



AGENDA

Ordinary Council Meeting Wednesday, 7 June 2023

I hereby give notice that an Ordinary Meeting of Council will be held on:

Date: Wednesday, 7 June 2023

Time: 6.00pm

**Location: Council Chambers, 15 Stead Street, Ballan &
Online**

**Phil Jeffrey
Acting Chief Executive Officer**

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1 OPENING OF MEETING AND PRAYER

Almighty God be with us as we work for the people of the Shire of Moorabool. Grant us wisdom that we may care for the Shire as true stewards of your creation. May we be aware of the great responsibilities placed upon us. Help us to be just in all our dealings and may our work prosper for the good of all. Amen.

2 ACKNOWLEDGEMENT OF COUNTRY

I acknowledge the Traditional Owners of the land on which we are meeting. I pay my respects to their Elders, past and present, and the Aboriginal Elders of other communities who may be here today.

3 RECORDING OF MEETING

In accordance with Moorabool Shire Council's Meeting Procedure Local Law, the Council will be recording this meeting. The following organisations have also been granted permission to make an audio recording:

- The Moorabool News; and
- The Star Weekly

4 PRESENT

5 APOLOGIES

6 CONFIRMATION OF MINUTES

Ordinary Council Meeting - Wednesday 3 May 2023

Special Council Meeting - Wednesday 10 May 2023

Special Council Meeting - Wednesday 17 May 2023

7 DISCLOSURE OF CONFLICTS OF INTEREST

Conflict of interest laws are prescribed under the *Local Government Act 2020* (the Act) and in the Local Government (Governance and Integrity) Regulations 2020 (the Regulations). Managing conflicts of interest is about ensuring the integrity and transparency of decision-making.

The conflict of interest provisions under the Act have been simplified so that they are more easily understood and more easily applied. The new conflict of interest provisions are designed to ensure relevant persons proactively consider a broader range of interests and consider those interests from the viewpoint of an impartial, fair-minded person.

Section 126 of the Act states that a Councillor has a conflict of interest if they have a general conflict of interest or a material conflict of interest. These are explained below:

- A Councillor has a general conflict of interest in a matter if an impartial, fair-minded person would consider that the member's private interests could result in them acting in a manner that is contrary to their public duty as a Councillor.

- A Councillor has a material conflict of interest in a matter if an affected person would gain a benefit or suffer a loss depending on the outcome of the matter.

A relevant person with a conflict of interest must disclose the interest in accordance with Council's Governance Rules and not participate in the decision-making process on the matter. This means the relevant person must exclude themselves from any discussion or vote on the matter at any Council meeting, delegated committee meeting, community asset committee meeting or, if a Councillor, any other meeting conducted under the auspices of the Council. The relevant person must also exclude themselves from any action in relation to the matter, including an action taken to implement a council decision, for example, issuing a planning permit.

8 PUBLIC QUESTION TIME

The aim of Public Question Time is to provide an opportunity for the public to ask general questions at Council Meetings requiring routine responses. Public Question Time is conducted in accordance with section 3.7.1 of the Council's Governance Rules.

- (a) Question time will take place during the Council Meeting as provided for in the agenda.
- (b) Questions in writing in the form prescribed by the Chief Executive Officer will be accepted up to 5pm on the day before the Meeting.
- (c) A person must not submit more than two (2) individual questions at a meeting, inclusive of all parts and variants as interpreted by the Chairperson or other person authorised for this purpose by the Chairperson.
- (d) A question will only be read to the meeting if the Chairperson or other person authorised for this purpose by the Chairperson has determined that the:
 - (i) person directing the question is present in the gallery;
 - (ii) question does not relate to a confidential matter;
 - (iii) question does not relate to a matter in respect of which Council has no power to act;
 - (iv) question is not defamatory, indecent, abusive or objectionable in language or substance;
 - (v) question is not a repetition of a question already asked or answered (whether at the same or an earlier meeting); and
 - (vi) question is not asked to embarrass a Councillor, member of Council staff or member of the public.
- (e) Persons submitting questions must be present in the public gallery. If they are not present in the Gallery, the question will be held over to the next meeting only.
- (f) The Chief Executive Officer will read out each question and the Chairperson shall decide who will answer each question.

A Councillor or Council officer may:

- (i) immediately answer the question asked; or

- (ii) elect to have the question taken on notice until the next Ordinary meeting of Council; at which time the question must be answered and incorporated in the Agenda of the meeting under Public Question Time; or
- (iii) elect to submit a written answer to the person asking the question within 10 working days.

Responses to public questions answered at the meeting, will be general in nature, provided in good faith and should not exceed two minutes. These responses will be summarised in the minutes of the meeting.

9 PETITIONS

Nil

10 PRESENTATIONS/DEPUTATIONS

The Council has made provision in the business of the Ordinary Meetings of the Council for the making of presentations or deputations to Council in relation to matters presented on the agenda for Council consideration.

Persons wishing to make a presentation or deputation to Council on a matter included in the agenda shall inform Council prior to the meeting by contacting the Chief Executive Officer's office and registering their name and agenda item being spoken to.

At the meeting the Mayor will invite the persons wishing to make a presentation or delegation to address the Council on the agenda item.

The person making the presentation or deputation is to stand and address Council on the item.

No debate on the item is permitted between the person making the presentation or delegation and the Council.

A maximum of three minutes per presentation or delegation will be allocated. An extension of time may be granted at the discretion of the Mayor.

Councillors, through the Mayor, may ask the person making the presentation or delegation for clarification of matters presented.

The Mayor may direct that a member of the gallery ceases speaking if the above procedure is not followed.

11 CHIEF EXECUTIVE OFFICER REPORTS

11.1 SALE OF LAND - 8 BOND STREET, MADDINGLEY

Author: Kate Pryor, Governance Officer

Authoriser: Celeste Gregory, Executive Manager - Democratic Support & Corporate Governance

Attachments: 1. Valuation Report - 8 Bond Street, Maddingley (under separate cover)

PURPOSE

This report seeks Council's approval to sell a portion of Council-owned land located at 8 Bond Street, Maddingley identified as Lot 1 on Plan TP952312G to DNS Investments by private treaty.

EXECUTIVE SUMMARY

At the Ordinary Meeting of Council on 1 March 2023 Council resolved to:

- Declare the land described as Lot 1 on Plan TP952312G (8 Bond Street, Maddingley) is surplus to Council requirements;
- Give notice under Section 114 of the *Local Government Act 2020* that the land is proposed to be sold;
- Give notice under section 114 of the *Local Government Act 2020*, that any submissions made under Section 223 of the *Local Government Act 1989* can be submitted not less than 28 days after the date on which the public notice is published in the local newspapers circulating within the Municipality; and
- Following the completion of the public submission process receive an Officer's report for consideration.

The proposal was approved for public exhibition, published on Council's Have Your Say website, the Government Gazette and local newspapers, and notices sent to adjoining landowners and Powercor. No submissions were received in response to the proposal.

The land has been valued by a certified land valuer and as per the attachment has estimated the value of the land to be \$17,500 (page 8 in the attachment).

RECOMMENDATION

That Council approves officers to sell the land identified as Lot 1 on Plan TP952312G to DNS Investments by private treaty for the fixed sum of \$17,500 in accordance with s114 of the *Local Government Act 2020* and in accordance with the independent certified valuation.

BACKGROUND

On 20 July 2022 the Development Assessment Committee resolved to make notice of a decision to grant planning permit PA2021182 to the applicant DNS Investments, who own 8 Bond Street, Maddingley (Lot 1 on TP 893770A).

Clause 3 of the planning permit states:

Before the development commences, Lot 1 on TP 893770A and Lot 1 on TP 952312G must be held in common ownership or a lease of Lot 1 on TP 952312G is obtained to the satisfaction of the Responsible Authority.

The lot was created through a series of subdivisions occurring prior to the *Subdivision Act 1988* which resulted in the eventual creation of the two lots and the road being Park Street, Maddingley. The land was most likely intended to be declared as part of the road reserve, but for reasons unknown this did not occur, and it was titled as freehold land. The lot remained unallocated since the last subdivision and was subsequently transferred to Council ownership as part of the Titles Office *Land Remaining Untransferred Project* in 2013.

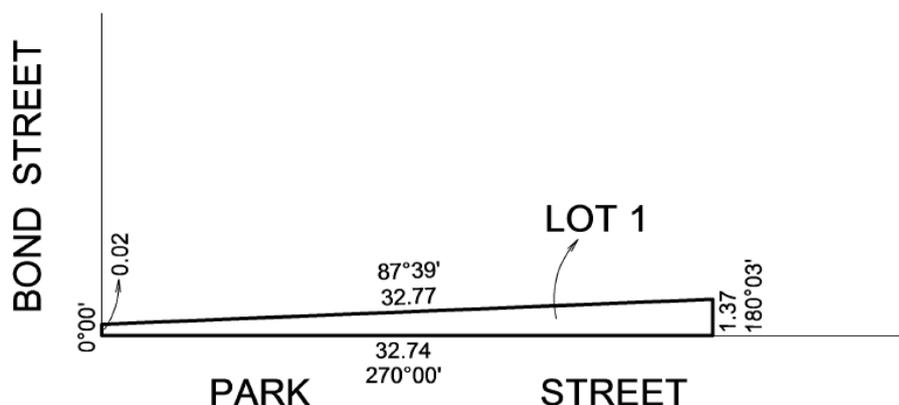


Figure 1

The land is currently leased to DNS Investments to enable them to meet the requirements of the planning permit prior to its expiry until a resolution of sale can be made.

PROPOSAL

This report proposes that Council formally authorise officers to sell the land by private treaty to DNS Investments for a fixed sum of \$17,500 in accordance with section 114 of the *Local Government Act 2020* and in accordance with the independent certified valuer.

As required under section 114 of the *Local Government Act 2020* the following has been undertaken:

Declaration of surplus land

At the Ordinary Meeting of Council on 1 March 2023 Council resolved to:

- Declare the land described as Lot 1 on Plan TP952312G (8 Bond Street, Maddingley) is surplus to Council requirements;
- Give notice under Section 114 of the *Local Government Act 2020* that the land is proposed to be sold;
- Give notice under section 114 of the *Local Government Act 2020*, that any submissions made under Section 223 of the *Local Government Act 1989* can be submitted not less than 28 days after the date on which the public notice is published in the local newspapers circulating within the Municipality; and

- Following the completion of the public submission process receives on Officer's report for consideration.

Valuation

The land has been valued by a certified land valuer and as per the attachment has estimated the value of the land to be \$17,500.

Community Engagement

The community have been engaged and were invited to make submissions on the proposal pursuant to s 223 of the *Local Government Act 1989*. No submissions were received in response to the proposal.

COUNCIL PLAN

The proposal is not provided for in the Council Plan 2021-2025 and can be actioned by utilising existing resources.

FINANCIAL IMPLICATIONS

It is expected that Council will make a small sum from the proposed sale, being \$17,500. All other costs of the sale will be borne by the applicant.

RISK & OCCUPATIONAL HEALTH & SAFETY ISSUES

There are no risk or occupational health and safety issues associated with the recommendation within this report.

COMMUNICATIONS & CONSULTATION STRATEGY

The community have been engaged and were invited to make submissions on the proposal pursuant to s 223 of the *Local Government Act 1989* by:

- Public notice in the Government Gazette
- Public notice in the Moorabool News
- Public notice on Council's Have your say website
- Letter to adjoining landowners
- Letter to Powercor

No submissions were received in response to the proposal.

VICTORIAN CHARTER OF HUMAN RIGHTS & RESPONSIBILITIES ACT 2006

In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited, restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.

OFFICER'S DECLARATION OF CONFLICT OF INTERESTS

Under section 130 of the *Local Government Act 2020*, officers providing advice to Council must disclose any interests, including the type of interest.

Executive Manager – Celeste Gregory

In providing this advice to Council as the Executive Manager, I have no interests to disclose in this report.

Author – Kate Pryor

In providing this advice to Council as the Author, I have no interests to disclose in this report.

CONCLUSION

It is proposed Council formally authorise officers to sell the land identified as Lot 1 on Plan TP952312G to DNS Investments by private treaty for the fixed sum of \$17,500 in accordance with s114 of the *Local Government Act 2020*.

11.2 WRISC FAMILY VIOLENCE SUPPORT RENT REDUCTION REQUEST**Author:** Angela Menzies, Governance Support Officer**Authoriser:** Celeste Gregory, Executive Manager - Democratic Support & Corporate Governance**Attachments:** 1. Discounted Market Rent Eligibility Assessment Criteria - WRISC (under separate cover)**PURPOSE**

The purpose of this report is for Council to consider granting WRISC Family Violence Support Inc. (WRISC) a discounted market rate for their leased space at Darley Civic and Community Hub.

EXECUTIVE SUMMARY

- WRISC is a not-for-profit organisation that provides services to women and children who have experienced family violence in the Central Highlands region of Victoria.
- WRISC has been occupying a space at the Darley Civic and Community Hub since 1 July 2017 through a lease with Moorabool Shire Council.
- A rent reduction was sought and granted from 1 July 2019 for a 70% reduction of the rental amount specified in the lease, an arrangement that is still in place.
- All outgoings, such as utilities and maintenance, are an additional charge that are billed separately and remain constant, other than CPI increases, regardless of any rent reduction that may be applied.
- The current lease has expired and as such WRISC are seeking to enter a new lease and are seeking a 70% rent reduction to be applied to a new lease to be drafted.

RECOMMENDATION**That Council resolves to:**

1. Offer WRISC Family Violence Support Inc a 12-month lease for their current leased space at the Darley Civic & Community Hub:
 - (a) for a rental amount of \$25,259.82 plus outgoings (excluding GST); and
 - (b) applying a 70% discount of the rental amount for the length of the lease.
2. Receive a report no later than 3 months prior to the expiry of the lease before an additional lease is offered.

BACKGROUND

At the Ordinary Meeting of Council of 6 August 2014 Council adopted the leasing and licensing guidelines, eligibility criteria and the following objectives for community use of the Hub:

- Maximise the community benefit arising from the purchase of the Hub buildings by Council.
- Ensure the facilities are used to meet demonstrated community needs consistent with Council's policies and the Council Plan.

- Increase community access to activities and services, particularly access by disadvantaged and socially isolated groups.
- Assist not-for-profit and volunteer-based organisations that offer activities and services in the Shire of Moorabool.
- Contribute to the Shire's ability to achieve its objectives and service delivery.

WRISC meet the adopted eligibility criteria of a discounted rate rent under the Discounted Market Rent Eligibility Assessment Criteria (Attachment 1).

WRISC Family Violence Support Inc

WRISC is a not-for-profit organisation that provides services to women and children who have experienced family violence in the Central Highlands region of Victoria. It helps to provide safety, support, information, advocacy, children's counselling, court support and case management.

In July 2017 Moorabool Shire Council and WRISC entered into an agreement to lease a space in the Darley Civic and Community Hub from 1st July 2017, as their administrative office in Bacchus Marsh. They also base their Van Go program, which provides creative therapies for children who have experienced family violence, from the site.

Previously Discounted Market Rent

In 2019 WRISC sought a discount on the rent due to a significant decrease in funding received by the organisation. This was subsequently granted and took effect from 1 July 2019 at a 70% reduction on the existing lease amount.

When the rent reduction was negotiated, the full rent payable by WRISC was \$23,819.10 plus GST. A 70% reduction in rent was agreed between WRISC and Moorabool Shire Council, making the new rent \$7,145.73 plus GST annually, to which CPI increases have been subsequently applied each year.

Current Status

This lease has ended and WRISC are seeking to enter into a new lease with Moorabool Shire Council for the space. WRISC has advised that their current funding has only increased slightly and that those funds have been utilised to hire a part-time intake worker for their Children's Creative Therapies services.

WRISC are asking to have the same reduction in rent applied to a new lease to be drafted.

Moorabool Shire Council is currently charging WRISC \$7,456.56 plus GST annually for rental of the space.

PROPOSAL

If Council enters into a new lease with WRISC at full market rent, Council would be charging \$25,259.82 plus GST annually from the 2023/24 year.

If a 70% reduction were applied, as is being requested by WRISC, Council would charge rent at \$7,577.95 plus GST annually from the 2023/24 year. These figures take into account the March Quarter Consumer Price Index (All Groups – Melbourne index).

Below is a table of proposed rent amounts for consideration.

100%	\$25,259.82
90%	\$22,733.84
80%	\$20,207.86
70%	\$17,681.87
60%	\$15,155.89
50%	\$12,629.91
40%	\$10,103.93
30% - as requested by WRISC	\$7,577.95
20%	\$5,051.96
10%	\$2,525.98
Peppercorn lease	\$1

As WRISC meets eligibility criteria for a discounted rent in line with the adopted criteria in Attachment 1, it is proposed to offer a 12-month lease at the 70% reduced rate, with a further report being considered by Council three months prior to the expiration of the proposed 12 month lease in this report.

COUNCIL PLAN

The Council Plan 2021-2025 provides as follows:

Strategic Objective 2: Liveable and thriving environments

Priority 1.5: Provide access to services to improve community connection in the Shire

The proposal to offer WRISC a reduced rent on a new lease for space occupied at the Darley Civic and Community Hub is consistent with the Council Plan 2021-2025.

FINANCIAL IMPLICATIONS

Rent and Outgoings

WRISC are currently paying rent of \$7,456.56 (70% discount of the current market rate) and outgoings of \$4,317.01 per annum (excluding GST) which is subject to annual adjustment on each anniversary of the commencement date of the lease in accordance with the March Quarter Consumer Price Index (All Groups – Melbourne index).

Rent Reviews

On the commencement of the Lease Renewal Date the rent is subject to a market rent review. The market rate is then applied at the renewal Date and then discounted by 70%.

Financial Implications to Council

A 70% discounted rent would have a neutral effect on Council's rental income as it is maintaining the current rental arrangement, with the exception of CPI indexation.

Maintenance Costs

The tenant is obliged to keep the leased area in good repair and condition. This cost is borne by the tenant and not Council.

Indemnity and Insurance

The tenant must hold current public liability insurance for an amount of \$20,000,000 and must extend to cover Council in respect to claims for personal injury or property damage arising out of negligence of the tenant and must also indemnify Council and its officers against all actions, costs, claims, charges, expenses, penalties, demands and damages.

Financial Implications to the Tenant

Continuing to offer a reduced rent would enable WRISC to continue to focus its resources on providing vital services to women and children affected by family violence in the Central Highlands region.

RISK & OCCUPATIONAL HEALTH & SAFETY ISSUES

There are no risk or occupational health and safety issues identified with this proposal.

VICTORIAN CHARTER OF HUMAN RIGHTS & RESPONSIBILITIES ACT 2006

In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited, restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.

OFFICER'S DECLARATION OF CONFLICT OF INTERESTS

Under section 130 of the *Local Government Act 2020*, officers providing advice to Council must disclose any interests, including the type of interest.

Executive Manager – Celeste Gregory

In providing this advice to Council as the General Manager, I have no interests to disclose in this report.

Author – Angela Menzies

In providing this advice to Council as the Author, I have no interests to disclose in this report.

CONCLUSION

In line with the current adopted framework for tenancies at the Darley Civic Hub, tenancies are reviewed annually. Any request from a current or prospective tenant for a reduced market rent rate is assessed individually on its merits to ensure the eligibility criteria has been met.

With an ongoing community need for the services that WRISC provides to women and children within the Moorabool area, as well as meeting the adopted criteria, it is recommended that a reduction in rent is granted to the tenant.

It is further recommended to maintain the 70% reduction in rent which WRISC is currently paying to assist WRISC to be able to deliver their services as they have a limited capacity to generate revenue net of operating costs.

11.3 ADOPTION OF GOVERNANCE FRAMEWORKS AND POLICIES

Author: Celeste Gregory, Executive Manager - Democratic Support & Corporate Governance

Authoriser: Derek Madden, Chief Executive Officer

Attachments:

1. Governance Framework (under separate cover)
2. Public Interest Disclosure Policy (under separate cover)
3. Fraud and Corruption Prevention and Control Policy (under separate cover)
4. Fraud and Corruption Prevention and Control System 2023-2026 Framework (under separate cover)

PURPOSE

A review of Council's Governance policies and frameworks has been conducted and draft policies are now presented for adoption by Council.

EXECUTIVE SUMMARY

- Governance policies and frameworks required updating in relation to Governance, Public Interest Disclosures and Fraud.
- These policies were provided to the Audit & Risk Committee for review and feedback to ensure Council are meeting best practice. Any feedback received has been incorporated into the policies and framework.

RECOMMENDATION

That Council adopts the following Governance Frameworks and Policies:

- (a) Governance Framework;
- (b) Public Interest Disclosure Policy;
- (c) Fraud and Corruption Prevention and Control Policy;
- (d) Fraud and Corruption Prevention and Control Framework.

BACKGROUND

A review of Council's Governance policies and frameworks has been conducted and the following policies are now presented for adoption by Council:

- Governance Framework
- Public Interest Disclosure Policy
- Fraud and Corruption Prevention and Control Policy
- Fraud and Corruption Prevention and Control Framework

Draft policies were presented for consideration and review at the 8 February and 10 May 2023 Audit and Risk Committee Meetings. Minor amendments suggested by the Audit and Risk Committee have been incorporated into the attached policies.

These policies do not require community consultation as they relate to how Council manages assurance, public interest disclosures and suspected fraud.

All policies have been drafted in accordance with legislation, Australian Standards and best practice models.

PROPOSAL

Officers have developed the following policies to ensure Council can operate in a transparent manner.

Governance Framework

The current Governance Framework was drafted in 2019 for renewal in 2021. It was drafted prior to the significant change to the Local Government Act and therefore referenced outdated legislation and included reporting requirements which were repealed with the change to the Act.

Further, the current version didn't include the roles and responsibilities across Council to document how governance is integrated and monitored across Council.

Changes made to the Governance Rules included:

- Updated from the Three Lines of Defence model to the Three Lines model from the Institute of Internal Auditors. The Three Lines Model is a fresh look at the familiar Three Lines of Defence, clarifying and strengthening the underpinning principles, broadening the scope and explaining how key organisational roles work together to facilitate strong governance and risk management.
- Updating legislative linkages and reporting. Knowyourcouncil is no longer used and references made have been removed, however the Local Government Performance Reporting Framework is still incorporated as the key governance reporting mechanism for Council.
- Incorporation of "How is Good Governance Achieved by Moorabool Shire Council" which aligns to the Governance Principles from the Local Government Act, what mechanisms we have to achieve compliance and the review cycle of those mechanisms.
- Inclusion of the Roles, Working Relationships and Responsibilities to distinguish who is responsible for good governance across Council.

