



Ordinary Council Meeting Agenda

Monday 15 February 2021 at 7 PM

**Council Chamber, Malvern Town Hall
Corner Glenferrie Road & High Street Malvern**

Vision

Stonnington will be an inclusive, healthy, creative, sustainable and smart community.

Council's vision will be implemented through four key pillars:

- **Community:** An inclusive City that enhances the health and wellbeing of all residents, where people can feel safe, socially connected and engaged.
- **Liveability:** The most desirable place to live, work and visit.
- **Environment:** A cleaner, safer and better environment for current and future generations to enjoy.
- **Economy:** A City that will grow its premier status as a vibrant, innovative and creative business community.

These pillars reflect the shared priorities of our community and Council, and are consistent with our history and vision for a liveable future. For each pillar, there is a framework for our strategies, actions and measures which outline the key services and projects to be delivered to our community. The Strategic Resource Plan sets out how Council will provide the resources needed to implement strategies and actions within the Council Plan.

Councillors

Cr Kate Hely (Mayor)

Cr Melina Sehr (Deputy Mayor)

Cr Jami Klisaris

Cr Alexander Lew

Cr Polly Morgan

Cr Marcia Griffin

Cr Matthew Koce

Cr Mike Scott

Cr Nicki Batagol

Chief Executive Officer

Jacqui Weatherill

Executive Staff

Annalise Battista – Director Planning & Place

Cath Harrod – Director Covid Response

Rick Kwasek – Director Environment & Infrastructure

Greg Curcio – Director Customer & Technology

James Rouse – Acting Director Community & Wellbeing

Reconciliation Statement

We acknowledge that we are meeting on the traditional land of the Boonwurrung and Wurundjeri people and offer our respects to the elders past and present. We recognise and respect the cultural heritage of this land.

Affirmation Statement

We are reminded that as Councillors we are bound by our Oath of Office to undertake the duties of Councillor in the best interests of the people of the City of Stonnington and to faithfully and impartially carry out the functions, powers, authorities and discretions vested in us under the Local Government Act and any other relevant Act.

Welcome

Welcome to a Stonnington City Council meeting. The role of a Council is to provide good governance in its municipal district for the benefit and wellbeing of the municipal community. These meetings are an important way to ensure that the democratically elected Councillors work for the community in a fair and transparent way. Council business is conducted in accordance with Part C – Meeting Procedure section of Council's Governance Rules.

Councillors carry out the functions, powers, authorities and discretions vested with them under the **Local Government Act 2020**, and any other relevant legislation. Councillors impartially perform the Office of Councillor duties, in the best interests of the City of Stonnington residents, to the best of their skills and judgement.

Councillors must formally declare their conflicts of interest in relation to any items listed on the agenda at the start of the meeting and immediately prior to the item being considered, in accordance with Part 6 – Council integrity, Division 2 – Conflict of Interest of the Act.

About this meeting

The agenda, as specified in Stonnington's Governance Rules, lists of all the items to be discussed. Each report is written by a Council Officer and outlines the purpose of the report, relevant information and a recommended decision for Councillors. Council will consider the report and either accept, reject or make amendments to the recommendation. Council decisions are adopted if they receive a majority vote from the Councillors at the meeting.

Arrangements to ensure meetings are accessible to the public

Council meetings are generally held at the Malvern Town Hall, corner High Street and Glenferrie Road (entry via Glenferrie Road via the door closest to the Malvern Police Station). The Council Chamber is accessible to all. Accessible toilets are also available. If you require translation, interpreting services or a hearing loop, please contact Council's civic support on 03 8290 1331 to make appropriate arrangements before the meeting.

To ensure that people in the chamber can follow proceedings, the meeting agenda, motions and proposed alternate resolutions (also known as 'yellows'), are displayed on screens.

Live webcasting

Council meetings are broadcast live via Council's website, allowing those interested to view proceedings without needing to attend the meeting. This gives people who are unable to attend, the ability to view Council decisions and debate. A recording of the meeting is available on our website after the meeting (usually within 48 hours). Only Councillors and Council officers are visible. People in the public gallery will not be filmed, but if you speak, you will be recorded.

Members of the gallery

If you choose to attend a Council Meeting as a member of the public gallery, you should note the role of the Chairperson (usually the Mayor) and your responsibilities under the City of Stonnington Governance Rules – Division 8 – Questions to Council from Members of the Public, Division 12 – Recording of Proceedings and Division 13 Behaviour.

Your cooperation is appreciated. We hope you enjoy the meeting.

