



City of Whitehorse

MINUTES

Virtual Council Meeting

Held via Zoom

on

Monday 20 September 2021

at 7:00pm

Members: Cr Munroe (Mayor), Cr Barker, Cr Carr (Deputy Mayor), Cr Cutts, Cr Davenport, Cr Lane, Cr Liu, Cr McNeill, Cr Massoud, Cr Skilbeck, Cr Stennett

Mr Simon McMillan
Chief Executive Officer

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Meeting opened at 7:00pm

Present: (Mayor) Cr Munroe, Cr Barker, Cr Carr (Deputy Mayor), Cr Cutts, Cr Davenport, Cr Lane, Cr Liu, Cr McNeill, Cr Massoud, Cr Skilbeck, Cr Stennett

Officers: S McMillan, S Cann, J Green, L Letic, S White, S Sullivan, V Ferlaino, C Altan, J Russell, R Johnston

1 PRAYER

1a Prayer for Council

We give thanks, O God, for the Men and Women of the past whose generous devotion to the common good has been the making of our City.

Grant that our own generation may build worthily on the foundations they have laid.

Direct our minds that all we plan and determine, is for the wellbeing of our City.

Amen.

1b Aboriginal Reconciliation Statement

"Whitehorse City Council acknowledges the Wurundjeri Woi Wurrung people of the Kulin Nation as the traditional owners of the land we are meeting on and we pay our respects to their Elders past, present and emerging and Aboriginal and Torres Strait Islanders from communities who may be present today."

2 WELCOME AND APOLOGIES

The Mayor welcomed all

APOLOGIES: Nil

3 DISCLOSURE OF CONFLICT OF INTERESTS

The Mayor Cr Munroe declared a direct conflict of interest in Item 9.1.5 Request to Occupy Council Owned Land from Telstra Corporation Limited as he is employed by Telstra.

4 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

Minutes of the Council and Confidential Council Meeting 16 August 2021.

COUNCIL RESOLUTION

Moved by Cr Massoud, Seconded by Cr Cutts

That the minutes of the Council and Confidential Council Meeting 16 August 2021 having been circulated now be confirmed.

CARRIED UNANIMOUSLY

5 RESPONSES TO QUESTIONS

5.1 Mr P Derham, submitted two questions on behalf of the Joint Parks Advisory Committees within the City of Whitehorse

Question 1.

Will the Whitehorse City Council's support for the existing Parks Advisory Committees' format (of volunteers undertaking pre-agreed park maintenance, other environmental activities, and with the Whitehorse City Council providing insurance cover for registered Parks Advisory Committee members and on-the-day registered volunteers, when they are undertaking those pre-advised and pre-agreed working bees), continue until June 30, 2022 while the current situation about their format is resolved?

Mr Steven White Director Infrastructure read out the question and responded on behalf of Council:

The existing Parkland Advisory Committees will continue to be supported whilst Council works through the current issues surrounding insurances, there will be some alternative arrangements in place to ensure adequate protection and safety for volunteers to mitigate any insurance risks.

Question 2.

Will the Whitehorse City Council set up an in-person workshop with Councillors, Senior Whitehorse City Council staff and representatives of the Parks Advisory Committees to identify the problems with the current Parks Advisory Committee setup, the Council's needs of that volunteer activity, and Parks Advisory Committee volunteers' needs?

The workshop would be to develop an appropriate model for Whitehorse City Councillors' consideration at their February 2022 meeting, with implementation of that format to begin on July 1, 2022.

Mr Steven White Director Infrastructure read out the question and responded on behalf of Council:

The consultation period on possible changes to Parkland Advisory Committees recently closed. The information received is currently being collated and reviewed. Further information is being sought on some of the issues that have been raised, and it is planned that a further meeting with Parkland Advisory Committee members will be held to discuss the consultation outcomes.

5.2 Mr P Carter, Box Hill North, submitted two questions on Vicinity Centres' proposals for a 51 Storey Residential Tower and 28 Storey Commercial Building.

Question 1.

Vicinity Centres has proposals for a 51 Storey Residential Tower and 28 Storey Commercial Building. In accompanying documentation, it refers to its Master Plan for Box Hill Metropolitan Activity Centre, and meetings with Whitehorse, VicTrack, and Department of Transport officers. The Masterplan was discussed with many at these meetings and provide context for development. Plan Melbourne is the State Government's policy for Melbourne's development and presents the vision of the 20 minute neighbourhood, of which Strategic Cycling Corridors are a key element. Does the Masterplan include reference to the two Strategic Cycling Corridors that serve Box Hill Metropolitan Activity Centre, including how Vicinity envisages where it's aligned and developed within the Box Hill Metropolitan Activity Centre?

Mr Jeff Green Director City Development read out the question and responded on behalf of Council:

The Vicinity Master Plan only relates to a small section of the Box Hill Metropolitan Activity Centre, that being the land occupied by the existing northern shopping centre owned by Vicinity. Where applicable reference is made to the Strategic Cycling Corridors in the Master Plan.

Question 2.

The Department of Transport 'Strategic Cycling Corridor' shows the indicative location of the two Strategic Cycling Corridors in Box Hill Metropolitan Activity Centre.

<https://transport.vic.gov.au/getting-around/walking-and-cycling/strategic-cycling-corridors>

If Vicinity does show the two Strategic Cycling Centre in their Masterplan, are those locations different to that shown in the Department of Transport map?

Mr Jeff Green Director City Development read out the question and responded on behalf of Council:

The reference to the Strategic Cycling Corridors are consistent with the Department of Transport Map..

5.3 Mr J Maxwell, Mitcham, submitted a question on Vicinity Linkages both for the Rail Trail and for North-South Link.

Question 1.

COVID has highlighted that good active transport connections for travelling around Whitehorse are very, very important. Council has made a great start with its Easy Ride routes, research here in Australia and overseas has shown that connectivity is crucial for the majority of people to use such infrastructure. One of the most important links is the Box Hill CBD, both for the Rail Trail and for a North-South link. I have tried to read the Vicinity applications for redevelopment, I cannot find any satisfactory linkage for either of these. Will Council commit to ensuring that Vicinity includes these linkages?

Mr Jeff Green Director City Development read out the question and responded on behalf of Council:

Reference has been made to these linkages in the Vicinity Master Plan where applicable. Council is committed to the Vicinity Master Plan not precluding the delivery of these linkages.

5.4 Mr G Stone, Blackburn, submitted a question on future development works by Vicinity

Question 1.

Hello Councillors, I am a local cyclist regularly using the 'goods delivery' bridge connecting the Mall to Prospect Street and Thurston Street to Aqualink. I understand that this critical link may be removed in future development works by Vicinity. I am extremely concerned at such an action as it is critical to the Box Hill to Hawthorn Proposed Rail Trail and serves the linking of the existing Box Hill to Ringwood Rail Trail which stops at Station Street.

Are Council developing plans to meet these important North-South and East-West connections for people who aim to be active in their transport options?

Mr Jeff Green Director City Development read out the question and responded on behalf of Council:

Council has engaged a consultant to undertake a feasibility study for a rail overpass, cycling connection linking Nelson Road and Thurston Street. Such connection would compensate for any loss of the 'goods delivery' bridge.

6 NOTICES OF MOTION

6.1 Notice of Motion No. 152 Cr Liu

MOTION

Moved by Cr Liu, Seconded by Cr Cutts

That Council write to the Minister for Transport and the State Member for Box Hill requesting that the Department of Transport review its new process for the issuing of Accessible Parking Permits due to the impact on the ability for charitable community/not-for-profit groups, for example the Chinese Cancer and Chronic Illness Society of Victoria, to obtain permits and the adverse effect this has on such groups to deliver their important services to the community.

AMENDMENT

Moved by Cr Barker, Seconded by Cr Davenport

That Council write to the Minister for Transport and the State Member for Box Hill, Forest Hill, Burwood and Ringwood requesting that the Department of Transport review its new process for the issuing of Accessible Parking Permits.

LOST

COUNCIL RESOLUTION

Moved by Cr Liu, Seconded by Cr Cutts

That Council write to the Minister for Transport and all State Members of Parliament in Whitehorse requesting that the Department of Transport review its new process for the issuing of Accessible Parking Permits due to the impact on the ability for charitable community/not-for-profit groups, for example the Chinese Cancer and Chronic Illness Society of Victoria, to obtain permits and the adverse effect this has on such groups to deliver their important services to the community.

CARRIED UNANIMOUSLY

6.2 Notice of Motion No 153: Cr Stennett

That Council Officers:

1. *Write to the Department of Transport providing a background of traffic conditions along Alwyn St, Mitcham including the formal resident petition and Council response.*
2. *Advise the Department of Transport of the community concerns relating to trucks using Alwyn St and causing damage to street trees.*
3. *Request approval from the Department of Transport for Council to implement a truck ban along Alwyn St, between Mitcham Rd and Rooks Rd*
4. *Seek approval from the Department of Transport for the implementation of a reduced 30km/h speed limit for Alwyn St, between Mitcham Rd and Rooks Rd.*
5. *Replace all trees damaged and lost along Alwyn St with Pin Oaks.*

MOTION

Moved by Cr Stennett, Seconded by Cr Cutts

That Council Officers:

1. *Write to the Department of Transport providing a background of traffic conditions along Alwyn St, Mitcham including the formal resident petition and Council response.*
2. *Advise the Department of Transport of the community concerns relating to trucks using Alwyn St and causing damage to street trees.*
3. *Request approval from the Department of Transport for Council to implement a truck ban along Alwyn St, between Mitcham Rd and Rooks Rd.*
4. *Seek approval from the Department of Transport for the implementation of a reduced 30km/h speed limit for Alwyn St, between Mitcham Rd and Rooks Rd.*
5. *Replace all Pin Oak trees damaged and lost along Alwyn St with Pin Oaks.*

AMENDMENT

Moved by Cr Davenport, Seconded Cr Barker

That Council Officers:

1. *Write to the Department of Transport providing a background of traffic conditions along Alwyn St, Mitcham including the formal resident petition and Council response.*
2. *Advise the Department of Transport of the community concerns relating to trucks using Alwyn St and causing damage to street trees.*
3. *Request approval from the Department of Transport for Council to implement a truck ban along Alwyn St, between Mitcham Rd and Rooks Rd*
4. *Seek approval from the Department of Transport for the implementation of a reduced 30km/h speed limit for Alwyn St, between Mitcham Rd and Rooks Rd.*
5. *Replace all Pin Oak trees damaged and lost along Alwyn St with indigenous trees recommended by the Tree Education Officer which are consistent with Whitehorse Urban Biodiversity Strategy.*

LOST

A Division was called.

Division

| For | Against |
|--------------|----------------|
| Cr Barker | Cr Carr |
| Cr Davenport | Cr Cutts |
| Cr Munroe | Cr Lane |
| | Cr Liu |
| | Cr Massoud |
| | Cr McNeill |
| | Cr Skilbeck |
| | Cr Stennett |

On the results of the Division the motion was declared LOST

The Mayor indicated he would put the Substantive Motion of 6.2 Notice of Motion No. 153 to the vote in two parts - points 1-4, and point 5.

**The Mayor put points 1 to 4 to the vote which was CARRIED
UNANIMOUSLY**

The Mayor put point 5 to the vote which was LOST

A Division was called on point 5.

Division

| For | Against |
|-------------|----------------|
| Cr Carr | Cr Barker |
| Cr Cutts | Cr Davenport |
| Cr Lane | Cr Liu |
| Cr McNeill | Cr Massoud |
| Cr Stennett | Cr Munroe |
| | Cr Skilbeck |

On the results of the Division the motion was declared LOST

COUNCIL RESOLUTION

Moved by Cr Stennett, Seconded by Cr Cutts

That Council Officers:

- 1. Write to the Department of Transport providing a background of traffic conditions along Alwyn St, Mitcham including the formal resident petition and Council response.***
- 2. Advise the Department of Transport of the community concerns relating to trucks using Alwyn St and causing damage to street trees.***
- 3. Request approval from the Department of Transport for Council to implement a truck ban along Alwyn St, between Mitcham Rd and Rooks Rd.***
- 4. Seek approval from the Department of Transport for the implementation of a reduced 30km/h speed limit for Alwyn St, between Mitcham Rd and Rooks Rd.***

CARRIED UNANIMOUSLY

Attendance

Cr Davenport left the virtual meeting at 8:10pm and returned at 8:11pm.

7 PETITIONS

7.1 Simpson Park, Mitcham

A petition signed by 122 signatories has been received requesting Council to abandon the proposal to construct an enclosed (fenced) dog park for Simpson Park and to retain the grass area north of the oval as open space for the benefit of all park users.

COUNCIL RESOLUTION

Moved by Cr Cutts, Seconded by Cr Carr

That the petition be received and referred to the Director Community Services for appropriate action and response.

CARRIED UNANIMOUSLY

8 URGENT BUSINESS

COUNCIL RESOLUTION

Moved by Cr McNeill, Seconded by Cr Lane

That the Council accept an Item of Urgent Business.

CARRIED UNANIMOUSLY

8.1 Suburban Rail Loop

COUNCIL RESOLUTION

Moved by Cr Barker, Seconded by Cr McNeill

That Council:

1. *Notes that the Suburban Rail Loop Bill 2021 passed a third reading in the Victorian lower house.*
2. *Develop a graphic representation document showing the extent of areas (1.6 km radius for the proposed Box Hill and Burwood stations) that the state government will have authority to assume planning control for.*
3. *Develop an accessible summary of Council's concerns regarding the Suburban Rail Loop Bill/Act.*
4. *Resolves to publish the graphic representation and summary document in the Whitehorse news, website and on social media channels.*

The Mayor indicated he would put points 1 and 3, and 2 and 4 of the motion to the vote in parts

The Mayor put points 1 and 3 of the motion to the vote which was
CARRIED UNANIMOUSLY

The Mayor put points 2 and 4 of the motion to the vote which was
CARRIED

A Division was called.

Division

For

Cr Barker
Cr Carr
Cr Cutts
Cr Davenport
Cr Lane
Cr Massoud
Cr McNeill
Cr Munroe
Cr Skilbeck
Cr Stennett

Against

Cr Liu

On the results of the Division the motion was declared **CARRIED**

9 COUNCIL REPORTS

9.1 CITY DEVELOPMENT

9.1.1 Infrastructure and Development Contributions Framework (Stage One)

FILE NUMBER: SF20/1071
ATTACHMENT

SUMMARY

This report provides an update on the Infrastructure and Development Contributions Framework. Stage One of this work has culminated in a report that provides an overarching information base for Council to consider how infrastructure funding and delivery mechanisms can be used to meet infrastructure needs over time. A thorough review of Council's strategies and policies relating to development and infrastructure provision has determined that Council has a sound basis for the introduction of an infrastructure funding mechanism. It is recommended that Council proceed with the preparation of a municipal wide Development Contributions Plan (DCP) which has the potential to recover around 20% of the total cost to Council of all projects listed in the DCP from new development.

COUNCIL RESOLUTION

Moved by Cr McNeill, Seconded by Cr Davenport

That Council endorse the Infrastructure and Development Contributions Framework, July 2021, prepared by HillPDA shown in Attachment 1 as the basis for the next stage of the project involving the preparation of a Development Contributions Plan for the municipality.

CARRIED UNANIMOUSLY

BACKGROUND

The need to investigate a development contributions mechanism for City of Whitehorse was identified some time ago.

Most recently, the need for Council to further explore development contributions systems was reinforced by the Managing Development Contributions, March 2020 report from the Victorian Auditor-General's Office (VAGO). The VAGO report noted that Council was missing out on development contributions from the significant development that has occurred in the municipality, particularly in Box Hill. The VAGO report highlighted the complexity of the development contributions system in Victoria and the challenges, rigour and resources required for councils that seek to implement such a system.

In 2017, strategic work was undertaken to inform a suitable development contribution mechanism for the Box Hill Metropolitan Activity Centre (MAC). This work recommended investigating the application of an Infrastructure Contributions Plan (ICP) for the Box Hill MAC. The ICP mechanism was established by the State Government in response to a detailed review of the Development Contributions System in 2012, which recommended the introduction of a standardised system. At the time of this strategic work and at present, the ICP mechanism is only available to greenfield growth areas. The ICP system was intended to apply to strategic development areas, such as the Box Hill MAC, but this has not yet eventuated. In its absence, a Development Contributions Plan Overlay (DCPO) remains as the primary mechanism available through the Whitehorse Planning Scheme.

In recognition of a need to explore development contributions mechanisms in Whitehorse, Council allocated funding for a new project in the 2020/21 and 2021/22 financial years.

9.1.1 (cont)

In October and November 2020 Council publicly advertised a tender that sought the services of a consultant to prepare an Infrastructure and Development Contributions Framework (the Framework) for the municipality. After a detailed evaluation process, HillPDA was appointed as the lead consultant and work commenced in late January 2021.

The Framework report prepared in **Stage 1** of the project is intended to provide an overarching analysis and review of the factors that drive change and development in the municipality, including growth projections. It will determine the infrastructure needs of the municipality over approximately the next two decades and how these needs may be partly funded through contributions from new development.

Stage 2 will build on the work completed in Stage 1 and involve the preparation of the development contributions mechanism, including its strategic basis and further refinement of the infrastructure projects list. **Stage 3** will involve an implementation plan that details the Council systems and procedures needed to support the agreed framework and meet legislative requirements, and **Stage 4** will comprise drafting of the planning scheme amendment documentation. It is anticipated that the current project with HillPDA will be completed in January 2022.

DISCUSSION

Stage 1 of the project has culminated in the Infrastructure and Development Contributions Framework Report (the Report) prepared by HillPDA shown in Attachment 1. The report provides an overarching information base that considers the demand for infrastructure across the municipality and how Council can use infrastructure funding and delivery mechanisms to meet needs over time.

The report includes an extensive review of Council policies and strategies at Section 8.0. This review highlights that Council has a significant body of information relating to strategic planning for future development and infrastructure needs to support existing and new development. This information can form the basis of infrastructure funding mechanisms. The Report includes a small number of policies and strategies that are in draft format and have not yet been presented to the Councillor group. It is envisaged that these strategies and policies will be removed from the Report prior to it being presented to the Councillors.

For a funding mechanism to be supported, a specific list of projects is required and must include the location, cost and an accurate description of the works. HillPDA has reviewed Council's infrastructure project plans, including the 10-year Capital Works Plan, and provided an overview of potential projects for a funding program, such as a Development Contributions Plan (DCP) at Section 10.0 of the Report. A project list is also attached at the end of the Report. It is noted that this list is a work in progress and will be refined and updated in the next stage of work.

It is recommended that Council pursue a DCP funding mechanism which is implemented through a DCPO in the Whitehorse Planning Scheme. A Planning Scheme Amendment would be required if this recommendation is pursued.

A DCP would collect levies based on residential and non-residential development that requires a planning and / or building permit. It would not collect levies from development that has been constructed (and obtained required permits) prior to the DCP becoming operational via gazettal of an amendment to include the DCPO in the Planning Scheme. The DCP levies can vary across the municipality with 'charge areas' applying specific levies based on the catchment areas of the infrastructure projects listed in the DCP. It is anticipated that a municipal wide DCP in Whitehorse may include 17 different charge areas.

9.1.1

(cont)

The cost recovery from a municipal wide DCP will depend on which projects are included in the DCP project list, the location and catchment area of the projects, and the extent of new development anticipated in the catchment areas. This will be assessed in the next stage of the work however, HillPDA has suggested that cost recovery could be around 20% as a municipal wide average. It is noted that the Box Hill Metropolitan Activity Centre would have a higher cost recovery rates of up to approximately 50% given the extent of development anticipated.

The Framework recommends that Council proceed with preparing a DCP as this is a wide reaching tool that can apply to the entire municipality and help deliver essential infrastructure.

CONSULTATION

Extensive internal consultation has occurred across a wide range of internal departments. This consultation and information sharing has assisted with the identification of potential projects that could be funded by a development contributions mechanism and the projections that would inform such a system. Internal consultation is ongoing and will assist in refining the project list and broadening the organisation's understanding of the development contribution system in preparation for its potential implementation.

No external consultation has occurred to date. Once the work from the project is publicly available, the project will be profiled on the Council website to inform the community. This information will set out the next steps of the project.

Consultation with the community will occur as part of any future planning scheme amendment process that proposes to implement a Development Contributions Plan Overlay in the municipality. During this process the community will be invited to provide feedback on the proposed planning scheme amendment, including any proposed Development Contributions Plan.

Engagement with the Department and Environment, Land, Water and Planning is also occurring during the project.

FINANCIAL IMPLICATIONS

| | Budget | Expenditure |
|------------------|---------|-----------------------------|
| 2020/21 | 200,000 | 59,400 - as at 30 June 2021 |
| 2021/22 | 200,000 | |
| Sub Total | 400,000 | 59,400 |
| Total | 400,000 | 59,400 |

The tendering process was delayed in 2020 due to the caretaker period before the Council elections. HillPDA were appointed in early January 2021 and commenced the project at the end of the month.

The project timeframes set out in the request for tender were ambitious given the complexity of the project and the extent of information required from numerous departments within Council. Collation of property data and project information has required considerable input and time from Council officers. HillPDA has progressed the project as much as possible with the information that has been provided and issued a Draft Stage 1 Report before the end of the 2020/21 year.

As an important budget initiative, there is a desire to keep this project progressing into the subsequent stages. It is noted that some of the work in stages 2, 3 and 4 can proceed simultaneously.

9.1.1

(cont)

POLICY IMPLICATIONS

The Infrastructure and Development Contributions Framework supports the following Council Plan 2017-2021 strategic directions:

- Maintain and enhance our built environment to ensure a liveable and sustainable city.
- Strategic leadership and open and accessible government.

Plan Melbourne 2017-2050 is the metropolitan planning strategy and identifies areas expected to accommodate significant growth and change, in particular the Box Hill Metropolitan Activity Centre and a further four Major Activity Centres. This anticipated growth and change in Whitehorse has subsequent impacts on local infrastructure needs and demands.

The following State Policies in the Planning Policy Framework of the Planning Scheme are of relevance to the Framework and the steps that will follow.

Clause 19.03-1S (Development and infrastructure contributions plans) contains the following objective,

“To facilitate the timely provision of planned infrastructure to communities through the preparation and implementation of development contributions plans and infrastructure contributions plans”.

Clause 19.03-1S also states the following strategies of relevance to this project:


- Prepare development contributions plans and infrastructure contributions plans under the Planning and Environment Act 1987, to manage contributions towards infrastructure.
- Collect development contributions on the basis of approved development and infrastructure contributions plans.
- Require annual reporting by collecting and developing agencies to monitor the collection and expenditure of levies and the delivery of infrastructure.

The Local Planning Policy Framework (LPPF), includes the following strategy under Clause 21.08 (Infrastructure):

- Obtaining developer contributions toward cumulative infrastructure needs to which development will add further demand.

To support this, the ‘further strategic work’ clause at 21.08-6 recommends, *“Investigate appropriate tools and locations for requiring Development Contributions across the municipality.* This project is a direct response to this further work direction.

ATTACHMENT

- 1 Infrastructure and Development Contributions Framework 

9.1.2 Amendment C220 Residential Corridors Built Form Study Planning Scheme Amendment Authorisation

FILE NUMBER: SF19/379
ATTACHMENT

SUMMARY

Council engaged planning consultants Ethos Urban to undertake the Residential Corridors Built Form Study (the Study). The Study provides built form guidelines for those areas in the municipality along key road corridors envisaged for substantial housing growth that interface with less intense residential development. At the meeting on 29 January 2019 Council resolved to seek authorisation from the Minister for Planning to undertake a planning scheme amendment to implement the Study.

This report provides a summary of the conditions of authorisation imposed by the Department of Environment, Land, Water and Planning in order to proceed with the planning scheme amendment. This report recommends that Council progress the amendment by submitting a revised Design and Development Overlay to the Minister for Planning for re-authorisation to exhibit the controls

COUNCIL RESOLUTION

Moved by Cr Skilbeck, Seconded by Cr Massoud

That Council submit a revised planning scheme amendment as shown in Attachment 1 to the Minister for Planning for re-authorisation to exhibit in accordance with section 17 (3) of the Planning and Environment Act 1987.

CARRIED

A Division was called.

Division

| For | Against |
|-------------|----------------|
| Cr Barker | Cr Carr |
| Cr Cutts | Cr Davenport |
| Cr Liu | Cr Lane |
| Cr Massoud | Cr McNeill |
| Cr Munroe | Cr Stennett |
| Cr Skilbeck | |

On the results of the Division the motion was declared CARRIED

BACKGROUND

Council engaged planning consultants Ethos Urban in late 2017 to undertake the Residential Corridors Built Form Study, which was a new budget initiative in the 2017/2018 Council budget. The Study produced draft built form guidelines for those areas in the municipality along key east-west road corridors (Burwood Highway and Whitehorse Road) where land in the Residential Growth Zone (RGZ) interfaces with land in the Neighbourhood Residential Zone (NRZ) and the General Residential Zone (GRZ).

At the Council meeting on 29 January 2019, Council resolved to:

1. Adopt the Draft Residential Corridors Built Form Study at Attachment 1.
2. Seek authorisation from the Minister for Planning under the Planning and Environment Act 1987 (Section 8a) to prepare and exhibit an amendment to the Whitehorse Planning Scheme to implement the recommendations of the Study.
3. Advise all submitters to the Residential Corridors Built Form Study consultation of this resolution.

9.1.2 (cont)

Council officers submitted the request for authorisation on 11 October 2019 following an extensive review of the proposed controls, including legal input. A request for further information was issued by the Department of Environment, Land, Water and Planning (DELWP) on 16 December 2019. Following a meeting between representatives from DELWP and Council in early January 2020, a response to the further information request was submitted by Council on 24 January 2020. Council officers liaised with DELWP on numerous occasions and a letter of authorisation, with conditions, was issued by DELWP under delegation from the Minister for Planning on 17 February 2021 (Attachment 2).

DISCUSSION

DELWP has authorised Council to prepare Amendment C220 for exhibition subject to the following conditions:

Table 1: Amendment C220 – Conditions of Authorisation

| Minister's condition | Officer response |
|---|--|
| 1. Revise the DDO11 to ensure that: | |
| a) It is consistent with the Ministerial Direction on the Form and Content of Planning Schemes. | <p><u>Condition addressed</u></p> <p>Officers have reviewed the draft controls to ensure it is consistent with all relevant Ministerial Directions.</p> <p>Council officers engaged a legal practitioner to undertake a review of the proposed changes to the DDO in response to Minister's conditions of authorisation. The legal review concluded that the updated DDO is written according to the Minister's Direction on the Form and Content of Planning Schemes.</p> |
| b) The side and rear setback requirements are discretionary, not mandatory. | <p><u>Condition not supported</u></p> <p>Tall buildings with no spacing between buildings would be very imposing along the narrow RGZ corridors, both limiting long distance views to the east, as well as dominating the immediate low rise development in the adjoining residential zones and potentially appearing as an almost continual and dominating built form to those interfaces. Increased side and rear setbacks will make buildings less imposing along the corridor and to adjoining land.</p> <p>Mandatory setbacks allow for greater opportunities for deep soil planting, landscaping and space between buildings to minimise the need for screening measures and resulting poor built form outcomes. If consistently applied through mandatory controls, a minimum 4.5 metre side setback equates to 9 metres between buildings. This is generally considered sufficient for privacy without needing screening, which could be considered a compromised built form outcome.</p> <p>The use of consistent setbacks will provide certainty to landowners and neighbouring properties and remove the possibility of inequitable setbacks impacting on future developments. The mandatory separations will also facilitate sizeable tree planting, and more successful tree retention, between buildings and to rear interfaces with other zones, which in itself will improve privacy and outlook.</p> <p>Mandatory controls are only proposed where deemed necessary to prescribe a strategically justified built form outcome. The proposed mandatory controls will apply to a relatively small percentage of land in the municipality affected by the RGZ along these corridors, which will provide certainty for landowners along the corridor. As such, Council officers do not recommend any changes to the mandatory controls.</p> |

9.1.2 (cont)

| Minister's condition | Officer response |
|---|--|
| c) Provisions are worded consistently with the head provision. | <u>Condition addressed</u> Officers have reviewed the draft provisions to ensure they are consistent with the head controls. |
| d) The design objectives (i) remove reference to equitable development rights and (ii) include an objective in relation to lot consolidation. | <u>Condition (i) not supported; Condition (ii) addressed</u> Equitable development rights are an important concept that has been approved in other DDOs, including DDO10 in the Melbourne Planning Scheme, where a design objective states "to ensure that new buildings provide equitable development rights for adjoining sites and allow reasonable access to privacy, sunlight, daylight and outlook for habitable rooms". This was included through Amendment C270melb in 2016. The legal review also concurred with officers that equitable development rights are an important concept and the design objective should be retained. As such, Council officers do not recommend removing the reference to equitable development rights in the design objectives. It is acknowledged that consolidated sites have potential to achieve better built form and amenity outcomes and that a number of new developments in the corridors have assembled adjoining sites. An objective supporting consolidation of lots therefore has merit and it is recommended that an objective relating to lot consolidation be added. |
| e) Permit exemptions for small scale buildings and works are included. | <u>Condition addressed</u> As discussed at a meeting with DELWP on 7 January 2020 and included in the subsequent written response provided on 24 January 2020, Council officers do not have any concerns with exempting smaller applications for minor buildings and works e.g. outbuildings, however DELWP suggested that the proposed DDO exempts development 4 storeys and under. Officers do not consider such development to be small scale buildings and works. Officers recommend that developments 3 storeys and under are exempt from the permit requirements of the DDO11. This means that developments 3 storeys and under would be assessed against ResCode. |
| f) It is clear that the shadowing requirement relates to 'additional' shadowing of adjacent 'public' open space. | <u>Condition addressed</u> DELWP stated that 'public' open space should be added to distinguish the type of open space. They also recommended to add 'additional' as it is quite impossible to not have any overshadowing to the west facing open space during the time specified (being between 12pm and 2pm on 22 September). The DDO has been updated to reflect this condition. |
| 2. Revise the drafting of the explanatory report to reflect any changes made to the amendment in response to the authorisation conditions. | <u>Condition addressed</u> The updated explanatory report is at Attachment 1. |

In the letter of authorisation, Council has also been encouraged to consider whether the proposed height controls are implementable, the implications for lot consolidation and the requirements of Clause 58 (Apartment Developments).

