 2.0 PURPOSE

To facilitate efficient land use for the purposes of supermarket and retail uses in the areas affected by this control.

## 3.0 LAND

The control in this document applies to the land defined as 266-268 Maroondah Highway, Chirnside Park, formally described as Lot 50 on Plan of Subdivision 54466H, excluding the area noted as 'Future development site A' on plans TP02 and TP04.

Subject to the approval of a current planning permit application (YR-2018/408) the subject land will be known as Lot 90 on PS544666H / S3.

## 4.0 CONTROL

### 4.1 EXEMPTION FROM PLANNING SCHEME REQUIREMENTS

Any requirement in the Planning Scheme which:

- Prohibits use and/or development of land; or
- Requires a permit for use and/or development of land; or
- Requires use or development of land to be carried out in a particular manner,

does not apply to the use and development of the land identified in clause 3.0 of this document undertaken either for or in connection with the use or development of land where such use or development is carried out by or on behalf of Kaufland Australia Pty Ltd (or a related entity) for the purposes of use of that land as 'supermarket' or 'retail'.

### 4.2 PLANS

The use and development of the land must be undertaken generally in accordance with the following plans but as modified by clause 4.3 of this document:

SHEET NUMBER	SHEET NAME	REVISION
TP-02	SITE CONTEXT PLAN As amended	
TP-03	EXISTING CONDITIONS PLAN	
TP-04	PROPOSED SITE & GROUND FLOOR PLAN	

## ATTACHMENT 2. Incorporated Document

TP-05	ROOF PLAN	
TP-06	OVERALL ELEVATIONS	
TP-07	STREET ELEVATIONS	
TP-08	OVERALL SECTIONS	
TP-09	SIGNAGE DIAGRAMS	

**4.3 CONDITIONS**

The exemption from Planning Scheme requirements outlined in clause 4.1 of this document is subject to the following conditions:

Submission and approval of architectural plans

1. Prior to the commencement of any development (including demolition, bulk excavation works and site preparation/retention works), detailed architectural plans must be prepared and submitted to the Minister for Planning for approval and endorsement. The plans must be drawn to scale, and be generally in accordance with the plans listed in clause 4.2 to this incorporated document but modified to show:
  - a. Dimensions of title boundaries (including Future Development Site A) and width of all car spaces - including family spaces.
  - b. Carriageway easement on access way to Eastridge Drive in favour of Dan Murphy site.
  - c. Footpath exiting the site on Maroondah Hwy near Fletcher Road with an additional direct connection to the bus stop.
  - d. Footpath from Eastridge Drive through main car park extended into Dan Murphy car park.
  - e. Car park with a minimum 5metre wide landscape batter setback along the whole Maroondah Highway frontage with the landscape extended to Eastridge Drive over Future Development Site A
  - f. Pedestrian link generally at grade along the whole Maroondah Highway frontage as the 2.5metre wide Green Spine shared path generally in accordance Amended Plan TP02.
  - g. 22m Pylon sign replaced with a Monument sign with size and height reduced to be consistent with other monument signage along the Maroondah Highway and Green Spine
  - h. Second access way link to the Dan Murphy car park near the Maroondah Hwy frontage to improve traffic flow through the site.
  - i. Line marked return on Chevron Island for left turn entry from Kaufland shared zone to Dan Murphy car park access.
  - j. At least 10 bicycle lockers or lockable compound for at least 10 employee bicycles.
  - k. Existing path at roundabout on Eastridge Drive
  - l. Pedestrian crossing of path from building at roundabout deleted and replaced with indicative splitter island labelled as future works.
  - m. Note regarding sewer at rear of building as "Proposed easement over proposed realigned sewer" or similar.

Layout not altered

2. The use and development as shown on the endorsed plans must not be altered without the written consent of the Minister for Planning.

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ATTACHMENT 2. Incorporated DocumentUse conditions

3. Waste collection and loading /unloading of goods from the site in association with the permitted uses must only occur between the hours of 7am to 10pm, seven days a week to the satisfaction of the Responsible Authority.
4. Noise levels emanating from the premises must not exceed noise levels as determined by the State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1.
5. All external lighting provided on the site must be baffled so that no direct light is emitted beyond the boundaries of the site and no nuisance is caused to adjoining properties.
6. No external sound amplification equipment, loud speaker, siren or other audible signalling device will be installed on the land.
7. Any mechanical plant must be installed on the western side of any building and be installed with noise suppression devices, including but not limited to, silencing/baffling technology, a suitable muffler and a sight screen. All noise suppression devices must be installed with the best available current technology and be maintained to both the manufactures specifications and the satisfaction of the Responsible Authority. No noise disturbance must be caused to owners or occupiers of adjoining properties to the satisfaction of the Responsible Authority.
8. The use and development must be so managed that the amenity of the area is not detrimentally affected through the:
  - Transportation of materials, goods or commodities to or from the land,
  - Appearance of any building, works or materials,
  - emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot ash, dust, waste water, waste products, grit or oil,
  - Presence of vermin,
  - No goods may be stored or left exposed outside any of the permitted building (other than in designated storage areas) so as to be visible from any public road or thoroughfare.

Waste

9. Prior to the commencement of use, a waste management plan for the development must be prepared to the satisfaction of the Responsible Authority.
10. Provision must be made on the land for the storage and collection of garbage and other solid waste.

Loading and unloading

11. Prior to the commencement of development, a loading management plan must be submitted to and be approved by the Responsible Authority.
12. Any loading and unloading of goods and all manoeuvring of vehicles must only be carried out within title boundaries of the land.

Landscaping

13. Prior to the commencement of any buildings or works a landscape plan prepared in accordance with Council's Landscape Guidelines must be amended to show:
- a. The species (botanical names) and quantities of trees to be removed on the Landscape Plan.
  - b. The Plant Schedule of the Landscape Plan adjusted to include a minimum of 50% indigenous plant species and does not include any listed environmental weeds known in the Yarra Ranges Council.
  - c. Standard landscape notes included on the Landscape Plan in relation to soil preparation, irrigation of planting beds, replacement of dead plants and planting technique for trees and shrubs.
  - d. Adequate instruction on the Landscape Plan for the protection of existing vegetation to be retained during construction.
  - e. The geographical location of all plant species proposed in the Plant Schedule on the Landscape Plan.
  - f. The botanical name, common name, quantity, average size at maturity and intended pot size for each plant species in the Plant Schedule of the Landscape Plan.
  - g. The type of irrigation listed on the Landscape Plan amended from spray irrigation, (which is not a water efficient option) to drippers or aqua hose.
  - h. A note on the Landscape Plan specifying that all planted areas will to be mulched to a minimum 75 mm thickness using an appropriate timber species such as Pine or local common Eucalyptus species avoiding rare timber species such as Red Gum or Jarrah.
  - i. A 24 month maintenance plan with notes on appropriate weed control, irrigation, mulch replenishment, dead plant replacement and pruning is included on the Landscape Plan to ensure the successful establishment, and on-going health, of new planting.
  - j. New lawn areas on the Landscape Plan being established with seed from a non-invasive grass species. Appropriate grass species include Queensland Blue-grass (*Dicantheum sericeum*), Red-leg Grass (*Bothriochloa macra*), Weeping Grass (*Microlaena stipoides*), Creeping Bent Grass (*Agrostis stolonifera*), Clustered Wallaby Grass (*Danthonia racemosa*), Kentucky Blue-grass (*Poa pratensis*) and Tall Fescue (*Festuca arundinacea*).
  - k. Timber edging around lawn areas or garden beds that does not utilise Jarrah, Red Gum or Native (White) Cypress Pine (*Callitris columellaris*) unless it can be demonstrated that they are a recycled product. Acceptable products include treated pine, recycled plastic, moulded concrete, plantation grown Sugar Gum, brick edging or local stone.

