

Ordinary Meeting of Council

to be held at the Civic Centre, Civic Drive, Greensborough
on Tuesday 19 December 2017 commencing at 7pm.

Agenda

Mark Stoermer
Chief Executive Officer

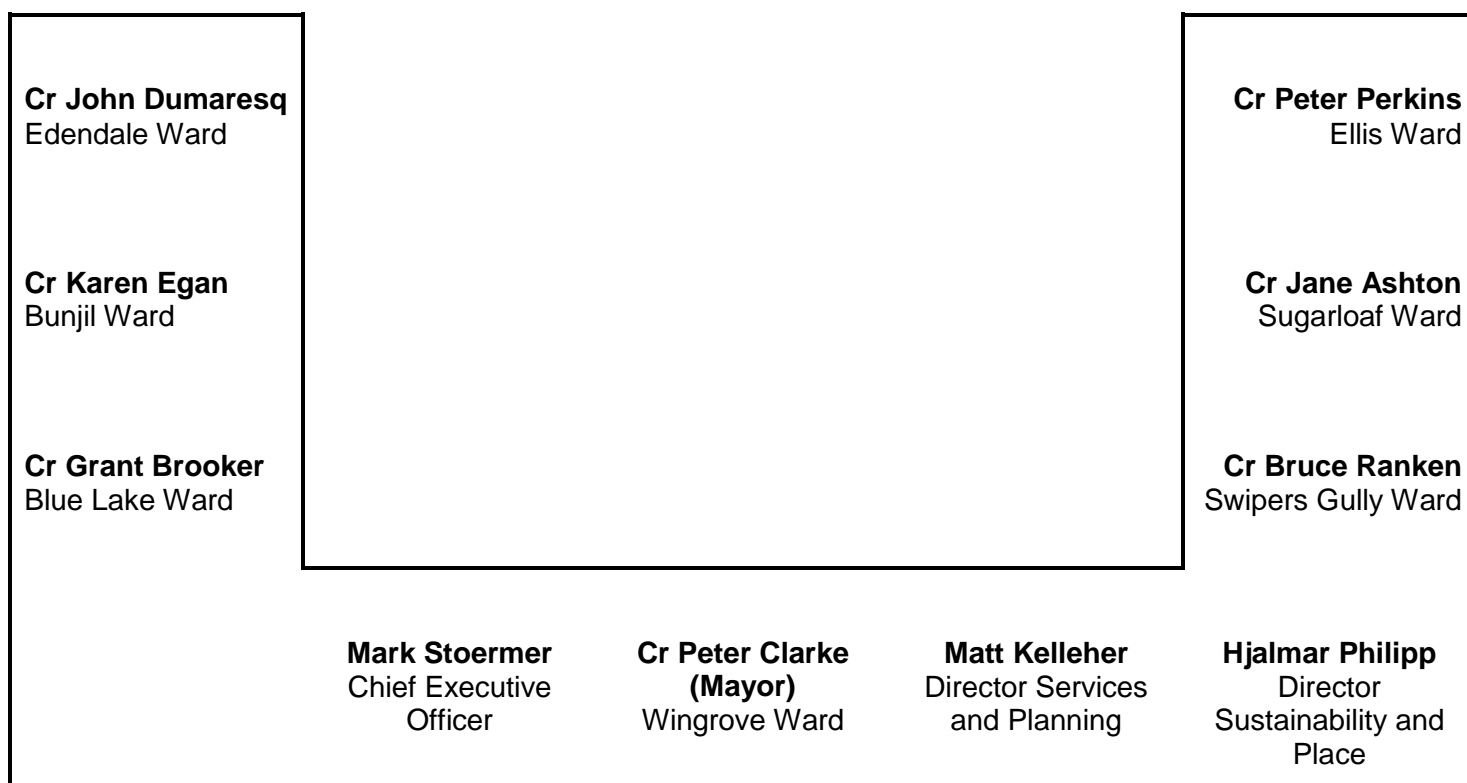
Thursday 14 December 2017

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Wamin je ka

Ordinary Meeting of Council seating plan



Visitors in the gallery at Council meetings are:

- Welcome to copies of the reports which will be considered by the Council at the meeting. These are on the table in the foyer.
- Welcome to the tea, coffee and water provided in the foyer.
- Requested to observe Council deliberations quietly in order for Council meetings to run smoothly.
- Advised that the meeting will be recorded and an audio recording of the meeting will be made publicly available on Council's website.

Nillumbik Shire Council

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Nillumbik Shire Council

Agenda of the Ordinary Meeting of Nillumbik Shire Council to be held Tuesday 19 December 2017 commencing at 7pm.

1. Welcome by the Mayor

Members of the public are advised the meeting will be recorded.

2. Reconciliation statement

The reconciliation statement to be read by the Mayor

Nillumbik Shire Council acknowledges the Wurundjeri as the traditional custodians of the land now known as the Shire of Nillumbik and values the significance of the Wurundjeri people's history as essential to the unique character of the Shire.

3. Prayer

A prayer will be read by Lead Pastor Stewart Hunt of the Eltham Baptist Church.

4. Apologies

Motion

That the apologies be accepted.

5. Presentations

Sporting presentations

Elise Highmore (Swipers Gully Ward) receives \$200 as a contribution for her selection to represent Australia at the U17 Team Championship Mounted Games in New Zealand.

6. Confirmation of minutes

Confirmation of minutes of the Council Meeting held on Tuesday 28 November 2017.

Motion

That the minutes of the Council Meeting held on Tuesday 28 November 2017 be confirmed.

7. Disclosure of conflicts of interest

Councillors should note that any conflicts of interest should also be disclosed immediately before the relevant item.

8. Petitions

Nil

9. Questions from the gallery

10. Reports of Advisory Committees

AC.010/17 Advisory Committee Report

Distribution: Public

Manager: Allison Watt, Manager Governance

Author: Tracey Classon, Governance Officer

Council has a range of Advisory Committees which provide a formal mechanism for Council to consult with key stakeholders, seek specialist advice and enable community participation. Although they do not make any formal decisions, they provide valuable advice to Council.

In accordance with Advisory Committee Terms of Reference, the minutes of meetings are presented to Council. This month, the following minutes are attached for information:

- Municipal Public Health and Wellbeing Plan Project Reference Group held Tuesday 19 September 2017.
- Open Space Precinct Plan Graysharps Road, Hurstbridge Project Reference Group held 1 November 2017.

Motion

That Council notes the:

1. **Municipal Public Health and Wellbeing Plan Project Reference Group minutes of Tuesday 19 September 2017.**
2. **Open Space Precinct Plan Graysharps Road, Hurstbridge Project Reference Group minutes of 1 November 2017.**

Attachments

1. Municipal Public Health and Wellbeing Plan Project Reference Group minutes Tuesday 19 September 2017
2. Open Space Precinct Plan Graysharps Road, Hurstbridge Project Reference Group minutes 1 November 2017

11. Reports of Special Committees

Nil

12. Officers' reports**OCM.146/17 Arts and Cultural Plan 2018-2022**

Distribution: Public**Manager: Mark Stoermer, Chief Executive Officer****Author: Michelle Zemancheff, Coordinator Arts and Cultural Services
Adrian Cully, Manager Connected Communities****Summary**

The purpose of this report is to present the final Arts and Cultural Plan 2018-2022 to Council for endorsement and adoption. The Arts and Cultural Plan 2018-2022 (the Plan) has been developed after much innovative and creative community engagement and consultation. The Plan also meets the cultural industry's best practice standards by focussing on outcomes. In focussing on outcomes the Plan enables mechanisms for the evaluation and measurement of cultural value, pertinent arts and cultural practice.

Recommendation**That Council:**

- 1. Acknowledges and thanks the Arts Advisory Committee and wider community for the significant contribution to the development of the Arts and Cultural Plan 2018-2022.**
- 2. Adopts the Arts and Cultural Plan 2018-2022.**
- 3. Authorises the Chief Executive Officer to make any further minor changes to the Arts and Cultural Plan 2018-2022 that may be necessary.**
- 4. Refers any required Council expenditure to implement the Arts and Cultural Plan 2018-2022 for consideration in the preparation of future Council budgets.**

Attachments

1. Arts and Cultural Plan 2018-2022

Background

1. Development of the Arts and Cultural Plan 2018-2022 (Attachment 1) is based on wide and targeted community engagement over three key stages.
2. The first stage involved the Travelling Teapot creative focus group sessions conducted between June and August 2017. The process focused primarily upon community values, which underpin cultural planning principles. The community's three key values confirmed through this process were the importance of:
 - The natural environment;
 - Community connectedness; and
 - The local artistic heritage.
3. Those values were further identified by the community as Nillumbik's heartbeat. The term 'heARTbeat' is aptly adopted as the theme for the Arts and Cultural Plan.

12. Officers' reports

OCM.146/17 Arts and Cultural Plan 2018-2022

4. Concurrent to the Travelling Teapot, was the opportunity to input through a traditional survey promoted through Council's website and social media, together with face to face meetings.
5. The second stage was the development of a Discussion Paper to consolidate the community engagement findings and form the framework for the Draft Arts and Cultural Plan 2018-2022.
6. The Arts and Cultural Plan 2018-2022 has been developed in close alignment with industry standards and has been peer-reviewed by peak industry bodies, Municipal Association Victoria (MAV) and Cultural Development Network. Both organisations have responded positively to the Plan.
7. Those industry standards are based on community values and focussed on outcomes. By focussing on outcomes, the Arts and Cultural Plan 2018-2022 provides mechanisms for the evaluation and measurement of cultural value. The Plan will adopt industry standard measurable cultural outcomes, developed through extensive research by the Cultural Development Network. Such measurable cultural outcomes respond to each of the domains of Nillumbik Shire Council's Council Plan 2017-2021, and have been adopted by peak bodies such as Creative Victoria, the Arts Centre Melbourne, Australian Library and Information Association, among others. In adopting the same industry standard evaluation framework, Nillumbik Shire Council has the ability to readily engage with the industry's peak bodies, with a particular ability to answer funding criteria.
8. The third stage invited public comment on the Draft Arts and Cultural Plan 2018-2022 and Discussion Paper. On 14 November 2017 the Future Nillumbik Committee of Council endorsed the public exhibition of the Draft Plan and Discussion Paper for a two week period from 15 to 29 November 2017. Submissions in response to the Draft Plan were reported to the Future Nillumbik of Council on 12 December 2017, at which time the Arts and Cultural Plan 2018-2022 was referred the Ordinary Meeting of Council for endorsement and adoption.

Policy context

9. This report directly supports the achievement of Council Plan 2017-2021 strategy:
 - Create and activate places and spaces that have good connectivity, provide needed infrastructure and promote social interaction.

Budget implications

10. The Arts and Cultural Plan 2018-2022 is fully costed and is referred for consideration in the preparation of the 2018-2019 Council budget.

Consultation/communication

11. Cultural planning practice is underpinned by community values. As such, much community engagement was undertaken in the development of the Arts and Cultural Plan 2018-2022. As detailed above, more than 300 diverse community members participated in either the *Travelling Teapot* focus group sessions, face-to-face interviews with key stakeholders and on-line survey respondents, together with further submissions responding to the Draft Plan and Discussion Paper. The Future Nillumbik Committee of Council noted the further submissions on 12 December 2017.

12. Officers' reports

OCM.146/17 Arts and Cultural Plan 2018-2022

12. The Arts Advisory Committee has been actively involved in the development of the Arts and Cultural Plan 2018-2022 as the project reference group.

Issues/options

13. The Arts and Cultural Plan 2018-2022 responds directly to the Council Plan 2017-2021, is founded on community values relating to the natural environment, community connectedness and local arts heritage, and is focussed on measurable outcomes and impacts.
14. As such, the Arts and Cultural Plan 2018-2022 invests in
- public and participatory arts to enable the participation of the arts as an everyday experience
 - supporting professional contemporary practice that builds on the local creative economy and cultural tourism
 - opportunities to access to arts and culture through local history and grassroots community arts organisations with wider benefits of community wellbeing and connectivity.
15. The Arts and Cultural Plan 2018-2022 responds to identified needs through a spectrum of community cultural development practices that include, among other things:
- priority development of a public gallery of regional significance and the redevelopment of the major prize programs
 - an emphasis on supporting a growing performing arts sector, in particular music, alongside the established visual and literary arts sector
 - investment in community capacity building and inclusion by providing much greater access to diverse arts grants enabling artist and community led initiatives
 - the introduction of a Percent for Art Policy that will provide self-funding mechanisms into the future.
16. A formal illustrative publication of the full Plan will be designed and printed, together with a colourful précis flyer providing the high level goals of the Plan.
17. The Plan will be formally launched on 3 February 2018 at the Eltham Library Community Gallery alongside an exhibition of artworks developed for the *Travelling Teapot* creative consultation with a carnivàle style event.