9.1.2

(cont)

Height and setback controls

The DDO submitted for authorisation included a preferred maximum building height of 13 metres (4 storeys) along Burwood Highway, east of Springvale Road and a preferred maximum building height of 16 metres (5 storeys) in all remaining areas. A mandatory maximum building height of 19 metres (6 storeys) applied in all areas.

DELWP is seeking to understand if the proposed DDO encourages developments of 5 storeys or greater (noting that a maximum height of 6 storeys is proposed), when it was Council's original intention that ResCode standards apply to development 4 storeys and less.

Council officers note DELWP's concerns about the proposed mandatory height and whether this will result in any unintended outcomes, such as limiting the development potential of sites. The planning system and DELWP's practice notes provide the ability to identify areas for growth, but also to have parameters around that growth. DDO11 will allow Council to manage the form of development above the 4 storey objective specified in the RGZ, by applying mandatory building height and setback requirements to developments that exceed the 4 storey objective specified in the zone.

A mandatory maximum height of 6 storeys is intended to apply across all locations covered by the DDO. This is to maintain a sense of openness and access to the sky views along the road corridors, as well as maximise solar access to the low scale residential development of the adjacent residential areas. It will also assist in the transition between the different scales of adjoining development and minimise built form impacts such as visual bulk.

The built form testing of recent planning permit approvals undertaken in the Study established that the development capacity is maintained and potentially increased with the proposed height and setback controls within the RGZ corridors. The potential built form typologies reflect a varied built form response that provide greater opportunities for deep soil planting, large canopy trees and landscaping.

The provision of opportunities for planting large canopy trees is consistent with the *Whitehorse Neighbourhood Character Study 2014* which states that "vegetation is generally the most significant determinant of neighbourhood character" in Whitehorse. The controls will assist in the promotion and growth of the urban tree canopy and therefore the DDO11 is aligned with objectives in *Plan Melbourne*, *Living Melbourne* and the Planning Scheme to promote urban tree canopy.

Officers recommend Council retain the mandatory maximum building height of 6 storeys across all areas where the DDO is intended to apply, but remove the preferred maximum building heights. Currently there are buildings which exceed the preferred height along Burwood Highway, such as the development at 5 Stanley Road, Vermont South. This will also provide a more straightforward approach to building heights along the corridors and is more likely to be supported by DELWP. However, officers recommend inclusion of the preferred heights as guidance in the local planning policy (see Attachment 1).

In the authorisation letter DELWP also had concerns as to whether the proposed DDO can encourage a 4-storey preferred height for buildings on Burwood Highway, east of Springvale Road. DELWP has subsequently suggested that Council could consider not requiring a permit under the proposed DDO to construct a building or carry out works for a development up to 3 storeys. This would enable Council to apply requirements of the DDO to developments 4 storeys and above, but only those elements relating to landscaping, overshadowing and pedestrian interface.

9.1.2 (cont)

Council's legal review concluded that DELWP's advice would be a pragmatic way forward, whereby the interfaces to the NRZ and GRZ of buildings up to 3 storeys in the RGZ (e.g.: on single, unconsolidated lots) would be adequately dealt with via Clause 55 (ResCode). The table below highlights different development scenarios and what controls would apply if the updated DDO was ultimately approved. Officers therefore recommend the inclusion of this permit requirement in the proposed DDO.

| Development scenario | Controls that would apply |
|----------------------|--|
| 3 storeys and under | ResCode (Clause 55) |
| 4 storeys | ResCode (Clause 55) and landscaping, overshadowing and pedestrian interface elements of the proposed DDO |
| 5 storeys and above | Clause 58 (Apartment Guidelines) and proposed DDO in full |

Lot consolidation

DELWP seeks to understand if the requirements of DDO11 make development of unconsolidated sites feasible. Council officers acknowledge DELWP's concerns that most sites require consolidation to be able to develop under the proposed controls, however consolidation of lots is already occurring throughout the corridor with two lot consolidations being sufficient to provide a superior development site of 1200-1500m². Of the permit applications that were considered as part of the Study (applications received and permits issued for multi-unit development within the Study area over the last 5 years), approximately 80% of applications included the consolidation of two or more lots. Three applications did not involve site consolidation, two of those sites were large existing sites (1201m² and 7421m²).

While the Study pointed to a limited number of sites where the DDO11 might apply, this related to the existing lot configurations. Council anticipates further consolidation of lots into the future and identified 17 instances of two adjoining sites and two instances of three adjoining sites to have the same property owner along Burwood Highway (at October 2020).

Concern that the controls will hamper development of narrower or irregular sites is unfounded as the vast majority of sites are standard lots of 600-800m² and very few 'special cases' exist. If a site is not of a sufficient size then landowners may not be able to achieve the allowable height which would result in a ResCode outcome or more likely (based on the existing trends) a 3 storey townhouse arrangement. This is already the case without the proposed DDO.

Clause 58 of the Planning Scheme (Better Apartment Design Standards)

Clause 58 contains standards for apartment development 5 storeys and above. Specifically it includes standards relating to maximum room depth and cross ventilation, both of which impact floor plate design. The requirement that a habitable room not exceed 9 metres in depth generally results in back-to-back apartment layouts with a floor plate width of no more than 20 metres, although it is recognised that floor plate designs can differ depending on the layout of the apartment and recessive and projective elements. This modified requirement discourages deep building blocks and (building on the above discussion on consolidation of lots) means a common two lot consolidation with a width of 30 metres is able to meet the DDO11 setbacks. Clause 58 therefore encourages development that maintains internal and external amenity of sites and adjoining sites, which will be enhanced by the DDO11.

The DDO seeks to balance change and amenity by increasing setbacks to achieve more space for canopy tree planting and retention, as well as more generous landscaping between buildings and at the zone transition. This is aligned with the landscaping provisions of Clause 58. The DDO seeks a minimum deep soil area relative to tree height, being 800mm (for small trees) and 1200mm (for large trees). This minimum soil depth complements the minimum widths of planting areas indicated in Clause 58, being a minimum of 3m (small tree) or 6m (large tree).

9.1.2

(cont)

Council officers understand that DELWP has undertaken a review of Clause 58 and is proposing to make changes to, amongst other standards, the landscaping and wind provisions. Council officers accept that these provisions may need to be amended or removed from the proposed DDO11 if they are in conflict with any amended State provisions.

Next steps

There is a risk that DELWP will not support the proposed changes made to the DDO shown in Attachment 1, as they do not fully align with the Minister's conditions of authorisation as outlined in Table 1.

Officers have had discussions with DELWP about the proposed changes to the DDO and the conditions of authorisation. DELWP has provided suggested wording for Council to consider, as discussed above. DELWP has confirmed that if Council does not agree with all of the conditions of authorisation, then there would need to be a new authorisation request lodged for consideration. Council could accept the conditions of authorisation, however officers believe that this would be contrary to the intention of the proposed DDO based on the Study adopted by Council in 2019 that underpins the amendment.

It is therefore recommended that Council pursue the application of the proposed revised DDO, with the changes discussed in this report and fully outlined in Attachment 1. This will require Council to submit the revised controls for the Minister for Planning to re-authorise the amendment for exhibition.

CONSULTATION

The project was introduced to the community within the study area in late March 2018 and included a short survey to identify what residents value about their area, which was collated as part of the background analysis to the Study. The second phase of engagement was held from mid-July to mid-August 2018, and included two drop-in information sessions which were attended by 92 people.

The community will be able to provide formal comment during the statutory exhibition period for Amendment C220. The timing of the proposed exhibition will be subject to authorisation by the Minister for Planning. If authorisation is given, the exhibition period could commence shortly after.

9.1.2 (cont)

FINANCIAL IMPLICATIONS

The Study was included as a new budget initiative in the 2017/2018 Council budget. Costs associated with the planning scheme amendment process, such as exhibition costs and statutory fees, are typically covered by the ongoing operational budget of Council. Charges for the independent panel vary depending on the duration of the panel hearing and the number of Panel members appointed. Charges typically cover any travel or accommodation required by panel members and project support from Planning Panels Victoria. If a planning panel is required, legal representation and advice, and expert witnesses would be covered by Council's operational budget. Refer to the table below for financial details:

| Budget Item | Budget (excl. GST) | Expenditure: Existing & Future Estimates (excl. GST) |
|---|---|---|
| 1. Consultant fees 2017/2018 | \$80,000 | \$80,000. |
| 2. Future exhibition costs (operational budget) | | |
| Direct notification | | \$6,000 |
| Publicity material and social media | | \$2200 |
| Government Gazette & The Age notice | | \$2500 |
| 3. Future statutory fees (operational budget) | | |
| Consideration by the Minister of a request to approve the amendment | | \$488 |
| 4. Future planning panel charges (operational budget) | | |
| Charges from Planning Panels Victoria, including panel member fees, travel, accommodation and project support | | \$40,000 |
| 5. Future council planning panel representation (operational budget) | | |
| Includes expert witness, legal representation and advice | | \$40,000 |
| TOTAL | \$80,000 (Excl. operational) budget items) | \$171,188 (Incl. operational) budget items) |

POLICY IMPLICATIONS

In October 2014 new residential zones came into effect with gazettal of Amendment C160. Council had originally included a 3 storey (11 metres) mandatory maximum for RGZ1 and a 4 storey (13.5 metres) mandatory maximum for RGZ2. The mandatory heights were removed by the Minister when approving Amendment C160 and therefore the current controls do not reflect the Council's intentions.


Since the introduction of the new zones, concern has been raised about the planning outcomes in these areas, particularly where the RGZ interfaces with more traditional residential development in the NRZ, and to a lesser extent the GRZ. Where a 3 or 4 storey outcome was intended, VCAT has been approving developments greater than this, and in some cases, with unsympathetic built form and limited landscaping.

9.1.2 (cont)

The project supports Strategic Direction 2 within the current Council Plan 2017-2021, which is to *"Maintain and enhance the built environment to ensure a liveable and sustainable city"*. In particular it supports 2.1.1 *"Development which respects our natural and built environments and neighbourhood character while achieving a balanced approach to growth in accordance with relevant legislation"*. The proposed DDO11 will seek to achieve Council's and the community's aspirations for the city and the local neighbourhood character through a set of planning controls that provide greater certainty to residents, property owners and developers along, and interfacing with, the growth corridors along Burwood Highway and Whitehorse Road. It proposes built form controls that seek to ensure high quality development that respects adjoining development and does not comprise the character and amenity of adjacent low-rise residential development.

The proposed DDO will also give further expression to Clause 21.06 Housing and Clause 22.03 Residential Development intended for the residential growth corridors, where substantial change areas interface with other housing change areas.

ATTACHMENT

- 1 Amendment C220 Whitehorse Draft Authorisation 
- 2 Amendment C220 Whitehorse DELWP Conditions of authorisation

Attendance

The Virtual Council meeting adjourned at 8:58pm for a five minute break, resuming at 9:03pm.



**9.1.3 27-29 The Avenue, Blackburn (Lots 50 & 51 LP 3212 B)
Amendment to Permit for Partial demolition and relocation of
existing dwelling, buildings and works for alterations and
additions to a heritage dwelling, front fence and tree removal.**

FILE NUMBER: WH/2019/1029/A
ATTACHMENT

SUMMARY

This application was advertised, and a total of 16 objections were received. The objections raised issues with application history, inadequate landscaping opportunities, inconsistent with preferred neighbourhood character, heritage impacts, inconsistent with Policy, excessive site coverage and environmental impacts. An Online Consultation Forum was held on 11 August 2021 chaired by Councillor Munroe. All issues raised were explored, however no resolution was reached between the parties. This report assesses the application against the relevant provisions of the Whitehorse Planning Scheme, as well as the objector concerns. It is recommended that the application be supported, subject to conditions.

SUBSTANTIVE MOTION

Moved by Cr Barker, Seconded by Cr Davenport

That Council:

- A. *Being the Responsible Authority, having caused Application WH/2019/1029/A for 27-29 The Avenue, BLACKBURN (Lots 50 & 51 LP 3212 B) to be advertised and having received and noted the objections is of the opinion that the granting of a Notice of Decision to Grant an Amended Planning Permit for the Partial demolition and relocation of existing dwelling, buildings and works for alterations and additions to a heritage dwelling, front fence and tree removal, is acceptable and should not unreasonably impact the amenity of adjacent properties.***
- B. *Issue a Notice of Decision to Grant an Amended Planning Permit under the Whitehorse Planning Scheme to the land described as 27-29 The Avenue, BLACKBURN (Lots 50 & 51 LP 3212 B), which allows the 'Partial demolition and relocation of existing dwelling, buildings and works for alterations and additions to a heritage dwelling, front fence and tree removal', subject to the following changes:***

New Condition 1h)

- The pool, to the satisfaction of the Responsible Authority, relocated such that it is directly adjacent to the rear dining / living area decking, and the landscape strip currently located in between, instead repositioned immediately to the rear of the pool.***

New Condition 1i)

- The decking currently immediately north and north-west of the pool, deleted, and reinstated as landscaping.***

New Condition 1j)

- The proposed lightwood wattle currently behind the patio decking, instead relocated back to a central location within the north-western corner of the rear yard, to the satisfaction of the Responsible Authority.***

New Condition 1k)

- The proposed lightwood wattle along the eastern property boundary in the rear yard, with a minimum eastern side boundary setback of 2 metres from any internal or boundary fencing, to the satisfaction of the Responsible Authority.***

New Condition 1l)

- A minimum of 3 shrubs at a minimum height of 3-4 metres with varied ground covers below (not grass) planted in front of the current rear boundary proposed landscaping screen, to the satisfaction of the Responsible Authority.***

9.1.3

(cont)

Old Condition 1h renumbered

- C. *Has made this decision having particular regard to the requirements of Sections 58, 59, 60 and 61 of the Planning and Environment Act 1987.***

AMENDMENT

Moved by Cr Massoud, Seconded by Cr Skilbeck

That Council:

- A. *Being the Responsible Authority, having caused Application WH/2019/1029/A for 27-29 The Avenue, BLACKBURN (Lots 50 & 51 LP 3212 B) to be advertised and having received and noted the objections is of the opinion that the granting of a Notice of Decision to Grant an Amended Planning Permit for the Partial demolition and relocation of existing dwelling, buildings and works for alterations and additions to a heritage dwelling, front fence and tree removal, is acceptable and should not unreasonably impact the amenity of adjacent properties.***
- B. *Issue a Notice of Decision to Grant an Amended Planning Permit under the Whitehorse Planning Scheme to the land described as 27-29 The Avenue, BLACKBURN (Lots 50 & 51 LP 3212 B), which allows the 'Partial demolition and relocation of existing dwelling, buildings and works for alterations and additions to a heritage dwelling, front fence and tree removal', subject to the following changes:***

New Condition 1h)

- The pool, to the satisfaction of the Responsible Authority, relocated such that it is directly adjacent to the rear dining / living area decking, and the landscape strip currently located in between, instead repositioned immediately to the rear of the pool.***

New Condition 1i)

- The decking currently immediately north and north-west of the pool, deleted, and reinstated as landscaping.***

New Condition 1j)

- The decking with patio and arbor framing immediately west of the rear dining / living area decking, deleted, and reinstated as landscaping.***

New Condition 1k)

- The proposed lightwood wattle currently behind the patio decking, instead relocated back to a central location within the north-western corner of the rear yard, to the satisfaction of the Responsible Authority.***

New Condition 1l)

- The proposed lightwood wattle along the eastern property boundary in the rear yard, with a minimum eastern side boundary setback of 2 metres from any internal or boundary fencing, to the satisfaction of the Responsible Authority.***

New Condition 1m)

- A minimum of 3 shrubs at a minimum height of 3-4 metres with varied ground covers below (not grass) planted in front of the current rear boundary proposed landscaping screen, to the satisfaction of the Responsible Authority.***

Old Condition 1h renumbered

- C. *Has made this decision having particular regard to the requirements of Sections 58, 59, 60 and 61 of the Planning and Environment Act 1987.***

CARRIED

The Substantive Motion, Moved by Cr Barker, Seconded by Cr Davenport, as amended
was then put and **CARRIED UNANIMOUSLY**

9.1.3 (cont)

COUNCIL RESOLUTION

Moved by Cr Barker, Seconded by Cr Davenport

That Council:

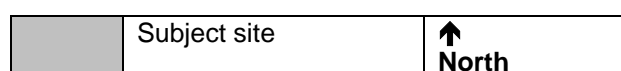
- A. *Being the Responsible Authority, having caused Application WH/2019/1029/A for 27-29 The Avenue, BLACKBURN (Lots 50 & 51 LP 3212 B) to be advertised and having received and noted the objections is of the opinion that the granting of a Notice of Decision to Grant an Amended Planning Permit for the Partial demolition and relocation of existing dwelling, buildings and works for alterations and additions to a heritage dwelling, front fence and tree removal, is acceptable and should not unreasonably impact the amenity of adjacent properties.***
- B. *Issue a Notice of Decision to Grant an Amended Planning Permit under the Whitehorse Planning Scheme to the land described as 27-29 The Avenue, BLACKBURN (Lots 50 & 51 LP 3212 B), which allows the 'Partial demolition and relocation of existing dwelling, buildings and works for alterations and additions to a heritage dwelling, front fence and tree removal', subject to the following changes:***
- New Condition 1h)***
- The pool, to the satisfaction of the Responsible Authority, relocated such that it is directly adjacent to the rear dining / living area decking, and the landscape strip currently located in between, instead repositioned immediately to the rear of the pool.***
- New Condition 1i)***
- The decking currently immediately north and north-west of the pool, deleted, and reinstated as landscaping.***
- New Condition 1j)***
- The decking with patio and arbor framing immediately west of the rear dining / living area decking, deleted, and reinstated as landscaping.***
- New Condition 1k)***
- The proposed lightwood wattle currently behind the patio decking, instead relocated back to a central location within the north-western corner of the rear yard, to the satisfaction of the Responsible Authority.***
- New Condition 1l)***
- The proposed lightwood wattle along the eastern property boundary in the rear yard, with a minimum eastern side boundary setback of 2 metres from any internal or boundary fencing, to the satisfaction of the Responsible Authority.***
- New Condition 1m)***
- A minimum of 3 shrubs at a minimum height of 3-4 metres with varied ground covers below (not grass) planted in front of the current rear boundary proposed landscaping screen, to the satisfaction of the Responsible Authority.***
- Old Condition 1h renumbered***
- C. *Has made this decision having particular regard to the requirements of Sections 58, 59, 60 and 61 of the Planning and Environment Act 1987.***

CARRIED UNANIMOUSLY

9.1.3 (cont)

MELWAYS REFERENCE 47 J10

| | |
|--------------------------|--|
| Applicant: | Fulcrum Urban Planning Pty Ltd |
| Zoning: | Neighbourhood Residential Zone Schedule 1 (NRZ1) |
| Overlays: | Significant Landscape Overlay Schedule 2 (SLO2) Heritage Overlay Schedule 210 (HO210) |
| Relevant Clauses: | |
| Clause 11 | Settlement |
| Clause 12 | Environmental and Landscape Values |
| Clause 15 | Built Environment and Heritage |
| Clause 16 | Housing |
| Clause 21.05 | Environment |
| Clause 21.06 | Housing |
| Clause 21.10 | Environmentally Sustainable Development |
| Clause 22.01 | Heritage Buildings and Precincts |
| Clause 22.03 | Residential Development |
| Clause 22.04 | Tree Conservation |
| Clause 32.09 | Neighbourhood Residential Zone, Schedule 1 |
| Clause 42.03 | Significant Landscape Overlay, Schedule 2 |
| Clause 43.01 | Heritage Overlay, Schedule 210 |
| Clause 52.06 | Car Parking |
| Clause 65 | Decision Guidelines |
| Ward: | Central |



9.1.3

(cont)

BACKGROUND

History

On 27th July 2020, Planning Permit WH/2019/1029 was issued for partial demolition and relocation of existing dwelling, buildings and works for alterations and additions to a heritage dwelling, front fence and tree removal. Development plans subsequently endorsed on 16th September 2020.

On 16th February 2021, Secondary Consent approval was given to incorporate minor changes to the endorsed plans. The approval changes consisted of raising the internal ceiling height by 100mm, extending the rear timber deck, and reducing the rear boundary setback by 500mm respectively, along with minor modifications to windows and skylights.

The Site and Surrounds

The subject site is located on the north side of The Avenue, in Blackburn, approximately 88 metres west of the junction with Main Street. The site includes numbers 27 (western lot: Lots 50 LP 3212 B) and 29 (eastern lot: Lots 51 LP 3212 B) The Avenue, and whilst currently existing as one large lot, comprises the two individual titles, thereby presenting as a lot effectively double the size of surrounding land parcels.

The site has a combined southern frontage width of 36.58 metres to The Avenue, a maximum depth of 50.29 metres, and a total site area of 1840m², when including both Lots 50 (vacant lot) and 51 (will accommodate the relocated heritage dwelling). Lot 51 is however most applicable to this amendment application, which specifically has a frontage width of 18.29 metres, a site depth of 50.29 metres, and a total site area of 920m². The land slopes a maximum of 2 metres in a north direction to the rear boundary. The site is not encumbered by any easements, covenants or agreements.

Planning Controls

The proposal triggers the need for a planning permit under the following clauses contained within the Whitehorse Planning Scheme:

Neighbourhood Residential Zone, Schedule 1

Pursuant to Clause 32.09-6 of the Whitehorse Planning Scheme; a permit is not required to construct a dwelling on a lot greater than 500m² in area. The 35% mandatory minimum garden area requirement is however applicable.

Significant Landscape Overlay – SLO2

A permit is required under Clause 42.03-2 of the Whitehorse Planning Scheme to remove, destroy or lop a tree, to construct a building or construct or carry out works (including a front fence) within 4 metres of a tree protected under this SLO. A permit is also required for building works if: (a) the ground floor site coverage exceeds 33% of the site area; (b) the pool site coverage exceeds 17% of the site area; and (c), that the site coverage (including pool works) exceeds a total site coverage of 50%.

The proposed amendments result in the proposal still meeting the 17% pool site coverage, and the 50% total site coverage, permit exemptions. The proposed amendments will not result in any additional trees being removed; or additional buildings and works being located within 4 metres of a tree protected under the SLO2, to what was originally approved. Despite the ground floor site coverage remaining unchanged, at 38.3%, it will however continue to exceed the 33% permit exemption.

9.1.3 (cont)

Heritage Overlay (Clause 43.01) – HO210

Applicable to the proposal, pursuant to Clause 43.01 of the Whitehorse Planning Scheme a planning permit is required for demolition, alterations and additions to a heritage building.

PROPOSAL

The proposal seeks to include a new pool and associated decking, window and modifications to fencing and landscaping respectively. The following specific detail is provided:

Pool & Decking

- The pool will be 7.4 metres wide, 3.4 metres long, 1.9 metre deep, and have a total area of 25.4m².
- The pool will be setback 4.19 metres (west boundary), 3.8 metres (north boundary), 6.5 metres (east boundary), 0.6 metres behind the living & dining rear decking and 3 metres behind the rear wall of the dwelling.
- The pool will require excavation up to 1.5 metres in depth, retaining walls above ground level up to 0.9 metres from the west elevation.
- Additional decking to the rear of the pool and patio areas.

Landscaping

- Landscaping modified to accommodate the pool and decking, including a reduced grass area, reduced deep soil area for canopy tree planting along the rear and western side boundaries.
- The informal footpath connecting within street setback area modified.

Fencing

- The addition of a 600mm high woven trellis above the currently approved 2 metre high paling fence along the eastern side boundary fence, (2.6 metre total height), for the boundary's entire length except for the street setback.
- The east side paling fence reduced from 2 metres to 1.2 metres within the street setback area.
- A new 1.8 metre internal paling fence to enclose the utility / clothesline area on the east side of the dwelling.
- Inclusion of pool fencing, including a gate to the patio area.

Window

- West side-facing bath window added to elevations.

9.1.3

(cont)

CONSULTATION

Public Notice

The application was advertised by mail to the adjacent and nearby property owners & occupiers, and those objectors to the original application. Following the advertising period a total of sixteen (16) objections were received. The key issues were raised:

1. Application History

- a) Undermines Planning Process
- b) Contravene circumstance under which original proposal was approved
- c) Landscape Opportunity
- d) Increased site coverage
- e) Reduction in permeability

2. Inadequate Landscaping Opportunities

- a) No. of canopy trees
- b) Extent of tree canopy
- c) Insufficient unencumbered area for tree regeneration
- d) Inadequate native species selection

3. At odds with preferred bushy environment

- a) Inconsistent with Preferred Character

4. Heritage Impacts

5. Inconsistent with Policy

- a) 21.05 (Environment)
- b) 21.06 (Housing)
- c) 22.03 (Residential Development)
- d) 22.04 (Tree Conservation)
- e) 42.03 (SLO2)

6. Excessive Site coverage

7. Environmental impacts

- a) Impact on natural systems and ecosystems

Consultation Forum

An Online Consultation Forum Meeting [*referred as 'Consultation Forum' throughout this report*] was held on 11th August 2021. Sixteen (16) objectors attended the meeting, in addition to Ward Councillor Munroe, planning officers and the applicant. The Consultation Forum meeting was chaired by Councillor Munroe, and concerns/objections with the proposal were grouped under broad categories with all parties afforded the opportunity to provide commentary on each concern. The permit applicant was also given an opportunity to respond to objector concerns.

All parties left the meeting better informed in the process, the context behind the objection grounds, and the rationale of the applicant behind the proposal. However, no resolution being reached between the parties was reached.

Referrals

| | |
|--------------------------|--|
| Planning Arborist | The application was referred to Council's Planning Arborist who consented to the proposal. |
|--------------------------|--|

9.1.3

(cont)

DISCUSSION

State Planning Policy

The State Planning Policy framework is a relevant consideration, however it is relevant to acknowledge that the merits of the dwelling itself and the works associated with the modifications to the dwelling have largely been debated and accepted through the consideration and approval of the planning permit in its original form. The scope for consideration in this amendment therefore, is narrowed to the construction of the pool, decking and associated modifications to the landscaping within the rear yard.