Landscaping in accordance with this approved plan must be completed prior to occupation of the permitted development, or if not occupied, within 3 months of completion of the permitted development. New planting must be maintained or replaced as necessary. When approved the landscape plan will be endorsed to form part of this permit.

Car parking

14. Prior to the commencement of development, a car parking and traffic management report and subsequent amended Car Parking Plan by a recognised traffic consultant must be submitted to and be approved to the satisfaction of the Responsible Authority.
15. Prior to the occupation of the permitted development the car parking spaces and vehicular access ways shown on the endorsed plan and approved car parking plan must be fully constructed, sealed, delineated and/or signed and drained incorporating



## ATTACHMENT 2. Incorporated Document

Water Sensitive Urban Design elements including gross pollutant trap(s) to the satisfaction of the Responsible Authority.

16. Prior to the occupation of the permitted development the following footpath works must be undertaken to the satisfaction of the Responsible Authority:
  - a. A concrete footpath 2.5 metres wide and all connecting links must be constructed in Eastridge Drive.
  - b. Footpath exiting the site on Maroondah Hwy near Fletcher Road with additional direct connection to the bus stop shown on the plan.
  - c. A concrete footpath 2.5metres wide along the Maroondah Highway frontage from Eastridge Drive to the traffic signals at Fletcher Road
17. Prior to the commencement of works required by this permit, engineering construction plans showing all internal works, including access ways, parking, footpaths, drainage, and all Council works including external footpaths together with a processing fee of \$ 300 must be submitted to, and approved by, the Responsible Authority. Civil works must then be constructed in accordance with these approved engineering plans.
18. Prior to the approval of engineering construction plans an inspection/surveillance fee of 2.5% of the estimated cost of all Council works of this permit, must be paid to the Responsible Authority.
19. Prior to the approval of engineering construction plans, a maintenance bond to the value of \$5000 for Council works of this permit, must be paid to the Responsible Authority.
20. The Council works as required by this permit must be maintained in good condition and repair by the developer for a period of three months from the date of practical completion to the satisfaction of the Responsible Authority.
21. Prior to an Off Maintenance inspection and subsequent return of the maintenance bond, "As Constructed" plans of all Council works, together with a video survey record of the full length of all Council piped drainage, must be submitted to, and approved by, the Responsible Authority.
22. Prior to the occupation of the permitted development the construction of all civil works within the site, including water tanks/detention and internal/external signs must be fully completed and subsequently inspected and approved by a suitably experienced Civil Engineer at the arrangement and expense of the owner/developer. This person must supply written certification that the works have been constructed in accordance with this permit and to relevant standards to the satisfaction of the Responsible Authority.
23. The car parking spaces, vehicular access ways and drainage approved by this permit are to be maintained and must not be obstructed or made inaccessible to the satisfaction of the Responsible Authority.

#### Materials, finishes and design integrity

24. Prior to the commencement of development, a facade and materials strategy must be submitted to and be to the satisfaction of the Responsible Authority. The facade and materials strategy must include a detailed schedule of materials and finishes including the colour, type of materials (and quality), construction and appearance.

#### ESD

25. Prior to the commencement of development, an ESD report must be submitted to and be approved by the Responsible Authority. The measures included in the ESD report must be implemented prior to occupation of the building, to the reasonable satisfaction of the Responsible Authority.

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ATTACHMENT 2. Incorporated DocumentConstruction Management Plan

26. Prior to the commencement of development, a detailed construction and demolition management plan must be submitted to and be approved by the Responsible Authority. The plan must be prepared in accordance with any municipal construction management plan guidelines (where applicable), and should include the following:
- a. public safety, amenity and site security;
  - b. construction hours, noise and vibration controls;
  - c. air and dust management;
  - d. stormwater and sediment control;
  - e. waste and materials reuse;
  - f. traffic management; and
  - g. site services and amenities during construction.

Signage

27. The type, location, size, lighting and material of construction of the signs shown on the endorsed plans shall not be altered without the written consent of the Responsible Authority.
28. The signs, including their structure, as shown on the endorsed plans must at all times be maintained in good order and condition, to the satisfaction of the Responsible Authority.
29. The signs must only contain a logo or name which identifies the business conducted on the site unless otherwise approved by the Responsible Authority.

**4.4 EXPIRY**

The control in this document expires in respect of land identified in clause 3.0 and Appendix A of this document if any of the following circumstances apply:

- a. development of that land has not commenced 2 years after the approval date of Amendment X; or
- b. use of that land has not commenced 4 years after the approval date of Amendment X; or
- c. development of that land is not completed 4 years after the approval date of Amendment X.

The Minister for Planning may extend these periods if a request is made in writing before the expiry date or within six months afterwards.





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green building council australia  
Member  
Kaufland Australia

ISSUE	AMENDMENT	DATE	CHG
A 1	TOWN PLANNING APPLICATION	29/06/2018	SJE



SITE CONTEXT PLA

1 SITE CONTEXT PLAN  
Scale: 1:1200

LEFFLER SIMES PTY LTD ABN 39 001 043 992	SYDNEY 7 YOUNG ST NEUTRAL BAY NSW 2089 MELBOURNE LEVEL 2 - 370 LT BOURKE ST VIC 3000	T: +61 2 99093344 T: +61 3 96546344	SCALE 1:1200	PROPOSED KAUF LAND STORE 266 MAROONDAH HWY, CHURCHSIDE PARK VIC 3116	JOB NO: 4414 DATE:	DWG NO: TP 02 A1 REV:	LEFFLER SIMES ARCHITECTS
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## ENVIRONMENT AND ENGINEERING

No. of Pages – 6

### 7.7 CT5660 Civic Centre Redevelopment Tender Evaluation Report

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RESPONSIBLE OFFICER	Director Environment & Engineering
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#### SUMMARY

This contract is for the construction of the Civic Centre Redevelopment project. The project incorporates a comprehensive upgrade of the services and infrastructure, rectifying existing non-compliance issues, improvements in site access, and providing accommodation for Activity Based Working environments.

It also aims to achieve:

- Improved community access and meeting facilities
- Improved equity of access for all
- Improved energy efficiency, water efficiency, showcase sustainability and achieve utility cost savings
- Reduced maintenance, risk exposure and life cycle costs
- Higher employee productivity and workplace satisfaction
- Improved flexibility and working environment
- Improved image of the Council and subsequent ability to attract and retain high quality employees.

Five (5) prequalified suppliers from the Department of Transport Construction Supplier Register (CSR) were invited to participate in a selective Tender for this project on 25 July 2018. Council use of the CSR list is approved by the Minister of Local Government under section 186(5) (c) of the Local Government Act 1989 and is therefore compliant with Councils' legislative requirements.

Tenders closed on 6 September 2018 and five (5) submissions were received.

The evaluation panel recommends the tender from The Trustee for Johns Lyng Commercial Builders Pty Ltd t/as Johns Lyng Commercial Builders be accepted for an amount of \$26,116,218.60 exclusive of GST (\$28,727,840.45 inclusive of GST).

This item has been included in the public agenda to facilitate openness and transparency in Council's decision making. A confidential attachment has been included with the report which contains commercially sensitive information that is not to be disclosed whilst the meeting is open to the public.