Conclusion

18. Officers are looking forward to working with Councillors, the Arts Advisory Committee and community in the implementation of this innovative and creative Arts and Cultural Plan 2018-2022, as an ongoing celebration of Nillumbik's heARTbeat.

12. Officers' reports

OCM.147/17 Sub-Regional Indoor Sports Needs Analysis

Distribution: Public

Manager: Mark Stoermer, Chief Executive Officer

Author: Naomi Paton, Manager Integrated Strategy

David Shepard, Recreation and Open Space Coordinator

Summary

The Sub-Regional Indoor Sports Needs Analysis (Needs Analysis), developed through a joint initiative led by the City of Banyule in partnership with Nillumbik Shire Council, Darebin City Council, Netball Victoria and Basketball Victoria, seeks to address the undersupply and non-compliance of courts across the sub-region, and recommend future facility provision and advocacy to address high and growing participation rates.

Preparation of the Needs Analysis involved participation by stakeholders including schools, facility operators, facility providers and major tenants.

Recommendations seek to increase the supply and availability of facilities in Nillumbik to respond to participation demands across the local and sub-regional catchment. Council's immediate priorities are to commence implementation of the staged upgrade to Diamond Valley Sports and Fitness Centre in 2018, and continue to explore locations for additional courts for Eltham Wildcats Basketball Club.

This report seeks Council's endorsement of the Needs Analysis to inform the future planning of indoors sports courts across the sub-region.

Recommendation

That Council:

1. **Acknowledges and thanks the community's input into the preparation of the Sub Regional Indoor Sports Needs Analysis.**
2. **Endorses the Sub Regional Indoor Sports Needs Analysis to inform future indoor sports court facility planning and provision.**
3. **Requests officers continue to work collaboratively with sporting providers, facility operators, peak sporting bodies and neighbouring local government authorities to advocate for the provision of and shared investment in facilities which responds to the Shire's high levels of participation in indoor sports.**

Attachments

1. Sub-Regional Indoor Sports Needs Analysis

12. Officers' reports

OCM.147/17 Sub-Regional Indoor Sports Needs Analysis

Background

1. Preparation of the Sub-Regional Indoor Sports Needs Analysis (Needs Analysis) has been a joint initiative led by the City of Banyule in partnership with Nillumbik Shire Council, Darebin City Council, Netball Victoria and Basketball Victoria.
2. Indoor courts in Nillumbik serve a regional catchment, providing for residents from Nillumbik as well as neighboring municipalities particularly Banyule and Whittlesea.
3. The Needs Analysis assessed the current provision of and future demands for indoor sports courts across the study area in response to the high occupancy rate of facilities particularly at peak times, forecast growth, and non-compliance of many facilities with regard to court size and run-off, which restricts use, particularly competition.

Policy context

4. This report directly supports the achievement of Council Plan 2017-2021 strategy:
 - Provide a range of infrastructure that encourages people of all ages to participate in a variety of active and passive opportunities.

Budget implications

5. Nillumbik contributed \$10,000 towards the preparation of the Needs Analysis. The total cost was \$29,000 with Banyule, Darebin, Basketball Victoria and Netball Victoria also making financial contributions.
6. The recommendations of the Needs Analysis include significant capital works.
7. A priority recommendation for Nillumbik in the short term is to redevelop and extend Diamond Valley Sport and Fitness Centre. Council secured \$2.5 million from the Growing Suburbs Funding Program towards a stage 1 upgrade totalling \$12.5 million with Council allocating \$10 million in forward estimates. A separate \$3 million Better Indoor Stadiums Fund application remains pending. Later stages of the Centre's upgrade are being defined through the current preparation of the facility masterplan, due for completion in mid-2018.
8. Delivering other recommendations will be subject to additional Council allocations, external funding primarily through state government, contributions from tenants and/or through negotiations with third-party facility operators.
9. Facility maintenance and renewal is funded in Council's annual operating budget, with approximately \$600,000 per annum allocated across all major leisure and community facilities.

Consultation/communication

10. Preparation of the study was undertaken through engagement with major facility tenants, schools and operators of Council's major leisure facilities.
11. In Nillumbik, the draft Needs Analysis was made available for public comment from 14 June to 17 August 2017. Thirteen submissions were received, and feedback obtained at a forum held with netball associations and clubs. Four submitters presented to the Future Nillumbik Committee Meeting on 12 December 2017.

12. Officers' reports

OCM.147/17 Sub-Regional Indoor Sports Needs Analysis

Issues/options

12. The Needs Analysis makes a series of prioritised recommendations.
13. The highest priority for Nillumbik is the redevelopment and extension of the Diamond Valley Sport and Fitness Centre, to be informed by a Masterplan which is currently under development. It is proposed the redevelopment will provide additional courts including a show court with spectator seating, improved player, referee and spectator amenities and compliant access throughout. Stage 1 of the redevelopment will be delivered through the now confirmed receipt of a Growing Suburbs Fund grant. The scope of stage 1 will be confirmed once the outcome of the separate Better Indoor Stadiums Fund grant application is known.
14. Other recommendations include:
 - Review community access to Community Bank Stadium, focussing on female participation, including netball.
 - A one-court extension of Hurstbridge Stadium currently under consideration in the development of the Hurstbridge Open Space Masterplan.
 - Advocacy to identify further opportunities to access school sites and improve these facilities.
 - Increased collaboration with state sporting bodies to advocate for funding.
 - Identifying the future requirements of the Diamond Creek Community Centre court, tested through broader community infrastructure needs analysis.
 - Exploration of additional courts across the sub-region to respond to participation demands, including Eltham Wildcats Basketball Club (EWBC) in partnership with the City of Banyule. EWBC have indicated a willingness to make a significant investment in additional facilities.
 - Collaborating with sport providers, peak sporting bodies and neighbouring local government authorities to plan for the future investment in, and provision and optimum utilisation of indoor sports courts.
15. The Needs Analysis will help inform further advocacy for and detailed planning of facility provision to respond to the growing demand for access to indoor sports courts across the sub-region.

Conclusion

16. The provision of sports courts in Nillumbik serves a regional catchment.
17. The Sub-Regional Indoor Sports Needs Analysis responds to demands for additional and upgraded courts across the sub-region of Banyule, Nillumbik and Darebin local government authority areas.
18. Development of the study has undergone extensive consultation with peak sporting bodies, facility operators, tenants/clubs/associations and schools. The final report has incorporated community feedback.
19. The Needs Analysis supports Council and partners to address the priorities and guides future advocacy, planning and investment in facilities.

12. Officers' reports

OCM.148/17 Use and development of the land for a childcare centre for 80 children and associated signage at 6 Youngs Road, Yarrambat

Distribution: Public

Manager: Jonathan McNally, Acting Manager Planning and Health Services

Author: Tim Oldfield, Statutory Planner

Summary

Consideration of this item was deferred from the Future Nillumbik Committee on Tuesday 12 November 2017 in order to allow Councillors time to consider both verbal and written submissions made to the Future Nillumbik Committee on this night.

Application summary

Address of the land	6 Youngs Road, Yarrambat
Site area	8,071 square metres
Proposal	Use and development of the land for a childcare centre for 80 children and associated signage
Application number	205/2017/01P
Date lodged	18 May 2017
Applicant	Michelle Smith – Yarrambat Children Pty Ltd
Zoning	Low Density Residential Zone
Overlay(s)	Design and Development Overlay (Schedule 2) Bushfire Management Overlay
Reason for being reported	Called in by Councillor
Number of objections	62 letters of objection and 56 letters of support
Key issues	<ul style="list-style-type: none"> • Previous VCAT decision Smith v Nillumbik SC (2017) VCAT 74 • Suitability of the use and strategic location • Capability of the land • Car parking and traffic • Amenity impacts • Bushfire provisions • Signage

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OCM.148/17 Use and development of the land for a childcare centre for 80 children and associated signage at 6 Youngs Road, Yarrambat

Location map



12. Officers' reports

OCM.148/17 Use and development of the land for a childcare centre for 80 children and associated signage at 6 Youngs Road, Yarrambat

<p>Recommendation</p>

That Council issues a Notice of Decision to Grant a Permit to the land at 6 Youngs Road, Yarrambat, for the use and development of the land for a childcare centre for 80 children and associated signage, in accordance with the submitted plans and subject to the following conditions:

1. Before the development and use commences, three copies of 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 this permit. The plans must be generally in accordance with the plans received on 11 August 2017 prepared by LSA Architects, but modified to show:
 - a) An amended vehicle crossover detailing a left hand turn only lane/splay for vehicles exiting the property (to prevent 'right hand turn' movements into and along Youngs Road to the east).
 - b) Location of associated direction signage stating 'no right turn' for vehicles exiting the property.
 - c) Provision of a pedestrian footpath within the Youngs Road road reserve between the vehicle crossing for the subject land and the existing Yan Yean Road footpath (approximately 34 metres in length). This will provide formal pedestrian access to the site from the existing footpath network.
 - d) Plan notations showing that the construction works required by conditions 1(a), (b) and (c) above will be entirely at the cost of the permit holder.
 - e) A notation on the plans stating outdoor play areas are only to be utilised between 8am and 6pm Monday to Friday.
 - f) The deletion of the acoustic fence along the western side property boundary.
 - g) An amended Landscape Plan as required by Condition 8 of this permit.
 - h) A Business Management Plan as required by Condition 10 of this permit.
 - i) An amended Bushfire Management plan as required by Condition 41 of this permit.
2. The use and development as shown on the endorsed plans must not be altered unless with the prior written consent of the Responsible Authority, to the satisfaction of the Responsible Authority.
3. The location and details of the sign(s), including those of the supporting structure, as shown on the endorsed plans, must not be altered unless with the prior written consent of the Responsible Authority, to the satisfaction of the Responsible Authority.

12. Officers' reports

OCM.148/17 Use and development of the land for a childcare centre for 80 children and associated signage at 6 Youngs Road, Yarrambat

- 4. No more than 80 children and 15 staff are to be accommodated on the land at any one time unless with the prior written consent of the Responsible Authority, to the satisfaction of the Responsible Authority.**
- 5. Unless with the prior written consent of the Responsible Authority, the operating hours of the child care centre use hereby permitted shall only be between:**
 - Monday to Friday: 6.30am to 6.30pm.**
- 6. Unless with the prior written consent of the Responsible Authority, the operating hours of the outdoor play areas shall only be between:**
 - Monday to Friday 8am to 6pm.**
- 7. Unless with the prior written consent of the Responsible Authority:**
 - a) No more than 30 children are to be permitted in the northern outdoor play area at any one time.**
 - b) No more than 45 children are to be in the southern play areas (including the swimming pool) at any one time.**
- 8. Before the development and/or use commences, three copies of a landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of this permit. The landscaping plan must be generally in accordance with the landscape concept plan dated 11 August 2017 prepared by John Patrick Landscape Design. The plan must show:**
 - a) A survey of all existing vegetation and natural features;**
 - b) The area or areas set aside for landscaping;**
 - c) A schedule of all proposed trees, shrubs/small trees and ground cover. This schedule shall include a mixture of exotic plants and plants selected from the Council document 'Live Local Plant Local' showing the botanical and common name of each plant, the quantity to be planted, the pot size and spacing;**
 - d) The location of each species to be planted and the location of all areas to be covered by grass, lawn or other surface material;**
 - e) Paving, retaining walls, fence design details and other landscape works including areas of cut and fill;**
 - f) Appropriate irrigation systems;**
 - g) The provision of canopy trees throughout the development as appropriate, including in the front setback area of the proposed buildings.**
 - h) Additional screen planting between the effluent disposal areas and the child care centre and western car parking area.**

12. Officers' reports

OCM.148/17 Use and development of the land for a childcare centre for 80 children and associated signage at 6 Youngs Road, Yarrambat

9. Unless with the prior written consent of the Responsible Authority, before the occupation of the development and/or use commences, the landscaping works shown on the endorsed plans must be carried out, completed and maintained to the satisfaction of the Responsible Authority.
10. Before the development and/or use commences, three copies of a Business Management Plan for the child care centre must be prepared, submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of this permit. The plan must include but is not limited to the following information:
- a) Children shall be supervised at all times when located in outdoor play areas.
 - b) Not all children are allowed to be in the play areas at the same time. With outdoor play time for each age group occurring at different times during the day.
 - c) Children shall be permitted within outdoor play areas only during the hours of 8am to 5pm Monday to Friday.
 - d) Waste/recycling collection shall occur only between 7am and 6pm Monday to Friday unless with the prior written consent of the Responsible Authority.
 - e) Use of amplified music shall be limited to internal spaces within the existing building.
 - f) Crying children are to be taken inside the centre and comforted as soon as practical.
 - g) Behaviour of children to be monitored by suitably trained child care workers.
 - h) Parents and guardians are to be informed of the importance of minimising noise when entering the site, dropping off or collecting children. A sign notifying visitors and staff to minimise noise at all times should be visible on entry to the site.
 - i) Loudspeakers apart from those required for security/emergency purposes shall not be located in outdoor areas.
 - j) Plant and equipment servicing the development shall comply with SEPP N-1.
 - k) All acoustic fencing within the site shall be a minimum 1.8 metres high and be of imperforate construction. The fence can be constructed from materials such as double lapped timber, FC sheet, masonry, glazing or similar.

