



WHITEHORSE  
CITY COUNCIL

# Whitehorse City Council

## MINUTES

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### **Council Meeting**

on

**Monday 11 April 2022**

at 7:00pm

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

Mr Simon McMillan, Chief Executive Officer

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Meeting opened at 7:00pm

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

**Officers:** S McMillan, J Green, L Letic, S Cann, S White, R Anania,  
E Outlaw, 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.

**3 APOLOGIES**

Nil

**4 DISCLOSURE OF CONFLICT OF INTERESTS**

None disclosed

**5 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**

Minutes of the Council Meeting 28 March 2022.

**COUNCIL RESOLUTION**

Moved by Cr Munroe, Seconded by Cr McNeill

That the minutes of the Council Meeting 28 March 2022 having been circulated now be confirmed.

**CARRIED UNANIMOUSLY**

**6 PUBLIC PRESENTATION**

None submitted

**7 PETITIONS AND JOINT LETTERS**

None submitted

**8 PUBLIC QUESTION TIME**

**8.1 Mr P Carter, Box Hill North  
Question 1**

Vicinity in its planning applications (466, 467, 597), propose to construct a truck freight turntable at the western end of Main Street Mall. This involves permanent closure of the access route to all users to the existing bridge over the rail corridor, including pedestrians and cyclists.

It will significantly reduce accessibility for Active Transport users to BHMAL until an alternative connection, the Nelson Rd - Thurston St Link, is developed and implemented.

As requested in my email to Council 1 April 2022, what are the dimensions of the intrusion of the proposed freight turntable into Market St Mall?

Mr Jeff Green Director City Development read out question one submission on behalf of Council and advised that the turntable will encroach a distance of approximately 2.1 metres into the Main Street mall for a length of approximately 10.8 metres.

**8.2 Mr K Earl, Box Hill**

**Question 1**

I asked two questions on the 15th March, please what is the time frame for an answer?

Mr Jeff Green Director City Development read out question one submission on behalf of Council and advised that as one of questions involves extensive data analysis, a response has not yet been able to be provided. I will chase this up and ask that a response be provided as a matter of priority.

**Question 2**

What is the procedure for chasing up unanswered questions?

Mr Jeff Green Director City Development read out question one submission on behalf of Council and advised that he can contact him directly when following answers to such questions.

**9 NOTICES OF MOTION**

None submitted

**10 URGENT BUSINESS**

None submitted

**11 COUNCIL REPORTS**

**11.1 Amendment C231whse to the Whitehorse Planning Scheme 34-40, 37-43 and 42-50 Moore Road, Vermont: Consideration of Planning Panel Report**

City Development  
FILE NUMBER: SF22/292  
ATTACHMENT

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**SUMMARY**

Amendment C231whse to the Whitehorse Planning Scheme (the Amendment) actions item 6 of notice of motion no. 131 from the Ordinary Council Meeting on 25 May 2020.

The Amendment proposes to rezone the land at 34-40, 37-43 and 42-50 Moore Road, Vermont from the General Residential Zone Schedule 5 (GRZ5) to Neighbourhood Residential Zone Schedule 3 (NRZ3) and make slight consequential changes to the Housing Framework Plan at Clause 21.06 and the Neighbourhood Character Precincts map at Clause 22.03 of the Whitehorse Planning Scheme.

Exhibition of the Amendment took place from 19 August 2021 to 20 September 2021 and a total of six submissions were received, including one late submission. In accordance with the Council resolution from 22 November 2021, all submissions were referred to an independent Planning Panel. The Panel hearing was held online via MS Teams on 8 and 9 February 2022 and the landowners affected by the Amendment were a party to the hearing.

The Panel report (Attachment 1) was provided to Council on 17 February 2022 and recommends that Council proceed with the Amendment as exhibited.

This report informs Council about the findings of the Panel and the key issues that were discussed during the course of the hearing.

It is recommended that Amendment C231whse be adopted as exhibited, in accordance with the recommendations of the Panel report.

**11.1**  
(cont)

**COUNCIL RESOLUTION**

Moved by Cr Cutts, Seconded by Cr Carr

That Council, being the Planning Authority, and having considered the Panel Report at Attachment 1 for Amendment C231whse under Section 27 of the Planning and Environment Act 1987 ('the Act'):

1. Adopt Amendment C231whse as exhibited and as shown in Attachment 2, in accordance with Section 29(1) of the Act and as per the Panel recommendations.
2. Submit the adopted Amendment to the Minister for Planning for approval under section 31 of the Act with the appropriate fee.
3. Advise all submitters to the Amendment C231whse of this resolution.

**CARRIED UNANIMOUSLY**

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**KEY MATTERS**

Amendment C231whse was placed on public exhibition from 19 August 2021 to 20 September 2021. A total of six submissions (including one late submission) were received. Of these submissions, one submission supported the Amendment, one submission raised no objection to the Amendment, two submissions raised concerns about the impacts of future development on the Amendment land, and two submissions directly objected to the Amendment. The submissions objecting to the Amendment were lodged on behalf of landowners directly impacted by the proposed changes.

At a Council meeting on 22 November 2022, Council resolved to refer all submissions to an Independent Planning Panel. The Panel hearing took place in February 2022 and the Panel report (Attachment 1) has now been received by Council.

The landowner submitters became a party to the Panel hearing and advocates on their behalf argued that the Amendment was not strategically justified, the Amendment land did not possess the character attributes of the Bush Suburban 9 Precinct, and did not result in a fair and orderly planning outcome. Council's response and presentation to the Panel countered these submissions highlighting that:

- Extensive work undertaken as part of the Whitehorse Housing and Neighbourhood Character Review 2014 which identified the area outside the Healesville Freeway Reserve (HFR) Public Acquisition Overlay (PAO) as a limited change area and applied the Bush Suburban 9 classification;
- Continuous advocacy work by Council regarding the 2014 pre-election commitment and the appropriate zoning of the land,
- Current zoning does not reflect a fair and orderly planning outcome having regard to the broader area and community.

**11.1**  
(cont)

The Panel acknowledged that Council has been advocating for many years to have the zoning of the Amendment land reviewed and made consistent with the surrounding area. It considered that the proposed changes were appropriately justified by *Council's Housing Strategy 2014* and *Neighbourhood Character Study 2014*, and that the characteristics of the land were consistent with the surrounding Bush Suburban Precinct 9 character which applies to the remainder of Moore Road and broader neighbourhood. The Panel considered that the Amendment would achieve a net community benefit and still retain opportunities for an intensification of development on the land, in a manner that would respect the heritage, neighbourhood and landscape characteristics of the properties and broader area.

Council must now decide whether to abandon or adopt the Amendment. Given the clear recommendation of the Panel that Council should adopt the Amendment as exhibited, it is proposed that Council proceed as per this recommendation and submit the adopted Amendment to the Minister for Planning for approval.

**STRATEGIC ALIGNMENT**

The Amendment supports Theme 5 of the *Whitehorse 2040 Community Vision* in that it assists in preserving valued environmental and landscape characteristics through the Bush Suburban 9 classification and limited change area designation (key priority 5.2).

The Amendment supports Strategic Direction 4 of the *Council Plan 2021-2025*, which relates to "Our Built Environment: Movement and Public Places". Objective 4.1 under this Strategic Direction states, "*Assets, facilities and urban design of a quality that provides the highest levels of utility and enhances the connection between the built, natural, heritage and social environments*". The proposed rezoning will enhance the connection between the built environment and the natural environment by placing a greater emphasis on the preservation of the local neighbourhood and landscape character. Of further relevance under this objective, is Strategy 4.1.2 which states "prepare strategies and guidelines that set expectations for the quality of development and urban design outcomes for a place."

Plan Melbourne 2017-2050 is the metropolitan planning strategy and this Amendment supports Direction 2.1 (Manage the supply of housing in the right locations to meet population growth and create a sustainable city), by aligning the zone with the preferred housing outcome for the area. The proposed rezoning will provide certainty for the community about the scale of development that can be delivered on each property.

Council has adopted the *Whitehorse Housing Strategy 2014* and the *Whitehorse Neighbourhood Character Study 2014*, both of which guide residential development across the municipality. The Amendment lots are either within or partially within the Limited Change Area where the valued neighbourhood character and landscape significance is to be preserved.

**11.1**  
(cont)

This Amendment will ensure that the zoning of the three properties is consistent with the outcomes of this strategic work and accords with the limited change designation and Bush Suburban 9 precinct of the immediately surrounding residential area.

**Policy**

The State and regional policies in the Planning Policy Framework of the Whitehorse Planning Scheme are of relevance to the Amendment as summarised below.

- Clause 11.02-1S (Supply of urban land) seeks to ensure that there is sufficient supply of land for various uses, including residential, and recognises that planning for urban growth should give consideration to neighbourhood character and the landscape. The rezoning of the sites to NRZ will facilitate development that gives due regard to the valued character attributes of the area and is consistent with the established nature of the locality. The Amendment will not affect the municipality's ability to meet the forecast demand for housing as set out in Council's Housing Strategy 2014, taking into account revised population growth projections from 2021.
- Clause 12.05-2S (Landscapes) seeks to "ensure important natural features are protected and enhanced". The application of the NRZ achieves the right balance between facilitating development in a residential neighbourhood, while protecting the natural features of the sites and broader neighbourhood, which are highly valued by the community.
- Clause 15.03-1S (Heritage conservation) emphasises the need to maintain an appropriate setting and context for places of heritage significance and to provide for the conservation and enhancement of those places. In this regard, the most appropriate policy setting to achieve this outcome for 34-40 Moore Road (Mirrabooka), is through the limited change designation and application of the NRZ.
- Clause 16.01-1R (Housing supply – Metropolitan Melbourne) highlights need to provide certainty about the level of change expected in residential areas by allowing "for a range of minimal, incremental and high change residential areas that balance the need to protect the valued areas with the need to ensure choice and growth in housing". The rezoning of the land to NRZ achieves a balance between protecting valued areas of neighbourhood character and heritage while also enabling redevelopment in accordance with the purpose of the NRZ.

**11.1**  
(cont)

The Local Planning Policy Framework (LPPF), includes the following clauses of relevance to this Amendment.

- Clause 21.06 (Housing) acknowledges the high amenity residential areas throughout the municipality and the community desire to maintain this and preserve heritage and other special character attributes. It establishes areas of housing change (substantial, natural and limited change) across the residential areas of the municipality, in accordance with the Whitehorse Housing and Neighbourhood Character Review 2014. Of particular relevance to this Amendment is the Vision (Clause 21.06-2) which refers to “preserving areas of valued character and vegetation or landscape significance”, and the Key Housing Principles, which include “Limit residential growth in areas of valued landscape or built form character, and/or with infrastructure limitations”. The Amendment land is partially within a Limited Change Area where Clause 21.06 identifies the NRZ as the appropriate zone for these areas. Furthermore, the property at 34-40 Moore Road is affected by a HO where the heritage significance is to be preserved and residential growth limited. This amendment therefore gives effect to the implementation aspect of Clause 21.06 by rezoning the land in accordance with this direction.
- Clause 22.03 (Residential Development) builds on the content of Clause 21.06 and seeks to ensure that residential development is consistent with the three categories of housing change that have been identified in the Municipal Strategic Statement. In limited change areas, development should predominantly be in the form of detached and semi-detached housing that “respects the appearance of surrounding development and the environmental, heritage, and neighbourhood character values of the area”. This development outcome is consistent with Council’s expectations for any future development on the Amendment properties as confirmed by the Whitehorse Housing Study 2014 and Whitehorse Neighbourhood Character Review 2014. Map 1 of Clause 22.03 comprises the Neighbourhood Character Precincts map and includes the amendment land within and adjacent to the Bush Suburban 9 precinct. This Amendment proposes to include the entire Amendment area within this precinct.

**11.1**  
(cont)

**BACKGROUND**

Council submitted a request for authorisation to the Minister for Planning (the Minister) to prepare and exhibit Amendment C231whse to the Whitehorse Planning Scheme. This authorisation was granted under delegation on 6 July 2021. The Amendment proposes to rezone the land at 34-40, 37-43 and 42-50 Moore Road, Vermont (refer Figure 1 below) from General Residential Zone Schedule 5 (GRZ5) to Neighbourhood Residential Zone Schedule 3 (NRZ3). The Amendment also proposes to include the entirety of the three properties within the Limited Change Area under the Housing Framework Plan at Clause 21.06, and the within the Bush Suburban 9 precinct under the Neighbourhood Character Precincts map at Clause 22.03 of the Whitehorse Planning Scheme.



*Figure 1: Aerial image of the Amendment land*

The Amendment land was originally in VicRoads ownership and formed part of the former HFR. In 2009, VicRoads declared the HFR land between Springvale Road and Boronia Road as surplus to road network requirements. In 2013 a master planning process under the former Liberal State government and led by VicRoads, indicated that any residential land east of Terrara Road would be rezoned to NRZ. This master planning process ultimately did not proceed. Prior to the 2014 election, the Labor party announced a commitment to transform the HFR land to public open space should it come into power.

**11.1**  
(cont)

In 2014, the Minister for Planning rezoned the Amendment land to GRZ5 from the Residential 1 Zone together with the remainder of the HFR as a neutral translation to the reformed residential zones. Application of the GRZ5 was contrary to the work Council had undertaken as part of the *Whitehorse Housing and Neighbourhood Character Review 2014* which identified land in the surrounding area outside of the HFR PAO as a limited change area. In accordance with the limited change designation, the surrounding land was rezoned to NRZ under Amendment C160 in 2014.

The State government has made a commitment to deliver a linear public open space reserve along the bulk of the Healesville Freeway corridor, and large sections of this linear park were rezoned to Public Park and Recreation Zone (PPRZ) under Amendment C200 in November 2014, albeit an initiative of the former government. Council understands that DELWP is in the process of preparing an amendment to rezone the remaining lots that form part of the future park from GRZ5 to PPRZ in order to formalise the full extent of the linear public open space corridor. This process will leave the Amendment lots in Moore Road as a clear zoning inconsistency in the area (refer Figure 2 below).



*Figure 2: Mock plan depicting the anticipated zoning of the area following the rezoning of land parcels that are to form part of the linear public open space corridor.*

Despite Council's advocacy efforts for the Amendment land to be included in the future open space corridor, the State government maintained that the Amendment lots would remain residential and they were ultimately sold to private interests in 2017 (34-40 Moore Road) and 2020 (37-43 and 42-50 Moore Road). Furthermore, the Minister for Planning did not agree to Council's request under item 3b of notice of motion 131 for a Ministerial Amendment to rectify what Council sees as a clear anomaly in the current zoning of the land.

**11.1**  
(cont)

Following the letter from the Minister for Planning dated 20 September 2020 advising that the Department of Transport did not agree to Council's request to rezone the land, Council officers actioned item 6 of notice of motion 131 which states:

*Undertake the necessary strategic work and seek authorisation from the Minister for Planning under Section 8(a) of the Planning and Environment Act 1987 to prepare and exhibit an amendment to the Whitehorse Planning Scheme to implement the above rezoning of the former Healesville Freeway corridor, if the Minister does not progress the request in item 3b.*

In accordance with item 6, Council officers prepared the planning scheme amendment documentation and requested authorisation from the Minister. Amendment C231whse was subsequently authorised, placed on public exhibition and then referred to an independent Planning Panel.

A Directions hearing took place on 17 December 2021 and a Panel hearing was held on 8 and 9 February 2022. All hearings were conducted virtually via MS Teams. Strategic Planning Officers represented Council and called planning evidence from Ms Sandra Rigo of Hansen Partnership.

The landowners affected by the Amendment were all represented by Rigby Cooke Lawyers who called planning evidence from Mr Rob Milner of Kinetica.

The outcomes of the Panel hearing are discussed in further detail below in this report.

## **SUPPORTING REPORT DETAILS**

### **Legislative and Risk Implications**

Under Ministerial Direction No. 15, a planning authority is required to make a decision to abandon or adopt an amendment under the Act within 40 business days of the date it receives the Panel's report. As the report was received on 17 February 2022, Council must make a decision prior to 19 April 2022.

If the Amendment is not completed by 19 August 2023 it will lapse.

### **Equity, Inclusion, and Human Rights Considerations**

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

**11.1**  
(cont)

**Community Engagement**

The Amendment was placed on public exhibition for a period of one month from 19 August 2021 to 20 September 2021 as required under the Act. The exhibition process involved direct notification to all affected land owners and occupiers, surrounding owners and occupiers, Prescribed Ministers, relevant public authorities, community groups and adjoining councils. Information was also available for viewing on the Council webpage, Council's YourSay portal and the DELWP browse amendments page.