Public Interest Disclosure Policy

The Public Interest Disclosure (PID) Policy required updates to reflect changes to corporate structures and the PID Officer for Council. It is now aligned to the fraud suite of documents and guidance provided by Independent Broad-Based Anti-Corruption Commission (IBAC).

Fraud Corruption Prevention and Control Policy and Framework

The current Fraud Prevention Policy was last updated in October 2019 and was due for review October 2022. Due to the commencement of a new Governance team within Moorabool Council, the revision and update has been delayed.

The Fraud and Corruption Control (FCC) Australian Standard (AS8001:2021) ("the standard") has been updated for the first time since 2008 in 2021. The primary reason for the update was to bring

the standard to an 'up-to date', contemporary standard with the increasing role of integrated technology in organisations.

Some key changes to the Standard which have been incorporated into the documentation include:

- 'Fraud control plans' are now referred to as 'Fraud and Corruption Control Systems' (or Frameworks);
- Updated definitions for fraud and corruption, as reflected in the Fraud and Corruption Control model policy;
- Consideration of external threats, particularly cyber-security risks, in their prevention, detection and response plans;
- Greater emphasis on the roles in setting the tone from the top and demonstrating a serious commitment to addressing fraud and corruption risks;
- Requirement to implement a 'pressure-testing' system to evaluate the effectiveness of control measures across a range of high-risk business areas including finance and information technology;
- Immediate actions to be taken in response to fraud and corruption incidents, including the capture of digital evidence, to ensure that these incidents may be investigated and addressed as needed.

COUNCIL PLAN

The Council Plan 2021-2025 provides as follows:

Strategic Objective 3: A Council that listens and adapts to the needs of our evolving communities

Priority 3.4: Measure performance, communicate our results and continue to improve our services every day

The proposal Adoption of Governance Frameworks and Policies is consistent with the Council Plan 2021-2025.

FINANCIAL IMPLICATIONS

There are no financial implications.

RISK & OCCUPATIONAL HEALTH & SAFETY ISSUES

The purpose of these policies and frameworks is to assist in the identification and mitigation of potential fraud, management of public interest disclosures and Council's assurance oversight through a Governance framework.

COMMUNICATIONS & CONSULTATION STRATEGY

Consultation of these policies is not required.

VICTORIAN CHARTER OF HUMAN RIGHTS & RESPONSIBILITIES ACT 2006

In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited, restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.

OFFICER'S DECLARATION OF CONFLICT OF INTERESTS

Under section 130 of the *Local Government Act 2020*, officers providing advice to Council must disclose any interests, including the type of interest.

Chief Executive Officer – Derek Madden

In providing this advice to Council as the Chief Executive Officer, I have no interests to disclose in this report.

Author – Celeste Gregory

In providing this advice to Council as the Author, I have no interests to disclose in this report.

CONCLUSION

A review of Council's Governance policies and frameworks has been conducted and the following policies are now presented for consideration and review by Council:

- Governance Framework
- Public Interest Disclosure Policy
- Fraud and Corruption Prevention and Control Policy
- Fraud and Corruption Prevention and Control Framework

Draft policies were presented for consideration and review at the 8 February and 10 May 2023 Audit and Risk Committee Meetings. Minor amendments suggested by the Audit and Risk Committee have been incorporated into the attached policies.

12 COMMUNITY PLANNING AND DEVELOPMENT REPORTS

12.1 PA2021041 - DEVELOPMENT OF SIX LIGHT POLES, EARTHWORKS, EXTENSION OF OPERATING HOURS IN ASSOCIATION WITH AN EXISTING USE (MOTOR RACE MEETINGS) AT 569 YANKEE FLAT ROAD, BUNINYONG

Author: Victoria Mack, Statutory Planner

Authoriser: Henry Bezuidenhout, Executive Manager Community Planning & Development

Attachments: 1. Site plan showing location of lights and earthworks (under separate cover)

APPLICATION SUMMARY

Permit No: PA2021041

Lodgement Date: 3 March 2021

Planning Officer: Victoria Mack

Address of the land: 569 Yankee Flat Road, Buninyong, being Lots 1, 2 and 3 on TP 778126X

Proposal: Development of Six Light Poles, Earthworks and Extension of Operating Hours in Association with an Existing Use (motor race meetings)

Lot size: 7.324ha

Why is a permit required? Clause 35.07-4 Farming Zone - Buildings and works; Clause 42.01-2, Environmental Significance Overlay, Schedule 1 -Buildings and works

RECOMMENDATION

That the Council having considered all matters as prescribed by the *Planning and Environment Act 1987*, issue a Notice of Decision to Grant Planning Permit PA2021041 for the Development of Six Light Poles, Earthworks and Extension of Operating Hours in association with an existing use (motor race meetings), at 569 Yankee Flat Road, Buninyong, otherwise known as Lots 1, 2 and 3 on TP778126X subject to the following conditions:

Endorsed plans:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be generally in accordance with the plans submitted with the application but modified to show:
 - (a) Construction details of the six light poles, luminaries and light fittings.
 - (b) Lux diagram showing extent of light spill and demonstrating the light poles are suitably baffled to prevent any direct light emanating from the subject site to the satisfaction of the Responsible Authority.

- (c) Details in how lux level can be reduced to minimum extent necessary after 11pm supported by evidence from a qualified lighting specialist.
 - (d) A site plan showing the extent of earthworks including maximum height to Australian Height Datum (AHD).
2. The six proposed light poles may be left on until 11.59pm in the event of an emergency delaying proceedings. Details in writing of the emergency event must be provided to Council within seven days of the meeting. A maximum of six extensions will be granted per calendar year.
 3. No further fill is to be brought onto the land without the relevant approvals and testing and the earthworks as approved by this permit must not:
 - (a) cause an unreasonable amount of dust to be carried onto nearby land; and
 - (b) adversely affect the drainage of adjacent land.

Council's Infrastructure:

4. Unless otherwise approved by the Responsible Authority there must be no buildings, structures, or improvements located over any drainage pipes and easements on the property.
5. The Stormwater drainage from the proposed works and impervious surfaces must be disposed of within the boundaries of the subject land to the satisfaction of the Responsible Authority. Overflows from on-site storage systems must be directed away from any wastewater disposal areas. A Stormwater Point of Discharge permit must be obtained from the Assets Unit of the Responsible Authority prior to the commencement of the works associated with the Permit.
6. Prior to the works commencing on the development, notification including photographic evidence must be sent to Council's Infrastructure Services identifying any existing damage to Council assets. Any existing works affected by the development must be fully reinstated at no cost to and to the satisfaction of the Responsible Authority. If photographic evidence cannot be provided, then the damage then the damage must be fully reinstated at no cost to and to the satisfaction of the Responsibility Authority.
7. Sediment discharges must be restricted from any construction activities within the property in accordance with relevant Guidelines including Construction Techniques for Sediment Control (EPA 1991).

Central Highlands Water:

8. All construction and ongoing activities must be in accordance with sediment control principles outlined in Construction Techniques for Sediment Pollution Control (EPA, 1991).
9. A float alarm system, with a clearly visible strobe light, must be installed on the pump well for the two 3,000 litre septic tanks servicing the Amenities (Ladies and Men's) to the satisfaction of the inspecting Environmental Health Officer.
10. A float alarm system, with a clearly visible strobe light, must be installed for the pump out system on the two 5,000 litre holding tanks for the amenities on the east side of the track to the satisfaction of the inspecting Environmental Health Officer.

Permit expiry:

This permit will expire if:

- (a) The development is not started within two years of the date of this permit; or**
- (b) The development is not completed within four years of the date of this permit.**

PUBLIC CONSULTATION	
Was the application advertised?	Yes. Advertised twice following amendment of the application.
Notices on site:	One notice for each advertising period.
Notice in Moorabool Newspaper:	No.
Number of objections:	Thirty.
Consultation meeting:	Online consultation held on 10 March 2022. Issues were discussed and clarified.

POLICY IMPLICATIONS

The Council Plan 2021-2025 provides as follows:

Strategic Objective 3: A Council that listens and adapts to the needs of our evolving communities

Priority 2.1: Develop planning mechanisms to enhance liveability in the Shire

The proposal is not provided for in the Council Plan 2021-2025 and can be actioned by utilising existing resources.

VICTORIAN CHARTER OF HUMAN RIGHTS & RESPONSIBILITIES ACT 2006

In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited, restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.

OFFICER’S DECLARATION OF CONFLICT OF INTERESTS

Under section 130 of the *Local Government Act 2020*, officers providing advice to Council must disclose any interests, including the type of interest.

Executive Manager – Henry Bezuidenhout

In providing this advice to Council as the Executive Manager, I have no interests to disclose in this report.

Author – Victoria Mack

In providing this advice to Council as the Author, I have no interests to disclose in this report.

EXECUTIVE SUMMARY

Application referred?	Yes, to Central Highlands Water, and Council’s Environmental Health, Development Infrastructure and Strategic Planning.
Background to the application.	for overnight camping on the site for drivers and crew. The application was subsequently amended to remove overnight camping.
Any issues raised in referral responses?	Environmental Health requested further information in relation to overnight camping. No further objection following the amendment to the application to remove camping.
Preliminary concerns?	Emergency extension of operating hours of the light poles past 11pm.
Any discussions with applicant regarding concerns?	The applicant was advised that overnight camping would not be supported.
Any changes made to the application since being lodged?	Overnight camping was removed from the application and the application was amended and re-advertised. The re-advertising of the application did not address objector concerns.
Brief history:	The site has been the home of the Redline Speedway and Belmont Speedway Drivers Club Inc. for over 50 years. It does not conduct race meetings in the winter months. The Speedway is generally operated by volunteers. The site has established existing use rights as a motor race meet (Speedway). As declared by VCAT, there are no restrictions in relation to noise or illumination.
Previous applications for the site?	<p>PAA001/99 - Conduct night meetings at Redline Raceway and install permanent lighting. Permit issued 11 February 1999.</p> <p>PA2005129 - Earthworks on the Northern and Southern Section of the Track, Development of Buildings (Corporate Boxes, Relocation of Judges Box and Development of other Buildings) and Associated Landscaping. Permit issued with conditions.</p> <p>P1917/2006 VCAT Order – 24 November 2006: <i>Moorabool Shire Council v Ramsay [2006]</i> VCAT 2425, Declaration in relation to the use of the land established.</p> <p>P2034/2007 VCAT Order - 12 December 2007: <i>Muller v Moorabool CC [2007]</i> VCAT 2374 in relation to PA2005129 – Council decision varied; heard by Member Komesaroff.</p>

	<p>PA2008274 - Buildings and Works Associated with the Development of Two 31m High Hinged Descending Light Towers. Application Refused.</p> <p>PA2009040 - Development of Two Infield Light Towers and No More than 12 Light Towers around the Periphery of the Track, all Towers having a height no more than 15m and to Rise no more than 12m above Natural Ground Level. Permit issued with conditions.</p> <p>PA2013155 - Buildings and Works Associated with an Existing Speedway Track (Shed). Permit issued.</p>
<p>Enforcement history:</p>	<p>EA2020097 – Complaints were received about truck movements and soil dumping on the site without a planning permit. After investigation of the complaint the operators were advised they needed to apply for planning approval for the earthworks.</p>
<p>General summary:</p>	<p>The Redline Speedway has been operating on the site for over 50 years. Surrounding residents have complained about the use and operation of the speedway especially amenity impacts. The Speedway has an established use right and can continue to operate. The proposed works need to be considered in terms of current planning controls and additional amenity impacts.</p> <p>It is recommended that the application is approved with specific conditions that aim to ensure that the use has restriction on the extended operating hours and to minimise off site impacts through light spill.</p>
<p>Summary of Officer’s Recommendation</p>	
<p>That the Council having considered all matters as prescribed by the <i>Planning and Environment Act 1987</i>, issue a Notice of Decision to Grant Planning Permit PA2021041 for Development of Six Light Poles, Earthworks and Extension Operating Hours in association with an existing use (motor race meetings) at 569 Yankee Flat Road, Buninyong, otherwise known as Lots 1, 2 and 3 on TP778126X subject to conditions.</p>	

SITE DESCRIPTION

The site is located on the western boundary of the Shire and adjoins the City of Ballarat the boundary of which is defined by Yankee Flat Road.

Land to the west, in the City of Ballarat, is in the Rural Living Zone. Lots are generally similar in size generally with dwellings, in cleared areas or bushland settings.

Immediate surrounds include land to the north, east and south which is in the Moorabool Shire and in the Farming Zone. This area comprises lots generally larger in size than the subject site and these lots are mainly used for small scale farming and rural lifestyle. There is a large patch of bushland immediately to the north-east of the subject site.

The site is triangular in shape with a total area of 7.324ha. The motor racing track is located centrally on the lot, with the pit area, clubrooms and canteen located on the south side of the track with access to Yankee Flat Road.

The site contains a Motor Racing Track which includes a pit area, clubrooms, canteen, toilet blocks, viewing areas and the racing track circuit. The west and north sides of the site are generally raised areas that provide public viewing which include parking for spectator vehicles and also spectator seating. Access to these areas is from a north-west entrance also from Yankee Flat Road.

The site has been used as a Speedway for over 50 years. During that time only minor buildings and works have been undertaken. Most of the works on the site have been for driver and spectator safety and operational requirements.

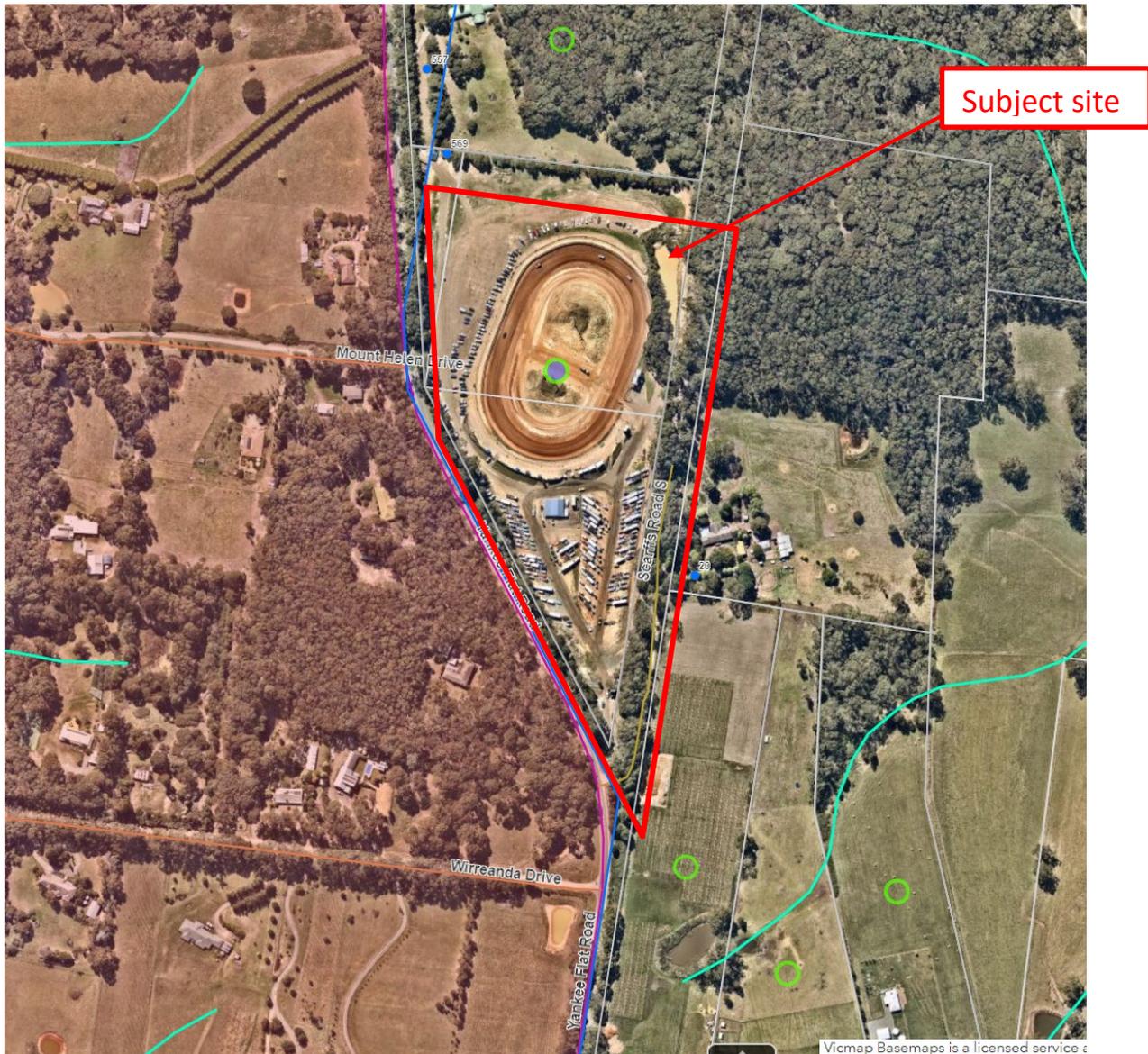


FIGURE 1: AERIAL PHOTO OF THE SITE AND SURROUNDS. PROPOSAL

The proposal includes:

Earthworks

Ongoing earthworks around track to help provide noise barriers and spectator mounds. The applicant claimed earthworks have been ongoing for over 10 years with a previous permit issued for clean fill to build up mounds as sound barriers and diversions. All earthworks would be terraced so as not to interfere with natural flow of water over the complex.

Background Permit number PA2009040 was approved on 24 September 2009 for the development of two infield light towers and 12 smaller light towers around the periphery of the track.

The permit resulted in the two infield light towers being installed in the centre of the racing track, but the 12 smaller light towers were not constructed due to financial constraints. The permit has expired, and new permit require for any further building and works consisting of light poles or towers.

HISTORY

There are two VCAT orders that examined the site in detail.

VCAT order, reference P1917/2006, dated 24 November 2006 [Moorabool Shire Council v Ramsay 2006]

The nature of the proceeding was an application under S.149A of the *Planning and Environment Act 1987* for a declaration in relation to the use of the land.

The resulting declaration was as follows:

'It being admitted that the land being the land and Certificates of Title Volume 9361 Folio 581, Volume 9785 Folio 023 and Volume 9676 Folio 766A enjoys existing use rights for the use of such land for motor race meetings and that such use is not restricted in relation to:

- (a) the use of the land for that purpose on Sundays;*
- (b) the number of race meetings held per year;*
- (c) the number of night or twilight race meetings held per year;*
- (d) the starting or finishing times of such race meetings;*
- (e) the class of races held on the land providing that they are motor race meetings; or*
- (f) the conducting of motor race meetings on days of Total Fire Ban'.*

The declaration confirmed that the Speedway has existing use rights to operate on the land. The tribunal held that there are no planning restrictions, so far as noise or illumination at night is concerned for the existing use.

VCAT Order of significance, Reference P2034/2007 dated 12 December 2007 - Muller v Moorabool CC [2007] VCAT 2374 was in relation to Planning Permit application PA2005129

In this Hearing Council's decision was varied. Specifically, two 31m high light towers were excluded from the permit with 12m multiple light towers around the periphery of the track approved.

Relevant parts of order are as follows:

'Existing use rights are not completely unfettered. Pursuant to the Moorabool Planning scheme clause 63.05, a section three existing use may continue provided no building or works are constructed or carried out without a permit and the amenity of the area is not damaged or further damaged by a change in the activities beyond the limited purpose of the use preserved by the existing use right'.

This decision highlights Council can consider new building and works and ensure the amenity is not further compromised.

The development of two infield light towers and no more than 12 light towers around the periphery of the track, having a height no more than 15m and to rise no more than 12m above natural ground level, was then approved by Planning Permit PA2009040 on 24 September 2009.

The applicant only completed the two infield light towers and did not continue fully with this approval and 12 light towers around the periphery of the track were not completed. The permit has expired for completion of the development. A new permit is required for any new light poles or towers.

PUBLIC NOTICE

This application was notified to adjoining and surrounding landowners on 22 June 2021 and again on 9 November 2021. A total of 30 objections were received.

PUBLIC CONSULTATION

An Online-Consultation was attended by 12 objectors on 10 March 2022. The general discussion and concerns are included in the Summary of Objections below.

SUMMARY OF OBJECTIONS

The objections covered themes, which were also covered further at the Consultation meeting, and which are summarised below.

Objection grounds	
(g) Existing use rights:	
(h)	The objectors stated they were victims of retrospective breeches and retrospective applications.
Officer’s Response: It was made clear that the consultation meeting that this application was not about the Speedway’s right to operate. Existing use of previously been demonstrated by VCAT.	
Earthworks:	
The current earthworks have little effect on the irritating and very loud, continuous noise on days and nights when the races are held.	
The unapproved earthworks had substantially altered the topography, flow of water and drainage to surrounding properties. Countless trucks and hundreds of tonnes of soil delivered to the site during COVID caused dirt on the road, dust, noise and traffic issues in Yankee Flat Road.	
How have the earthworks been allowed when no permit had been issued? Have there been any sanctions?	
Concern was expressed that the fill may have been contaminated with downstream impact on neighbouring land, stock, water tanks and weed infestation. What proof is there that the soil was not contaminated? Not good enough to just take ‘someone’s’ word.	
Objectors wanted information about the source of fill. Wanted to know if fill had been tested: has the soil been analysed and where did it come from?	
Concern was expressed that the operators lacked any regard for due process or neighbours.	
Officer’s Response: Council was alerted to the issues and after investigation advised the operators that they needed a permit for earthworks.	
The relevant catchment authority has reviewed the application documents (including in relation	

to earthworks) and had no objection to the application. Conditions will be placed on any permit to issue for sediment control measures to ensure protection of surrounding water catchments.

Lighting:

Lights facing 'inward' by their nature and the size of the raceway, also face 'outward' on the opposite side of the raceway. These are huge lights and will significantly impact the area. At the very least, we recommend that specific light level limits should be imposed and monitored at appropriate test sites adjacent to the raceway. The lighting options raised considerable concern amongst all objectors. The lights are high and bright.

Why do the big lights need to be on after 11pm?

Officer's Response: At the consultation meeting the operators explained they needed flexibility and a buffer if they turn off the central light towers the track is in darkness which is a safety issue. The six smaller proposed light poles would rectify this issue.

Extension to operating hours / noise:

The 'possibility' of accidents does not justify the extension of the curfew. Longer operating hours, later into the night would increase the risk of accident, not diminish it.

The applicants have very generous rights at the current time; if they cannot manage to finish their events within the current limits, then this does not justify extending the limits.

Objectors felt that meets should start earlier. Why can't the Speedway end at 10pm? Why races cannot start and finish earlier.