12. Officers' reports

OCM.148/17 Use and development of the land for a childcare centre for 80 children and associated signage at 6 Youngs Road, Yarrambat

- 11. Before the use commences and/or the building(s) is/are occupied, an acoustic fence must be erected and must be put in place along the southern and part eastern boundaries of the site, in accordance with the recommendations of the Acoustic Report dated 30 June 2017 and prepared by Acoustic Logic, to a minimum height of 1.8 metres above natural ground level. The design of the fence must be prepared by a suitably qualified acoustic engineer. The details of the design and acoustic qualities of the fence must be to the satisfaction of the Responsible Authority.**
- 12. The sign(s) must not contain any flashing or moving light, to the satisfaction of the Responsible Authority.**
- 13. The sign(s) must be constructed and maintained to the satisfaction of the Responsible Authority.**
- 14. Unless with the prior written consent of the Responsible Authority, waste collection for the use hereby approved must be through a private contractor and be managed appropriately by the operators of the child care centre, to the satisfaction of the Responsible Authority.**
- 15. Unless with the prior written consent of the Responsible Authority, the premises must provide and maintain a suitable area for the storage and cleaning of rubbish receptacles, as shown on the endorsed plans. The waste storage area must be appropriately located and of sufficient size to contain all refuse bins used on the premises, to the satisfaction of the Responsible Authority.**
- 16. The development and use hereby permitted must be managed so that the amenity of the area is not detrimentally affected, through the:**
 - a) Transport of materials, good or commodities to or from the land**
 - b) Appearance of any building, works or materials**
 - c) Emissions of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil**
 - d) Presence of vermin.**
- 17. All vehicles exiting the site must be by left hand turn only onto Youngs Road, to the satisfaction of the Responsible Authority.**
- 18. Vehicular access and egress to the development site from the roadway must be by way of a vehicle crossing upgraded to the requirements of the Nillumbik Shire Council, to suit the proposed driveway and the vehicles that will use the crossing. The Responsible Authority must approve the location, design and construction of the crossing. The cost of construction must be borne by the permit holder, and all vehicle crossing works are to be carried out with Council supervision under an Infrastructure Works permit.**

12. Officers' reports

OCM.148/17 Use and development of the land for a childcare centre for 80 children and associated signage at 6 Youngs Road, Yarrambat

19. A pedestrian footpath within the road reserve of Youngs Road must be constructed to the satisfaction of the Responsible Authority. The footpath must be constructed between the vehicle crossing to the subject land and connect to the existing pedestrian footpath along Yan Yean Road. The cost of construction must be borne by the permit holder, and all works are to be carried out with Council supervision under an Infrastructure Works permit.
20. Driveways, access lanes, and areas set aside for the parking and access of vehicles must be constructed and formed to such levels to ensure they can be utilised at all times and in accordance with the endorsed plans. Car parking must be line-marked or provided with some other adequate means of showing the car parking spaces. All must be drained and constructed in concrete, asphalt or similar surface, and must be carried out and maintained to the satisfaction of the Responsible Authority.
21. The development hereby permitted, including any new paved areas, must be drained so as to prevent the uncontrolled discharge of stormwater from the subject site across any road or footpath or onto any adjoining land. Stormwater must not cause any nuisance or loss of amenity in any adjacent or nearby land by reason of the discharge of stormwater.
22. Stormwater from the roof of existing structures must be directed to a holding tank with a minimum storage capacity of 2000 litres. The overflow from the tank must be directed to the onsite detention device.
- Water in the holding tank may be used for one or more of the following purposes: toilet flushing; property irrigation; vehicle washing and any other purpose approved by the Responsible Authority.
23. Prior to works commencing on-site, construction plans and computations must be submitted to and be approved by the Responsible Authority detailing water sensitive urban design, underground drains, types and sizes of drainage pits, drainage longitudinal sections, pit schedule, etc. The construction plans and computations are to be prepared in accordance with Nillumbik Shire Council's Subdivisional Design and Construction Standards and Drainage Design Guidelines.
24. An on-site detention device must also be installed, at no cost to Council, to restrict the property storm water discharge to a flow equivalent to the pre-development design flow rate as approved by the Responsible Authority. The on-site detention system outlet must be connected to the Council nominated point of stormwater discharge.
- The on-site detention device shall be designed by a qualified engineer and plans submitted to the Responsible Authority for approval.
- Construction of the on-site detention device must be carried out under Council supervision, in accordance with the approved plans and specifications and under an Infrastructure Works permit.

12. Officers' reports

OCM.148/17 Use and development of the land for a childcare centre for 80 children and associated signage at 6 Youngs Road, Yarrambat

25. All drainage must be designed to minimise damage to existing vegetation required to be retained on-site, and the construction work must be carried out in accordance with the approved plans.
26. The drainage system within the subject site must be designed to the requirements and satisfaction of the Responsible Authority.
27. Any connection to Council's underground drainage system within road reserves or drainage easements must be carried out under Council supervision and an Infrastructure Works permit.
28. No polluted, effluent and/or sediment laden runoff from the development site is to be discharged directly or indirectly into Council's drains, Melbourne Water's drains or watercourses or adjoining private property. In this regard, pollution or litter traps must be installed on site and serviced accordingly, all to the satisfaction of the Responsible Authority.
29. All sewage and sullage waters shall be treated in accordance with the requirements of the *Environment Protection Act 1970*. All wastewater shall be disposed of within the curtilage of the land and sufficient area shall be kept available for the purpose of wastewater disposal to the satisfaction of the Responsible Authority. No wastewater shall drain directly or indirectly onto an adjoining property, street or any watercourse or drain to the satisfaction of the Responsible Authority.
30. Approval of wastewater disposal must be obtained from Council (Environmental Health) prior to a Building Permit being issued.
31. The existing septic system must be upgraded in accordance with the requirements of the *Environment Protection Act 1970* and Council (Environmental Health).
32. Unless with the prior written consent of the Responsible Authority, all effluent must be disposed of within the designated effluent envelope to the satisfaction of the Responsible Authority.
33. The layout and construction of the premises, must comply with the Food Safety Standard 3.2.3 Food Premises and Equipment to the satisfaction of Council's Environmental Health Unit.
34. Air-conditioning and other plant and equipment installed on the subject building(s) shall be so positioned and baffled so that noise disturbance is minimised, to the satisfaction of the Responsible Authority.
35. Secondary treatment of wastewater followed by sub-surface irrigation must be installed within the designated effluent envelope to the satisfaction of the Responsible Authority.
36. The permit holder must ensure that a current maintenance agreement is in place for the septic tanks system. Servicing must be completed by a competently trained person or servicing agent at least once every three (3) months, with a copy of the report sent to the Council (Environmental Health).

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37. Unless with the prior written consent of the Responsible Authority, the commercial waste collection must not occur outside the following hours to the satisfaction of the Responsible Authority.

- For one collection per week, between 7am-6pm Monday to Friday.
- For two or more collections per week, between 7am-6pm Monday to Friday.

38. Unless with the prior written consent of the Responsible Authority, deliveries must not occur outside the following hours:

- Between 7am-10pm Monday to Saturday and between 9am-10pm Sundays and Public holidays.

39. This permit will expire if one of the following circumstances applies:

- a) The development is not commenced within two years of the date of this permit
- b) The development is not completed within four years of the date of this permit
- c) The use is not commenced within two years of the completion of the development
- d) The signage approved under this permit expires 15 years from the date of issue or when the use ceases on site, whichever occurs first.

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires, or within six months afterwards if the development has not commenced, or 12 months after if the development has commenced but is not yet completed.

The following conditions are required by the CFA:

40. Bushfire Management Plan

Before the development starts, an amended bushfire management plan which is generally in accordance with bushfire management plan prepared by ABZECO Pty Ltd, Attachment 4, dated July 2017 must be submitted to and endorsed by the Responsible Authority. The plan must show the following bushfire mitigation measures, unless otherwise agreed in writing by the CFA and the Responsible Authority:

- a) Defendable space
 - Show an area of defendable space for a distance of 50 metres around the proposed building / or to the property boundary where vegetation (and other flammable materials) will be modified and managed in accordance with the following requirements:
 - Grass must be short cropped and maintained during the declared fire danger period.

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- All leaves and vegetation debris must be removed at regular intervals during the declared fire danger period.
- Within 10 metres of a building, flammable objects must not be located close to the vulnerable parts of the building.
- Plants greater than 10 centimetres in height must not be placed within 3m of a window or glass feature of the building.
- Shrubs must not be located under the canopy of trees.
- Individual and clumps of shrubs must not exceed 5 sq. metres in area and must be separated by at least 5 metres.
- Trees must not overhang or touch any elements of the building.
- The canopy of trees must be separated by at least 5 metres.
- There must be a clearance of at least 2 metres between the lowest tree branches and ground level.

b) Construction standard

Nominate a minimum Bushfire Attack Level of BAL – 12.5 that the building will be designed and constructed.

c) Water supply

Show 10, 000 litres of effective water supply for firefighting purposes which meets the following requirements:

- Is stored in an above ground water tank constructed of concrete or metal.
- All fixed above-ground water pipes and fittings required for firefighting purposes must be made of corrosive resistant metal.
- Incorporate a ball or gate valve (British Standard Pipe (BSP) 65mm) and coupling (64mm CFA three thread per inch male fitting).
- The outlet/s of the water tank must be within four metres of the accessway and be unobstructed.
- Be readily identifiable from the building or appropriate identification signage to the satisfaction of CFA must be provided.
- Any pipework and fittings must be a minimum of 65 mm (excluding the CFA coupling).

d) Access

Show the access for firefighting purposes which meets the following requirements:

- Curves must have a minimum inner radius of 10 metres.

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- The average grade must be no more than one in seven (14.4 per cent) (8.1 degrees) with a maximum of no more than one in five (20 per cent) (11.3 degrees) for no more than 50 metres.
- Have a minimum trafficable width of 3.5 metres of all- weather construction.
- Be clear of encroachments for at least 0.5 metres on each side and four metres above the accessway.
- Dips must have no more than a one in eight (12.5 per cent) (7.1 degrees) entry and exit angle.

Council notes

- The premises is required to be registered with Council (Environmental Health Team) under the *Food Act 1984*.
- Prior to undertaking any construction works on the food premises, approval should be obtained from a Council Environmental Health Officer.
- Applicants who wish to allow smoking in outdoor dining and drinking areas need to ensure that the area/s comply with the requirements outlined in the *Tobacco Act 1987*. This may involve seeking independent legal advice, where necessary.
- The owner/builder is responsible to protect Council assets during the works and to obtain an Asset Protection Permit unless an exemption applies.
- When Council receives notification of the proposed building/development works from the appointed Building Surveyor, we will forward an Asset Protection Permit application and payment form to the building permit applicant. Should you require additional information, please contact Council's Infrastructure team on 9433 3234.
- The wetland may be used as on-site detention to satisfy drainage conditions within this permit.
- For any clarification or enquiries concerning the drainage or stormwater conditions contained in this permit, please contact Council's Development Engineer on 9433 3255.