Five submissions were received during the exhibition period and one late submission was lodged after the conclusion of the exhibition period. Council officers also received a number of phone calls with queries about the Amendment.

A report to Council at the 22 November 2021 Council meeting provided an overview of the matters raised by the submitters and referred all of the submissions and the amendment to an independent Panel for consideration.

All submitters have been kept informed about the progress of the Amendment and were given an opportunity to become a party to the Panel hearing.

It is recommended that Council advise all submitters of its decision on the Amendment.

**Financial and Resource Implications**

<b>Item</b>	<b>Expenditure (excluding GST)</b>
Notice in The Age	\$2,017.20
Notice in the Government Gazette	\$176.80
Notification letters	\$179.85
Panel hearing costs	\$9,134.85
Expert Evidence at Panel hearing	\$10,372.50
Statutory Fee: consideration by the Minister of a request to approve the amendment in accordance with section 35 of the Act, and for giving notice of approval of the amendment under section 36(1) of the Act.	\$488.50
Potential additional notice in The Age, if Amendment is approved	\$2,020.00
<b>Total Expenditure</b>	<b>\$24,389.70</b>

Funding for the above listed expenditure and potential expenditure is included in the Strategic Planning operational budget.

**11.1**  
(cont)

**Innovation and Continuous Improvement**

There are no Innovation and Continuous Improvement matters arising from the recommendation contained in this report.

**Collaboration**

No collaboration was required for this report.

**Discussion and Options**

The key issues that were discussed through the course of the Panel hearing and are addressed in the Panel report (Attachment 1) include the:

- Relevant policy considerations;
- Role of the Whitehorse Housing and Neighbourhood Character Review 2014;
- Character and context of the Amendment properties;
- Fair and orderly planning principles.

Policy Considerations

In considering the relevant policies applicable to the proposed Amendment, the Panel noted that Clause 11 (Settlement) supports the role of a housing strategy and Clause 16 (Housing) acknowledges the need to facilitate housing supply, choice and affordability. The metropolitan planning strategy, Plan Melbourne, encourages housing growth and diversity within established areas, particularly where close to jobs, services and public transport, and introduces the 20-minute neighbourhood concept. The Panel, and Council, also acknowledged that the planning framework requires balancing competing interests, including objectives to support housing growth within existing well serviced areas, and managing identified heritage, landscape and neighbourhood character values.

The Panel agreed with the landowner submitters that the Amendment land has the potential to support multiple additional dwellings. Council agreed that by virtue of the size of the properties, each lot can accommodate a substantial increase in dwelling yield, however the scale and intensity of any new development was a clear point of difference between Council and the other party. Council's preferred outcomes for the Amendment land are aligned with the requirements of the NRZ3 and Bush Suburban 9 precinct, whereas the submissions on behalf of the landowners argued that a more dense outcome under the GRZ5 control was appropriate in the context of the open space interface, the existing medium density developments in the surrounding area, and the site's access to services and facilities.

**11.1**  
(cont)

Whitehorse Housing and Neighbourhood Character Review 2014

The relevance of the *Whitehorse Housing and Neighbourhood Character Review 2014* was a particular point of difference during the hearing. It is Council's position that this strategic work remains highly relevant, noting its 20-year timeframe and the extent of community consultation undertaken as part of the review, and therefore forms a sound strategic basis for the Amendment. It was acknowledged that population growth projections had increased quite significantly since the adoption of the *Whitehorse Housing Strategy 2014* however, as presented to the *Residential Zones Standing Advisory Committee* hearing in 2015 for Amendment C174 (which considered the schedules to the NRZ) the capacity analysis that underpinned the *Housing Strategy 2014* confirmed there is ample additional housing capacity to accommodate the increased forecast demand. Furthermore, this analysis did not take into account strategic sites that would later become residential, and was done at a time when the NRZ applied a two dwelling per lot limit, which was removed by the Minister for Planning in March 2017.

The submitter argued that the strategic framework relied upon by Council was out of date, and that Council had applied it too narrowly, failing to recognize progress and changes to, planning policies in relation to open space planning, 20-minute neighbourhood concepts, affordable housing diversity and growth projections.

The Panel considered that the "*Housing Strategy remains robust and valid, underpinned by the Character Study consistent with PPN90 and PPN91*" (page 28, Panel report). The Panel agreed that applying the NRZ3 was a clear and logical proposal, particularly considering the characteristics of the Amendment land and surrounding area, and the limited access to services within a comfortable walking distance.

Character and Context of the Amendment Land

In considering the character of the Amendment properties and surrounding area, the Panel noted that the "*landscape attributes are much more consistent with those in the remainder of the BS9 Precinct and the NRZ3*" (page 29 of the Panel report). Council agrees with this conclusion and noted throughout the Panel hearing that the three properties have been included within the Bush Suburban 9 precinct boundary, noting that land formerly in the PAO was identified as non-residential land. Furthermore, the Amendment land presents an opportunity to make a greater contribution to the Bush Suburban 9 precinct through a design response that respects the existing heritage values, landscape elements and built form character. The application of the NRZ3 will introduce appropriate parameters to ensure that these attributes are reinforced and sustained through design requirements relating to site coverage, permeability, landscaping and increased setbacks.

**11.1**  
(cont)

It is noted that trees have been illegally removed from parts of the Amendment land. All parties and the Panel acknowledged that this is a separate matter and is being dealt with via a separate process.

Fair and Orderly Planning

In relation to the matter of fairness and orderly planning principles the Panel agreed with Council that it “*has been consistent in its planning advocacy and communications regarding its position on the zoning of the subject land for almost a decade*” (page ii of the Panel report). In its submission to the Panel and in documents supporting the Amendment, Council highlighted the various Council resolutions, advocacy letters and discussions with authorities through a detailed chronology of events section which demonstrated Council’s ongoing advocacy actions for its preferred outcomes. It was argued by Council and Council’s expert witness (Ms Rigo) that the current GRZ5 was not strategically justified by the State government which applied the zone in 2014 and which maintained that this zone was the most appropriate for the Amendment land. Council asserted that the GRZ5 was applied as a ‘neutral translation’ of the former Residential 1 Zone in the absence of any apparent strategic work to justify the zone. For most councils, this was essentially a ‘holding’ zone until such time as strategic work was completed to examine the most appropriate zones for its residential areas. In the case of the Amendment land, it is was apparent to Council that there was no rigour behind the GRZ5 application, and strategic justification put forward by Council appeared to be ignored.

In Council’s Part B submission and Closing Statement it was highlighted that fairness and orderly planning needs to be considered in a broader context that considers community benefit and not just the interests of specific property owners. The Panel concludes on page 32 of its report that “*...the Amendment will result in a wider net community benefit through the application of a zone consistent with adjoining land and the retention of established landscape and built form character*”.

Having considered the submissions, the Panel has recommended that “*Whitehorse Planning Scheme Amendment C231 whse be adopted as exhibited*”. It is therefore proposed that Council follow this recommendation, adopt the Amendment and submit it to the Minister for Planning for approval.

Council is required to either abandon or adopt the Amendment within 40 days of receiving the Panel report, being 19 April 2022.

**Conflict of Interest**

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

**11.1**  
(cont)

**Conclusion**

The Amendment and submissions were referred to an independent Planning Panel for consideration. The Panel considered the issues raised in the submissions and during the course of the hearing and supported the Amendment as proposed by Council.

It is therefore recommended that Council adopt the Amendment as exhibited and submit it to the Minister for Planning for Approval. It is recommended that Council advise the submitters of this resolution.

**ATTACHMENT**

- 1 Whitehorse Planning Scheme Amendment C231whse Panel Report 
- 2 Amendment C231whse Documentation 

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**11.2 32 Laburnum Street, Blackburn (Lot 48 LP 6632) Tree removal in the Significant Landscape Overlay - Schedule 2**

City Development  
FILE NUMBER: WH/2021/978  
ATTACHMENT

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**SUMMARY**

This application proposes removal of seven (7) indigenous trees located within the front setback of the site under the Significant Landscape Overlay (SLO2). Of these, Tree 1 is a Lemon-scented Gum (*Corymbia citriodora*) and Trees 2-7 are Sugar Gums (*Eucalyptus cladocalyx*) species. The trees are located along the front site boundary and the side of the existing carport. Tree 1 was found to be dead during the inspection by Council's consulting arborist and does not require a planning permit to remove but is referenced in this report for context.

The submitted arborist report found that all trees suffer from wounds or structural defects in their trunks which could not be resolved with maintenance. Trees 2 and 3 lean towards the street and Tree 3 has deadwood currently over the footpath. Trees 4, 5, 6 and 7 lean towards the neighbouring property or power lines. As relocating the structures/infrastructure at risk or isolating the fall area which is mostly in a public thoroughfare is not possible, remediation is not considered possible and so removal is recommended.

If approved, the applicant proposes to plant seven (7) replacement trees, with four (4) to be located in the front setback and three (3) within the rear open space. These would be either Yellow Box (*Eucalyptus melliodora*) or Narrow Leafed Peppermint Gums (*Eucalyptus radiata*).

The application was advertised, and a total of 25 objections and one letter of support were received. The objections raised issues with proposed removal of vegetation. A Consultation Forum was held online via Zoom on 1 March 2022 chaired by Councillor Munroe, 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. After assessment by Council's consulting arborist and council officers the proposal is recommended for support as the age and structure of the trees are poor, and they cannot be remediated. Removal will allow conditioning of a complete landscaping response to replace the lost landscape contribution. It is recommended that the application be supported, subject to conditions.

**11.2**  
(cont)

**RECOMMENDATION**

That Council being the Responsible Authority, having caused Application WH/2021/978 for 32 Laburnum Street, Blackburn (Lot 48 LP 6632) to be advertised and having received and noted the objections is of the opinion that the granting of a Planning Permit for the Tree removal in the Significant Landscape Overlay - Schedule 2 is acceptable and should not unreasonably impact the amenity of adjacent properties and therefore issue a Notice of Decision to Grant a Permit under the Whitehorse Planning Scheme to the land described as 32 Laburnum Street, Blackburn (Lot 48 LP 6632) for the Tree removal in the Significant Landscape Overlay - Schedule 2, subject to the following conditions:

1. Before trees or vegetation are removed, amended plans must be submitted to and approved by the Responsible Authority. The plans must be drawn to 1:100 scale, with dimensions, and be generally in accordance with the plans submitted with the application but modified to show:
  - a) Tree 1 (Lemon-scented Gum - *Corymbia citriodora*) as being dead and not requiring a Planning Permit to remove.
  - b) A Landscape Plan in accordance with Condition 3.

All of the above must be to the satisfaction of the Responsible Authority. Once approved these plans become the endorsed plans of this permit:

2. No vegetation, apart from trees 1 (Lemon-scented Gum - *Corymbia citriodora*); 2; 3; 4; 5; 6 and 7 (Sugar Gums – *Eucalyptus cladocalyx*) as detailed within the Arborist Report prepared by Tretec dated 26 March 2021, as shown on the approved plan as vegetation to be removed may be felled, destroyed or lopped without the written consent of the Responsible Authority.
3. No trees or vegetation shall be removed until a landscape plan prepared by a suitably qualified and experienced landscape architect firm or person has been submitted to and endorsed by the Responsible Authority. This plan (when endorsed) must form part of this permit. This plan must show:
  - a) Any changes required by Condition 1.
  - b) The front open space of the site contain provision for a complete landscape response preferring native species including ground covers, low to mid-height shrubs and canopy plantings which can contribute to the surrounding 'bush' character of the landscape and objectives of the bush environment character statement.

**11.2**  
(cont)

- c) Replacement planting of a minimum of at least seven (7) trees from the below list:
- Blackwood (*Acacia melanoxylon*)
  - Smooth-barked Apple (*Angophora costata*)
  - Rough-barked Apple (*Angophora floribunda*)
  - Yellow Gum (*Eucalyptus leucoxylon*)
  - Yellow Box (*Eucalyptus melliodora*)
  - Red Box (*Eucalyptus polyanthemos*)

All new trees must be planted at a minimum height of 1.5 metres:

- a) Four (4) of the replacement trees required under condition 3b must be planted within the Laburnum Street front setback of the site.
  - b) Three (3) of the replacement trees required under condition 3b must be planted within the open space to the rear of the dwelling on the site.
  - c) The stumps of trees approved for removal being retained;
  - d) Any recommendations to ensure the retained stumps do not pose a constraint to the proposed replanting must be clearly noted/detailed on the drawings
  - e) To note that the roots of the trees retained will not be 'bored out'.
  - f) All replacement trees must be planted in accordance with the performance standards of Clause 22.04-4 (Tree Conservation).
  - g) The capacity to replace any plantings damaged during the tree removal works
  - h) Replacement canopy trees are to be located a minimum of three (3) metres from buildings and one (1) metre from any boundary fencing.
  - i) A survey of all existing vegetation, abutting street trees, natural features and vegetation.
  - j) A schedule of the botanical name of all trees and shrubs proposed to be retained and those to be removed incorporating any relevant requirements of condition No. 1.
  - k) A planting schedule of all proposed vegetation (trees, shrubs and ground covers) which includes, botanical names, common names, pot size, mature size and total quantities of each plant.  
Once approved these plans become the endorsed plans of this permit.
4. Replacement planting as required by this permit must be completed within six (6) months of the permitted tree removal.

**11.2**  
(cont)

5. The applicant/property owner is required to contact Council's Statutory Planning Enforcement team in writing after the completion of both tree removal and replacement planting to arrange for an inspection.
6. The replacement planting must be of good quality, correctly maintained and planted within loose native soil mix and mulch in a location that supports its long-term retention and growth.
7. The ongoing maintenance of the replacement trees must be undertaken to the satisfaction of the Responsible Authority. If the planted tree dies or is removed, they must be replaced within two months and maintained to the satisfaction of the Responsible Authority.
8. No other trees on site that are protected by the Planning Scheme may be destroyed, felled, lopped or uprooted without the written consent of the Responsible Authority. All existing trees to be retained and trees required by this permit to be planted shall be maintained to the satisfaction of the Responsible Authority.
9. This permit will expire if the tree removal is not completed within 12 months from the date of issue of this permit.

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

Permit Notes:

- A. This application was not assessed against ResCode.
- B. 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.
- 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 Munroe, Seconded by Cr Massoud

That the item be deferred to the next Council Meeting.

**CARRIED UNANIMOUSLY**

**11.2**  
(cont)

MELWAYS REFERENCE 47 J10

Applicant:	Wildwood Nord Pty Ltd
Zoning:	Neighbourhood Residential Zone Schedule 1
Overlays:	Significant Landscape Overlay – Schedule 2
Relevant Clauses:	
Clause 11	Settlement
Clause 12	Environment and Landscape Values
Clause 12.01-2S	Native Vegetation Management
Clause 12.05-2S	Landscapes
Clause 15	Built Environment and Heritage
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 1
Clause 42.03	Significant Landscape Overlay Schedule 2
Clause 65	Decision Guidelines
Ward:	Cootamundra



*Aerial image of subject site*

**11.2**  
(cont)

**BACKGROUND**

**History**

The permits on file for the subject site are as follows:

WH/2004/14636 - Removal of 1 tree issued 22 July 2004. This permit approved the removal of a 7 metre high Hinoki False Cypress that was behind the dwelling with a native, replacement tree that would grow to 15 metres high at maturity.

WH/2004/15207 - Removal of four (4) protected trees and pruning of six (6) protected trees issued 10 November 2005. This permit approved removal of four (4) trees in the front setback. The permit required two (2) indigenous replacement plantings along the western boundary adjacent to the driveway and another two (2) indigenous replacement trees in the rear open space.

WH/2021/1076 - Lop one (1) *Eucalyptus cladocalyx* – Sugar Gum Tree was issued on 8 November 2021. The works have been undertaken and the lopped tree is identified as Tree 7 in this report.

**The Site and Surrounds**

The subject site is located on the southern side of Laburnum Street, between the intersections of Myrtle Grove, and Laurel Grove North in Blackburn. The northern side of Laburnum Street is zoned General Residential Zone 2 (GRZ2) and included in a 'Bush Suburban' Character Area, while the southern side is zoned Neighbourhood Residential Zone – Schedule 1 (NRZ1) and located within in a 'Bush Environment' Character Area.

The southern side of the street is typically developed to a lower density, with the majority of lots containing detached dwellings in generous, landscape/tree dominated settings while the northern side sees a presence of multi-unit and townhouse developments in more modest/compact garden settings.