Objectors were very concerned that six accidents a year were anticipated, which is not acceptable. It is very hard to believe that The Raceway's repeated history of breaches has anything to do with genuine emergencies. If emergencies are this regular, a complete review of their OHS and operational plans is warranted. Further, an extension is likely to result in more breaches later in the night, there has been zero evidence of past good faith in maintaining a curfew. Later operation is not in the community's best interest or in the best interests of safe operation.

Objectors have a right to be given a cut-off time for noise. The operators treat the neighbours with disrespect.

We live here and sleep here, and the noise means that our sleep is disrupted severely. There must be an end point to the noise. The noise doesn't end at 11pm – people leaving the venue still make noise – for another hour at least.

Objectors wanted information about these controls and how monitored and measured by the operators? Wanted operators to provide this information to Council including standards, calibration and results.

We don't want to see the raceway change, it's not what we signed up for when we purchased our property many years ago. They need to be respectful of their neighbours, finish on time and leave quietly. Not run later, then stay and party on well into the early hours.

Officer's Response:

At the consultation meeting the operators in response stated:

They are not scheduling meetings to run past 11pm and in fact they are scheduled to finish at 10.30pm. Running meetings earlier creates other issues – setting sun angles, dust and light, heat, safety (reflection). On occasion emergency matters cause meeting to be extended. There are many unknowns that are hard to predict, things happen through the meeting that can derail a schedule.

That National Speedway Guidelines govern noise controls at all speedway events, and that if a car was above limit it was black flagged for the rest of the meet. Generally, the Australia wide standard requires the noise is measured from pit gate.

Noise relates to existing use rights.

Other issues:

Why was camping removed? People, such as volunteers, stay on site in caravans anyway.

Rubbish:

Rubbish blows onto neighbouring properties. The rubbish bins provided were not sufficient.

(i) Trespass on private land:

Redline patrons' trespass onto neighbouring properties and steal wood. Redline should respond to this and deal with it.

Officer's Response: At the Consultation meeting the operators stated that no camping would be permitted on the site. They also stated that they will act on consultant recommendations in relation to plumbing alarms on float pumps.

Trespassing is not a planning consideration and needs to be dealt by Victoria Police.

LOCALITY MAP

The map below indicates the location of the subject site and the zoning of the surrounding area.

FARMING ZONE (FZ)

SCHEDULE TO THE FARMING ZONE (FZ)

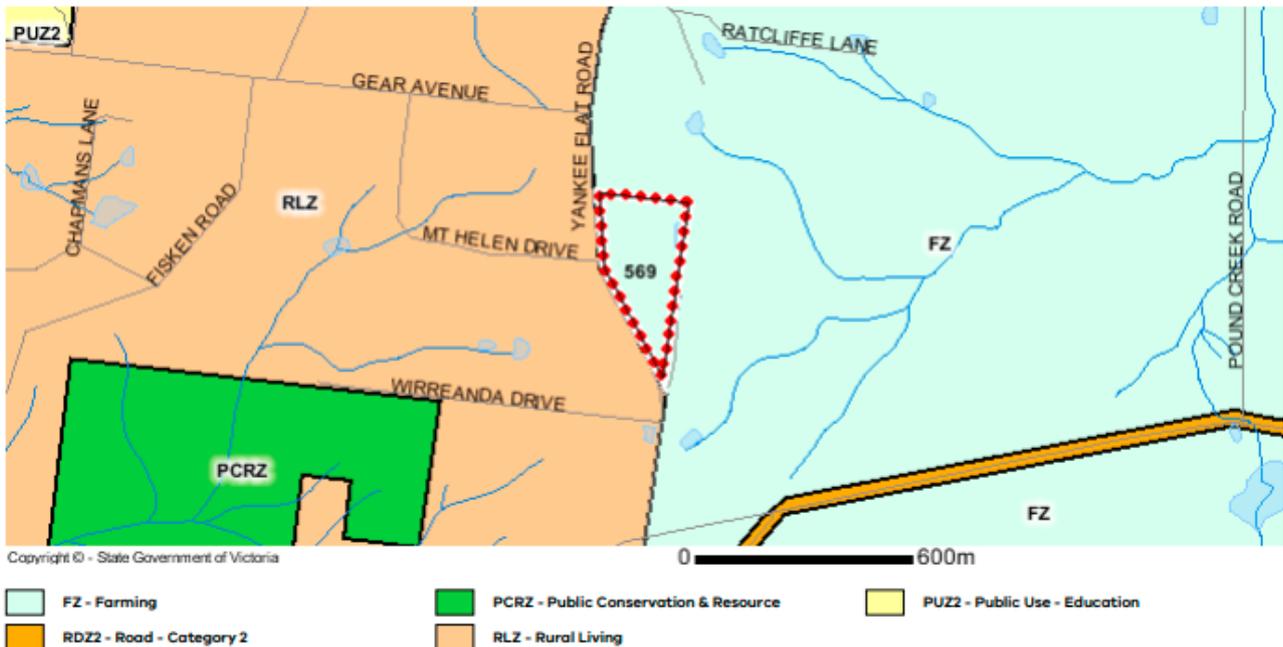


Figure 3: Zone map of the site and surrounding area.

PLANNING SCHEME PROVISIONS

Council is required to consider the Victoria Planning Provisions and give particular attention to the Planning Policy Framework (PPF), the Local Planning Policy Framework (LPPF) and the Municipal Strategic Statement (MSS).

The proposal complies with broad objectives of these planning policies for building and works.

ZONE

Farming Zone

In accordance with Clause 35.07-4 of the Moorabool Planning Scheme a permit is required for earthworks which change the rate of flow across a property boundary.

In accordance with Clause 35.07-4 a permit is required for buildings and works (light poles).

OVERLAYS

Environmental Significance Overlay, Schedule 1 (ESO1)

In accordance with Clause 42.01 a permit is required for earthworks.

Design and Development Overlay, Schedule 2 (DDO2)

In accordance with Clause 43.02 a permit is required if reflective material is to be used for the construction of buildings or works. In this instance a permit is not triggered by the DDO2 due to non-reflective materials of the light poles.

Bushfire Management Overlay

In accordance with Clause 44.06 a permit is not triggered by this application.

RELEVANT POLICIES

There are no Council policies relevant to this application.

Particular Provisions

None apply.

DISCUSSION

The Speedway enjoys existing use rights for motor race meetings, the use has been in operation for in excess of 50 years.

The application for assessment proposes buildings and works (earthworks and six light poles) and extension of operating hours (from 11pm to 11:59pm). The use of the site for motor race meetings is not being considered as a part of this assessment.

The Speedway is required to cease racing at 11pm, this application does not alter the operating hours with respect to racing. The proposed light poles are proposed to provide additional illumination between the hours of 11pm-11:59pm. The two existing central light towers (approved under Planning Permit PA2009040) will remain unchanged and must be switched off at 11pm.

Six Lights Poles

The application seeks approval for the development of six light poles (in addition to the existing infield light towers). The poles are proposed to be installed around the periphery of the track, each pole will be fitted with 1000W LED stadium lights, directed inwards to the track. The illumination of the proposed six light poles is lower than the existing two lights within the centre of the track.

Given the limited extent of lighting around the track at present, the proposed light poles will enable safe use, clean-up and existing of the site after 11pm (only for extenuating circumstances with a maximum of six times a year).

Extension of operating hours

The application seeks permission to extend the time which illumination is permitted on site. The current operation is only permitted to have illumination to 11pm, this is currently provided by two central light towers in the centre of the track.

The application submits that provision is needed to allow lighting from 11pm to 11:59pm in extenuating circumstances. The extenuating circumstances have been identified as accidents which hold up the meet, or other unforeseen circumstances where a meet may run overtime. The proposed light poles will allow patrons to pack up and leave the site safely.

Conditions will be placed on any permit to issue to ensure that the proposed illumination can only operate for extended hours (between 11pm-11:59pm) for patron safety reasons, for a limited number of occasions each year, with evidence to be submitted following each instance. The track lights should be set up so that each light can be independently operated such that minimal lighting is used to clear the track assist in patrons able to exit the site in orderly manner. Permit condition including detailed lux levels should ensure there are no additional unreasonable amenity impacts.

Earthworks

It is acknowledged that the soil brought onto the site and resulting earthworks, were undertaken without the required planning approval. The resulting elevated areas on the north and west side of the track has been smoothed off and has provided raised viewing areas for spectators. There will be a condition regarding earthworks on any permit to issue.

The soil was sourced from Department of Transport (formerly VicRoads) road works, but no certificates were provided. Given the non- sensitive use and development of the land, conditions

from the catchment authority and separation of the fill from adjoining properties, retrospective testing of the fill will not be required in this instance.

The relevant catchment authority has reviewed the application documents and had no objection to the application. One of their conditions is for sediment controls measure which will protect the surrounding water catchment.

Other amenity considerations

The Speedway over the years has received many complaints mostly relating to noise. National Speedway Guidelines govern noise controls at all speedway events and the operators are aware of these limits. There were no specific use conditions controlling noise and proposed works limited to earthworks and light poles which do not generate noise.

GENERAL PROVISIONS

Clause 65 - Decision Guidelines have been considered by officers in evaluating this application.

Clause 66 - Stipulates all the relevant referral authorities to which the application must be referred.

REFERRALS

Authority	Response
Central Highlands Water	Consent, with conditions
Council's Development Infrastructure Environmental Health Strategic Planning	Consent, with conditions Consent, with conditions – these conditions were not included in the permit to issue as they did not relate to the application for consideration, rather, the existing use and amenity management generally. Consent, no conditions.

FINANCIAL IMPLICATIONS

The recommendation of approval of this application has no financial implications to Council. However, the objectors may seek Review at VCAT with associated costs to Council.

RISK & OCCUPATIONAL HEALTH & SAFETY ISSUES

The recommendation of approval of this application does not implicate any risk or OH&S issues to Council.

COMMUNICATIONS STRATEGY

Notice was undertaken for the application, in accordance with s.52 of the *Planning and Environment Act 1987*, and further correspondence is required to all interested parties to the application as a result of a decision in this matter. All submitters and the applicant were invited to attend this meeting and invited to address the Development Assessment Committee if required.

OPTIONS

- Issue a Notice of Decision to Grant a Permit in accordance with the conditions included in this report or

- issue a Notice of Decision to Grant a Permit with variations to the conditions included in this report or
- issue a Refusal to Grant a Permit with grounds. Council would need to consider how the development does not comply with the Moorabool Planning Scheme.

CONCLUSION

The Speedway has operated on the site for over 50 years. The proposed works improve the existing operation and provide increased safety for drives and the movement of spectators during the night hours. It has been determined by VCAT that the use of land for motor racing has existing use rights.

Objector concerns such as existing traffic, light emissions, noise and crowds cannot be considered in determining this current application.

The proposed earthworks comply with the objectives of the Environmental Significance Overlay Schedule 1 and the six lights poles can be conditionally approved as there is no increased amenity impacts. The operating hours for light poles can allow for improved safety while not adversely affecting surrounding properties. The proposed works to an existing speedway is consistent with the planning scheme controls. It is recommended the application be supported.

12.2 PA2021272 BUILDINGS AND WORKS COMPRISING ADDITIONAL SHOPS AND OFFICES, ALTERATION OF ACCESS TO A ROAD IN A TRANSPORT ZONE 2, DISPLAY OF SIGNAGE AND A REDUCTION IN CAR PARKING (72 CAR SPACES) AT 176 MAIN STREET, BACCHUS MARSH

Author: Thomas Tonkin, Statutory Planner

Authoriser: Henry Bezuidenhout, Executive Manager Community Planning & Development

Attachments: 1. Proposed plans (under separate cover)
2. Proposed landscape plans (under separate cover)

APPLICATION SUMMARY

Permit No: PA2021272

Lodgement Date: 7 December 2021

Planning Officer: Tom Tonkin

Address of the land: 176 Main Street, Bacchus Marsh

Proposal: Buildings and works comprising additional Shops and Offices, Alteration of access to a road in a Transport Zone 2, display of signage and a Reduction in Car Parking (72 car spaces)

Lot size: 4.255ha

Why is a permit required? Clause 34.01 Commercial 1 Zone - Buildings and works
Clause 43.02 Design and Development Overlay, Schedule 11 – Buildings and works
Clause 44.04 Land Subject to Inundation Overlay - Buildings and works
Clause 52.05 – Display of Business Identification Signage, including Internally Illuminated Signage
Clause 52.06 Car Parking - Reduction of car parking
Clause 52.29 Land Adjacent to the Principal Road Network – Alteration of access to a road in a Transport Zone 2

RECOMMENDATION

That the Council, having considered all matters as prescribed by the *Planning and Environment Act 1987*, advises VCAT that it would not support PA2021272 for Buildings and works comprising additional Shops and Offices, Alteration of access to a road in a Transport Zone 2, display of signage and a reduction in car parking (72 car spaces) at Lot 1 on PS 733215Q known as 176 Main Street, Bacchus Marsh, on the following grounds:

1. The proposed development does not align with the Municipal Planning Strategy in the Moorabool Planning Scheme due to its layout and internal functioning.
2. The proposed development does not align with all relevant clauses of the Planning Policy Framework in the Moorabool Planning Scheme.
3. The proposed development is inconsistent with the purpose and decision guidelines of

Clause 34.01 (Commercial 1 Zone) of the Moorabool Planning Scheme.

4. **The proposed development is inconsistent with the design objectives of Clause 43.02, Schedule 11 (Design and Development Overlay, Schedule 11) of the Moorabool Planning Scheme.**
5. **Insufficient information is provided to enable a proper assessment of proposed signage which requires a permit under Clause 52.05-11 of the Moorabool Planning Scheme.**
6. **The layout and design of proposed car parking areas do not meet the purpose or decision guidelines of Clause 52.06 of the Moorabool Planning Scheme.**
7. **The proposed bicycle facilities do not satisfy the provisions of Clause 52.34 of the Moorabool Planning Scheme.**

PUBLIC CONSULTATION	
Was the application advertised?	Yes.
Notices on site:	Yes, five notices.
Notice in Moorabool Newspaper:	No.
Number of objections:	27.
Consultation meeting:	No.

POLICY IMPLICATIONS

The Council Plan 2021-2025 provides as follows:

Strategic Objective 2: Liveable and thriving environments

Priority 2.4: Grow local employment and business investment

VICTORIAN CHARTER OF HUMAN RIGHTS & RESPONSIBILITIES ACT 2006

In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited, restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.

OFFICER’S DECLARATION OF CONFLICT OF INTERESTS

Under section 130 of the *Local Government Act 2020*, officers providing advice to Council must disclose any interests, including the type of interest.

Executive Manager – Henry Bezuidenhout

In providing this advice to Council as the Executive Manager, I have no interests to disclose in this report.

Author – Tom Tonkin

In providing this advice to Council as the Author, I have no interests to disclose in this report.

EXECUTIVE SUMMARY

Application referred?	Yes, to Melbourne Water and Department of Transport and Planning and to Council’s Development Infrastructure, Strategic Planning, Economic Development and Community Health and Safety.
Any issues raised in referral responses?	Council’s Development Infrastructure and Strategic Planning requested further information.
Preliminary concerns?	<p>The proposed reduction in car parking spaces and reliance on car parking spaces for loading and unloading associated with commercial premises. Implications if car spaces are already occupied and the consequential impacts on traffic flow and safety.</p> <p>Additionally, further information was requested including an economic demand analysis, urban design assessment, stormwater management strategy, amended traffic impact assessment, assessment of the design of access and egress for the Zone C car parking area regarding Clause 52.06, opportunities to improve pedestrian and cyclist connectivity and measures to improve the efficient use of car parking spaces.</p>
Any discussions with applicant regarding concerns?	Council officers wrote to the applicant regarding the abovementioned concerns.
Any changes made to the application since being lodged?	<p>Regarding the preliminary concerns, the only changes made to the application were related to stormwater management.</p> <p>The application was formally amended on 10 October 2022 in response to objections and subsequent feedback from Council officers. These amendments did not address Council’s concerns.</p>
Brief history.	Not applicable.
Previous applications for the site?	<p>PA2012082 – Use of an existing retail premises as an indoor recreation facility (fitness centre) and illuminated signage was approved under delegation on 31 July 2012.</p> <p>PA2013266 – Buildings and works associated with an existing shopping centre was approved under delegation on 3 December 2013.</p> <p>PA2014085 – Buildings and works associated with an existing shopping centre, waiver of car parking and creation of access to a Road Zone, Category 1 was approved under delegation on 26 September 2014.</p> <p>PA2014098 – Buildings and works associated with an existing retail shopping centre (gymnasium) was</p>

	<p>approved under delegation on 1 October 2014.</p> <p>PA2015215 – Two (2) lot subdivision and removal of easements was approved under delegation on 18 November 2015.</p> <p>PA2015245 – Display of business identification signage, including internally illuminated signage was approved under delegation on 23 November 2015.</p> <p>PA2017140 – Use for service industry (hand car wash) and display of business identification signage was approved under delegation on 2 July 2018.</p>
<p>General summary.</p>	<p>The application proposes to expand the shopping centre complex to create 930sqm of office floorspace and an additional 1,596sqm of retail floorspace, provide new car parking areas, alter vehicle access to Main Street, display signage and reduce the statutory car parking requirement by 72 spaces.</p> <p>The application was advertised, and 27 objections were received raising concerns including pedestrian access and amenity, car parking and changes to vehicle access.</p> <p>In response to objections and feedback from Council officers, the application was amended to make changes to the plans which did not substantially address the concerns previously raised.</p> <p>Following extensive consultation between the permit applicant and Council officers, the applicant did not want to make substantial changes to Zone C section of the development. On 20 March 2023 an application was lodged with VCAT under Section 79 of the <i>Planning and Environment Act 1987</i> on behalf of the permit applicant in response to Council’s failure to determine the application within the statutory timeframe.</p> <p>Overall, the proposal is not aligned with relevant planning policies as contained in the Moorabool Planning Scheme broadly relating to urban design and amenity, especially pedestrian safety and amenity, the provision of safe and convenient car parking and the lack of information regarding proposed signage.</p>
<p>Summary of Officer’s Recommendation</p>	
<p>That, having considered all relevant matters as required by the <i>Planning and Environment Act 1987</i>, Council advises VCAT that it would not support PA2021272 for Buildings and works comprising additional Shops and Offices, Alteration of access to a road in a Transport Zone 2, display of signage and Reduction in Car Parking (72 car spaces) at Lot 1 on PS 733215Q known as 176 Main Street, Bacchus Marsh, on the grounds included in this report.</p>	

SITE DESCRIPTION

The subject site, identified as Lot 1 on PS 733215Q and known as 176 Main Street, Bacchus Marsh, is an irregular shaped parcel comprising the Bacchus Marsh Village Shopping Centre complex. The site is located on the north side of Main Street, bound by Bennett Street to the north and partially, by Young and Gell Streets to the east and west respectively. Existing vehicle access and egress is via crossovers to Main, Young and Bennett Streets.

An internal road runs north-south through the site from Main Street to Bennett Street, providing access to car parking areas located along the western portion of the site, with a two-storey car park on the northeast part of the site abutting Bennett and Young Streets. Loading access to the shopping centre is from Young Street.

There are 729 existing on-site car parking spaces, including six DDA compliant parking spaces.

The existing shopping centre is a free-standing centre, anchored internally by large supermarket retailers Coles and Aldi supported by smaller specialty shops.

The proposed development is broken into three specific areas. A detailed description of the existing condition, identified on the submitted plans as Zones A, B and C, are as follows:

Zone A

Zone A relates to a section of land to the north-west of the Shopping Centre, with street frontage to Bennett Street to the north. The south and east boundaries of Zone A face internally to the surface car park and access roads. The west boundary of Zone A abuts a service station in separate ownership located on the corner of Bennett and Gell Streets.

Zone B

Zone B relates to vacant undeveloped land fronting Gell Street along its west boundary and interfacing with the Shopping Centre car park to its east boundary. The frontages to the east and west feature a chain high mesh security fence. The allotment includes grass coverage and a cluster of mature trees along the northern boundary. This vacant lot abuts commercial development in separate ownership to both the north and south. Zone B currently has no functional role for the shopping centre.

Zone C

Zone C currently accommodates an at grade car park ringed by pedestrian footpaths. The car park includes vehicular access to Main Street to the south, although most of the car park is located behind single storey retail premises fronting Main Street.

The Zone C car park is accessed from the north-west via a single width undercroft access lane. Vehicle traffic through the car park is currently managed in a one-way system, where vehicles enter from the north-west and exit south onto Main Street. The car park comprises 24 car spaces, including two DDA compliant car spaces, plus an additional space for emergency vehicles (not shown on the plans). Of the 12 car spaces to the immediate rear of the premises fronting Main Street, six are signposted and line marked as a loading zone and the other six are dedicated spaces for the Elms Medical Centre.

The current key site interface conditions for the Zone C car park are as follows:

- The main pedestrian entrance to the shopping centre along its southern elevation is located immediately to the east of the current Main Street vehicle crossover exiting the Zone C car park.

- A predominantly blank ‘back of house’ elevation of the shopping centre is located to the north of the Zone C car park.
- A ‘back of house’ elevation of the shopfronts facing Main Street is located to the south of the Zone C car park and includes storage of waste and recycle bins on the adjacent pedestrian footpath.
- The rear elevation of a Pharmacy, Post Office and dedicated store front accommodating the Post Office Boxes are located along the east of the Zone C car park.
- The front elevations of a Medical Centre, chiropractic clinic and public toilets are located to the west side of the Zone C car park.

In terms of activity, Zone C functions as a small commercial node with both commercial frontages and back of house activities. But as these are framed around a small, open at grade car park further ringed by pedestrian footpaths, it allows pedestrian visibility and access to the medical centre and Post Office Boxes from Main Street, and the Shopping Centre car park to the northwest.