The proposed amendments continue to accord with State Planning Policies which seek to ensure housing stock matches changing demand by widening housing choice;; and that new development respects the neighbourhood character and appropriately responds to its landscape, valued built form and cultural context.

The proposal will also continue to adequately conserve the site as a place of heritage significance. Permit conditions to ensure that the attributes in the citation of the HO210 that make the dwelling significant are retained, restored and protected, will remain and continued to be given effect through the conditions of the permit and any amendments considered through this proposal.

Subject to permit conditions, the appropriate bush setting achieved from the original determination will not be undermined by the proposed amendments, and will ensure that the heritage dwelling still maintains an inconspicuous profile to the streetscape, and the objectives of the SLO2 are achieved

Local Planning Policy

Character

Local planning policy at Clause 21.05 (Environment) identifies issues of natural, visual and built environment. Clause 21.06 acknowledges that The City of Whitehorse is a *'middle ring municipality providing housing for a wide range of household types, ages and cultural groups'* and that it is *'under increased pressure to accommodate more people who are attracted to the area due to its strategic location, high amenity residential areas and quality services and facilities'*.

The Council seeks to accommodate and facilitate this change through its *Housing Strategy 2014* and *Neighbourhood Character Study 2014*; which identify various neighbourhood character areas (Bush Environment, Bush Suburban and Garden Suburban) and areas appropriate for substantial, natural and limited change. The site is located within a 'Bush Environment', 'Limited Change' residential area as confirmed by Clause 22.03 (Residential Development). This represents the lowest scale of intended residential growth in Whitehorse to enable the preservation of its significant landscape character and environmental integrity, as the highest priority to be protected over new housing development.

As approved, the original proposal would provide consistency with the character of the immediately surrounding area by retaining the single storey relocated heritage dwelling centrally within the eastern lot (Lot 51). Approved front boundary setbacks ensured that the heritage dwelling both, followed the prevailing street setback, and protected the views of heritage dwellings both on the site and adjoining the site at No 33 The Avenue.

Approved side boundary setbacks ensured there was sufficient separation between both heritage dwellings mentioned above, and the future dwelling on currently vacant Lot 50 (No 27 The Avenue). Approved rear boundary setbacks allowed for the replanting of canopy trees to provide a genuine landscaped background to the subject dwelling from the street.

The proposed amendments would not materially change how the heritage dwelling presents to the street, nor modify the semi-bush landscaping approved within the street setback.

9.1.3

(cont)

From a backyard character perspective, there are no additional dwellings or outbuildings proposed in the rear yard and thus, the building pattern will remain unchanged from what was originally determined. However, from a preferred character perspective, the rear yard now include characteristics that are consistent with a Garden Suburban or Bush-Suburban preferred character precinct, rather than that of 'Bush Environment'. The extent of the rear yard dedicated to building and works, the limited western side and northern rear boundary setbacks, the reductions in rear yard permeability for the replanting of canopy trees, all combined together do not provide a suitable semi-bush, substantial landscape boundary interface.

However, as discussed under 'SLO2' further below in this report, subject to conditions, modifications to the pool location, the decking behind the pool, the landscaping, can still achieve an appropriate response to the preferred character and landscape character of the area, but as is called for under the applicable controls, does require a compromise to be made to what the applicant is seeking, to achieve this. Subject to conditions, this will be in accordance with the Bush Environment preferred character statement and the limited change objectives of Clauses 15.01 (Urban Design), 21.05 (Environment) and 22.03 (Residential Development).

Significant Landscape Overlay – Schedule 2 (SLO2)

The Significant Landscape Overlay is recognised as an important part of the Whitehorse Planning Scheme, and as such considerable weight is placed upon an application's ability to meet the objectives and decision guidelines of this overlay. The presence of the SLO2 does not negate the ability of a site to be developed for residential purposes. However, the hierarchy of the SLO2 control does require a more sensitive approach and places higher levels of expectation on how a site is to respond to built form, landscape and environmental values.

The SLO2 identifies the site as being located within Blackburn whereby the following statement of significance is outlined below:

'The significance of the area is attributed to the quality of the environment, which includes vegetation notable for its height, density, maturity and high proportion of Australian native trees. This in turn contributes to the significance of the area as a valuable bird and wildlife.'

Tree Removal

The proposed amendments will not result in the removal of any additional trees than what was considered as part of the original determination. Additionally, the proposed amendments will not result in buildings and works encroaching any further into the tree protection zones of any trees being retained, to what was originally determined.

9.1.3

(cont)

Landscaping

The proposed amendments will result in the removal of approximately the northern half of the rear yard grassed area to accommodate the pool and decking. This will result in subsequent reductions in unencumbered deep soil areas for the replanting of canopy trees. There will be the following changes to site coverage, site permeability and garden area:

| Element | Relevant Permit Trigger | Approved Proposal | Amended Proposal |
|--|-------------------------|-------------------|-------------------|
| Ground level site coverage (excluding pools) | less than 33% | 38.3% | 38.3% (no change) |
| Site impervious area excluding buildings (including decking, paving & pools): | less than 17% | 6.9% | 10.2% (+3.3%) |
| Total site coverage (buildings and impervious surfaces): | less than 50% | 44.2% | 48.6% (+4.4%) |
| Garden Area | | 47.4%. | 47.4% (unchanged) |

A common concern raised in the objections and through the Consultation Forum suggested that the proposal did not meet a number of the permit triggers relevant to site coverage and site permeability, specifically hard surfacing. The proposed amendments however continue to meet the permit exemptions for site coverage and site permeability. Importantly though, it is the landscape character objectives and decision guidelines that are relevant on whether the proposed amendments ultimately achieve the requirements of the SLO2. Also noted is that a pool is allowed to be located with the mandatory garden area as required by the Neighbourhood Residential Zone, and so the garden area thereby remains unchanged.

The key themes of the landscape character objectives and decision guidelines are retention and regeneration of native vegetation and providing sufficient unencumbered space across the site for canopy tree replanting. Achieving these measures will allow for a tree dominated landscape (dwelling in turn having an inconspicuous profile), resulting in the development being compatible with the character of the area.

As stated earlier, the 'bush-environment' preferred character statement detailed in Clause 22.03 (Residential Development) further articulates what the preferred landscape character is, and the role development has in maintaining and protecting the landscape. As reflected below, landscape instead of buildings should dominate the site appearance. A dominant native bush-like landscape, low site coverage, generous building setbacks and low street fencing, are all important preferred outcomes to provide an acceptable response to the preferred character of the area. The Bush Environment Preferred Character Statement includes the following key wording:

The streetscapes will be dominated by vegetation with subservient buildings frequently hidden from view behind vegetation and tall trees. The buildings will nestle into the topography of the landscape and be surrounded by bush-like native and indigenous gardens, including large indigenous trees in the private and public domains.

Buildings and hard surfaces will occupy a very low proportion of the site. They will be sited to reflect the prevailing front, rear and side setbacks. The larger rear setbacks will accommodate substantial vegetation including large canopy trees. The bushy environs are complemented by street trees and a lack of front fencing. Properties abutting and close to creeks and lake environs will contain more indigenous trees and shrubs that act in part as wildlife corridors.

9.1.3

(cont)

As stated earlier, building setbacks to all boundaries, building appearance and form, remain unchanged from what was originally determined. The key changes relate to works within the rear yard and the relative impact on unencumbered space in determining whether '*substantial vegetation including large canopy trees*' can still be achieved in the rear yard, to continue to provide a bushy environment as preferred by Clause 22.03.

In defining what an appropriate space for canopy tree replanting within 'Bush Environment' preferred character area, Clause 22.04 (Tree Conservation) prefers that 50m² of open ground with a minimum dimension of 5 metres that is free of buildings and impervious surfaces and of other tree canopies, is provided to minimise competition and facilitate normal growth.

As currently approved, within the rear yard, three large 15 metre high canopy trees are proposed, along with an 8 to 9 metre small tree / tall shrub landscape screen along both side and rear boundaries. Under the proposed amendments, both the number of large canopy trees, and the extent of perimeter landscape screening proposed, does not change. The locations of some of the canopy trees proposed for replanting are however marginally altered.

Under the current amendments, the proposed buildings and works will noticeably reduce the site permeability and the western side and northern rear boundary setbacks. 2 replacement canopy trees along the western half of the rear boundary in particular will be more heavily encumbered by works (pool, retaining wall and decking).

More specifically, the additional decking immediately north and north-west of the pool will result in reduced combined western boundary setbacks that vary between 900mm and 2.5 metres. Northern rear boundary setbacks for the western half of the site also will be reduced down to 1.4 metres. This response is inadequate for the planting of large canopy trees in the north-west corner of the site and raises concerns on whether the 2 large canopy trees proposed in the amended landscape plan will successfully reach their mature height.

The modified 1.4 metre northern rear boundary setbacks proposed for the additional decking will also be located immediately adjacent to the proposed 9 metre high Blueberry ash landscape screen that runs along the rear boundary. Given the raised nature of the pool and decking is supported by a 1.7 metre to 2.1 metre wall (0.9m high retaining wall plus a 1.2 metre high vertical screen), which presents little opportunity for carrying out necessary maintenance to this perimeter landscape screen. It also heavily limits the ability of these plants to receive adequate daylighting for growth in reaching their mature heights.

Additionally, the pool will be located close to a number existing and proposed canopy trees both within and adjoining the rear yard. This could present a future nuisance to the land owners, with the potential prospect of regular tree debris (twigs, leaves etc.) falling into the pool. The proximity of the nearest trees may also heavily limit the pool's ability to gain access to sunlight, which in turn could result in a number of these trees being removed to facilitate this.

The lack of encumbered open space, the limited opportunities for maintenance and daylighting from a plant growth perspective, and the nuisance consideration from the fall of debris, are all contributing considerations of whether the trees proposed for replanting will ultimately reach their mature height in reality or be removed in future. This was a ground also raised by objectors.

Notwithstanding, also observed are the extent of raised finished levels proposed for the decking despite the gentle land slope to the rear boundary. Finished levels appear to be raised up to 1 metre above ground level, which consequently require vertical screening to address overlooking particularly to the western adjoining property (No 27 The Avenue or Lot 50). The proposed screening provisions extend to a total height of 2.1 metres (0.9m high retaining wall plus a 1.2 metre high vertical screen) and appear unnecessary and out of character with the semi-bush appearance of the surrounding area. It also will not adequately address overlooking as the vertical screen does not reach 1.7 metres above floor level (an additional 500mm would be required, resulting in a total wall height of 2.6 metres).

9.1.3

(cont)

To address the above issues, it is firstly recommended that relocating the pool closer to the dwelling so as to be flush with the living/dining area rear decking is required, and the affected row of shrubs in between to be relocated immediately north of the pool. It is also warranted to delete the section of decking currently proposed north and north-west of the pool. Both required changes will greatly improve the extent of unencumbered space for landscaping and associated maintenance. This change would reflect the extent of compromise required when seeking to provide additional encumbrances to a dwelling within an SLO2 area. Such modifications may not be required on a residential lot not covered by an SLO2, however a higher bar is set by the SLO2 that requires preference to be given to tree canopy protection and provision and permeability, over design.

These changes represent a reduction of 16.3m² in area, which would reduce the pool/decking site coverage (10.2% down to 8.5%), and the total site coverage (48.6% down to 46.9%). The mostly notable change, however, are the increased boundary setbacks for replanting. The west boundary setbacks would increase from 900mm to 2.52 metres) beyond the patio deck, while the northern rear boundary setback would increase from 1.4 metres to approximately 5.5 metres, for the north-western rear corner of the site.

These modified boundary setbacks will provide the best chance of achieving successful growth of planted canopy trees and perimeter screening shrubs. This result will also provide a generous rear boundary setback that better aligns with the preferred 'Bush Environment' character principals. These principals include providing a dominant semi-bush rear boundary interface that visually encloses the dwelling from the adjoining properties. Additionally, it will address additional overlooking generated from the additional decking.

Overall, while the proposal meets most of the permit exemptions of the SLO2 as indicated by the applicant, the proposed amendments do not go far enough in addressing the key landscape objectives and design guidelines of the SLO2. Subject to conditions in carrying out the various required modifications discussed above, the proposal can address most of the provisions of the SLO2, as well as Clauses 22.03 (Residential Development) and 22.04 (Tree Conservation).

Heritage Impacts

The site is identified as a heritage place protected by Heritage Overlay (HO210) 'Elmore Houses'. The citation of HO210 indicates that Algernon Elmore was well known in Blackburn being an inaugural member of the Shire of Blackburn and Mitcham Council in 1925. 29 Elmore houses were ultimately constructed as part of the Arts and Crafts and Fresh Air movements. Many of these houses exist in the immediately surrounding area, particularly in Laburnum Street, Laurel Grove, The Avenue (including the eastern adjoining property at No 33 The Avenue (HO211) and Main Street. The HO210 heritage citation provides detailed analysis on the heritage aspects of the existing dwelling on site within its statement of significance.

It was originally determined that, subject to permit conditions, the proposed relocation, and alterations and additions to the dwelling can be carried out without ultimately undermining the heritage significance of this building. As part of the original determination, the heritage advice provided indicated that the front third of the heritage dwelling that is most visible to the streetscape (the front lounge, master bedroom and walk-in-robe (in part), and front portion of the verandah), is the key portion of the building that contributes to its heritage significance.

As part of the proposed amendments, an additional west-facing master bedroom ensuite window is proposed to be included on the western elevation plan outside the significant part of the building referred to above. This window was previously detailed in the original determination ground-floor plan that were ultimately endorsed under Condition 1 of the permit. This window inclusion was an error that applicant wishes to correct to ensure that the elevations are consistent with the floor plans. This amendment is considered acceptable.

Concerning the rear pool, decking and fencing, all these elements are to the rear of the dwelling and will have no bearing on the heritage significance of the dwelling.

9.1.3

(cont)

From a landscaping perspective, the modifications to the footpath within the street setback is of the same material, and does not materially formalise the front landscape theme. This change will not have any significant impact on any trees being retained, nor the space provided for the replanting of canopy trees. Concerning the street setback area, the modifications to the proposed landscaping, will not undermine the heritage values of this heritage place.

Within the western half of the rear yard, the loss of permeable area to provide for canopy tree replanting, is noticeable. Under the HO210, the statement of heritage significance includes the relevant paragraph:

The house is important as one of a number of bungalows designed and constructed by Algernon Elmore and located in the former "Paddock" area of Blackburn. It is significant for its demonstration of the character and development of Blackburn during the 1900s. With its bush setting and expansive style house the property represents the early character of Blackburn. The siting and planning also demonstrate the 'Fresh Air' movement, which encouraged middle-class people to live in well-ventilated cottages in semi-rural or seaside areas. The residence and shed still sit on a large site giving an indication of the original setting for Elmore houses and the early character of Blackburn.

In context to the proposal, the above statement emphasises the importance of ensuring that the proposed dwelling can still be encased within a semi-bush setting, which is achieved via generous setbacks dominated by multi-layered landscaping, and in particular the replanting of large canopy trees. The combination of the generous front setback and associated landscaping, is a reasonable design response in delivering a semi-bush setting site street appearance that predominantly relieves the visual presence of the dwelling from the street.

The rear yard, under the current proposal however, does not achieve a similar semi-bush setting to both the western side and norther rear boundary interfaces.

Under the currently endorsed plans, the limited western boundary setback of the rear patio decking was balanced with a small 5 metre high canopy tree close to the dwelling. This is supported with a large unencumbered space in the north-west corner of the site to accommodate a large 15 metre high canopy tree. Along the rear boundary the land is largely unencumbered to accommodate a continuous 8-15 metre high landscape screen that wraps around to the eastern side boundary. This outcome was determined to provide a sufficient semi-bush interface to side and rear boundaries that enclosed the rear yard.

Concerning the current amendment proposal, both the pool and additional decking immediately behind essentially encumber the western half of the rear yard, preventing the replanting of a meaningful continuous landscape screen along both western side and rear boundaries with large canopy trees and thereby, not achieving a suitable semi-bush boundary interface to the north-western corner of the site. This will raise the visual profile of the dwelling and rear additions to both boundary interfaces and adjoining properties, which is not consistent with the citation for heritage overlay HO210.

As indicated under the subheading 'landscaping' above, the deletion of the decking behind the pool, relocating the pool closer to the dwelling, while providing generous unencumbered space for canopy trees, will correct this outcome. Consequently, subject to conditions, the important semi-bush setting of this heritage place can be adequately conserved and thereby, address the objectives of the Heritage Overlay HO210.

External Amenity

All external amenity impacts were considered appropriately mitigated under the original proposal. Concerning the heritage dwelling, the amended proposal will not introduce any additional amenity impacts to any adjoining property concerning the heritage dwelling (visual amenity, overlooking, overshadowing and daylight access perspective).

9.1.3

(cont)

Concerning the proposed rear dwelling additions, the additional decking contains raised finished levels of up to 1 metre despite the site's gentle slope towards the rear boundary. With vertical screening extended only up to 1.2 metres above this finished level, overlooking to the western vacant adjoining property (no 27 or Lot 50 The Avenue) will not be addressed.

However, increasing the vertical screen to 1.7 metres above floor level will result in a combined 2.6 metre wall along this boundary interface (currently proposed wall is up to 2.13 metres high). This design element appears unnecessary as the floor levels could potentially be dropped given the nature of the slope. As discussed under the subheadings 'Character' and 'SLO2 – Landscaping' above, the deletion of the decking behind the pool will address this issue as conditions on any amended permit issued.

Notwithstanding, the proposal does include increased fence heights along the eastern side boundary with an additional 600 woven trellis being erected above the 2 metre high proposed boundary fence (maximum height is 2.6 metres). This boundary fence modification was a specific request of the neighbour at No. 33 The Avenue, which resulted in the withdrawal of his objection. On this basis, the raised fencing will not prove fatal to the proposal.

All other amended landscape and fencing elements will have no bearing on the external amenity impacts of any adjoining property or person.

Objectors Concerns not Previously Addressed

Application History

A common theme within the objection grounds raised by residents related to the history of the application, and the circumstances that led to the original proposal ultimately being approved.

As part of the original application process, the pool and associated decking elements formed part of the proposal at the start of the planning process, and then removed from the proposal subsequent to the original Consultation Forum. This was considered a genuine and reasonable compromise by objectors, and one that enabled some of the concerns regarding extensive site coverage being addressed.

Now returning the pool and associated decking elements to the subject amended proposal has been raised as being disingenuous to, and going against what was agreed at the original Consultation Forum. It is also submitted that, had the applicant left the pool and decking in the original proposal, a different position may have been reached by officers and Councillors in determining the application.

These concerns are understood and acknowledged by officers. Despite these concerns, there is no legislative or planning scheme imperative disabling an applicant's ability to seek to have changes reconsidered through an amendment process. Ultimately, in making changes, an applicant will be open to assessment of the changes and further scrutiny by interested and affected parties, as has occurred here.

Inadequate Landscape Opportunities

This issue has been largely discussed in detail earlier in this report. Those items not covered will now be discussed. One concern related to an inadequate provision or composition of native species selected as part of the proposed landscape theme. When reviewing the plant selection in the landscape plan, 34 out of 40 proposed trees and 89 out of 108 proposed shrubs are native to Victoria. This indicates that there is a large percentage of plant species types that are native to Victoria, which is considered acceptable and meets the intent of the SLO2 and Clause 22.03.

9.1.3

(cont)

Another concern related to the proposal not achieving an average density of one 15 metre high canopy tree to each 150 square metres of site area. This is the desired outcome within the design guidelines of the SLO2. With a total site area of 920m², this expectation seeks the provision of six large canopy trees over 15 metres in height. The proposal provides a total of six 15 metre high canopy trees (3 trees each in the front and rear yards), which will satisfy this requirement.

Additional discussion that occurred at the August Consultation Forum however suggested that due to the highly encumbered land in the rear yard, and the perimeter locations of these trees, there was a high chance that numerous trees would not reach their mature heights. This included two 15 metre high canopy trees (1x Lightwood Wattle and 1x Water Gum) in the north-western corner of the site. If correct, this means that the 6 large canopy tree expectation could not be met. It is considered that the recommended changes as detailed under 'Landscaping' and Heritage Impacts' earlier in this report, will provide the necessary unencumbered space to ensure the longevity of these proposed 15 metre high canopy trees proposed.

Inconsistent with Bushy Environment & Environmental Impacts

The resident objectors are referring to the 'Bush Environment' preferred character statement that applies to the site and surrounding area. This issue has been discussed in detail earlier in this report.

Concerning impacts on the environment (ecosystems, habitat, wildlife) there is limited scope to consider this matter given that Clause 52.17 (Native Vegetation) is not applicable to this application, and that the SLO2 is intended to achieve landscape outcomes as opposed to biodiversity outcomes. Having said this, subject to conditions, the proposal will provide a sufficient number of larger canopy trees across the site to contribute to the habitat of the area in time.

Heritage Impacts

Impacts to the heritage significance of the existing heritage dwelling and heritage place as defined by Heritage Overlay HO201 have also been discussed in detail earlier in this report.

Inconsistent with Policy

As discussed earlier, it is considered that, subject to conditions, the proposed amendments will continue to comply with Clauses 21.05 (Environment), 21.06 (Housing), 22.03 (Residential Development), 22.04 (Tree Conservation), and 42.03 (SLO2).

Assessment of Amended Permit Conditions

The modifications to permit conditions are officer recommendations that solely focus on making changes to the development plans under Condition 1.

The relocation of the pool closer to the dwelling, and the row of landscaping in between, will translate as new Condition 1h). The deletion of the decking currently proposed behind the pool will form as new Condition 1i). Additionally, it is recommended that the 15 metre high lightwood tree, currently proposed behind the rear patio decking, be relocated further to the rear and more centrally within the north-western corner of the site. This will greatly reduce surface level encumbrances within its TPZ and provide stronger change of this tree reaching its full mature height. This requirement will form as new Condition 1j).

It was also noted that the proposed location of the 15 metre high lightwood tree along the eastern side boundary within the rear yard, is too close to the eastern boundary fence and the internal fence enclosing the clothesline etc. It is recommended that this tree be replanted more centrally at least 2 metres away from any fencing (new Condition 1k). Additional low-level shrubs (with ground cover below) will also be required (new Condition 1l) to strengthen the rear boundary landscape screen to provide a semi-bush landscape to the rear boundary interface and the backyard character in general.

9.1.3

(cont)

The current Condition 1h) relating to updating the Relocation Management Plan & Tree Removal Management Plan can then be renumbered accordingly.

Subject to the above conditions changes, it is considered that the proposed amendments can still ensure that the proposed development meets the requirements of the Planning Scheme.

CONCLUSION

The proposed amendments will ensure that the development remains consistent with the relevant planning controls and policies, including the Local Planning Policies and provisions of the Significantly Landscape (SLO2) and Heritage (HO210) Overlays. The changes being considered under this amendment have been further assessed and are considered an improved outcome to the development originally approved.

The proposed development has adequately addressed all objection grounds.

It is the application should be approved.

ATTACHMENT

- 1 History: Permit and Currently Endorsed Plans 
- 2 Amended Plans 

9.1.4 34 Shepherd Street, Surrey Hills (LOT 2 LP 47558 37B, Lot 17 PS 447961W) Development of a double storey dwelling to the rear of the existing dwelling, alterations and additions to the existing dwelling and associated tree removal

FILE NUMBER: WH/2020/1213
ATTACHMENT

SUMMARY

This application was advertised, and a total of 27 objections were received. The objections raised issues relating to neighbourhood character, amenity impacts, car parking, traffic, laneway access and landscaping. An Online Consultation Forum was held on 29 July, 2021 chaired by Councillor McNeill, at which the issues were explored, however no resolution was reached between the parties. This report assesses the application against the relevant provisions of the Whitehorse Planning Scheme, as well as the objector concerns. It is recommended that the application be supported, subject to conditions.

RECOMMENDATION

That Council:

- A. Being the Responsible Authority, having caused Application WH/2020/1213 for 34 Shepherd Street, SURREY HILLS (LOT 2 LP 47558 37B, Lot 17 PS 447961W) to be advertised and having received and noted the objections is of the opinion that the granting of a Planning Permit for the Development of a double storey dwelling to the rear of the existing dwelling, alterations and additions to the existing dwelling and associated tree removal is acceptable and should not unreasonably impact the amenity of adjacent properties.***
- B. Issue a Notice of Decision to Grant a Permit under the Whitehorse Planning Scheme to the land described as 34 Shepherd Street, SURREY HILLS (LOT 2 LP 47558 37B, Lot 17 PS 447961W) for the development of a double storey dwelling to the rear of the existing dwelling, alterations and additions to the existing dwelling and associated tree removal, subject to the following conditions:***
 - 1. Before the development starts, or vegetation is removed, amended plans in a digital format must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale, with dimensions, and be generally in accordance with the plans submitted with the application but modified to show:***
 - a) The locations of Tree Protection Zones described in condition 5, with all nominated trees clearly identified and numbered on both site and landscape plans, and the requirements of conditions 5 and 6 to be annotated on the development and landscape plans.***
 - b) The plans and elevations to show no fill within more than 10% of the TPZs of Trees 16-18 on the adjoining lot to the south.***
 - c) The sealed area of the laneway serving the subject site be realigned southwards, in part, in order to provide a pedestrian seclusion zone in front of the gate to No. 36 Shepherd Street.***
 - d) Remove the waste bin collection point from the laneway***
 - e) The street number for Dwelling 2 to be prominently displayed on the masonry plinth supporting the letterbox for this dwelling.***
 - f) The provision of free-standing lattice screening above the west and south boundary fences to screen views from the Dwelling 2 ground level habitable room windows and the deck to a height of 1.7 metres above finished floor level.***

9.1.4
(cont)

- g) Deletion of the Dwelling 2 balcony on the west elevation, and the west facing bedroom 2 windows of Dwelling 2 to be screened or obscure glazed to 1.7 metres above finished floor level to prevent overlooking in accordance with Standard B22.*
- h) The upper level bathroom and ensuite windows on the east and west elevations respectively of Dwelling 2 to be obscure glazed to a height of 1.7 metres above the finished floor level.*
- i) The location of all service trenches to serve the new dwelling and the constructed laneway (for example: gas, water, electricity, stormwater, sewerage, telecommunications), including the extent of trenching required in easements over adjoining lots (if any) and the locations of protected trees within 4 metres of these trenches (if any).*
- j) Notation on site plans indicating that all obscured glazing be manufactured obscured glass.*
- k) The landscape plan amended to show:*
 - i. The species of the new upper canopy tree within the secluded private open space area of Dwelling 2 to be updated to a species from the preferred species list in the Permit Notes below. This tree is to have a minimum height of 1.5 metres at the time of planting, and must be planted clear of the easement, a minimum 3.5 metres away from dwellings and a minimum 1.5 metres from property boundaries.*

All of the above requirements must be to the satisfaction of the Responsible Authority.

Once approved these plans and documents become the endorsed plans of this permit.