Attachments

1. Site and surrounds
2. Plans

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Subject site and surrounds

1. The key features of the subject land and surrounds are as follows:

- The site is located on Lot 1 of Plan of Subdivision 511111, CT-10759/556. A Section 173 Agreement (No. AC204174Q) is registered on the title of the land and refers to building and effluent envelopes for the lot, landscaping and vehicle access.
- The subject site is located on the south-east corner of the Youngs Road and Yan Yean Road intersection, in Yarrambat.
- The site is rectangular in shape and has an overall area of 8,071 square metres. The site has an existing access (driveway) from Youngs Road, with no vehicle access from Yan Yean Road to the west.
- The site contains an existing single storey dwelling which is located centrally to the southern half of the site, an existing outbuilding (barn) located in the south-east corner of the site, and an existing swimming pool located on the southern side of the existing dwelling. The site also contains a dam located in the north-east corner of the site, adjacent to the existing driveway.
- The site contains vegetation, all of which is planted vegetation around the property boundaries, with some patches of manicured garden space around the existing dwelling.
- In relation to onsite car parking, the existing dwelling contains a three car garage and existing barn which also contains vehicle access.
- The site is located within the residential area of Yarrambat and all abutting properties as well as properties along Youngs Road are characterised by low density residential living, consisting of single dwellings on medium sized lots. The surrounding area has light vegetation cover, comprising mainly of scattered trees and planted gardens.
- Diagonally across the road on Yan Yean Road is an existing dog kennels and cattery facility (No. 605 Yan Yean Road) and a church at No. 615-623 Yan Yean Road. Yan Yean Road is an arterial road and currently contains one traffic lane in each direction.
- The commercial and community 'centre' of Yarrambat is located approximately 400 metres to the south, running along Ironbark Road. This area contains a general store, primary school, café, CFA building and outdoor recreation facility (sporting oval).
- The area is served by public transport with the No. 520 bus route operating along Yan Yean Road. The nearest bus stop is on the north-east corner of the Youngs Road and Yan Yean Road intersection.

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Details of proposal

2. Refer to the attached plans.

3. Key features of the proposal include:

- To use and develop the land for a child care centre.
- The existing dwelling and barn are to be converted into a child care centre which includes the following:
 - Five rooms within the dwelling and one room in the barn
 - Room 1 is 87.8 square metres in area, to accommodate a maximum of 12 children with two toilets available
 - Room 2 is 81.26 square metres in area, to accommodate a maximum of 12 children with two toilets available
 - Room 3 is 36.4 square metres in area, to accommodate a maximum of 10 children with one toilet available
 - Room 4 is 53.2 square metres in area (including covered alfresco area), to accommodate a maximum of 10 children with two toilets available
 - Room 5 is 40.2 square metres in area, to accommodate a maximum of 12 children with one toilet available
 - Room 6 (within the barn) is to accommodate a maximum of 23 children with four toilets available
 - All rooms contain storage facilities
 - The existing kitchen is to remain and be upgraded
 - The building is also to have an office, staff room and laundry which are centrally located within the building.
- Overall, the child care centre is proposed to cater for up to 80 children onsite, in addition to 15 staff onsite at any one time.
- The proposed hours of operation are from 6.30am to 6.30pm, Monday to Friday and not open on weekends.
- Three fenced play areas are proposed to the east, west and south of the existing main building. These play areas are as follows:
 - The two year old area, to be located to the west of the child care centre with 1.5 metre high fencing around its perimeter.
 - The three year old area, to be located to the east of the childcare centre, with 1.5 metre high fencing around its perimeter.
 - The four year old area, to the south of the childcare centre, with 1.5 metre high fencing around its perimeter.
 - No fencing is to be constructed along the northern boundary.

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- The fencing will be constructed of steel and will be permeable in appearance (in a similar style to steel swimming pool fencing). It is also noted that the boundary fences of the proposed lot will remain unchanged as post-and-wire and all fencing mentioned above will be contained within the site.
- The proposal seeks to extend the accessway to the front of the child care centre, to create a circular driveway. The accessway is to be a minimum width of three metres and constructed of concrete.
- In addition to the extended accessway, the proposal seeks to construct 27 new on-site car parking spaces in three areas. All car spaces are designed in accordance with Clause 52.06 (Car Parking) of the planning scheme and are as follows:
 - Two areas of car parking are proposed to the east of the existing driveway. A line of three spaces and then a line of 10 (including six spaces for staff) 3.5 metres from the eastern boundary of the property.
 - Four spaces, including three 45 degree angled parks are proposed to the side/front of the child care centre. Two of these are disabled spaces and one is identified as a shared space.
 - The remaining eleven angled parks are proposed adjacent to the western edge of the driveway extension.
- The construction of an undercover walkway from the childcare centre to the barn to the south-west corner of the site, which is to be converted into an additional room for the child care centre.
- The proposal seeks to upgrade the existing septic system and effluent disposal area. The effluent disposal area is to be split into two, one to the north west and the other to the south west of the child care centre.
- No landscaping is proposed to be removed to accommodate any buildings and works.
- Two signs are proposed on the corner of Youngs Road and Yan Yean Road. One sign will face Youngs Road with the other facing Yan Yean Road. The signs are proposed to be one metre long and two metres wide and will be fixed to posts with an overall height of between 2.3 and 2.4 metres. The signs are single sided and are not proposed to be illuminated.

Planning history

4. Planning Permit 109/2005/05P was issued in September 2005 for the development of the land for a dwelling and swimming pool. This planning permit was never acted on and therefore lapsed.
5. Planning Permit 410/2006/05P was issued in October 2006 for the development in the form of a dwelling, driveway, dam and barn. This permit was acted upon and all works have been completed on-site.

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6. Planning Permit Application 524/2015/01P was refused in April 2016 for the Use and Development of the land for a childcare centre for 120 children. This decision was upheld at VCAT.
7. Miscellaneous Consent Application 694/2015/20P for buildings and works outside of the designated building envelope and for effluent disposal outside of the designated effluent envelope was refused on 6 February 2017 as a result of the upheld VCAT decision pertaining to the childcare centre proposal (524/2015/01P).
8. A concurrent Miscellaneous Consent Application is being considered by Council and is for buildings and works outside of the designated the building envelope and for effluent disposal outside of the designated effluent envelope. The miscellaneous consent application is required by the Section 173 Agreement on title and will be determined under delegation following the determination of this current permit application.

Planning controls

Zoning

9. The land is zoned Low Density Residential Zone. Under this zone, a permit is required to use and develop the land for the purpose of a child care centre. A child care centre is a Section 2 'permit required' use in this zone.
10. Advertising sign requirements are at Clause 52.05. This zone is in Category 3 which relates to high amenity areas. The purpose of this category is to ensure that signs in high-amenity areas are orderly, of good design and do not detract from the appearance of the building on which a sign is displayed or the surrounding area.
11. Business identification signs require a planning permit in this category.

Overlays

12. The land is affected by the Design and Development Overlay (Schedule 2) which seeks to ensure development impacts on the local landscape and stormwater runoff are minimised. Under this overlay, a permit is required to construct a building or carry out works.
13. The land is affected by the Bushfire Management Overlay. Under this overlay, a permit is required for buildings and works associated with the use of the land for a child care centre.

Particular provisions

14. Clause 52.06 (Car Parking) is relevant to the consideration of this application. This clause seeks to ensure there is the provision of an appropriate number of car parking spaces, to ensure that car parking does not adversely affect the amenity of the locality, and to ensure that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use.

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15. Clause 52.47 (Planning for Bushfire) This provision applies to applications under Clause 44.06 – Bushfire Management Overlay and the purpose of this provision is:
- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
 - To ensure that the development of land prioritises the protection of human life and strengthens community resilience to bushfire.
 - To ensure that the location, design and construction of development appropriately responds to the bushfire hazard.
 - To ensure development is only permitted where the risk to life, property and community infrastructure from bushfire can be reduced to an acceptable level.
 - To specify location, design and construction measures for a single dwelling that reduces the bushfire risk to life and property to an acceptable level.
16. Clause 65 (Decision Guidelines) outlines general decision guidelines that must be considered when assessing an application. These guidelines include the purpose of the zone or other provision, the orderly planning of the area, and the effect on the amenity of the area.

Relevant planning policies

17. State Planning Policies which are relevant to this application include:
- Clause 10.04 – Integrated decision making
 - Clause 13.05 - Bushfire
 - Clause 17.01-2 – Out of centre development for metropolitan Melbourne
18. The Local Planning Policies which are relevant to this application include:
- Clause 21.05-4 – Economic Development
 - Clause 22.09 – Signage Policy
 - Clause 22.13 – Wildfire Management Policy

Public consultation

Advertising

19. The application has been advertised by way of the posting of notices to the owners and occupiers of neighbouring properties and the erection of two notices on-site (Yan Yean Road and Youngs Road frontages).

Objections

20. As a result of advertising, a total of 62 written objections have been received. These objections can be summarised as follows:
- Increased traffic will damage Youngs Road (single lane dirt road, cars cannot easily pass one another, low visibility at the Youngs/Yan Yean intersection. Traffic will create gridlock).

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- Eisemans Road and DeFredricks Road will be used as cut through roads which are both unsuitable for more traffic. Increased traffic will increase damage to all these roads and accidents will be more likely.
- No footpath access on Youngs Road, therefore unsafe for pedestrians.
- Parking on Youngs Road is not achievable and this will occur even though parking is located on the site.
- Health and wellbeing of residents will be affected from dust caused by increased vehicle movements along Youngs Road.
- The dam and swimming pool creates an unsafe environment for the children in regards to drownings and snakes.
- The proposed carpark will require the removal of trees.
- The proposal is inconsistent with the Yarrambat structure plan and census figures state that there is no demand in Yarrambat for this service.
- The proposed use will destroy the local residential neighbourhood.
- The proposal will set a precedent for commercial uses in a residential area.
- There are already three child care centres located close by to the subject site.
- Signage distracts from the residential feel and nature of the area, and should not be allowed on Youngs Road.
- Limited services are available, and the existing drainage and other services cannot support this proposed use (including an impact on water pressure).
- The noise levels generated by the children playing will be inappropriate.
- The use will increase the bushfire risk to the local area.
- This facility will be unsafe in the event of a bushfire (evacuation).
- Hours of operation and the number of children are inappropriate for the residential area.
- The use will decrease property values in the area.
- The facility should be purpose-built, not converted from a dwelling.
- Fencing, lighting, signage does not fit with Nillumbik Strategic Plan.
- Removal of trees for fence will increase noise level to residents.

21. A total of 54 letters of support have also been received. The support for the application can be summarised as follows:

- There is a shortage of childcare availability in the area – across all centres.
- There are waiting lists at all centres in the area.
- The location is perfect for parents travelling from Doreen/Diamond Creek or Hurstbridge to the CBD – they can do drop off and pick up on the way to and from work.

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Planning application conference

- 22. A planning application conference was held at the Shire offices for the previous application on Wednesday 16 March 2016. Many of the above issues were discussed at length, and whilst no agreements or compromises were achieved, the position of all parties was clarified.
- 23. No planning application conference was held for this application as the intensity of the use has reduced and the nature of the objections raised suggested no outcomes could be achieved to satisfy all parties. It is also noted that the concerns raised for the current application were similar to those raised in the previous application and as such, these issues have been discussed at length in the previous planning application conference.

Referrals

Internal

- 24. The application was referred to various business units or officers within Council for advice on particular matters. The following is a summary of the relevant advice:

Council Unit	Comments
Environmental Health	No objections subject to conditions relating to effluent disposal, noise, swimming pool equipment and food/tobacco registrations being attached to the permit.
Infrastructure Development	No objections subject to conditions relating to vehicle crossing; carpark construction, stormwater, run off control being attached to the permit.
Landscape Architect	The applicant will be required to produce a full planting plan.
Building Team	Building permit required for change of use of the barn and dwelling. There may be fire rating issues. Applicant should consider access for people with a disability and facilities.
Strategic Planning Team	Commented that the location of the child care centre is not ideal and all community facilities for Yarrambat are preferred to be located within the Ironbark Road precinct to the south. It is acknowledged that this preference is not currently supported by any adopted strategic policy which can be considered seriously entertained planning policy at this point in time.