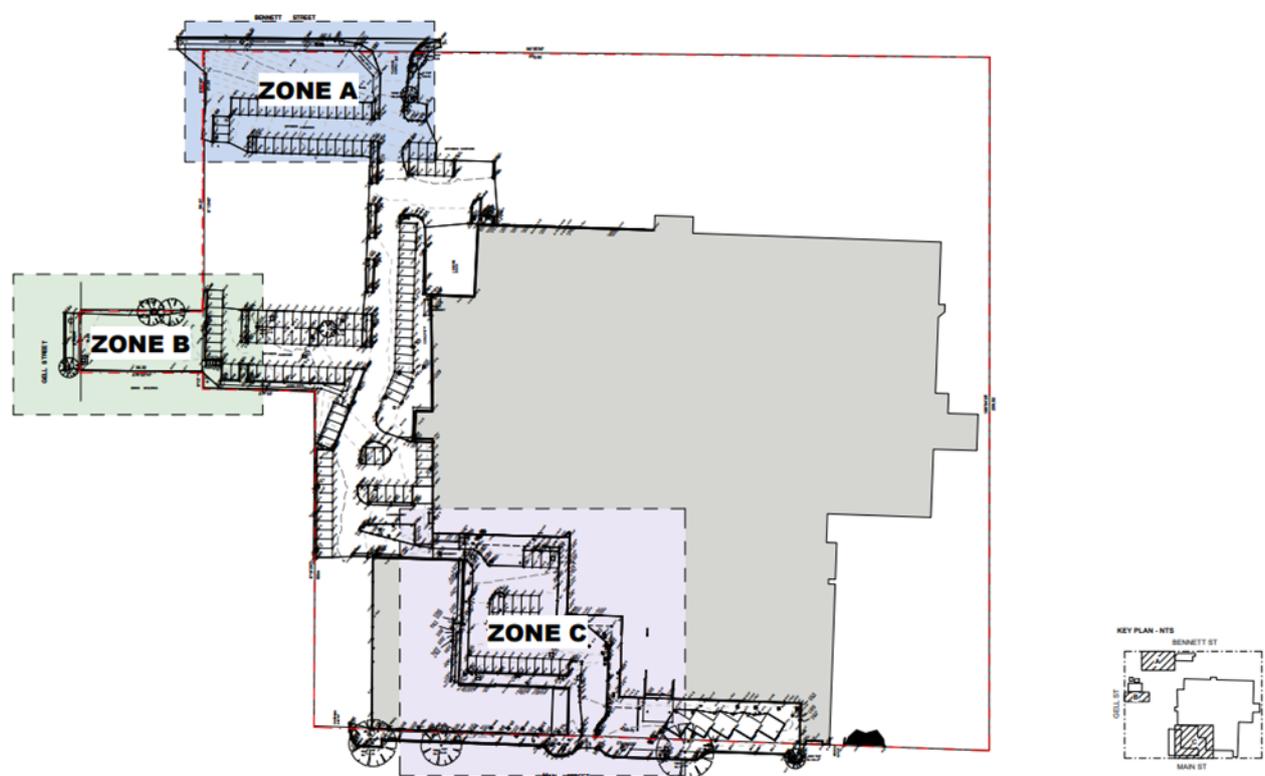


Figure 1: Map highlighting the existing conditions of those areas subject to proposed development.

Surrounding area

The subject site and surrounding land to the south, west and in part to the east is in the Commercial 1 Zone and forms part of the Bacchus Marsh Main Street Activity Centre, developed for a mix of commercial and community uses. To the north of the site, across Bennett Street, is land in the General Residential Zone, Public Park and Recreation Zone and Public Use Zone respectively developed for a mix of uses including dwellings, a senior citizens centre, public park and childcare centre. To the east of the site, across Young Street and north of Malcolm Street, is land in the General Residential Zone developed with detached dwellings.

Main Street is in a Transport Zone 2 managed by the Department of Transport and Planning whilst Bennett and Young Streets are in a Transport Zone 3 managed by Council.



Figure 2: Aerial map.

PROPOSAL

It is proposed to develop parts of the subject site for additional office and shop floorspace, develop part of the site for additional car parking spaces, reconfigure existing car parking, remove the vehicle egress crossover to Main Street, display business identification signage including internally illuminated signage and reduce the statutory car parking requirement by 72 spaces.

The proposed development would occur in three separate areas of the site, described as follows:

Zone A

- The development of a double storey commercial building to be sited on the north, east and west boundaries of Zone A, including the removal of five existing trees.
- The building's predominant height above NGL is between 8.3m (at the north-east corner) to 10.3m (at the north-west corner).
- The proposed commercial building includes six ground floor retail tenancies for use as shops, each with a floorspace area of between 75-88 sqm, with main frontages to Bennett Street (to the north) and windows facing the existing car park to the south.
- An awning over the footpath is provided along the northern elevation facing Bennett Street.

- Ten first floor commercial tenancies for use as Offices, each with a floorspace area of between 50-97 sqm, with windows on the north, south and east facades.
- A centrally located ground floor lobby with access from Bennett Street to the north and the Shopping Centre car park to the south, including stairs and a lift to access the first floor.
- A first-floor lobby, including toilet, shower and tea-point facilities.
- A ground level refuse storage area, sited to the western boundary.
- The upper storey of the building would be cantilevered above the northern row of car parking spaces in Zone A to the rear of the building.
- The removal of two existing car parking spaces in Zone A, with one of these lost by converting two existing car parking spaces to one DDA compliant car space.
- The installation of new paved footpath areas (minimum width approx. 1.35m) to the southern elevation of the proposed building.
- The design of the building would be contemporary in style, including large areas of glazed façades along the north, south and east elevations.
- The proposed material for external elevations includes a combination of solid metal panel cladding: mid grey with vertical articulation; Metal finish: black and dark grey; Aluminium louvres; Wood look panels; Render finish; and Clear glazing with aluminium frames.
- Areas for non-illuminated (business identification) signs allocated on the north and east elevations.
- Waste removal from the designated refuse storage area would be via the car park to the rear of the proposed building. There is no dedicated parking space for waste collection vehicles and collection is proposed to occur outside of peak hours.

Zone B

- The construction of a new east-west road access way (car park aisle), including a new vehicle 6.4m wide crossover and connection from Gell Street through to the existing Shopping Centre car park including removal of existing trees onsite.
- Removal of 4 existing car parking spaces to enable the construction of 26 additional car parking spaces (13 spaces to the north and 13 spaces to the south of the proposed accessway).
- The removal and replacement of the existing street tree within the Gell Street nature strip.
- The planting of 17 new trees
- Integration of the proposed car park with the existing car park would result in the loss of four existing car spaces.

Zone C

- The removal of the existing vehicle access (egress only) to Main Street, providing for the installation of two additional on-street car spaces.
- The construction of 1,100m² of additional retail floorspace for a single retail premises over most of the existing car park, which will functionally 'close the gap' between existing retail tenancies to the west and the main pedestrian entrance to the Shopping Centre to the east.

- The existing car park comprising 24 car spaces (including two DDA compliant car spaces) and one designated emergency vehicle parking space (not shown on the plans) reconfigured to reduce to 16 car spaces, not including the reinstatement of any DDA compliant car spaces.
- The proposed new car park would be located behind the new retail floorspace, accessed via the existing single lane accessway to the northwest.
- An undercover pedestrian access corridor approximately 65m long and 2.5m wide is proposed, providing a pedestrian link between Main Street and the reconfigured Zone C car park. The access corridor would have a shared ‘back of house’ role for the existing Main Street shops.
- The proposed access corridor would include secure gates at the Main Street and Zone C car park interfaces, which are indicated to be locked outside of (unspecified) business hours.
- The proposed development of Zone C would result in the loss of eight existing on-site car spaces plus the designated emergency vehicle parking space.

Additionally, it is proposed to display business identification signage, including internally illuminated signage, as per the table below:

Sign	Size	Illumination
Zone A building		
1 x above awning (west elevation)	3m x 4.2m	Non-illuminated
1 x above awning	5.6m x 1.95m	Non-illuminated
1 x above awning	6m x 3.8m	Non-illuminated
6 x under awning	Not specified	Internally illuminated
Zone C building		
3 x above awning	3.43m x 0.6m	Non-illuminated
3 x under awning	Not specified	Internally illuminated

No proposed sign contents or other details were submitted with the application.

The proposal would result in the provision of 12 new on-site car spaces. The statutory car parking requirement for 84 spaces based on the additional floor area would be reduced to a total reduction 72 car spaces compared to the minimum statutory requirement.

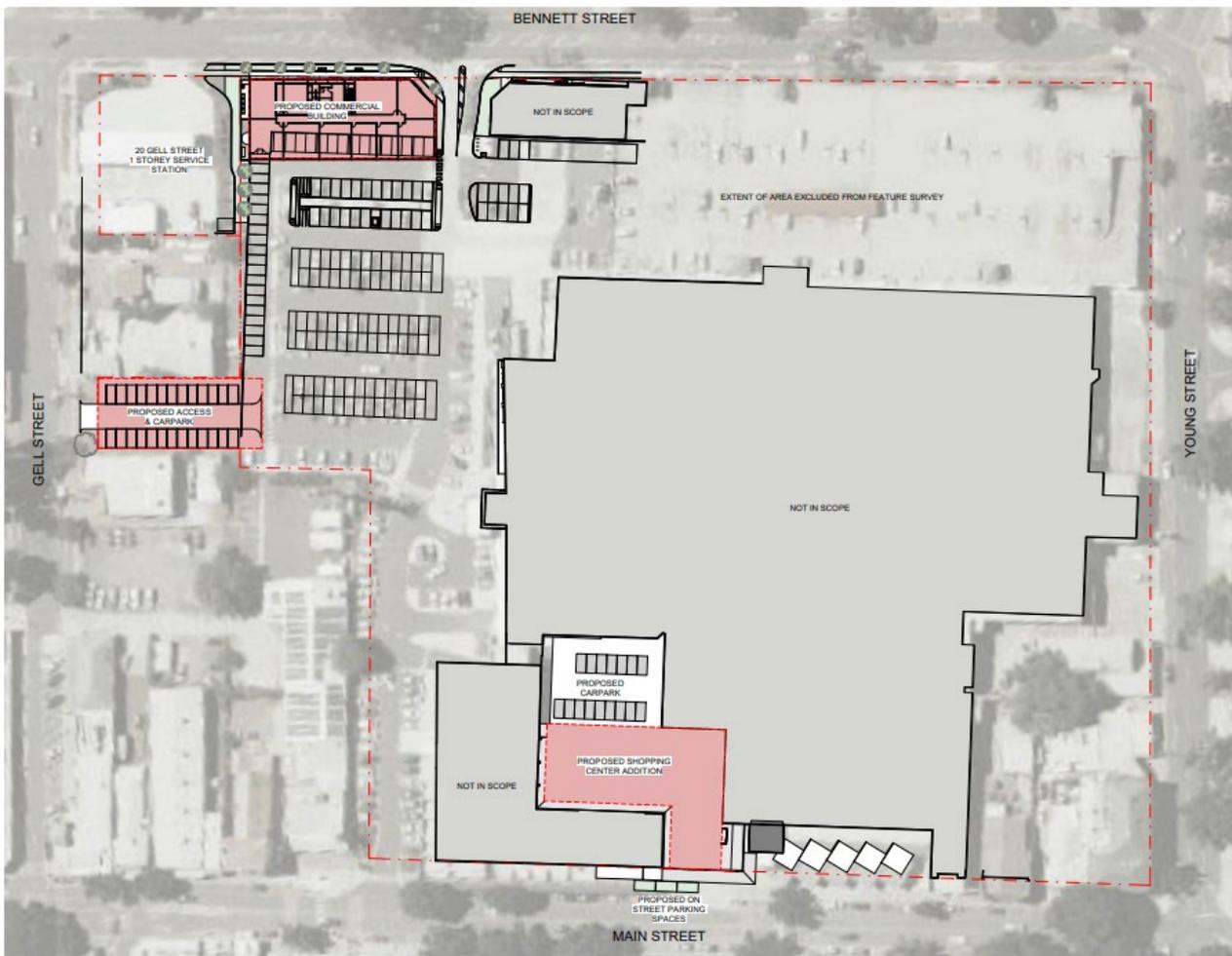


Figure 3: Proposed site plan highlighting the three areas of proposed development.



Figure 4: Artist impression of proposed Zone A development, as viewed from Bennett Street.



Figure 5: Artist impression of proposed Zone C development, as viewed from Main Street.

BACKGROUND

The site is occupied by an existing shopping centre.

HISTORY

Not applicable.

PUBLIC NOTICE

Notice of the application was given to the owners and occupiers and five signs erected on site at the main pedestrian entry points to the existing building.

Twenty-seven objections were received.

SUMMARY OF OBJECTIONS

The objections received are detailed below with officer’s comments:

Objection	Any Relevant Requirement
Reduced pedestrian safety and amenity for patients accessing the existing medical centre in Zone C.	Clauses 02.03-5, 11.01-1L-02, 11.03-1S, 11.03-1L, 15.01-1S, 34.01, 43.02, 52.06 and 65.01.
<p>Officer’s Response: Pedestrian safety and amenity are compromised in Zone C. See ‘Discussion’ below.</p>	

<p>The loss of car parking and passenger drop off space in Zone C, impacting on patients of the existing medical centre in Zone C.</p>	<p>Clauses 52.06 and 65.01.</p>
<p>Officer’s Response: The loss of car parking and a passenger drop off space close to the medical centre is addressed in the ‘Discussion’ below.</p>	
<p>Lack of parking for ambulances accessing the medical centre, compromised access via the single width access/egress point and reduced visibility of the medical centre.</p>	<p>Clauses 02.03-5, 15.01-1S, 15.01-2S, 34.01, 43.02, 52.06 and 65.01.</p>
<p>Officer’s Response: See ‘Discussion’ below.</p>	
<p>The design and location of the proposed pedestrian corridor between Main Street and the Zone C car park compromises pedestrian safety.</p>	<p>Clauses 02.03-5, 11.01-1L-02, 11.03-1S, 11.03-1L, 15.01-1S, 34.01, 43.02 and 65.01.</p>
<p>Officer’s Response: Notwithstanding the applicant’s amendments to the design of the proposed pedestrian corridor to improve safety and amenity, its location and design is deemed to be a poor design outcome.</p>	
<p>The design of Zone C’s open area (car park) poses a potential security risk to property, patients, and staff. The enclosed nature of this area increases the risk of vandalism, crime, and anti-social behaviour.</p>	<p>Clauses 02.03-5, 11.01-1L-02, 11.03-1S, 11.03-1L, 11.03-3S, 15.01-1S, 15.01-2S, 18.01-3L, 18.02-1S, 34.01, 43.02 and 65.01.</p>
<p>Officer’s Response: The design and layout of Zone C provides insufficient opportunities for passive surveillance of the car park and adjoining uses including the medical centre and post office boxes and is deemed to be a poor urban design outcome.</p>	
<p>The location of the proposed loading bay adjacent to the existing medical centre entry compromises patient safety and amenity. Furthermore, there is limited detail as to the proposed adjoining retail premises’ waste disposal arrangements, but it is implied to be at the rear of the premises also adjoining the medical centre entry. This arrangement would also negatively impact the amenity of the medical centre.</p>	<p>Clauses 02.03-5, 11.03-3S, 15.01-1S, 15.01-2S, 34.01, 43.02 and 65.01.</p>
<p>Officer’s Response: The application states that waste removal for the proposed development in Zone C would be as per existing arrangements, apart from greater frequency of collection if needed. Otherwise,</p>	

no other details are provided. The design of Zone C does not adequately resolve how the proposed loading bay would be managed or the back of house functions of the proposed car park for existing and proposed premises. The applicant has not demonstrated the proposal will not cause off site impacts through waste disposal.	
The proposed vehicle and pedestrian access and egress arrangements for Zone C are limited and would not cater appropriately to the volume of people typically accessing the existing medical centre.	Clauses 02.03-5, 11.01-1L-02, 11.03-1S, 11.03-1L, 15.01-1S, 34.01, 43.02, 52.06 and 65.01.
Officer's Response: The design and layout of Zone C is poorly arranged for access and egress.	
The design and layout of Zone C reduces emergency egress in the event of an emergency given there are only two narrow travel routes from the car park area.	Clauses 02.03-5, 11.03-3S, 15.01-1S, 15.01-2S, 34.01, 43.02, 52.06 and 65.01.
Officer's Response: The design and layout of Zone C is not designed to cater for emergency access.	
Provision of a single width two-way vehicle accessway to Zone C is impractical and dangerous.	Clauses 02.03-5, 15.01-1S, 15.01-2S, 34.01, 43.02, 52.06 and 65.01.
Officer's Response: The design and layout of Zone C is poorly arranged.	
Overstay parking is currently an issue for patients of the existing medical centre, contrary to the traffic impact assessment submitted with the application. Furthermore, it is doubted that future monitoring and review of this situation would occur, given centre management's previous advice that the issue was insoluble.	Clause 52.06.
Officer's Response: If a permit is to issue a condition of approval could include the requirement for a Car Parking Management Plan to include the monitoring and review of overstay parking and suitable measures to address this issue.	
Removal of vehicle egress to Main Street will increase traffic congestion in Gell, Young and Bennett Streets.	Clauses 52.06, 52.29 and 65.01.
Officer's Response: Traffic impacts to existing streets and the adverse congestion problems are noted.	
The design of Zone C would have a detrimental economic impact on the Elms	Clauses 17.01-1S, 17.01-1R and 65.01.

<p>Family Medical Centre due by impeding patient access and reducing business visibility resulting in reduced business income. There has been no consultation by the shopping centre management.</p>	
<p>Officer’s Response: Any direct economic impact of the proposed development has not been quantified. See ‘Discussion’ below.</p>	
<p>Current Australia Post operations rely on access to the Zone C car park which provides access for multiple delivery vehicles, access to >1,100 post office boxes and customer access for collection of heavy or bulky parcels. Neither the proposed pedestrian corridor or single lane vehicle access/egress would adequately compensate for the current pedestrian, vehicle access and parking arrangements.</p>	<p>Clauses 02.03-1, 11.03-1S, Clause 15.01-1S, 17.01-1S, 17.01-1R, 34.01, 43.02, 52.06 and 65.01.</p>
<p>Officer’s Response: Access to the post office boxes would become more difficult as a result of the development.</p>	
<p>The existing Zone C car park is the closest access point for patrons to access centre management for use of wheelchairs for hire to use in the shopping centre.</p>	<p>Clauses 02.03-5, 11.01-1L-02, 11.03-1S, 11.03-1L, 15.01-1S, 34.01, 43.02 and 65.01.</p>
<p>Officer’s Response: Pedestrian accessibility and amenity concerns are considered valid based on the design and layout.</p>	
<p>Loss of space for tree planting.</p>	<p>Clauses 15.01-1S and 65.01.</p>
<p>Officer’s Response: There are acceptable opportunities for replacement tree planting in Zones A and B as shown on the landscape plan submitted with the application.</p>	
<p>The layout of Zone B needs to include a pedestrian footpath connecting Gell Street to the existing footpath network in the shopping centre car park. The footpath must also be designed to prevent parked vehicles from obstructing prams using the footpath.</p>	<p>Clauses 02.03-5, 11.01-1L-02, 11.03-1S, 11.03-1L, 15.01-1S, 34.01, 43.02, 52.06 and 65.01.</p>
<p>Officer’s Response: The proposed design of Zone B does not adequately provide for safe pedestrian access.</p>	
<p>Loss of car parking.</p>	<p>Clause 52.06.</p>
<p>Officer’s Response:</p>	

See 'Discussion' below.

LOCALITY MAP

The map below indicates the location of the subject site and the zoning of the surrounding area.

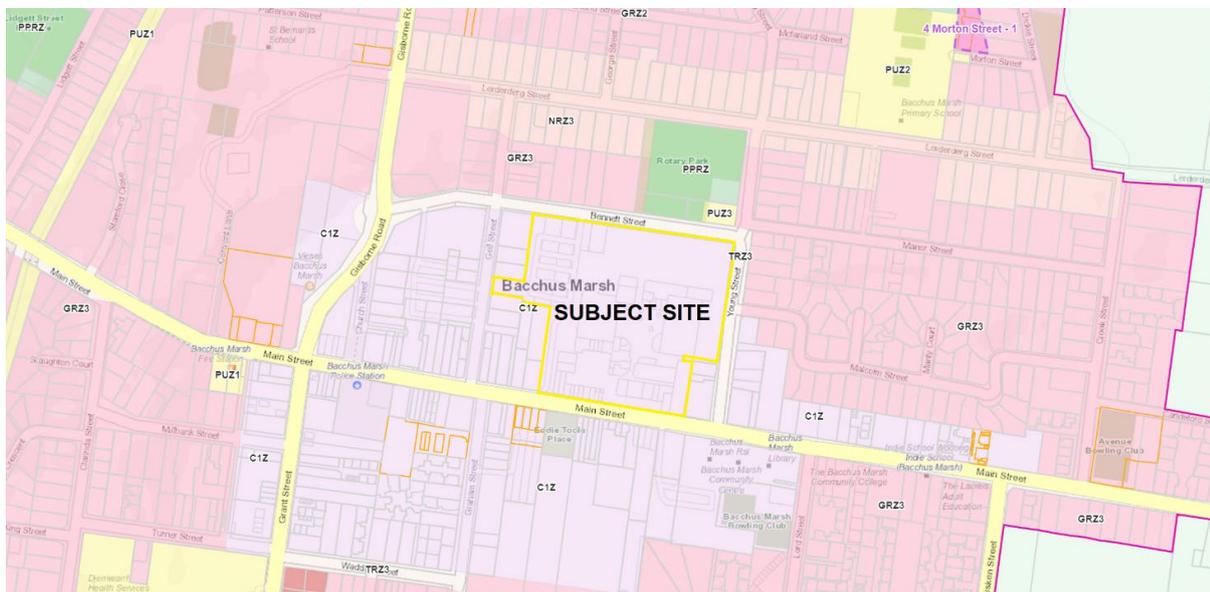


Figure 6: Zone map.

PLANNING SCHEME PROVISIONS

Council is required to consider the Victoria Planning Provisions and give particular attention to the Municipal planning strategy and Planning Policy Framework (PPF).

The relevant clauses are:

- Clause 02.03-1 - Settlement, including Bacchus Marsh
- Clause 02.03-5 - Built environment and heritage
- Clause 02.03-7 - Economic development, including Local employment
- Clause 11.01-1L-01 - Settlement in Moorabool
- Clause 11.01-1L-02 - Bacchus Marsh
- Clause 11.03-1S - Activity centres
- Clause 11.03-1L - Activity centres
- Clause 11.03-3S - Peri-urban areas
- Clause 13.03-1S - Floodplain management
- Clause 15.01-1S - Urban design
- Clause 15.01-1L - Urban design
- Clause 15.01-2S - Building design
- Clause 15.01-5L - Landscape and neighbourhood character
- Clause 17.01-1S - Diversified economy

- Clause 17.01-1R - Diversified economy – Central Highlands
- Clause 17.02-1S - Business
- Clause 18.01-3L - Sustainable personal transport
- Clause 18.02-1S - Walking

In assessing it against the relevant sections of the Municipal planning strategy and PPF, the following significant non-compliances were identified:

Municipal planning strategy and PPF assessment

Clause	Title	Response
Clause 02.03-1	Settlement (including Bacchus Marsh)	Overall, the proposed urban design features do not positively contribute to the character of the town.
Clause 02.03-5	Built environment and heritage	Overall, the proposed development does not positively contribute to the amenity of the area and provides for poor internal accessibility.
PPF		
Clause 11.01-1L-02	Bacchus Marsh	Overall, the proposed design does not support the creation of a pedestrian scale environment.
Clause 11.03-1S	Activity centres	Aspects of the design and layout do not sufficiently improve pedestrian access to services and facilities.
Clause 11.03-1L	Activity centres	Some of the proposed design elements do not sufficiently contribute to creating a walkable environment.
Clause 11.03-3S	Peri-urban areas	Amenity is not enhanced by aspects of the proposed layout and design of the development.
Clause 15.01-1S	Urban design	Aspects of the proposed layout and design do not facilitate safe and convenient movement for pedestrians, or for vehicles in Zone C. There is a lack of information on proposed signage, particularly in Zone A, to ensure an appropriate streetscape outcome.
Clause 15.01-1L	Urban design	There is a lack of information on proposed signage, particularly in Zone A, to ensure an appropriate design outcome.
Clause 15.01-2S	Building design	The design of Zone C does not provide safe access and egress for pedestrians, cyclists, and vehicles.
Clause 18.01-3L	Sustainable personal transport	Aspects of the proposed layout and design of Zones B & C do not improve the quality and safety of pedestrian networks within the activity centre.
Clause 18.02-1S	Walking	Aspects of the proposed layout and design of Zones B & C do not facilitate an efficient and safe walking network to encourage trips by walking.