Laburnum Street presents as an avenue as it is lined with developed street trees and a number of tall gum trees along the southern side, this fits with the Bush Suburban character of the north side of the street while also beginning the transition to the more bushland-like character of the areas to the south.

The subject site has a 20.14 metre frontage to Laburnum Street, a depth of 51.82m and a total site area of 1044m<sup>2</sup>. No easements are located on the site which contains a single storey, weatherboard dwelling. The site is heavily vegetated and contains a number of canopy trees, seven (7) of these trees being identified under this application as proposed for removal.

The site is 30 metres west of the southern exit to the Elmore Walk Reserve which runs north-to-south between South Parade and Laburnum Street and contains a number of large gum trees and understorey plantings.

**11.2**  
(cont)

**Planning Controls**

Significant Landscape Overlay – Schedule 2 (SLO2)

In accordance with Clause 42.03 of the Significant Landscape Overlay – Schedule 2, a planning permit is required to destroy, remove or lop a tree.

This does not apply to (inter alia):

- A tree having a single trunk circumference of 0.5 metre or less at a height of one metre above ground level.
- The pruning of a tree for regeneration or ornamental shaping.
- A tree which is dead or dying to the satisfaction of the responsible authority.

**PROPOSAL**

It is proposed to remove seven (7) indigenous trees located within the front setback of the site from the front boundary and the side of the carport.

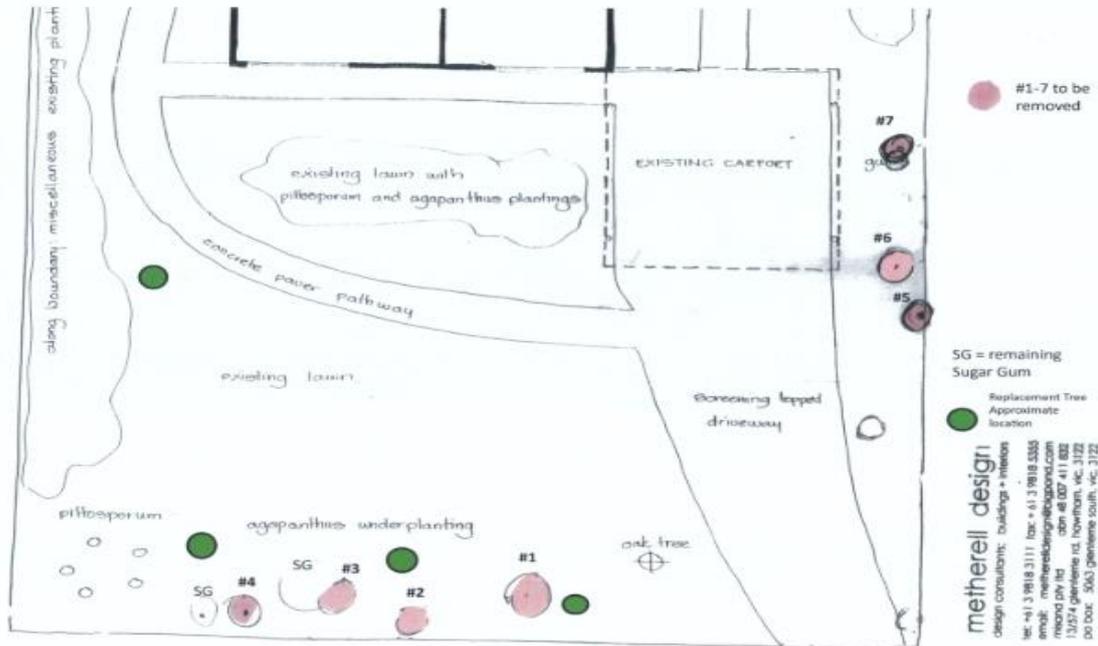
Tree 1 is a Lemon-scented Gum (*Corymbia citriodora*) the remaining six trees are Sugar Gums (*Eucalyptus cladocalyx*) species.

Council's arborist has inspected the trees and confirmed that Tree 1 is dead and therefore does not require a permit for its removal. Its details are included in the table below for reference.

The proposal includes seven (7) replacement plantings on the site, with four (4) to be located in the front setback and three (3) within the rear open space. The proposed replanting species are listed as either Yellow Box (*Eucalyptus melliodora*) or Narrow Leafed Peppermint Gums (*Eucalyptus radiata*).

The plans below combine the submitted drawings to outline the trees proposed for removal.

**11.2**  
(cont)



Close up of front setback plan. Source – Metherell design, October 2004.  
Note: pink circles represent proposed tree removal, green circles represent proposed replanting see full plan for all replantings.

The size of the protected trees as depicted in the Arborist Report dated 26 March 2021 are set out below as follows:

Arborist Report dated 26 March 2021

Tree No.	Name	Species	Trunk Circum-ference (m)	Risk	Struct ure	Recommen dation / Permit Required?
1	Lemon-scented Gum	<i>Corymbia citriodora</i>	1.25	Moderate	Fair	Removal. Triggers the need for a permit.*
2	Sugar Gum	<i>Eucalyptus cladocalyx</i>	1.85	Moderate	Poor	Removal. Triggers the need for a permit.
3	Sugar Gum	<i>Eucalyptus cladocalyx</i>	1.53	Moderate	Poor	Removal. Triggers the need for a permit.
4	Sugar Gum	<i>Eucalyptus cladocalyx</i>	1.53	High	Poor	Removal. Triggers the need for a permit.

**11.2**  
(cont)

Tree No.	Name	Species	Trunk Circum-ference (m)	Risk	Struct ure	Recommen dation / Permit Required?
5	Sugar Gum	<i>Eucalyptus cladocalyx</i>	2.38	Moderate	Poor	Removal. Triggers the need for a permit.
6	Sugar Gum	<i>Eucalyptus cladocalyx</i>	2.8	Moderate	Un known	Removal. Triggers the need for a permit.
7	Sugar Gum	<i>Eucalyptus cladocalyx</i>	2.1	High	Poor	Removal. Triggers the need for a permit.

Source – TreeTec Arborist Report dated 26 March 2021

\* Council's consulting arborist has confirmed Tree 1 is dead and does not require a planning permit to remove.

According to the Arborist Report and Cover Letter prepared by the applicant on 3 October 2021 a total of seven (7) trees were proposed for removal as listed above.

## CONSULTATION

### Public Notice

The application was advertised by mail to the adjacent and nearby property owners and occupiers and by erecting notices to the Laburnum Street frontage. Following the advertising period 25 objections (25 objector properties) and one letter of support were received.

The issues raised are summarised as follows:

- Contravenes the provisions of the Whitehorse Planning Scheme, in particular the Significant Landscape Overlay 2 and Local Planning Policy Framework.
- Tree removal is a loss of character and habitat for the area.
- Replanting is insufficient to offset impacts to character and/or habitat.
- Removal of some trees may harm others on site due to enmeshed roots.
- Alternatives to removal have not been considered by the applicant.
- Reduction in amenity for pedestrians and adjoining properties.
- The proposal appears to be to facilitating an undisclosed development that will impact assessment.

## 11.2

(cont)

- The risk to the occupants and pedestrians is overstated and without context.
  - QTRA Assessment method is not used, so only risks are considered in the assessment.
  - The trees proximity to the carport are due to the carport being constructed near the trees.
- The submitted arborist report is incomplete or inaccurate and only some and not all large trees on site are assessed and heights overstated.

### Consultation Forum

A Consultation Forum was held online via Zoom on 1 March 2022. Approximately 10 objectors, the applicant and Council officers attended the meeting. The meeting was chaired by the Ward Councillor - Councillor Munroe.

Key points discussed during the forum meeting related to the removal of vegetation, the sufficiency of replacement planting and the accuracy and merits of the applicant's arborist report. The applicant expressed a clear position to objectors that there was not an intention to develop the site.

An action item from the Forum was for Council officers to await further comments from Council's consulting arborist to investigate remedial measures as an alternative to removing the trees. This further discussion is addressed in detail later in this report. No resolution was reached between the parties during the meeting.

### Referrals

#### External

No external referral authorities were required as part of the application.

#### Internal

##### Planning Arborist

The application was referred to and reviewed by Council's consulting arborist, who was generally supportive of the application and provided the following comments (in summary):

*Tree 1:*

*This tree is dying to the satisfaction of the responsible authority. As such, it is exempt from requiring a permit for its removal.*

*Permit Triggered Under SLO2 – (for removal)*

*A permit is triggered under SLO2 for the following trees:*

**11.2**  
(cont)

*Trees 2 – 7:*

*Remove – I have assessed these trees and matched the applicant’s arborist comments in relation to their health and structure against what I observed on site. I found the comments in relation to the applicant’s arborist assessment of the trees to be accurate and correct in relation to their wounds and overall health and condition.*

*Based on what I observed, I agree with the recommendations in the arborist report, in that the trees should be removed. All the species (apart from tree 1) are Eucalyptus cladocalyx – Sugar Gum. This species has a propensity for failure, which is evident in relation to these trees.*

*The removal of the trees will have a significant and adverse impact on the landscape character. As such, replanting will need to be undertaken. Therefore, before the trees are removed it is recommended landscape plans be provided to Council.*

*Landscape plans must meet with the neighbourhood character, landscape objectives, planning zone planting requirements and Council’s Landscape guidelines and must show the following:*

- *The tree species proposed for replanting.*
- *The heights and widths at maturity of the tree species proposed for replanting.*
- *The locations of the tree species proposed for replanting.*

*The above could be provided by way of condition. However, given the significance of the area and the impacts the removal of these trees will have on the landscape character of the area, a landscape plan is necessary in my view.*

**DISCUSSION**

The key considerations in this application include the extent of the tree removal proposed and whether it is an acceptable outcome in the context of the planning scheme provisions.

The primary planning control, being the Significant Landscape Overlay – Schedule 2 (SLO2) requires protection of landscape character attributed to the quality of the environment, which includes vegetation notable for its height, density, maturity, and high proportion of Australian native trees, which in turn contributes to valuable bird and wildlife habitat.

The landscape character objectives to be achieved under this Overlay are to retain the dominance of vegetation cover, retention and regeneration of native vegetation or wildlife habitat and to ensure a reasonable proportion of the lot is free for tall trees in a natural garden setting.

**11.2**  
(cont)

In this context, the key considerations to be given weight in this assessment are:

- What is the policy framework for the vegetation removal?
- Can the extent of vegetation removal be justified?
- What is the role of replacement planting?

*State and Local Planning Policy Framework*

Objectives under Clause 12.05-2S (Landscapes) seek to protect and enhance significant landscapes that contribute to character, identity and sustainability of environments identified as significant. To achieve this objective, the policy provides strategies which seek to ensure that development does not detract from the natural qualities of significant landscape areas and recognise the natural landscape for its aesthetic and environmental value.

The retention of existing trees contributes to the identified landscape value of the site and surrounds as recognised under Clause 12.05-2S and the Significant Landscape Overlay – Schedule 2.

Policy under Clause 21.05 (Environment), makes the connection between natural, visual and built environment. This connection influences neighbourhood character, landscape qualities, climate and health and wellbeing for individuals in the area. The landscape qualities are identified as contributing factors towards improving open space areas for passive and active recreation and the conservation and enhancement of trees and their canopy coverage is identified as integral to maintaining and achieving the above-mentioned elements.

The Tree Conservation Policy at Clause 22.04 (Tree Conservation) in its objectives refer to minimising the loss of significant trees and promoting the regeneration of established trees as a valued resource in the Whitehorse area. Policy and performance standards in respect of tree retention and regeneration are provided within this clause and will be discussed within the assessment section of this report.

*Significant Landscape Overlay, Schedule 2*

The subject site falls within the Significant Landscape Overlay - Schedule 2 (SLO2) which seeks to ensure the key objectives of retaining the dominance of vegetation cover, retention and regeneration of vegetation to protect habitat, ensuring sufficient space is provided and kept free of buildings for tall trees to be planted, and encouraging a tree-dominated landscape are achieved.

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.

**11.2**  
(cont)

**Tree Removal**

The application seeks permission to remove six trees protected under the SLO2 (an additional tree included in the application was confirmed dead by council's arborist and therefore exempt from planning permission). The applicant seeks to remove the trees due to safety and risk concerns should the trees fail.

The main consideration in this element of the assessment relates to the proposed tree removal meeting the objectives of the SLO2 provisions, most relevant to this consideration include *'to retain the dominance of vegetation cover in keeping with the bush character environment'* and *'to encourage the retention and regeneration of native vegetation for the protection of wildlife habitat.'*

The trees proposed for removal have been assessed as being of fair health, but with poor structure and form. This is based on an arboricultural assessment of the trees which is consistent between both the applicant's report and the review undertaken by council's independent consulting arborist of the application material and his own inspection of the subject trees.

The submitted arborist report found that all six (6) trees suffer from wounds in their trunks which could not be resolved with maintenance. The risks associated with the trees were as follows. All trees suffer from wounds or structural defects in their trunks. Trees 2 and 3 lean towards the street or with the latter having deadwood currently over the footpath. Trees 4, 5, 6 and 7 leans toward the neighbouring property or power lines. As relocating the structures (dwellings and power lines) at risk or isolating the fall area which is mostly in a public thoroughfare is not possible, remediation is not considered possible and so removal is recommended.

Council's Arborist has confirmed the finding in the applicant's arborist report that all six Sugar Gums would be unlikely to respond/recover through remediation works (i.e. pruning, watering or other care) based on their age and existing structural defaults. The applicant's arborist report notes that while pruning and proper maintenance can significantly reduce risk of tree failure, but due to the location of defects it would be a short term solution and would be unlikely to extend the life to the trees or prevent further failures.

Both arborists concur that the removal of these trees will have a significant landscape impact for the surrounding area but that the trees have come to the end of their useful life.

**11.2**  
(cont)

Given this context, the trees which are currently in a decline which is expected to continue and is likely to result in their death over the next few years. Significantly, once a tree is assessed as 'dead or dying' by the Responsible Authority, pursuant to the SLO2 provisions, it is exempt from requiring a planning permit for its removal. Capturing the opportunity at this time for replacement planting within the subject site as a condition of permit, ensures replacement planting can be managed and protected into the future, to provide a positive, long term outcome for the landscape character of the area.

*Maintenance of Trees, Tree Canopy and Replacement Planting*

The removal of six trees would result in a cumulative loss to the landscape given the existing canopy cover within the front of the site. Therefore, it is the officer opinion that any replacement landscaping must provide a full, native landscaping outcome including ground covers, shrubs, low and mid height canopy plantings so that faster growing species may grow to contribute to the landscape and Laburnum Street in the short and midterm while the taller canopy plantings establish themselves over a longer timeframe.

The proposed locations for replacement trees, four in the front setback and three in the rear, maintains a consistent tree canopy spread for the site and would allow the trees sufficient space to reach their mature height. By having seven replacement trees of a height of 15 metres at maturity this is consistent with the decision guidelines of the SLO2 which seeks to have at least 7 trees for a lot of 1044 square metres.

The subject site can accommodate this number and size of canopy trees with sufficient space for the trees to mature over time within the site. Pursuant to the policy at Clause 22.04 of the Scheme, the standards for new tree replanting is to be in a 35 square metre area with a minimum dimension of 5 metres clear of any buildings or impervious surfaces and not within an easement. The front and rear open spaces on site generally meet this description. As the 'service drop' for electricity is located across the road on the north side of Laburnum Street, any new trees within the subject site would not be in direct conflict with infrastructure (i.e. overhead wires), or be at risk of future lopping from power line clearance.

Given the vegetation proposed to be removed, it is considered appropriate to require additional indigenous planting demonstrated through a professionally drawn landscape plan. Such a plan would need to account the potential damage of existing plantings in the front setback which might be damaged during the tree removal process and so a capacity for replacement or additional planting near retained trees will be needed in the plan.

A nominated list of appropriate species, similar to the trees proposed for removal, would be required to fit the 'Bush Environs' Neighbourhood Character Guidelines of the Whitehorse Planning Scheme. This has been included as a condition of permit, should one be granted.

**11.2**  
(cont)

Through supporting the tree removal as proposed, the replanting, over time, would ensure the re-establishment of canopy trees that provide a presence of vegetation within the subject site and wider streetscape. It is considered the property can accommodate appropriate replacement trees which meet decision guidelines of the overlay.

A condition would require the replacement planting to occur within six (6) months of the removal being undertaken, or as otherwise agreed by the Responsible Authority to accommodate seasonal changes and the like.