- 2. The layout of the site and the size, design and location of the buildings and works permitted must always accord with the endorsed plan and must not be altered or modified without the further written consent of the Responsible Authority.*

Landscaping

- 3. All landscaping and tree planting in accordance with the endorsed landscape plan must be completed prior to the occupation of the development to the satisfaction of the Responsible Authority.*
- 4. The garden areas shown on the endorsed plan and schedule must only be used as gardens and must be maintained in a proper, tidy and healthy condition to the satisfaction of the Responsible Authority. If any planted trees or shrubs die or are removed, they must be replaced within two months and maintained to the satisfaction of the Responsible Authority.*

Tree Protection

- 5. Prior to the commencement of any building and or demolition works on the land, a Tree Protection Zone (TPZ) must be established and maintained on the subject land (and nature strip if required) during and until completion of all buildings and works including landscaping, around the following trees in accordance with the distances and measures specified below, to the satisfaction of the Responsible Authority:*
 - a) Tree Protection Zone distances:*
 - i. Tree 1 - *Pittosporum euginoides* 'Variagata' – 3.1 metre radius from the centre of the tree base.*
 - ii. Tree 5 - *Acer negundo*– 3.9 metre radius from the centre of the tree base.*
 - iii. Tree 6 - *Camellia japonica*– 2.0 metre radius from the centre of the tree base.*

9.1.4
(cont)

- iv. *Tree 7 - Pittosporum tenuifolium*– 2.0 metre radius from the centre of the tree base.
- v. *Tree 9 - Photinia robusta*– 3.4 metre radius from the centre of the tree base.
- vi. *Tree 10 - Pittosporum tenuifolium* – 2.0 metre radius from the centre of the tree base.
- vii. *Tree 11 - Callistemon citrinus x viminalis 'Kings Park Special'* – 2.0 metre radius from the centre of the tree base.
- viii. *Tree 15 - Ulmus procera* – 4.3 metre radius from the centre of the tree base.
- ix. *Tree 16 - Ulmus procera* – 3.4 metre radius from the centre of the tree base.
- x. *Tree 17 - Acer palmatum*– 2.4 metre radius from the centre of the tree base.
- xi. *Tree 18 - Eucalyptus cladocalyx* – 3.8 metre radius from the centre of the tree base.
- xii. *Tree 20 - Ficus macrophylla* – 5.4 metre radius from the centre of the tree base.
- xiii. *Tree 21 - Photinia robusta* – 2.0 metre radius from the centre of the tree base.
- xiv. *Tree 22 - Rhododendron x hybrida* – 2.0 metre radius from the centre of the tree base.
- xv. *Tree 23 Pittosporum tenuifolium* – 2.0 metre radius from the centre of the tree base.
- b) *Tree Protection Zone measures are to be established in accordance to Australian Standard 4970-2009 and including the following:*
 - i. *Erection of solid chain mesh or similar type fencing at a minimum height of 1.8 metres in height held in place with concrete feet.*
 - ii. *Signage placed around the outer edge of perimeter the fencing identifying the area as a TPZ. The signage should be visible from within the development, with the lettering complying with AS 1319.*
 - iii. *Mulch across the surface of the TPZ to a depth of 100mm and undertake supplementary watering in summer months as required.*
 - iv. *No excavation, constructions works or activities, grade changes, surface treatments or storage of materials of any kind are permitted within the TPZ unless otherwise approved within this permit or further approved in writing by the Responsible Authority.*
 - v. *All supports and bracing should be outside the TPZ and any excavation for supports or bracing should avoid damaging roots where possible.*
 - vi. *All sub surface utilities and utility connection points, inspection pits and associated infrastructure trenching and installation are to be designed so that they are located outside the TPZs of retained trees, to the satisfaction of the Responsible Authority. Utility conduits can be located beneath TPZs but must be installed using trenchless excavation (eg: boring) and installed to a minimum depth of 0.6 metres below natural grade.*
 - vii. *Where construction is approved within the TPZ, fencing and mulching should be placed at the outer point of the construction area.*
 - viii. *Where there are approved works within the TPZ, it may only be reduced to the required amount by an authorised person only during approved construction within the TPZ, and must be restored in accordance with the above requirements at all other times.*
- 6. *During the construction of any buildings or works, the following tree protection requirements must be carried out to the satisfaction of the Responsible Authority:*

9.1.4
(cont)

- a) *The driveway where within the TPZ of Tree 16 must be constructed above the existing soil grade using porous materials that allows water to penetrate through the surface and into the soil profile. There must be no grade change within the TPZ, and no roots are to be cut or damaged during any part of the construction process.*
- b) *All buildings and works for the construction of the sleeper retaining wall adjacent to Trees 21 as shown on the endorsed plans must not alter the existing ground level or topography of the land within 1.2m of the west boundary fence where within the TPZs of these Trees.*
- c) *All buildings and works for the construction of the sleeper retaining wall and garage of Dwelling 2 adjacent to Trees 9, 10 and 11 as shown on the endorsed plans must not alter the existing ground level or topography of the land within 1.0m of the east boundary fence where within the TPZs of these Trees.*
- d) *For Trees 1, 6, 7, 9, 10, 11, 15, 17, 18, 21, 22 and 23, no roots greater than 40mm in diameter are to be cut or damaged during any part of the construction process.*
- e) *All buildings and works for the demolition of the site and construction of the development (as shown on the endorsed plans) must not alter the existing ground level or topography of the land (which includes trenching and site scrapes) within greater than 10% of the TPZs of Trees 1, 6, 7, 9, 10, 11, 15, 21, 22 and 23.*
- f) *No trenching is allowed within the TPZs of Trees 1, 6, 7, 9, 10, 11, 15, 16, 17, 18, 21, 22 and 23 for the installation of utility services. All utility services must be bored to a depth of 600mm below natural ground level where within the TPZs of these trees and the entering points for the boring works must be outside the TPZs.*
- g) *The builder / site manager must ensure that any buildings and works within or adjacent to the TPZs of Trees 1, 6, 7, 9, 10, 11, 15, 16, 17, 18, 21, 22 and 23 do not adversely impact the health and / or stability of the trees now or into the future.*
- h) *The builder / site manager must ensure the TPZ Fencing Conditions and the Tree Protection Conditions for Trees 1, 6, 7, 9, 10, 11, 15, 16, 17, 18, 21, 22 and 23 are being adhered to throughout the entire building process, including site demolition, levelling, and landscape works.*
- i) *Any tree pruning is to conform to AS4373-2007 Pruning of Amenity Trees and the work is to be performed by a suitably qualified arborist (AQF Level 3, minimum).*

7. The existing street tree must not be removed or damaged.

Asset Engineering

- 8. Prior to the occupation of Dwelling 2, the laneway connecting the south-east corner of the subject site to Beech Street must be constructed, sealed and drained to the satisfaction of the Responsible Authority.**
- 9. All stormwater drains and on-site detention systems are to be connected to the legal point of discharge to the satisfaction of the Responsible Authority prior to the occupation of the building/s. The requirement for on- site detention will be noted on your stormwater point of discharge report, or it might be required as part of the civil plans approval.**
- 10. Detailed stormwater drainage and/or civil design for the proposed development are to be prepared by a suitably qualified civil engineer and submitted to the Responsible Authority for approval prior to occupation of the development. Plans and calculations are to be submitted with the application with all levels to Australian Height Datum (AHD). All documentation is to be signed by the qualified civil engineer.**

9.1.4 (cont)

- 11. Stormwater that could adversely affect any adjacent land must not be discharged from the subject site onto the surface of the adjacent land.**
- 12. Prior to works commencing the Applicant/Owner is to submit design plans for all proposed engineering works external to the site. The plans are to be submitted as separate engineering drawings for assessment by the Responsible Authority.**
- 13. The Applicant/Owner is responsible to pay for all costs associated with reinstatement and/or alterations to Council or other Public Authority assets as a result of the development. The Applicant/Owner is responsible to obtain all relevant permits and consents from Council at least 7 days prior to the commencement of any works on the land and is to obtain prior specific written approval for any works involving the alteration of Council or other Public Authority assets. Adequate protection is to be provided to Council's infrastructure prior to works commencing and during the construction process.**
- 14. The qualified civil engineer when undertaking civil design must ensure that the landscape plan/s and drainage plan/s are compatible. The stormwater drainage and on site detention system must be located outside the tree protection zone (TPZ) of any trees to be retained.**
- 15. No building or works are to be constructed over any easement without the written consent of Council and the relevant Authorities.**

Waste Management

- 16. Prior to the commencement of any buildings or works, a Waste Management Plan must be submitted to and approved by the Responsible Authority. This Waste Management Plan must address the following requirements:**
 - a) For Dwelling 1- Council waste collection as per existing arrangements.**
 - b) For Dwelling 2, waste must be collected on site by an external private waste collection service, or other arrangement, to the satisfaction of Council.**
 - c) Swept path diagrams for the private waste collection vehicle entering and egressing Dwelling 2, demonstrating compliant vehicle movements.**

Once submitted and approved to the satisfaction of the Responsible Authority, the Waste Management Plan will form part of the endorsed plans under this permit.

The requirements of the Waste Management Plan must be implemented by the dwelling owners and occupiers of the site for the life of the dwellings, to the satisfaction of the Responsible Authority. Any revision of the Waste Management Plan or changes to the approved waste system of the development require Council approval.

Construction Management Plan

- 17. Prior to the commencement of buildings or works on the land, a Construction Management Plan must be submitted to and approved by Council, detailing:**
 - a) How the owner will manage the environmental and construction issues associated with the development,**
 - b) Management of potential conflicts with safe pedestrian access to the gate to 36 Shepherd Street from the laneway accessing the subject site.**

The Construction Management Plan must be prepared and managed by a suitably qualified person who is experienced in preparing Construction Management Plans in accordance with the City of Whitehorse Construction Management Plan Guidelines.

9.1.4 (cont)

When approved the Construction Management Plan will form part of this permit and must be complied with, to the satisfaction of the Responsible Authority. The owner of the land is to be responsible for all costs associated with the works to be undertaken in accordance with the requirements of the Construction Management Plan.

General Requirements

- 18. The development must be provided with external lighting capable of illuminating access to each garage and car parking space. Lighting must be located, directed and shielded and of limited intensity that no nuisance or loss of amenity is caused to any person within and beyond the site.*
- 19. Prior to the occupation of the development, all walls on site boundaries facing adjoining properties must be constructed, cleaned and finished to the satisfaction of the Responsible Authority.*
- 20. All treatments to prevent overlooking must not include 'Translucent film' on windows and must be in accordance with Standard B22 of Clause 55.*

Expiry

- 21. This permit will expire if one of the following circumstances applies:*
 - a) The development is not commenced within two years from the date of issue of this permit,*
 - b) The development is not completed within four years from the date of this permit.*

The Responsible Authority may extend the periods referred to if a request is made in writing pursuant to the provision of Section 69 of the Planning and Environment Act 1987.

Permit Notes:

General Notes

- A. The granting of this permit does not obviate the necessity from compliance with the requirements of any other authority under any act, regulation or local law.*
- B. The construction or reinstatement of crossovers is to be to Council standards and at the full cost of the permit holder.*
- C. The design and construction of letterboxes is to accord with Australian Standard AS-NZ 4253-1994.*
- D. The lot/unit numbers on the "Endorsed Plan" are not to be used as the official street address of the property. All street addressing enquiries can be made by contacting our Property Team on 9262 6470.*

Asset Engineering

- E. The design and construction of the stormwater drainage system up to the point of discharge from an allotment is to be approved by the appointed Building Surveyor. That includes the design and construction of any required stormwater on-site detention system. The Applicant/Owner is to submit certification of the design of any required on-site detention system from a registered consulting engineer (who is listed on the Engineers Australia National Professional Engineer Register or approved equivalent) to Council as part of the civil plans approval process.*
- F. The requirement for on-site detention will be noted on the stormwater point of discharge report, or it might be required as part of the civil plans approval.*

9.1.4
(cont)

- G. Report and consent – Any proposed building over the easement is to be approved by the Responsible Authority prior to approval of the building permit. If Report and Consent contradicts with the Planning Permit, amendment of the Planning Permit might be required.**
- H. The Applicant/Owner is to accurately survey and identify on the design plans all assets in public land that may be impacted by the proposed development. The assets may include all public authority services (i.e. gas, water, sewer, electricity, telephone, traffic signals etc.) and the location of street trees or vegetation. If any changes are proposed to these assets then the evidence of the approval is to be submitted to Council and all works are to be funded by the Applicant/Owner. This includes any modifications to the road reserve, including footpath, naturestrip and kerb and channel.**
- I. The Applicant/Owner must obtain a certificate of hydraulic compliance from a suitably qualified civil engineer to confirm that the on-site detention works have been constructed in accordance with the approved plans, prior to Statement of Compliance is issued.**
- J. There is to be no change to the levels of the public land, including the road reserve or other Council property as a result of the development, without the prior approval of Council. All requirements for access for all-abilities (Disability Discrimination Access) are to be resolved within the site and not in public land.**
- K. No fire hydrants that are servicing the property are to be placed in the road reserve, outside the property boundary, without the approval of the Relevant Authority. If approval obtained, the property owner is required to enter into a S173 Agreement with Council that requires the property owner to maintain the fire hydrant”**
- L. No excavation and/or fill is permitted within the easement.**
- M. A further Planning Permit is required for works near significant trees. Please contact Council Planning Department on 9262 6303 for information.**

Waste Management

- N. Mobile Garbage Bin usage is based on individual usage by the occupiers of the development.**
- O. Every rateable tenement is liable to pay for municipal charges irrespective of the level of collection services provided by Council.**
- P. All aspects of the waste management system including the transfer on bins for collection is to be the responsibility of the occupiers, caretaker, manager and/or the body corporate – not the collection contractor.**

9.1.4 (cont)

Preferred Tree Species

Q. It is recommended the trees proposed for replanting are selected from the list below:

| Large canopy trees, greater than 12m in height at maturity | | |
|---|---------------------|---------------|
| Botanical Name | Common Name | Origin |
| <i>Angophora costata</i> | Smooth-barked Apple | AN |
| <i>Angophora floribunda</i> | Rough-barked Apple | AN |
| <i>Cedrus deodara</i> | Himalayan Cedar | Ex. |
| <i>Eucalyptus baxteri</i> | Brown Stringybark | VN |
| <i>Eucalyptus cephalocarpa</i> | Mealy Stringybark | VN |
| <i>Eucalyptus globoidea</i> | White Stringybark | VN |
| <i>Eucalyptus goniocalyx</i> | Long-leaved Box | VN |
| <i>Eucalyptus leucoxylon</i> | Yellow Gum | VN |
| <i>Eucalyptus melliodora</i> | Yellow Box | VN |
| <i>Eucalyptus polyanthemos</i> | Red Box | VN |
| <i>Liriodendron tulipifera</i> | Tulip tree | Ex. |
| <i>Quercus palustris</i> | Pin Oak | Ex. |

| Medium sized trees, 8 - 12m in height at maturity | | |
|--|----------------------|---------------|
| Botanical Name | Common Name | Origin |
| <i>Acacia dealbata</i> | Silver Wattle | VN |
| <i>Acacia mearnsii</i> | Black Wattle | VN |
| <i>Allocasuarina torulosa</i> | Forest She-oak | AN |
| <i>Betula pendula</i> | Silver Birch | Ex. |
| <i>Corymbia eximia</i> | Yellow Bloodwood | AN |
| <i>Eucalyptus scoparia</i> | Wallangara white gum | AN |
| <i>Eucalyptus yarraensis</i> | Yarra Gum | VN |
| <i>Eucalyptus leucoxylon subsp. connata</i> | Melbourne Yellow Gum | VN |
| <i>Fraxinus excelsior 'Aurea'</i> | Golden Ash | Ex. |
| <i>Fraxinus ornus</i> | Manna Ash | Ex. |
| <i>Nyssa sylvatica</i> | Tupelo | Ex. |
| <i>Tilia cordata</i> | Small-leaved Lime | Ex. |
| <i>Ulmus parvifolia</i> | Chinese Elm | Ex. |
| <i>Waterhousea floribunda</i> | Weeping Lilly Pilly | AN |
| <i>Zelkova serrata</i> | Japanese Zelkova | Ex. |

Or other species to the Satisfaction of the Responsible Authority

VN – Victorian Native; AN – Australian Native; Ex. – Exotic

C. Has made this decision having particular regard to the requirements of Sections 58, 59, 60 and 61 of the Planning and Environment Act 1987.

COUNCIL RESOLUTION

Moved by Cr McNeill, Seconded by Cr Cutts

That Council:

A. Being the Responsible Authority, having caused Application WH/2020/1213 for 34 Shepherd Street, SURREY HILLS (LOT 2 LP 47558 37B, Lot 17 PS 447961W) to be advertised and having received and noted the objections is of the opinion that the granting of a Planning Permit for the development of a double storey dwelling to the rear of the existing dwelling, alterations and additions to the existing dwelling and associated tree removal is not acceptable and will unreasonably impact the amenity of adjacent properties.

9.1.4

(cont)

B. Issue a Notice of Refusal to Grant a Permit under the Whitehorse Planning Scheme to the land described as 34 Shepherd Street, SURREY HILLS (LOT 2 LP 47558 37B, Lot 17 PS 447961W) for the development of a double storey dwelling to the rear of the existing dwelling, alterations and additions to the existing dwelling and associated tree removal, on the following grounds:

- 1. The proposal is contrary to the Local Planning Policy Framework contained in the Whitehorse Planning Scheme, particularly in relation to the following Clauses:***
 - a) Clause 21.05 (Environment);***
 - b) Clause 21.06 (Housing);***
 - c) Clause 22.03 (Residential Development);***
 - d) Clause 22.04 (Tree Conservation)***
- 2. The proposed development will not adequately respect the neighbourhood character and amenity of the area, failing to meet the purpose and decision guidelines of the Neighbourhood Residential Zone.***
- 3. The proposal fails to meet the landscape character objectives and the decision guidelines of the Significant Landscape Overlay Schedule 9.***
- 4. The development fails to meet the following Objectives and Standards of Clause 55 (including Standards as varied by Schedule 5 to the Neighbourhood Residential Zone):***
 - a) Neighbourhood character***
 - b) Landscaping***
 - c) Parking location***
 - d) Walls on Boundaries***
 - e) Overlooking***
 - f) Solar Access to Open Space***
- 5. The proposed new dwelling and garage will result in building bulk and visual impacts to the surrounding residential lots.***
- 6. The proposed site layout does not provide sufficient tree planting opportunities around the proposed dwelling.***
- 7. The proposed vehicle access for the new dwelling lacks visibility and does not provide for suitable driver sight lines.***

CARRIED

A Division was called.

Division

| For | Against |
|-------------|----------------|
| Cr Carr | Cr Barker |
| Cr Cutts | Cr Davenport |
| Cr Lane | Cr Liu |
| Cr Massoud | Cr Munroe |
| Cr McNeill | Cr Skilbeck |
| Cr Stennett | |

On the results of the Division the motion was declared CARRIED

9.1.4 (cont)

MELWAYS REFERENCE 60 K1

| | |
|-------------------|---|
| Applicant: | DD Planning |
| Zoning: | Neighbourhood Residential Zone Schedule 5 |
| Overlays: | Significant Landscape Overlay Schedule 9 |
| Relevant Clauses: | |
| Clause 11 | Settlement |
| Clause 12 | Environment and Landscape Values |
| Clause 15 | Built Environment and Heritage |
| Clause 16 | Housing |
| Clause 21.05 | Environment |
| Clause 21.06 | Housing |
| Clause 22.03 | Residential Development |
| Clause 22.04 | Tree Conservation |
| Clause 32.09 | Neighbourhood Residential Zone Schedule 5 |
| Clause 42.03 | Significant Landscape Overlay Schedule 9 |
| Clause 52.06 | Car Parking |
| Clause 55 | Two or More Dwellings on a Lot or Residential Buildings |
| Clause 65 | Decision Guidelines |
| Ward: | Kingsley |



9.1.4

(cont)

BACKGROUND

History

There are two previous Planning Permit Applications issued that have included the subject site, relating to the closure of a laneway that formerly ran to the south of this site, and now forms part of the subject land:

- WH/2001/12341 issued 28 August 2001, allowing subdivision of the reserve on LP1468 and the discontinued roads on LP 1468 and LP 1511 in accordance with PS 447961W
- WH/2001/12342 issued 28 August 2001, allowing removal of reserve and subdivision of land into one lot and a road as shown on PS446740U

The Site and Surrounds

The subject site is located on the south side of Shepherd Street, 100 metres west of the intersection with Oak Street. The site comprises two titles: the original residential lot (Vol 8287 Fol 305) and a portion of the former laneway to the south (Vol 10606 Fol 959). The site is rectangular in shape with a frontage to Shepherd Street of 17.37 metres, a depth of 50.44 metres and comprises an overall area of 875m².

The rear portion of the east boundary abuts and has access to an 8 metre long and 4 metre wide laneway (road reserve), which adjoins a cul de sac at the northern end of Beech Street.

The site contains a double storey brick dwelling with a vehicle crossover and driveway located adjacent to the west boundary. The site slopes down from the front (north) to the rear (south), falling approximately 4.3 metres down the length of the lot. A 3 metre wide sewerage easement runs along the rear (south) boundary.

The arborist report submitted with the application, prepared by Landscapes by Design, provides an assessment of 26 trees, of which Trees 3-5, 8, 12-14, 19, 20 and 24-26 are located within the subject site. Trees numbered 1, 2, 4, 8-11, 14, 15, 17-20, and 23 are protected under the Significant Landscape Overlay Schedule 9. The protected trees and permit triggers associated with the proposal are summarised in the table in the planning controls section below. It is noted that trees which are not protected by the SLO9 were also assessed in the submitted arborist report and have been considered, where required, as part of this application.

The adjoining lot to the east, at 36 Shepherd Street, accommodates a double storey brick dwelling setback 2.6 metres from the common boundary with the subject site, and including a single garage constructed on the common boundary. Trees 1, 6, 7, and 9-11 are located on this lot.

The adjoining lot to the west, at 32 Shepherd Street, accommodates a double storey weatherboard dwelling setback 3 metres from the subject site, with Trees 21-23 and a vehicle accessway located beside the common boundary.

To the rear (south), the subject site abuts 25 Beech Street, which includes a carport built to the common boundary, and secluded private open space supporting several trees located adjacent to the subject site. This lot accommodates protected Trees 15, 17 and 18, and also Tree 16, which is 4 metres high and not SLO9 protected. Tree 15 is located beside the laneway that serves the subject site.

The surrounding dwellings are set within established gardens. In the vicinity of the subject site, the area comprises a mix of single and double storey detached dwellings interspersed with some in-fill medium density residential development. More broadly, the topography of the area slopes downwards from Shepherd Street in a south-east direction, towards a low point on Beech Street.

9.1.4

(cont)

Planning Controls

The proposal triggers the need for a Planning Permit under the following Clauses of the Whitehorse Planning Scheme:

Neighbourhood Residential Zone Schedule 5

Pursuant to Clause 32.09-6 a permit is required for the construction of two or more dwellings on a lot.

Under Clause 32.09-4 a development must meet a minimum garden requirement of 35% (given the site area). The development plans indicate a garden area of 361m² or 45.5%.

Significant Landscape Overlay Schedule 9

Under Clause 42.03-2 a permit is required for the removal of protected trees and buildings and/or works within 4 metres of protected trees as summarised in the table below, including the condition of the trees as assessed by the applicant's Arborist.

| Tree No. | Species and Common Name | Height | Condition | Location | Permit Trigger |
|----------|--|--------|-----------|--------------------------------|-------------------------------------|
| 1 | <i>Pittosporum euginoides</i> 'Variagata' Variagated Lemonwood | 5m | Average | Adjoining lot to east | N/A |
| 2 | <i>Platanus x acerifolia</i> London Plane Tree | 12m | Average | Street tree in Shepherd Street | N/A |
| 4 | <i>Jacaranda mimosifolia</i> Jacaranda | 6m | Average | Subject site | Driveway works within 4 metres |
| 8 | <i>Lagerstroemia faureii x indica</i> Crepe Myrtle | 7m | Average | Subject site | Remove |
| 9 | <i>Photinia robusta</i> Photinia | 5m | Average | Adjoining lot to east | Garage construction within 4 metres |
| 10 | <i>Pittosporum tenuifolium</i> Hedge Pittosporum | 6m | Average | Adjoining lot to east | Garage construction within 4 metres |
| 11 | <i>Callistemon citrinus x viminalis</i> 'Kings Park Special' Kings Park Bottlebrush | 6m | Average | Adjoining lot to east | Garage construction within 4 metres |

9.1.4

(cont)

| Tree No. | Species and Common Name | Height | Condition | Location | Permit Trigger |
|----------|---|--------|-----------|------------------------|---|
| 14 | <i>Callistemon citrinus</i> Scarlet Bottlebrush | 6m | Average | Subject site | Remove |
| 15 | <i>Ulmus procera</i> English Elm | 10m | Average | Adjoining lot to south | Laneway works within 4 metres |
| 17 | <i>Acer palmatum</i> Japanese Maple | 5m | Average | Adjoining lot to south | Metal batten fence construction within 4 metres |
| 18 | <i>Eucalyptus cladocalyx</i> Sugar Gum | 7m | Poor | Adjoining lot to south | Metal batten fence construction within 4 metres |
| 19 | <i>Acacia boormanii</i> Snowy River Wattle | 6m | Average | Subject site | Remove |
| 20 | <i>Ficus macrophylla</i> Moreton Bay Fig | 7m | Average | Subject site | Shed and works within 4 metres |
| 23 | <i>Pittosporum tenuifolium</i> Hedge Pittosporum | 5m | Average | Adjoining lot to west | Shed within 4 metres |

PROPOSAL

The application proposes to construct two double storey dwellings, comprising a new double storey dwelling to the rear of the existing dwelling. The key features of the proposal include:

Dwelling 1 (Existing dwelling)

- Retention of the existing two storey dwelling facing Shepherd Street.
- Retention of the existing (lower) ground level, comprising two bedrooms, rumpus room and storage.
- Retention of the existing first floor, comprising living, dining, kitchen, family/meals, second living area, bathroom, laundry and master bedroom suite.
- Construction of a new single car garage beside the dwelling abutting the west boundary, including a wall on the boundary 7.9 metres long and average 3.05 metre high and maximum 3.5 metres high. This garage will be served by the existing crossover and a new exposed aggregate accessway to the west of the lot, providing a second tandem car space. The new garage will include front and rear roller doors, with works (fill) for a new ramp to be constructed up to the rear (south) roller door.
- Addition of a new 19.8m² timber deck within the rear (south) secluded private open space, set back 1.6 metres from the adjacent lot to the east.
- This dwelling is served by two secluded private open space areas: area to the east, containing the new deck and with a minimum dimension of 5.5 metres having an area of 41m², plus a further area of secluded open space beside the west boundary to the rear of the new garage, having a minimum dimension of 4.6 metres and a total area to 48m². This dwelling also has the benefit of the approximately 150m² open space within the Shepherd Street frontage.
- A 1.6 metre setback to the proposed internal boundary, to the lot accommodating Dwelling 2.

9.1.4

(cont)

Dwelling 2 (New dwelling)

- Sole access from the laneway adjoining Beech Street, which is proposed to be sealed and drained for a 3 metre wide roadway to the satisfaction of Council. A 1 metre wide strip along the south side of the laneway appears to be proposed to remain permeable.
- Construction of a 2 metre high sliding metal picket gate (minimum 50% openings) at the site frontage to the laneway, with a 0.9 metre wide and 2 metre high rendered masonry fence containing a letterbox and street number located on the subject site at the southern end of the laneway entrance.
- Construction of an open accessway along the south boundary, supporting an uncovered car space and vehicle turning area, with a 1.8 metre high metal batten fence including double pedestrian gates located at the western end of this accessway, 4.9 metres from the west boundary of the lot.
- The ground level of the new dwelling including a single garage constructed 1 metre from the east boundary, and the front door presenting to the internal accessway. The ground floor comprises open plan kitchen, dining and family areas, walk in pantry, laundry and guest bedroom suite.
- The first floor includes a master bedroom suite, two further bedrooms, family bathroom and leisure area. A 7.44m² balcony is proposed on the west elevation, accessed from bedroom 2.
- Ground level setback a minimum 1.2 metres from the west boundary and 5.1 metres from the south boundary. First floor minimum setbacks: 4 metres to the west boundary (balcony 2.5 metre setback), 5.7 metres to the south, 2.3 metres to the east boundary and 1.8 metres to the proposed (internal) north boundary.
- An area of secluded open space located at the south-west corner of the lot with a minimum dimension of 4.8 metres and an overall area of 55m².

Other key features include:

- External materials for the new dwelling include dark grey face brickwork to the ground level, grey render and dark grey vertical cladding to the upper level, and a pitched dark grey tiled roof.
- Dwelling 1 garage to be clad with dark grey face brickwork and a flat grey metal roof.
- A maximum building height for Dwelling 2 of 8.8 metres.
- A site coverage of 41.3%.
- A permeable area of 47.7%.