External

- 25. The application was referred to the following statutory referral authority/authorities for advice on particular matters. The following is a summary of the relevant advice:

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Authority	Comments
CFA	<p>No objections subject to conditions relating to the submission of an amended Bushfire Management Plan showing defendable space, construction standard, water supply, and access.</p> <p>The applicant will need to revise the location of the water supply (or proposed accessway) as a fire truck cannot get within four metres of the outlet from the current accessway proposed.</p>
Vic Roads	<p>No objection to the proposal, advised they will take up to 10 metres of the subject site for the future widening of Yan Yean Road. No timeframe has been indicated for these works.</p>

Planning assessment

Introduction

26. The following have been identified as the key planning issues in relation to the assessment of this planning application:
- Previous VCAT decision
 - Suitability of the use and strategic location
 - Capability of the land
 - Car parking and traffic;
 - Amenity impacts
 - Bushfire provisions
 - Signage
27. Assessment of these issues, together with a response to objections received, will be discussed in the remainder of this report.

Previous VCAT decision

28. This is a new application, following a refusal by Council that was upheld at VCAT (Smith v Nillumbik SC (2017) VCAT 74) for the Use and Development of the land for a childcare centre for up to 120 Children. The Tribunal member in making their decision provided details of what matters need to be addressed for a successful planning permit application such as effluent disposal including maintenance, vegetation impacts and removal, landscaping, plan details, fencing, pedestrian access, stormwater and clarification on the future widening of Yan Yean Road. The applicant has confirmed that this additional information has now been provided and all the matters raised by the Tribunal member have been addressed in the documentation provided with this application. Council is satisfied the points raised in the VCAT decision have been addressed.

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The current proposal

29. It is proposed to develop the land for use as a child care centre to accommodate up to 80 children and 15 staff. The number of children has reduced by a third (40 children) from the last application (up to 120 children) however the staff number of 15 remains the same. The child care centre is proposed to operate between the hours of 6.30am to 6.30pm Monday to Friday as was proposed in the previous application.

Suitability of the use and strategic location

30. The subject site is located within the Low Density Residential Zone. The objectives of the zone are to provide low density residential development on lots which in the absence of reticulated sewerage can treat and retain its own waste water. It is a long-established principle that use of land within the Low Density Residential Zone is suitable for the development of a child care centre, subject to the limitation of amenity issues to the surrounding residential properties. This fact was established by the Tribunal in the hearing for the previous application for the site (Smith v Nillumbik SC (2017) VCAT 74 (para. 105).
31. In strategic terms it has been argued that the site's location is not suitable because of its location some 400 metres north of Ironbark Road beyond the core of the Yarrambat township, and contrary to the direction of the Yarrambat Local Structure Plan. The Plan identifies that the eastern section of Ironbark Road near Yan Yean Road will continue to be the focus for community facilities and activities, and that any additional facilities required by the local community will be located in this area.
32. The Tribunal member in the previous decision stated that 'this proposal should not be refused because of the statement in the Yarrambat Local Structure Plan giving preference to Ironbark Road as the location for the focus of community facilities and activities'. In contrast the Tribunal member found that the site is not so remote from Yarrambat's main township core, and it is not uncommon for child care centres to be located on higher order roads in locations more distant from other community facilities and services. In this area of Yarrambat there are other community facilities along Yan Yean Road, (vet clinic, Rose Garden child care centre and a new church) that are not located within the preferred Ironbark Road area, but are close to it.
33. It was also accepted by the Tribunal Member that the location of the child care centre would encompass multi-purpose journeys, with the likely users of the centre coming from the growth suburbs in Whittlesea to the north of the subject site, dropping and collecting their children on their way to and from work. As part of the hearing the issue of 'local need' was discussed and the Tribunal member concluded that the need for a facility or service 'is not just confined to need or even a local community need ... nor does the policy framework suggest that any benefits identified must be confined to municipal boundaries'. The impacts arising from the particular characteristics of a proposed use and development, including its intensity together with its response to the planning and physical contexts, are important considerations that will bear upon a proposal's acceptability in any given location.

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- 34. The Tribunal member concluded that ‘this facility would contribute to a diversity of choice’. Such choice would translate to potential social and economic benefits in the form of travel efficiencies for working parents, greater workforce participation and the potential for additional employment opportunities, including within the local community.
- 35. On the basis of the Tribunal members’ findings, it is considered that there is strategic support for the child care centre use at the subject site and the need for the facility, whilst not an immediate local community need, is considered to be viable.
- 36. With the suitability of the use established, the critical matter to be addressed is the potential amenity impacts of the proposal. The potential amenity impacts to be assessed as identified by the previous Tribunal decision for the site include waste water management, stormwater management, proposed buildings and works, traffic impacts and landscaping. A number of technical reports were submitted with the application that addresses these issues.

Capability of the land

- 37. The subject site is located within an area that does not have access to reticulated sewer services. As such, these properties rely on all purpose effluent disposal systems to treat and retain all wastewater on-site. A number of objectors raised concerns with the ability of the land to adequately treat and dispose of wastewater within the boundaries of the site, without affecting the amenity of the area or impacting the existing dam situated in the north-east corner of the site. The application was accompanied by a Land Capability Assessment (LCA) that assessed the land area available, the location of the dam, and existing septic system to determine if the increase in load to 80 children and 15 staff members associated with the proposed use could be accommodated on-site.
- 38. The Land Capability Assessment detailed that the site currently contains a 3,200 litre secondary treatment system for the existing dwelling which is understood to be performing well. A new system (which may include existing components) is to be designed and constructed to accommodate a population of 95 people producing up to 1360 litres/day effluent (load-balanced) and to address several items detailed in the Smith v Nillumbik (2017) VCAT 74 decision.
- 39. The hydraulic loading of the proposed system has been calculated based on the number of children to be accommodated on-site as well as anticipated staff numbers. The anticipated hydraulic loading under Clause 10.3 of the Land Capability Assessment is as follows:

Number of children	Number of staff	Hydraulic loading (litres/day)
80	15	1360

- 40. Based on a hydraulic loading of 1,360 litres per day, the Land Capability Assessment recommends that a sub-surface drip irrigation area of 775 square metres is adopted on-site. Council’s records indicate an existing 400 square metres effluent envelope existing on-site (approved for the existing dwelling). As such, a further 375 square metres of irrigation area is required, which can be readily accommodated on-site.

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41. The application was referred to Council's Environmental Health Team that conducted a desktop assessment and undertook a site visit. Council's Environmental Health Team is satisfied with the recommendations outlined in the submitted Land Capability Assessment and has stated that an 'Application to alter a septic tank system' will need to be submitted to Environmental Health Team in the event that a planning permit is issued for the proposed use. Further to this, the proposed use also requires registration under the *Food Act 1984*. In the event that a planning permit is obtained, it is recommended that conditions be included that address these requirements.
42. A key objective of the Design and Development Overlay – Schedule 2 is to ensure adverse impacts upon the local drainage system are minimised. The Stormwater Management Plan demonstrates that the development complies with the best practice guidelines and will not result in the discharge of polluted or sediment laden run-off. Drainage has been re-configured on the site to incorporate Water Sensitive Urban Design (WSUD) measures including a drainage swale, a rainwater tank and a treatment wetland which will act to improve stormwater quality through actively reducing the pollutants and total suspended solids before stormwater is released off site.
43. Council's Infrastructure Development Unit reviewed the Stormwater Management Plan and was satisfied with its recommendations. Conditions are recommended to be placed on any issuing permit to ensure these recommendations are implemented.

Car parking and traffic

44. When considering a new use, it is important that the proposal provides sufficient car parking facilities and in a manner that is not detrimental to the surrounding area. Many concerns were raised by objectors that on-site car parking has not been sufficiently provided, and that vehicles will be parked in the street (Youngs Road).
45. The proposal is seeking to have a maximum of 80 children on-site at any one time. Pursuant to Table 1 of Clause 52.06-5 of the Nillumbik Planning Scheme, a child care centre has a car parking rate of 0.22 car spaces to each child. This equates to a total of 17.6 car spaces for the proposed use, and as Clause 52.06 directs that all numbers must be rounded down to the nearest whole number, a total of 17 car parking spaces are therefore required to be provided on-site.
46. Overall, the proposal provides 27 on-site car parking spaces (surplus of 10), consisting of 13 spaces in the eastern area of the site (including 10 car spaces along the eastern property boundary), four spaces along the frontage of the building (including 2 disabled spaces and one shared space) with the remaining 11 spaces located adjacent to the western edge of the driveway. Accordingly, the car parking provision proposed for the site exceeds the amount required under the planning scheme, and has been located to ensure accessibility and to minimise amenity impacts to adjoining properties.

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47. The Traffic Impact Assessment was reviewed by Council's Traffic Engineer who whilst being satisfied with the assessment undertaken by GTA Consultants and having no objections to the proposal did advise that there may be an opportunity to be more efficient with the car parking layout, by reducing the number of spaces proposed (an excess of 10 spaces proposed) and by making the road a one-way circulating roadway thereby reducing the width of the access driveway. It is considered that while a surplus of car parking has been provided, these car parks have been designed and located to be amalgamated with the building and in areas that minimises landscape impacts and as such, does not warrant any amendments to the design. Notwithstanding this, a number of conditions were provided that are recommended to be placed on any issuing permit.
48. A number of concerns were raised by objectors in regards to increased traffic that may be generated by the proposed use, and the impacts this will have on nearby residents. A number of local residents stated that exiting from Youngs Road onto Yan Yean Road is already difficult, and increased traffic generated by the proposed use will exacerbate this issue. Council has recently upgraded Yan Yean Road by constructing turning lanes on a number of intersections including Youngs Road, to improve traffic along Yan Yean Road.
49. This issue was discussed during the previous Tribunal hearing. The member concluded that traffic generated by the proposal would capture a large portion of work based vehicle journeys already occurring on Yan Yean Road rather than generating additional traffic on this road to any appreciable or unreasonable degree. The member was not persuaded by objector's submissions that the current capacity issues along Yan Yean Road provide a valid reason to refuse the proposal.
50. It was also accepted by the Tribunal member that traffic movements would be restricted to the section of Young's Road outside the subject site (which is already sealed) and parents are unlikely to use the unsealed section that provides an alternative 'rat runner' route.
51. In regards to the issues of turning onto Yan Yean Road during peak times, Council's Infrastructure Development Unit conducted gap analysis surveys for the previous application to determine whether vehicles have adequate space to turn right out of Youngs Road (and travel north-bound along Yan Yean Road) in afternoon peak hour traffic conditions. This gap analysis involved documenting the timed gaps between vehicles travelling both north and south bound along Yan Yean Road to determine whether there is adequate time for a vehicle to turn right. The gap analysis was conducted on Thursday 19 and Thursday 26 of February 2016, between 4pm and 6pm. During the survey, weather was dry, clear and sunny.
52. The results of the surveys concluded that sufficient gaps in traffic are available for approximately 70 vehicles to turn right out of Youngs Road between 4pm to 5pm, and for 61 vehicles between 5pm to 6pm. In total, there are sufficient gaps for approximately 131 vehicles between 4pm and 6pm. According to Road Transport Authority (RTA) Guidelines, the traffic generation rate for a child care centre is 0.7 vehicle trips per child between 4pm and 6pm. The proposed child care centre is for 80 children, and therefore traffic generation during afternoon peak hours would be approximately 56 vehicles (0.7 x 80 children). As such, the survey data indicates that

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the current intersection at Youngs Road and Yan Yean Road can accommodate for the increased vehicle numbers generated by the proposed use during afternoon peak times.

53. This gap analysis was accepted by the Tribunal member at the previous hearing and was not a refusal ground in the final decision.
54. The Yarrambat Local Structure Plan identifies the potential widening of Yan Yean Road to accommodate increased usage and expected increases from the growth areas within Whittlesea. The referral response from Vic Roads stated that '... the project team has determined that an approximate offset of 10 metres from the western boundary will allow for any upgrade works to be undertaken in the future'.
55. The site plan submitted with the application has been amended to include a minimum 10 metre buffer from the existing western boundary to accommodate the future widening of Yan Yean Road. No buildings or works (including effluent disposal areas) are proposed within this buffer area.
56. As part of the previous decision for this proposal, Council's Infrastructure Development Unit requested that the construction of a footpath between the vehicle access for 6 Youngs Road and the existing footpath along Yan Yean Road (approximately 34 metres). Furthermore, Council's Infrastructure Development Unit has advised that a 'no right turn' sign as well as a modified crossover splay should be implemented at the exit of the site to prevent vehicle movements along the unsealed sections of Youngs, Eisemans and DeFredricks Roads. This arrangement will in turn address dust control issues as identified by some objectors. These requirements were requested to be included as a planning condition if a permit is issued for the proposed childcare centre. It is recommended these requirements form part of any permit issued for the use and development.

