

Ordinary Meeting of Council

Held at the Civic Centre, Civic Drive, Greensborough on
Tuesday 19 December 2017.

Minutes

Mark Stoermer
Chief Executive Officer

Wednesday 20 December 2017

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Wamin je ka

Nillumbik Shire Council

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Nillumbik Shire Council

Minutes of the Ordinary Meeting of Nillumbik Shire Council held Tuesday 19 December 2017. The meeting commenced at 7pm.

Councillors present:

Cr Peter Clarke	Wingrove Ward (Mayor)
Cr Grant Brooker	Blue Lake Ward
Cr John Dumaresq	Edendale Ward
Cr Peter Perkins	Ellis Ward
Cr Jane Ashton	Sugarloaf Ward
Cr Bruce Ranken	Swipers Gully Ward

Officers in attendance:

Mark Stoermer	Chief Executive Officer
Matt Kelleher	Director Services and Planning
Hjalmar Philipp	Director Sustainability and Place
Adrian Cully	Manager Connected Communities
Corrienne Nichols	Manager Community Programs
Naomi Paton	Manager Integrated Strategy
Justin Murray	Acting Manager Governance
Mitch Grayson	Chief of Staff to Mayor and Councillors
Michelle Zemancheff	Coordinator Arts and Cultural Services
James Martin	Corporate Affairs Lead
Naomi Ellis	Corporate Planner

1. Welcome

2. Reconciliation statement

The reconciliation statement was read by the Mayor, Cr Peter Clarke.

3. Prayer

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

4. Apologies

Cr Karen Egan was an apology to the meeting.

Motion

Cr Bruce Ranken

Cr Jane Ashton

That Cr Karen Egan's apology be accepted.

CARRIED

5. Presentations

Sporting presentations

Elise Highmore (Swipers Gully Ward) received \$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

Cr Peter Perkins
Cr Grant Brooker

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

CARRIED

7. Disclosure of conflicts of interest

Nil

8. Petitions

Nil

9. Questions from the gallery

Ben Ramcharan, on behalf of Friends of Nillumbik asked Council:

In relation to the recent Supreme Court action in relation to 2 Pigeon Bank Road, North Warrandyte, Friends of Nillumbik asks, did Council make a formal decision not to apply for costs or is the decision the CEO's acting under delegation?

To prevent ratepayers from having to foot the bill for this case, will Council ask its lawyers to provide their services pro bono, or instruct its lawyers to lodge a costs claim with the Supreme Court forthwith?

Mayor, Cr Peter Clarke responded that no, Council did not have any determinate matter or did not make a decision with respect to seeking costs. Nor did the CEO. This was handled in the court by the solicitors on the day. With regard to the issue, the Supreme Court appeal of Phillip Mannerheim Holdings Pty Ltd vs Nillumbik Shire Council and others, Council was required to participate in the hearing process, having been named as the respondent due to its Responsible Authority role under the *Planning and Environment Act 1987*. It was important Council participated in order to uphold the validity of the permit application process, which has been achieved as the Court has confirmed that the objection received to the planning permit application was valid.

Council was not otherwise in dispute with the applicant in relation to the merits of the planning permit application which generated the Supreme Court appeal, and therefore it would be highly unusual to pursue costs. Further, Council recognises that participation in a Supreme Court action such as this is part of the cost of implementing and enforcing its responsibilities under the *Planning and Environment Act 1987*.

The opportunity for pursuing costs has already been addressed in the hearing process, and costs cannot be subsequently pursued. Council has paid its legal representative.

9. Questions from the gallery (cont)

Jim Connor asked Council:

The dramatic destruction of the popular Eltham North Adventure Playground is a huge community loss that will impact on the personal histories of many families in Nillumbik and beyond. While the structure cannot be rebuilt, as it was, due to current building regulations and playground safety standards, it does create an exciting opportunity for it to be replaced by another substantial and iconic structure. Can Council please ensure an experienced professional designer or architect, who specialises in the creation of quality playspaces, incorporating high levels of accessibility for all users, is involved throughout all stages of the replacement project?

Mayor, Cr Peter Clarke responded that Council has already publicly committed to rebuild this playground. This will include extensive consultation at the earliest possible stage to ensure that any replacement meets the expectations of our community.

The following three questions were answered together as they relate to the same topic.

Peter Veitch asked Council:

When will Council stop stonewalling acknowledgement of our LGBTIQ ratepayers?

Council opposes racism, sexism, misogyny, isn't it way past time to stand up against homophobia?