9.1.4

(cont)

CONSULTATION

Public Notice

The application was advertised by mail to the adjacent and nearby property owners and occupiers and by erecting notices to the both the Shepherd Street and rear laneway frontages. Following the advertising period 27 objections were received. The issues raised are summarised as follows:

- Amenity impacts:
 - Overlooking from windows and balcony
 - Overshadowing, exacerbated by the slope of the land
 - The existing dwelling will overshadow the new dwelling and limit access to northern light
 - Amenity impacts to adjacent backyards
 - Increased noise
- Neighbourhood Character:
 - Building bulk and form
 - Visual bulk impacts to surrounding lots, exacerbated by the fall of the subject site down towards the rear.
 - Owing to the fall of the land, the proposed dwelling will be substantially elevated above some surrounding dwellings, presenting as three storeys above the lower portions of Beech Street
- Car parking and traffic:
 - Increased on-street parking. This is already a problem on Beech Street and causes traffic delays
 - Waste trucks currently cannot do U-turns at the end of Beech Street as cars parked on street restrict the turning area. Waste trucks currently only collect bins from one side (south) of the Beech Street cul-de-sac. The proposed waste bin location is inaccessible to a garbage truck.
 - Increased traffic congestion
 - Traffic safety impacts on the street
 - Access to the new dwelling via a laneway is hazardous. The laneway is too narrow to allow for kerbs to be provided, and adjacent high fencing restricts the required driver sight lines.
 - No swept path diagrams have been provided to demonstrate access to and from the subject site.
 - Obstruction of pedestrian access to properties on Beech Street
- Landscaping:
 - Tree removal (in particular a large Wattle - Tree 19) and associated environmental and health impacts, including greenhouse gas emissions, global warming, the urban heat island effect and loss of habitat
 - Insufficient open space, landscape areas and tree planting
 - Development impacts on the TPZs and health of retained trees on the site and surrounding lots
 - The submitted arborist report incorrectly attributes Low retention value to several good quality trees

9.1.4

(cont)

- Existing trees on the site are not currently being maintained and their health is suffering due to neglect
 - Private open space to the front dwelling is not “private” as it is screened from the street by only a 0.6 metre high wall, and this area is not conveniently accessible from a living room.
 - Loss of “backyard wscape”
 - No guarantee that planted trees will be maintained in the long term.
- Planning controls:
 - Contrary to ResCode and Planning Scheme requirements and Council’s Sustainability Strategy and Climate Adaptation Plan.
 - Insufficient notice to Beech Street residents.
- Use of the laneway:
 - When the bulk of the laneway was sold in 2001, the remaining portion was not proposed to be used for regular vehicle access or pedestrian access.
- Non-planning matters:
 - Negative impact on surrounding property values
 - Loss of views
 - Set an undesirable precedent
 - Increased water runoff from the site and laneway, onto adjoining lots. This is already a problem.
 - The 65 metre outfall drain to the legal point of discharge will damage neighbouring trees and properties
 - There is asbestos in an existing garden structure proposed for removal, and this must be dismantled safely and notice must be given to neighbours ahead of time.
 - The existing boundary fence is in good repair and neighbours will not pay for it to be replaced
 - Impact to objector’s health
 - Construction impacts, including noise, mud, rubbish (including nails and glass), and construction vehicle parking

Consultation Forum

An Online Consultation Forum was held on 29 July 2021. Thirteen objectors and their representatives, the land owner, two representatives from the applicant (planning consultant and designer) and two planning officers attended the meeting which was chaired by Ward Councillor McNeill.

The Forum followed an issues-based discussion expanding on the concerns raised in the objections received. Key points included:

- The elevated subject site exacerbating the visual bulk and overshadowing impacts to nearby, lower lots.
- The proposed Garage 1 wall on the west boundary exceeds the allowed height and length.
- The adjoining residents at No. 32 Shepherd Street adjacent to the west submitted that the proposed development would intrude on the most sensitive areas of their private open space (BBQ area).

9.1.4

(cont)

- There are no other two storey dwellings constructed in rear yards of lots facing Shepherd Street.
- The new dwelling would not have any street frontage or visibility, owing to the configuration of the lot.
- Concerns raised in relation to the use of the laneway to access the subject site included:
 - The laneway is currently used both by nearby residents for parking and by vehicles doing three-point turns at the end of Beech Street.
 - Vehicles utilising the laneway, which could be reversing, could conflict with pedestrians accessing the laneway from a gate at No. 36 Shepherd Street, as there is no pedestrian seclusion zone separating the existing pedestrian gate from the proposed paved accessway in the laneway. If vehicles parked on the laneway, the pedestrian gate to 36 Shepherd Street would be inaccessible.
 - Visitor parking location.
- Concern that there is insufficient on-street parking available in Beech Street for construction vehicle parking during the construction process.
- The waste collection location and bin storage were queried.
- The proposed extent of tree removal, potential impacts and lopping to trees on neighbouring lots overhanging the site and laneway, the condition of trees on site, and the maintenance of proposed landscaping.
- Overall, one critical concern for the objectors was the two storey form of the proposal, however the applicant and owner advised that a single storey configuration was not possible for them.
- The applicant noted that many of the concerns raised by objectors regarding traffic, parking and the laneway were already problematic under the existing conditions. In addition, they stated that the arborist report for the site was obtained prior to designing the proposal, and the design was responsive to the existing and surrounding trees.

Referrals

External

The application was not required to be referred externally.

Internal

Engineering and Environmental Services Department

- Transport Engineer

The access into Dwelling 2's parking space and garage is satisfactory, and there is no objection to the reversing movements (either in or out) required to the open car space. The proposed development is supported.

- Waste Engineer

A Waste Management Plan for Dwelling 2 is required to be submitted, to Council for assessment.

- Assets Engineer

No objection to the proposed laneway access, noting that the plans show that the laneway is to be sealed and drained to Council's satisfaction. Standard conditions are required.

9.1.4

(cont)

Planning Arborist

There is no objection to the proposed removal of trees on the subject site. Replacement tree species should be chosen from the recommended list. In relation to trees on adjoining lots, only Trees 16-18 and 21 will be affected by buildings or works affecting over 10% of their TPZ. All other trees will have no or allowable (less than 10%) encroachments into their TPZs.

Council's Planning Arborist has advised that the plans require amendment to demonstrate that there will be no fill (associated with the vehicle accessway) within the TPZs of Trees 16-18, located on the adjoining lot to the south. Tree protection conditions will be required to protect the retained trees (including Tree 21) from unreasonable impacts during the construction process

DISCUSSION

Consistency with State and Local Planning Policies

The construction of two dwellings on this site is consistent with State and Local Planning Policies which encourage higher density development within established residential areas that have good access to shops, recreation facilities and public transport. The proposal accords with State Planning Policies which seek to ensure housing stock matches changing demand by widening housing choice; encourage the development of well-designed medium-density housing that makes better use of existing infrastructure; and that respects the neighbourhood character and appropriately responds to its landscape, valued built form and context.

Clause 21.06 (Housing) of the Local Planning Policy Framework is informed by Council's Housing Strategy 2014, and identifies the site within a Limited Change Area. New development within Limited Change Areas should reinforce the preferred future neighbourhood character of the area, and some medium density development is anticipated.

Whitehorse's Residential Development Policy at Clause 22.03, applies to all applications for development within the residential zones. This policy is used to supplement the neighbourhood character and residential policy requirements of Clause 55 (ResCode). The relevant objectives of Clause 22.03 are as follows:

- To ensure that residential development within the City of Whitehorse is consistent with the built form envisaged for the relevant category of housing change.
- To ensure development contributes to the preferred neighbourhood character where specified.
- To ensure that new development minimises the loss of trees and vegetation.
- To ensure that new development provides adequate vegetation and gardens consistent with the preferred neighbourhood character.

The *Neighbourhood Character Study 2014* further defines the preferred future character of precincts within the City. The preferred character statements for each character precinct are defined under Clause 22.03-5. The subject site is located within the Garden Suburban Precinct 2.

This proposed development is in keeping with the preferred and prevailing built form and scale of developments in the area, and the proposed design and siting is consistent, subject to conditions, with the objectives and intent of Council's Residential Development Policy for developments within Limited Change and Garden Suburban Precinct 2 Areas, where the following outcomes are preferred:

The combination of heritage and quality older style dwellings and well-designed contemporary buildings set within large gardens will continue to form the key characteristics of this area. New dwellings will be sited in generous gardens to reflect the spacious qualities and the dominance of planting in the streetscape. Buildings or extensions will respect neighbouring properties from earlier periods, in scale and siting.

9.1.4

(cont)

The vegetated character of the area will be maintained by retaining consistent front setbacks that allow for trees and shrubs. Buildings will be setback from side boundaries to provide a visual separation reflecting the typical rhythm of the streetscapes. Low or open style front fences will allow private gardens to contribute to the leafy character of the area.

Areas with good access to trams and train stations will accommodate more dwellings with slightly more compact siting than the remaining residential areas, but with the continued incorporation of trees and gardens, and high quality, responsive design.

Given the limited visibility of Dwelling 2 from either Shepherd Street or Beech Street, the proposed development and front gate will have limited presentation to the streetscape. The proposed site layout will provide for the planting of trees to contribute to the landscape character of the area. Variations to Clause 55 to address the relevant requirements of the Garden Suburban Precinct 2 Guidelines, are set out in the applicable Schedule 5 to the Neighbourhood Residential Zone.

The proposed development has been fully assessed against and is considered, subject to conditions discussed below, to satisfy the relevant standards and objectives of Clause 55 (Two or more dwellings on a lot) of the Whitehorse Planning Scheme.

The following discussion covers the key issues raised during the application process.

Access from the Existing Laneway

A key issue identified through the objections, and raised at the consultation forum was that of access to the new dwelling through the laneway at the end of Beech Street.

The short laneway connecting the rear south-east corner of the subject site to the end of Beech Street appears as a road on the title of the subject land, and as such provides legal road access to the subject site. The site's rear laneway access has provided an opportunity to the new dwelling to the south of the lot to be solely accessed from Beech Street.

This laneway is a road, and as such must be kept clear for traffic at all times, be that for vehicles accessing the subject site or for vehicles performing three point turns at the end of Beech Street. The occupiers of the subject site will not have sole use of the laneway and will not be able to park in the laneway, so access to the pedestrian gate serving No 36 Shepherd Street should not be blocked; this was a concern expressed through the consultation.

The proposed sealed area of the laneway to serve the subject site has been aligned with the northern edge of the laneway reserve, where it is most likely to cause conflict with pedestrian access to the gate to No. 36 Shepherd Street. Council's Transport Engineer has advised that this roadway could be realigned in order to provide a pedestrian seclusion zone in front of the gate to No. 36. This is a reasonable requirement and will be required as a condition of Permit.

Although the subject site has a very limited presentation to Beech Street, the proposed use of a visually permeable front gate with the front door of Dwelling 2 visible from the laneway provides the best sense of address possible for a dwelling in this location. The access arrangement will be unusual but by no means unique, as there are a number of examples in Whitehorse where infill development has sole frontage and address to a laneway. Although the proposed street numbering for the new dwelling will not be determined until the subdivision stage, it is anticipated that the street number will be consistent with the Beech Street numbering, and a condition of permit will require that the street number is prominently displayed on the masonry plinth supporting the letterbox for Dwelling 2.

Waste Collection

A Waste Management Plan is required to be submitted. Dwelling 2 has no direct street frontage and will therefore would either require bin placements on the nature strip of another property in Beech Street or private waste collection. The applicant has indicated that a private waste collection, servicing bins stored on site, is acceptable, and conditions will reflect this.

9.1.4

(cont)

Design and Built Form

Given the unusual site access, the eastern boundary of the subject site is already set back behind the average building frontage for properties on the west side of Beech Street. Therefore the proposed dwelling location is appropriate as it continues the line of dwellings facing Beech Street. It is noted that objectors are concerned that the location of the two storey Dwelling 2 interrupts a consistent 'backyard-scape', however it is noted that many of the lots in the vicinity on the south side of Shepherd Street have been developed for medium density housing, and Planning Permit WH/2018/395 allows the development of two double storey dwellings at No. 46 Shepherd Street.

The proposed new dwelling is partially (up to 0.9 metres) cut into the slope at the high (north) end of the subject site, so that the ground floor finished floor levels southern façade is 0.6 metres above the natural ground level (NGL) at the building line, and approximately 0.9 metres above the NGL at the southern boundary. This is a reasonable outcome which ensures that the proposed building height is minimised.

Although it is noted that the subject site is elevated above much of the land to the south on Beech Street, the proposed dwelling is setback a minimum of 5 metres from the south boundary, and this setback will assist with to provide a good transition to the adjacent lot to the south.

As such, the two storey built form of Dwelling 2 is acceptable, and will not result in unreasonable building bulk, in accordance with the requirements of Clause 55 that relate to Boundary setbacks (Standards B6 and B17), and broader neighbourhood character Objectives.

Standard B18 as modified by Schedule 5 of the Neighbourhood Residential Zone states that any new garage wall constructed on a side boundary should not abut the boundary for a length more than 7 metres; the proposed Dwelling 1 garage wall on the east boundary is 7.97 metres long. Although this is a minor non-compliance, with the proposed garage 0.97 metre longer than the preferred length of wall on boundary, it is noted that the vehicle accessway and open parking area is located on the adjacent lot beside the proposed garage, and the adjoining dwelling is set back 3 metres from the shared boundary opposite the proposed garage. As such, the proposed garage wall will have limited overshadowing and building bulk impacts to the adjacent lot, which are reasonable measures to determine if a wall length that exceeds the standard, is an acceptable outcome.

In addition, the new garage serving Dwelling 1 is setback 10.8 metres from Shepherd Street, 1.9 metres further back than the Dwelling 1 front setback. This garage has a flat roof and owing to the slope of the land, down from Shepherd Street, the roof of the garage will be a maximum of 2.9 metres above the Shepherd Street footpath, ensuring it presents as a recessive built form within the streetscape. The proposed Dwelling 1 garage therefore complies with the Walls on Boundaries Objective to respect the neighbourhood character and limit amenity impacts to existing dwellings.

The provision of a rear roller door to the garage and a ramp linking the garage floor level to the ground level of the open space to the south will allow for vehicle access to the rear of the subject site, when required. The proposed ramp is 3 metres long and it will not detract from the additional 10.5 metre length (excluding the ramp) of the landscaped secluded private open space provided on the balance of the southern interface.

The side and rear (south) boundary setbacks of Dwelling 2 either meet or exceed the minimum boundary setbacks allowed by Standard B18 Side and Rear Setbacks of Clause 55, and the upper level of the new dwelling is well-articulated. The use of a pitched roof with eaves enhances the articulation between ground and upper levels, and the varied setbacks of the upper floor and window positions further improve the articulation of the proposed upper level and the building transitions to the surrounding residential lots.

9.1.4

(cont)

The proposed site (building) coverage of 41.3% is well below the preferred maximum 50% and the proposed permeable area of 47.7% generously exceeds the preferred minimum 30% within the Neighbourhood Residential Zone Schedule 5, indicating that the site layout allows for generous landscaping areas.

The 8.8 metre overall building height is well below the 10 metre building height allowed on sloping land such as the subject site. Therefore the proposed Dwelling 2 will sit comfortably within the neighbourhood context and maintain the preferred Garden Suburban Precinct 2 character.

The proposed 2 metre front fence is acceptable as it will predominantly comprise a metal picket gate which will be visually permeable and enable views into the subject site and of the front door of Dwelling 2. As the site frontage supporting the fence and gate is located at the end of the short 13 metre laneway serving the property, the height of this front fence will have limited visibility within the streetscape and will be set well back from the alignment of dwellings fronting Beech Street. As such, the proposed 2 metre fence height exceeding the preferred 1.2 maximum height specified by Schedule 5 to the Neighbourhood Residential Zone is acceptable, as the site frontage is not aligned with other sites in the Beech Street.

Landscaping

Clause 21.05 Environment, Clause 22.04 Tree Conservation Policy and Clause 42.03 Significant Landscape Overlay Schedule 9 (SLO9) identify trees as being an integral aspect of an existing and preferred character. The Statement of Nature and key elements of landscape under the SLO9 recognises that:

Trees are significant to the landscape character of the City of Whitehorse. The tree cover simultaneously delivers multiple benefits to the community, including defining neighbourhood character, providing visual amenity, reducing the urban heat island effect in more urbanised areas, improving air quality and energy efficiency, providing habitat for fauna, and increasing the wellbeing of people and liveability of neighbourhoods.

The Overlay includes the objectives:

- *To retain and enhance the canopy tree cover of the Garden and Bush Suburban Neighbourhood Character Areas.*
- *To encourage the retention of established and mature trees.*
- *To provide for the planting of new and replacement canopy trees.*
- *To ensure that development is compatible with the landscape character of the area.*

The Decision Guidelines of the SLO9 at Clause 42.03, require consideration to be given to 'the need to retain trees that are significant due to their species, health and/or growth characteristics', while further outlining, 'If retention cannot be achieved, or a tree is considered appropriate for removal, consider whether the site provides adequate space for offset planting of trees that can grow to a mature height similar to the mature height of the tree to be removed'.

The application proposed the removal of a total of eight trees, of which three (Trees 8, 14 and 19) are protected by the SLO9. The remaining trees proposed for removal, comprising Trees 12 and 13 (*Pittosporum tenuifolium*) 24 (*Camellia japonica*), 25 (*Rhododendron*) and 26 (*Prunus 'Cheal's Weeping'*) do not achieve the 5 metre height requirement for protection under the SLO9. Council's Planning Arborist has not raised any objection to the proposed tree removal, however has specified a list of appropriate replacement tree species. The landscape concept plan submitted with the application proposes the planting of one tree to be located in the south-west corner of the subject site.

9.1.4

(cont)

Standard B13, as modified by the Neighbourhood Residential Zone Schedule 5, requires the planting of two 8 metre high trees per dwelling, and the proposed landscape plan exceeds this requirement, with the retention of four trees: Trees 3 (*Pittosporum undulatum*), 4 (*Jacaranda mimosifolia*), 5 (*Acer negundo*) and 20 (*Ficus macrophylla*) on the site, and the planting of one new tree (*Hymenosporum flavum*) within the secluded private open space area of Dwelling 2. This species is not listed in Council's Arborist's preferred species list, and a condition will require the species of the new tree to be updated with a preferred species.

In relation to trees on the surrounding lots, Council's Planning Arborist has only raised concern regarding the proximity of fill within the TPZs of Trees 16-18 on the adjoining lot to the south, and a condition will require there to be no fill within more than 10% of the TPZs of these trees, in line with the requirements of Australian Standard 4970 – 2009 – Protection of Trees on Development Sites. The proposed buildings and works will be generally clear of the TPZs of other surrounding trees, and a permit condition will require any pruning of overhanging branches to be undertaken by a qualified arborist in accordance with AS4373-2007 Pruning of Amenity Trees.

The landscape concept plan also proposes a hedge with a mature height of 3 metres along most of the south boundary beside the accessway, which will soften this interface and provide suitable planting over the rear easement. A mix of 3-4 metre high hedging shrubs are also proposed along the west boundary beside the new dwelling which will screen and soften the presentation of the new dwelling to the sensitive secluded private open space area on the adjacent lot. A hedge of 3 metre shrubs is proposed between the dwellings and along the east boundary beside the new deck serving Dwelling 1, which will protect the privacy of this area. The majority of the existing trees and garden plantings to the north of Dwelling 1 will be retained.

The objectors have raised concerns that the trees on the subject site are not currently being maintained and that trees required to be planted also may not be maintained. Although Planning controls are limited in relation to existing property maintenance, Conditions will require planted trees to be retained and maintained, and the SLO9 protects many of the existing trees on the subject site from removal or lopping.

Overall, the proposed landscape plan will achieve a complete garden scheme that will allow the development to blend with the existing Garden Suburban landscape character of the area.

Car Parking and Traffic

Both dwellings provide the required two car spaces, including one covered car space, on site, as required by Clause 52.06 Car Parking. There is no requirement for visitor parking to be provided on site for a development of only two dwellings. The application has been reviewed by Council's Engineering Transport Team, who have generally supported the proposal on traffic and car parking grounds.

It is noted that increased vehicle movements in the laneway and increased on-street parking were significant concerns raised by objectors. Existing pressures on on-street parking were communicated to Council's Transport Engineers over the course of this application, and consideration of these has been made by the Engineers in concluding that the additional traffic and parking demand can be absorbed by the local street network.

Given the location of the access to Dwelling 2 at the end of the Beech Street cul-de-sac, and the lack of site frontage to Beech Street, a Construction Management Plan will be required as a condition of Permit, in particular to manage construction vehicle access and construction worker parking. A requirement of this Construction Management Plan will include management of potential conflicts with:

- Safe pedestrian access to the gate to 36 Shepherd Street from the laneway.
- Vehicles, including waste collection vehicles, utilising the laneway for three point turns at the end of Beech Street.

9.1.4

(cont)

Amenity

Overlooking

The proposed development shows the retention of the existing 2 metre high paling fences along the eastern and southern boundaries of the subject site, and a new 2 metre high fence along the western boundary. In order to protect the adjacent lots to the west and south from unreasonable overlooking, these fences will require extension to screen views from ground level habitable room windows and the new Dwelling 2 deck to a height of 1.7 metres above finished floor level. A condition will require the addition of free-standing lattice screening or alternative screening measures to Council's satisfaction. The new deck serving Dwelling 1 will be suitably screened by the existing east boundary fence.

At the upper level, the master bedroom is the only habitable room window on the east elevation, and this will be screened by fixed louvres with a maximum transparency, in accordance with the requirements of Standard B22 Overlooking of Clause 55.

To the west, a balcony is proposed, accessed from bedroom 2. Although this balcony is proposed to be screened to 1.7 metres above finished floor level, the elevation of this balcony has the potential to exacerbate noise impacts to the surrounding lots. Given that Dwelling 2 is provided with ample secluded private open space, the proposed balcony is not necessary and will be required to be removed as a condition of permit. In addition, the west facing bedroom 2 windows of Dwelling 2 will be required to be screened or obscure glazed to 1.7 metres above finished floor level to prevent unreasonable overlooking in accordance with Standard B22.

Dwelling 2 has no upper level habitable room windows facing south or north to Dwelling 1. The non-habitable upper level east bathroom and west-facing ensuite windows of Dwelling 2 will also be required to be obscure glazed to a height of 1.7 metres above the finished floor level.

Overshadowing

The proposed Dwelling 2 setbacks from the south boundary ensure there is no overshadowing to the adjacent lot to the south adjacent lot to the south between 9am and 3pm at the Equinox. The submitted shadow diagrams show that there will be some overshadowing from Dwelling 2 and the new Dwelling 1 garage beyond the existing fence shadows to the adjacent lot to the west at 9am on the Equinox, but the proposed overshadowing will not significantly overshadow the adjacent secluded private open space area in accordance with the requirements of Standard B21 Overshadowing Open Space of Clause 55.

To the west, Dwelling 2 will result in increased shadowing at 3pm at the Equinox of the secluded private open space of No. 36 Shepherd Street, however the increased shadows will fall mainly over existing trees and the extent of overshadowing complies with Standard B21.

Internal Amenity

Dwelling 1 includes secluded private open space areas located beside both the east and west side boundaries to the rear of this dwelling. The western portion of the secluded private open space (48m² with a minimum dimension of 4.6 metres) will receive good solar access in accordance with the requirements of Standard B29 Solar Access to Open Space, and although this area is slightly less than the preferred minimum 5 metre width, given the generous overall size of this area, this is satisfactory.

The eastern portion of the Dwelling 1 secluded private open space will be significantly overshadowed by the two levels of Dwelling 1 immediately to the north, and this is an existing condition. Although the ground level secluded private open space serving Dwelling 1 is not conveniently accessible from a living room, it can be accessed from the rumpus room, and this is an existing circumstance, which is acceptable.

9.1.4

(cont)

The Dwelling 2 is predominantly single storey in height directly to the north of the secluded private open space area serving this dwelling, which will therefore ensure compliant solar access into this area in accordance with Standard B29. Two high metal fences screen the secluded private open space area of Dwelling 2 from the street, and this area is set back 12 metres from the property boundary. Given these circumstances, it is considered that the private open space serving Dwelling 2 will achieve reasonable seclusion.

Objectors Concerns not Previously Addressed

- Increased noise

Residential noise associated with a dwelling is considered normal and reasonable in an urban setting. Any future issues of amenity, if they arise, should be pursued as a civil matter. Some noise and other off site impacts are inevitable when any construction occurs. The developer will be required to meet relevant Building and EPA regulations regarding construction practices to ensure these impacts are mitigated.

- Insufficient notice to Beech Street residents.

Notice was undertaken in accordance with the requirements of Section 52 of the *Planning and Environment Act 1987*, by mailing letters to the owners and occupiers of adjacent lots and erecting notices on both of the site frontages to Shepherd Street and to the rear laneway. In addition, letters were sent to the owners and occupiers of nearby surrounding properties, above and beyond the requirements of the Act.

- Negative impact on surrounding property values

The Victorian Civil and Administrative Tribunal and its predecessors have generally found subjective claims that a proposal will reduce property values are difficult, if not impossible to gauge and of no assistance to the determination of a planning permit application. It is considered the impacts of a proposal are best assessed through an assessment of the amenity implications rather than any impacts upon property values. This report provides a detailed assessment of the amenity impact of this proposal.

- Loss of views

Views are not protected by the Planning Scheme, although built form setbacks offer a way of managing how close buildings are to those on adjoining lots, and therefore what space is available around and above.

- Set an undesirable precedent

Each planning permit application is decided on its own merits and against the relevant planning policies and provisions and cannot be considered against precedent.

- Increased water runoff from the site and laneway, onto adjoining lots.

This is already an issue and assets conditions require no further impact on drainage infrastructure.

- The 65 metre outfall drain to the legal point of discharge will damage neighbouring trees and properties.

Standard drainage conditions will be included on any permit issued, which will require the site to be properly drained to the satisfaction of Council's Asset Engineers. A standard condition references additional planning approvals which may be required if drainage works are required in proximity to protected trees.

- There is asbestos in an existing garden structure proposed for removal, and this must be dismantled safely and notice must be given to neighbours ahead of time.

Asbestos removal is not considered through the planning process, but is managed under separate legislation. The onus is on the land owner to meet the relevant legislative obligations and manage a safe construction site.

9.1.4 (cont)

- The existing boundary fence is in good repair and neighbours will not pay for it to be replaced.

Although the height of boundary fences will be a requirement of any planning permit, the construction details and process is a civil matter to be negotiated by the neighbouring lots under the *Fences Act 1968* and the *Fencing Amendment Act 2014*.

- Impact to objector's health

The *Planning and Environment Act 1987* does not allow for consideration of the health or personal circumstances of neighbours when deciding planning applications. As discussed above, the use and development of the proposed dwellings will be conducted to ensure no unreasonable impacts to surrounding lots, with various planning, building and civil enforcement mechanisms in place to regulate this.

CONCLUSION

The proposed development of a double storey dwelling to the rear of the existing dwelling, alterations and additions to the existing dwelling and associated tree removal is an acceptable response that satisfies the relevant provisions contained within the Whitehorse Planning Scheme, including the State and Local Planning Policies, the Neighbourhood Residential Zone Schedule 5, Significant Landscape Overlay Schedule 9 and Clause 55. The proposed development form, siting and overall design is considered to be acceptable and will integrate with the existing neighbourhood and landscape character of the area.

A total of 27 objections were received as a result of public notice and all of the issues raised have been discussed as required.

It is considered that the application should be approved.

ATTACHMENT

- 1 Development Plans 
- 2 Landscape Plan 

Attendance

The Mayor Cr Munroe having declared a Conflict of Interest in 9.1.5 - Request to Occupy Council Owned Land from Telstra Corporation Limited, was removed from the virtual meeting at 9.40pm and placed in the virtual waiting room prior to discussion on the item.

The Deputy Mayor Cr Carr assumed the Chair.

9.1.5 Requests to Occupy Council Owned Land from Telstra Corporation Limited

SUMMARY

This report advises Council regarding two requests from Telstra Corporation Limited, via their agents, to locate telecommunication facilities on Council owned land.