Amenity impacts

57. The assessment of any new proposal must consider the effect on the amenity of the area as required by Clause 65 of the planning scheme. The site is located within an existing residential area, with properties to the north, south and east characterised as large low density residential lots with single dwellings and associated outbuildings. As such, any increase in noise generated from the proposed use requires appropriate consideration to ensure no adverse amenity impacts are caused to surrounding allotments. A number of objections raised concern in regards to the potential noise generated by the children on-site, particularly from children playing outdoors. It is noted that this area is characterised by post-and-wire fencing to property boundaries, and there is a lack of existing solid fencing to provide opportunities to baffle or dampen sound within the area.
58. An acoustic report (prepared by Acoustic Logic Pty Ltd) was submitted with the application to assess the noise levels and potential impacts of the proposed use. The monitoring of noise was conducted from Saturday 7 to Wednesday 11 November 2015, and from Friday 30 June 2017 to Monday 3 July 2017. An attended background measurement was conducted on 7 July 2017.

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59. The November 2015 monitoring produced a range of decibel readings ranging from 40 decibels for daytime hours, 30-36 decibels for night time hours and a peak background noise level of 45 decibels which was between 6am and 7am. The background noise measured was predominantly noise generated by traffic along Yan Yean Road to the west of the site.
60. The June/July 2017 monitoring again produced a range of decibel readings ranging from 45 decibels for daytime hours, 28-45 decibels for night time hours and a peak background noise level of 45 decibels which was between 6am and 7am. The background noise measured was predominantly noise generated by traffic along Yan Yean Road to the west of the site.
61. The acoustic report was based on the State Environmental Protection Policy SEPP N-1 criteria which states the following maximum zoning levels for commercial uses within close proximity to residential uses based on the time of the day:
 - Daytime – 51 decibels
 - Evening – 45 decibels
 - Night time – 40 decibels
62. The above shows that the maximum reasonable decibel level during daytime hours is 51 decibels.
63. Noise emissions from the proposed development site will be governed by children playing in the proposed outdoor play areas and cars entering and exiting the site. The subject site has four residential 'noise sensitive receivers' within close proximity, all being existing dwellings. These receivers include the dwelling at No. 626-636 Yan Yean Road to the north (receiver 1), the dwelling at No. 15 Youngs Road to the north east (receiver 2), the dwelling at No. 20 Youngs Road to the east (receiver 3), and the dwelling at 614 Yan Yean Road to the south (receiver 4). As such, the aim of the assessment was to ensure decibel levels from these four receivers do not exceed the maximum zoning levels outlined above.
64. The assessment stated that the predicted noise levels for the car park operation would be 32-34 decibels for receivers 1, 2 and 3 with receiver 4 being lower at 30-32 decibels. These are lower than the maximum 37 decibels allowed.
65. In regards to the predicted noise levels for children in outdoor play areas between 8am and 5pm, this would be <40 decibels for receivers 1, 2 and 3 with receiver 4 being between 46 and 48 decibels. Again these are lower than the maximum 50 decibels allowed.
66. Given that the proposed use will only operate during daytime hours, the predicted noise levels comply with this measure. As such, it is considered these levels are acceptable in the context of the subject site and surrounding area. The submitted acoustic report has recommended that in order for maximum noise levels to be in keeping with the SEPP N-1 requirements that a number of management controls should be enforced as part of any planning permit issued for the use.

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67. These management controls will help ensure that noise levels are kept to an acceptable level for the surrounding residential uses (particularly for 'receiver 4') as the dwelling potentially most impacted by noise as identified by the acoustic report, and are recommended to be incorporated into conditions on any permit issued.
68. One of the management controls identified is the construction of a 1.8 metre high acoustic fence along the south and part of the eastern boundary of the property. The plans submitted also show the acoustic fence along the western boundary of the property. This section of the fence faces onto Yan Yean Road and will not be protecting any of the residential neighbours and as such it is not considered to be necessary and was not a recommendation of the acoustic engineer. On this basis it is recommended that it is a requirement of any permit issued that the fence along the western boundary of the property be deleted. It is noted that the deletion of this fence will benefit and respect the open streetscape character of the site when viewing the property from Yan Yean Road, even when this road is widened.
69. The overall content of the acoustic report submitted with the previous application was peer reviewed on behalf of Council by an independent acoustic consultant. Council's consultant found the submitted acoustic report to be acceptable in methodology (in determining noise impacts of the proposed use). Whilst the acoustic report has been updated for this application, the overall methodology used previously has again been used to assess the potential noise created by both the cars and children on the site. Overall, it is considered the submitted acoustic report has appropriately assessed the predicted noise that will likely be generated by the proposed use and has concluded that all noise generated from the site associated with the proposed use will be acceptable to adjoining residential uses.
70. In regards to the noise generated by vehicles entering and exiting the site, child-care centres generally have peak times for vehicle movements (in the morning drop-off and afternoon pick-up times) and these times generally coincide with traffic peak times along Yan Yean Road. This level of noise is considered reasonable and as the vehicles will be required to exit the site towards the Yan Yean Road intersection, it is considered noise generated by these vehicles will not be easily distinguished from the existing traffic travelling along Yan Yean Road.
71. In respect to the above mentioned amenity considerations, it is recommended a Business Management Plan is submitted and approved by Council to ensure that the appropriate management practices are implemented to reduce amenity impacts on the surrounding area. It is recommended that this is made a condition on any planning permit issued.

Bushfire provisions

72. When the application was initially lodged with Council the property was not in the Bushfire Management Overlay but was shown on future mapping to be located within the overlay. The application was initially referred to the CFA under Section 52 of the *Planning and Environment Act 1987* for comment.

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- 73. CFA responded that it acknowledged that the site is shown in the proposed revised BMO mapping and that bushfire issues are required to be considered and addressed in a number of other planning policies contained within the Nillumbik Planning Scheme. As such the CFA recommended that Council request the applicant to prepare an application that addresses the requirements of Clause 52.47.
- 74. The applicant subsequently submitted a Bushfire Management Plan prepared by Abzeco received on 11 August 2017. This plan was referred to the CFA that advised no objection to the proposal subject to the submission of an amended Bushfire Management Plan. It is recommended that these conditions form part of any permit issued.

Signage

- 75. Two business identification signs have been proposed on the corner of Youngs and Yan Yean Road. Both signs are single sided and non-illuminated. One will face Youngs Road with the other facing Yan Yean Road. The signs themselves will be two square metres in area and will be mounted on posts making the signs between 2.3 and 2.4 metres in overall height. Whilst Council has a preference for only one business identification sign to each business, when the property is located on a corner lot, then it is considered appropriate for two signs to be considered. These signs must generally be smaller in size and be appropriate for a residential setting. It is considered that the small size of the signs (2 square metres in area each) and the fact that they are single sided and non-illuminated results in an appropriate advertising approach in a residential setting in accordance with Clause 22.09 – Signage Policy and Clause 52.05 (Advertising Signage).

Response to objections not yet addressed in this report

- 76. A number of objections were concerned that the use will set a commercial precedent within the area. Any application received for a non-residential use is subject to the relevant considerations of the planning scheme and requires assessment on its own planning merit.
- 77. In relation to the bushfire risk of the area, the application was referred to the CFA as part of the application process. The CFA have offered no objection to the application subject to conditions being placed on any permit issued.
- 78. The notion that property values will be affected as a result of the proposed use is not a relevant planning consideration under the planning scheme.
- 79. Lastly, concerns were raised that the facility should be purpose-built and not converted from a dwelling. There is no guidance within the planning scheme or otherwise that child care centres should be built this way, and this is not a relevant planning consideration. It is noted that separate to any issued planning permit the proposed use will need to comply with the physical and operational requirements of the Department of Health and Human Services and the Australian Building Standards.

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Conclusion

80. The application seeks to use and develop the land for the purpose of a child care centre. The application was advertised and 62 written objections and 54 letters of support were received. The key planning issues relate to the appropriateness of the use and strategic location, the capability of the land, car parking and traffic, amenity impacts, bushfire provisions and signage.
81. The proposed use will be located on a corner site which adjoins an arterial road (Yan Yean Road), and is located within close proximity to other non-residential uses. This location is also considered suitable for servicing residents from the surrounding postcodes, including growth areas to the north-west of Yarrambat.
82. The proposed use provides for 27 car spaces on-site which is in excess by 10 of what is required under the planning scheme. A child care centre requires 0.22 spaces per child, and with a maximum of 80 children proposed, only 17 car spaces are required under the planning scheme.
83. Council's Infrastructure Development Unit has assessed existing and predicted traffic conditions within the immediate area and has assessed that these conditions can adequately accommodate the predicted traffic demand generated by the proposed use. A traffic gap analysis was undertaken by Council officers that determined sufficient gaps in traffic were available in afternoon peak times for vehicle movements from Youngs Road out onto Yan Yean Road. Council's Infrastructure Development Unit has also requested a left-hand-turn only exit from the subject site to ensure all vehicles from the proposed use exit Youngs Road via Yan Yean Road to prevent increased vehicle movements along Eisemans and DeFredricks Roads to the east.
84. The submitted acoustic report has appropriately assessed the predicted noise that will be generated by the proposed use, and has concluded that all noise generated from the proposed use is acceptable to adjoining residential uses, in accordance with the SEPP N-1 Guidelines. This assessment has recommended some management restrictions, which is appropriate to ensure that the residential amenity of surrounding properties is acceptably maintained. The proposal can also adequately treat and retain wastewater on-site in accordance with the objectives of the zone.
85. The bushfire impacts have been assessed by the CFA and found to be acceptable subject to conditions being attached to any permit issued.
86. The Land Capability Assessment demonstrates that, with the anticipated hydraulic loading, the proposal can sufficiently treat and retain all wastewater on site under without detrimentally affecting any adjoining property or nearby waterway or drainage gully.
87. The development complies with the best practice guidelines for stormwater management and will not result in the discharge of polluted or sediment laden run-off and has implored a number of practices to significantly reduce stormwater runoff from the site.
88. The signage proposed is considered to be of an appropriate size and location to be acceptable in a residential setting.

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89. Overall, following an on-balanced assessment of all of the relevant considerations of the planning scheme, the proposed use and development warrants support, as reflected in the officer recommendation.

12. Officers' reports**OCM.149/17 Rodger Road Special Charge Scheme - Declaration**

Distribution: Public**Manager: Hjalmar Philipp, Director Sustainability and Place****Author: Patrick Wood, Coordinator Design****Summary**

Following a consultation process, Council resolved on 31 October 2017 (Item OCM.124/17), to commence the statutory process for a Special Charge Scheme for Rodger Road, Panton Hill.

Council's notice of its intention to declare a scheme was publicly advertised in the *Diamond Valley Leader* newspaper on 8 November 2017.

A letter and notice of the proposal was sent to all property owners with a liability under the scheme. Council has received correspondence from affected property owners which constitutes a submission and objection under the sections 223 and 163B of the *Local Government Act 1989*.

This report recommends that Council formally declares the Rodger Road Special Charge Scheme.

Recommendation

That Council:

- 1. Notes that eight submissions and one objection were received for this scheme.**
- 2. Having considered these submissions and objection, gives notice under section 163 (4) of the *Local Government Act 1989* of the declaration of a special charge for the purpose of constructing Rodger Road, Panton Hill (between Bishops Road and Lawrence Road).**
- 3. Incorporates the following outline of declaration:**
 - a) The Special Charge Scheme shall apply to the properties in Rodger Road, Panton Hill as shown in Attachment 1.**
 - b) The apportionment cost to each property is based on the method shown in the report and Attachment 2.**
 - c) The total estimated cost to each property is shown in Attachment 3 and may be paid as a lump sum or by quarterly instalments over a 10 year period with interest as provided by section 163(1)(b) of the *Local Government Act 1989*.**
 - d) The interest rate applicable to instalments paid by each due date is to be one per cent higher than the rate applying to Council in relation to funds borrowed for this project.**
 - e) The Special Charge Scheme for Rodger Road shall remain in force for 10 years.**

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OCM.149/17 Rodger Road Special Charge Scheme - Declaration

- f) **The estimated total project cost is \$436,453 with a benefit ratio of 0.8884' (88.84 per cent). The total amount to be levied under this special charge is \$387,762. Council will be contributing \$48,691 for a Council property 105 Rodger Road known as Bunjil Reserve. This amount has been allocated within the 2017-2018 Capital Works Program.**
- g) **Within twelve months of the completion of works a final cost statement will be issued to all of the property owners in the Rodger Road Special Charge Scheme and any adjustments to liabilities will be made at that time.**

- 4. **That the submitters and objector be advised of Council's decision and the reason for the decision.**

Attachments

- 1. Properties included in proposed scheme
- 2. Guidelines for Apportionment of Costs for Road Construction
- 3. Apportionment to affected properties

Background

- 1. On 24 March 2016, Council received a petition signed by property owners in Rodger Road, Panton Hill requesting that Council investigates road sealing between Bishops Road and Lawrence Road.
- 2. After conducting a survey and determining over 60 per cent of property owners support road sealing, Council resolved on 13 September 2016 to proceed with the consultation process for the Rodger Road Special Charge Scheme, Panton Hill (Item OCM.152/16).