Douglas Pollard asked Council:

Will the council employ a full time LGBTI Diversity Officer to ensure that LGBTI residents are protected, welcomed, included and catered for in all Council policies and activities, and conduct appropriate staff and councillor training?

Will the council conduct an audit of all its business dealings to ensure that all suppliers, contractors and service providers have LGBTI inclusive policies and procedures in place?

Geoff Allshorn

In acknowledgement of the fact that 73.5% of the Jagajaga electorate voted 'yes' in the recent same-sex marriage postal survey, what steps will the Council take to support this community sentiment and ensure that its LGBTQI residents and their families are made to feel equal, welcome, safe and valued?

What steps will the Council take to protect the health, safety, dignity, equality and welfare of its LGBTQI youth population?

Mayor, Cr Peter Clarke responded that the adopted Council Plan 2017-2021 specifically included priority action 1.5.7 'Ensure that the LGBTI community is included and engaged in initiatives that are supported by Council'. Later in tonight's meeting a motion will be presented that details specific actions to be taken in relation to this.

10. Reports of Advisory Committees

AC.010/17 Advisory Committee Report

Distribution: Public

Manager: Justin Murray, Acting 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.
- Open Space Precinct Plan Graysharps Road, Hurstbridge Project Reference Group held 1 November 2017.

Motion

Cr Jane Ashton

Cr Bruce Ranken

That Council notes the:

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

CARRIED

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.

Motion

**Cr Jane Ashton
Cr Bruce Ranken**

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.**

CARRIED

12. Officers' report

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.

Motion

Cr Bruce Ranken

Cr John Dumaresq

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.

12. Officers' reports

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

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.
4. Requires officers resolve with the authors editorial inaccuracies.

CARRIED

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.

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

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

Recommendation

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.
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.

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

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.
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.

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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.
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.

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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.
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.

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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 2,000 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.
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.

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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).
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

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- 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.
- 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.

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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.
- 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.

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- 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.

Motion

**Cr Grant Brooker
Cr John Dumaresq**

That Council issues a Notice of Decision to Refuse to Grant a Planning 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, on the following grounds:

1. **The proposed use and development fails to address the decision guidelines of the Design and Development Overlay (Schedule 2) as the proposal is not in accordance with the Yarrambat Local Structure Plan (May 1993) by way of strategic location outside the Ironbark Road precinct.**
2. **The use and development is inconsistent with the decision guidelines of the Low Density Residential Zone and Design and Development Overlay (Schedule 2) having regard to the extent of additional built form including significant acoustic fencing, advertising signage and hard paving associated with car parking facilities and is inappropriate and overly intensive in a low density residential environment.**
3. **The proposed use and development fails to address the decision guidelines of the Design and Development Overlay (Schedule 2) as the proposal incorporates excessive hard surface area and fails to adequately minimise off-site stormwater run-off from buildings, access roads, driveways and any other hard standing areas.**
4. **The proposed use and development fails to address the decision guidelines of the Low Density Residential Zone in relation to the capability of the lot to treat and retain all wastewater in accordance with the State Environment Protection Policy (Waters of Victoria) under the Environment Protection Act 1970.**
5. **The proposal fails to respond to the objectives of Clause 21.05-4 and Clause 21.05-5 and the strategic intent of the area as the intensive commercial use is inappropriately located with insufficient infrastructure services and facilities including reticulated sewer, footpaths, street lighting, waste collection and is incompatible with the existing vehicular traffic and the capacity of the local road (Youngs Road).**
6. **The proposed use and development fails to address Clause 19.02-2 (Education Facilities) as the proposal does not give adequate consideration to**

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

demographic trends, the existing and future demand requirements of the area and suitable integration of this facility into the community.

7. The proposed use and development fails to address Clause 17.01-2 (Out-of-centre development) as the centre is of no net benefit to the community in the region served by the proposal and does not meet the needs of local residents and workers in convenient locations.
8. The proposal fails to address the objectives of the Decision Guidelines of Clause 65 as the proposal does not promote the orderly planning of the area, as the proposal contributes to the sprawl of non-residential uses away from the centre of the Yarrambat Township and the proposal will have an unreasonable effect on the amenity of the area via the increase in vehicle traffic, vehicle noise along Youngs Road, stormwater management and effluent disposal.

LOST

Motion

**Cr Peter Perkins
Cr Bruce Ranken**

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.**

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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

- 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.
 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 5pm.
 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

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

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.
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.

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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

- 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.**
- 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.**

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

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.
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.

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**

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.