## RECOMMENDATION

*That*

1. ***Council awards the tender from The Trustee for Johns Lyng Commercial Lyng Commercial Builders Pty Ltd t/as Johns Lyng Commercial Builders for CT5660 Civic Centre Redevelopment for the total lump sum price of \$26,116,218.60 exclusive of GST (\$28,727,840.45 inclusive of GST).***
2. ***The contract documents be signed.***
3. ***The confidential attachment to this report remain confidential indefinitely as it relates to matters specified under section 89(2)(d) of the Local Government Act 1.***

## DECLARATION OF CONFLICTS OF INTEREST

All members of the Tender evaluation panel signed the conflict of interest declarations. None of the members declared any actual, perceived or potential conflict of interest.

## PROPOSAL

Seek Council approval to enter into a new contract for Civic Centre Redevelopment.

## BACKGROUND

Council's civic centre's existing office accommodation at Anderson Street was originally constructed in the late 1970s and is no longer "fit for purpose". The site and buildings require significant modification and refurbishment to be compliant with current day standards.

Previous feasibility investigations focused on identifying compliance and end of life issues that must be addressed for the continued occupation of the existing Council Offices at Anderson Street. The inspections established that these facilities are in very poor condition, with several elements having significant and costly compliance issues. Much of the building fabric and services are at the end of their operational life and are in need of replacement.

In addition, the existing building is not fully accessible for the community, visitors or Council Officers and needs to be a place that is inclusive for all.

## STRATEGIC LINKS

By recommending suppliers that present a best value outcome, this report supports Council's strategy for long term financial sustainability.

## CONSULTATION

Extensive consultation with the community and staff has occurred at various stages of the project with a major undertaking early in 2017 which has informed the final design.

Stakeholders of this process were included as Evaluation Panel members and the following expert advisors were involved in the evaluation of the tender in a non-voting capacity:

- Mark O'Dwyer (H2o Architects)
- Cameron Clifford (H2o Architects)
- Gary Crutchley (Wilde & Woollard Quantity Surveyors)
- Drew Gemmell (Wilde & Woollard Quantity Surveyors)
- Vishantri Perera (YRC – Manager, Financial Services)
- Aubrey Jansen (YRC – Acting Executive Officer, Procurement Services).

## FINANCIAL IMPLICATIONS

An amount of up to \$31,600,000.00 (exclusive of GST) is available for this project from the Council budget as summarised in the table below:

Financial Year	Yarra Ranges Council Source
2018-2019	Capital Expenditure Program
2019-2020	Capital Expenditure Program & Asset Renewal Reserve
2020-2021	Capital Expenditure Program & Asset Renewal Reserve

Works are anticipated to commence in January 2019 with a period for practical completion of 449 Master Builders Association of Victoria (MBAV) calendar days.

Please refer to Attachment 1 for tender financial analysis.

## KEY ISSUES

This tender process has been carried out in accordance with the requirements of Council's Procurement Policy.

Tenders were assessed for conformity with the tender documents and no tenders were eliminated from further evaluation as a result of major non-conformances.

The Evaluation Panel scored shortlisted tenders against the pre-established evaluation criteria, as published in the tender document. A summary of the evaluation criteria follows:

SELECTION CRITERIA	WEIGHTING
Price	40%
Capability/Capacity	30%
Quality/Sustainability	10%
Timeframes	20%
TOTAL Qualitative	100%

Confidential information is contained in Attachment 1. This information relates to contractual matters and contains commercially sensitive information including, but not limited to, the name of tendering parties, the evaluation panel members, the tendered prices and the evaluation of the tenders received against the published evaluation criteria.

Any disclosure of the information included within the confidential attachment to this report could be prejudicial to the interests of the Council or other parties. If discussion of this information is required, the Council is recommended to resolve that the item be deferred to the confidential section of the agenda when the meeting is closed to members of the public in accordance with Section 89(2) of the Local Government Act 1989.

This report seeks Council approval to award a contract that complies with the Section 186 of the Local Government Act 1989.

### ***Environmental Impacts***

This has been considered as part of the project specification and tenderers were asked to nominate which redundant materials from the works will be recycled.

Johns Lyng Commercial Builders have nominated the following materials to be recycled from the existing building:

- Brickwork
- Concrete
- Reinforcement
- Controlled and non-contaminated fill
- Ductwork sheet metal
- Copper
- Stainless steel
- Metalwork/mild steel
- Glass
- Aluminium.

### ***Social Impacts***

Local and social sustainability was considered as part of the evaluation process and was weighted 5% of the overall qualitative evaluation.

A summary of the recommended tenderer's response to local sustainability is summarised as per the following table:

Recommended Tenderer	Business Employs Staff who Reside in the Shire	Business Utilises Materials that are Sourced from within the Shire
The Trustee for Johns Lyng Commercial Builders Pty Ltd t/as Johns Lyng Commercial Builders	Yes – 3 Will increase to 4 with the hiring of a local building cadet	Yes – 4.5%, which equates to \$1,175,229 (exclusive of GST)

### ***Economic Impacts***

Johns Lyng Commercial Builders will provide preference, where possible, to services and materials from local businesses within Yarra Ranges Shire, which may include plumbing and carpentry.

### ***Risk Assessment***

This has been considered as part of the project design, contract terms and conditions and the evaluation process.

## **CONCLUSION**

That Council adopts the recommendations within this report.

## **ATTACHMENTS**

1 CT5660 Civic Centre Redevelopment Tender Evaluation Report attachment  
(Confidential)



## 7.8 Expression of Interest - Sale of 1632 Burwood Highway, Belgrave

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RESPONSIBLE OFFICER      Director Environment & Engineering

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### SUMMARY

Subsequent to Council's resolution of 10 July, 2018 to sell its property at 1632 Burwood Highway, Belgrave by an Expression of Interest process (EOI), an agent was engaged to market the property and distribute Expression of Interest documentation.

Following a five week marketing campaign and subsequent evaluation of EOI submissions received, officers now recommend that Council accept the offer of Mses. Betts, Frank and Santoro.

The proponents' submission proposes to retain, repair and fit out the existing building for use as a veterinary surgery. This proposal is viewed by officers as a strong service offering to the community and a use which is consistent with the heritage values of the site. The financial offer exceeds the independent valuation obtained pursuant to S189 of the *Local Government Act 1989*.

Having assessed the proposal against the evaluation criteria, and considering that the proposal adequately meets Council's requirements in relation to both financial offer and community benefit derived from the future use of the site, officers recommend that Council accepts the offer from Mses. Betts, Frank and Santoro and proceeds to formalising the sale through the signing of contracts.

### RECOMMENDATION

***That Council, having undertaken an Expression of Interest process to sell its property at 1632 Burwood Highway, Belgrave, and having evaluated Expressions of Interest submissions received:***

- 1. Accept the offer from Mses. Betts, Frank and Santoro to purchase the property, and proceed to formalising the sale through the signing of contracts.***
- 2. Enter into an agreement under Section 173 of the Planning and Environment Act as a condition of sale which:***
  - (a) Requires the purchaser to use best endeavours to obtain relevant planning permits within 12 months of settlement, and;***
  - (b) Ensures the property is used and/or developed for the purpose as stated in the proponent's Expression of Interest submission for a period of no less than three (3) years.***
- 3. Sign and seal all documents in relation to the sale.***
- 4. Resolve to keep the attachment to this report confidential indefinitely, as it relates to matters specified under Section 89(2)(d) of the Local Government Act 1989.***

## **DISCLOSURE OF CONFLICTS OF INTEREST**

There are no conflicts of interest to disclose in relation to this item.