RECOMMENDATION

That Council:

- 1. Resolves, in its capacity as the public land manager, to grant conditional permission in accordance with “The Code of Practice for Telecommunication Facilities in Victoria” to Telstra Corporation Limited’s request to co-locate with the existing tenant, Axicom Pty Ltd, on the Council owned land known as 636 Burwood Highway, Vermont South (AKA Lookout Trail Park); conditions being:**
 - Permission is limited to a land area of 30 square metres (6.0m x 5.0m) to accommodate an equipment shelter or equipment cabinets along with associated boundary fencing and landscaping.**
 - A land only lease between Council and Telstra Corporation Limited is required to be fully executed prior to site access being granted by Council.**
 - The lease term between Council and Telstra Corporation Limited will be confined to the remaining lease term of the current lease between Council and Axicom Pty Ltd; that lease, after a four year option period, expires on 26 March 2027.**
 - The rent payable by Telstra Corporation Limited in year one of the lease is not less than the rent currently being paid by Axicom Pty Ltd, that being \$40,114 excluding GST.**
 - Any easement/s over Council owned land required to facilitate installation of Telstra Corporation Limited infrastructure must comply with Section 114 of the Local Government Act 2020.**
 - Site access and lease negotiations are withheld until all required town planning obligations in accordance with the Whitehorse Planning Scheme are met by Telstra Corporation Limited.**
- 2. Authorise the Manager Property and Leasing to undertake community engagement in accordance with Council’s Community Engagement Policy, if Telstra Corporation Limited accepts the conditional permission contained within resolution one.**
- 3. Resolve, in its capacity as the public land manager, to decline granting Telstra Corporation Limited permission to locate a monopole, equipment shelter and ancillary facilities on the Council owned land known as 85-103 Springfield Road, Blackburn North (AKA Koonung Park).**
- 4. Resolve, in its capacity as the public land manager, to withhold granting Telstra Corporation Limited permission to obtain a Town Planning Permit in accordance the Whitehorse Planning Scheme for a monopole, equipment shelter and ancillary facilities on the Council owned land known as 85-103 Springfield Road, Blackburn North (AKA Koonung Park).**
- 5. Authorise the Manager Property and Leasing to advise Telstra Corporation Limited, via their appointed agents, of Council’s decisions.**

9.1.5

(cont)

COUNCIL RESOLUTION

Moved by Cr Davenport, Seconded by Cr Barker

That Council:

- 1. Resolves, in its capacity as the public land manager, to grant conditional permission in accordance with "The Code of Practice for Telecommunication Facilities in Victoria" to Telstra Corporation Limited's request to co-locate with the existing tenant, Axicom Pty Ltd, on the Council owned land known as 636 Burwood Highway, Vermont South (AKA Lookout Trail Park) conditions being:***
 - Permission is limited to a land area of 30 square metres (6.0m x 5.0m) to accommodate an equipment shelter or equipment cabinets along with associated boundary fencing and landscaping.***
 - A land only lease between Council and Telstra Corporation Limited is required to be executed prior to site access being granted by Council.***
 - The lease term between Council and Telstra Corporation Limited will be confined to the remaining lease term of the current lease between Council and Axicom Pty Ltd; that lease, after a four year option period, expires on 26 March 2027.***
 - The rent payable by Telstra Corporation Limited in year one of the lease is not less than the rent currently being paid by Axicom Pty Ltd, that being \$40,114 excluding GST.***
 - Any easement/s over Council owned land required to facilitate installation of Telstra Corporation Limited infrastructure must comply with Section 114 of the Local Government Act 2020.***
 - Site access and lease negotiations are withheld until all required town planning obligations in accordance with the Whitehorse Planning Scheme are met by Telstra Corporation Limited.***
- 2. Authorise the Manager Property and Leasing to undertake community engagement in accordance with Council's Community Engagement Policy, if Telstra Corporation Limited accepts the conditional permission contained within resolution one.***
- 3. Resolve, in its capacity as the public land manager, to defer a decision regarding Telstra Corporation Limited application to locate a monopole, equipment shelter and ancillary facilities on the Council owned land known as 85-103 Springfield Road, Blackburn North (AKA Koonung Park).***
- 4. Authorise the Manager Property and Leasing to undertake further discussions with Telstra Corporation Limited, via their appointed agent (if required), regarding location options for the monopole, equipment shelter and ancillary facilities on the Council owned land known as 85-103 Springfield Road, Blackburn North (AKA Koonung Park).***
- 5. Request that at the conclusion of discussions with Telstra Corporation Limited regarding the location options at the Council owned land known as 85-103 Springfield Road, Blackburn North (AKA Koonung Park), that the Manager Property and Leasing provide Council with a report for its consideration.***
- 6. Authorise the Manager Property and Leasing to advise Telstra Corporation Limited, via their appointed agents, of Council's decisions.***

CARRIED UNANIMOUSLY

9.1.5

(cont)

BACKGROUND

There are essentially three types of telecommunications facilities applications possible and these are as follows:

- **TYPE 1 Facilities Applications:** a notice under Schedule 3 of the Telecommunications Act 1997 which relies on the 'carriers powers and immunities' set out in Schedule 3 of the *Telecommunications Act 1997* in respect of what are known as 'Low Impact Facilities';
- **TYPE 2 Facilities Applications:** *an application for telecommunications facilities which meet the requirements of A Code of Practice for Telecommunications Facilities in Victoria 2004 (also known as the Victorian Code of Practice); or*
- **TYPE 3 Facilities Applications:** an application for other telecommunications facilities (General Application) with a Town Planning Permit being required.

Council in its capacity as the "Public Land Manager" has received two separate Type 3 (General) applications from Telstra Corporation Limited (Telstra) and the details of these applications are shown in Table#1 below.

Table#1: Summary of General Applications:

| Applicant | Details | Application Type |
|--|---|--------------------------------|
| Service Stream Network Communications (on behalf of Telstra) | Request for a land only lease for an area measuring approx. 6m x 5m for an equipment shelter or cabinets at 636 Burwood Highway, Vermont South (AKA Part Lookout Trail Park) Proposal to co-locate facilities on existing Axicom monopole. | TYPE 3 Facilities Application. |
| Kordia Solutions Pty Ltd (on behalf of Telstra) | Request for a land only lease for the installation of monopole, equipment shelter and ancillary facilities at 85-103 Springfield Road, Blackburn North (AKA Koonung Park). (Request is for a new Mobile Base Station). | TYPE 3 Facilities Application. |

9.1.5

(cont)

DISCUSSION

As mentioned above, Council has received two “*General Applications*” from Telstra that required officer assessment relating to the two sites and a summary is provided below.

Please note that the summaries below are assessments of the property merits in accordance with Section 52.19-3 of the “*Code of Practice for Telecommunications Facilities in Victoria*” and do not assess the planning merits of the two “*General Applications*” below.

General Application #1:

| | |
|---------------------------|--|
| Address: | 636 Burwood Highway, Vermont South |
| Zoning: | Public Conservation & Resource Zone (PCRZ) |
| Planning Overlay: | Land Subject to Inundation Overlay (LSIO) |
| Existing Site Use: | Public park known as the Lookout Trail Park; with a sealed access road to Council’s Waste Transfer Station, a leased Moto Cross venue and an existing mobile base station leased to Axicom Pty Ltd (Axicom). |
| Axicom Lease: | Land only lease commenced 27 March 2018 with an initial 5 year lease term and a single 4 year option term. Expires, after option period, on 26 March 2027. Current passing rent is \$40,114 excluding GST. |

Location Plan: 636 Burwood Highway, Vermont South



9.1.5

(cont)

Officer Assessment of Application #1:

The existing mobile base station with monopole that is leased by Council to Axicom at Lookout Trail Park is located between 250 metres to 300 metres from the closest residential dwellings.

The request by Telstra proposes a co-location arrangement which utilises the existing Axicom monopole. This approach removes the risk of any visual impact created by a second monopole in the Vermont South area.

Even though the proposed location has minimal impact on the surrounding amenity, it is recommended that Council only provide permission that is conditional.

Refer Resolution 1 for conditional permissions.

General Application #2:

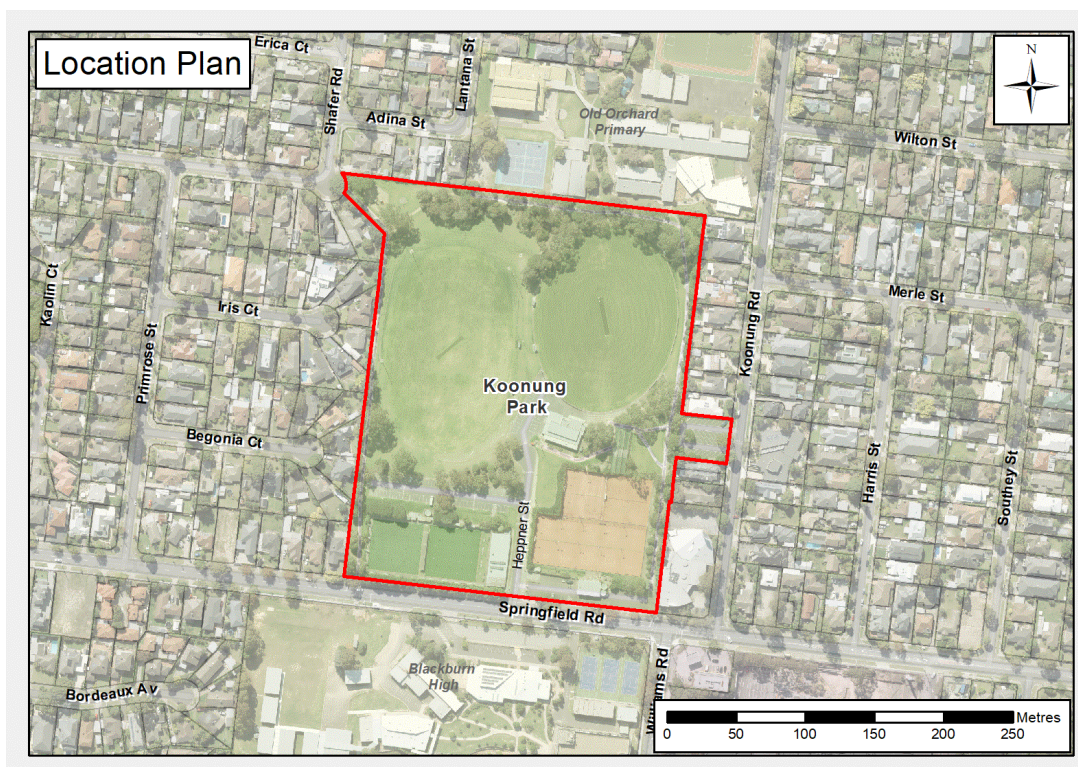
Address: 85-103 Springfield Road, Blackburn

Zoning: Public Park Recreation Zone (PPRZ)

Planning Overlay: Not Applicable

Existing Site Use: Public park known as Koonung Park, with two sporting fields and an adjoining pavilion, a leased bowling club and a leased tennis club.

Location Plan: 85-103 Springfield Road, Blackburn



9.1.5

(cont)

Officer Assessment of Application #2:

Koonung Park abuts residential properties on its eastern and western boundaries, while a primary school abuts the northern boundary.

Additionally, Koonung Park is located opposite a high school.

The exact location of the mobile base station (including monopole) at Koonung Reserve is unknown. However, assuming a central location at Koonung Park; the base station would be located between 110 to 120 metres (both east and west) to the abutting residential properties, approximately 130 metres to the primary school and approximately 170 metres to the secondary school.

Owing to proximity uses surrounding Koonung Park it is considered an inappropriate site for a mobile base station; it is therefore recommended that Council decline granting Telstra permission to locate a new monopole, equipment shelter and ancillary facilities (a mobile base station) on the Koonung Park.

Additionally, it is recommended that Council withhold granting Telstra permission to obtain a Town Planning Permit in accordance the Whitehorse Planning Scheme.

It is also noted that surrounding Koonung Park are other (non-Council owned) landholdings that provide Telstra with alternate location options.

CONSULTATION

Council's Property & Leasing Department has reviewed the applications and made the property related recommendations mentioned above after discussions with Council's Leisure and Recreation Services Department.

Community engagement in accordance with Council's Community Engagement Policy will be undertaken if Telstra consents to all the conditions underpinning the conditional permission offered by Council in resolution one.

FINANCIAL IMPLICATIONS

If Telstra accept the terms of Council's conditional permission relating to 636 Burwood Highway, Vermont South (General Application#1 mentioned above) Council will receive a base rent of \$40,114 excluding GST indexed at 2.5% per annum for the lease term.

Additionally, if a lease agreement is required, Council will seek reimbursement from Telstra of any legal costs incurred in the preparation of that lease agreement.

POLICY IMPLICATIONS

Council's Community Engagement Policy and Council's Property Lease & Licence Policy will apply.

Attendance

The Mayor Cr Munroe was readmitted to the virtual Meeting at 9.49pm following discussion on item 9.1.5 and resumed the Chair.

9.2 CORPORATE SERVICES

9.2.1 In Principle Approval of the 2020/21 Annual Financial and Performance Statements

ATTACHMENT

SUMMARY

Council is required to complete and forward to the Minister for Local Government its Annual Report by 30 September 2021. The Annual Report contains audited annual financial statements and the audited performance statement. Council cannot submit the financial statements or the performance statement to its auditor or the Minister unless it has passed a resolution giving its approval in principle to the financial statements and performance statement. It is recommended that the Annual Financial Statements and Performance Statement, be approved in principle and upon completion of the audit forwarded to the Minister as part of the Annual Report.

COUNCIL RESOLUTION

Moved by Cr Barker, Seconded by Cr Skilbeck

That Council receive the report and that:

- 1. The Annual Financial Statements and Performance Statement for 2020/21 be approved in principle.***
- 2. The Principal Accounting Officer be authorised to make minor amendments to the Annual Financial Statements and Performance Statement for 2020/2021 to meet the Victorian Auditor General's requirements.***
- 3. Cr Massoud and Cr Skilbeck be authorised to sign the Annual Financial Statements and Performance Statement for 2020/2021.***
- 4. The Chief Executive Officer be authorised to sign the Annual Financial Statements and Performance Statement for 2020/2021.***
- 5. The final audited Annual Financial Statements and audited Performance Statement for 2020/2021 be forwarded to the Minister for Local Government as part of the Annual Report by 30 September 2021.***
- 6. Public notice be given of:***
 - a) The availability of the report of the auditor under Section 9 of the Audit Act 1994.***
 - b) A meeting to be held for the purpose of discussing the Annual Report under Section 134 of the Local Government Act 1989 at 7:00 pm on 18 October 2021.***
- 7. Officers and Victorian Auditor General's Office (VAGO) are thanked for their efforts in the timely and quality production of the financial statements and performance statement***
- 8. Victorian Auditor General's Office (VAGO) intend to provide an unmodified opinion of the financial statements and performance statement.***

CARRIED UNANIMOUSLY

BACKGROUND

The Council is required under Local Government Act 1989 to complete an annual report each year and forward it to the Minister by 30 September 2021. The annual report comprises:

- A report of its operations during the financial year
- Audited financial statements
- Audited performance statement

9.2.1

(cont)

- A copy of the auditor's reports on the financial statements and performance statement, and
- Any other matter required by the regulations.

The Council cannot submit the financial statements or the performance statement to its auditor or the Minister unless it has passed a resolution giving its approval in principle to the financial statements and performance statement.

The financial statements and performance statement are required to be certified by Council's Principal Accounting Officer, by two Councillors on behalf of Council and the Chief Executive Officer prior to Council's Auditor signing the Audit Report. The annual report is then required to be forwarded to the Minister for Local Government by 30 September 2021.

The Audit Advisory Committee, at its meeting on 30 August 2021, discussed the annual financial statements and performance statement with representatives of the Victorian Auditor General.

DISCUSSION

The legislation requires Council to resolve to approve in principle the annual financial statements and performance statement prior to these statements being forwarded to the Victorian Auditor General. The Victorian Auditor General conducted the final phase of the audit process in late August 2021 at Council. In conjunction with the audit, the Victorian Auditor General requires copies of Council resolutions to authorise the signing and approval in principle of the statements.

The Audit Advisory Committee reviewed the Annual statements, in conjunction with representatives of the Victorian Auditor General, at its meeting held on 30 August 2021.



Certification

Two Councillors and the Chief Executive Officer are required to sign the certification of the annual financial statements and performance statement once clearance is obtained from the Victorian Auditor General and after the Principal Accounting Officer has signed their certification. It is proposed that the Councillors on the Audit Advisory Committee be authorised to sign the certification on behalf of the Council after the necessary clearance has been obtained. In the eventuality that there may be some late changes made to the financial statements, it is also proposed that the approval given to the Councillors be extended to enable them to sign the certification after these necessary changes have been made.

After the annual report has been submitted to the Minister, Council must give public notice that the annual report has been prepared and can be inspected on Council's website.

The Act requires a meeting to consider the annual report. The Council must consider the annual report at a meeting of Council. The meeting must be held as soon as practicable but within the time required by the regulations, after the Council has sent the annual report to the Minister.

ATTACHMENT

- 1 2021 Annual Financial Report 
- 2 Annual Report 2020-21 Performance Statement 

9.2.2 Review of Council's Public Transparency Policy

ATTACHMENT

SUMMARY

At the time of adopting its initial Public Transparency Policy (24 August 2020), Council endorsed that the Policy would be reviewed after 12 months of operation. There has been no reported issues with the Policy during its first year of operation. The review has however identified a number of required secondary changes to reflect anticipated changes to Council's meeting cycle, changes to organisational position titles and legislative changes.

SUBSTANTIVE MOTION

Moved by Cr Massoud, Seconded by Cr Liu

That Council:

1. *Receive and note the report.*
2. *Resolves that the proposed changes to its Public Transparency Policy, as reflected in Attachment A, be presented to the Whitehorse community for a 21 day community consultation period.*
3. *Receive a further report, at the conclusion of its community consultation period.*

AMENDMENT

Moved by Cr Davenport, Seconded by Cr Barker

That Council:

1. *Receive and note the report.*
2. *Resolves that the proposed changes to its Public Transparency Policy as reflected in Attachment A, be presented to the Whitehorse community for a 21 day community consultation period.*
3. *Resolves to amend the draft policy to include:*
 - a) *The use of the "Privileged and Confidential" disclaimer on presentations and papers not be used when information is already in the public domain.*
 - b) *That information on Council's website allows for easy text search.*
 - c) *The Agenda for Councillor Briefing Sessions be made publically available prior to the briefing session.*
4. *Receive a further report, at the conclusion of its community consultation period.*

The Mayor indicated he would move Items 3a), b), and c) of the Amendment to the vote in parts

The Mayor put Item 3a) of the Amendment to the vote which was CARRIED
UNANIMOUSLY

The Mayor put Item 3b) of the Amendment to the vote which was CARRIED
UNANIMOUSLY

The Mayor put Item 3c) of the Amendment to the vote which was LOST

The Substantive Motion moved by Cr Massoud, Seconded by Cr Liu as amended was
then put and CARRIED UNANIMOUSLY

9.2.2

(cont)

COUNCIL RESOLUTION

Moved by Cr Massoud, Seconded by Cr Liu

That Council:

1. ***Receive and note the report.***
2. ***Resolves that the proposed changes to its Public Transparency Policy, as reflected in Attachment A, be presented to the Whitehorse community for a 21 day community consultation period.***
3. ***Resolves to amend the draft policy to include:***
 - a) ***The use of the “Privileged and Confidential” disclaimer on presentations and papers not be used when information is already in the public domain.***
 - b) ***That information on Council’s website allows for easy text search.***
4. ***Receive a further report, at the conclusion of its community consultation period.***

CARRIED UNANIMOUSLY

BACKGROUND

When Council adopted its Public Transparency Policy on 24 August 2020, it determined that the policy would be reviewed after 12 months of operation. This report is presented in response to Council’s previous determination.

This Policy defines Council’s commitment to the Public Transparency Principles of the *Local Government Act 2020* and describes the ways in which identified Council information will be publicly available.

DISCUSSION

As a starting point for this review, Council’s Public Transparency Policy has operated seamlessly without any recorded issues for the Whitehorse community. This is probably not surprising, given the level of care shown to the structure and content of the policy itself, when it was first drafted.

Whilst this review has not identified any structural or application issues with the policy, a number of required secondary changes have been identified. Such changes have been captured and highlighted (underlined) in **Attachment A**. A summary of these changes are as follows:

- a) Removal of reference to Delegated or Special Committee Meetings - 5 entries;
- b) Amendment to public submission entry to reflect change to public presentations - 1 entry;
- c) Amendment to reflect changes to legislative provisions - 3 entries;
- d) Amendment to organisational positional titles - 3 entries; and
- e) Update of next Review Date - 1 entry.

Given the importance of this policy and the reality that our community remains continually concerned and impacted by the COVID 19 pandemic, it is recommended that the community consultation period should extend for at least 21 days. This will hopefully help some community members to participate in this community engagement opportunity.

CONSULTATION

No consultation was required in the preparation of this report, but subject to Council endorsement, it is proposed that a 21 day community consultation process will be undertaken in response to the suggested changes to this key policy document.

9.2.2

(cont)

FINANCIAL IMPLICATIONS

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

POLICY IMPLICATIONS

Council's Public Transparency Policy forms a key pillar of Council's Governance Framework. Given its important standing, it critical that the Policy remains totally accurate and continues to accord with Council's policy platform.

ATTACHMENT

- 1 Draft Public Transparency Policy August 2021 

9.3 INFRASTRUCTURE

9.3.1 Whitehorse Urban Forest Strategy

ATTACHMENT

SUMMARY

Trees and vegetation contribute to the natural character of Whitehorse and deliver important environmental and social benefits to the community. Current data shows that canopy cover is in decline across both public and private land. Without a robust strategy in place, we risk a continual loss of canopy cover.

The Whitehorse Urban Forest Strategy 2021-2031 (Strategy) (Attachment 1) has been developed in consultation with community groups, residents and Council officers. The Strategy seeks to reverse the decline of vegetation cover with the key target of achieving 27% canopy cover by 2031 with the following vision and objectives:

Vision: **A diverse, healthy and resilient urban forest**

Objective 1: Protect the urban forest across private and public land.

Objective 2: Expand the urban forest and adopt to climate change.

Objective 3: Enhance biodiversity.

Objective 4: Build community capacity to learn from each other, protect and enhance the urban forest.

Objective 5: Build on Council's knowledge base.

An Urban Forest Strategy Action Plan (Action Plan) (Attachment 2) identifies the actions and estimates the funding required with timeframes to commence delivery.

It is recommended that Council adopts the Strategy to set the desired future state and endorses the Action Plan to guide the actions of Council to achieve that future state.

Attendance

Cr Stennett left the virtual meeting at 10:09pm prior to discussion on Item 9.3.1.

COUNCIL RESOLUTION

Moved by Cr Cutts, Seconded by Cr Liu

That Council adopts the Whitehorse Urban Forest Strategy (Attachment 1) and endorses the Urban Forest Strategy Action Plan (Attachment 2).

CARRIED UNANIMOUSLY

BACKGROUND

Whitehorse City Council recognises the value of an extensive well-managed urban forest. Trees and vegetation provide many environmental, social and health benefits for the municipality. Council committed to the sustainable management of trees and vegetation across the Municipality through the endorsement of an interim Urban Forest Strategy in 2018. The actions contained within the interim Strategy were for two years only to allow time to gain better data and analysis to undertake a longer term strategy and action plan.

Since 2018, collaboration with 40 other councils, Resilient Melbourne and the Nature Conservancy led to the development of Living Melbourne: Our Metropolitan Urban Forest Strategy. In partnership, the evidence base was consolidated with actions determined to connect, extend and enhance urban greening across the metropolitan area. Whitehorse City Council endorsed this strategy in 2019 which seeks to coordinate actions across Melbourne councils to reach the target of 30% canopy cover by 2050.

9.3.1

(cont)

With this new data and analysis, the Whitehorse Urban Forest Strategy Background Document 2021 was developed. The Background document identified key challenges and opportunities to better manage vegetation in Whitehorse across land tenures and formed the basis for engaging with the community and key stakeholder groups.

Founded on the evidence analysed in the Urban Forest Strategy Background document and insights gained from two rounds of community engagement, a finalised Strategy is ready for Council's consideration. The Strategy is supported by a 10 year Action Plan aligned with Local, State and Federal Government policies.

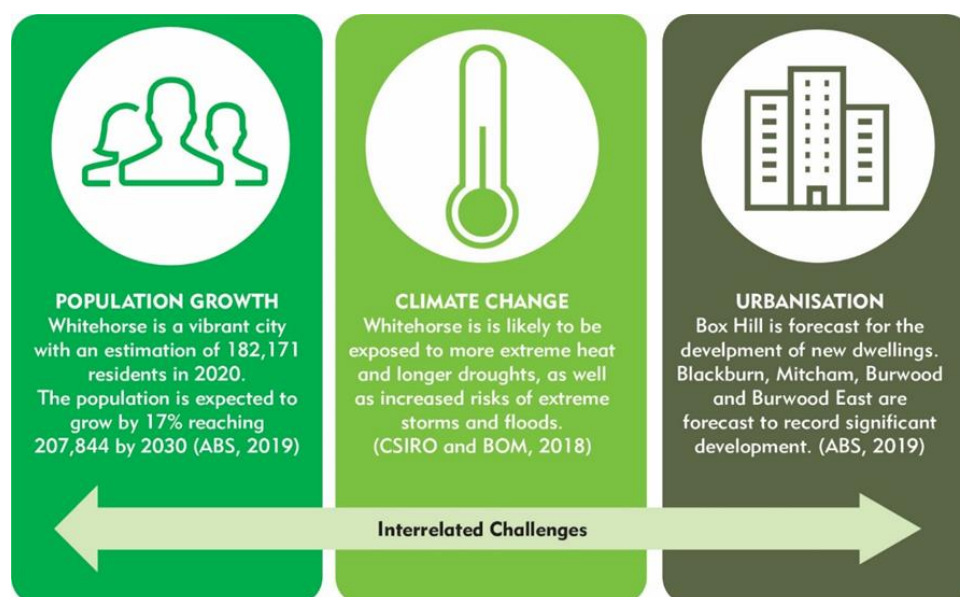
DISCUSSION

This Strategy sets a clear vision, five objectives with key actions aimed at meeting the canopy cover target of 27% by 2031. This target is outlined below. The Strategy seeks to maximise the health and vigour of vegetation; build urban resilience; enhance biodiversity and adapt to climate change.

The urban forest is defined as all the trees, shrubs and other vegetation across public and private land. Whilst the urban forest includes the soil, fungi, microorganisms, the water and the wildlife that supports it, the trees and vegetation management is the primary focus of this Strategy.

Changes in canopy cover

The City of Whitehorse faces a number of challenges resulting in a decline in canopy cover. Densified urbanisation, growing population, increasing power line clearance requirements and climate change place increasing pressure on the health and extent of the urban forest.



It has been difficult to analyse changes in canopy cover due to inconsistencies in data collection methodologies. Data collected by DELWP in 2014 and again in 2018 has shown that Whitehorse has experienced 2% canopy loss over those 4 years from 20% canopy cover to 18% canopy cover. The loss in canopy cover is observed to be across both private and public land.

The Strategy proposes a vision with objectives that melds community aspirations, existing policies and strategies to guide Council to better protect, enhance and connect Whitehorse's natural assets presented as follows:

9.3.1 (cont)

Vision

A diverse, healthy and resilient urban forest.

Objectives

| | |
|---|--|
| 1 | Protect the urban forest across private and public land. Maximise the health, vigour and condition of Council managed vegetation, while managing risks. Strengthen the legislative framework to protect and renew canopy cover on private property. |
| 2 | Expand the urban forest and adapt to climate change Grow more trees and vegetation across both the public and private realm to build climate resilience. |
| 3 | Enhance Biodiversity Protect native bushland, extend and connect habitat and improve connectivity. |
| 4 | Build community capacity to learn from each other, protect and enhance the urban forest. Provide opportunities and support people to connect with and care for nature. |
| 5 | Build Council's knowledge base Capture information to strengthen our understanding of the urban forest |

The Action Plan identifies tasks to be undertaken by Council to be commenced within a specified timeframe. Indicators are set against each action as a measure of action completed.

Growing the urban forest takes time, effective management and substantial resourcing. Collective effort across sectors and land tenure will be vital to successfully protect and extend the urban forest. As understanding of the urban forest improves, innovation will find new ways to optimise the urban forest. It is hoped that in the long term Council will reach a 30% canopy cover.

CONSULTATION

The vision, objectives and actions have been influenced by feedback received from community members and stakeholder groups. A community engagement process was carried out between November 2020 and February 2021. This included gaining feedback and ideas from online surveys and small group discussions. The Strategy has further been informed by Council's staff, as well as relevant legislation and policy. During the first phase:

9.3.1 (cont)



596

People visited the Whitehorse Urban Forest and My Favourite Tree online platforms hosted by Oursay.