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.

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

- 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).**
- 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:

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

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.
- 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.

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

- 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.
- 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.

CARRIED

Cr Grant Brooker called for a division:

For: Crs Perkins, Ranken, Ashton and Clarke.

Against: Crs Dumaresq and Brooker.

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.
 - 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

12. Officers' reports

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

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.

Motion

Cr John Dumaresq
Cr Jane Ashton

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, Pantan 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, Pantan 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.
 - 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.

12. Officers' reports

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

- 4. That the submitters and objector be advised of Council's decision and the reason for the decision.**
- 5. Further to Part 5 of Council Resolution from the Ordinary Meeting of Council on 31 October 2017, recognise the north-east (high side) of the road verge on the southern section of Rodger Road (toward Lawrence Road) as the preferred location for a new off-road trail to maintain suitable horse-riding, bicycle and pedestrian access, and progress with investigation of this option.**

CARRIED

12. Officers' reports

The following Officers' reports were moved as a block motion and their recommendations as printed in the agenda were adopted without change:

- OCM.150/17 Worns Lane Special Charge Scheme - Declaration
- OCM.151/17 Westering Road Special Charge Scheme, Christmas Hills
- OCM.152/17 Debt Collection Policy - Rates and Charges
- OCM.153/17 1718-27 Electricity Large Sites and Street Lighting
- OCM.154/17 Chapel Lane Rural Road Sealing
- OCM.155/17 Assemblies of Councillors

Motion

Cr Peter Perkins

Cr Bruce Ranken

That the recommendations as printed in the agenda be adopted without change for the following Officers' reports:

- **OCM.150/17 Worns Lane Special Charge Scheme - Declaration**
- **OCM.151/17 Westering Road Special Charge Scheme, Christmas Hills**
- **OCM.152/17 Debt Collection Policy - Rates and Charges**
- **OCM.153/17 1718-27 Electricity Large Sites and Street Lighting**
- **OCM.154/17 Chapel Lane Rural Road Sealing**
- **OCM.155/17 Assemblies of Councillors**

CARRIED

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.

Motion

Cr Peter Perkins

Cr Bruce Ranken

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'

12. Officers' reports

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

(100 per cent). The total amount to be levied under this special charge is \$227,746.

CARRIED

Note: This item was carried as part of a block motion.

12. Officers' reports

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 9 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.

Motion

Cr Peter Perkins

Cr Bruce Ranken

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.**

CARRIED

Note: This item was carried as part of a block motion.

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.

Motion

Cr Peter Perkins

Cr Bruce Ranken

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

CARRIED

Note: This item was carried as part of a block motion.

12. Officers' reports

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

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.

Motion

**Cr Peter Perkins
Cr Bruce Ranken**

That Council:

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

CARRIED

Note: This item was carried as part of a block motion.

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.

Motion

Cr Peter Perkins

Cr Bruce Ranken

That Council:

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

CARRIED

Note: This item was carried as part of a block motion.

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.

Motion

Cr Peter Perkins
Cr Bruce Ranken

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	Paige Macdonald
		Nichole Johnson	
	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 • CEO Employment Matters 	

12. Officers' reports

OCM.155/17 Assemblies of Councillors

	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 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	

CARRIED

Note: This item was carried as part of a block motion.

13. Notices of Motion

NOM.001/17

Cr Jane Ashton had 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.

In accordance with Clause 6.13 of the Meeting Procedure Local Law, Cr Ashton sought leave of Council to amend the Notice of Motion prior to it being seconded as follows:

Motion

**Cr Jane Ashton
Cr Peter Clarke**

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. Acknowledges the mandate for marriage equality which achieves inclusivity for all residents towards improved health and wellbeing outcomes.**
- 3. Consults with Nillumbik's LGBTI community to ascertain what initiatives will emphasise inclusion for the LGBTI community as proposed in Nillumbik's Health and Wellbeing Plan such as actively supporting International Day Against Homophobia, Biphobia and Transphobia (IDAHOBIT) on 17 May 2018 into its calendar of events.**
- 4. Assesses funding a small community grant program to implement this initiative.**
- 5. Receives a report back to the February Ordinary Council Meeting on the outcome of this consultation.**

CARRIED

14. Delegates' reports

Nil

15. Supplementary and urgent business

Nil

16. Confidential reports

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

Motion

**Cr Grant Brooker
Cr Bruce Ranken**

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	1718-27 Electricity Large Sites and Street Lighting	(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

CARRIED

The meeting closed to the public at 8.06pm.