## **PROPOSAL**

It is proposed that Council accept the offer from Mses. Betts, Frank and Santoro to purchase Council's property at 1632 Burwood Highway, Belgrave and to proceed with the preparation of contracts to effect the sale and associated S173 Agreement.

## **BACKGROUND**

Following the undertaking of statutory processes pursuant to Sections 189 and 223 of the Local Government Act 1989, at its meeting on 10 July 2018, Council resolved to:

- Sell its property at 1632 Burwood Highway by Expression of Interest (EOI) process
- Upon completion of the EOI and evaluation processes, receive a report from officers seeking Council endorsement of the preferred purchaser.

### ***EOI Process***

Following Council's resolution that the property be sold, a procurement process was undertaken to engage a reputable commercial agent to market the property and distribute EOI documentation, with Ray White Commercial being selected.

The EOI period commenced on 21 August 2018, and closed at 2:00pm on Tuesday 25 September 2018, by which time three conforming submissions were received.

The EOI documentation required that proponents respond to three key criteria, being:

- The financial offer to Council
- The intended development/use of the site and the benefit that such use would provide to the Belgrave and wider community
- The extent of the original building facade to be retained as part of the proposal.

Each of these key criteria was weighted and together they formed the basis of Council's evaluation process. An evaluation panel was convened to review EOI submissions and establish the highest rated, or 'Preferred Proponent' to recommend to Council.

Having undertaken the evaluation process, officers now present to Council, Mses. Betts, Frank and Santoro as the Preferred Proponents, and accordingly, recommend that Council resolve to sell the property to that party.

### ***S173 Agreement***

EOI documentation provided that the winning proponent must enter an agreement under S173 of the Planning and Environment Act 1987, to ensure that:

- The owner must use best endeavours to obtain relevant planning permits (if necessary) within 12 months of settlement
- The property is used and/or developed for the purpose as stated in the proponent's EOI submission for a period of no less than three (3) years.

Section 173 agreements are binding and noted on the property title, and will be undertaken by the purchaser as a condition of sale.

### ***The 'Preferred' Proponent***

Council officers' evaluation of EOI submissions received revealed the highest rated to be that of Ms. Betts, Frank and Santoro (Preferred Proponent).

The Preferred Proponents are a group of local veterinary professionals who intend to use the premises for a small veterinary clinic, providing veterinary and animal services to the local community.

Having identified the Belgrave, Tecoma, Selby and Kallista areas as being under-supplied with veterinary services, the proponents see an opportunity for a community-oriented veterinary practice which will aim to:

- Provide affordable quality small animal veterinary care for the local community
- Develop relationships with local animal/welfare groups
- Encourage responsible pet ownership
- Increase animal/human socialisation opportunities, such as behavioural training and puppy school
- Offer home visit services
- Offer educational programs to local schools and community groups to improve animal care and health

### **Financial Offer**

The Preferred Proponent's financial offer exceeds the independent valuation for the property obtained by Council as part of its statutory process and represents a fair and reasonable financial return to Council which will be reinvested into community capital projects.

Details of the Preferred Proponent's financial offer are provided in Confidential Attachment 1 to this report.

### **Community Benefit**

The proposed benefits to the community, as outlined by the Preferred Proponent in their EOI submission include:

- Veterinary and animal services to the general public, including

- Veterinary services, such as consultations, advice and surgery
- Additional services, such as grooming, boarding (cat) and animal behaviour education (such as puppy school)
- Free treatment and care of injured wildlife
- Reduced rates to animal welfare and rescue groups
- Services to the general community
  - Involvement in local community events, such as markets, to promote animal health and welfare
  - Schools and kindergarten visits to teach animal health, respect, handling and care
  - Discounted rates for treatment of animals owned by schools
  - Generate additional visitation to Belgrave main street
  - Broaden services offered in the commercial precinct.
- Employment and training opportunities
  - Potential employment opportunities for community members interested in animal care and handling
  - Provide training and work experience for secondary students, undergraduate veterinary students and nurses.

#### Retention of the Existing Façade

The proponents recognise and respect the building's unique heritage and style, and its significance as a local landmark.

Accordingly, this proposal would see the existing building retained in its entirety, with necessary maintenance and painting to be completed. Only minimal internal changes are proposed, and any repairs required (such as possible replacement of the roof) will use visually similar materials to keep the property as close as possible to its current form. It is felt the building's heritage look and feel align with the business' positioning as a local clinic serving community needs.

The proponents also intend to retain the tribute plaque at the front of the property.

#### **STRATEGIC LINKS**

The sale of Council property is undertaken in accordance with Sections 189 and 223 of the *Local Government Act 1989*, Council's Sale of Land Policy and in line with the Local Government Best Practice Guidelines for the Sale, Exchange and Transfer of Land.

## **CONSULTATION**

Consultative processes leading to Council's resolution to sell the property sale were undertaken in accordance with the requirements of Sections 189 and 223 of the *Local Government Act 1989*.

The marketing process was an open, public process undertaken by Ray White Commercial. A 'For Sale' board was displayed at the street frontage and the property was advertised on realcommercial.com.au, the agent's website, and throughout their various marketing channels.

## **FINANCIAL IMPLICATIONS**

Details of the preferred proponent's financial offer are provided as Confidential Attachment 1 to this report.

Proceeds from the sale of the property will be received into the Future Community Fund in Council's Capital Expenditure Program, for allocation towards future projects that are endorsed by Council, to offset costs that were incurred to construct the Belgrave Community Hub project which provided new accommodation for the Dandenong Ranges Emergency Relief Service who were previously located in this building.

## **KEY ISSUES**

### ***Environmental Impacts***

No particular environmental impacts have been identified in relation to this matter.

### ***Social Impacts***

During Council's statutory processes under Section 223 of the Act, it became apparent that a number community members and groups held strong sentiment toward the former school/infant health/community building, seeking to have the existing building preserved.

In recognition of these concerns, Council's resolution to proceed with a sale by an Expression of Interest process provided Council an opportunity to realise the best overall community outcome in relation to the site.

The proposal which is recommended for endorsement would see the entirety of the existing building retained.

### ***Economic Impacts***

No particular economic impacts have been identified in relation to this matter.

### ***Risk Assessment***

The potential financial, regulatory and community amenity risks in relation to this matter have been managed through the public Expression of Interest and subsequent evaluation process.

## CONCLUSION

Following officers' evaluation of Expression of Interest submissions received, it is recommend that Council proceed by accepting the offer received from Mses. Betts, Frank and Santoro, and preparing documentation to effect the sale of its property at 1632 Burwood Highway, Belgrave.

The proponents' strong financial offer, expected community benefits to be derived from the future use of the site as a veterinary clinic (including employment and community educational opportunities) and the proponents' intention to retain, repair and fit-out the existing structure represents a positive overall community outcome for Belgrave and the surrounding region.

## ATTACHMENTS

- 1 Financial Offer (*Confidential*)

## 7.9 Draft Eastern Regional Trails Strategy

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RESPONSIBLE OFFICER	Director Environment & Engineering
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### SUMMARY

This report seeks to request endorsement from Council of the proposed draft Eastern Regional Trails Strategy that was developed in partnership between seven (7) Eastern Melbourne Councils including: Boroondara, Knox, Manningham, Maroondah, Monash, Whitehorse and Yarra Ranges.

The project was further supported by Sport and Recreation Victoria and was commissioned in order to provide the strategic direction required to allow Eastern Region Local Government Agencies and other Land Management Authorities to work together towards the shared goal of an interconnected and well-used trail network that is accessible for all and promotes healthy and active communities.

The draft Strategy recommends a prioritised Action Plan which provides direction on a range of new and improved trail projects across the study area.