270

Community members provided feedback in some form.



222

Online surveys were completed.



37

People attended an online/in person environmental community group meeting.



11

Residents sent open ended Email responses.



95

Images were submitted into the "My Favourite Tree" photo competition.

A second phase of community consultation was carried out in May 2021 with the purpose of checking that:

- The strategy reflects adequately the feedback from the first round of consultation.
- The vision, objectives and proposed objections are suitable, clear and easy to understand.



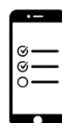
426

People visited the Whitehorse Urban Forest online platform hosted by Oursay.



119

Community members provided feedback in some form either via direct email or online survey.



104

Online surveys were completed.



28

People attended a webinar presentation of the Urban Forest Strategy.



15

Residents or community groups sent open ended Email responses.

Through online surveys we found that those who were surveyed were mostly highly supportive of the Strategy. Most people rated their support for the Vision with either a 4 or a 5 out of 5.

- 98% said that they were overall supportive of the draft Strategy.
- Over 90% were in support of the Vision and thought it was clear and easy to understand.
- Only 3 people were either unsupportive or unsure of their support for the strategy.
- 90% said that that were highly supportive of the Action Plan.

Common themes of uncertainty and concern raised by people surveyed were:

- Loss of canopy cover on private property.
- Would the actions be adequately funded by Council?
- Would Council be able to fully implement the Strategy?
- Need to emphasis other vegetation heights not just trees.
- Lack of public open space and available planting opportunities.

The themes of uncertainty did not generate a change in the Strategy and are relevant to how the Strategy is implemented.

9.3.1

(cont)

FINANCIAL IMPLICATIONS

Implementation of the Urban Forest Strategy Action Plan can mostly be funded through existing operational budgets particularly in the first year of adoption. However, some elements will require seeking new capital funding such as:

- Extending canopy cover, habitat and improving connectivity.
- Ongoing monitoring and evaluation of the urban forest.
- Ongoing Implementation and enforcement of SLO9.

Capital works project budgets will include installation of trees and vegetation and ongoing maintenance funding as appropriate to the project. This would include costs for irrigation, tree pits and soil as per landscape design.

The Council Budget 2021/22 includes increased allocations for street tree maintenance and management to ensure powerline clearances are maintained while seeking to minimise the negative impact on tree canopy and neighborhood amenity.

The proposed green corridors program would include extensive planting within the identified ecological corridors along creek lines within the Gardiners Creek, Koonung Creek, Mullum Creek and Dandenong Creek sub-catchments. Scoping of this project is identified as an action in the draft strategy. Grant funding opportunities are likely to be available for these types of programs.

Any actions that require additional funding associated with implementing the Action Plan will be considered by Council each year as new initiatives and allocations made based on the priorities at the time.

Establishing vegetation in different settings has different cost implications for new plantings. As canopy is established on public land more operational expenditure may be needed in order to maintain healthy canopy and manage the risk of new vegetation in the long run. This cost may be offset by innovations in service delivery and will be dependent on climatic conditions, for example, more expenditure will likely be required if there is an extended dry spell or drought.

POLICY IMPLICATIONS



This Strategy aligned with the Whitehorse 2040 Community Vision and key priorities:

- Whitehorse is a resilient community where everyone belongs.
- We are active citizens who value our natural environment, history and diversity.
- We embrace sustainability and innovation.
- We are dynamic. We learn, grow and thrive.

The Urban Forest Strategy 2021-2031 will supersede the Interim Whitehorse Urban Forest Strategy along with the Whitehorse Urban Biodiversity Strategy when it comes to an end.

The development of an Urban Forest Strategy 2021-2031 is an action within the Whitehorse Climate Response Plan.

ATTACHMENT

- 1 Urban Forest Strategy 2021-2031 
- 2 Urban Forest Strategy Action Plan 2021 -2031 

9.3.2 Integrated Water Management Forums

ATTACHMENT

SUMMARY

This report recommends that Council authorises the Chief Executive Officer to endorse the Yarra Catchment Integrated Water Management (IWM) Plan as shown in Attachment 1 and the Dandenong Catchment Integrated Water Management (IWM) Plan as shown in Attachment 2.

In August 2018, the Chief Executive Officer endorsed the respective Strategic Directions Statements for the Yarra Catchment IWM Forum and the Dandenong Catchment IWM Forum. The State government has established Integrated Water Management (IWM) Forums to identify, coordinate and prioritise opportunities that would most benefit from collaborative water cycle planning and management. The Yarra Integrated Water Management Forum has developed its Yarra Catchment Integrated Water Management (IWM) Plan and the Dandenong Integrated Water Management Forum has developed its Dandenong Catchment Integrated Water Management (IWM) Plan.

COUNCIL RESOLUTION

Moved by Cr Lane, Seconded by Cr Skilbeck

That Council authorise the Chief Executive Officer to endorse the Yarra Catchment Integrated Water Management Plan as shown in Attachment 1 and the Dandenong Catchment Integrated Water Management Plan as shown in Attachment 2.

CARRIED UNANIMOUSLY

BACKGROUND

This report relates to the Yarra Catchment Integrated Water Management (IWM) Forum and the Dandenong Catchment IWM Forum established by the Victorian Government to provide a structure for collaborative efforts to deliver IWM solutions for a geographical catchment region. The IWM Forum is a mechanism for State government, local government authorities and water sector organisations to work together to achieve water related outcomes that improve the resilience and liveability of our communities. IWM Forums were established in late 2017 to help facilitate the agreement for an IWM Vision for an area and develop a pathway to achieve this shared vision, including identifying and prioritising projects for implementation through a Catchment Integrated Water Management Plan.

Five IWM Forums have been established for Metropolitan Melbourne based on the primary waterway catchments and a further eleven forums were identified in regional Victoria based around urban water corporation boundaries. The Department of Environment, Land, Water and Planning (DELWP) is assigned to facilitate this process and provide secretariat support.

The Port Phillip and Western Port Region covers an area of approximately 13,000 square kilometers and includes nearly all the land that drains to Port Phillip Bay and Western Port. It includes the greater Melbourne metropolitan.

The region is made up of five primary waterway catchments – Werribee, Maribyrnong, Yarra, Dandenong and Western Port. The greater majority of the City of Whitehorse is located in the Yarra Catchment. A smaller part of the municipality along its eastern boundary is located in the Dandenong Catchment.

Participation in the IWM Forums has provided an opportunity to achieve the water targets set in Council's Water Plan. This is particularly so for Council's Water Plan targets that require collaboration with other water sector organisations. The IWM Forums provide an opportunity to advance strategic water issues that Council feels should be a priority for the State Government and the water sector.

9.3.2

(cont)

The Yarra IWM Forum Area encompasses Victoria's capital, Melbourne, the economic and employment hub of the state. One third of Victorians reside in the Yarra catchment. It is home to one of Australia's most iconic and culturally significant waterways, the Yarra River, which flows from its near natural upper reaches in the forested Yarra Ranges down to Port Phillip Bay. The Yarra Forum Area will continue to experience substantial population and economic growth in the coming years. The preservation and management of the catchment's landscapes will have a positive impact on the region's world-renowned liveability and the long-term health and security of its waterways.

The Dandenong IWM Forum Area includes catchments flowing into Port Phillip Bay from Port Melbourne to Point Nepean. The region covers some of Victoria's fastest urbanising areas and will be the site of substantial sub-metropolitan population growth and economic development in the coming years. Situated in the foothills of the Dandenong Ranges and stretching to the coast of Port Phillip Bay, the Dandenong catchment contains a breadth of iconic Victorian landscapes ranging from cool temperate rainforests and wet heathlands to sandy bay beaches. Preservation and management of the catchment's landscapes will have a positive impact on the long-term health and security of the region's waterways.

DISCUSSION

The Victorian Government released its "Water for Victoria" Plan in October 2016, which outlines the role of water in creating resilient and liveable cities and towns in the context of population growth and climate change now and into the future. Water for Victoria commits to putting Integrated Water Management (IWM) into practice.

Strategic Directions Statement (SDS)

The Yarra and Dandenong IWM Forums each developed a SDS that articulates the regional context and comprised of a shared vision statement, strategic forum objectives, a summary of IWM opportunities under investigation and a range of strategic enablers to address barriers to IWM in Victoria. The SDSs were endorsed by Council in August 2018.

Catchment Integrated Water Management Plan

The collective effort of Forum Partners over the last few years has culminated in comprehensive Catchment Scale Integrated Water Management (IWM) Plans for the Yarra and Dandenong Catchments.

The IWM Plans set out clear indicators and measures to assess progress towards the delivery of the vision and strategic outcomes for the Yarra and Dandenong Catchments. They provide the launching pad and guiding framework for implementation of IWM, with Forum partners continuing to work together to identify opportunities where IWM can best enable the optimal use and management of water and land.

The following key messages outline the purpose and status of the IWM Plans:

1. The IWM Plans are the keystone projects of the Yarra IWM Forum and the Dandenong IWP Forum. The IWM Plans provide Forum partners with meaningful scientific evidence to guide decision-making and prioritise investment in sustainable water and land use planning, management and policy.
2. Creating a resilient and liveable future is a shared responsibility, which is why IWM Plans were developed through robust, Forum-endorsed collaborative processes. The IWM Plans draw on the expertise of more than 50 stakeholder organisations.
3. The IWM Plans reflect rigorous scientific analysis and compelling technical evidence to determine performance targets for Forum Partners to consider and adopt at their organisations. The shorter term 2030 targets are grounded in practicality and serve to inspire action that can be delivered, while the longer term 2050 targets are aspirational and more challenging to realise, but are nevertheless credible and necessary to drive real change.

9.3.2

(cont)

4. Performance targets are geographically and spatially unique, reflecting the unique needs of each catchment or local area. Some targets remain undefined (1.1a and 4.3), as they have been deferred to strategic planning processes underway, such as the Greater Melbourne Urban Water System Strategy. Other targets (6.1a and 6.1b) remain as draft and serve as placeholders until further conversations with Traditional Owners can be had.
5. As a highly complex area, touching on many different functions and responsibilities, it is likely that the path to implementation will have to be adaptive and responsive to new evidence and opportunities that come to light. Accordingly, the IWM Plans will be a dynamic, living document.
6. Forum Partners have been asked to endorse the IWM Plans. In this context, “endorse” means to “express support for” the IWM Plan as a basis for inclusion in Forum Partner organisations’ strategies, plans and processes that contribute to the delivery of IWM outcomes. Forum Partners will also be asked to support ongoing processes of monitoring, review, and implementation.

CONSULTATION

Extensive collaboration and consultation has been carried out to develop the guiding Strategic Direction Statements (SDSs) and now the IWM Plans for the Yarra IWM Forum and Dandenong IWM Forum areas. The process undertaken has included the collaboration of 28 Council CEO's and Managing Directors of key water-sector organisations in the Yarra Catchment and 23 from the Dandenong Catchment, which includes water corporations, catchment management authorities, the Victorian Planning Authority and representatives of Bunurong and Wurundjeri Traditional Owner interests. Furthermore, the Department of Environment, Land, Water and Planning (DELWP) facilitated the development process and provided secretariat support.

As considered appropriate, the IWM Forum Chairpersons invited relevant stakeholders to attend Forum meetings. These have included:

- Department of Economic Development, Jobs, Transport and Resources
- Department of Health and Human Services
- VicRoads
- Regional Development Victoria and
- Parks Victoria.

FINANCIAL IMPLICATIONS

Endorsement of the Yarra Catchment IWM Plan by Council does not commit Council to deliver a priority project, or to fund identified IWM opportunities as a lead organisation or collaborative partner.

The IWM program clearly acknowledges that each participating organisation may have different funding processes and these would need to be followed if a co-contribution to any project or opportunity.

ATTACHMENT

- 1 Yarra Catchment Summary 
- 2 Dandenong Catchment Summary 

9.3.3 Tender Evaluation (Contract 30244) Provision of Kerbside Waste and Recycling

FILE NUMBER: 21/219180

SUMMARY

The purpose of this report is to award Contract 30244 – Provision of Kerbside Waste and Recycling to commence on 1 July 2022 for ten years. Council's current contracts for the kerbside collection of household garbage, recyclables, garden organics and hard waste will expire on 30 June 2022.

At its meeting on 16 March 2020, Council endorsed the services to be provided under the Contract for a new suite of kerbside waste and recycling services, including a new food organics and garden organics (FOGO) service. After a detailed tender evaluation process, it is recommended that Council awards contracts for the collection of garbage, recyclables and FOGO bins to JJ Richards and Sons Pty Ltd, trading as JJ's Waste and Recycling; the collection of hard and bundled green waste to Cleanaway Pty Ltd; and the kerbside bin inspections to JJ Richards and Sons Pty Ltd, trading as EnviroCom Australia.

RECOMMENDATION

That Council:

- 1. Accepts the tender and awards a schedule of rates Contract 30244/1 for the kerbside garbage, recycling and food organics and garden organics (FOGO) bin collection services to JJ Richards and Sons Pty Ltd (ABN 40 000 805 425) of 50 Elliott Road, Dandenong South, trading as JJ's Waste and Recycling, for a ten year period from 1 July 2022 to 30 June 2032;***
- 2. Accepts the tender and awards a schedule of rates Contract 30244/2 for the booked hard waste and bundled green waste collection and disposal service (based on in property collection where possible) to Cleanaway Pty Ltd (ABN 79 000 164 938) of level 4, 441 St Kilda Road, Melbourne for a ten year period from 1 July 2022 to 30 June 2032;***
- 3. Accepts the tender and awards a schedule of rates Contract 30244/3 for the kerbside bin inspections to JJ Richards and Sons Pty Ltd (ABN 40 000 805 425) of 6/100 Monash Drive, Dandenong South, trading as EnviroCom Australia for a ten year period from 1 July 2022 to 30 June 2032; and***
- 4. Accepts the tender and conditionally awards a schedule of rates Contract 30244/4 for the kerbside glass recycling bin collection service to JJ Richards and Sons Pty Ltd (ABN 40 000 805 425) of 50 Elliott Road, Dandenong South, trading as JJ's Waste and Recycling, nominally from 2026 until 30 June 2032, subject to subsequent Council consideration of the viability and community benefit of introducing a separate glass bin recycling service.***

AMENDED OFFICER RECOMMENDATION

That Council:

- 1. Accepts the tender and awards a schedule of rates Contract 30244/1 for the kerbside garbage, recycling and food organics and garden organics (FOGO) bin collection services to JJ Richards and Sons Pty Ltd (ABN 40 000 805 425) of 50 Elliott Road, Dandenong South, trading as JJ's Waste and Recycling, for a ten year period from 1 July 2022 to 30 June 2032;***
- 2. Accepts the tender and awards a schedule of rates Contract 30244/2 for the booked hard waste and bundled green waste collection and disposal service to Cleanaway Pty Ltd (ABN 79 000 164 938) of level 4, 441 St Kilda Road, Melbourne for a ten year period from 1 July 2022 to 30 June 2032;***

9.3.3

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3. *Accepts the tender and awards a schedule of rates Contract 30244/3 for the kerbside bin inspections to JJ Richards and Sons Pty Ltd (ABN 40 000 805 425) of 6/100 Monash Drive, Dandenong South, trading as EnviroCom Australia for a ten year period from 1 July 2022 to 30 June 2032; and*
4. *Accepts the tender and conditionally awards a schedule of rates Contract 30244/4 for the kerbside glass recycling bin collection service to JJ Richards and Sons Pty Ltd (ABN 40 000 805 425) of 50 Elliott Road, Dandenong South, trading as JJ's Waste and Recycling, nominally from 2026 until 30 June 2032, subject to subsequent Council consideration of the viability and community benefit of introducing a separate glass bin recycling service.*

Attendance

Cr Stennett returned to the virtual meeting at 10:23pm.

PROCEDURAL MOTION (AT 10:29PM)

Moved by Cr Barker, Seconded by Cr Massoud

In accordance with clause 16 of Council's Governance Rules, the virtual Council meeting be extended for 30 minutes beyond 10:30pm.

CARRIED BY MAJORITY

MOTION

Moved by Cr Barker, Seconded by Cr Davenport

That Council:

1. *Defers consideration of this matter for up to three months to allow further negotiations with the shortlisted companies for the kerbside bin collection services regarding:*
 - a) *Continuous improvement targets and undertakings regarding emissions;*
 - b) *Developing a more thorough understanding of any potential contract exit costs during the course of the contract should Council choose to terminate early and how these might be mitigated;*
 - c) *Developing more price adjustment clauses that enable lower costs where further innovation, scale and efficiency can be realised; and*
2. *Seeks to engage in Ministerial dialogue to enable the current contracts to be extended for a short period should that be necessary.*

LOST

A Division was called.

Division

For

Cr Barker
Cr Davenport

Against

Cr Carr
Cr Cutts
Cr Lane
Cr Liu
Cr Massoud
Cr McNeill
Cr Munroe
Cr Skilbeck
Cr Stennett

On the results of the Division the motion was declared LOST

9.3.3

(cont)

COUNCIL RESOLUTION

Moved by Cr Lane, Seconded by Cr Massoud

That Council:

1. *Accepts the tender and awards a schedule of rates Contract 30244/1 for the kerbside garbage, recycling and food organics and garden organics (FOGO) bin collection services to JJ Richards and Sons Pty Ltd (ABN 40 000 805 425) of 50 Elliott Road, Dandenong South, trading as JJ's Waste and Recycling, for a ten year period from 1 July 2022 to 30 June 2032;*
2. *Accepts the tender and awards a schedule of rates Contract 30244/2 for the booked hard waste and bundled green waste collection and disposal service to Cleanaway Pty Ltd (ABN 79 000 164 938) of level 4, 441 St Kilda Road, Melbourne for a ten year period from 1 July 2022 to 30 June 2032;*
3. *Accepts the tender and awards a schedule of rates Contract 30244/3 for the kerbside bin inspections to JJ Richards and Sons Pty Ltd (ABN 40 000 805 425) of 6/100 Monash Drive, Dandenong South, trading as EnviroCom Australia for a ten year period from 1 July 2022 to 30 June 2032; and*
4. *Accepts the tender and conditionally awards a schedule of rates Contract 30244/4 for the kerbside glass recycling bin collection service to JJ Richards and Sons Pty Ltd (ABN 40 000 805 425) of 50 Elliott Road, Dandenong South, trading as JJ's Waste and Recycling, nominally from 2026 until 30 June 2032, subject to subsequent Council consideration of the viability and community benefit of introducing a separate glass bin recycling service.*

CARRIED

A Division was called.

Division

For

Cr Carr
Cr Cutts
Cr Lane
Cr Liu
Cr Massoud
Cr McNeill
Cr Munroe
Cr Skilbeck
Cr Stennett

Against

Cr Barker
Cr Davenport

On the results of the Division the motion was declared CARRIED

BACKGROUND

Council's kerbside waste and recycling collection services are a much valued and important Council service, operating on a daily basis across the entire municipality. In the 2021 Customer Satisfaction Survey, waste management was the highest rated service in terms of importance. Whitehorse performed significantly higher than the State-wide and Metropolitan group averages on the performance of waste management. The specifications under this Contract seek to provide improved services.

Council's current kerbside waste and recycling services includes the collection of garbage bins, garden organics bins, recycling bins and hard waste including bundled green waste. The three bin collection services are currently undertaken by two different contractors and the bookable hard waste collection (with two available each financial year) by a third contractor.

9.3.3

(cont)

The kerbside waste and recycling collection services are long-term service contracts that have been aligned so that they all end at the same time, allowing Council to tender aggregate the service for all three kerbside bin collections and hard waste to allow economies of scale under one contract. The services under the contract require significant investment from the successful contractors. The services have been specified to commence with new trucks that comply with industry best practice including noise reduction measures. New trucks minimise the risk of breakdowns to allow for collections to be undertaken on a reliable basis throughout the duration of the contract. New contracts therefore need to be awarded in advance of the current contract expiry date to allow time for the contractor to source new trucks and to complete the detailed logistic planning necessary to ensure services are delivered in accordance with all regulations and contract specifications.

On 16 March 2020 Council endorsed the services to be provided under the new contracts the public tender and evaluation process for kerbside waste and recycling collection contracts. This Contract has been tendered in accordance with that decision.

The kerbside waste and recycling service contracts were originally due to expire on 30 June 2021. These complex waste tenders require considerable resources from the tenderers and COVID-19 impacted the ability for the waste industry to respond to public tenders at that time. Councils were advised by Metropolitan Waste and Resource Recovery Group not to go to tender in 2020 as a result of the COVID-19 impact and the risk of not receiving an appropriate tender response.

Council received approval from the Minister for Local Government for a 12 month extension to the existing kerbside waste and recycling collection contracts. The contracts now expire on 30 June 2022. The plans for the FOGO introduction were subsequently delayed in line with the revised start date for the new contracts to 1 July 2022 as the processing contractor was delayed in its ability to recycle food.

DISCUSSION

Tendering options

In the lead up to preparing the tender specification and Contract documents, consideration was given to whether there would be benefit in tendering the kerbside waste services in collaboration with neighbouring Councils. Unlike waste disposal and processing contracts where Councils have regional shared needs and specifications, waste collection contracts are very Council specific to suit the local landscape, challenges and community needs. Following discussions with other councils, barriers to a collaborative tender included aligning start dates and contract duration times, agreement on service standards and integration with different Council systems. Kerbside waste services for each Council have dedicated resources of fleet and personnel. While a collaborative kerbside collections contract was not be viable, information was shared to inform best practice to tender for Whitehorse Council only services.

It was assessed that the scale of services tendered for Whitehorse alone was sufficient to attract a competitive price with further discounts and value-added initiatives from tenderers.

On 16 March 2020 Council endorsed the services to be provided under the new contracts and a public tender and evaluation process for kerbside waste and recycling collection contracts.

Tender Process

Tenders were advertised in The Age newspaper and closed on Wednesday 12 May 2021.

Tenderers were invited to tender for the provision of wastes services which included:

- Kerbside garbage bin collection service;
- Kerbside recycling bin collection service;
- Kerbside food organics and garden organics (FOGO) bin collection service and one off implementation costs (kitchen caddies and compostable bags);
- Kerbside glass bin (future) collection service;

9.3.3

(cont)

- Booked hard and bundled garden waste collection and disposal service; and
- Kerbside waste mobile bin inspections.

Tenderers were advised they may submit tenders for all services or individual components and that Council may award all waste collection services to one provider or may split the services between a number of service providers depending on the financial benefits, contractor capability and value-added services.

The contract length advertised was seven years with options to extend to ten years at Council's discretion.

The tenders were evaluated against the following criteria:

- The Tender offer;
- Capability;
- Credibility;
- Value-added options; and
- Sustainability.

Eight tender submissions were received in total, including one tender submission for the provision of all components of the contract. Two submissions included all four kerbside bin collection services, three submissions included the booked hard and bundled green waste service only, and three submissions for the mobile bin inspections only.

Tender Options

In February 2020, the Victorian Government announced a plan to require councils to implement four kerbside bin services as part of its kerbside reform policy. This includes a separate glass recycling collection by 2027 as well as a food organics and garden organics (FOGO) service by 2030. A kerbside glass bin collection service was included in the new kerbside waste service tenders to allow Council to better understand costs associated with of a future service, as Council is yet to consider the introduction of a separate glass recycling service.

The tender specification includes a potential starting date for a separate collection of glass via a fourth bin service on 1 July 2026, subject to a Council decision. This potential start date will enable Council time to consider future recycling processing contracts, the impacts of the Victorian Container Deposit Scheme from 1 July 2023, and allow for community consultation.

Due to the changing nature of services that will likely be required over the contract term, such as a possible change to collection frequencies and the timing of a separate glass recycling service, a number of different service and pricing options were sought from the tenderers to allow the cost of potential future service frequency changes to be assessed including:

- Delivery of kitchen caddies and compostable liner bags for FOGO service
- Weekly or fortnightly collection of FOGO bins
- Weekly or fortnightly collection of garbage bins
- Weekly or fortnightly collection of recycling bins
- Monthly or fortnightly collection of glass bins
- Collection of hard waste from within property boundaries or at the kerbside (kerbside is the current arrangement)

Tender Evaluation

Tenders for the bin related services were evaluated using a number of scenarios including awarding the kerbside bin collections to a single contractor compared to separately awarding the collection contracts. The option of awarding the contract for seven years compared to ten years was considered.

9.3.3

(cont)

The recommended approach is:

- Award JJ's Waste and Recycling Contract 30244/1 for the kerbside garbage, recycling and FOGO bin collection services;
- Award Cleanaway Pty Ltd for Contract 30244/2 for the booked hard waste and bundled green waste collection and disposal service based on an in property collection where possible.
- Award EnviroCom Australia for Contract 30244/3 for the kerbside waste mobile bin inspections;
- Conditionally award JJ's Waste and Recycling for Contract 30244/4 for the kerbside glass recycling bin collection service; and

1.

JJ's Waste and Recycling scored highest for the kerbside bin collection services. The tender evaluation found that JJ's Waste and Recycling has proven capability of delivering services safely and reliably, its on-board truck technology is leading edge, and the support services and in-house teams offered in the submission will result in an improved level of service under the new contracts. A discount has been offered if a ten year contract is awarded rather than a seven year contract.

Cleanaway Pty Ltd scored highest for the hard waste and bundled green waste collection service. The tender evaluation demonstrated Cleanaway has proven capability to deliver the required services safely and reliably, its booking system is comprehensive, and the support services offered will deliver this complex service at a high level. Collection from within the property where possible is proposed.

EnviroCom Australia was evaluated as the preferred contractor for the kerbside bin inspections. Its tender demonstrated that EnviroCom Australia has proven capability in delivering the required services and its team provides strong added value in community education experience.

Kerbside Bin Collection Services

In addition to the cost advantages, significant logistical and administrative benefits are expected by awarding all four kerbside bin-based collection services to the same contractor. It has been assessed that this approach will streamline current arrangements and provide a single point of contact for all bin services. It will ensure consistency for bin collections to deliver a safer and higher quality of service for the community compared to the current arrangement of using multiple contractors. It will also be easier to introduce innovations or continuous improvement across the entire bin collection services and to make future changes to service frequency if that is ever to be required over the next ten years.

JJ's Waste and Recycling is a highly experienced and well-resourced company that specialises in the collection of waste. It is the current contractor for the collection of garbage and garden organics bins for Council and provides this service to a high level. This is demonstrated by the 2021 Customer Service Survey results where Whitehorse performed significantly higher than the State-wide and Metropolitan group averages on the performance of waste management.

There will be new collection trucks for the new contract. The vehicles that have been specified comply with the industry best practice guidelines with the latest in brake and engine noise reduction. The contractor is committed to use and trial electric waste vehicles when these become available and viable. The collection trucks will have more cameras installed, enabling the driver to have a 360 degree views for added safety. The technology has the ability to photographically record any kerbside site issues and Council will have access to live data from the bin collection trucks. There will be integration between the contractor's systems with Council's systems enabling a high level of customer service.

9.3.3

(cont)

It is recommended that the contract be awarded for a period of ten years, compared to seven years with the option of extension. A discount has been offered by the contractor if the contract is awarded initially for the full ten years. This allows the contractor to consider how it procures trucks, equipment and personnel in a more cost effective way.

Food Organics and Garden Organics (FOGO) Service

The specification for kerbside bin collection services included the introduction of Council's FOGO service. This aligns with the approach endorsed by Council at its meeting on 16 March 2020. The service will commence in July 2022, starting with the approximately 46,000+ households that have (or opt to have) a Council garden organics bin. Those wanting to participate in the service have the option to add food waste to their current garden bin service.

Households that have a Council garden organics bin by June 2022 will be issued with a kitchen caddy and compostable caddy liners around three months before the service starts. This will assist with and maximise capturing food scraps from kitchen to the kerbside FOGO bin. Information about how to use the FOGO service will also be provided in the lead up to the service and along with the distribution of caddies and liners. The caddy/liner roll-out to the approximately 46,000 current garden bin users will be a one-off set up cost for the FOGO service.

The tender also allows for the transition of the FOGO service to a core recycling service for all households nominally in 2024/25, subject to Council approval. This is ahead of the Recycling Victoria Policy which requires Councils to provide a municipal-wide FOGO service by 2030.