**Response to objections**

Tree Removal and Whitehorse Planning Scheme

In response to the concern around tree removal, conditions would be included within any planning permit requiring the planting of a native themed landscaping outcome including 7 replacement trees (canopy) with Council's Arborist recommendations.

As assessed earlier in this report, all trees proposed for removal are supported due to their low useful life expectancy and potential risk of failure.

Conditions would be included within the planning permit for offset planting to occur within six (6) months of removal (or as otherwise agreed to in writing by the Responsible Authority). This will mitigate the impact to the landscape character by allowing for replacement planting within the front setback of the site to become more established over time while retaining an acceptable level of tree canopy throughout the subject site.

The trees proposed to be planted would ensure the subject site would continue to make a significant contribution to the existing and preferred landscape character of the subject site and surrounds over time.

The assessment above demonstrates that the proposal, with conditions, meets the landscape character objectives within the Whitehorse Planning Scheme to retain and regenerate the established tree canopy in significant landscape areas.

Impacts to amenity, character and landscape from tree removal and replanting

Concerns were raised by the objectors during the Consultation Forum regarding the loss of highly visible trees in the streetscape.

The decision guidelines under the SLO2 suggest to have one canopy tree capable of growing to at least fifteen metres high at maturity, for every 150 metres of site area. Using this calculation, the size of the subject site would equate seven such trees being suggested. As the application has proposed the replacement of seven canopy trees and previous planning permit have already had similar replanting undertaken on site, the resulting replacement planting would be in excess of the plantings expected under the overlay.

**11.2**  
(cont)

In addition to the seven Yellow box and Narrow Leafed Peppermint gums which are proposed to be planted by the applicant on the site, a condition would require a comprehensive landscaping response of indigenous species that will include species that will quickly grow to recover character and habitat contributions lost from the removal of the trees. This landscaping outcome will also enable a recovery of amenity for pedestrians from the shrubs and lower height plantings while the canopy trees grow.

Removal of some trees may harm others on site due to enmeshed roots.

The approval of this application would result in the retention of one established tree in the front setback, which the applicant's arborist report notes may be weakened by the loss of the surrounding trees. This retained tree is not included for removal in the application.

The health and structure of the trees to be removed has been the focus of this assessment and supported by the applicants and council's arborists. Based on these assessments the trees may fail undermining the retained tree and so an orderly removal of trees and their replacement is preferred. If approved the replacement plantings may grow to provide some stabilisation for the retained tree.

The applicant stated in the forum that they are not intending to 'bore out' the roots of the trees to be removed. As such, the recommended condition includes reference to not boring out the roots. After discussion with council's Tree Education Officer it is also recommended the stumps be addressed in the landscaping plan to avoid issues with termites and nitrogen draw down for the replacement scheme.

Alternatives to removal have not been considered in the report.

The applicant's arborist considered remediation and pruning measure but did not consider them a viable long term solution to retain the trees due to the location of the structural failures. Council's consulting arborist has confirmed that given the trees' ages it is unlikely they would recover and so pruning is not considered a viable solution.

The proposal appears to be to facilitate an undisclosed development that will impact assessment.

In the Consultation Forum it was stated by the applicant that the tree removal has been proposed due to the risk posed by the trees and not to facilitate a development.

The potential for development does not form part of this assessment, it is noted that permit triggers for 'buildings and works' are set under the SLO-2 and any future application would be subject to those controls.

Furthermore, the assessment of a planning application cannot pre-judge future action, it must be based on the application documents provided during the assessment process.

**11.2**  
(cont)

Tree retention measures and Arborist Report credibility

A request was received from objectors attending the Forum to investigate alternative tree management methods in an attempt to retain and remediate the six protected trees proposed for removal. Concerns were also raised regarding the quality of the arborist reports submitted with the application.

Through the council arborist's assessment, it was concluded that the overall poor condition and age of the trees results in these trees to be no longer viable. Replanting new trees was found to be the best option to satisfy the relevant planning controls and require further replacement planting.

The risk to the occupants and pedestrians is overstated and without context.

The assessment of the trees is verified by council's planning arborist and focuses on the health and structure of the trees. Given the trees' ages and structure failure has been confirmed as likely and so removal with replacement at the present time is the favoured outcome by council's arborist.

The submitted arborist report is incomplete or inaccurate only some and not all large trees on site are assessed and heights overstated.

Not all trees on site were assessed as part of the submitted arborist report as the proposal impacts the trees in the front setback of the dwelling. The proposal includes replacement planting of enough canopy trees to meet the replanting guidelines of the SLO2 of seven (7) 15m high canopy trees by itself. As such, the details of existing trees are not needed to confirm sufficient canopy trees plantings will be retained on the site to meet this guideline. The assessment of the applicant's arborist has been confirmed by Council's consulting arborist who generally agreed with the findings of the report.

**CONCLUSION**

The proposal is considered to be an acceptable response that satisfies the relevant provisions contained within the Whitehorse Planning Scheme, including the State and Local Planning Policies, the SLO2.

The proposal is consistent with the Whitehorse Planning Scheme as the trees have a minimal useful life expectancy (ULE) that remediation works would not extend. Their removal will enable replacement planting and landscaping to offset the loss of amenity, landscape contribution and habitat for the site through conditions to the permit.

A total of 25 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 WH/2021/978 - Plans 

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### 11.3 City Planning and Development - Strategic Planning Update

City Development  
FILE NUMBER: SF18/157

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#### SUMMARY

This report outlines progress with key strategic planning projects since October 2021. It provides a description and the current status of key Council and State government projects including, planning scheme amendments, activity centre planning, other major Council initiatives and State government projects and policy reform involving the Strategic Planning Unit.

This report recommends that Council acknowledges the update on the activities of the Strategic Planning Unit over the last six months and that the work arises from the Council Plan and the *Planning and Environment Act 1987*.

#### COUNCIL RESOLUTION

Moved by Cr Lane, Seconded by Cr Massoud

That Council:

1. Acknowledge and support the key projects and significant amount of work being undertaken by the Strategic Planning Unit.
2. Note that the work is consistent with the Council Plan and undertaken as required by and in accordance with Section 12 of the Planning and Environment Act 1987.

**CARRIED UNANIMOUSLY**

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#### KEY MATTERS

This report provides a status update on key strategic planning projects and outlines the progress made since the last Strategic Planning Update on 25 October 2021.

The following projects are covered in this update:

- Amendment C219: Municipal tree controls
- Amendment C220 and C239: Residential Corridors Built Form Study
- Amendment C228: Box Hill Metropolitan Activity Centre
- Amendment C230: 490-500 Burwood Highway, Vermont South (Former Australian Road and Research Board Site)
- Amendment C231: Rezoning of 34-40, 37-43 and 42-50 Moore Road, Vermont
- Amendment C232: Tally Ho Major Activity Centre
- Nunawading, MegaMile (East) and Mitcham Structure Plan Review
- Burwood Brickworks Development Plan
- Infrastructure and Development Contributions Framework

**11.3**  
(cont)

- Council Alliance for a Sustainable Built Environment – Elevating ESD Targets
- Heritage Assistance Fund
- Tree Assistance Fund
- SMART Planning – Planning Policy Framework
- Suburban Rail Loop
- Level Crossing Removal
- Planning Reform
- Decriminalisation and Deregulation of Sex Work

**BACKGROUND**

Council’s Strategic Planning Unit undertakes a range of projects that respond to the strategic planning needs of Whitehorse, updates the Whitehorse Planning Scheme (Planning Scheme) and manages projects to proactively plan for future improvement, development opportunities and protection of important features and places within the municipality. An update on key projects is provided approximately every six (6) months.

**DISCUSSION**

The following is a summary of the current status of key projects being undertaken by the Strategic Planning Unit. The last update to Council was provided at its meeting on 25 October 2021.

**Planning Scheme Amendments**

Amendment	Brief Description	Current Status
C219 Municipal tree controls	The amendment implemented the <i>Municipal Wide Tree Study</i> and protects trees in residential areas via an interim Significant Landscape Overlay (SLO) control. The tree protection controls were extended on an interim basis until 24 June 2022 while the Department of Environment, Land, Water and Planning (DELWP) completes a state-wide review of the vegetation overlays in the Victoria Planning Provisions (VPP) known as the <i>Cooling and Greening</i> project.	Council officers understand that a further one year extension to the tree controls will occur if the DELWP work is not completed and implemented by 24 June 2022.  A report to Council regarding community concern about the protection of trees was considered at a Council meeting on 28 February 2022. Council resolved to develop and implement an advocacy campaign aimed at strengthening tree controls.

**11.3**  
(cont)

Amendment	Brief Description	Current Status
<p>C220 and C239 Residential Corridors Built Form Study</p>	<p>The <i>Residential Corridors Built Form Study</i> prepared new development guidelines for areas in the municipality along key road corridors, including Burwood Highway and Whitehorse Road, where the Residential Growth Zone (RGZ) interfaces with land in the Neighbourhood Residential Zone (NRZ) and the General Residential Zone (GRZ). A request for authorisation of amendment C220 was submitted in October 2019. In February 2021 authorisation was granted subject to a list of conditions.</p>	<p>The authorisation conditions for amendment C220 were reviewed against the intent of the study and a response was prepared. At a Council meeting on 20 September 2021 Council resolved to submit a revised planning scheme amendment (C239) for authorisation. DELWP refused to authorise the revised planning scheme amendment. The primary reasons leading to the refusal related to the proposed mandatory side and rear setbacks and reference to equitable development. A further report will be prepared to Council to progress the Residential Corridors Built Form Study.</p>
<p>C228 Box Hill Metropolitan Activity Centre (MAC)</p>	<p>In 2018 Council commenced a project to review the vision and strategic direction for the Box Hill MAC which culminated in the preparation of the following draft documents: a revised Structure Plan; an Urban Design Framework; and planning scheme controls. On 25 May 2020, Council resolved to proceed with a proposed planning scheme amendment to implement the Structure Plan and Urban Design Framework. Officers at DELWP reviewed the draft amendment documents and provided comprehensive feedback prior to Council formally submitting a request for authorisation.</p>	<p>In response to the DELWP feedback changes were made to the draft strategies and planning scheme amendment documents. The revised documents were considered at a Council meeting on 22 November 2021. Council resolved to seek authorisation from the Minister for Planning to proceed with the updated amendment. The request for authorisation has been submitted and is being assessed by officers at DELWP. A decision on the authorisation request has not yet been made.</p>

**11.3**  
(cont)

Amendment	Brief Description	Current Status
C230 490-500 Burwood Highway, Vermont South	<p>This amendment proposes to rezone the 2.6 hectare former Australian Road and Research Board (ARRB) site from Transport Zone 4 to Residential Growth Zone and apply a site specific Design and Development Overlay, the Significant Landscape Overlay, the Vegetation Protection Overlay and the Environmental Audit Overlay.</p> <p>The site has an existing Heritage Overlay recognising the ARRB building and its surrounds.</p>	<p>The proposed amendment was considered by Council at its meeting on 13 December 2021. Council resolved to request authorisation from the Minister for Planning to prepare and exhibit the amendment. The request for authorisation was submitted to DELWP on 24 December 2021. The authorisation request is still under consideration.</p>
C231 Rezoning of 34-40, 37- 43 and 42- 50 Moore Road, Vermont	<p>This amendment actions Council's resolution on 25 May 2020. The amendment proposes to rezone the three specified properties from General Residential Zone Schedule 5 to Neighbourhood Residential Zone 3 to be consistent with the surrounding area. The amendment land was formerly owned by VicRoads as part of the Healesville Freeway corridor. The properties were sold in 2017 and 2020 and are now privately owned.</p>	<p>The amendment was placed on public exhibition from 19 August to 20 September 2021 and six submissions were received. At a Council meeting on 22 November 2021 Council resolved to refer all submissions and the amendment to an independent planning panel. A Panel hearing took place in February and the Panel report was received shortly after. The Panel recommends that Council adopt the amendment as exhibited. The Panel's recommendation is being considered under a separate report to this Council meeting.</p>

**11.3**  
(cont)

Amendment	Brief Description	Current Status
C232 Tally Ho Major Activity Centre	A review of the Tally Ho Major Activity Centre in 2018/19 assessed whether the existing Commercial 1 Zone (C1Z), is the most appropriate zone to achieve the vision for Tally Ho as a major business and employment hub in the eastern region. The C1Z was broadly applied to existing commercial areas across Victoria as part of the State government's commercial zone reforms in 2014. The review for Tally Ho recommended a rezoning of the C1Z land to the Commercial 3 Zone (C3Z) where residential and retail development would be limited.	Council resolved to pursue amendment C232 to rezone the current C1Z land to C3Z at a Council meeting on 27 January 2021.  A request for authorisation was submitted to DELWP on 5 July 2021. DELWP advised Council on 6 December 2021 that the amendment had not been authorised, including concerns that the structure planning for the centre was out of date. Officers are now reviewing the issues raised by DELWP and will consider a way forward in a future report to Council.

Nunawading, Mitcham and MegaMile Activity Centres Structure Plan

Council is reviewing and updating the 2008 Structure Plan for the Nunawading, MegaMile (East) and Mitcham activity centres. Consultants were appointed in 2020 to assist with updating the Structure Plan. Phase 1 of the project includes an initial Discussion Paper for community consultation as well as technical reports (economic, traffic and parking, built form) to understand conditions in the activity centres.

The impacts of the COVID-19 caused delays in launching the project with the community however, the first round of public consultation was conducted in November and December 2021. A stakeholder reference group including community representatives will shortly be formed to assist in guiding the formation of an updated Structure Plan. There will be a further two rounds of community consultation before the Structure Plan and implementation strategy are finalised and considered by Council.

**11.3**  
(cont)

Burwood Brickworks Development Plan

Frasers Property Australia (Frasers) has submitted a request to amend the Burwood Brickworks Development Plan. The current Development Plan proposes a wetland in the existing Eley Road retarding basin that adjoins the brickworks site and is owned by Melbourne Water. The proposed wetland would have directly treated stormwater from the brickworks site. The amendment to the Development Plan seeks to remove the proposed wetland from the Development Plan as Melbourne Water is no longer supportive of this idea.

In place of the wetland, Frasers will be required to pay Melbourne Water a contribution to address the stormwater treatment obligations for the development as there is now limited scope to construct a wetland facility on the former brickworks site itself. Melbourne Water will spend the money on stormwater treatment projects in the broader Port Phillip and Western Port catchment region.

In accordance with the requirements of the Whitehorse Planning Scheme, specifically the Development Plan Overlay schedule 6 (DPO6), a period of public consultation took place from 20 December 2021 and was extended beyond the required 14 day display period to 18 January 2022 due to the holiday period. 81 submissions were received. A report on the feedback received and an assessment of the proposed amended Development Plan is now being prepared for consideration by Council at a future Council meeting.

Infrastructure and Development Contributions Framework

The Infrastructure and Development Contributions Framework looks at factors that drive change and development in the municipality. It reviews the infrastructure needs of the municipality and how contributions from new development may be used to help deliver infrastructure projects that benefit our community.

Information gathered for the Stage One report has determined that Council has a sound basis for the introduction of an infrastructure funding mechanism. On 20 September 2021, Council decided to proceed to Stage Two of the project to prepare a municipal wide Development Contributions Plan (DCP). Council, together with consultants HillPDA, have been working to refine the infrastructure project list which will form a key part of the DCP and underpins the levies that will apply to the various charge areas within the municipality.

It is expected that the DCP will be finalised by the end of June 2022 and a report to consider a proposed planning scheme amendment to implement the DCP will be prepared shortly after.

**11.3**  
(cont)

Council Alliance for a Sustainable Built Environment – Elevating ESD Targets

Whitehorse City Council is part of the Council Alliance for a Sustainable Built Environment (CASBE) and has joined 30 other Victorian councils on a collaborative research project that aims to elevate environmentally sustainable development (ESD) targets for new development.

Council can influence the design of private developments by setting ESD requirements through the Whitehorse Planning Scheme. These requirements can help to minimise energy use, water and waste, improve environmental outcomes and amenity and reduce ongoing running costs for our community. Introducing or amending ESD requirements through Planning Policy is an effective and low-cost way for Council to influence the built environment that will result in lasting improvements to sustainability and residents' quality of life.

Council is participating in the first stage of a two stage project that aims to elevate ESD targets in the Planning Scheme. Stage 1 involves an assessment of ESD standards and objectives that councils have already developed, and includes a feasibility study, cost benefit analysis and legal reviews.