### RECOMMENDATION

***That Council endorse the draft Eastern Regional Trails Strategy, acknowledging the priority order provided in the Action Plan.***

### DISCLOSURE OF CONFLICTS OF INTEREST

The author of this report does not have a conflict of interest.

### PROPOSAL

That Council endorse the draft Eastern Regional Trails Strategy, acknowledging the priority order provided in the Action Plan.

The agreed Strategy will assist the Eastern Region Council partners to seek funding to help support the development of projects that have been identified as priorities within their respective boundaries and combine resources for projects that cover a number of municipalities.

### BACKGROUND

Eastern Melbourne is home to a large array of interconnected trails and that provide opportunities for a range of users including walkers, runners, cyclists and horse riders. Some of these trails are of a regional scale, providing opportunities for transport, exercise, recreation and sight-seeing for both residents and visitors. By their nature, regional trails

cross municipal borders and have multiple land managers. This makes coordination between municipalities and other authorities an important part of achieving an effective and integrated regional trail network.

In order to guide the future planning and development of trails in the Eastern Melbourne Region, Yarra Ranges Council partnered with Boroondara, Knox, Manningham, Maroondah, Monash and Whitehorse Councils, as well as Sport and Recreation Victoria, in a regional planning process called The Eastern Regional Trails Strategy (the Strategy). The project team engaged Fitzgerald Frisby Landscape Architects, a leading industry consultant, to coordinate the project.

The draft Strategy identifies that much of the trail network in Eastern Melbourne has been developed in an opportunistic way, taking advantage of left-over land or 'piggy-backing' on other transport infrastructure. The draft Strategy provides an in-depth strategic analysis of the network that currently exists in the study area, identifies the key trail networks that should be prioritised for further improvement and development and provides a roadmap for the delivery of priority projects across the regional network through an agreed action plan.

Of particular interest to Yarra Ranges Council, the draft strategy has identified a number of priority projects within the prioritised action plan. These include:

- The Yarra Valley Trail
- Continuation of the Warburton Rail Trail into Maroondah to link with the Tarralla Trail
- Investigate providing connections from the Warburton Rail Trail and township to the O'Shannassy Aqueduct Trail. This may include signage, improved accessibility, a trail head and car parking
- Explore the potential to extend the O'Shannassy Aqueduct Trail along the aqueduct to connect to the proposed Yarra Valley Trail
- Complete the gap in the Heathmont to Belgrave Rail Trail from Upwey Station to Belgrave Station
- Provide a kayak/canoe launching point to the Yarra River on the Yarra Valley Trail in Yarra Glen
- Reduce the gradient of the Heathmont to Belgrave Rail Trail at and around Upwey Station to improve access, and
- Improve the section of the Warburton Rail Trail from Lilydale Station to the beginning of the old rail line by improving the shared trail currently on footpath and reducing steep gradient.

The agreed Strategy will assist the Eastern Region Council partners to seek funding to help support the development of projects that have been identified as priorities within their respective boundaries and combine resources for projects that cover a number of municipalities.



## STRATEGIC LINKS

Council's Health and Wellbeing Strategy 2017-2021 is an overarching strategy that sits alongside the Municipal Strategic Statement (MSS) under the Council Plan. As such, it links to all of Council's externally-focused strategies and action plans, and also to the internal focused work such as Live Well Work Well, the Diversity and Inclusion Policy and Gender Equity Action Plan. The Strategy fits within the new Council Plan objective of Connected and Healthy Communities.

The Strategy is framed into three priority areas:

1. Connected and healthy communities
2. Resilient and liveable communities
3. Equitable and inclusive communities.

The action plan within the draft Strategy will significantly contribute to enhancing health outcomes, including decreasing obesity and improving mental health and wellbeing. By engaging and encouraging people to be physically active and creative we can protect, improve and promote public health and wellbeing for all ages. In particular the draft Strategy delivers on the key Health and Wellbeing pillar of improving opportunities for the community to take part in walking.

Council's Recreation and Open Space Strategy 2013-2023 sets out directions for creating healthy and active environments and services in Yarra Ranges, provides a framework to guide future development and management of Council's recreation reserves, parks and community spaces.

Council's Economic Development Strategy 2012-2022 identifies economic development as a key driver of community wellbeing. A number of the priority projects within the draft Strategy's action plan will further enhance the region's appeal to the domestic and international market and will encourage tourism that provides long term sustainable employment opportunities and a mutually beneficial co-existence between tourists and residents.

Council's Vision 2020 provides Council with a framework to guide decisions and actions to meet community aspirations and ensure a healthy and sustainable future. Themes under this framework that relate to this proposal include:

- Strong, healthy and connected communities.
- A safe and accessible municipality.

## CONSULTATION

Consultation was undertaken with Local Government Agencies, Land Managers within and neighbouring the study area.

An online questionnaire was open from December 2017 to mid-March 2018 on the Strategy's website; [www.eastertrails.com.au](http://www.eastertrails.com.au). The 700 responses received provided a

valuable understanding of how people use the regional trails and ideas for potential trail network improvements.

This consultation assisted the project team to determine the regional demand and local issues.

## **FINANCIAL IMPLICATIONS**

The financial implications for Yarra Ranges will be assessed further during scoping and feasibility for each project. One of the key outcomes of the Strategy is to develop an agreed action plan which will provide a joint advocacy opportunity for the high priority projects to be funded from State and Federal Government levels.

The draft Strategy has already advocated for \$1,000,000 funding to be allocated to Section 1 of the Yarra Valley Trail project which was identified as the regions number one priority project.

## **KEY ISSUES**

### ***Environmental Impacts***

The environmental impacts will be fully explored as part of a localised feasibility study for each priority project. This will include the impact of establishing trails on local flora and fauna as well as partnering with other government agencies to help assess any local environmental sensitivity.

### ***Social Impacts***

There are strong links to social and community impacts resulting from the development and improvement of the regional trail network which includes:

- Enhanced community access to infrastructure that encourages alternative health and wellbeing outcomes
- Revitalisation of local communities
- Reduction of social isolation
- Increased visitor footprint
- Increased female participation in sports.

The Health and Wellbeing Strategy identifies that high levels of obesity, dementia and poor mental health are significant issues for our community. The Strategy identifies that increasing physical activity will deliver greater health and wellbeing outcomes. The development of the draft Strategy will strongly support the outcomes of the Health and Wellbeing Strategy.

***Economic Impacts***

The delivery of trail infrastructure in Yarra Ranges will likely attract increased participation across the municipality and therefore establish a local market for related services.

Furthermore, the Strategy provides a potential opportunity to seek grant funding to assist Council to plan and deliver key community infrastructure projects in a shared financial partnership with the community and the State Government.

***Risk Assessment***

The draft Strategy provides direction to plan and potentially deliver trail infrastructure in sections of the Yarra Ranges. Individual risk assessments will be completed during the feasibility stage of each proposed project in the action plan.

The proposed action plan provides Council direction in order to mitigate the potential reputational risk of not providing improved local infrastructure.

**CONCLUSION**

The draft Eastern Regional Trails Strategy offers Council direction in order to plan and deliver an improved trail network for Yarra Ranges and in partnership with other Councils and Agencies. The Strategy provides a proposed action plan which prioritises key regional projects.