Policy context

- 3. This report directly supports the achievement of Council Plan 2017-2021 strategy:
 - Ensure that the provision of community infrastructure responds to community needs.

Budget implications

- 4. Council has incorporated costs for administering the scheme in the current services budget. The survey and design costs incurred will be recovered if the scheme proceeds and the charge is levied.
- 5. Council will have a liability of \$48,691 for the Council property at 105 Rodger Road, known as Bunjil Reserve, that is included as part of the scheme. This cost has been allocated within the 2017-2018 Capital Works Program, if a scheme is to proceed.
- 6. Council has agreed to provide a solution to maintain suitable horse-riding access along the southern section of Rodger Road (toward Lawrence Road). Any additional works in relation to horse trail alignment would need additional funding.

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OCM.149/17 Rodger Road Special Charge Scheme - Declaration

Consultation/communication

7. Consultation was carried out in accordance with the Council's Special Rates and Charges Policy and Procedure. Information sessions for all residents and meetings with task group members, to finalise design details for the street, were held. All affected property owners have been advised of Council's intention to declare the scheme and their rights to make submissions or objections to this.

Issues/options

8. Council resolved its intention to declare the Rodger Road Special Charge Scheme, Panton Hill on 31 October 2017 (Item OCM.124/17). Property owners were notified of the resolution via public notice in the *Diamond Valley Leader* newspaper on 8 November 2017. A letter and notice of the proposal was sent to all property owners with a liability to the Scheme.
9. Both the public notice and the letter sent to property owners of intention to declare a Scheme outlined the rights of any person to make a submission under section 223 or an objection under section 163B of the *Local Government Act 1989* (the Act), in relation to this Special Charge Scheme. Submissions and objections were to be made in writing by 6 December 2017.
10. Correspondence representing eight (8) submissions and one (1) objection was received by Council. Seven submissions were in relation to a solution to maintain horse-riding access along the southern section of Rodger Road. A copy of the submissions has been separately circulated to all Councillors. A summary of the issues raised in the submissions is as follows:
- Any measures being considered to maintain horse-riding access should not delay the construction of the road (two submissions)
 - Alternative access to be provided for horse-riding, including the following measures:
 - i) Creation of a new trail access, within the road reserve, along the north-eastern side of Rodger Road, connecting the existing trail and the current entrance to Bunjil Reserve (three submissions)
 - ii) Reinstating access to Bunjil Reserve for horse-riding (three submissions for, three submissions against)
 - iii) Finish the sealing of Rodger Road at the top of the hill, at the entrance to Bunjil Reserve, removing the impact that the works will have on horse-riding (four submissions)
 - iv) Establishing a trail easement on the south-west side of Rodger Road (one submission)

Council officers are currently assessing the options for the realignment of the trail. A decision on the preferred alignment will then be made and then any necessary preparations carried out.

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OCM.149/17 Rodger Road Special Charge Scheme - Declaration

11. One submission (also treated as an objection) suggested inadequate consultation in relation to the location where drainage is proposed to be directed across a private property. The submission also noted that the property owner does not wish to have their driveway culvert altered.
- Officer's comment: As with all 'rural' schemes, road water often needs to be directed across private properties. With this property, Council officers considered two locations to direct the road water:
 - i) An existing dam on the property; or
 - ii) Past the dam and to an existing gully that runs across the property

During an initial discussion with the owner, it was indicated that option (ii) was the preferred option and the design progressed based on this option. While the formal consultation process is completed, Council officers will explore this matter (and the configuration of the driveway culvert), further with the property owner.
12. The special benefit of the road construction is considered to be improved access and amenity to property owners and the residents in the scheme. There is a Council property (105 Rodger Road) within the scheme for which Council is required to contribute \$48,691. Therefore, the benefit ratio is 0.8884 (88.84 per cent).
13. If Council resolves to proceed with the Special Charge Scheme, property owners will be sent a notice advising of the formal declaration and outlining their appeal rights to the Victorian Civil and Administrative Tribunal (VCAT).
14. Tenders for the construction of the road will subsequently be called, subject to the absence of any appeal to VCAT, or a ruling from VCAT supporting the scheme.

Conclusion

15. Council has commenced its statutory obligations in relation to the Rodger Road Special Charge Scheme, particularly to afford any affected person the opportunity to have their objections or submissions heard by Council. The issues raised in the eight submissions and one objection have been discussed above and are not considered grounds for varying or abandoning the scheme. It is recommended that the Council formally declares the Special Charge for the construction of Rodger Road.

12. Officers' reports**OCM.150/17 Worns Lane Special Charge Scheme - Declaration**

Distribution: Public**Manager: Hjalmar Philipp, Director Sustainability and Place****Author: Patrick Wood, Coordinator Design****Summary**

Following a consultation process, Council resolved on 31 October 2017 (Item OCM.124/17), to commence the statutory process for a Special Charge Scheme for Worns Lane, Yarrambat.

Council's notice of its intention to declare a scheme was publicly advertised in the *Diamond Valley Leader* newspaper on 8 November 2017.

A letter and notice of the proposal was sent to all property owners with a liability under the scheme. Council has received correspondence from affected property owners which constitutes a submission and objection under the *Local Government Act 1989*.

This report recommends that Council formally declares the Worns Lane Special Charge Scheme.

Recommendation

That Council:

- 1. Notes that no submissions or objections were received for this scheme.**
- 2. Having considered no submissions or objections, gives notice under section 163 (4) of the *Local Government Act 1989* of the declaration of a special charge for the purpose of constructing Worns Lane, Yarrambat (between Latrobe Road and Licola Street).**
- 3. Incorporates the following outline of declaration:**
 - a) The Special Charge Scheme shall apply to the properties in Worns Lane, as shown in Attachment 1.**
 - b) The apportionment cost to each property is based on the method shown in the report and Attachment 2.**
 - c) The total estimated cost to each property is shown in Attachment 3 and may be paid as a lump sum or by quarterly instalments over a 10 year period with interest as provided by section 163(1)(b) of the *Local Government Act 1989*.**
 - d) The interest rate applicable to instalments paid by each due date is to be one per cent higher than the rate applying to Council in relation to funds borrowed for this project.**
 - e) The Special Charge Scheme for Worns Lane shall remain in force for 10 years.**
 - f) The estimated total project cost is \$227,746 with a benefit ratio of 'one' (100 per cent). The total amount to be levied under this special charge is \$227,746.**

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OCM.150/17 Worns Lane Special Charge Scheme - Declaration

Attachments

1. Properties included in proposed scheme
2. Guidelines for Apportionment of Costs for Road Construction
3. Apportionment to affected properties

Background

1. On 19 February 2016, Council received a petition signed by property owners requesting that Council investigate road sealing of a section of Worns Lane between Latrobe Road and Licola Street, Yarrambat.
2. After conducting a survey and determining over 60 per cent of property owners support road sealing, Council resolved on 26 July 2016 to proceed with the consultation process for the Worns Lane Special Charge Scheme, Yarrambat (Item OCM.122/16).

Policy context

3. This report directly supports the achievement of Council Plan 2017-2021 strategy:
 - Ensure that the provision of community infrastructure responds to community needs.

Budget implications

4. Council has incorporated costs for administering the scheme in the current services budget. The survey and design costs incurred will be recovered if the scheme proceeds and the charge is levied.

Consultation/communication

5. Consultation was carried out in accordance with the Council's Special Rates and Charges Policy and Procedure. Information sessions for all residents and meetings with task group members to finalise design details for the street were held. All affected property owners have been advised of Council's intention to declare the scheme and their rights to make submissions or objections to this.

Issues/options

6. Council resolved its intention to declare the Worns Lane Special Charge Scheme, Yarrambat on 31 October 2017 (Item OCM.124/17). Property owners were notified of the resolution via public notice in *Diamond Valley Leader* newspapers on 8 November. A letter and notice of the proposal was sent to all property owners with a liability to the scheme.
7. Both the public notice and the letter sent to property owners of intention to declare a Scheme outlined the rights of any person to make a submission under section 223 or an objection under section 163B of the *Local Government Act 1989*, in relation to this Special Charge Scheme. Submissions and objections were to be made in writing by 6 December 2017.
8. No correspondence representing either a submission or an objection received by Council.

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OCM.150/17 Worns Lane Special Charge Scheme - Declaration

9. The special benefit of the road construction is considered to be improved access and amenity to property owners and the residents in the scheme. There is no Council land within the scheme and the standard of the road will not need to increase beyond the normal residential standard in the area. Considering this, it has been determined that there is no special benefit to the community and no special benefit to properties not included in the scheme. Therefore, the benefit ratio is 'one' (100 per cent).
10. Having considered no submissions or objections, it is recommended that Council declare the Special Charge Scheme for the construction of Worns Lane, Yarrambat.
11. If Council resolves to proceed with the Special Charge Scheme, property owners will be sent a notice advising of the formal declaration and outlining their appeal rights to the Victorian Civil and Administrative Tribunal (VCAT).
12. Tenders for the construction of the road will be called subject to the absence of any appeal to VCAT, or a ruling from VCAT supporting the scheme.

Conclusion

13. Council has commenced its statutory obligations in relation to the Worns Lane Special Charge Scheme, particularly to afford any affected person the opportunity to have their objections or submissions heard by Council. It is recommended that Council formally declare the Special Charge for the construction of Worns Lane.

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OCM.151/17 Westering Road Special Charge Scheme, Christmas Hills

Distribution: Public

Manager: Hjalmar Philipp, Director Sustainability and Place

Author: Patrick Wood, Coordinator Design

Summary

On 17 July 2017, Council received a petition signed by property owners in Westering Road, Christmas Hills requesting that Council investigate road sealing.

Questionnaires were then sent to all property owners in Westering Road on 17 October 2017 to establish the level of support to construct the road. The result indicated nine of 25 (36 per cent) property owners supported the scheme.

Given that the level of support is below 60 per cent it is recommended that Council abandon the scheme and place further investigations for road construction in Westering Road on a three year moratorium.

Recommendation

That Council:

1. **Abandons further investigations into a Special Charge Scheme for Westering Road, Christmas Hills.**
2. **Places any further investigations into a Special Charge Scheme for Westering Road, Christmas Hills on a three year moratorium.**
3. **Notifies affected property owners accordingly.**

Attachments

1. Special Charge Scheme Area

Background

1. On 17 July 2017, Council received a petition signed by property owners in Westering Road requesting that Council investigate road sealing.

Policy context

2. This report directly supports the achievement of Council Plan 2017-2021 strategy:
 - Ensure that the provision of community infrastructure responds to community needs.

Budget implications

3. The cost of the investigation undertaken to date is accommodated in the current services budget.

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OCM.151/17 Westering Road Special Charge Scheme, Christmas Hills

Consultation/communication

4. Consultation to date has been carried out in line with Council's Special Rates and Charges Policy and Procedure. This involved questionnaires being sent to all property owners in Westering Road on 5 December 2017 (refer to Attachment 1).

Issues/options

5. On 17 October 2017, questionnaires were sent to property owners in Westering Road to establish the level of support to construct the road.
6. The results of these questionnaires are shown in Table 1 below.

Table 1 – Results for Westering Road Special Charge Scheme questionnaires

	Construction	No change	No response	Total
Votes	9	11*	5	25
Percentage	36%	44%	20%	100%

*One vote received with provision which were contrary to Councils Special Charge Scheme policy.