The Stage 1 work will provide the evidence and basis for Stage 2, which is proposed to include a planning scheme amendment process that is expected to commence in mid-2022. There has been no commitment by councils to participate in Stage 2 at this point. The findings of Stage 1 will be reported to Council for consideration of a future planning scheme amendment, and advocacy to Victorian and Federal Governments.

Heritage Assistance Fund

The Heritage Assistance Fund (HAF) provides grants up to \$2,000 from the funding pool of \$40,000 to eligible owners and occupiers of properties in the Heritage Overlay to assist with the ongoing maintenance of their heritage properties. The HAF assists with various heritage preservation works including external painting, repairs and restorative works.

The 2021/22 round of the HAF opened on 18 August and closed on 29 September 2021. The closing date was extended by one week in response to some applicants having difficulty sourcing the necessary trade quotes for works during COVID lockdown.

A total of 39 applications were received for the 2021/22 round and were reviewed by the Heritage Steering Committee in October 2021. Of these projects, 23 have been awarded funding.

**11.3**  
(cont)

Tree Assistance Fund

The Whitehorse Tree Assistance Fund (TAF) provides grants to assist residents with maintenance of significant trees, being those trees covered by the Vegetation Protection Overlay, Schedules 1, 3 and 5 (VPO) in the Whitehorse Planning Scheme.

Year 2 of the TAF opened in June 2021 and 39 residents have been successful in receiving assistance, some of those with multiple VPO trees on their property. All received support to the value of \$1000 except for one resident with 11 remnant VPO trees on their property which are managed as a stand of trees who will be supported with a \$2000 allocation. The total funding pool for the TAF is \$40,000.

This year's claims are being processed before the next round opens in June of this year. Recently officers were able to share our experiences with the City of Melbourne as they are about to embark on a grant scheme for significant trees of their own.

For more information about the fund visit:  
<https://www.whitehorse.vic.gov.au/tree-assistancefund>

Built Environment Showcase

On 25 October 2021, Council considered a report to refresh the Built Environment Awards and Educational Program and modify the Awards component to become the Built Environment Showcase.

The Built Environment Showcase celebrates the value of good design, creating thinking, innovation and sustainability in the built environment within our municipality. The community and professionals have been asked to nominate exemplary projects for the event. Nominations closed on 31 March 2022.

A selection of projects for the Built Environment Showcase will be featured at an event in May 2022. Architects, designers and developers may have the opportunity to present their project to industry professionals and residents keen to explore innovative design. Exemplary projects will also be acknowledged with an Innovation, Sustainability or Mayor's recognition and promoted in Council media.

SMART Planning – Planning Policy Framework

As part of the Smart Planning reforms by the State government, all planning schemes across the State are being rewritten to align with the new thematic policy structure that was introduced in July 2018 under Amendment VC148.

**11.3**  
(cont)

Officers from Strategic Planning and Statutory Planning are continuing to review the draft PPF for Whitehorse. To date, the translation has not been a smooth process and has involved substantial officer time. There are ongoing discussions with DELWP to ensure that the planning scheme retains important local nuances and content. DELWP's Smart Planning team was dissolved at the end of June 2021 and responsibility for the PPF translations has been handed across to another part of DELWP to be finalised.

Council was scheduled to have a series of workshops with officers from DELWP in February this year to hopefully resolve all outstanding matters however, these workshops were postponed by DELWP.

Suburban Rail Loop

The Suburban Rail Loop Authority (SRLA) released the Environmental Effects Statement (EES) for public exhibition on 5 November 2021 with submissions closing on 16 December 2021. The Strategic Planning Unit had provided informal feedback to the SRLA on several of the draft documents prior to the release of the EES, but to little effect. The Unit subsequently provided formal comment on the final relevant EES documents to Council's Major Transport Projects Unit. On 13 December 2021 Council endorsed a written submission to the EES which was subsequently submitted to the SRLA prior to the closing date.

An independent Inquiry and Advisory Committee has been formed to consider submissions made during the public exhibition period. A ten week hearing commenced on Monday 28 February 2022 and is expected to conclude on 5 May 2022. Council has been represented by legal and technical experts through the hearing and Council's input is being coordinated through the Major Transport Projects Unit.

At a Council meeting on 22 November 2021 notice of motion 159 was carried and requires a report from officers to consider the merits of nominating a series of commercial buildings along Whitehorse Road that are protected by a local Heritage Overlay and a property in Elland Avenue in Box Hill, for the Victorian Heritage Register. Council has engaged consultants to undertake a heritage assessment of the specified properties and advise whether they may warrant inclusion in the Victorian Heritage Register. This work is in progress and will be the subject of a future report to Council.

Level Crossing Removal

The Level Crossing Removal Authority (LXRP) is progressing work to concurrently remove the level crossings at Mont Albert Road, Mont Albert and Union Road, Surrey Hills. The LXRP has determined that the most appropriate outcome is to lower the rail line beneath the roads and combine the two stations into one new premium station.

**11.3**  
(cont)

Council's Heritage Advisor has provided feedback to the LXP about the heritage significance of the current Mont Albert Station, and the need to retain this building. The Heritage Advisor and Senior Project Officer (Landscape Architecture) are also involved in the Urban Design Assessment Panel for the proposed new station. Council is working with Boroondara City Council and the Mont Albert and Surrey Hills communities to develop a vision for the area.

At a Council meeting on 22 November 2021 a motion was carried to:

*Appoint suitably qualified heritage consultants to assess the Avenue of Honour planting to determine whether there is sufficient strategic justification to warrant the inclusion of the trees in a Heritage Overlay in the Whitehorse Planning Scheme.*

The motion refers to a World War 1 commemorative avenue of nine trees in Churchill Street, Mont Albert. Consultants were engaged in December to undertake the heritage assessment of the trees. A draft preliminary assessment has been completed and a more detailed review is in progress.

Subject to the outcome of the assessment, the resolution also gives officers authority to initiate planning scheme amendment process to apply a Heritage Overlay on an interim and permanent basis to protect the trees.

Planning Reform

In late August 2021 the Department of Environment, Land, Water and Planning (DELWP) provided high level briefings to Council CEOs on recent state budget funding for a package of major State-wide planning reforms.

The five focus areas identified were:

1. Update and simplify planning rules and processes
2. Partner with local council planning departments
3. Focus on major projects and investment attraction
4. Planning for priority precincts and growth areas
5. Prioritising infrastructure delivery

In December 2021, following its resolution on 22 November 2021, Council wrote to the Minister for Planning (and circulated to the Premier, Leader of the opposition and senior politicians) expressing grave concern about the reforms, in particular the lack of consultation with local government and the community on planning reform decisions, including legislative changes.

In a statement by the Victorian Government Treasurer on 1 March 2022, it was announced that the reforms would no longer proceed. For further information refer to the full statement at:

<https://www.premier.vic.gov.au/statement-planning-reform-package>

**11.3**  
(cont)

Decriminalisation of Sex Work

The Victorian Government is decriminalising sex work and this decision has implications for all planning schemes in the State.

The *Sex Work Act 1994* is to be repealed and this includes the planning controls in Part 4. As a result of this process, the way in which the planning scheme regulates sex work will also be reformed, principally to:

- Treat a 'sex services premises' the same way as a 'shop'
- Enable sex work to be a home based business

The State government provided a short consultation period where submissions were invited in August 2021. Officers recently participated in information sessions in March 2022.

The changes to the planning scheme will come into operation in conjunction with the repeal of the Sex Work Act, which is anticipated to occur in December 2023. Until this time, planning permit applications will continue to be assessed under the current planning controls. The changes will be reviewed by State government 5 years after they commence.

**STRATEGIC ALIGNMENT**

The undertaking of strategic planning projects is consistent with the *Council Plan 2021-2025* in terms of project outcomes and the consultation involved.

Specifically, the strategic planning projects support Strategic Direction 4: Our built environment, movement and public places, of the Council Plan through the preparation of strategies and guidelines that set parameters for future use development in a manner that responds to the needs of the community.

**Policy**

The policy context for strategic planning activities arises primarily from the Whitehorse Planning Scheme and the Victoria Planning Provisions which contain the Planning Policy Framework (PPF). The PPF contains State, Regional (where relevant) and local policies. Existing policy is used when assessing proposals to amend the Planning Scheme, preparing strategies, implementing programs and creating new or updated local planning policies.

**11.3**  
(cont)

**SUPPORTING REPORT DETAILS**

**Legislative and Risk Implications**

The strategic planning activities align with the objectives of planning in Victoria as set out in Section 4 the *Planning and Environment Act 1987* (the Act).

Under Section 12 of the Act, Council, as a planning authority, has specific duties and powers. All of these are relevant, and in relation to the activities of the Strategic Planning Unit, the following powers and duties are highlighted:

*“A planning authority must—*

- (a) Implement the objectives of planning in Victoria;
- (b) Provide sound, strategic and co-ordinated planning of the use and development of land in its area;
- (c) Review regularly the provisions of the planning scheme for which it is a planning authority;
- (d) Prepare amendments to a planning scheme for which it is a planning authority;
- (e) Provide information and reports as required by the Minister.

*In preparing a planning scheme or amendment, a planning authority—*

- (a) Must have regard to the Minister's directions; and
- (b) Must have regard to the Victoria Planning Provisions; and
- (c) In the case of an amendment, must have regard to any strategic plan, policy statement, code or guideline which forms part of the scheme; and
- (d) Must take into account any significant [environmental, social and economic] effects...

*A planning authority may—*

- (a) Carry out studies and commission reports; and
- (b) Do all things necessary to encourage and promote the orderly and proper use, development and protection of land in the area for which it is a planning authority;”

There are no legal or risk implications arising from the recommendation contained in this report. In terms of compliance with Section 12 of the Act on individual projects, Ministerial Directions, Planning Practice Notes and other State government guidelines assist Council in complying with its responsibilities. Projects are suitably scoped to ensure compliance with established or agreed organisational processes.

**11.3**  
(cont)

**Equity, Inclusion, and Human Rights Considerations**

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

**Community Engagement**

No community engagement was required for this report.

Community engagement is an integral part of all strategic planning projects. The level and type of consultation will be extensive and varied, depending on the nature and complexity of each project. Community engagement adds to the depth of projects and needs to be adequately factored into project timeframes. This update report on strategic planning projects is prepared every six (6) months covering periods ending in March and September. This is followed by a summary in the Whitehorse News on a selection of projects of interest to the community.

**Financial and Resource Implications**

All of the projects require resources and funding for tasks including consultation, preparation, exhibition and consideration of amendments, consultant advice and investigations, including government processes e.g. panel hearings etc. Funding for the projects discussed in this report was either provided in the recurrent budget or via specific budget line items as new budget initiatives.

**Innovation and Continuous Improvement**

There are no Innovation and Continuous Improvement matters arising from the recommendation contained in this report.

**Collaboration**

Collaboration is a key component of most strategic planning projects however, the extent of collaboration for each strategic planning project listed above varies depending on the nature of the project. Strategic planning work usually involves collaboration with other Councils, the community, State government and key stakeholders.

**Conflict of Interest**

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

**Conclusion**

This report has provided a summary of the Strategic Planning Unit's work over the last 6 months. It provides the status of current planning scheme amendments as well as updates on other key strategic planning projects.

The report identifies that the projects are aligned with the Council Plan and consistent with the Act and the Whitehorse Planning Scheme.

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**11.4 Aqualink Box Hill Tile Rectification Works including Tender  
Evaluation Contract No. 30362**

Community Services  
ATTACHMENT

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**SUMMARY**

Aqualink Box Hill has various tiling issues that need rectification. This report recommends to appoint suitably qualified contractor to complete the rectification works over two stages to ensure minimal disruption to the service offering.

The scope of works and staging has been carefully planned to minimise the disruption to the operations at Aqualink Box Hill. A number of options were tendered to allow the benefits of each to be assessed in a tender environment.

The report also explores the impacts of the temporary service closures on facility users and the financial impact for Surrey Park Swimming Club and the Café Operator (Chocolatte Pty Ltd).

**RECOMMENDATION**

That Council:

1. Accepts the tender and signs the formal contract document for Contract No. 30362 for the Aqualink Box Hill Tile Rectification received from On Time Development (ABN: 86 481 291 023), of U9 2-22 Kirkham Rd West Keysborough, trading as Affordable Pools and Spas, for the tendered amount of \$1,773,000 excluding GST;
2. Notes that additional funding of \$147,003 excluding GST will be required in 2021/22 for Stage 1 works and this will be funded from forecast savings in other completed projects;
3. Allocates additional funds in 2023/24 budget to support Stage 2 works scheduled to commence in June 2023 and conclude in September 2023.
4. Extend the Learn to Swim License Agreement with Surrey Park Swimming Club for a further 12 months from 1/7/2023 to 30/6/2024
5. Provide an adjustment to the Learn to Swim License Agreement for the 2023/24 financial year to 50% of the first \$400,000 and 15% income thereafter.
6. Provide a lease waiver in the form of rent relief for the Swim School office to Surrey Park Swimming Club for the period of the indoor pool closure.
7. Provide rent relief to the café operator (Chocolatte Pty Ltd) in the form of a 10% reduction in the monthly rental during the outdoor pool closure and 40% during the indoor pool closure.

**11.4**  
(cont)

**MOTION**

Moved by Cr Barker, Seconded by Cr Cutts

That Council:

1. Accepts the tender and signs the formal contract document for Contract No. 30362 for the Aqualink Box Hill Tile Rectification received from On Time Development (ABN: 86 481 291 023), of U9 2-22 Kirkham Rd West Keysborough, trading as Affordable Pools and Spas, for the tendered amount of \$1,773,000 excluding GST;
2. Notes that additional funding of \$147,003 excluding GST will be required in 2021/22 for Stage 1 works and this will be funded from forecast savings in other completed projects;
3. Allocates additional funds in 2023/24 budget to support Stage 2 works scheduled to commence in June 2023 and conclude in September 2023.
4. Extend the Learn to Swim License Agreement with Surrey Park Swimming Club for a further 12 months from 1/7/2023 to 30/6/2024
5. Provide an adjustment to the Learn to Swim License Agreement for the 2023/24 financial year to 15% income.
6. Provide a lease waiver in the form of rent relief for the Swim School office to Surrey Park Swimming Club for the period of the indoor pool closure.
7. Provide rent relief to the café operator (Chocolatte Pty Ltd) in the form of a 10% reduction in the monthly rental during the outdoor pool closure and 40% during the indoor pool closure.

**AMENDMENT**

Moved by Cr Munroe, Seconded by Cr Skilbeck

That Council:

1. Accepts the tender and signs the formal contract document for Contract No. 30362 for the Aqualink Box Hill Tile Rectification received from On Time Development (ABN: 86 481 291 023), of U9 2-22 Kirkham Rd West Keysborough, trading as Affordable Pools and Spas, for the tendered amount of \$1,773,000 excluding GST;
2. Notes that additional funding of \$147,003 excluding GST will be required in 2021/22 for Stage 1 works and this will be funded from forecast savings in other completed projects;
3. Allocates additional funds in 2023/24 budget to support Stage 2 works scheduled to commence in June 2023 and conclude in September 2023.

**11.4**

(cont)

4. Extend the Learn to Swim License Agreement with Surrey Park Swimming Club for a further 12 months from 1/7/2023 to 30/6/2024
5. Provide an adjustment to the Learn to Swim License Agreement for the 2023/24 financial year to 50% of the first \$400,000 and 15% income thereafter.
6. Provide a lease waiver in the form of rent relief for the Swim School office to Surrey Park Swimming Club for the period of the indoor pool closure.
7. Provide rent relief to the café operator (Chocolatte Pty Ltd) in the form of a 10% reduction in the monthly rental during the outdoor pool closure and 40% during the indoor pool closure.

**LOST**

**COUNCIL RESOLUTION**

Moved by Cr Barker, Seconded by Cr Cutts

That Council:

1. Accepts the tender and signs the formal contract document for Contract No. 30362 for the Aqualink Box Hill Tile Rectification received from On Time Development (ABN: 86 481 291 023), of U9 2-22 Kirkham Rd West Keysborough, trading as Affordable Pools and Spas, for the tendered amount of \$1,773,000 excluding GST;
2. Notes that additional funding of \$147,003 excluding GST will be required in 2021/22 for Stage 1 works and this will be funded from forecast savings in other completed projects;
3. Allocates additional funds in 2023/24 budget to support Stage 2 works scheduled to commence in June 2023 and conclude in September 2023.
4. Extend the Learn to Swim License Agreement with Surrey Park Swimming Club for a further 12 months from 1/7/2023 to 30/6/2024
5. Provide an adjustment to the Learn to Swim License Agreement for the 2023/24 financial year to 15% income.
6. Provide a lease waiver in the form of rent relief for the Swim School office to Surrey Park Swimming Club for the period of the indoor pool closure.
7. Provide rent relief to the café operator (Chocolatte Pty Ltd) in the form of a 10% reduction in the monthly rental during the outdoor pool closure and 40% during the indoor pool closure.