ZONE

The subject site is in the Commercial 1 Zone.

The purpose of the Commercial 1 Zone at Clause 34.01 is:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses.
- To provide for residential uses at densities complementary to the role and scale of the commercial centre.

Shops and offices, being the proposed uses, are Section 1 uses in the table of uses in Clause 34.01-1 which do not require a permit.

Under Clause 34.01-4 a permit is required to construct buildings and works. There are no relevant exemptions.

Overall, the proposed development is inconsistent with the purpose and decision guidelines of the Zone.

OVERLAYS

The site is affected by Design and Development Overlay, Schedule 11 and partially affected by the Environmental Audit Overlay and Land Subject to Inundation Overlay, Schedule 1.

Design and Development Overlay, Schedule 11

Under Clause 43.02-2 a permit is required to construct buildings and works.

Overall, the proposal is inconsistent with the provisions of this clause. See 'Discussion' below.

Land Subject to Inundation Overlay, Schedule 1 (LSIO1)

Under Clause 44.04-2 a permit is required to construct buildings and works.

Pursuant to Clause 44.04-7 the application was referred to Melbourne Water, who consented to the proposal, subject to conditions including for the submission of amended plans to show construction of the proposed Zone C building finished floor levels to a minimum height of 300mm above the applicable flood level.

Subject to Melbourne Water conditions, the proposal complies with the LSIO1 provisions.

Environmental Audit Overlay

The area proposed to be developed is not affected by the Environmental Audit Overlay and accordingly a permit is not required under this Clause.

Relevant PoliciesMoorabool Shire Council – Retail Strategy 2041 (2016)

The proposed expansion of retail and office floorspace within the Bacchus Marsh Main Street Activity Centre is consistent with the recommendations of the Strategy. However, the proposed design for pedestrian access, particularly in Zones B and C, does not align with the recommendations of the strategy.

Particular Provisions

Clause 52.05 Signs

Pursuant to Clause 34.01-9, under Clause 52.05-11 a permit is required to erect or display the following signs:

- Business identification signage where more than 8sqm of signage is proposed to each premises.
- Internally illuminated signage where more than 1.5sqm of signage is proposed to each premises, above a verandah or within 30m of a residential zone or pedestrian or traffic lights.

The proposal entails the display of multiple business identification signs, exceeding 8sqm in total.

Internally illuminated signs are proposed within 30m of pedestrian lights on Main Street and residential zoned land in Bennett Street.

The application does not include sufficient information to assess the suitability of the proposed signage, particularly the sign sizes, contents and colours and extent of internal illumination.

Clause 52.06 Car Parking

Under Clause 52.06-5 the following car parking spaces are required for the proposed uses:

Use	Rate	Car parking measure
Office	3.5	To each 100sqm of net floor area.
Shop	4	To each 100sqm of leasable floor area.
Restricted retail premises	3	To each 100sqm of leasable floor area.

Based on the above requirements and the proposed plans, 84 car spaces would be required, as shown in the table below.

Use	Floor space	Statutory car space requirement
Zone A		
Shop	496sqm	19
Office	930sqm	32
Zone C		
Restricted retail premises	1100sqm	33
Total		84

Under Clause 52.06-3 a permit is required to reduce the number of car spaces required under Clause 52.06-5. The proposal will provide 12 new on-site car spaces, therefore a reduction of 72 car spaces is sort in this application.

The justification and supporting documentation provided by the applicant is noted. Further details are in the ‘Discussion’ below.

The proposed car space and accessway dimensions meet the requirements of Clause 52.06-9, Design standard 2.

The design and layout of car parking in Zone B does not adequately protect the safety and amenity of pedestrians.

The design, layout and function of the Zone C car park and integration with existing site features is inadequate. The proposed design of Zone C would compromise driver and pedestrian safety, reduce car parking availability proximate to existing businesses, reduce passive surveillance opportunities and impact on pedestrian amenity to an unacceptable extent.

Overall, the proposal is considered inconsistent with the purpose, relevant design standards and decision guidelines of Clause 52.06 with regard to access and egress.

Clause 52.29 Land Adjacent to the Principal Road Network

It is proposed to remove the existing vehicle egress crossover and accessway on Main Street.

Under Clause 52.29-2 a permit is required to alter access to a road in a Transport Zone 2.

The application was referred to the Department of Transport who consented to the proposal.

Clause 52.34 Bicycle Facilities

Under Clause 52.34-5 the following bicycle facilities are required for the proposed uses:

Based on the proposed plans, six bicycle parking spaces would be required, as shown in the table below.

It is noted that under Clause 52.34-5, a bicycle space for an employee must be provided either in a bicycle locker or at a bicycle rail in a lockable compound, and for a visitor or shopper at a bicycle rail. It is also noted that based on the required number of bicycle parking spaces no shower or change room facilities would be required.

Fourteen bicycle parking spaces would be provided adjacent to the proposed building in Zone A at bicycle rails affixed to the ground, exceeding the minimum requirement.

Shower and change room facilities would be provided on the upper level of the proposed building in Zone A which also exceeds the minimum requirement. Nevertheless, the provision of these facilities is supported to encourage cycling as an attractive mode of transport for employees and visitors to the building.

Clause 53.18 Stormwater Management in Urban Development

The applicant submitted a Stormwater Management Plan, which was reviewed by Council's Infrastructure who consent to the proposal which, subject to conditions, would ensure compliance with this clause.

DISCUSSION

Overall, the proposal is deemed to be inconsistent with the applicable provisions of the Moorabool Planning Scheme. The proposal does not fully accord with the Municipal Planning Strategy, Planning Policy Framework or Clauses 34.01, 43.02, 52.05, 52.06 and 52.34.

Plan Melbourne and the Central Highlands Regional Growth Plan identify Bacchus Marsh as regionally significant in terms of its role as a key service centre and location for increased population growth. The proposal would contribute to local commercial infrastructure and economic growth through expanded retail and commercial offerings and creation of additional job opportunities. However, growth must be balanced with the need for new development to respond positively to its local context, including urban design and amenity.

The subject site is the Bacchus Marsh Village Shopping Centre, which is the Shire's largest retail hub forming part of the Bacchus Marsh Main Street Activity Centre. The subject site is in the Commercial 1 Zone but bordered by residential zoned land to the north and north-east.

The following is a detailed assessment of the proposal having regard for the relevant planning controls outlined above in relation to each development zone.

Zone A

Zone A provides for the development of a double storey building providing office and retail floorspace.

The Zone A design response is generally acceptable and is assessed as meeting the applicable design objectives of the Design and Development Overlay, Schedule 11. The scale, form and appearance of the proposed building responds appropriately to the site context. The building would be contemporary in design and generally in keeping with the existing shopping centre complex. The building would incorporate an awning above the Bennett Street public footpath for weather protection and the access to both ground and upper storey individual premises would enhance the building's sense of address. However, there are unresolved elements of the design which relate to the following:

- The building façades incorporate space for advertising signage, but no details have been provided regarding the size, content or type of signage intended. Without this information there are concerns that future signs may create visual clutter and poorly integrate with the host building and with the surrounding area more generally. It is also noted that the site adjoins residential zoned land to the north, across Bennett Street, which may be negatively impacted by signage depending on its specific detail. The applicant did not provide adequate signage details.
- The location of a proposed 15,000L above ground rainwater tank located near the southwest corner of the proposed building poses concerns. The tank would be visually intrusive considering its abuttal to a pedestrian pavement and potentially a safety and crime hazard by providing a visually obscured hiding space. If a permit is to issue, it is recommended that a condition require that the tank be located underground to resolve these concerns.
- There is insufficient detail regarding safety measures (pavement marking/surfacing, signage etc.) for pedestrians crossing the existing Bennett Street crossover adjacent to the proposed building. The proposed development would attract an increased number of pedestrians and accordingly the development should facilitate safe and convenient pedestrian movements to enhance the local network of pedestrian paths.

Zone B

Zone B provides for the expansion of car parking and new access from Gell Street, also enabling pedestrian access between the subject site and Gell Street. However, design of Zone B does not include designated pedestrian access, instead pedestrians would share the vehicle accessway. Whilst this is a low-speed environment for vehicles, the design does not provide acceptable safety and amenity for pedestrians in accordance with the relevant provisions of the Planning Policy Framework.

There is a viable opportunity to provide a designated pedestrian link between the existing Gell Street public footpath and the network of pedestrian paths throughout the shopping centre car

park and improve pedestrian connectivity within the activity centre. It is noted that any re-design of Zone B to resolve this concern would reduce the number of car spaces by approximately eight.

Zone C

The proposal for Zone C comprises the development of a single storey 1100sqm restricted retail premises, removal of the existing vehicle egress crossover to Main Street, the reduction in size and reconfiguration of an existing car park, and reconfiguration of pedestrian access.

The various elements of the Zone C proposal require consideration of matters broadly relating to urban design.

The proposed Main Street interface provides for removal of the existing vehicle crossover and the development of a building with a frontage aligned with the existing shopfronts to the west and the continuation of the existing awning above the Main Street public footpath. The proposed design would generally integrate well with the existing built form and would enhance pedestrian safety and amenity.

However, the gated entry to the proposed pedestrian corridor leading from Main Street to the Zone C car park is not supported. Whilst the need for a secure lockable entry for after-hours access is justified, the presentation to Main Street is deemed inconsistent with the prevailing façade treatments. It is recommended that if a permit is to issue that this gate be replaced with a glazed transparent door to complement the existing streetscape. Additionally, there is insufficient detail regarding the proposed signage on the Main Street façade, as outlined previously. Notwithstanding the lack of information regarding the sign contents, the amount of signage is deemed excessive.

The proposed development of Zone C would alter existing pedestrian and vehicle movement networks in this part of the site. Currently, footpaths on both sides of the accessway and car parking area in Zone C connect Main Street not only to commercial premises fronting the existing Zone C car park but also to the car parks in the west and northwest areas of the shopping centre complex. The proposal would maintain the approximate route of the more westerly of these footpaths, albeit in the modified form of an enclosed corridor. The proposed footpath would be 2.5m wide, with transparent roofing, enclosed by buildings on both sides and with two 90 degree turns, incorporating CCTV and security gates at both ends.

Passive surveillance would be limited to the back of house entries of retail premises fronting Main Street and a chiropractic clinic which would front the corridor.

The proposed building bordering the east and north sides of the footpath would provide no passive surveillance opportunities. Furthermore, the amenity for pedestrians using this corridor would also be compromised by its aforementioned back of house function for abutting businesses.

It is expected that these businesses would rely on the corridor for deliveries and waste/rubbish removal, making this less amenable to general pedestrian access. Furthermore, the circuitous design of the greater than 60m long path reduces its amenity as a desirable pedestrian route, including for people with limited mobility.

In addition to concerns regarding the corridor location and design, the design of the Zone C car park also raises concerns regarding sense of address, pedestrian safety and amenity. Currently, the Zone C area functions as a busy thoroughfare, with clear sightlines from near Main Street which creates a legible sense of address.

However, the proposed design would undermine this by substantially enclosing the car park and confining vehicles and pedestrians to relatively narrow and circuitous access routes, substantially

isolating the existing commercial shopfronts and car park from Main Street and diminishing the public realm. Whilst Zone C's role as a vehicle thoroughfare would be removed, existing uses including a medical centre and post office boxes would still generate activity in this area. Whilst this area would remain activated to some extent, the reduced car parking area, proposed management of car parking spaces for staff use only and limited access and egress options would negatively impact on the accessibility of these facilities, posing safety and amenity concerns.

The layout of this part of Zone C would result in the car park functioning as a back of house area, inappropriate for a space which functions as the primary frontage for businesses including the medical centre and post office boxes. The existing chiropractic clinic would be further visually isolated, being accessible only via the enclosed pedestrian corridor. The allocation of car parking in Zone C primarily as staff parking, apart from one space designated for Australia Post delivery vehicles and one space as a loading zone for multiple businesses, would further limit access for the customers of premises accessed from the Zone C car park, and for staff and others accessing the back of house area of premises fronting Main Street.

Combined with the issues relating to the design of pedestrian access to the car park described above, the proposed design response compromises pedestrian access, particularly for pedestrians with limited mobility.

Passive surveillance of the car park would be confined to existing premises on its north, east and west edges and the proposed building at the south edge which would include a rear pedestrian entry/exit to the car park. The substantial enclosure of the Zone C car park by buildings and the lack of convenient through access would limit the 'activation' of the space, particularly in non-daylight hours, posing safety concerns.

The overall design of Zone C is inconsistent with the Municipal Planning Strategy and Planning Policy Framework, the Commercial 1 Zone or the Design and Development Overlay, Schedule 11, in the Moorabool Planning Scheme. The relevant policies encourage the creation of high-quality pedestrian spaces for safe, convenient, and accessible pedestrian movement, and signage which positively reflects the character of the area. As discussed above, the proposed design response does not adequately address these requirements.

Car Parking

It is proposed to reduce the statutory requirement for 84 car spaces by 72 car spaces. The proposed development of Zones A, B and C would require the reconfiguration of existing car parking in or adjoining those areas, including the loss of some car parking spaces, but include additional car parking on currently undeveloped land in Zone B, yielding an additional 12 onsite car spaces overall.

The applicant submitted a traffic and car parking assessment in support of a proposed car parking reduction, which was assessed by Council's Development Infrastructure and an independent suitably qualified consultant. The assessment demonstrated there is adequate justification for a reduction of car parking.

Currently there are 729 onsite car spaces, including six DDA compliant car spaces, which based on the existing floor area equates to 4.46 car spaces per 100sqm.

A survey of 13 other peri-urban and regional Victorian shopping centres of varying sizes showed an average peak demand of 3.66 car spaces per 100sqm. The application of this average rate to the proposed 1,596sqm increase in retail floorspace indicates a peak demand of 58 car spaces. Application of the average peak car parking demand of 3.66 spaces per 100sqm to the shopping centre's existing floor area indicates a peak demand of 597 car spaces. Based on the theoretical

exercise, it can be argued that given the existing capacity of 729 car spaces, which equates to 132 vacant car parking spaces at peak times, however, this does not take into consideration customer behaviour and preference to shopping centre access. The theoretical calculation needs to factor in these realities.

Specifically, the rooftop car park was reviewed in isolation between 2018 and 2020 (pre-pandemic) for 11 data sets. The highest demand observed was on 16 March 2020 when 90 cars were parked on the rooftop car park, reflecting a parking occupancy of 39%. These isolated observations indicate a minimum of 143 vacant car parking spaces on the rooftop car park alone. Additionally, a net increase of 12 onsite car parking spaces is proposed, increasing the onsite parking availability to approximately 155 spaces. This level of availability could comfortably accommodate the minor anticipated peak parking demand of 84 car parking spaces generated by the proposal.

Furthermore, considering the expansion of retail offerings and provision of offices, the likelihood of multi-purpose trips to the shopping centre would be expected to increase, further reducing overall demand for onsite car parking.

Access

The design of the proposed Zone C car park, with access and egress via a single width access lane, is deemed to be inappropriate from a driver safety perspective, considering sight lines and the use of the car park by Australia Post vehicles, and ambulances accessing the medical centre,

Whilst the designated staff car parking spaces would likely be occupied for several hours at a time, thus limiting vehicle movements, the frequent access required by multiple Australia Post vehicles and customers six days per week with only a single allocated car space, is likely to create management issues.

The impacts of the proposed car park design on business operations created by the confined access and egress are deemed to be unacceptable.

Similarly, the removal of dedicated car spaces for the medical centre and DDA compliant car spaces, particularly for patients with limited mobility, does not protect the amenity provided under existing conditions. Re-allocating any or all proposed staff car parking spaces to the medical centre patients would be problematic, given the design of access and egress which is unsuited to frequent vehicle movements in and out of the car park. Additionally, the design does not resolve the back of house access requirements for businesses fronting Main Street.

Traffic

Traffic generated by the proposed retail uses of the development would be expected to increase by 70 vehicle movements per hour at peak times, equating to an additional 350 vehicle movements per day. The office uses would be expected to generate up to 16 vehicle movements per hour at peak times and up to 80 vehicle movements per day.

The proposed removal of the vehicle egress crossover to Main Street would result in a redistribution of vehicles exiting the site. It was assessed that approximately 5% of vehicles which exit the site daily do so via Main Street, equating to 65 vehicle movements per hour at peak times and 325 vehicle movements per day. The even redistribution of this traffic to the four other exits would result in an additional 81 vehicle movements at each exit per day. The surrounding road network has been assessed as capable of absorbing the additional traffic generated by the proposal and redistributed traffic exiting the site, based on the limits for their various road classifications, with increases representing less than 1%. Accordingly, the existing traffic volumes in the vicinity of the site including the traffic generated by the existing on-site uses with the

additional traffic generated by the proposed development would not be expected to compromise the safety or function of the local road network.

As a result of managing onsite car spaces, the proposed developed may impact on the on street car parking surrounding the site and traffic movements. This has not been considered in the traffic report.

Overall impact:

The problems with the layout and design of Zone C with poor pedestrian and vehicle access arrangement leads to a poor-quality design response for a major shopping centre in Bacchus Marsh. The applicant was not willing to address the concerns with the Zone C component of the development. Overall, the proposal cannot be supported.

GENERAL PROVISIONS

Clause 65 - Decision Guidelines have been considered by officers in evaluating this application.

Clause 66 - Stipulates all the relevant referral authorities to which the application must be referred.

REFERRALS

Authority	Response
Melbourne Water Department of Transport and Planning	Consent with conditions. Consent.
Council's Development Infrastructure Economic Development Strategic Planning Environment, Emergency and Waste Management Community Health and Safety	Consent with conditions. Consent. Letter of advice. No Comment. Consent with conditions.

FINANCIAL IMPLICATIONS

The recommendation to not support this application has no financial implications for Council.

RISK & OCCUPATIONAL HEALTH & SAFETY ISSUES

The recommendation to not support this application does not have any risk or OH&S implications for Council.

COMMUNICATIONS STRATEGY

Notice was undertaken for the application, in accordance with s.52 of the *Planning and Environment Act 1987*, and further correspondence is required to all interested parties to the application as a result of a decision in this matter. The applicant and submitters were invited to attend this meeting and address the Council if required.

OPTIONS

- Inform VCAT that Council would not support the application, in accordance with the grounds in the recommendation of this report.
- Inform VCAT that Council would not support the application, with amendments to the grounds in the recommendation of this report; or
- Should Council wish to support the application, include appropriate recommended planning permit conditions and notify VCAT accordingly and demonstrate how the proposal complies with the Moorabool Planning Scheme.

CONCLUSION

Whilst the development of additional retail and office floorspace within the Bacchus Marsh Main Street Activity Centre is supported in principle, the current proposal is not suitably site responsive and does not adequately align with relevant planning policies and strategies as contained in the Moorabool Planning Scheme.

Bacchus Marsh Village shopping centre is a key anchor site in the activity centre and the proposal presents a significant opportunity to contribute to the growth and enhancement of not only the subject site but the wider activity centre.

Relevant planning policies in the Moorabool Planning Scheme encourage the provision of accessible, safe, and well-integrated pedestrian spaces and enhancement of the public realm. The proposed layout and design of the development would compromise pedestrian safety and amenity and does not adequately address the need for safe and convenient car parking and vehicle access.

It is recommended that the application not be supported.

13 COMMUNITY STRENGTHENING REPORTS

13.1 MASON'S LANE RESERVE MASTER PLAN ADOPTION

Author: Anthony Cini, Acting Coordinator Sport and Active Recreation

Authoriser: Leigh McCallum, General Manager Community Strengthening

Attachments: 1. **Mason's Lane Reserve Master Plan - Final Report (under separate cover)**

PURPOSE

The purpose of this report is to present the Masons Lane Reserve Master Plan for adoption.

EXECUTIVE SUMMARY

At the September 2022 Ordinary Meeting of Council (OMC) Council resolved to publicly exhibit the Masons Lane Reserve Master Plan for a period of four weeks prior to adoption. The four-week public exhibition period concluded and further consultation with existing user groups occurred to respond to questions and requests that were provided during the public exhibition period. Updates to the draft have been made and are consistent with stakeholder and community feedback. The final Master Plan is presented for adoption.

RECOMMENDATION

That Council adopts the Masons Lane Reserve Master Plan.

BACKGROUND

In September 2022, the draft Masons Lane Reserve Master Plan was presented to Councillors at the Ordinary Meeting of Council (OMC). Councillors resolved to publicly exhibit the Master Plan for a period of four weeks prior to adoption. The four-week exhibition period concluded, and further consultation with existing user groups occurred to respond to questions and requests that were provided during the public exhibition period.

There was an extensive period of additional consultation with the Bacchus Marsh Baseball and Bacchus Marsh Little Athletics Clubs following the public exhibition period. Whilst both clubs provided overall support for the draft Master Plan, there were components of the plan the clubs had requested to be reconsidered within reason. This feedback was received and as a result, the following amendments to the short term and long-term Master Plan concepts were made:

- Relocation of the short-term dog park to ensure there is a suitable distance from the dog park and Little Athletics activities.
- Additional straight added to the athletics track to ensure the finish line is not on the opposite side of the spectator area. This would also allow for a straight to be directly in front of the proposed long-term central pavilion in the future.
- Designated spectator area identified for Little Athletics in the long term.

- Inclusion of outline of the footprint of a reorientated baseball diamond for future consideration and improved proximity to proposed new clubrooms.

The Master Plan has been developed through feedback and consultation with stakeholders with collaborative delivery and investment in mind.