**ATTACHMENTS**

- 1 Draft Eastern Regional Trails Strategy (*published separately*)
- 2 Draft Eastern Regional Trails Strategy - Action Items (*published separately*)

## **7.10 Council Budget Allocation For Successful Growing Suburbs Fund Projects**

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**RESPONSIBLE OFFICER**      Director Environment & Engineering

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### **SUMMARY**

Council has been successful in applications to the State Government's Growing Suburbs Fund for the amount of \$8.75 million for the delivery of four key projects:

- \$3 million for Warburton Mountain Bike Destination Stage 1
- \$2.5 million for the Yarra Valley Trail Section 1
- \$2 million for RidgeWalk
- \$1.25 million for the Esther Park Synthetic Soccer Pitches.

The program guidelines sought matching funding of \$1 for \$1 for projects submitted to the program.

At the Council meeting of 26 June 2018 Council endorsed the projects for submission and gave 'in principal' support and approval for Council contributions to achieve a \$1 (Council / other sources) for \$1 (Growing Suburbs Fund).

There was an additional application to Sport and Recreation Victoria for the Esther Park Synthetic Soccer Pitches project for \$250,000 which was unfortunately unsuccessful. To be able to deliver this project, currently estimated at a value of \$3 million, a further \$500,000 is required on top of Council's \$1.25 million to match the Growing Suburbs Fund allocation. It is therefore requested that Council cover the shortfall for this project by allocating \$1.75 million.

Council has previously committed \$2.7 million, together with \$300,000 from the Upper Yarra Community Enterprise's (Warburton and Yarra Junction Community Bank Branches) to match a \$3 million contribution from the Federal Government's Building Better Regions Fund, for the Warburton Mountain Bike Destination Stage 1 project. Therefore there is no further matching funding required for this project within the Growing Suburbs Fund application.

### **RECOMMENDATION**

***That Council approve the allocation of***

- 1. \$2.5 million from the Community Futures Fund to the Yarra Valley Trail Project.***
- 2. \$2 million from the Community Futures Fund to the RidgeWalk Project.***
- 3. \$1.462 million from the Community Futures Fund and \$288,000 from the Asset Renewal Reserve to the Esther Park Synthetic Soccer Pitches Project.***

## **DISCLOSURE OF CONFLICTS OF INTEREST**

The author of this report does not have a conflict of interest.

## **PROPOSAL**

To meet the Growing Suburbs Fund program requirement of \$1:\$1 contributions towards successful projects and to cover the funding shortfall for the Esther Park Synthetic Soccer Pitches project, it is recommended that Council endorse the allocation of \$5.962 million from the Community Futures Fund and \$288,000 from the Asset Renewal Reserve. This new funding allocation will be utilised in conjunction with Council's previous funding commitment of \$2.7 million together with \$300,000 from the Upper Yarra Community Enterprise to match funding provided through the Federal Government's Building Better Regions Fund for the Warburton Mountain Bike Destination Stage 1 project.

## **BACKGROUND**

The State Government made \$50 million available for the 10 Interface Councils through the 2018/19 Growing Suburbs Fund to help deliver important community projects.

The program guidelines sought matching funding of \$1 for \$1 for projects submitted to the program.

At the Council meeting of 26 June 2018 Council endorsed the projects for submission and gave 'in principle' support and approval for Council contributions to achieve a \$1 (Council / other sources) for \$1 (Growing Suburbs Fund).

On 9 July 2018 Council submitted six applications to the State Government's Growing Suburbs Fund.

On 12 September 2018 the State Government announced that four of Council's applications to the fund were successful in receiving a combined amount of \$8.75 million.

## **STRATEGIC LINKS**

The Health and Wellbeing Strategy 2017-2021 is an overarching Council strategy that sits alongside the Municipal Strategic Statement (MSS) under the Council Plan. As such, it links to all of Council's externally-focused strategies and action plans, and also to the internal focused work such as Live Well Work Well, the Diversity and Inclusion Policy and Gender Equity Action Plan. The Strategy fits within the new Council Plan objective of Connected and Healthy Communities.

The Strategy is framed into three priority areas:

1. Connected and healthy communities.
2. Resilient and liveable communities.
3. Equitable and inclusive communities.

All of the successful projects will significantly contribute to enhancing health outcomes, including decreasing obesity and improving mental health and wellbeing. By engaging and

encouraging people to be physically active and creative we can protect, improve and promote public health and wellbeing for all ages.

Council's Cultural Policy and Action Plan 2008-2013 acknowledges the important role arts, culture and heritage play in the lives of people who live in the municipality and further expresses the cultural interests of our communities. Some key objectives of the policy are to demonstrate leadership in the provision of arts, culture and heritage services by:

- Further increasing community participation in arts, culture and heritage activities.
- Better positioning the Shire to advocate for and access funding for local arts, cultural and heritage activities.

The Recreation and Open Space Strategy 2013-2023 sets out directions for creating healthy and active environments and services in Yarra Ranges, provides a framework to guide future development and management of Council's recreation reserves, parks and community spaces.

The Economic Development Strategy 2012-2022 identifies economic development as a key driver of community wellbeing. The proposed projects will further enhance the region's appeal to the domestic and international market and will encourage tourism that provides long term sustainable employment opportunities and a mutually beneficial co-existence between tourists and residents.

Council's Vision 2020 provides Council with a framework to guide decisions and actions to meet community aspirations and ensure a healthy and sustainable future. Themes under this framework that relate to this proposal include:

- Strong, healthy and connected communities.
- A safe and accessible municipality.

A number of the proposed projects have been recognised in Council's Hike and Bike Plan 2005, key principles of which include:

- Communities will be connected to each other, to activity centres and key local destinations.
- Pathways and trails for cycling and walking will promote health and well-being.
- The municipality will be reinforced as a key tourism destination through regional linkages to key attractors.

The Melbourne East Regional Sport and Recreation Strategy 2016 identified the Warburton Mountain Bike Destination as a regional priority.

The draft Eastern Regional Trail Strategy has identified the Yarra Valley Trail as the highest ranked priority project.

## CONSULTATION

Throughout the preliminary stages of these projects, extensive community and key stakeholder consultation has been undertaken.

Overall consultation has been conducted in various forms including community 1:1 meetings, community workshops, pop-up stalls, meetings with key stakeholders, workshops, Council officer meetings, Council media streams, community feedback surveys and “have your say” project pages on Council’s website.

## FINANCIAL IMPLICATIONS

The program guidelines sought matching funding of \$1 for \$1 for projects submitted to the program.

At the Council meeting of 26 June 2018 Council endorsed the projects for submission and gave ‘in principle’ support and approval for Council contributions to achieve a \$1 (Council / other sources) for \$1 (Growing Suburbs Fund).

There was an additional application to Sport and Recreation Victoria for the Esther Park Synthetic Soccer Pitches project for \$250,000 which was unfortunately unsuccessful. To be able to deliver this project, currently estimated at a value of \$3 million, a further \$500,000 is required on top of Council's \$1.25 million to match the Growing Suburbs Fund allocation. It is therefore requested that Council cover the shortfall for this project by allocating \$1.75 million.

It is proposed that Council’s funding contribution towards matching the Growing Suburbs Fund allocations be comprised of:

- \$5.962 million funding contribution from the Community Futures Fund
  - \$2.5 million for the Yarra Valley Trail
  - \$2 million for the RidgeWalk project
  - \$1.462 million for the Esther Park Synthetic Soccer Pitches Project, which includes \$500,000 to meet the funding shortfall for the project.
- \$288,000 from the Asset Renewal Reserve for the Esther Park Synthetic Soccer Pitches Project
- \$3 million comprising Council's previous funding commitment of \$2.7 million together with \$300,000 from the Upper Yarra Community Enterprise to match funding provided through the Federal Government’s Building Better Regions Fund for the Warburton Mountain Bike Destination Stage 1 project.