**CARRIED UNANIMOUSLY**

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**11.4**  
(cont)

**KEY MATTERS**

**Tender Evaluation**

Aqualink Box Hill has experienced ongoing failure of tiles in both the pools and floor areas for a number of years. The failures have reached a point where intervention is required to address the defective areas so that hazards and future service disruptions can be minimised.

Specialist consultants have been advising Council on the best method of addressing the tile issues for the long term. Detailed inspections and assessment have been completed to identify the issues causing the tile failures and the preferred remediation methods.

Due to the specialised nature of these works, an assessment of suitable contractors was undertaken and it was identified that a monopoly on this type of specialised tile rectification contractors existed in Victoria. As a result, On Time Developments was invited to tender on this specialist work. On Time Developments was not made aware it was going into a competitive tender as the sole tenderer.

On Time Developments has captured a niche market for tile rectification works in the aquatic industry. Over the last 10 years it has operated as both head contractor and subcontractor for a number of tile rectification works for a number of local government owned aquatic centres.

Whilst there are a number of other general pool builders, tile rectification work is a particular specialised skillset and it is critical to engage a reputable contractor due to the risk associated with rectification work. There is no other contractor assessed as being capable of undertaking this work for Council.

The tiles used in commercial pool setting are exclusively sourced from Europe. In terms of cost, the supply costs of tiles has risen by 20 - 30 % over the last 6 months primarily due to sharp increase in gas prices in Europe. In addition, COVID-19 has impacted on shipping costs.

**Impact on Aqualink Box Hill Users**

Facility users will experience service disruption with reduced access to pools at times. The works have been planned to minimise this impact and to optimise the use of alternate spaces where possible. Aqualink Membership provides for reciprocal access to either facility and some may choose to attend Aqualink Nunawading or will have a choice to temporarily suspend their membership at no cost during the periods of disruption.

Surrey Park Swimming Club is a key user of the Aqualink Box Hill and the scheduling of the works has been developed in consultation with the Swimming Club and adjusted to meet their needs where possible. However, the closure of pool areas necessary to undertake tile rectification works will

**11.4**  
(cont)

impact on the Swimming Club's ability to operate at full capacity at times, particularly impacting the Learn to Swim (LTS) program.

Café sales are anticipated to be impacted for the operator (Chocolate Pty Ltd) due to reduced foot traffic during times of pool closure. Based on historical attendance data, it is anticipated that a 40% drop in foot traffic will be experienced during the indoor pool closure stage and 10% drop during the outdoor pool closure stage.

Council provided financial assistance to both organisations in 2021 through the Covid-19 Hardship and Stimulus Support 2021/22.

A list of other regular facility users including the Whitehorse Dive Club, Seahorse Masters Swim Club and the Victorian Seadragons Underwater Rugby Club and the impact of works on them is provided as an attachment to this report.

**STRATEGIC ALIGNMENT**

This report primarily relevant to Strategic Direction 4: Our Built Environment; Movement, and Public Places

**Policy**

The tender, tender evaluation and appointment of the successful contractor and the contract administration is governed by Council's Procurement Policy.

**BACKGROUND**

In November 2021, Council endorsed the tile rectification proposal at Aqualink Box Hill which identified the need to repair ongoing tile delamination issues.

Two staged options were proposed to remove the existing tiles and replace with new for the outdoor pool, indoor pools, amenities and common areas. Council endorsed option two to be the most effective with minimal disruption to centre operations and best value for money and a tender was prepared on this basis.

The tender for Contract No. 30362 Aqualink Box Hill Tile Rectification closed 9 March 2022.

The November 2021 report also sought a report outlining the impacts to both the swimming club, and café operation resulting from the tile rectification works. The following provides the details of the anticipated impact.

Surrey Park Swim Club (SPSC)

Surrey Park Swimming Club will be impacted at various times during the tile rectification works and whilst every effort has been made to accommodate their programs they will have reduced capacity to operate at times and therefore will have reduced opportunity to generate their usual income.

**11.4**  
(cont)

SPSC operate swim squads at AQBH and are allocated dedicated lane space seven days a week (at no cost) on an annual basis in both the indoor 25 metre and outdoor 25 metre pools.

SPSC also deliver a Learn to Swim (LTS) program under a Licence Agreement on behalf of Council. This Agreement is due to expire on 30 June 2023. This Agreement stipulates that a fee be paid to Council based on 50% of the first \$500,000 SPSC generate and 15% of all other revenue over and above. Annual revenue generated from this program is approximately \$2.6M (based on 2018/19 figures).

SPSC also pay rent of \$2,306.36 per quarter, for office space used for the purposes of administering the LTS program.

Aqualink Box Hill Café

Chocolatte Pty Ltd operate the café service on behalf of Council on a 5 year plus 5 year lease which is due to expire on 30 October 2023. The annual lease fee is \$69,540 excluding GST.

**SUPPORTING REPORT DETAILS**

**Legislative and Risk Implications**

There are no legal or risk implications arising from the recommendation contained in this report.

**Equity, Inclusion, and Human Rights Considerations**

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

**Consultation**

Councils Procurement team have been consulted extensively to ensure that the procurement is compliant with the Procurement Policy.

The Aqualink Box Hill management team have been involved in the detailed planning of the staging of the works.

Facility users will be advised of the impacts on use of the facility in advance of the works and regular user groups will be supported to identify suitable alternative accommodation where required.

**Innovation and Continuous Improvement**

There are no Innovation and Continuous Improvement matters arising from the recommendation contained in this report.

**11.4**  
(cont)

**Collaboration**

All relevant stakeholders affected by Stage 1 outdoor pool tile rectification works have been advised. All schedule booking with swimming squads and schools have been rescheduled around our accelerated 8 week program (weather dependant) commencing in April and finishing in June 2022.

FAQs have been developed and have been issued to customer facing Aqualink staff for any queries from the general public.

**Financial and Resource Implications**

**Tender Evaluation**

In November 2021, Council approved a total budget of \$1,336,275 excluding GST (\$486,302 in 2021/22 and \$849,973 in 2022/23).

Based on the preferred timing for the works subsequently discussed with the facility operators, the Stage 1 works are to be completed April to June 2022 and Stage 2 works to commence in June 2023 and be completed in September 2023. This means that there will be a funding requirement in 2023/24.

On Time Developments submitted a tender price of \$1,773,000 excluding GST for Stage 1 and Stage 2. It is a fixed price lump sum contract and through tender negotiations, On Time Developments have agreed to hold their Stage 2 pricing.

	<b>Budget</b>	<b>Expenditure</b>
Capital Works Funding Account No.Y532)	\$486,302	
Total Budget	\$1,336,275	
Preferred tenderer's lump sum offer (including GST)		\$1,950,300
Less GST		-\$177,300
Net cost to Council		\$1,773,000
Plus Contingencies		\$177,300
Plus Project Management Fee		\$80,001
Plus Professional Fees		\$70,001
Plus Expenditure to Date		\$36,303
<b>Total Expenditure (excluding GST)</b>		<b>\$2,136,605</b>

Budget shortfall 2021/22 is \$147,003 excluding GST;

Budget shortfall in 2022/23 and 2023/24 is \$653,327 excluding GST and;

Total budget shortfall for Stages 1 and 2 is \$800,330 (excluding GST)

**11.4**  
(cont)

The budget shortfall for Stage 1 works in 2021/22 of \$147,003 can be funded from forecast savings in the 2021/22 capital works budget. A number of projects have been delivered for less than the allocated budget and funding is available for this work.

Stage 2 works are not scheduled to be completed until the 2023/24 financial year. The budget shortfall for Stage 2 works of \$653,327 will be felt in 2023/24 and allocated as part of the 2023/24 capital works budget when it is developed.

A business viability check has been carried out for On Time Developments and returned with a satisfactory review.

**Impact on Aqualink Box Hill Users**

Subject to the a decision to financially support the Surrey Park Swim Club and Chocolatte Pty Ltd the reduction in financial return and reduced lease income will be reflected in the 2021/22 and 2023/24 operating budgets.

The recommendation outlined in this report reflect a reduction in income of \$164,000 including the \$35,000 financial support to SPSC in the 2023/24 Aqualink Box Hill operating budget and a forecast reduction for the Café rental income of \$1,300 in the 2021/22 budget due to the outdoor pool closure, and a reduction of \$6,400 for the indoor pool closure to be considered in the development of the 2023/24 Aqualink Box Hill budget.

**Discussion and Options**

**Tender Evaluation**

The staging plan for the work is shown in Attachment 1. The tender was based on this staging plan.

The tender submission from On Time Developments for Stage 1 - Zone 1 Outdoor Lap Pool is \$470,000 excluding GST. With an adjusted 10% construction contingency applied, there is a \$147,003 excluding GST budget shortfall in 2021/22. This work is scheduled to commence in April 2022 to take advantage of the school holiday period.

During post tender clarifications, On Time Developments has confirmed that Stage 1 can be done in isolation to Stage 2.

The tender submission for Stage 1 - Zone 1 Works from On Time Developments is for the value of \$470,000 excluding GST (budget shortfall of \$147,003 excluding GST).

The tender submission from On Time Developments for Stage 2, Zones 2, 3 and 4 is \$1,303,000 excluding GST. With an adjusted 10% construction contingency applied, there is a \$653,327 excluding GST budget shortfall. This work is not scheduled to commence until June 2023.

**11.4**  
(cont)

There is an option to only award the Stage 1 Works to On Time Developments for the value of \$470,000 excluding GST (budget shortfall of \$147,003 excluding GST). This would require the repricing at a later time of the Stage 2 works to take advantage of any changes in shipping or tile supply costs. This is not recommended as advice of a future tile price increase in May has been received from the tile importer.

As the Stage 2 works are not due to commence until June 2023 and run into the 2023/24 financial year, the required additional funding can be allocated as part of the 2023/24 Budget.

The recommended approach is to award On Time Developments with both Stages 1 & 2. On Time Developments has confirmed it will hold its price for Stage 2 until works are schedule to commence next June 2023. They'll purchase all tiles for Stage 2 and hold them in storage for Council. Pool tiles are bespoke in their general nature due to the environment. There are only two manufacturers in the world that produce pool tiles.

**Impact on Aqualink Box Hill Users**

SPSC Swim Squads

During Stage 1 (10 weeks, April to June 2022) SPSC have been allocated additional indoor pool lanes and for increased periods of time at no cost consistent with their current arrangement. SPSC are also likely to access alternate venues.

LTS Program

SPSC LTS program is impacted on Stage 2 (12 week, June to September 2023) due to the retiling of the indoor pools.

SPSC estimate the loss of LTS revenue during this time to be approximately \$860,000. This loss will also impact Council based on the current Agreement that would see 15% of this income returned to Council \$129,000.

SPSC have advised they will have cost savings for instructor wages of \$247,000 and potential additional income at their alternate site in Middleborough Rd as some enrolments may transfer to this location of approximately \$60,000 and relocated school bookings of \$15,000. Therefore the maximum financial impact for the club is calculated at \$409,000.

It is relevant to note that the outdoor pool closure in 2022 will not significantly impact LTS revenue as the program is predominantly conducted indoors with only LTS fitness squads operating outdoors. Most classes can be accommodated indoors at that time.

**11.4**  
(cont)

SPSC have requested the following considerations in lieu of revenue losses for the LTS program:

1. Revised licence fee for 6 months of 15%
2. Extension of the Licence Agreement by 6 months (or 12 months to align with annual fee calculations) Previous support provided

As part of the Covid-19 Hardship and Stimulus Support 2021/22 adopted by Council on 18 October 2021, SPSC received a six month lease fee waiver for the period on July 1 to December 31 2021 for the swim school office, and a downward adjustment was made to the LTS Licence fee to 50% of the first \$400,000 income and 15% income earned thereafter, reflecting a \$35,000 benefit to SPSC.

Options in relation to License Fee Relief

1. Grant the SPSC request of revised license fee for 6 months

Given the structure of the current Licence Fee (50% of the first \$500,000 and 15% of remaining income), it is not practical to apply 15% to a 6 month period only.

If the Licence Fee was reduced to 15% of the first \$500,000, this would equate to a \$175,000 additional benefit to SPSC. Based on this, Council's share of the income loss would increase to \$304,000 and SPSC's loss would decrease to \$556,000 (accounting for other savings and alternate revenue streams as above would reduce to \$234,000 loss).

2. Apply the Covid-19 Hardship and Stimulus Support as previously provided in 2021/22

This approach is consistent with support provided previously when the centre was closed for periods of time with no access to the facility in response to Government directives.

This would see a reduction in the Licence Fee threshold to \$400,000, equating to \$35,000 in financial support.

This is the Officers Recommendation based on there being no contractual obligation to provide relief, Council itself will be incurring significant losses through the Agreement and in reduction of centre usage and incurring the cost of rectification works.

3. Provide moderate support

Moderate support could be provided with Council sustaining a greater share of the loss of income by lowering the threshold to 50% of the first \$200,000 and 15% thereafter, equating to \$105,000 in financial support.

**11.4**  
(cont)

Options in relation to Extension of license agreement

SPSC have requested a six month extension to their current Agreement which expires on 30 June 2023. An extension of 6 months would require the licence fee terms to be revised, however a 12 month extension to the end of the financial year would align with the annual licence fee calculations and Council's operating budget.

It is recommended that that this extension be granted noting that an extension would also align with Council's planned review of Aqualink services.

Advice from Property and Leasing is that a *Deed of Variation* would be required to extend the Licence Agreement.

LTS Office Rental

SPSC currently has a lease with Council for office space with a rental of \$2,306.36 per quarter. It is proposed that consideration be given to waiving rent during the closure of the indoor pool which would be consistent with the Covid-19 Hardship and Stimulus Support provided in 2021/22. and applied to the 12 week indoor closure only would equate to approximately \$2,125.

Café Operation

The temporary closure of indoor and outdoor aquatic areas are anticipated to result in a reduction in centre attendances and café use impacting on café sales and revenue. The operator has been unable to quantify the potential impact however an assessment of historical records indicate that 40% of centre attendances are attributed to indoor aquatics and 10% to outdoor pool usage. If these percentages are applied to their current rent (being \$69,540 per annum ex GST paid monthly) for the periods of disruption for the purpose of calculating rent relief a proposed rent relief would be \$1,350 for the outdoor pool closure and \$6,400 for the indoor closure totalling approximately \$7,750. This is the officer recommendation.

An alternate option is to provide rent relief for the periods of indoor and outdoor pool closures consistent with the Covid-19 Hardship Stimulus Support previously provided which would amount to \$13,373 rent relief. This option is not recommended in this instance as the café will continue to be operational during these closures and the balance of the Aqualink programs and services will continue to generate demand.

**Conflict of Interest**

The Local Government Act 2020 requires members of Council staff, and persons engaged under contract to provide advice to Council, to disclose any direct or indirect interest in a matter to which the advice relates.

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

**11.4**  
(cont)

**Conclusion**

It is recommended that Council accepts the tender from On Time Development for Stages 1 and 2 of the Tile Rectification Works. The overall budget shortfall is \$800,330 excl. GST, however the Stage 2 shortfall can be considered as part of the 2023/24 budget.

It is further recommended that whilst there is no legal requirement for Council to do so, the provision of financial support should be considered for both the Surrey Park Swimming Club and the AQBH Café operator given the likely financial impact on the LTS program and café service. Council has provided similar financial support last year where there has been significant service disruption, provided through the Covid-19 Hardship and Stimulus Support 2021/22.

In terms of the LTS program, Council and SPSC will incur significant financial losses, therefore a reasonable approach would be to provide a similar level of financial support to that provided through the Covid-19 Hardship and Stimulus Support 2021/22. It is officers recommendation that this would be achieved by lowering the Licence fee threshold to \$400,000 which equates to \$35,000. Add to this the lease fee waiver for the office rental of \$2,125 and the total financial support would be approximately \$37,125.

This would be in addition to extending the LTS Licence Agreement by 12 months at their request.