PROPOSAL

It is proposed that Council adopts the Mason’s Lane Reserve Master Plan.

COUNCIL PLAN

The Council Plan 2021-2025 provides as follows:

Strategic Objective 1: Healthy, inclusive and connected neighbourhoods

Priority 1.1: Improve the health and wellbeing of our community

The proposal adopting the Masons Lane Master Plan is consistent with the Council Plan 2021-2025.

FINANCIAL IMPLICATIONS

There is \$200,000 in the 2023/24 financial year budget for implementation of master plan priorities. Upon adoption of the master plan, a quantity surveyor cost estimate will be undertaken on the short-term priorities.

RISK & OCCUPATIONAL HEALTH & SAFETY ISSUES

Risk Identifier	Detail of Risk	Risk Rating	Control/s
Reputation	Risk to Council if plan is not implemented within timeframes	Medium	Actions of each year the master plan to be developed
Financial – Inadequate funds to finish project	Funding is unable to be sourced to deliver on priorities	Medium	Advocacy and actively seeking funding for projects
Changes of priorities	Master Plan priorities may need to be amended over the lifespan of the plan to remain in line with industry trends and standards	Medium	Master Plan is reviewed regularly

COMMUNICATIONS & CONSULTATION STRATEGY

Level of Engagement	Stakeholder	Activities	Location	Date	Outcome
Engage	Reserve stakeholders and users	Meetings with applicant groups	Mason’s Lane and online	September-October 2022	Stakeholders provided specific feedback about reserve

VICTORIAN CHARTER OF HUMAN RIGHTS & RESPONSIBILITIES ACT 2006

In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited, restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.

OFFICER'S DECLARATION OF CONFLICT OF INTERESTS

Under section 130 of the *Local Government Act 2020*, officers providing advice to Council must disclose any interests, including the type of interest.

General Manager – Leigh McCallum

In providing this advice to Council as the General Manager, I have no interests to disclose in this report.

Author – Anthony Cini

In providing this advice to Council as the Author, I have no interests to disclose in this report.

CONCLUSION

The Masons Lane Reserve Master Plan will provide a framework and strategic approach for the future provision, development and usage of the reserve to meet the long-term needs of all users and the community. The plan has been developed by InsideEdge Sport and Leisure Planning in partnership with Council.

Following the public exhibition period, the Master Plan has received community support.

13.2 NOMINATIONS - PUBLIC ART ADVISORY COMMITTEE

- Author:** Bec Carey-Grieve, Coordinator Arts and Economic Development
- Authoriser:** Leigh McCallum, General Manager Community Strengthening
- Attachments:**
1. PACAC Terms of Reference (under separate cover)
 2. Public Art and Collections Policy (under separate cover)

PURPOSE

The purpose of the report is to recommend that Council appoints members to the Public Art and Collections Advisory Committee (PACAC), as nominated in the officer's recommendation.

EXECUTIVE SUMMARY

- The PACAC is a committee established as part of the new Public Art and Collections Policy endorsed by Council 1 June 2022.
- Through an open expression of interest process, Council received applications from external public art experts and local artists to join the PACAC. One Councillor representative has been invited to join this advisory committee.
- The PACAC will provide advice to Council on the commission, acquisition and deaccession of public art in accordance with its Terms of Reference.
- Six nominations were received with six nominations being recommended for appointment to the committee.

RECOMMENDATION

That Council approves the following nominees as members of the Public Art and Collections Advisory Committee, as per the Terms of Reference:

1. **Jinny Coyle**
2. **Lou Callow**
3. **Lauren Matthews**
4. **Alison Durham**
5. **Victoria Jones**
6. **Anindita Banerjee**

BACKGROUND

The PACAC is a committee established as part of the new Public Art and Collections Policy endorsed by Council 1 June 2022. The PACAC will provide invaluable advice to Council on the commission, acquisition and deaccession of Public Art and assist in managing and growing Council's Public Art Collection.

The PACAC membership includes:

- Public Art Officer
- Coordinator Arts and Economic Development
- Up to three Local Artists/Community Representatives
- Up to three Arts Industry Experts
- One Councillor Representative

An expression of interest process was undertaken with widespread promotion across the Shire. Applicants were asked to send their resume and provide a statement regarding their suitability for the committee. We received six applications in total, all high calibre. An interview process was also conducted as part of a robust process and to ensure applicants understood the role of the committee.

Officers undertook an evaluation process to determine suitability of the applicants matching their skills and experience against the purpose of the committee.

Below is a list of applications including role, geographic location and expertise:

Name	Location	Role	Suitability
Jinny Coyle	Blackwood	Local Artist/Community Representative	<ul style="list-style-type: none"> • Qualified multimedia designer & digital artist • Experience in developing Public Art Projects with Councils
Lou Callow	Ballan	Local Artist/Community Representative	<ul style="list-style-type: none"> • Former Head of Art at Bacchus Marsh Grammar • Experience in Collection Management • One of the founders of Wombat Regional Art Network
Lauren Matthews	Ballan	Industry Representative	<ul style="list-style-type: none"> • Contemporary Artist with a strong connection to Pottery in Gordon • PHD candidate at Federation University
Alison Durham	Bacchus Marsh	Local Artist/Community Representative	<ul style="list-style-type: none"> • A current member of the Bacchus Marsh Arts Community Gallery collective • Retired Art Teacher who has lived in the Shire all her life
Victoria Jones	Parkdale	Industry Representative	<ul style="list-style-type: none"> • Director of T Projects, an International Public Art consultancy • Has worked closely with many Councils across Australia and abroad commissioning Public Art Works.
Anindita Banerjee	Ballarat	Industry Representative	<ul style="list-style-type: none"> • Current Public Art Officer for the City of Ballarat • Established a Community Art Studio on Wyndham

PROPOSAL

It is proposed to appoint six members nominated through a public advertising process to the Public Art and Collections Advisory Committee.

COUNCIL PLAN

The Council Plan 2021-2025 provides as follows:

Strategic Objective 1: Healthy, inclusive and connected neighbourhoods

Priority 1.3: Facilitate opportunities for the community to gather and celebrate

The proposal to establish the Public Art and Collections Advisory Committee is consistent with the Council Plan 2021-2025.

FINANCIAL IMPLICATIONS

There are no financial implications associated with the recommendation contained in this report.

RISK & OCCUPATIONAL HEALTH & SAFETY ISSUES

Risk Identifier	Detail of Risk	Risk Rating	Control/s
The Public Art and Collections Advisory Committee is not established	Council would be in breach of the Public Art and Collections Policy Lost opportunity to use the knowledge and experience available within the community	Medium	Establish Committee and appointment of members
Breach of confidentiality	Breach of confidentiality by Committee members	Medium	Each Committee member to undertake an induction program that includes signing a confidentiality agreement

COMMUNICATIONS & CONSULTATION STRATEGY

Level of Engagement	Stakeholder	Activities	Location	Date	Outcome
Inform	Moorabool Shire Residents Arts Industry Artists	Expression of interest process distributed through social media, MSC Website, posters and flyers through the shire and through local community groups	Various	February 2023	Nominations of high calibre were received.

VICTORIAN CHARTER OF HUMAN RIGHTS & RESPONSIBILITIES ACT 2006

In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited, restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.

OFFICER'S DECLARATION OF CONFLICT OF INTERESTS

Under section 130 of the *Local Government Act 2020*, officers providing advice to Council must disclose any interests, including the type of interest.

General Manager – Community Strengthening, Leigh McCallum

In providing this advice to Council as the General Manager, I have no interests to disclose in this report.

Author – Coordinator Arts and Economic Development, Bec Carey-Grieve

In providing this advice to Council as the Author, I have no interests to disclose in this report.

CONCLUSION

The PACAC is a committee established as part of the new Public Art and Collections Policy endorsed by Council 1 June 2022. The PACAC will provide advice to Council on the commission, acquisition and deaccession of public art in accordance with its Terms of Reference. Through an open expression of interest process, Council has received applications from external public art experts and local artists to join the PACAC. One Councillor representative has been invited to join this advisory committee. Six nominations were received with six nominations being recommended for appointment to the committee. It is recommended these nominations are accepted and the committee is established.

13.3 MARCH 2023 COMMUNITY GRANT RECOMMENDATIONS

Author: Ashley Malloy, Acting Coordinator Community Development and Engagement

Authoriser: Leigh McCallum, General Manager Community Strengthening

Attachments: 1. Community Grants March 2023 Round Recommendations (under separate cover)

PURPOSE

The purpose of this report is to make recommendations to Council regarding funding applications for the March 2023 round of the Community Grants Program.

EXECUTIVE SUMMARY

- The Community Grants Program provides funding to community organisations to deliver projects that build on local strengths to develop healthy, inclusive and connected neighbourhoods.
- Council received 12 applications across the five program categories: Community Arts and Culture (3), Community Strengthening (5), Community Events (2), Community Development (1) and Sustainability and Environmental Engagement Grants (1).
- A combined value of \$86,126.50 was requested with \$153,375.00 available this round.
- Eligible applications were assessed by a community grants assessment panel consisting of council officers from a diverse range of departments.
- This report presents Council with a list of recommended grants for the March 2023 funding round prepared by the community grants assessment panel (Attachment 1- Community Grants March 2023 round).
- In total, 10 organisations are recommended to receive \$80,671.50 in funding.
- The proposed allocation of this sum is detailed in the funding recommendations within this report and in Attachment 1- Community Grants March 2023 round.

RECOMMENDATION

That Council approves the allocation of community grants to the value of \$80,671.50 as outlined in Attachment 1 to this report.

BACKGROUND

This report provides an assessment of applications received for the Community Grants Program March 2023 Round. The grant round was opened 1 March and closed 31 March 2023, with 12 community groups submitting applications. A combined value of \$86,126.50 was requested, with \$153,375.00 available this round. Eligible applications were assessed by an assessment panel.

Council's Community Grants Program enables not for profit community groups to apply for funding to support projects that result in broad community benefit for the Moorabool community.

An annual allocation of \$270,400.00 is available in 2022/23 with \$153,375.00 available this round. The grants program has the following five program categories:

- **Community Arts and Culture Grants:** Supporting local artists and organisations to use a creative approach to the development of community projects and initiatives (\$10,000 available this round).
- **Community Strengthening Grants:** Community projects, programs and initiatives with a specific focus on connecting communities and building community capacity (\$60,000 available this round).
- **Community Events Grants:** Non-recurrent, seed funding designed to encourage and promote the development of sustainable local events (\$10,000 available this round).
- **Community Development Fund Grants:** Supporting community infrastructure projects which significantly impact on community development (\$62,975 available this round).
- **Sustainability and Environmental Engagement Grants:** Supporting the community in reducing expenditure of gas and electricity, investing in sustainability measures and providing opportunities to raise awareness of environmental issues to the broader community (\$10,400 available this round).

Community groups and organisations can apply for up to \$5,000 for Community Strengthening Grants and up to \$3,000 for Arts, Events and Sustainability Grants. Groups need to demonstrate a cash or in-kind contribution toward the cost of their project on a ratio of \$1 for \$1 (Council \$1: Group \$1). Small Community Strengthening projects under \$1,000 are not required to demonstrate an applicant contribution.

A Grant Assessment Panel of Council officers assessed the applications against a set of criteria. Applications need to achieve a score of 70 or above to be recommended by the assessment panel to receive funding, subject to Council's endorsement.

The assessment criteria are as follows:

- Project description and why the applicant wants to complete the project – 10%
- Why is the project needed in your community? – 20%
- What will this project achieve? – 20%
- Who will be involved in the project? – 15%
- How will you carry out your project (including risk management)? – 15%
- Project budget and explanation of how the group arrived at the costs – 20%

Each criterion is assessed out of 10 and weighted according to the criteria percentage. The maximum possible score of any application is 100. The scoring guide is as follows:

- 0 Did not address criteria
- 1-2 Minimal
- 3-5 Satisfactory
- 6-8 Good
- 9-10 Excellent

PROPOSAL

March 2023 Community Grant Recommendations

In total, 12 applications were received across the five program categories as follows:

- Community Arts and Culture Grants (3)
- Community Strengthening Grants (5)
- Community Events Grants (2)
- Community Development Grants (1)
- Sustainability and Environmental Engagement Grant (1)

All 12 submitted applications were individually assessed by a panel of Council officers prior to a Grant Assessment Panel meeting. A total of \$86,126.50 was requested with \$153,375.00 available this round. The assessment panel recommends a total value of \$80,671.50 to be awarded to 10 applicants. This community grant funding will contribute to local projects worth \$173,817.00 in total.

Category	Applications Received	Amount Available	Amount Requested	Amount Recommended	Applications Recommended
Community Arts and Culture Grants	3	\$10,000.00	\$9,000.00	\$6,000.00	2
Community Strengthening Grants	5	\$60,000.00	\$13,299.50	\$10,844.50	4
Community Events Grants	2	\$10,000.00	\$6,000.00	\$6,000.00	2
Community Development Fund Grants	1	\$62,975.00	\$54,917.00	\$54,917.00	1
Sustainability and Environmental Engagement Grants	1	\$10,400.00	\$2,910.00	\$2,910.00	1
Total	12	\$153,375.00	\$86,126.50	\$80,671.50	10

The recommendation provided in Attachment 1 – Community Grants March 2023 round recommendations represents all the community grant applications from the March 2023 grant round.

Applicant Support

The Community Grant Guidelines specify that applicants are required to liaise with a Community Development Officer prior to lodging an application to ensure applicants receive clear guidance on eligibility and how to best present their applications. All applicants received support and advice from Council officers before lodging their application. Additional support was provided after the funding round closed to clarify any ambiguity in applications.

COUNCIL PLAN

The Council Plan 2021-2025 provides as follows:

Strategic Objective 1: Healthy, inclusive and connected neighbourhoods

Priority 1.1: Improve the health and wellbeing of our community

The proposed allocation of grants under the March 2023 round of the Community Grants Program is consistent with the Council Plan 2021-2025.

FINANCIAL IMPLICATIONS

Consistent with the Community Grants Policy and 2022/23 budget allocation, a total of \$153,375 is available for allocation in the March 2023 Community Grants Program.

The following amounts are recommended:

- \$6,000.00 for Community Arts and Culture Grants
- \$10,844.50 for Community Strengthening Grants
- \$6,000.00 for Community Events Grants
- \$54,917.00 for Community Development Fund Grants
- \$2,910.00 for Sustainability and Environmental Engagement Grants

RISK & OCCUPATIONAL HEALTH & SAFETY ISSUES

Risk Identifier	Detail of Risk	Risk Rating	Control/s
Project timelines	Grant recipients exceeding prescribed timelines.	Medium	Terms and conditions agreements required to be signed by grant recipients. Scheduled monitoring of projects.
Financial – Inadequate funds to finish project	Grant recipients misappropriate expenditure of Council funds.	Medium	Terms and conditions agreements required to be signed by grant recipients. Grant acquittal required upon completion of projects.

COMMUNICATIONS & CONSULTATION STRATEGY

Level of Engagement	Stakeholder	Activities	Location	Date	Outcome
Inform	Community Groups	Advised of Community Grants opening and encouraged to apply.	Via direct email	February-March 2023	Community Groups are aware of the grant opportunities and can put forward a submission.

Level of Engagement	Stakeholder	Activities	Location	Date	Outcome
Inform	Moorabool residents	Promotional flyers at libraries, community centres, and noticeboards Libraries, Arts and Culture E-News Council website Facebook Moorabool News advertisements Township Entrance Banners	Across the shire	February-March 2023	Council’s Community Grants Program is well promoted to the Moorabool community.
Inform	Moorabool residents	Grant Writing Workshops and Drop-in sessions.	Online and in person	February-March 2023	The community can learn about the Community Grants Program and develop their applications.
Inform	Successful applicants	Letter of formal notification.	Via email	June 2023	Following a decision of Council, successful grant applicants are notified.
Inform	Unsuccessful applicants	Letter of formal notification. Advised of future grant writing workshops. Provided an opportunity to meet with staff.	Via email	June 2023	Unsuccessful grant applicants are notified and provided feedback on their application. Applicants will be supported where applicable to redevelop their application for a following round.

VICTORIAN CHARTER OF HUMAN RIGHTS & RESPONSIBILITIES ACT 2006

In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited, restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.

OFFICER'S DECLARATION OF CONFLICT OF INTERESTS

Under section 130 of the *Local Government Act 2020*, officers providing advice to Council must disclose any interests, including the type of interest.

General Manager – Leigh McCallum

In providing this advice to Council as the General Manager, I have no interests to disclose in this report.

Author – Ashley Malloy

In providing this advice to Council as the Author, I have no interests to disclose in this report.

CONCLUSION

The March 2023 community grants round resulted in 12 applications. Eligible applications were assessed by an assessment panel. Based on the application assessment process and funding criteria, it is proposed that Council allocates funding to the value of \$80,671.50 to be distributed to 10 organisations through the Moorabool Shire March 2023 Community Grant Program per the recommendations provided in Attachment 1.

13.4 COMMUNITY ASSET COMMITTEES - REPORTS

Author: Kaylene Bowker, Executive Assistant

Authoriser: Leigh McCallum, General Manager Community Strengthening

- Attachments:**
1. Minutes - Greendale CAC - 17 August 2022 (under separate cover)
 2. Minutes - Greendale CAC - 8 March 2023 (under separate cover)
 3. Minutes - Millbrook Community Centre CAC - AGM - 13 September 2022 (under separate cover)
 4. Minutes - Millbrook Community Centre CAC - Ordinary Meeting - 13 September 2022 (under separate cover)
 5. Minutes - Blacksmith's Cottage & Forge CAC - 24 January 2023 (under separate cover)
 6. Minutes - Bacchus Marsh Public Hall CAC - 13 February 2023 (under separate cover)

PURPOSE

Community Asset Committees are established by Council under section 65 of the *Local Government Act 2020* to manage and maintain Community Assets within the municipal district. By Instrument of Delegation, Council may delegate to the committees such functions and powers of the Council that it deems appropriate, utilising provisions of the *Local Government Act 2020*. The Council cannot delegate those powers identified in section 11(2) of the *Local Government Act 2020*.

EXECUTIVE SUMMARY

The following Community Asset Committees present the following reports of the Committee Meetings for Council consideration.

Committee	Meeting Date
Greendale Community Asset Committee	17 August 2022 8 March 2023
Millbrook Community Centre Community Asset Committee Annual General Meeting and Ordinary Meeting	13 September 2022
Blacksmith’s Cottage & Forge Community Asset Committee	24 January 2023
Bacchus Marsh Public Hall Community Asset Committee	13 February 2023

RECOMMENDATION

That Council receive the following Community Asset Committee Minutes:

1. Greendale CAC Minutes for 17 August 2022 and 8 March 2023.
2. Millbrook Community Centre CAC Minutes for the AGM and Ordinary Meeting for 13 September 2022.
3. Blacksmith’s Cottage & Forge CAC Minutes for 24 January 2023.
4. Bacchus Marsh Public Hall CAC Minutes for 13 February 2023.

14 CUSTOMER CARE AND ADVOCACY REPORTS

14.1 2021-2025 MOORABOOL SHIRE COUNCIL PLAN - PROGRESS REPORT - YEAR TWO - QUARTER THREE - MARCH 2023

Author: Amy Gloury, Acting Senior Corporate Planning Lead

Authoriser: Caroline Buisson, General Manager Customer Care and Advocacy

Attachments: 1. 2021-2025 - Council Plan - Progress Report - Year Two - Quarter Three - March 2023 (under separate cover)

PURPOSE

The 2021–2025 Moorabool Shire Council Plan (Council Plan) sits within the Council’s planning framework and identifies the main priorities and expectations over the four-year period.

This report provides an update on the status of the Council Plan actions as of March 2023.

EXECUTIVE SUMMARY

- There are 49 Strategic Actions to be achieved this financial year, including 19 actions carried forward from year one.
- Seven Council Plan actions from year two have now been completed.
- 84% of actions show as on track against targets.

RECOMMENDATION

That Council receives the 2021-2025 Moorabool Shire Council Plan progress report for year two, quarter three as of March 2023, including Attachment 1 of this report.

BACKGROUND

The three strategic objectives outlined in the Council Plan that guide new initiatives and continuing services are:

1. Healthy, inclusive and connected neighbourhoods
2. Liveable and thriving environments
3. A Council that listens and adapts to the needs of our evolving communities

Each objective has a set of priorities, or desired outcomes, which set out strategic actions to be undertaken over the planned four years to achieve the objectives.

The Annual and Quarterly performance reporting allows Council to effectively measure, monitor, review and report on its performance, while providing open and transparent reporting to the community. This report presents the progress performance against the actions set for the 2022/23 financial year.

The year two Council Plan progress report includes 19 actions from year one that were not completed by 30 June 2022, these have now all been extended to be due by 30 June 2023.

There are 49 actions identified in the Council Plan to be achieved in year two including the 19 actions carried forward from year one. Through meetings with each manager, the 2022/23 key targets/milestones for each action were reviewed and set to reflect the expected progress throughout the year.

PROPOSAL

The 2021-2025 Moorabool Shire Council Plan Progress Report for year two, quarter three as of March 2023 is provided as Attachment 1 to this report. This report includes a detailed commentary on the progress of each action.

As of 31 March 2023, 84% of actions show as on track against their targets.

The following table summarises the status of the actions under each strategic objective set to be achieved by 30 June 2023:

Strategic Objective	Completed	In Progress	Not Started	Total
Healthy, inclusive and connected neighbourhoods	4	20	1	25
Liveable and thriving environments	1	13	2	16
A Council that listens and adapts to the needs of our evolving communities	2	6	0	8
Totals	7	39	3	49

Seven actions have targets of 100% completion by the end of quarter three and three of those actions have now been completed, an additional 4 actions have also been completed ahead of schedule.

1. *Develop a Bike and Hike Strategy.* This Strategy will be incorporated into the review of the recreation and leisure strategy which is expected to be completed by 2024.
2. *Commence construction of the West Maddingley Early Years & Community Hub (WMEYCH).* Construction commenced in late January 2023 and will be completed in December 2023.
3. *Seek funding for Stage 3 BMRRR (annually until successful).* Funding for various components of this project has been secured.
4. *Deliver the Community Leadership Program.* This is a multi-year action that will be delivered in each year of the Council Plan. the 2022 18 week facilitated program was completed in September 2022.
5. *Develop the Sustainable Building Strategy.* This Strategy will be incorporated into the Sustainable Environment Strategy which is expected to be completed by 2024.
6. *Develop support mechanisms for Community Asset Committees.* This action was carried forward from year one, the Community Asset Committee Guidelines were endorsed by Council at the December 2022 Ordinary meeting of Council. Council officers will liaise with committees to support the implementation of the guidelines.