Council’s project allocation will include a component of salary capitalisation to assist in Project Management in the delivery of the works and meeting the funding partner milestones.

## **KEY ISSUES**

### ***Environmental Impacts***

Environmental impacts will be fully explored as part of the ongoing process for each project.

Many of the proposed priority projects have the potential to demonstrate contemporary best practice and integration between nature conservation and recreation.

### ***Social Impacts***

The Health and Wellbeing Strategy identifies that high levels of obesity, dementia and poor mental health are significant issues for our community. The draft strategy identifies that increasing physical activity will deliver greater health and wellbeing outcomes. The development of these priority projects will strongly support the outcomes of the draft Health and Wellbeing strategy.

There are strong links to social and community impacts resulting from the delivery of these projects. They include:

- Enhanced community access to infrastructure that encourages health and wellbeing outcomes.
- Revitalisation of local communities.
- Reduction of social isolation.
- Reduced levels of unemployment.
- Greater connection to place.
- Increased visitor footprint.
- Increased female participation in sport and recreation.
- Increased levels of physical activity.

### ***Economic Impacts***

Construction of these key infrastructure projects will increase the footprint within the municipality. There is significant opportunity to leverage existing visitation and add significant value to the local and regional tourism offering.

### ***Risk Assessment***

The list of proposed projects attempts to capture high priority community projects which align with the Growing Suburbs Fund guidelines. Projects that align more strongly with other funding streams cannot be supported via this funding stream.



**CONCLUSION**

Four of Council's applications to the State Government's Growing Suburbs Fund were successful in receiving a combined \$8.75 million for the delivery of Warburton Mountain Bike Destination Stage 1, Yarra Valley Trail Section 1, RidgeWalk and Esther Park Synthetic Soccer Pitches.

To meet the criteria of matching \$1 for \$1 contribution and to cover the Esther Park Synthetic Soccer Pitches funding shortfall, it is proposed that Council's \$6.25 million funding contribution will be provided from the Community Futures Fund (\$5.962 million) and the Asset Renewal Reserve (\$288,000).

**ATTACHMENTS**

There are no attachments to this report.

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## 8. COUNCILLOR MOTIONS

*In accordance with Clauses 71 & 72 of Meeting Procedures and Use of Common Seal Local Law 2015*

There were no Councillor motions received prior to the agenda being printed.

## 9. ITEMS RAISED THROUGH THE CHAIR

*In accordance with Clause 80 of Meeting Procedures and Use of Common Seal Local Law 2015*

## 10. PETITIONS

*In accordance with Clause 83 of Meeting Procedures and Use of Common Seal Local Law 2015*

The following petitions have been received:

### PART A – General Petitions

1. Request to seal William Road, The Patch. 29 valid signatures.
2. Objection to landfill at 102A Killara Road, Gruyere. Residents raise concerns regarding impact to surrounding properties, safety hazards, dust and noise pollution. Residents also raised concerns with regard to damage to Killara Road, other nearby roads and the environmental impacts to the site, adjoining land and the Stringybark Creek. 62 valid signatures.

### RECOMMENDATION

***That the following listed General Petitions be received and noted and referred to the appropriate officer.***

1. ***Request to seal William Road, The Patch.***
2. ***Objection to landfill at 102A Killara Road, Gruyere.***

## 11. DOCUMENTS FOR SIGNING AND SEALING

*In accordance with Clause 80 of Meeting Procedures and Use of Common Seal Local Law 2015*

There were no documents for signing and received prior to the agenda being printed.

## 12. ASSEMBLIES OF COUNCILLORS

*The Local Government Act 1989* requires that records of Assemblies of Councillors must be kept which list the Councillors attending, the matter discussed, disclosures of conflict of interest and whether or not a Councillor left the meeting after making a disclosure.

An 'Assembly of Councillors' is defined under s3(1) of the *Local Government Act 1989* as a meeting at which matters are considered that are intended or likely to be the subject of a Council Decision or the exercise of a delegated authority and which is either of the following

- A meeting of an advisory committee where at least one Councillor is present.
- A planned or scheduled meeting that includes at least half the Councillors and at least one Council Officer.

The *Local Government Act 1989* also requires that the record of an assembly must be reported to the next practicable ordinary Council Meeting and recorded in the minutes of that meeting.

The records for Assemblies of Councillors are attached to the report.

### RECOMMENDATION

***That the following records of the Assemblies of Councillors, copies of which are attached to the report, be received and noted***

1. ***02 October 2018 - Forum Meeting.***
2. ***16 October 2018 - Council Briefing.***
3. ***16 October 2018 - Forum Meeting.***
4. ***17 October 2018 - Disability Advisory Committee.***
5. ***30 October 2018 - Forum Meeting.***

# Assembly of Councillors

## Public Record



Meeting Name:	Forum		
Date:	2 October 2018	Start Time: 7:00pm	Finish Time: 10:05
Venue:	Council Chamber, Civic Centre, Anderson Street, Lilydale		
Attendees:	<p><b>Councillors:</b> Terry Avery, Jim Child, Noel Cliff, Len Cox, Tim Heenan, Richard Higgins, Fiona McAllister (arrived 19:17) &amp; Tony Stevenson</p> <p><b>CEO/Directors:</b> Troy Edwards, Mark Varmalis, James Collins &amp; Jennifer Bednar</p> <p><b>Officers:</b> James Thorne-Stone, Manjusha Pitty, David Harper, Amanda Smith, Kelly McPherson, Isha Scott, Jo Corbett, Richard Bam, Marvella Simone, Tracey Pascoe, Madeleine Cheah, Chantelle Hepworth, Sarah Candeland</p>		
Apologies	Mike Clarke		
Declarations of Interest:	Nil		
Matter/s Discussed:	1.1	Action & Agreement Record - 18 September 2018	
	1.2	Melbourne Water Presentation on Upper Yarra Dam Safety Upgrade Project	
	1.3	Yellingbo Conservation Area Draft Plan Submission	
	1.4	Grants for Community Funding Recommendations	
	1.5	Multi-Unit Development in Metropolitan Residential Area	
	1.6	Refresh of Council's Advocacy Priorities	
	2.1	Capital Expenditure Program Monthly Report - August 2018	
	2.2	Major Projects Monthly Report end August 2018	
	2.3	Monthly Reports of Outstanding Council Actions	
	2.4	Indicative Forum & Council Meeting Schedule	
	2.5	Mayor & CEO Updates	
Completed By:	Sarah Candeland		

## Assembly of Councillors

### Public Record



Meeting Name:	Council Briefing		
Date:	16 October 2018	Start Time: 6:00 pm	Start Time: 10:22 pm
		Finish Time: 6:51 pm (Items 7.1 – 7.3)	Finish Time: 10:35 pm (Items 7.4 – 1.9)
Venue:	Council Chamber, Civic Centre, Anderson Street, Lilydale		
Attendees:	<b>Councillors:</b> Terry Avery, Jim Child, Mike Clarke, Noel Cliff, Len Cox & Tony Stevenson, Tim Heenan (arrived at 6:09)		
	<b>CEO/Directors:</b> Troy Edwards, Mark Varmalis, James Collins & Jennifer Bednar		
	<b>Officers:</b> Manjusha Pitty, Nick Wilkonson, James Thorne-Stones, David Harper, Simon Woodland, Sarah Candeland, Chantelle Hepworth, Tracey Pascoe		
Apologies	Cr Higgins, Fiona McAllister – via phone		
Declarations of Interest:	Nil		
Matter/s Discussed:	7.1	Planning Application YR-2017/752 - 39-41 Bell Street, Yarra Glen	
	7.2	Planning Application YR-2018/18 - 53-55 Canterbury Road, Montrose VIC 3765	
	7.3	Planning Application YR-2017/93 - 17-25 Maroondah Highway (PC376822U), Healesville	
	7.4	Annual Report 2017-18	
	7.5	2018-19 Revised Budget - Adoption in Principle	
	7.6	West Hill Drive and part George Street, Mount Evelyn Special Charge Scheme Final Cost	
	7.7	Solar Saver Special Charge Scheme Final Cost Report	
	1.8	Council Submission to Yellingbo Conservation Area Draft 10 Year Plan	
	1.9	Discontinuance and Transfer part Matson Drive, Upwey	
Completed By:	Sarah Candeland		