In the absence of any financial impact data from the café operator, using the anticipated drop in attendances as a percentage to calculate the financial impact and apply this to the lease fee as a discount, it is recommended that Chocolate Pty Ltd receive approximately \$7,750 in financial support.

Members will be able to access reciprocal rights to Aqualink Nunawading or may choose to temporarily suspend their membership during times of disruption. Other groups will be accommodated where possible however there are some programs where no suitable alternative exists. These users will be assisted to access external locations where possible.

**ATTACHMENT**

- 1 AQBH Tile Rectification Staging Program 
- 2 AQBH Regular Pool User Group table 

## 11.5 Whitehorse Disability Advisory Committee 2022-2025

Community Services  
ATTACHMENT

### SUMMARY

The Whitehorse City Council Disability Advisory Committee (WDAC) is a Council appointed committee that provides strategic input and feedback into the development and implementation of the Whitehorse Disability Action Plan as well as issues affecting the lives of people with disability, which guide Council's approach and commitment to people with disability in the local community.

Council recently undertook an expression of interest program that resulted in 19 applications for the WDAC. The Terms of Reference (attached) states that membership of the committee will be up to 15 people with preference given to people with lived experience of disability or mental illness.

This report recommends that Council endorse 15 participants to participate on the WDAC for the period 2022-2025. Of the fifteen, eight participants identify as people with disability, four participants are parent representatives, two participants are representatives from disability service organisations and one participant represents Eastern Health.

### COUNCIL RESOLUTION

Moved by Cr McNeill, Seconded by Cr Massoud

That Council endorse the recommended nominations to form the Whitehorse Disability Advisory Committee 2022-2025 (provided as a confidential attachment 1).

**CARRIED UNANIMOUSLY**

### KEY MATTERS

This report presents the following information to support the appointment of the Whitehorse Disability Advisory Committee:

- Strategic Alignment
- Background and history of Whitehorse Disability Advisory Committee
- Achievements of the outgoing Committee
- Recruitment process and outcomes

### STRATEGIC ALIGNMENT

Endorsement of the Whitehorse Disability Advisory Committee aligns with the following strategic directions:

Strategic Document	Priority Area
Community Vision	Whitehorse is a resilient community where everyone belongs

**11.5**

(cont)

Council Plan	<p>3. Our diverse community</p> <p>4. Our built environment, movement and public spaces</p> <p>6. An empowered collaborative community</p> <p>7. Health and Wellbeing</p>
Whitehorse Municipal Public Health and Wellbeing Plan	<p>Objectives</p> <p>2. Healthy Relationships</p> <p>3. Mental Health and Wellbeing</p> <p>8 Access and Participation</p> <p>9. Social Cohesion</p>
Organisation Values	<ul style="list-style-type: none"> <li>• Excellent customer experiences and service delivery</li> <li>• Good governance and integrity</li> </ul>
Transformation Principles	<ul style="list-style-type: none"> <li>• Collaboration</li> <li>• Respect</li> <li>• Excellence</li> </ul>
Disability Discrimination Act 1992	<p>The Disability Discrimination Act 1992 aims to reduce discrimination experienced by people with a disability. The appointment of the Whitehorse Disability Advisory Committee will assist council to identify and promote the rights of people with disability, including the right to live free from discrimination.</p>
Victorian Disability Act 2006	<p>Council has obligations under section 38 of the Victorian Disability Act 2006 to promote inclusion and address barriers experienced by people with disability. The aim of the Whitehorse Disability Advisory Committee is to provide Council with strategic input and feedback regarding systemic, structural, cultural and social barriers important to the lives and opportunities available to people with a disability.</p>
Australian Disability Strategy 2021-2031	<p>The priorities in the Australian Disability Strategy focus on providing good employment opportunities, high quality inclusive education, and making homes and communities safe, inclusive and accessible.</p>
Victorian Disability State Plan	<p>The Victorian State Disability Plan 2022-2026 has a focus on strengthening the disability inclusion legislation including considering the role of disability action plans into the future. The endorsement of a WDAC supports the State Disability Plan priority Voice and Leadership</p>

**Policy**

The establishment of the WDAC supports the Municipal Public Health and Wellbeing Plans' priorities of positive mental health and wellbeing outcomes, increasing social connectedness and enhancing social inclusion. The WDAC plays a key role in the development and implementation of the Whitehorse

## **11.5**

(cont)

Disability Action Plan and provides opportunities for engagement in the development and implementation of a wide range of Council initiatives.

Council's Volunteer Policy and procedures guides the recruitment and ongoing management of participants on the WDAC. The engagement opportunities between Council departments and the WDAC enact Councils Community Engagement Policy.

### **BACKGROUND**

The WDAC is an advisory committee to Council whose purpose is to provide Council with strategic input regarding systemic, structural, cultural and social barriers important to the lives of people with a disability as well as supporting the development and implementation of the Whitehorse Disability Action Plan.

The inaugural WDAC commenced in 2004. In line with the Terms of Reference subsequent committees formed in 2008, 2012, and 2018.

The Terms of Reference for the WDAC states that the committee will consist of up to 15 members who live, work, and study or have a connection and/or recreate within the City of Whitehorse.

People with lived experience of disability including mental illness have preference in WDAC membership. Membership of the WDAC intentionally seeks to represent a broad range of experiences and perspectives including people with disability, family members and carers of people with disability, service provider representatives and community representatives.

The WDAC continues to strengthen its profile as a resource to Council departments/officers, by participating in engagement opportunities relating to the development and implementation of Council policy, projects and initiatives that affect the lives of people with disability.

The outgoing WDAC have been engaged in many engagement processes including: the redevelopment of the Whitehorse Performing Arts Centre, Aqualink feasibility study, and strategic policy development including the Council Plan and Municipal Public Health and Wellbeing Plan. In addition, the WDAC were able to provide valuable insights and experiences that informed Council's submissions to other levels of government regarding the National Disability Strategy and Victorian State Disability Plan.

Members of the committee were also engaged in the development of the Whitehorse Community Vision 2040 and Shaping Whitehorse. This included participating on the deliberative panel and presenting on the needs and priorities of people with disability. Committee members have been actively engaged in the rail crossing removal projects in the municipality including the most recent Mont Albert/ Surrey Hills project. A committee member also recently completed a two-year term on the North East Link Access and Inclusion committee.

**11.5**  
(cont)

Committee members have developed an interest and confidence to engage with other committees including the Women with Disabilities Victoria Board of Management, consumer groups as well as research projects at major hospitals.

**Recruitment for the new committee**

Council sought expressions of interest for participation on the WDAC 2022-2025 through social and print media platforms. Networks were also utilised to promote the committee opportunity. Subsequently, Council's Better Impact – Volunteer platform was utilised to lodge and manage applications.

The WDAC Terms of Reference indicate that the Whitehorse Disability Advisory Committee can consist of up to 15 members from the community, with preference given to people with lived experience of disability and or mental illness. Family members and carers of people with disability, disability and community organisation representatives are also included to ensure a diversity of perspectives and experiences.

Council received nineteen expressions of interest, eight from people with disability, five from parents, two from not for profit disability service organisations, one each from an advocate, a community representative, small business owner and health organisation representative. The Confidential Appendix contains a summary of applicants.

The Manager Community Engagement and Development and the MetroAccess Development Officer reviewed applications. Review criteria included lived experience of disability, knowledge of issues facing people with disability and connection to the community.

Recommended applicants include eight people with disability, four parent representatives, two representatives are from local disability organisations and one participant represents Eastern Health.

Amongst the people with disability, the recommended WDAC members have lived experience of sensory impairment, physical disability, chronic pain and speech impairment. Recommending eight people with disability left seven places for family or carers and community organisations, with four positions allocated to parents and three to relevant organisations operating in the Whitehorse community.

Five of the applicants are members of the outgoing committee, including four people with disability and one parent representative. Recommending these participants for the Whitehorse Disability Advisory Committee 2022-2015, provides continuity of experience.

Applicants not recommended consist of two parents of people with disability, an advocate, the owner of a private occupational practice and one health organisation. Some applications provided little information about the person's interest in joining the committee, so the application was difficult to assess and/or their understanding of the issues affecting the lives of people

**11.5**  
(cont)

with disability was unclear. Officers identified a potential conflict of interest for the remaining applicant who runs a private occupational therapy practice.

**SUPPORTING REPORT DETAILS**

**Legislative and Risk Implications**

There is no legal requirement to appoint a WDAC; however Council has always supported the WDAC to promote its commitment to people with disability and disability related issues. The WDAC facilitates opportunities to consider the needs of people with disability in a broad range of Councils programs, services, projects, building developments and other initiatives.

The Local Government Act 2020 requires Councils to engage with people who are representative of the person's and groups affected by the 'matter' that is the subject of the engagement. The appointment of the WDAC provides ongoing engagement opportunities for Council that will result in better understanding of the barriers and experiences of people with disability.

**Equity, Inclusion, and Human Rights Considerations**

In developing this report to Council, the subject matter has been considered in accordance with the requirements of the *Charter of Human Rights and Responsibilities Act 2006*.

The establishment of the new WDAC has been considered in accordance with the requirements of the *Charter of Human Rights and Responsibilities Act 2006*. The WDAC reflects the intent and principles of the Victorian Charter of Human Rights and Responsibilities Act 2006, by providing opportunities for people with disability and their family members to provide feedback and input into the policies and decisions that impact of their lives.

## **11.5**

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The purpose of the committee is to provide advice to Council to address barriers and reduce the discrimination experienced by people with disability in the local community, thereby providing opportunities to promote and protect the rights of people with disabilities.

The appointment of the WDAC contributes to Council's obligations to promote and protect the rights of people with disability articulated in the United Nations Convention on the Rights of Persons with Disability, with particular reference to articles relating to raising awareness (Article 8), accessibility (Article 9) and being included in the life of the community (Article 19).

Applications were open to all genders and there was no targeted recruitment for specific genders. Women accounted for sixteen applications, compared to three from men, no applicants selected a non-binary gender option. Appointment of the recommended participants will result in two male and thirteen female participants on the WDAC.

### **Community Engagement**

The appointment of the WDAC supports Council's commitment to engage with broad and diverse local community, as well as undertake our community engagement responsibilities contained in the Local Government Act 2020. Participants in community engagement activity should be representative of the persons and groups impacted by the 'matter' that is the subject of the engagement.

Council sought expressions of interest from people with disability, family members and a range of community organisations to participate on the WDAC for the 2022-2025 period through social media print media and networks for the period of December 2021 and February 2022.

All outgoing Committee members received information to submit an expression of interest for the new term and were encouraged to promote this opportunity through their own networks. Of the expressions of interest received, five were members of the outgoing committee, including four people with disability and one parent representative, all recommended for the next term of the Committee.

No applications were received from young people to participate on the WDAC. Engaging with the Whitehorse Youth Representative Committee through presentations and agenda opportunities between committees will result in the voices of young people contributing to the outcomes of the WDAC. Council Officers facilitating Council's advisory committees will explore the opportunity to host an annual Advisory Committee Forum bringing committee members together to share information about the purpose and directions of the different committees. Knowledge sharing would also create pathways for young people to join other Council Advisory Committees.

**11.5**  
(cont)

**Financial and Resource Implications**

The facilitation of the WDAC is contained in the Community Engagement and Development Department budget which includes officer time (\$5,520), \$10,000 for relevant initiatives such as International Day of Person's with a Disability, room hire, catering and support provided to WDAC members which totals to approximately \$15,000.

An elected Councillor chairs the WDAC, and the Manager of Community Engagement & Development and an Officer support the operations of the Committee.

**Innovation and Continuous Improvement**

The appointment of the WDAC provides opportunities to continue to improve how Council engages with people with disability to addresses the needs of people with disability in the community. Council departments also have ongoing opportunities to consult with and engage the Whitehorse Disability Advisory Committee, benefitting a wide range of Council initiatives, projects and policy development.

**Collaboration**

Council utilised social and print media platforms and direct emails to disability service organisations and through the Eastern Mental Health Service Coordination Alliance to promote the committee opportunity to people with disability as well as the broader community.

**Discussion and Options**

This report seeks the endorsement of Council regarding the proposed participants for the WDAC 2022-2025. Reflecting the terms of reference, the recommended participants represent people with disability, parents and disability service organisations.

The WDAC provides strategic advice and feedback to Council on a broad range of policies, projects and initiatives that affect the lives of people with disability. The valuable knowledge and experience of committee members has informed the development of many Council submissions to the state government.

A confidential attachment accompanies this Report, which provides a synopsis of the applications received.

**Conflict of Interest**

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

**11.5**  
(cont)

**Conclusion**

Following an expression of interest process, Council Officers recommend fifteen people form the new Whitehorse Disability Advisory Committee 2022-2025.

Applicants include eight people with disability, four parents and representation from two local disability service providers and one representing Eastern Health. Those people with disability recommended for the committee experience a diverse range of impairments, including sensory, speech, physical and intellectual disabilities. The diversity of perspectives and experiences on the new committee will enrich the feedback provided to cross-Council department's initiatives.

If endorsed, induction of participants will follow Council's volunteer policy and guidelines. Meetings will be scheduled and outcomes of the committee will be reported via the Councillor Chair and through Council's various reporting mechanisms.

**ATTACHMENT**

1 WDAC Applicant Confidential Appendix

**Whitehorse City Council designates this attachment and the information contained in it as CONFIDENTIAL INFORMATION pursuant to Section 3 (1) (f) of the Local Government Act 2020, that relates to Council personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs. This ground applies because the matter concerns personal information.**

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## 11.6 Whitehorse Reconciliation Advisory Committee 2022 - 2025

Community Services  
ATTACHMENT

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### SUMMARY

The Whitehorse City Council Reconciliation Advisory Committee (WRAC) is a Council appointed committee that provides strategic input into the development and implementation of the Whitehorse Reconciliation Strategy, as well as general matters, which guide Council's approach and commitment to Aboriginal and Torres Strait Islander people, as our Nation's first people, in the local community.

Council recently undertook an expression of interest process that resulted in six applications for the WRAC. The terms of reference (attached) for this committee state that membership of the committee is up to 12 people with preference given to Wurundjeri Woi-wurrung Elders and community members and people from other Aboriginal and Torres Strait Islanders communities.

Council received no applications from people who identify as Wurundjeri Woi-wurrung Elders or other Aboriginal or Torres Strait Islander communities, however during the life of the committee officers will actively seek out Aboriginal and Torres Strait Islander people to participate on the committee and will follow the process outlined in the terms of reference to confirm their participation. In addition, officers will have further discussions with the Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation to explore strategies for attracting members of the Wurundjeri Woi-wurrung community onto the Whitehorse Reconciliation Advisory Committee.

### RECOMMENDATION

That Council endorse the recommended nominations to form the Whitehorse Reconciliation Advisory Committee 2022-2025 (provided as confidential attachment 1)

### MOTION

Moved by Cr Davenport, Seconded by Cr Barker

That Council:

1. Does not appoint a new Reconciliation Advisory Committee, given there were no Indigenous applicants in the recent expression of interest process.
2. Develops and implement a strengthened community engagement processes with the Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation; Aboriginal specific groups and organisations; and, other relevant local community organisations to obtain their advice, consistent with the aims of the Whitehorse Reconciliation Action Plan.

**LOST**

**11.6**  
(cont)

**A Division was called.**

**Division**

<b>For</b>	<b>Against</b>
Cr Barker	Cr Carr
Cr Davenport	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**

**COUNCIL RESOLUTION**

Moved by Cr Massoud, Seconded by Cr Munroe

That Council endorse the recommended nominations to form the Whitehorse Reconciliation Advisory Committee 2022-2025 (provided as confidential attachment 1).

**CARRIED UNANIMOUSLY**

**A Division was called.**

**Division**

<b>For</b>	<b>Against</b>
Cr Carr	Cr Barker
Cr Cutts	Cr Davenport*
Cr Lane	
Cr Liu	
Cr Massoud	
Cr McNeill	
Cr Munroe	
Cr Skilbeck	
Cr Stennett	

*\*Cr Davenport abstained from voting. In accordance with the Local Government Act 2020, section 61(5)(e) - a Councillor present at the meeting who does not vote is to be taken to have voted against the question. The vote has been recorded as against the motion.*

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

**11.6**  
(cont)

**KEY MATTERS**

This report presents the strategic alliance of the WRAC, its history, and the recruitment of new members.

- Council received six applications for the WRAC, all are recommended to the WRAC. A confidential appendix is contained in the report to provide a summary of applicants.
- No applications were received from people identifying as Wurundjeri Woi-wurrung Elders or community members or, members of other Aboriginal and Torres Strait Islander communities.
- The report suggests further engagement with the Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation and utilising advice given to undertake further promotion of the WRAC Membership opportunity.