7. *Improve Council's external reporting for better transparency and accountability.* Action reporting is published on the dashboard and a new landing page on the website was developed to include links to performance data including the community satisfaction survey.

The remaining four actions with 100% completion targets have been delayed for various reasons as outlined below.

1. *Complete Stage 1 construction of the Aqualink Cycle Corridor project in Bacchus Marsh.* This Action was carried forward from 2021/22 financial year. Construction of shared pathway and road crossings are complete, and fencing has been completed to residential properties. The landscaping and signage will be completed by June 2023.
2. *Review and update the draft Urban Design Guidelines for new development, including sustainable subdivision principles.* This action was carried forward from 2021/22 financial year. A review of the Urban Design Guidelines has commenced with internal stakeholders reviewing the current document to ascertain if it requires an update or if it is still valid. The review is expected to be complete at the end of the 2022/23 financial year. Action completion date proposed to be extended to 2022/23 financial year.
3. *Develop the Gateway strategy.* This action was carried forward from 2021/22 financial year. At the September 2022 OMC, Council resolved to place the draft strategy on a period of public exhibition. The public exhibition period has concluded and feedback is currently being analysed.
4. *Review the Customer Experience strategy.* A review of the customer experience strategy has commenced to ensure the key focus areas are still appropriate and to develop prioritised actions aligned to the Council Plan. The review has been delayed due to staff vacancies in the Customer Experience team. We are currently developing a Customer Satisfaction Survey that will be distributed in May. The results of this survey will help to inform the review of the strategy and actions.

Through the annual review process of the 2021/2025 Council Plan there are 16 actions that are proposed to have their completion dates extended to the 2023/24 financial year, a note has been placed on each of these actions to ensure transparency in the reporting process.

COUNCIL PLAN

The Council Plan 2021-2025 provides as follows:

Strategic Objective 3: A Council that listens and adapts to the needs of our evolving communities
Priority 3.4: Measure performance, communicate our results and continue to improve our services every day

The recommendation to receive the 2021-2025 Moorabool Shire Council Plan Progress Report for year two, quarter three as of March 2023, is consistent with the Council Plan 2021-2025.

FINANCIAL IMPLICATIONS

The implementation of Council Plan actions is resourced by Council's adopted annual budget.

RISK & OCCUPATIONAL HEALTH & SAFETY ISSUES

There are no Risk or Occupational Health & Safety issues in relation to this report.

COMMUNICATIONS & CONSULTATION STRATEGY

The progress comments and performance status of each action has been uploaded onto the online Council Performance Dashboard, current to December 2023, following the Council's receipt of this report the progress comments will be updated to be current as at March 2023. Community members can access the dashboard to view the performance of each of the Council Plan Priorities.

Specific projects are the subject of their own communications strategy, nevertheless this report will be displayed on Council's website and the end of year progress will be reported in Council's Annual Report.

VICTORIAN CHARTER OF HUMAN RIGHTS & RESPONSIBILITIES ACT 2006

In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited, restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.

OFFICER'S DECLARATION OF CONFLICT OF INTERESTS

Under section 130 of the *Local Government Act 2020*, officers providing advice to Council must disclose any interests, including the type of interest.

General Manager – Caroline Buisson

In providing this advice to Council as the General Manager, I have no interests to disclose in this report.

Author – Amy Gloury

In providing this advice to Council as the Author, I have no interests to disclose in this report.

CONCLUSION

Overall, there are 49 actions being reported on for year two, 7 actions are now completed with 84% of actions show as on track against targets.

14.2 AUDIT AND RISK ADVISORY COMMITTEE OF COUNCIL - REPORTS

Author: Kaylene Bowker, Executive Assistant

Authoriser: Caroline Buisson, General Manager Customer Care and Advocacy

Attachments: 1. **Audit and Risk Advisory Committee Summary of Minutes - 8 February 2023 (under separate cover)**

PURPOSE

Advisory Committees are established to assist Council with executing specific functions or duties.

Advisory Committees of Council currently have no delegated powers to act on behalf of Council or commit Council to any expenditure unless resolved explicitly by Council following recommendation from the Committee. Their function is purely advisory.

Advisory Committees are required to report to Council at intervals determined by the Council.

EXECUTIVE SUMMARY

Councillors, as representatives of the following Advisory Committees of Council, present the reports of the Committee Meetings for Council consideration.

Committee	Meeting Date	Council Representatives
Audit and Risk Advisory Committee	Wednesday 8 February 2023	Cr Moira Berry Cr Tonia Dudzik

RECOMMENDATION

That Council receive the Audit and Risk Advisory Committee Summary of Minutes for the meeting held on Wednesday 8 February 2023.

14.3 2017-2021 MOORABOOL SHIRE COUNCIL PLAN - OUTSTANDING ACTIONS PROGRESS REPORT - MARCH 2023

Author: Amy Gloury, Acting Senior Corporate Planning Lead

Authoriser: Caroline Buisson, General Manager Customer Care and Advocacy

Attachments: 1. 2017-2021 - Council Plan - Outstanding Actions Progress Report - March 2023 (under separate cover)

PURPOSE

This report provides an update on the progress of outstanding actions from the 2017-2021 Moorabool Shire Council Plan.

EXECUTIVE SUMMARY

- 10 outstanding actions were carried over from the 2017-2021 Council Plan. 6 actions have since been completed and 4 remain in progress.
- Progress is being made on the 4 remaining actions which will continue to be reported on until their completion.

RECOMMENDATION

That Council receives the 2017-2021 Moorabool Shire Council Plan outstanding actions progress report as of March 2023, including Attachment 1 to this report.

BACKGROUND

Of the actions identified for completion in the final year of the 2017-2021 Moorabool Shire Council Plan, 10 were incomplete as of 30 June 2021 and were not captured in Council’s 2021-2025 Council Plan. Accordingly, quarterly reporting will continue for these outstanding Council Plan actions until all actions are complete.

PROPOSAL

There were 10 actions outstanding from the 2017-2021 Council Plan, of these 6 actions have since been completed, including 1 that was completed in this quarter.

1. *Develop an Enforcement Policy*, the policy was adopted at the March 2023 Ordinary Meeting of Council.

The below table outlines the status of the remaining 4 outstanding actions. A full progress report including commentary against each of these actions is provided in Attachment 1 of this report.

Action	Completion %
Undertake a Master Plan including concept and cost plan for a youth space at Rotary Park, including the Andy Arnold Facility	95%
Develop and implement a policy on allocation, use and trading of water for Council water assets	90%
Incorporate strategic documents into the Planning Scheme - West Moorabool	57%

Action	Completion %
Heritage Study (2017 - 2021)	
Adopt a revised Municipal Early Years Plan (MEYP) and Youth Strategy	10%

COUNCIL PLAN

The Council Plan 2021-2025 provides as follows:

Strategic Objective 3: A Council that listens and adapts to the needs of our evolving communities

Priority 3.4: Measure performance, communicate our results and continue to improve our services every day

The proposal to receive the 2017-2021 Moorabool Shire Council Plan – Outstanding Actions Progress Report is consistent with the Council Plan 2021-2025.

FINANCIAL IMPLICATIONS

The implementation of outstanding Council Plan actions is resourced by Council's adopted annual budget.

RISK & OCCUPATIONAL HEALTH & SAFETY ISSUES

There are no Risk or Occupational Health & Safety issues in relation to this report.

COMMUNICATIONS & CONSULTATION STRATEGY

Specific projects are the subject of their own communications strategy.

VICTORIAN CHARTER OF HUMAN RIGHTS & RESPONSIBILITIES ACT 2006

In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited, restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.

OFFICER'S DECLARATION OF CONFLICT OF INTERESTS

Under section 130 of the *Local Government Act 2020*, officers providing advice to Council must disclose any interests, including the type of interest.

General Manager – Caroline Buisson

In providing this advice to Council as the General Manager, I have no interests to disclose in this report.

Author – Amy Gloury

In providing this advice to Council as the Author, I have no interests to disclose in this report.

CONCLUSION

Council is committed to completing the outstanding actions from the 2017-2021 Moorabool Shire Council Plan. Of the 10 outstanding actions, 6 are now complete while 4 remain in progress. These actions will continue to be reported on until all actions from the 2017-2021 Moorabool Shire Council Plan have reached completion.

14.4 MARCH 2023 QUARTERLY FINANCIAL REPORT

Author: Aaron Light, Senior Accountant

Authoriser: Caroline Buisson, General Manager Customer Care and Advocacy

Attachments: 1. March 2023 Quarterly Financial Report (under separate cover)

PURPOSE

The purpose of this report is to inform Council of the financial performance for the period ending 31 March 2023, in accordance with Section 97 of the *Local Government Act 2020*.

EXECUTIVE SUMMARY

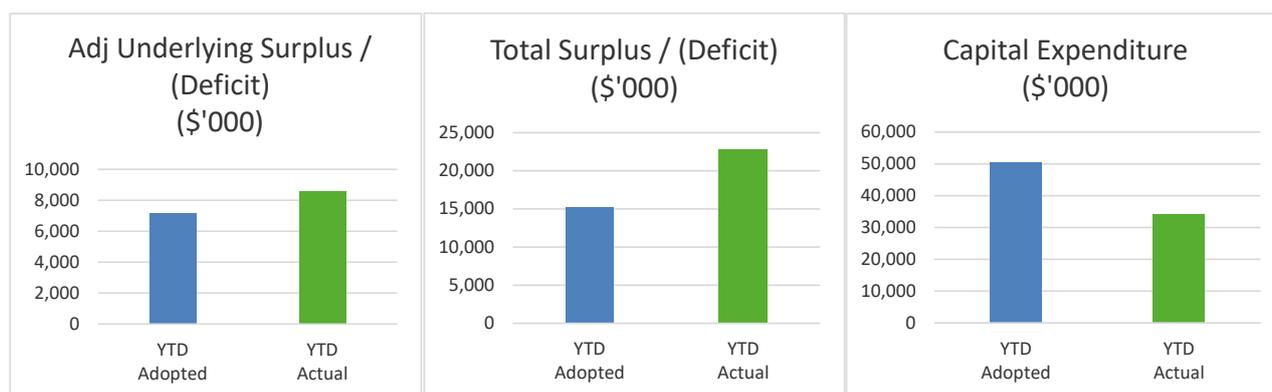
- This Quarterly Report provided in Attachment 1 outlines the year-to-date financial position of Council for the period from 1 July 2022 to 31 March 2023. It also contains a comparison between the adopted budget and the year-end forecast.
- The Income Statement reports the year to date adjusted underlying result is a surplus of \$22.798 million that is a \$7.567 million favourable when compared to budget. The adjusted underlying result extracts the impact of the non-recurrent capital income items, including one-off capital grants, donated assets from subdivisions, and developer contributions.
- The Statement of Capital Works reports year to date expenditure of \$34.199 million that is \$16.308 million less than budget. The variance primarily relates to the timing of contract payments, and also some major projects being carried over to next financial year.
- Council's cash balance as at 31 March 2023 is \$30.371 million, which is \$1.048 million favourable compared to year-to-date budget.
- Council's overall financial position at the end of March 2023 is considered sound and continues to be closely monitored to ensure the achievement of budgeted outcomes.

RECOMMENDATION

That Council receives the Quarterly Financial Report – March 2023, provided as Attachment 1 to this report.

BACKGROUND

The attached Quarterly Financial Report provides an explanation of the Income Statement, Balance Sheet, Cash Flow Statement and Capital Works Statement with the year-to-date actuals compared to the year-to-date budget, with reference to the annual budget. It also contains a comparison of the adopted budget and the year-end forecast.



	Year to Date				Annual			
	YTD Adopted \$'000	YTD Actual \$'000	Variance		Adopted Budget \$'000	Forecast \$'000	Variance	
			\$'000	%			\$'000	%
Operating Income	49,916	51,230	1,314	3%	57,913	63,405	5,492	9%
Operating Expenses	42,759	42,626	133	0%	57,846	63,400	(5,554)	-10%
Adj Underlying Surplus / (Deficit)	7,157	8,604	1,447	20%	67	5	(62)	-92%
Capital / Non-recurrent income	8,074	14,194	6,120	76%	22,537	36,048	13,511	60%
Total Surplus / (Deficit)	15,231	22,798	7,567	50%	22,604	36,053	13,449	59%
Capital Expenditure	50,507	34,199	(16,308)	-32%	61,482	57,135	(4,347)	-7%

Income Statement

The main changes within the Income Statement are as follows:

- Year to Date Operating Income - \$1.314 million favourable
 - Favourable in “Grants - operating” (\$0.838m). This is mainly due to new funding received since the adoption of the budget, and also grants recognised this financial year relating to projects incomplete last financial year.
- Year to Date Operating Expenses - \$0.133 million favourable
 - Favourable in “Employee costs” (\$0.336m). This is mainly due to reductions in the cost of leave provisions and also savings due to vacancies.

Balance Sheet and Cashflow Statement

The Balance Sheet reflects Council’s financial position as at 31 March 2023 and is prepared in compliance with the Australia Accounting Standards. The Cashflow Statement captures Council’s cash movement for the period.

Council is showing a cash position of \$30.371 million, which is \$1.048 million more than the year-to-date budget.

At the end of March, Council’s Balance Sheet continues to show a strong net position. This is represented by \$754.012 million of assets which is largely made up of Council Property, Infrastructure, Plant and Equipment. Council’s total liabilities are \$50.957 million, which results in net assets of \$703.055 million.

Capital Improvement Program (CIP)

Total capital expenditure at the end of March 2023 is \$34.199 million, which is \$16.308 million less than the year-to-date budget. This is mainly due to timing variances with contract payments. There are also a number of projects that will be incomplete at year end and will be carried over to

next financial year. These include Bacchus Marsh Indoor Recreation Facility, Bowls Club Pavilion and Bowling Green, and West Maddingley Early Years Hub.

PROPOSAL

That Council receives the Quarterly Report – March 2023.

COUNCIL PLAN

The Council Plan 2021 - 2025 provides as follows:

Strategic Objective 3: A Council that listens and adapts to the needs of our evolving communities
Priority 3.4: Measure performance, communicate our results and continue to improve our services every day

The proposal to adopt the Quarterly Report – March 2023 is consistent with the Council Plan 2021 - 2025.

RISK & OCCUPATIONAL HEALTH & SAFETY ISSUES

There are no identified risks associated with this process.

COMMUNICATIONS & CONSULTATION STRATEGY

To Council, through the Ordinary Meeting of Council on 7 June 2023, and to the Audit and Risk Committee meeting on 10 May 2023.

VICTORIAN CHARTER OF HUMAN RIGHTS & RESPONSIBILITIES ACT 2006

In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited, restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.

OFFICER'S DECLARATION OF CONFLICT OF INTERESTS

Under Section 130 of the Local Government Act 2020, officers providing advice to Council must disclose any interests, including the type of interest.

General Manager – Caroline Buisson

In providing this advice to Council as the General Manager, I have no interests to disclose in this report.

Senior Accountant – Aaron Light

In providing this advice to Council as the Author, I have no interests to disclose in this report.

CONCLUSION

That Council's overall financial position at the end of March 2023 is considered sound and Council notes the March Quarterly Report.

15 COMMUNITY ASSETS & INFRASTRUCTURE REPORTS

15.1 MOORABOOL ENVIRONMENT AND SUSTAINABILITY ADVISORY COMMITTEE - DRAFT TERMS OF REFERENCE

Author:	Caroline Rantall, Coordinator Sustainable Environment
Authoriser:	Phil Jeffrey, General Manager Community Assets & Infrastructure
Attachments:	1. Current Terms of Reference 2002 (under separate cover) 2. Draft Terms of Reference (under separate cover)

PURPOSE

To seek support for an update to the Terms of Reference for the Moorabool Environment and Sustainability Advisory Committee (MESAC), and to undertake the process to appoint new members.

EXECUTIVE SUMMARY

- The Moorabool Environment and Sustainability Advisory Committee was established in 1998 and was formerly titled the Moorabool Landcare Advisory Committee.
- The Committee was renamed Moorabool Environment and Sustainability Advisory Committee in 2019 following the adoption of the Sustainable Environment Strategy.
- A review found that the current Terms of Reference is outdated, specifically role and function, governance, membership and consistency.
- A new Terms of Reference has been drafted which addresses issues identified in the review.
- Following adoption of the new Terms of Reference a process will be undertaken to seek and appoint new members to the Committee.

RECOMMENDATION

That Council:

- 1. Adopts the new Moorabool Environment and Sustainability Advisory Committee Terms of Reference as per Attachment 2.**
- 2. Resolves to seek and appoint new members to the Moorabool Environment and Sustainability Advisory Committee under delegation by the General Manager Community Assets and Infrastructure.**

BACKGROUND

The Moorabool Environment and Sustainability Advisory Committee comprises members of the community with land care experience or an interest in environment and sustainability to advise Council on matters of land care policy, planning and development relating to Environment and Sustainability.

The Committee formed in 1998 and was formerly titled the Moorabool Landcare Advisory Committee (MLAC). Meetings were held monthly, and an Annual General Meeting was conducted each April. The original Terms of Reference (Attachment 1) for the Committee was reviewed and adopted in May 2002.

The Moorabool Sustainable Environment Strategy was adopted by Council in April 2017. This strategy established a broader policy and operational scope for Council, and it was resolved on 13 November 2019 that the former Moorabool Landcare Advisory Committee be renamed to Moorabool Environment and Sustainability Advisory Committee (MESAC). It was seen this name better reflects the range of matters being considered by the Committee.

The current membership of the committee consists of one representative from 21 groups and agencies, and four representatives from the community.

Table 1: Existing Committee Membership

Shire based Landcare/Environmental Groups	
Rushing Waters	Voting member
Coimadai Landcare Group	Voting member
East Moorabool Landcare Group	Voting member
Lal Lal Landcare group	Voting member
Wattle Flat/Pootilla Landcare Group	Voting member
Blackwood Barry's Reef Landcare Group	Voting member
Pentland Hills Landcare Group	Voting member
Upper Williamson's Creek Landcare Group	Voting member
Rowsley Landcare Group	Voting member
Pinkerton Landcare Group	Voting member
Pentland Hills Landcare Group	Voting member
Brisbane Ranges Landcare Group	Voting member
Friends of the Brisbane Ranges	Voting member
Moorabool Gorge Recovery Project	Voting member
Leigh Catchment Group	Voting member
Region 15 and 14 of the Country Fire Authority	Voting member
Grow West	Voting member
Community Member Representatives	
Woodlands	Voting member
Bungal	Voting member
East Moorabool	Voting member
West Moorabool	Voting member
Government Agency Representatives	

Department of Sustainability and Environment	Non-voting member
Department of Primary Industries	Non-voting member
Centre for Environmental Management, University of Ballarat	Non-voting member
Ballarat District Council of the Victorian Farmers Federation	Non-voting member

Review of current terms of reference

The responsibility for the Committee was transferred to the Environment and Waste team in 2020 following an internal restructure within the organisation.

Discussions held with the existing members of the MESAC group have identified that the Terms of Reference is outdated and needs to be reviewed. Identified issues include:

Governance

Meetings are not conducted as per correct meeting guidelines, and minutes of meetings are not tabled at Council meetings.

Role and function

Inconsistency with the role and function of an Advisory Committee, with the Committee having little clarity on what Council require from the group and what their role is.

Membership

Representatives from 21 groups can be appointed to the Committee, there is no current list of active representatives and many of the groups and agencies no longer exist, are inactive and do not attend Committee meetings.

Consistency

Current Terms of Reference is on an outdated template and missing components relating to Conflict of Interest and Confidentiality, Quorum, Membership, and Resignation of members.

Current Committee members are aware that a review on the Terms of Reference is being undertaken and a presentation was delivered to the Committee at the MESAC meeting held on Monday 20 February 2023.

This presentation included an outline of the new Terms of Reference template and the items within the template that can be adapted to the Committee, and an outline of clauses and sections that were not present in the current Terms of Reference document.

Adaptable items included:

- Objective of the Advisory Committee
- Number and frequency of meetings
- Location of meetings
- Appointment to the Committee
- Number of members

New sections or clauses include:

- The committee will have no budgetary responsibilities, decision making powers or delegated authority.
- Length of appointment to be aligned with Council term.

- Council holds the responsibility for creating the agenda and Minutes.
- Measures if a member fails to attend regular meetings.
- All members must complete a Conflict of Interest pledge at the beginning of their term, and disclose any conflicts that arise throughout their membership.
- Committee members will not publicly comment on behalf of the group. Neither will it seek to advocate on the needs of individual organisations.

Within the presentation it was communicated to the group that the intent of the Advisory Committee is to provide recommendations, input, and advice to Council.

Current MESAC members were not directly involved in the review and the draft Terms of Reference has not been circulated to the Committee.

PROPOSAL

A new Terms of Reference has been drafted (Attachment 2).

Key changes to the Terms of Reference include:

- Use of consistent Terms of Reference template.
- Term of appointment changed from 12 months to 4 years to align with the duration of the Council term.
- Purpose and objectives adapted to ensure the Committee can provide input and advice on matters relating to conservation, biodiversity, environment, environmental sustainability, natural resource management planning and related matters within the municipality as referred by Council.
- Membership changes reducing membership from 25 members to eight members. The reduction in representation is to ensure a more manageable Committee size.
- Selection process will change to the Appointment to Committee process outlined within the new Terms of Reference.
- Tabling of Committee minutes at Council meetings.

Next Steps

Following adoption of the new Terms of Reference an expression of interest process will be undertaken as per the appointments to Committees process outlined in the new Terms of Reference. New members would be appointed for the remainder of the Council term.

Appointment of new Committee members would be under delegation of the General Manager Community Assets and Infrastructure.

A MESAC meeting is scheduled to be held on 17 April 2023. It is proposed that this meeting continues as normal whilst the review of the Terms of Reference is undertaken.

COUNCIL PLAN

The Council Plan 2021-2025 provides as follows:

Strategic Objective 3: A Council that listens and adapts to the needs of our evolving communities

Priority 3.1: Listen, analyse and understand community needs

The proposal to update the Terms of Reference for the Moorabool Environment and Sustainability Advisory Committee to ensure effective governance is consistent with the Council Plan 2021-2025.

FINANCIAL IMPLICATIONS

There are no financial implications associated with this report. The appointment of a new Committee can be accommodated within the 2022/2023 budget.

RISK & OCCUPATIONAL HEALTH & SAFETY ISSUES

Risk Identifier	Detail of Risk	Risk Rating	Control/s
Not representative of the community	There is no current list of active representatives and many of the groups and agencies no longer exist, are inactive and do not attend Committee meetings	Medium	Update Terms of Reference and appoint new members under the process outlined within.