# Assembly of Councillors

## Public Record



Meeting Name:	Forum		
Date:	16 October 2018	Start Time: 7:10pm	Finish Time: 10:22pm
Venue:	Council Chamber, Civic Centre, Anderson Street, Lilydale		
Attendees:	<p><b>Councillors:</b> Terry Avery, Jim Child, Mike Clarke, Len Cox, Fiona McAllister &amp; Tony Stevenson, Tim Heenan</p> <p><b>CEO/Directors:</b> Troy Edwards, Mark Varmalis, James Collins &amp; Jennifer Bednar</p> <p><b>Officers:</b> Madeleine Cheah, Keryn Williams, Greg Box, Rhett Bertram, Kym Murphy, Terry Jenvey, Jayson Kelly, Tim Fitzgerald, Marco D’Amico, David Harper, Simon Woodland, John Richardson, Tracey Varley, Julie Scott, Bianca Rich, Anita Holman, Sarah Candeland, Chantelle Hepworth</p> <p><b>External Guests:</b> Georgia Allan &amp; Johnny Barnard (id Consulting)</p>		
Apologies	Cr Richard Higgins, Cr Noel Cliff		
Declarations of Interest:	Nil		
Matter/s Discussed:	1.1	Action & Agreement Record - 2 October 2018	
	1.2	Yarra Ranges Housing Data Analysis	
	1.3	Civic Centre Cultural Design	
	1.4	Domestic Waste Water Management Plan	
	1.5	Draft Eastern Regional Trails Strategy	
	1.6	Melbourne Outer East Region Hockey Feasibility Study	
	1.7	YREAC- Update to Terms of Reference and Membership	
	1.8	Carbon Management Program Update	
	1.9	Major Road Lighting LED Changeover	
	1.10	MAV State Council - Voting Directions	
	2.2	Monthly Reports of Outstanding Forum Actions	
	2.3	Indicative Forum & Council Meeting Schedule	
	2.4	Mayor & CEO Updates	
Completed By:	Sarah Candeland		

# Assembly of Councillors

## Public Record



Meeting Name:	Yarra Ranges Disability Advisory Committee		
Date:	17 October 2018	Start Time: 1.00pm	Finish Time: 3.00pm
Venue:	Montrose Town Centre, Montrose		
Attendees:	<p><b>Councillors:</b> Cr Len Cox,</p> <p><b>Other Attendees:</b> Michelle McDonald, Vanessa McDonald, Hilary, Rod Mellis, Anthea Forbes, Cliff Wise, Amanda Davern, June Smith, James Wood, Penny Kendall, Susanne Riddington and Aleksei Bondarenko</p> <p>Officers: Amanda May, Jake Brown, Richie Evans, Bill Morrison, Kym Mallamaci, Jo Corbett and Angela Draper</p>		
Apologies	Simone Marais, Cr Higgins, Isha Scott,		
Declarations of Interest	None		
Matter/s Discussed:	1.1	Introductions	
	1.2	Acceptance of previous minutes	
	1.3	Enabling women presentation	
	1.4	International Day of People with Disability event	
	1.5	NDIS update from members	
	1.6	Yarra Ranges Aquatic Strategy Update	
	1.7	Belgravia centres site visit	
	1.8	Emergency planning for people with disabilities	
	1.9	MetroAccess update	
	1.10	Member updates	
Completed By:	Amanda May		

# Assembly of Councillors

## Public Record



Meeting Name:	Forum		
Date:	30 October 2018	Start Time: 7:02pm	Finish Time: 9.32pm
Venue:	Council Chamber, Civic Centre, Anderson Street, Lilydale		
Attendees:	<p><b>Councillors:</b> Terry Avery, Jim Child, Mike Clarke, Noel Cliff, Len Cox, Tim Heenan, Fiona McAllister &amp; Tony Stevenson</p> <p><b>CEO/Directors:</b> Troy Edwards, Mark Varmalis, James Collins &amp; Jennifer Bednar</p> <p><b>Officers:</b> Terry Jenvey, Kim O'Connor, Lisa Keedle, Kim Murphy, Steve Jones, Sarah Candeland, Tracey Varley, Rob Jones, Guy Masters, Ken White</p>		
Apologies	Cr Richard Higgins		
Declarations of Interest:	Nil		
Matter/s Discussed:	1.1	Action & Agreement Record - 16 October 2018	
	1.2	Expanding Project Scope of Aquatic Feasibility Study	
	1.3	Strategic Direction for Unsealed Road Construction	
	1.4	Black Saturday 10th Anniversary Arrangements	
	1.5	Pre Summer Emergency Management Briefing	
	1.6	2019 Council Meeting Dates	
	1.7	2018-19 Appointments to Committees and External Bodies	
	2.1	Major Projects Quarterly Report end September 2018	
	2.2	Capital Works Program Quarterly Report September 2018	
	2.3	Monthly Reports of Outstanding Forum Actions	
	2.4	Indicative Forum & Council Meeting Schedule	
	2.5	Mayor & CEO Updates	
Completed By:	Sarah Candeland		



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### **13. REPORTS FROM DELEGATES**

*In accordance with Clause 30 of Meeting Procedures and Use of Common Seal Local Law 2015*

### **14. CONFIDENTIAL ITEMS**

*In accordance with section 89(2) of the Local Government Act 1989*

There have been no confidential items listed for this agenda.

### **15. DATE OF NEXT MEETING**

The next Ordinary meeting of Council is scheduled to be held on Tuesday 11 December 2018 commencing at 7:00pm, at Council Chamber, Civic Centre, Anderson Street, Lilydale.



***In providing for the good governance of its community, Councillors are reminded of their obligation to abide by the provisions as set within the Local Government Act 1989 and the Code of Conduct for Councillors.***

***When attending a Council Meeting, Councillors should adhere to the procedures set out in the Meeting Procedures and Use of Common Seal Local Law.***

*The following is a guide for all Councillors to ensure they act honestly, in good faith and in the best interests of Yarra Ranges as a whole.*

- 1. Councillors will respect the personal views of other Councillors and the decisions of Council.*
- 2. Councillors may publicly express their own opinions on Council matters but not so as to undermine the standing of Council in the community.*
- 3. The Mayor is the official spokesperson for Council.*
- 4. Councillors will incur expenditure in a responsible manner and in accordance with the Councillor Expenditure and Policy.*
- 5. Councillors will avoid conflicts of interest and will always openly disclose any direct and indirect interests where they exist.*
- 6. Councillors will act with integrity and respect when interacting with Council staff and members of the public.*
- 7. Councillors will demonstrate fairness in all dealings and conduct and be open with and accountable to the community at all times.*
- 8. Councillors will conduct themselves in a manner that does not cause detriment to Council or the Yarra Ranges community.*

***This guidance forms part of the [Code of Conduct for Councillors, adopted on 14 February 2017](#). The Code of Conduct is reviewed following each Council Election.***