7. The level of support established for a special charge scheme for Westering Road is below the 60 per cent requirement for the scheme to proceed.
8. Five property owners did not respond to the questionnaires. If all these property owners were to vote in favour of the road construction, the level of support would still be below the 60 per cent requirement for the scheme to proceed.
9. Property owners were given the opportunity to include comments in their questionnaire response. Generally, the comments received from property owners were reflective of the way they voted. Some of the issues raised in the comments were:
 - Road sealing would:
 - Be harmful to the character of the area
 - Create cost and financial issues
 - Increase to vehicle speeds and through traffic
 - Connecting streets should also be sealed (Ridge Road and/or Calwell Road)
 - Existing road creates a dust issues.

Conclusion

10. The results of the questionnaire demonstrate insufficient support from a majority of property owners in Westering Road for the construction of the road via a special charge scheme.
11. Based on this, it is recommended that the consultation process be abandoned, further investigation placed on a three year moratorium and all affected property owners be formally advised.

12. Officers' reports

OCM.152/17 Debt Collection Policy - Rates and Charges

Distribution: Public

Manager: Vince Lombardi, Manager Finance

Author: Melika Sukunda, Financial Accountant

Summary

This report presents a finance policy which was recently considered by the Audit Committee and which will require formal adoption by Council.

Council requires a Debt Collection Policy – Rates and Charges to facilitate and provide guidance regarding the collection of overdue rates and charges.

The policy was presented to the Audit Committee in November 2017.

Recommendation

That Council adopts the Debt Collection Policy – Rates and Charges.

Attachments

1. Debt Collection Policy - Rates and Charges

Background

The Debt Collection Policy – Rates and Charges will provide formal guidance to the process involved in collecting overdue rates and charges owed to Council. The policy sets out timeframes respective to legal processes to be applied.

Policy context

1. This report directly supports the achievement of Council Plan 2017-2021 strategy:
 - Ensure responsible and efficient management of Council's financial resources.

Budget implications

2. The facilitation and ability to collect overdue debts with respect to rates and charges is a critical aspect to the overall cash management of Council operations.
3. Rates are the primary income source for Council. This policy provides formal guidance with regard to the process involved for collecting overdue debts owed to Council.

Consultation/communication

4. The Debt Collection Policy-Rates and Charges was presented to the Audit Committee in November 2017.

Issues/options

5. The purpose of the policy is to provide guidance to officers regarding the procedures and steps to be undertaken in the collection of overdue rates and charges debts.

12. Officers' reports

OCM.152/17 Debt Collection Policy - Rates and Charges

6. Debt Collection Policy addresses the following aspects:
 - a) Overall debt collection process.
 - b) Timeframe through which respective legal steps are applied.
 - c) Details on the legal steps involved on the process.
7. This policy is to be read in-conjunction with other adopted Council policies.

Conclusion

8. The Debt Collection Policy-Rates and Charges is presented to Council for formal approval.

12. Officers' reports

OCM.153/17 Electricity - Large Sites and Street Lighting contract 1718-27

Distribution: Public

Manager: Hjalmar Philipp, Director Sustainability and Place

**Author: Lance Clark, Senior Procurement Specialist
Ian Culbard, Sustainability Officer**

Summary

This report considers the awarding of the contract for Electricity Large Buildings and Facilities and Unmetered Public Lighting supply.

MAV Procurement in conjunction with Trans-Tasman Energy Group (TTEG) has conducted a group tendering process on behalf of 27 Victorian Councils consisting of 203 large buildings and 103 unmetered public lighting sites.

Council has participated in this tendering process for the purpose of renewing contract.

The existing contract 1314-63-1 with ERM ends on 31 December 2017

The purpose of this request is to formalise supply of electricity for Council Large Buildings and Facilities and Unmetered Public Lighting sites for the next three years with no option for extension, commencing 1 January 2018 to 31 December 2020..

Pursuant to the Instrument of Delegation to the Chief Executive Officer the anticipated value of this contract exceeds financial limits and a Council resolution is required to accept the recommendation to award and use this contract.

Recommendation

That Council:

- 1. Notes the report.**
- 2. Makes public the decision regarding the contract but the tender evaluation remain confidential.**

Attachments

Nil

12. Officers' reports

OCM.154/17 Chapel Lane Rural Road Sealing

Distribution: Public

Manager: Hjalmar Philipp, Director Sustainability and Place

Author: Jake Hart, Project Management Officer

Summary

This report recommends the awarding of the contract for the rural road sealing of Chapel Lane, Doreen.

The works will involve the spray sealing of Chapel Lane, between Yan Yean Road and Hurstbridge-Arthurs Creek Road, Doreen including asphalt surfacing works of the Middle Hut Road intersection and the continuation of asphalt down to the bridge, driveway works, upgrade of existing culverts, construction of culvert endwalls, some asphalt table drains and other associated works.

The Tender Evaluation panel has assessed all submissions and this report outlines their evaluation in recommending the awarding of the contract for the construction of rural road sealing of Chapel Lane, Doreen.

Pursuant to the Instrument of Delegation to the Chief Executive Officer the value of this contract exceeds the specified financial limits and a Council resolution is therefore required to award the contract.

Recommendation

That Council:

- 1. Notes the report.**
- 2. Makes public the decision regarding this contract but the tender evaluation remain confidential.**

Attachments

Nil

12. Officers' reports

OCM.155/17 Assemblies of Councillors

Distribution: Public

Manager: Justin Murray, Acting Manager Governance

Author: Naomi Ellis, Corporate Planner

Summary

In accordance with section 80A(2) of the *Local Government Act 1989* Council is required to report as soon as practicable to an Ordinary meeting of Council a record of any assemblies of Councillors held.

This report lists assemblies of Councillors forms that have been submitted since the matter was last reported to Council on 28 November 2017.

Recommendation

That Council, in accordance with section 80A(2) of the *Local Government Act 1989*, receives the records of the following assemblies of Councillors:

1	Date of assembly	28 November 2017	
	Matters considered	Pre-meet for Ordinary Council meeting	
	Councillors present	Cr Grant Brooker Cr Bruce Ranken Cr Jane Ashton	Cr Peter Clarke Cr John Dumaresq Cr Peter Perkins
	Staff present	Mark Stoermer Allison Watt Hjalmar Philipp Craig Commene Jon Miller Jeremy Livingston Lance Clark Joanne Massoud Naomi Paton	Natalie Campion Diana Bell Mitch Grayson Vince Lombardi Matt Kelleher Justin Murray Mathew Deayton James Martin Adrian Cully
	Conflict of interest	None declared	

2	Date of assembly	30 November 2017	
	Matters considered	Inclusion Advisory Committee and Disability Action Plan Subcommittee	
	Councillors present	Cr Jane Ashton	
	Staff present	Angela Lampard Angela Clare Iwona Trickett	Melanie Holt Joanne Massoud
	Conflict of interest	None declared	

12. Officers' reports

OCM.155/17 Assemblies of Councillors

3	Date of assembly	4 December 2017	
	Matters considered	Open Space Precinct Plan, Graysharps Road, Hurstbridge Project Reference Group	
	Councillors present	Cr Karen Egan	
	Staff present	Naomi Paton Nichole Johnson	Paige Macdonald
	Conflict of interest	None declared	

4	Date of assembly	5 December 2017	
	Matters considered	Officer briefings of Councillors <ul style="list-style-type: none"> • Melbourne Water Christmas Hills Land Use Strategy project update • Early Years Infrastructure Management Plan implementation options • Lease from Parks Victoria – 130 and 195 Laughing Waters Road, Eltham South for artist residency • Sub-Regional Indoor Sports Needs Analysis • 2018-2019 Annual Budget Process • CEO mid-year performance review 	
	Councillors present	Cr Grant Brooker Cr Karen Egan Cr Bruce Ranken Cr Jane Ashton	Cr Peter Clarke Cr John Dumaresq Cr Peter Perkins
	Staff present	Allison Watt Mark Stoermer Hjalmar Philipp Naomi Paton Fiona Stevens Matt Kelleher Suzy Ellingsen Narelle Hart	Corrienne Nichols Mitch Grayson Vince Lombardi Robert Malignaggi Adrian Cully Michelle Zemancheff Grace Longato Jonathan McNally
	Conflict of interest	None declared	

5	Date of assembly	12 December 2017	
	Matters considered	Officer briefings of Councillors <ul style="list-style-type: none"> • Yan Yean Road duplication presentation • Eltham Leisure Centre update • Special Charge Scheme Policy review 	
	Councillors present	Cr Peter Clarke Cr Bruce Ranken	Cr John Dumaresq Cr Karen Egan

12. Officers' reports

OCM.155/17 Assemblies of Councillors

		Cr Jane Ashton Cr Peter Perkins	Cr Grant Brooker
	Staff present	Mark Stoermer Jonathan Risby Hjalmar Philipp Suzy Ellingsen Frances Duncan Mathew Deayton	Patrick Wood Naomi Paton Allison Watt Vince Lombardi Matt Kelleher
	Conflict of interest	None declared	

6	Date of assembly	12 December 2017	
	Matters considered	Pre-meet for Future Nillumbik Committee	
	Councillors present	Cr Peter Clarke Cr Bruce Ranken Cr Jane Ashton Cr Peter Perkins	Cr John Dumaresq Cr Karen Egan Cr Grant Brooker
	Staff present	Mark Stoermer Hjalmar Philipp Matt Kelleher Allison Watt Suzy Ellingsen Vince Lombardi	Naomi Paton Michelle Zemancheff Grace Longato Jonathan McNally Lisa Hunt
	Conflict of interest	None declared	

Attachments

Nil

Background

1. The *Local Government Act 1989* (the Act) requires records of assemblies of Councillors be reported to an Ordinary Meeting of Council and recorded in the minutes of that meeting.

Policy context

2. This report directly supports the achievement of Council Plan 2017-2021 strategy 'ensure that Council meets its legal responsibilities and manages its risks'.

Budget implications

3. This is a routine reporting item, the resources for which are contained in Council's current operating budget.

Consultation/communication

4. None required.

12. Officers' reports

OCM.155/17 Assemblies of Councillors

Issues/options

5. An assembly of Councillors is defined in section 76AA of the Act. It is a meeting at which matters are considered that are intended or likely to be the subject of a Council decision or the exercise of delegated authority and which is either of the following:
 - A planned or scheduled meeting that includes at least half the Councillors and at least one Council Officer. These assemblies do not include meetings of Councillors and Council staff that are not planned or scheduled.
 - A meeting of an advisory committee where at least one Councillor is present. An advisory committee is any committee established by the Council, other than a special committee, that provides advice to the Council or to a special committee or to a member of Council staff who has been delegated a power or duty or function of the Council.
6. A record must be kept of an assembly of Councillors and include the names of all Councillors and Council staff attending, the matters considered, disclosures of conflict of interest and whether a Councillor left the meeting after making a disclosure.
7. In accordance with section 80A(2) of the Act, Council is required to report as soon as practicable to an Ordinary Meeting of Council a record of any assemblies of Councillors held.
8. The recommendation contains the list of assemblies of Councillor forms that have been submitted since the matter was last reported to Council on 28 November 2017.

Conclusion

9. It is recommended that Council receives the records of recent assemblies of Councillors as contained in this report, fulfilling section 80A(2) of the *Local Government Act 1989*.

13. Notices of motion

NOM.001/17

Cr Jane Ashton advised of her intention to move the following:

Motion

That Council:

1. **Acknowledges the outcome of the Australian Marriage Law Postal Survey with 61.6 per cent of responses in support of legalising same sex marriage and subsequent legalisation of same sex marriage by the Commonwealth Government.**
2. **Publicly supports marriage equality, recognising that inclusivity for all residents supports improved health and wellbeing outcomes.**
3. **Actively supports International Day Against Homophobia, Biphobia and Transphobia (IDAHOBIT) by incorporating this day (17 May), into its calendar of events from 2018 onwards and funding a small community grant program (\$500 per grant, maximum program of \$5,000 per annum) to support local community groups and events that promote and encourage IDAHOBIT and LGBTI inclusion.**

14. Delegates' reports

15. Supplementary and urgent business

16. Confidential reports

The Meeting may be closed to members of the public to consider confidential matters.

Motion

That Council closes the meeting to the public pursuant to section 89(2) of the *Local Government Act 1989* to consider the following items, which are confidential for the reasons indicated:

Report No.	Title	Reason for confidentiality
OCM.156/17	Electricity - Large sites and street lighting contract 1718-27	(d) contractual matters
OCM.157/17	Chapel Lane Rural Road Sealing	(d) contractual matters
OCM.158/17	Consideration of improvements to Eltham Preschool	(d) contractual matters