**STRATEGIC ALIGNMENT**

Endorsement of the Whitehorse Reconciliation Advisory Committee aligns with the following strategic directions:

Whitehorse Community Vision	Whitehorse is a resilient community where everyone belongs. Focus on understanding and celebrating First Nations Peoples, including acknowledgement of history and culture”
Council Plan	3. Our diverse community 4. Our built environment, movement and public spaces 6. An empowered collaborative community 7. Health and Wellbeing
Whitehorse Municipal Public Health and Wellbeing Plan	Objectives 2. Healthy Relationships 3. Mental Health and Wellbeing 8 Access and Participation 9. Social Cohesion
Organisation Values	<ul style="list-style-type: none"> <li>• Excellent customer experiences and service delivery</li> <li>• Good governance and integrity</li> </ul>
Transformation Principles	<ul style="list-style-type: none"> <li>• Collaboration</li> <li>• Respect</li> <li>• Excellence</li> </ul>

**11.6**  
(cont)

Racial Discrimination Act 1975	The Racial Discrimination Act 1975 aims to reduce all forms of Racial Discrimination including that experienced by Aboriginal and Torres Strait Islander people. The appointment of the Whitehorse Reconciliation Advisory Committee will assist Council to identify and promote the rights of Aboriginal and Torres Strait Islander people and reduce the barriers experienced by Aboriginal and Torres Strait Islander people in the community,
National Closing the Gap Strategy	The National Closing the Gap strategy seeks to address the health inequalities experienced by Aboriginal and Torres Strait Islander people.
Victorian Aboriginal and Local Government Plan	The Victorian Aboriginal and Local Government Plan aims to create beneficial pathways for Aboriginal Victorians and Local Government Authorities based on mutuality of control, shared power and decision-making, fairness, respect and trust. March/April 2022 will see the release of new Aboriginal and Local Government Plan.

**Policy**

The establishment of the WRAC supports the Municipal Public Health and Wellbeing Plan's (MPHWP) priorities of positive mental health and wellbeing outcomes, increasing social connectedness (through volunteering) and enhancing social inclusion.

The WRAC plays a key role in the development and implementation of the Whitehorse Reconciliation Targeted Action Plan as well as providing opportunities for engagement, in the development and implementation of a wide range of Council initiatives.

Councils Volunteer Policy and procedures guide the recruitment and ongoing management of participants on the WRAC; and the WRAC contribute to the enactment of Councils Community Engagement Policy.

**BACKGROUND**

In 1997, Whitehorse City Council along with three other local government areas, Banyule, Nillumbik and Manningham signed a Statement of Commitment to highlight what Reconciliation meant to each Council and their local communities. At that time, the commitment to Reconciliation in Whitehorse included the development of the inaugural Reconciliation Strategy. Subsequent Reconciliation Action Plans have continued to promote the rights of, and reduce barriers experienced by Aboriginal and Torres Strait Islander people in the local community.

**11.6**  
(cont)

The WRAC commenced in 2008 as an advisory committee to Council whose purpose is to provide strategic input and feedback regarding the systemic, structural, cultural and social barriers important to the lives of Aboriginal and Torres Strait Islander people. In addition, the WRAC has supported the development and implementation of the current Reconciliation Strategy.

The Terms of Reference state the WRAC will consist of up to 12 members who live, work, and study, have connection or recreate in the City of Whitehorse. The selection process intentionally preferences Elders and Wurundjeri Woi-wurrung community members and members of other Aboriginal and Torres Strait Islander communities. In addition, membership of the WRAC includes representatives from Aboriginal and Torres Strait Islander organisations, other levels of government, community organisations and community representatives.

At this time, Council has received no applications from people who identify as Wurundjeri Woi-wurrung Elders or other Aboriginal or Torres Strait Islander communities. However, during the life of the committee officers will actively seek out Aboriginal and Torres Strait Islander people to participate on the committee and will follow the process outlined in the terms of reference to confirm their participation. In addition, officers will have further discussions with the Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation to explore strategies for attracting members of the Wurundjeri Woi-wurrung community onto the WRAC.

The WRAC aims to strengthen its profile as a resource to Council by participating in engagement opportunities and discussions relating to the development and implementation of Council policy, projects and initiatives that impact on the lives of Aboriginal and Torres Strait Islander people.

The outgoing WRAC have assisted Council to better understand the needs of Aboriginal and Torres Strait Islander people in the community as well as assisting in building partnerships through the Inner East Local Aboriginal Network and the Inner East Aboriginal Governance Committee.

The WRAC members have also been actively engaged providing feedback regarding a myriad of Council initiatives and projects and in the annual Sorry Day Flag Raising ceremonies and NAIDOC Week activities, in addition to promoting the role of local government through their networks.

**Recruitment for the new committee**

Council recently sought expressions of interest from the community to participate on the Whitehorse Reconciliation Advisory Committee 2022-2025.

**11.6**  
(cont)

Council's social and print media platforms and networks were utilised to promote this volunteer opportunity. Aboriginal organisations such as Mullum Mullum Indigenous Gathering Place and participants on the Local Aboriginal Network directly received email notification of this opportunity. Council's Better Impact – Volunteer platform was utilised to lodge applications. Subsequently, Council received six expressions of interest.

The outgoing WRAC consisted of seven members with many unable to continue due to their changing work and personal commitments.

Six expressions of interest were received, three from community representatives and three organisational representatives. Two applications were received from members of the outgoing committee.

No expressions of interest from people who identified as Wurundjeri Woi-wurrung Elders or community members, or members of other Aboriginal or Torres Strait Islander communities were received. As stated earlier, recruitment will continue to attract Aboriginal and Torres Strait Islander onto the committee given its focus of hearing and learning directly from Aboriginal and Torres Strait Islander people.

The WRAC Terms of Reference states that during the life of the Committee, if a person or organisation wishes to nominate to participate on the Committee, those already on the Committee will discuss the nomination and take a vote. This provides the opportunity for Council to undertake further discussions with the Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation, to potentially attract members of the Wurundjeri Woi-wurrung community to the committee, including young people. The Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation is also receptive to regularly meeting with the WRAC to discuss matters within the remit of the Committee.

Initial discussions with Elders from the Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation regarding the number of applications for the committee highlighted two issues: Wurundjeri Woi-wurrung Elders are experiencing increasing demands on their time and resources, limiting their ability to take on new commitments. People from other Aboriginal and Torres Strait Islander communities may feel it is inappropriate to speak on behalf of Wurundjeri Woi-wurrung.

This Report recommends endorsing the six people who submitted an expression of interest to form the WRAC, whilst further discussions and promotions occur.

**11.6**  
(cont)

**SUPPORTING REPORT DETAILS**

**Legislative and Risk Implications**

There is no legal requirement to appoint a WRAC however, Council has always supported the WRAC to promote its commitment to Aboriginal issues and maintain its positive reputation with the Wurundjeri Woi-wurrung people and the Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation. Given the recent confirmation of traditional ownership, Council continues to build this relationship, exploring ways to incorporate the knowledge and voices of Elders in projects such as redeveloping Council's History Boards at several sites in the municipality.

Having a WRAC enhances opportunities to work toward achieving the Whitehorse Community Vision priority which focuses on our Nation's first people with a focus on understanding, acknowledging and celebrating our Indigenous history and cultural heritage.

The Local Government Act 2020 requires Local Government to 'engage with people who are representative of the person's and groups affected by the matter' that is the subject of the engagement processes. The appointment of the WRAC provides ongoing engagement opportunities for Council to better understand the barriers and experiences of people from Aboriginal and Torres Strait Islander communities.

**Equity, Inclusion, and Human Rights Considerations**

The establishment of a new WRAC has been considered in accordance with the requirements of the *Charter of Human Rights and Responsibilities Act 2006*.

The WRAC reflects the intent and principles of the 2006 Victorian Charter of Human Rights and Responsibilities Act, by providing opportunities for Aboriginal and Torres Strait Islander people to have a say in the policies, initiatives and decisions that impact their lives. The purpose of the Committee is to provide advice and feedback to Council to address the barriers and reduce the discrimination experienced by Aboriginal and Torres Strait Islander people in the local community, thereby providing opportunities to promote and protect the rights of Aboriginal and Torres Strait Islander people.

The appointment of the WRAC contributes to Council's obligations under the United Nations Declaration on the Rights of Indigenous People.

Articles relating to the right of Indigenous people to live free from all forms of discrimination (Article 2), the right to the dignity and diversity of cultures, traditions, history and aspirations (Article 15), and participate in decision making which would impact their rights (Article 18) are all particularly relevant to the WRAC. Council also has obligations under the United Nations Declaration on the Rights of Indigenous Person's to consult and cooperate in good faith with Indigenous people (Article 19).

**11.6**  
(cont)

Applications were open to all genders and there was no targeted recruitment for specific genders. Applications received included three from women, two from men and one from the LGBTIQ community.

**Community Engagement**

The appointment of the WRAC supports Council's commitment to engage with the broad and diverse local community, as well as undertake our community engagement responsibilities contained in the Local Government Act 2020. Those sought by Council to participate in community engagement activities must be representative of the persons and groups affected by the matter that is the subject of the engagement.

Council sought expressions of interest from Wurundjeri Woi-wurrung Elders and community members, as well as Aboriginal and Torres Strait Islander people from other First Nations communities, and a range of community organisations to participate on the WRAC for the 2022-2025 period through social media.

Between December 2021 and February 2022, the WRAC expression of interest opportunity was provided to Mullum Mullum Indigenous Gathering Place and through the Local Aboriginal Network, reaching more than 200 members.

All outgoing WRAC members received information to submit an expression of interest for the new term and were encouraged to promote this opportunity through their networks. Of the expressions of interest received for the new committee, two were members of the outgoing community.

No applications were received from young people to participate on the WRAC. Engaging with the Whitehorse Youth Representative Committee through presentations and agenda opportunities between committees will result in the voices of young people contributing to the outcomes of the WRAC. Council Officers facilitating Council's advisory committees will explore the opportunity to host an annual Advisory Committee Forum bringing committee members together to share information about the purpose and directions of the different committees. Knowledge sharing would also create pathways for young people to join other Council Advisory Committees.

**Financial and Resource Implications**

The facilitation of the WRAC is contained in the Community Engagement and Development Department budget, which includes officer time (\$5,520), \$10,000 for relevant initiatives including room hire and catering for events such as Sorry Day, which totals to approximately \$15,000.

An elected Councillor chairs the WRAC, and the Manager of Community Engagement & Development and an officer support the operations of the Committee.

**11.6**  
(cont)

**Innovation and Continuous Improvement**

The appointment of the WRAC provides opportunities to continue to improve how Council engages with Aboriginal and Torres Strait Islander people. It also provides cross-Council departments with ongoing opportunities to engage with the committee, benefitting a wide range of Council initiatives, projects and policy development.

**Collaboration**

Council utilised social and print media platforms and networks to promote this opportunity to people in the community. The Local Aboriginal Network and Mullum Mullum Gathering Place actively promoted the opportunity to join the WRAC to their members and networks.

**Discussion and Options**

This report seeks the endorsement of Council to appoint six people in the Whitehorse community to participate on the committee for the period 2022-2025.

As already stated, there were no expressions of interest received from Elders, members of the Wurundjeri Woi-wurrung community or members of other Aboriginal and Torres Strait Islander communities. Given that, it is imperative that the voices of Aboriginal and Torres Strait Islander community inform Councils planning and decision-making processes, officers will actively seek the inclusion of Aboriginal and Torres Strait Islander people onto the committee during the period of its operation. Council will also continue to engage with the Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation to promote the WRAC and the work undertaken by Council to promote reconciliation

**Conflict of Interest**

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

**Conclusion**

Council Officers have recommended the endorsement of six people to form the WRAC 2022 -2025. Applicants included three people who identified as community representatives and three representatives from community organisations.

The recommendation of the new committee put forward to Council follows an expression of interest process, which included promotion in social media as well as print media campaign. The Manager Community Engagement and Development and the MetroAccess Development Officer subsequently reviewed applications.

**11.6**  
(cont)

If endorsed, the induction of participants will follow with a focus on Council's volunteer policy and guidelines. Meetings will be scheduled and outcomes of the Committee will be reported via the Councillor Chair and through Council's various reporting mechanisms.

**ATTACHMENT**

- 1 Whitehorse Reconciliation Advisory Committee Confidential Appendix Applicant Profile

**Whitehorse City Council designates this attachment and the information contained in it as CONFIDENTIAL INFORMATION pursuant to Section 3 (1) (f) of the Local Government Act 2020, that relates to Council personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs. This ground applies because the matter concerns personal information.**

**11.7 Records of Informal Meetings of Councillors**

**COUNCIL RESOLUTION**

Moved by Cr Cutts, Seconded by Cr Munroe

That the record of Informal Meetings of Councillors be received and noted.

**CARRIED UNANIMOUSLY**

<b>Councillor Informal Briefing 28.03.22 6:30-6.46pm</b>		
<b>Matter/s Discussed</b>	<b>Councillors Present</b>	<b>Officers Present</b>
<ul style="list-style-type: none"> <li>8.1 Mr P Carter</li> <li>11.3 Tender evaluation report (Contract 30351) Sportlink Multipurpose Sports Facility Redevelopment</li> </ul>	Cr Liu (Mayor & Chair) Cr Massoud (Deputy Mayor) Cr Barker Cr Carr Cr Cutts Cr Davenport Cr Lane Cr McNeill Cr Munroe Cr Skilbeck Cr Stennett	S McMillan J Green L Letic S Cann S White S Sullivan V Ferlaino P Moore M Hofsteter
<b>Disclosures of Conflict of Interest</b>	None disclosed	
<b>Councillor /Officer attendance following disclosure</b>	None disclosed	
<b>Councillor Briefing 04.04.22 6.30-10.35pm</b>		
<b>Matter/s Discussed</b>	<b>Councillors Present</b>	<b>Officers Present</b>
<ul style="list-style-type: none"> <li>Aqualink Strategic Service and Asset Review</li> <li>MPCRG – Monthly Project Update</li> <li>Parkland Advisory Committees</li> <li>Box Hill Central Development</li> <li>Draft Council Agenda 11 April 2022</li> </ul>	Cr Liu (Mayor & Chair) Cr Massoud (Deputy Mayor) Cr Carr Cr Barker Cr Cutts Cr Davenport Cr Lane Cr McNeill Cr Munroe Cr Skilbeck Cr Stennett	S McMillan J Green L Letic S Cann S White S Sullivan V Ferlaino M Hofsteter S Belmore S Day C Lukies K Marriott P Sutton T Peak
<b>Disclosures of Conflict of Interest</b>	None disclosed	
<b>Councillor /Officer attendance following disclosure</b>	None disclosed	

**12 COUNCILLOR DELEGATE AND CONFERENCE/SEMINAR REPORTS**

**12.1 Reports by Delegates**

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

12.1.1 Cr Munroe reported on his attendance as delegate at the Metropolitan Transport Forum, held on 7 April 2022.

**COUNCIL RESOLUTION**

Moved by Cr Munroe, Seconded by Cr Lane

That the reports from delegates be received and noted.

**CARRIED UNANIMOUSLY**

**13 Reports on Conferences/Seminars Attendance**

132.2.1 Cr Skilbeck reported on her attendance of the Municipal Association of Victoria (MAV), March webinar on Council Alliance for Sustainable Built Environment (CASBE) with Whitehorse being one of the 31 Victorian Councils involved, Elevating Environmentally Sustainable Design (ESD) Targets across Local Government through the Planning Scheme.

12.1.2 Cr Barker reported on his attendance at the:

- Municipal Association of Victoria (MAV), March webinar on Council Alliance for Sustainable Built Environment (CASBE) Elevating Environmentally Sustainable Design (ESD) Targets across Local Government through the Planning Scheme.
- University of UNSW Sydney virtual seminar on Ukraine crisis and on cities and Smart Cities and flow of support to people.

**COUNCIL RESOLUTION**

Moved by Cr Massoud, Seconded by Cr McNeill

That the record of reports on conferences/seminars attendance be received and noted.

**CARRIED UNANIMOUSLY**

**1314 CONFIDENTIAL REPORTS**

Nil

**14 CLOSE MEETING**

Meeting closed at 8:34pm

**Confirmed this 26<sup>th</sup> day of April 2022**

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**CHAIRPERSON**