Hard and Bundled Green Waste

A key assessment of the hard and bundled green waste service tenders was comparison of the different service options and methodologies proposed by the tenderers. Each tenderer took a different approach to how they would achieve Council's required service standards.

Tenderers were requested to indicate if their prices would change if Council took on the responsibility for paying separately for the cost of disposing of any non-recyclable materials. The current arrangement is the cost of disposal is the responsibility of the contractor to provide an incentive for the contractor to maximise the amount of materials that can be separated and recycled. It was assessed that the relative cost comparison between the different tenderers did not change the evaluation outcome. If Council was to pay separately for disposal it takes away some of the incentive for the contractor to recycle and exposes Council to the risk of the fluctuating cost of waste disposal so it is proposed that the contractor remain responsible for all disposal costs, as it the case under the existing contract.

The recommended tenderer, Cleanaway Pty Ltd is the largest service provider for waste and recycling services in Australia. It undertakes a number of similar contracts with Victorian councils and is very well resourced to provide this service for Council. Cleanaway Pty Ltd has well developed systems and processes to take bookings and to provide live data to Council on collection services.

The evaluation panel considered the value-added option for collecting hard and bundled green waste from inside private property boundaries compared with the current practice where hard waste is placed on the nature strip. This option comes at a price premium but has benefits including improving the appearance of the roadside by not having piles of waste for collection, it would reduce incidents of booked hard waste piles being added to by others, it would reduce scavenging and items that are put out that are not suitable for collection will remain in private properties. It is noted that some kerbside collection will still be required from properties that do not have sufficient 'front yard' space.

9.3.3

(cont)

Several other Councils operate a successful hard and bundled green waste service from inside the property boundary, so the protocols in setting up and collecting are established. Not every property such as multi-unit dwellings will be suitable for collections inside their property boundary and they will need to continue to use the naturestrip.

It is recommended that Cleanaway Pty Ltd be contracted to provide the hard and bundled green waste collection service, be responsible for disposal costs, manage the bookings and provide the service with the requirement to collect from within the private property boundary where that collection model is possible.

It is recommended that this portion of the contract also be awarded for a period of ten years, compared to seven years with the option of extension. This ensures that the contract period remains aligned to the other kerbside waste contracts.

Bin Inspections

The contract for kerbside mobile bin inspections is an expansion of the existing recycling bin contamination education program (known as Gold Star) to include the FOGO bins and possibly future separate glass bins. The service involves the regular inspection of what is placed in various bins so that there can be targeted waste education and data on how waste and recycling materials are put in each bin.

It is recommended that EnviroCom Australia be awarded the bin inspection service. EnviroCom Australia is part of JJ Richards & Son Pty Ltd, however it operates as a separate entity. It is well resourced and has considerable experience in providing similar services to Whitehorse and other councils.

It is recommended that the contract be awarded for a period of ten years to be consistent with the waste collection service contracts, as its delivery makes an important contribution to the overall management of the kerbside bin services.

Glass Collection Service

It is recommended that a contract be conditionally awarded to provide kerbside glass bin collection services to JJ's Waste and Recycling.

JJ's Waste and Recycling understands that Council is yet considered or resolved on the details or timing for introducing a separate glass bin recycling service, as required under the State Government's Recycling Victoria Policy. There are still many factors for Council to take into consideration before the finalisation of a separate glass recycling collection service. It is recommended at this stage, that Council conditionally accepts the tender from JJ's Waste and Recycling for a future glass recycling collection service.

Including this future service as part of the new suite of kerbside waste contracts awarded to JJ's Waste and Recycling will enable a more seamless and efficient introduction of any glass service.

CONSULTATION

Extensive community consultation was undertaken in developing Council's Waste Management Strategy 2018-2028. The Strategy confirms the kerbside services and there was strong community endorsement for introducing a food organics and garden organics service and reducing the impacts of illegal dumping which the new contracts will address.

Consultation occurred with other Councils to inform the tender specifications and best practices for the tender process.

Internal consultation has been conducted to provide in depth input into the tender process by Council teams including from Community Laws, Cleansing, Communications and Customer Service.

9.3.3

(cont)

There will be detailed community engagement undertaken up to when the new contracts commence on 1 July 2022. The objective is that residents experience a seamless change to the new contracts with the added option to put food waste into the garden organics bin, and that hard waste collection will be within private property providing there is suitable space.

In this report there is reference to FOGO, being the abbreviation for food organics and garden organics. The latest research shows that the term FOGO is not well recognised by the community. In external consultation with the community this service will be referred to as 'food and garden waste', instead of FOGO.

FINANCIAL IMPLICATIONS

Kerbside Bin Waste and Recycling Services

The kerbside waste and recycling collection services covered by this suite of contracts currently costs Council approximately \$9.4M per annum (ex GST). In the new contracts there are cost impacts associated with:

- Adding collection of hard waste from within private properties. While the portion of the cost relating to collection will increase for the inside property collections, the increased recycling and lower landfill costs result in an overall cost reductions for this service. In addition there will be a reduction in overall costs for Council in managing dumped rubbish.
- Adding a glass recycling service in the future, subject to further consideration.
- One-off costs associated with the provision of kitchen caddies and compostable bin liners.

Throughout the ten year period for the contracts there may be changes to the scope of services and potentially changes to the collection frequency. This is because of a combination of needing to satisfy State Government policy and legislative changes for waste services, as well as the desire to divert more waste from landfill that is becoming increasingly expensive.

Sensitivity analysis using different scenarios was undertaken to model costs for any value-added services provided, or discounts offered by the tenderers. For example, two tenderers for the main kerbside bin-based collection services offered a price discount if Council awarded a ten year contract up front rather than add on optional years at the end of the initial seven year contract term. The savings for committing to a ten year contract from the start are in the order of \$2.1M over the life of the contract.

The cost modelling assessed scenarios such as awarding multiple contracts to one tenderer compared with awarding contracts individually should a particular provider be cheaper for one aspect of the service. The modelling showed that it was cheaper to award all the bin-based kerbside waste and recycling services to one contractor.

The following summary tables show indicative annual costs for 2022/23 based on the recommended tenderer's prices for each service, compared with the equivalent current contract cost in the 2021/22 Council budget. Note that the 2022/23 tenderer costs have been estimated based on the same number of bins or hard waste bookings as the current service, whereas the budget figures for 2022/23 will be based on the actual bin numbers and hard waste booking numbers as at July 2022. As this is a schedule of rates contract, the costs per collection are fixed each year (subject only to CPI changes), but the number of collections will grow over time as the population and number of dwellings in Whitehorse increases.

9.3.3

(cont)

Table 1 Garbage, recycling and FOGO services:

| Services | Current service costs 2021/22 ex-GST | Recommended tenderer costs 2022/23 ex-GST |
|--|--------------------------------------|---|
| Garbage collection | \$3,518,495 | \$3,389,827 |
| Recycling collection | \$2,054,189 | \$2,478,024 |
| Garden organics or FOGO collection | \$1,456,827 | \$1,351,051 |
| Total | \$7,029,511 | \$7,218,902 |
| FOGO implementation (caddies and compostable liners) | | \$904,621 |

The introduction of a new FOGO service in 2022/23 includes one-off costs to deliver kitchen caddies and compostable liners for every FOGO bin user. The tender included two options for paying for the one-off cost to roll out caddies and liners to the expected 46,000 initial users of the service. One option was to pay the full cost of the caddy/liner roll-out as a lump sum in July 2022 on satisfactory completion of delivery. The second option was to spread the roll-out cost over seven years (initial contract length in tender) with Council repaying the cost in monthly instalments. The second option is recommended.

The increase in the cost of recycling collections under the new contract reflects the heavily discounted tender price for recycling collections in the current kerbside recycling contract, which was a result of Council awarding a combined collection and processing contract to the one contractor back in 2012. The current contractor did not submit a tender for bin collection services.

The like-for-like comparison for the three bin services is \$7,218,902 compared to the current service cost of \$7,029,511, a 2.69% cost increase and comparable to the expected CPI increase on 1 July 2022. It was forecast that there could have been a step increase in costs of these services.

Table 2 Hard and bundled green waste service:

| Services | Current service costs 2021/22 ex-GST | Recommended tenderer costs 2022/23 ex-GST |
|---|--------------------------------------|---|
| Hard waste collection from kerbside and disposal | \$2,268,637 | N/A |
| Hard waste collection from inside property and disposal | N/A | \$2,117,309 |

As indicated in Table 2, an improved hard and bundled green waste service with collections from inside the property can be delivered under the new contract at a saving to current hard waste costs.

Bin Inspections

An indicative annual cost of \$79,811 ex-GST has been estimated for a bin inspection program based on the assumptions of:

- 96 days of bin inspections per annum for the first 4 years of the contract until the introduction of a separate glass recycling service nominally in 2026; and
- 132 bin inspection days per annum for the remainder of the contract.

9.3.3

(cont)

Glass Collection Service (nominally commencing in 2026)

An indicative annual cost of \$1,478,374 ex-GST has been estimated for a separate glass recycling bin collection based on the service assumption of 40,000 new kerbside bins and fortnightly collections.

Table 3 Total annual service costs without glass recycling:

| Services | Recommended tenderer costs 2022/23 ex-GST | Service provider |
|--|---|--------------------------|
| Garbage collection | \$3,389,827 | JJ's Waste and Recycling |
| Recycling collection | \$2,478,024 | JJ's Waste and Recycling |
| FOGO collection, excluding caddy/liner costs | \$1,351,051 | JJ's Waste and Recycling |
| Hard and bundled green waste | \$2,117,309 | Cleanaway Pty Ltd |
| Bin inspection program | \$ 79,811 | EnviroCom Australia |
| Total | \$9,416,022 | |

Table 4 Total annual service costs with glass recycling:

| Services | Recommended tenderer costs 2022/23 ex-GST | Service provider |
|--|---|--------------------------|
| Garbage collection | \$3,389,827 | JJ's Waste and Recycling |
| Recycling collection | \$2,478,024 | JJ's Waste and Recycling |
| FOGO collection, excluding caddy/liner costs | \$1,351,051 | JJ's Waste and Recycling |
| Hard waste & bundled prunings | \$2,117,309 | Cleanaway Pty Ltd |
| Bin inspection program | \$ 79,811 | EnviroCom Australia |
| Glass recycling service | \$1,478,374 | JJ's Waste and Recycling |
| Total | \$10,894,396 | |

The overall value of this contract will vary on an annual basis depending on factors such as population and tenement growth rate in Whitehorse, the CPI, the timing and degree of any service changes to collection frequency, and the volume of materials placed out for collection.

POLICY IMPLICATIONS

Council adopted the ten year *Rubbish to Resource!* Waste Management Strategy 2018-2028 in December 2018. The Strategy identifies actions for minimising waste to landfill, maximising resource recovery, and the need for continual improvements to the kerbside waste and recycling services. The Strategy includes the implementation of a kerbside food organics and garden organics (FOGO) service. The new FOGO service, in addition to the existing kerbside services will contribute to meeting Council's target of 60% diversion of waste from landfill by 2023.

A FOGO service aligns with Council's Sustainability Strategy 2016-2022 and emissions reduction efforts to be carbon neutral by 2022.

PROCEDURAL MOTION (AT 10:59PM)

Moved by Cr Massoud, Seconded by Cr Stennett

In accordance with clause 16 of Council's Governance Rules, the virtual Council meeting be extended for 30 minutes beyond 11:00pm.

CARRIED

Attendance

The virtual meeting adjourned at 11:01pm for a four minute break, resuming at 11:05pm.

COUNCIL RESOLUTION

Moved by Cr Lane, Seconded by Cr Carr

That in accordance with Section 61 (1) and 66 (2)(a) of the Local Government Act 2020 the Council should resolve to go into camera and close the virtual meeting for the consideration of this item, as the matter to be discussed is confidential information for the purposes of section 3 (1) (g) (ii) of the Local Government Act 2020, that relates to Private Commercial Information, being information provided by a business, commercial or financial undertaking that if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage. This ground applies because the matter concerns a contractual arrangement.

CARRIED

Attendance

The virtual meeting closed to the public at 11:06pm

COUNCIL RESOLUTION

Moved by Cr Cutts, Seconded by Cr Skilbeck

That the virtual meeting move out of camera and be reopened to the public.

CARRIED UNANIMOUSLY

Attendance

The virtual meeting was reopened to the public at 11:13pm.

Council's consideration of this item was deferred to a virtual Council meeting to be called for Thursday 23 September 2021 at 7.45pm.

9.3.4 Tender Evaluation (Contract 30303) Novated Design and Construction of the Whitehorse Performing Arts Centre

FILE NUMBER:
ATTACHMENT

SUMMARY

To consider tenders received for the novated design and construction of the Whitehorse performing arts centre, and to recommend the acceptance of the tender received from Kane Constructions Pty Ltd, trading as Kane Constructions for the amount of \$52,629,600 excluding GST as part of the overall project budget of \$78,000,000 excluding GST.

MOTION

Moved by Cr Carr, Seconded by Cr Stennett

That Council:

- 1. Accept the tender and sign the formal contract document for Contract 30303 for the novated design and construction of the Whitehorse performing arts centre received from Kane Constructions Pty Ltd (ABN 49 007 354 396), of 658 Church Street, Richmond, VIC 3121, for the tendered amount of \$52,629,600 excluding GST; as part of the overall project budget of \$78,000,000 excluding GST;***
- 2. Authorises expenditure of the construction contingency in accordance with amounts and authorisations detailed in Confidential Attachment 1.***

AMENDMENT

Moved by Cr Davenport, Seconded by Cr Barker

That:

- 1. Council accept the tender and sign the formal contract document for Contract 30303 for the novated design and construction of the Whitehorse performing arts centre received from Kane Constructions Pty Ltd (ABN 49 007 354 396), of 658 Church Street, Richmond, VIC 3121, for the tendered amount of \$52,629,600 excluding GST; as part of the overall project budget of \$78,000,000 excluding GST.***
- 2. Council halve the proposed contingency amount.***
- 3. Council modify the authorisation as per procurement policy up to \$1 million, with the CEO to have delegation to \$3 million for any one variation.***
- 4. Value engineering occur prior to contingency spend.***
- 5. Council receive quarterly reporting of project progress, risks and contingencies to the Major Project Councillor Reference Group.***

PROCEDURAL MOTION

Moved by Cr Massoud, Seconded by Cr Stennett

That the motion be put.

The procedural motion was not put to the vote and therefore lapsed.

9.3.4

(cont)

The Mayor put the Amendment to the vote which was LOST

SUSPENSION OF STANDING ORDERS

Moved by Cr Massoud, Seconded by Cr Stennett

That Standing Orders be suspended in order for the Mayor to seek advice from officers.

CARRIED

Standing orders were suspended at 11:29pm.

RESUMPTION OF STANDING ORDERS

Moved by Cr Massoud, Seconded by Cr Cutts

That Standing Orders be resumed.

CARRIED UNANIMOUSLY

Standing Orders were resumed at 11.32pm.

At 11.32pm, the Mayor advised that as the virtual meeting failed to conclude all items on the agenda, an additional meeting will be called for consideration of tender reports:

- **Tender Evaluation (Contract 30303) Novated Design and Construction of the Whitehorse Performing Arts Centre**
- **Tender Evaluation (Contract 30325) Heatherdale Reserve Pavilion Redevelopment**

The Mayor closed the meeting at 11.32pm.

BACKGROUND

In 2017, Council endorsed the complete redevelopment of the Whitehorse Centre and allocated project funding for the design, demolition of the existing Whitehorse Centre and construction of a new performing arts centre, new open double storey car park and other associated works.

In May 2019, a lead design team was engaged by Council to design the new Whitehorse performing arts centre (WPAC) through a novated design and construct methodology with the architects and design team novating to a main works contractor at around 80% of contract documentation.

The WPAC project is being delivered under three separate packages:

- **Package A - Demolition of the existing Whitehorse Centre. This package was completed in December 2020.**
- **Package B - Construction of a new open double storey car park with associated civil and landscape works. This package was completed in September 2021.**
- **Package C - The design and construction of the new WPAC with associated civil and landscape works.**

This tender evaluation report is to engage a main works contractor for Package C - design and construction of the new WPAC.

9.3.4

(cont)

DISCUSSION

The procurement of a main works contractor for the design and construction of the WPAC was a two stage process; Stage 1: a public Expression of Interest (EOI) followed by Stage 2: a Request for Tender (RFT) to invited shortlisted contractors.

EOI Process and Evaluation

The EOI was advertised in The Age newspaper and closed on Monday 19 April 2020. Ten EOI submissions were received and evaluated by the Tender Evaluation Panel (TEP).

The EOI submissions were evaluated against the following criteria:

- Capability – 50%;
- Credibility – 40%;
- Social and Environmental Sustainability (general) – 5%;
- Local Content (general) – 5%; and
- Occupational Health & Safety, Equal Opportunity and Business viability – Pass/Fail.

The TEP came together on 4 May 2020 to review and score the submissions. The TEP agreed consensus scores against each of the criteria for each submission and the TEP shortlisted five contractors. These five shortlisted contractors were further evaluated by checking references and business viability. The business viabilities were reviewed and approved by the Director of Corporate Services. The TEP met again on 21 May 2021 to confirm and recommend the five shortlisted contractors as:

- ADCO Constructions (VIC) Pty Ltd
- Building Engineering Pty Ltd
- Buxton Constructions (VIC) Pty Ltd
- Kane Constructions Pty Ltd
- SJ Higgins Pty Ltd

The shortlisted contractors were subsequently invited to tender.

Request for Tender Process and Evaluation

RFT documentation was issued to the shortlisted contractors on Saturday 5 June 2021 and closed on Thursday 15 July 2021. Five tenders were received and evaluated by the TEP.

The tenders were evaluated against the following criteria:

- Tender Offer - 40%
- Capability - 30%
- Credibility - 20%
- Local Content (project specific) – 5%
- Social and Environmental Sustainability (project specific) – 5%

The TEP came together on Friday 30 July 2021 to review and score the submissions. The TEP agreed consensus scores against each of the criteria for each tender submission and two tenderers were shortlisted.

The two shortlisted tenderers were issued with post tender clarifications and Council's response to the tenderers proposed contract departures. A Credit Rating report was also obtained for each shortlisted tenderer which has been reviewed and approved by the Director of Corporate Services. The TEP met again on Monday 16 August 2021 to further evaluate based on the post tender clarifications, contract departures and the endorsed Credit Rating report.

On Wednesday 18 August 2021, interviews were conducted with the two shortlisted tenderers and further post tender clarifications were sought and contract departures negotiated. The TEP met again on Thursday 19 August 2021 to further evaluate based on the interviews.

9.3.4

(cont)

On Monday 23 August 2021, the TEP met to further discuss the Post Tender Clarifications and contract departures. Following this, the tenderers were issued with further Post Tender Clarifications. On Thursday 26 August 2021, the TEP met to discuss the Post Tender Clarification responses and revised the evaluation scoring. Following this, tenderers were issued with a set of final Post Tender Clarifications and a request for a Best and Final Offer (BAFO). On Tuesday 31 August 2021 and Wednesday 1 September 2021, the TEP met to undertake a final evaluation based on the final Post Tender Clarifications and BAFO.

The resultant tender evaluation indicates that both shortlisted tenderers have the capability and credibility to deliver the design and construction of the WPAC, however it also shows there are risks with both tenderers. The TEP has reached a consensus that the tender submission from Kane Constructions Pty Ltd is best value for money and is the recommended tender. The following observations are relevant to the tender submission prepared by Kane Constructions Pty Ltd:

- The final tender offer is under the allocated budget for Package C.
- The construction program is aggressive, finishing earlier than all other tenderers and within the completion date nominated by Council. An independent peer review has confirmed this assessment and there is a risk that the completion date nominated by Kane Constructions Pty Ltd may not be achieved as programmed.
- The tender offer provides a Contractor resource allocation greater than any other tenderer that may provide greater capacity to manage the project and mitigate the risks of not achieving the program.

Kane Constructions Pty Ltd has significant experience on similar projects with significant learnings on theatre construction including construction of the fly tower, acoustics, air tightness and fire engineering.

CONSULTATION

The design of the WPAC has undergone extensive community and stakeholder engagement to ensure a functional design to suit the needs of its users now and into the future.

The Procurement Plan was developed in consultation with the procurement team and project consultants to ensure the appropriate criteria and weightings are applied to achieve the best outcome for the project and for Council.

Council's Procurement and Contracts Department and Council's lawyers have been involved to ensure a compliant and conforming tender and contract process. Contract departures have been approved by the authorised officer, the Director of Infrastructure.

The Procurement and Contracts Department has provided probity advice throughout the procurement process and a probity auditor has been engaged to ensure compliance with procurement processes and tender conditions.

9.3.4

(cont)

FINANCIAL IMPLICATIONS

| | Budget | Expenditure |
|--|---------------------|---------------------|
| Capital Works Funding Account No. Y597 6708 | \$78,000,000 | |
| Total Budget | \$78,000,000 | |
| Budget allocation for Package A and B | \$4,465,033 | \$3,246,855 |
| Budget allocation for Package C (This Contract) | \$53,658,474 | |
| Consultants | \$9,401,740 | \$6,643,035 |
| Preferred tenderer's lump sum offer (excluding GST) | | \$52,629,600 |
| Other costs relevant to this project | \$10,474,753 | \$1,019,290 |
| Future Forecast / Committed Expenditure | | \$14,461,220 |
| | | |
| Total Expenditure | | \$78,000,000 |

Please refer to the Confidential Attachment 1 for the recommended construction contingency expenditure delegations for this project.

ATTACHMENT

1 WPAC Contingency

Whitehorse City Council designates this attachment and the information contained in it as **CONFIDENTIAL INFORMATION** pursuant to Section 3 (1) (g(ii)) of the Local Government Act 2020, that relates to Council or (ii) if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage. This ground applies because the matter concerns a contractual arrangement.

Council's consideration of this item was deferred to a virtual Council meeting to be called for Thursday 23 September 2021 at 7.45pm

9.3.5 Tender Evaluation (Contract 30325) Heatherdale Reserve Pavilion Redevelopment

SUMMARY

To consider tenders received for the redevelopment of Heatherdale Reserve Pavilion and to recommend the acceptance of the tender received from Melbcon Pty Ltd, for the amount of \$4,547,006.20, including GST and to consider the overall project expenditure.

RECOMMENDATION

That Council accept the tender and sign the formal contract document for Contract 30325 for the Heatherdale Reserve Pavilion Redevelopment received from Melbcon Pty Ltd (ABN 89 094 370 457), of 333 Maroondah Highway, Croydon Victoria 3136, for the tendered amount of \$4,547,006.20, including GST; as part of the total expected project expenditure of \$6,822,206.82, including GST.

BACKGROUND

The Heatherdale Reserve Pavilion has been identified as an ageing facility that no longer meets the growing needs of the tenant sporting clubs and the community.

The existing pavilion services three football ovals (winter), two cricket ovals (summer), cricket nets and playground facilities and is supported by car parking, pedestrian paths and established native vegetation landscapes. It is used by the Heathmont Jets Junior Football Club during the winter months and the Heatherdale Cricket Club during the summer months under seasonal licence agreements.

It is proposed to demolish the existing pavilion and replace it with a new pavilion in the approximate location of the existing footprint. The new pavilion will be elevated to meet Melbourne Water flood level requirements and support views to the ovals. The design provides covered spectator viewing areas, multi-purpose space, kitchen and canteen, player and referee amenities, store rooms, a public accessible toilet and embedded ESD features.

The tenant clubs have successfully secured a \$2,000,000 Federal Government grant, while Council has secured a State Government Sport and Recreation Victoria grant for \$200,000 to support provision of female friendly facilities

The playing ovals will remain fully utilised by tenant sporting clubs during the construction period for both winter and summer sports. Temporary amenities will be provided for use.

DISCUSSION

Five pre-qualified Contractors were selected from the State Government's Construction Supplier Register to tender for the project based on project experience and accreditation in ISO4801 (safety), ISO9001 (quality) and ISO14001 (environment).

Tenders closed on the 20 July 2021. All five shortlisted Contractors submitted conforming tenders.

9.3.5

(cont)

The tenders were evaluated against the following criteria aligned with Council's Procurement Policy:

- The Tender Offer – 50%;
- Project Methodology (Capability) – 25%;
- Resources and Previous Relevant experience (Credibility) – 15%;
- Local Content – 5%
- Social and Environmental – 5%; and
- Occupational Health & Safety, Equal Opportunity and Business Viability (Pass/Fail).

Following the detailed evaluation, the Tender Evaluation Panel concluded that the tender received from Melbcon Pty Ltd is considered to provide the best value for money for this Contract. Melbcon Pty Ltd. is a well-established building contractor that has undertaken many similar projects both in Whitehorse and in other local government areas.

It is anticipated that construction works will commence in October 2021 with completion of the new pavilion expected in October 2022

CONSULTATION

Representatives from the existing sporting tenant clubs as well as internal Council stakeholders have been consulted extensively during the pavilion design process. Councils' Procurement team have overseen the procurement process and the preferred tenderer's business viability has been checked and approved by the Finance Department.

In 2019 a Project Working Group was formed comprising the tenant clubs, the architect and council officers from the Leisure and Recreation Services and the Buildings Project Management teams. The tenant clubs have been consulted throughout the design, design development and up to the completion of tender documentation.

The concept design was completed and stakeholder sign-off was received in February 2020. The tender documentation was completed in June 2020.

Broad community consultation on the project was also completed in June 2021. As the planning, design and documented for this project was undertaken prior to the endorsement of the Community Engagement Policy the community consultation fell under 'Informing the Community' within the policy. Residents abutting the reserve as well as Heatherdale Creeklands Advisory Committee, Heatherdale Community Action Group, Heatherdale Tennis Club and Heatherdale Bowls Club were all sent a notification letter and external elevation drawings of the proposed pavilion.

Prior to construction commencing, signs will be erected in the park to inform the community of the works. Abutting properties will be advised of the works and provided with the contact details of Council's project manager.

9.3.5

(cont)

FINANCIAL IMPLICATIONS

Following detailed tender evaluation, Council Officers recommend, Melbcon Pty Ltd as best value for Council based on its financial capability, capacity to deliver to time, quality and allocated resources.

| | Budget | Expenditure |
|--|------------------------|------------------------|
| Capital Works Funding Account No (Y595) | \$ 4,027,000.00 | |
| Federal Government Grant | \$ 2,000,000.00 | |
| State Government Grant | \$ 200,000.00 | |
| Total Adopted Budget | \$ 6,227,000.00 | |
| Preferred tenderer's lump sum offer (including GST) | | \$ 4,547,006.20 |
| Less GST | | -\$ 413,364.20 |
| Net cost to Council | | \$ 4,133,642.00 |
| Provisional Sum - Design Scope | | \$ 250,000.00 |
| Provisional Sum - Latent Conditions | | \$ 250,000.00 |
| Substation Works Cost (estimate) | | \$ 150,000.00 |
| Provisional Sum – Landscaping | | \$ 50,000.00 |
| Loose Furniture (Multipurpose Room) | | \$ 15,000.00 |
| Project Preliminaries, Permits, Authority Fees and Charges | | \$ 340,000.00 |
| Consultant Professional Fees | | \$ 400,000.00 |
| Project Management Fees | | \$ 200,000.00 |
| Construction Contingency 10% | | \$ 413,364.20 |
| | | |
| Total Expenditure (excl. GST) | | \$ 6,202,006.20 |
| Project Budget Surplus (excl. GST) | \$24,993.80 | |

**10 REPORTS FROM DELEGATES, DELEGATED COMMITTEE
RECOMMENDATIONS AND RECORDS OF INFORMAL
MEETINGS OF COUNCILLORS**

10.1 Reports by Delegates

(NB: Reports only from Councillors appointed by Council as delegates to community organisations/committees/groups)

Held over to next Council meeting 18 October 2021.

**10.2 Recommendation from the Delegated Committee of Council
Meeting of 13 September 2021**

None submitted.

10.3 Records of Informal Meetings of Councillors

Held over to next Council meeting 18 October 2021.

11 Reports on Conferences/Seminars Attendance

Held over to next Council meeting 18 October 2021.

12 CLOSE MEETING

Meeting closed at 11:32pm

Confirmed this 18th day of October 2021

CHAIRPERSON