COMMUNICATIONS & CONSULTATION STRATEGY

Level of Engagement	Stakeholder	Activities	Location	Date	Outcome
Consult	Current MESAC members	Outline that a review is being undertaken and present new template to the Committee members	Online MESAC meeting	20 February 2023	Current members aware update of Terms of Reference is being undertaken.

VICTORIAN CHARTER OF HUMAN RIGHTS & RESPONSIBILITIES ACT 2006

In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited, restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.

OFFICER’S DECLARATION OF CONFLICT OF INTERESTS

Under section 130 of the *Local Government Act 2020*, officers providing advice to Council must disclose any interests, including the type of interest.

General Manager – Phil Jeffrey

In providing this advice to Council as the General Manager, I have no interests to disclose in this report.

Author – Caroline Rantall

In providing this advice to Council as the Author, I have no interests to disclose in this report.

CONCLUSION

The existing MESAC Advisory Committee Terms of Reference is outdated. A review found that elements of the Terms of Reference, in particular the role and function, governance and membership sections require updating.

A new Terms of Reference has been drafted which addresses issues identified in the review.

Following adoption of the new Terms of Reference a process will be undertaken to seek and appoint new members to the Committee.

15.2 NOTICE OF MOTION - WERRIBEE RIVER

Author: Ewen Nevett, Manager Engineering Services

Authoriser: Phil Jeffrey, General Manager Community Assets & Infrastructure

Attachments: 1. Werribee River Turbidity Issue - Investigation Report (under separate cover)

PURPOSE

This report responds to the Notice of Motion – Werribee River and provide information on measures to manage turbidity issue resulting from discharge from developments at Stonehill and Queensbrook, including the effectiveness of sediment barriers on Werribee Vale Road.

EXECUTIVE SUMMARY

- Over the past two years Officers have works closely with the Environmental Protection Agency (EPA), Melbourne Water, Developer and Contractors to minimise the sediment load of water discharging from the development sites and impacting the turbidity of water in the Werribee River within the constraints of working within an area with steep terrain and medium to high sodic soil classification
- Mitigation measures have changed and been enhanced over the course of the development activity in response to impacts from adverse weather events, which at all times have met the expectations and requirements of the EPA and Melbourne Water
- The sediment barriers installed along Werribee Vale Road are consistent with standard construction practices, although the intervention of third-party unauthorised activity has impacted the overall effectiveness of managing outflow from the developments
- Officers will continue to work with Melbourne Water, the EPA, Contractors and Developers to monitor all environmental controls implemented by Developers and ensure changes are implemented if and when required to minimise the sediment loads in water leaving sites and entering the Werribee River.

RECOMMENDATION

That Council notes this report.

BACKGROUND

At the 1 February 2023 Ordinary Council Meeting, Council resolved as follows:

1. *That Council officers commence an investigation into large amounts of sediment that are running into the Werribee River from the storm water pipes at the rear of 270 Werribee Vale Road, Bacchus Marsh.*
2. *The investigation to include assessing the effectiveness of sediment barriers that run along the side of Werribee Vale Road, opposite 270 Werribee Vale Road, Bacchus Marsh that are in place to prevent sediment from flowing into the storm water pipes.*

On 27 November 2020 Moorabool Shire Council endorsed Stages 24 and 25 of the Stonehill Development. This Planning Permit provided approval for a staged 157 lot residential subdivision on the northwest extents of rezoned area located within the West Maddingley Development Plan.

The parcel of land includes gradients of more than 15 per cent across the site and is located in a high to medium Sodic Soil Risk Area with a discharge to be constructed directly into the Werribee River.

The Planning Permit was endorsed with specific conditions to ensure that the Responsible Authorities (Moorabool Shire Council and Melbourne Water) were provided with sufficient documents such that reviews against appropriate legislation and standards took place prior to works commencing.

Hold points in the process, which were satisfactorily addressed by the Developer prior to works commencing, included submission of:

- Functional and Detailed Design plans
- Environmental and Waste Management Plans
- Pre-commencement meeting

Council Officers routinely visit all development sites during construction to inspect and confirm quality of the works and compliance with their obligations under all approved documents.

This report summarises the finding of the Investigation Report (attached).

INVESTIGATION OUTCOME

The investigation into the turbidity of the Werribee River identified:

- General compliance with the Environmental Protection Authority (EPA) guidelines and Environmental Management Plan (EMP) prior to the severe storm events in 2021.
- Additional site-specific controls, meeting EPA and Melbourne Water expectations, were implemented in response to the severe storm events by 27 May 2021.
- Onsite audits were increased to weekly intervals with daily inspections on the environmental controls after 27 May 2021.
- Due to the difficult site conditions and forever moving construction sites, these environmental controls were continually updated to ensure compliance with the EPA was achieved.
- The Southern Rural Water open channel provided some mitigation for overland flows pre and post decommissioning by diverting water to a point further down the Werribee River. This water is now being treated on site in sedimentation basins meeting Melbourne Water requirements.
- Evidence of non-compliance with the EPA guidelines by builders during construction of new dwellings within the developments adding to the sediment load in the water making its way to the Werribee River.

To reduce the sediment load, the developer instigated the following measures:

- Utilising water retention basis (part of the ultimate WSUD requirements) as sediment basis during construction.
- Topsoiling and hydroseeding once the bulk earthworks are completed.

- Removed all stockpiles from the site.
- Implemented weekly site inspections to review controls in place.

The investigation into the sediment barriers on Werribee Vale Road identified:

- Adequate silt fencing and swale drains in place to manage water flow to naturally occurring drainage lines.
- Unauthorised placement of plywood, bricks, rocks, and other obstructions to eliminate flows through the pipe under Werribee Vale Road causing backing up within the swale, erosion along the road and water overtopping the road.

COUNCIL PLAN

The Council Plan 2021-2025 provides as follows:

Strategic Objective 2: Liveable and thriving environments

Priority 2.3: Enhance our natural environments

This report is in response to the Notice of Motion for the Werribee River and is consistent with the Council Plan 2021-2025.

FINANCIAL IMPLICATIONS

There are no financial implications.

RISK & OCCUPATIONAL HEALTH & SAFETY ISSUES

Risk Identifier	Detail of Risk	Risk Rating	Control/s
Reputation – Negative perception from the community	Negative feedback is received from the community	Medium	Undertake adequate surveillance to ensure compliance with agency guidelines and standards

COMMUNICATIONS & CONSULTATION STRATEGY

Officers continue to engage with other agencies to ensure control measures associated with the subdivision development are acceptable, are adapted for the specific issues with sodic soils and meet relevant construction standards and guidelines.

VICTORIAN CHARTER OF HUMAN RIGHTS & RESPONSIBILITIES ACT 2006

In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited, restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.

OFFICER’S DECLARATION OF CONFLICT OF INTERESTS

Under section 130 of the *Local Government Act 2020*, officers providing advice to Council must disclose any interests, including the type of interest.

General Manager – Phil Jeffrey

In providing this advice to Council as the General Manager, I have no interests to disclose in this report.

Author – Ewen Nevett

In providing this advice to Council as the Author, I have no interests to disclose in this report.

CONCLUSION

This report has identified the factors contributing to the increased turbidity during the construction of major developments at Stonehill, Queensbrook and Underbank and that the measures implemented meet the expectations and requirements of the EPA, Melbourne Water and Council's Development approval process, noting the elevated surveillance and mitigation measures in place due to the nature of the terrain and soil type.

15.3 NOTICE OF MOTION - RECREATION RESERVE, RIVERBEND DRIVE, DARLEY**Author:** Caroline Rantall, Coordinator Sustainable Environment**Authoriser:** Phil Jeffrey, General Manager Community Assets & Infrastructure**Attachments:** Nil**PURPOSE**

The purpose of this report to provide a response to the Notice of Motion 295 – Riverbend Drive Recreation Reserve, Darley and provide guidance for improved open space outcomes at the reserve.

EXECUTIVE SUMMARY

- Riverbend Drive Recreation Reserve is classified as a local park in the draft Moorabool Open Space Strategy (in development).
- Local parks are characterised as predominantly servicing a local residential area, servicing daily and weekly community needs and are generally accessed by walking or cycling from surrounding areas. The catchment of an open space determines its area of influence, the scale of development required and how far people travel to the site. Catchment, in conjunction with open space function type, determines the core service level for a park and the physical features contained within a reserve.
- Riverbend Drive Recreation Reserve is classified functionally as social/family recreation. This provides a place for social gathering where social/family recreation and child development can occur. Typically, this function caters for play, picnics, casual ball games and social sports activities.
- This report identifies the provision standard and service levels by function type as set out by the draft Open Space Strategy and how this applies to Riverbend Drive Recreation Reserve. Items such as a half-court basketball court and irrigation and landscaping are all considered appropriate for this reserve. Public toilets and BBQs are not considered appropriate for local reserves and are best placed in district, township and regional reserves.
- Any upgrades to the 'oval' to convert to a medium size sporting oval with a hard cricket pitch capable of hosting football training, junior games and cricket will be considered as part of the Recreation and Leisure Strategy currently in development and anticipated to be completed in early 2024.

RECOMMENDATION**That Council:**

- 3. Notes this report.**
- 4. Notes the development of the draft Moorabool Open Space Strategy and Recreation and Leisure Strategy.**
- 5. Considers and refers any improvement works at Riverbend Drive Recreation Reserve as part of the implementation of the Moorabool Open Space Strategy and Recreation and Leisure Strategy.**

BACKGROUND

At the 7 April 2021 Ordinary Council of Meeting, Council resolved as follows:

That Council:

1. *Request the Chief Executive Officer prepare a report on the Riverbend Drive Reserve which considers opportunities to provide additional open space for passive and active recreation space.*
2. *Request consideration in the report the development of a concept/masterplan, incorporating the feasibility of:*
 - (a) *Improvements to the “oval” to convert to a medium size sporting oval with a hard wicket cricket pitch capable of hosting football training, junior games, and cricket*
 - (b) *Installation of a half-court basketball court similar to that which has been installed in other open space reserves*
 - (c) *Irrigation system and landscaping*
 - (d) *BBQ area*
 - (e) *Public toilets*

This report sets out the strategic thinking that underpins the draft Open Space Strategy that is currently in development and how Riverbend Drive Recreation Reserve is considered within this context.

DRAFT MOORABOOL SHIRE OPEN SPACE STRATEGY

The draft Moorabool Shire Open Space Strategy is currently in development and is listed as a key action within the Living and Thriving Environment objective of the Council Plan 2021-25. This action contributes to beautifying the Shire including parks, gardens, streetscapes, and public open spaces.

The draft strategy aims to provide clear direction about the planning for open spaces across the Shire and meeting the community’s needs today and into 2041. It sets the strategic direction for the management of public open space and establishes a framework to ensure an equitable approach to the development and improvement of existing public open space.

The strategy establishes a vision of a network of open space in Moorabool that is:

- Diverse in nature and opportunities
- Equitably distributed
- Accessible and inclusive to people of all ages, abilities, backgrounds, and gender identities
- Able to enrich social, environmental, and recreational experiences and provide opportunities to increase physical activity for existing and future residents of Moorabool
- Sustainably sited, designed and managed in partnership with community, stakeholders, and traditional owners
- Protecting and enhancing biodiversity, cultural heritage and amenity on the Shire’s built landscape, parks, and waterways, and

- Complementary to and providing access to the opportunities that the extensive state park system in Moorabool could provide.

The draft strategy details the open space classification and how it can be used for planning and applied to open spaces such as Riverbend Drive Recreation Reserve.

The three main types of classification for open space in Moorabool are:

- Function or purpose
- Catchment
- Landscape setting

Primary purpose or function.

The function or purpose of each reserve needs to be clear as the function determines the desirable size, location, distribution, quality, and nature of the infrastructure on site.

The priority function types of open space that need to be close to all residents are:

- Social/family recreation spaces
- Off-road trails
- Sport

Catchment type

Open space catchment types define the sphere of influence of an open space, how far people are willing to travel to use it and how long they are likely to stay. Therefore, catchment type, along with function determines the level of community infrastructure provided at a reserve.

The catchment hierarchy for Moorabool is:

Local	Open space predominantly serving the immediate surrounding neighbourhood which is walkable from the immediate residential area.
District/Township	Open space serving a group of local suburbs or a main site within a town
Regional	Open space predominantly serving the whole Shire or larger area. These may have significance to a large population including visitors and typically would include some unique attraction.

Landscape setting

A classification based on landscape setting defines the nature of vegetation and form of open space. This classification helps inform maintenance requirements and costs, the extent of canopy cover and determine priority for new open spaces so they complement existing spaces.

Landscape settings include;

- Bushland/forest
- Open grass area
- Lawn/ manage turf
- Treed parkland

- Non manicured natural area

Features of a social/family recreation space within a local catchment

The draft Open Space Strategy includes guidance on provision standards and service levels as determined by priority function type.

The table below identifies what features should be delivered at a social/family recreation reserve that serves a local community such as Riverbend Drive Recreation Reserve.

Features	Provision at local reserve
Accessible seats and tables	Yes
Co-operative play elements, water play	Yes
One park in each urban area fenced	Yes
Perimeter circuit path for running, wheeling and walking	Yes
Multiple swing side by side and rotating side by side	Yes
Open grass ball games with goals, wicket, etc	Yes
Climbing opportunities (steps, ropes, ladders)	Yes
Canopy trees for shade	Yes
Screen planting along private boundaries	Yes
Loose materials (sand, logs, rocks)	Yes
Hardy flowering plants, specimen trees, sensory planting	Yes
Accessible drinking water/BBQ	No
Toilet	No
Central social hub accessible to all	No
Access to nature elements	No
Fitness equipment	No
Other bike skills or bike track	No
Dog off lead area	No
Built shade/shelter	Optional
Hard court, hit up wall, scooter or skate area	Optional
Irrigated turf	Optional
Car parking immediately adjacent	Optional
Accessible car space	Optional
Security lighting	Optional
Sculptures, games area	Optional
Bins/dog bags	Optional
Activities suitable for preschool, teens, older adults	Optional

Features	Provision at local reserve
Public art or custom design elements designed by artist	Optional
Connecting paths	Optional
Hill path/steps	Optional

The draft Moorabool Open Space Strategy is currently under development and will be the subject of future reports to Council.

RIVERBEND DRIVE RECREATION RESERVE

Riverbend Drive Recreation Reserve contains many of the elements that make up a local park as per the standards in the draft Open Space Strategy including accessible seat and tables, built shade/shelter, swing set, open space area with goals (2 x football and 1 x AFL) and accessible drinking water.

The facilities (see figure 1 below) at the park were completed at the end of 2020 and are in good condition and well maintained.



Figure 1 – Facilities at Riverbend Reserve

In order to ensure a consistent application of the draft Open Space Strategy, the following items would be considered appropriate in a future upgrade to Riverbend Drive Recreation Reserve:

- Installation of a half-court basketball court
- Irrigation system and landscaping.

As per the above table, BBQ facilities and toilets are not facilities included in the provision standards for a local park as designated by the draft Open Space Strategy and as such are not supported for inclusion in any upgrade to Riverbend Drive Recreation Reserve.



Figure 1 – Open Space Areas at Riverbend Reserve

Improvements to the ‘oval’ to convert to a medium size sporting oval with a hard cricket pitch capable of hosting football training, junior games and cricket will be considered as part of the Recreation and Leisure Strategy review which is currently being undertaken by the Community Activation team. The strategy will review existing ovals, identify what provision is required over the next 10 years and identify recommended locations for upgrades. The strategy is anticipated to be completed in early 2024.

COUNCIL PLAN

The Council Plan 2021-2025 provides as follows:

Strategic Objective 2: Liveable and thriving environments

Priority 2.2: Beautify our Shire including our parks, gardens, streetscapes, public and open spaces

The proposal in response to the Notice of Motion for Riverbend Drive Recreation Reserve is consistent with the Council Plan 2021-2025.

FINANCIAL IMPLICATIONS

Any future upgrade to Riverbend Drive Recreation Reserve, including landscape design and on ground works, would be subject to future budget processes. An implementation plan to support the delivery of the Moorabool Open Space Strategy will be prepared which will guide future upgrades to parks and reserves across the Shire.

RISK & OCCUPATIONAL HEALTH & SAFETY ISSUES

Risk Identifier	Detail of Risk	Risk Rating	Control/s
Reputation – Negative perception from the community	Negative feedback is received from the community	Medium	Undertake community consultation on draft Moorabool Open Space Strategy and any upgrade program for Riverbend Drive Recreation Reserve.

Financial – Inadequate funds to finish project	Inadequate financial management	Medium	Staff implementing the strategy will monitor resource requirements and report to Council where issues arise.
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COMMUNICATIONS & CONSULTATION STRATEGY

At the appropriate time, Council will consult with the broader Moorabool community on the draft Moorabool Open Space Strategy and locally with the Darley community on any future upgrades to Riverbend Drive Recreation Reserve.

VICTORIAN CHARTER OF HUMAN RIGHTS & RESPONSIBILITIES ACT 2006

In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited, restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.

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General Manager – Phil Jeffrey

In providing this advice to Council as the General Manager, I have no interests to disclose in this report.

Author – Caroline Rantall

In providing this advice to Council as the Author, I have no interests to disclose in this report.

CONCLUSION

This report identifies the provision standards and service levels by function type as set out by the draft Moorabool Open Space Strategy and how this applies to Riverbend Drive Recreation Reserve.

Items such as a half-court basketball court and irrigation and landscaping are all considered appropriate for a reserve such as Riverbend Drive Recreation Reserve. Public toilets and BBQs are not considered appropriate for local reserves and are best placed in district, township, and regional reserves.

Any upgrades to the ‘oval’ to convert to a medium size sporting oval with a hard cricket pitch capable of hosting football training, junior games and cricket will be considered as part of the Recreation and Leisure Strategy currently in development and anticipated to be completed in early 2024.

The draft Moorabool Shire Open Space Strategy is currently in development and will be the subject of future reports to Council. An implementation plan will be prepared which will guide future upgrades to parks and reserves across the Shire to ensure a consistent and equitable approach to the delivery of open space upgrades across Moorabool.

16 OTHER REPORTS

Nil

17 NOTICES OF MOTION

17.1 NOTICE OF MOTION - FACILITY IMPROVEMENTS AT BACCHUS MARSH BMX CLUB

Attachments: Nil

I, Councillor David Edwards, give notice that at the next Ordinary Meeting of Council to be held on 7 June 2023, I intend to move the following motion:

MOTION

That Council receives a report that:

- 1. Provides an estimate for the cost of installing asphalt on the 3 large berms marked in red in the photo in the report.**
- 2. Provides an estimate for the cost of installing a shelter over the starting gate which is common at other tracks and provides protection for riders and officials.**
- 3. Provides an estimate for the cost of installing lighting around the track.**
- 4. Provides an estimate for the cost of installing some bench style seating on both sides of the track for spectators.**
- 5. Includes a review of the maintenance responsibilities.**

RATIONALE

The Bacchus Marsh BMX Club was established in 2019 when the new track was officially opened at the Bacchus Marsh Racecourse & Recreation Reserve.

The club is a small club of approximately 50 members and they operate under a Lease Agreement with Moorabool Shire Council which requires them to be responsible for all facility maintenance, which is a significant burden on their small number of volunteers.

The track regularly attracts riders from Warrnambool, Bendigo, Wyndham, Geelong, Ballarat and other areas due to the terrific design of the track. In addition, the club hosts Victorian and National events. In addition to regular weekend trials and events, the club trains at the venue twice a week during daylight savings, and once per week during non-daylight savings hours due to lack of lighting.

For the remainder of the time, the track is open for public use. Aside from a large number of members of the public using the track for its intended purpose, the Bacchus Marsh BMX Club has previously raised concerns with MSC about some of the use during such periods which causes considerable damage to the track, such as motor bikes, remote control cars, electric scooters/bikes, go carts, etc.

Unfortunately the burden and costs associated with the repairs required from public use (legal and illegal) is left to the club to address.

It is requested that Moorabool Shire Council prepare a report for Council that:

- Provides an estimate for the cost of installing asphalt on the 3 large berms marked in red in the photo below.

This will significantly reduce the need for maintenance from regular water damage. It is worth noting that this solution was proposed in the original facility designs (V4, Feb 2018) by DirtzTraxnTrailz.



This is consistent with the asphalt berms at other tracks that feature on the Vic. series; see photo below:



An example of the damage caused by rain on the existing gravel berm is shown in the picture below. The cost for replacement gravel, and the man hours required by the volunteers to do the remedial work, is significant.



- Provides an estimate for the cost of installing a shelter over the starting gate which is common at other tracks and provides protection for riders and officials.

An example of two suitable shelters used at other tracks is provided below.



- Provides an estimate for the cost of installing lighting around the track.

I note that a recent project to install lighting at a BMX track included:

- Construction of a 200 lux LED lighting – with flexibility to light to 100 or 200 lux;
 - Installation of structurally engineered footings for 4 x 20 poles;
 - Supply, install, aim and connect 23 x Briteline Raptor LED floodlights;
 - Underground reticulation and connect to existing MSB;
 - Submains cables to the new poles.
- No spectator seating exists. Provide an estimate for the cost of installing some bench style seating on both sides of the track for spectators (refer to the orange lines on picture one above).

- Review of maintenance responsibilities.

The report should include a review of maintenance responsibilities to ensure that the small number of volunteers at the Bacchus Marsh BMX Club are not solely responsible for track, vegetation and precinct maintenance, noting the high degree of public use of the facility.

I commend this Notice of Motion to Council.

18 NOTICES OF RESCISSION

Nil

19 MAYOR'S REPORT

19.1 MAYOR'S REPORT

Author: Dianne Elshaug, Co-ordinator CEOs Office

Authoriser: Derek Madden, Chief Executive Officer

Attachments: Nil

PURPOSE

To provide details to the community on the meetings and events attended by the Mayor since the last Ordinary Meeting of Council.

EXECUTIVE SUMMARY

That the Mayor's Report be tabled for consideration at the Ordinary Meeting of Council.

RECOMMENDATION

That Council receives the Mayor's Report.

20 COUNCILLORS' REPORTS

21 URGENT BUSINESS

22 CLOSED SESSION OF THE MEETING TO THE PUBLIC

RECOMMENDATION

That Council considers the confidential report(s) listed below in a meeting closed to the public in accordance with Section 66(2)(a) of the *Local Government Act 2020*:

22.1 Contract C01-23/23 Bituminous Resealing Program

This matter is considered to be confidential under Section 3(1) confidential information - (g) of the Local Government Act, and the Council is satisfied that discussion of this matter in an open meeting would, on balance, be contrary to the public interest as it deals with private commercial information, being information provided by a business, commercial or financial undertaking that (i) relates to trade secrets; or

(ii) if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage.

23 MEETING CLOSURE