Mayor, Deputy Mayor and Councillors, Stonnington City Council

Ordinary Council Meeting Agenda Monday 15 February 2021 Order of Business

1	Reading of the Reconciliation Statement and Affirmation Statement.....	7
2	Introductions.....	7
3	Apologies	7
4	Adoption and confirmation of minutes of previous meeting(s)	7
4.1	Minutes of the Ordinary Council Meeting held on 21 December 2020 and 1 February 2021	7
5	Disclosure by Councillors of any conflicts of interest.....	8
6	Questions to Council from Members of the Public	8
7	Correspondence (only if related to Council business)	8
8	Questions to Council Officers from Councillors	8
9	Tabling of Petitions and Joint Letters	8
10	Notices of Motion.....	8
10.1	Notice of Motion 02/2021 Crs Scott, Morgan & Koce	8
11	Reports of Special and Other Committees - Informal Meetings of Councillors	11
12	Reports by Delegates	11
13	Urgent Business	12
14	General Business	13
14.1	Planning Application 1024/19 - 543, 545, 547 & 555 Malvern Road, Toorak	13

14.2 Council Financial Report Ending 31 Dec 2020	27
14.3 Tree Work Permit Appeal - 43 Central Park Road, Malvern East.....	35
14.4 Bendigo Street, Prahran (between High Street and Murray Street) - Consultation Results of Traffic Management Proposal.....	42
14.5 CitiesWithNature Australia	47
14.6 Councillor Code of Conduct.....	50
14.7 Community Sports Infrastructure Stimulus Program - Princes Gardens Sports Courts & Skate Park Redevelopment.....	54
15 Confidential Business	58
15.1 Public Health Venue Investigation	58

1 Reading of the Reconciliation Statement and Affirmation Statement

2 Introductions

3 Apologies

4 Adoption and confirmation of minutes of previous meeting(s)

4.1 Minutes of the Ordinary Council Meeting held on 21 December 2020 and 1 February 2021

Officer Recommendation

That the Council confirms the Minutes of the Ordinary Council Meeting of the Stonnington City Council held on 21 December 2020 and 1 February 2021 as an accurate record of the proceedings.

5 Disclosure by Councillors of any conflicts of interest

6 Questions to Council from Members of the Public

7 Correspondence (only if related to Council business)

8 Questions to Council Officers from Councillors

9 Tabling of Petitions and Joint Letters

10 Notices of Motion

10.1 Notice of Motion 02/2021 Crs Scott, Morgan & Koce

Notice of Motion 02/2021: Crs Scott, Morgan & Koce

We hereby give notice of our intention to move the following motion at the Ordinary Meeting of Council to be held at 7.00pm on 15 February 2021 in the Council Chamber, Malvern Town Hall, Malvern:

Motion

This notice of motion initiates a process that:

1. **Establishes a Gender and Sexuality Diverse Advisory Committee to Council with a Terms of Reference to guide its decisions and activities;**
 - This committee will act as an advisory mechanism to guide City of Stonnington's continuing development as a culturally safe and inclusive organisation and local government area free from discrimination based on sexuality, sex or gender.
 - -To advertise for community members to apply and that Council receive a further report with the proposed members
 - -The advisory committee will initiate a working group who will utilise the lived experience, expertise and the deep knowledge of our local Gender and Sexuality Diverse communities, council staff, organisations and networks of Gender and Sexuality Diverse identifying members to inform the implementation of a Gender and Sexuality Diverse Inclusion Action Plan.
2. **Develops a Gender and Sexuality Diverse Action Plan for Council**
 - The Action Plan will identify opportunities for Council to work in partnership with local services and groups to increase inclusion, address service gaps and identify opportunities for Gender and Sexuality Diverse people and their families to be involved in local community life.
3. **Fly the appropriate flag from Council buildings on Gender and Sexuality Diverse awareness days (and on subsequent dates in the years ahead) on:**

- Annual 'International Day Against Homophobia, Biphobia, Intersexphobia and Transphobia (IDAHOBIT)' 17th May
 - Annual 'Wear It Purple Day' 27th August 2021
 - Melbourne's annual Pride March – registrations close March 19 for this year's event which will be held on 23rd May
 - For the duration of the annual Midsumma Festival – delayed this year due to covid, will commence 19th April-5th May 2021
 - Transgender flag on the annual Transgender Visibility Day 31st March, 2021
 - Transgender flag on the annual Transgender Day of Remembrance 20th November 2021
4. **City of Stonnington marches in the Pride March under a Council banner – inviting staff and other stakeholders to take part if they wish to.**
5. **Participates in Midsumma and local Pride events – through our Arts and Culture events programming and Arts and Cultural grant rounds with media support and collaboration with our partners.**

Rationale:

A majority of councillors elected in the October 2020 local government election signed the Victorian Pride Lobby's Rainbow Pledge which provides Council with an opportunity to show leadership and create an environment where our Gender and Sexuality Diverse community are supported and encouraged to thrive.

Stonnington has one of the largest Gender and Sexuality Diverse communities in Victoria, including supporters and allies who help progress equality and fairness for all. The Marriage Equality national vote result saw Stonnington achieve one of the highest recorded 'Yes' votes across the country: 82% Macnamara (Windsor) 78.3% Higgins (Prahran, SY, Armadale, Malvern, Malvern East) with neighbouring Kooyong at 73.7%

The City of Stonnington received a 2 out of 5 on the Victoria Pride Lobby's Equality Index – and the 2 rating was mostly due to the fact that we have Rainbow Tick accreditation in our Aged Care services, achieved back in 2007. While there are already some initiatives and events held by council, this motion brings them together in a way that encourages an all of council and community approach.

City of Stonnington has made significant contributions to the community through support of the Pride Centre, celebrating significant one off events through its arts and culture programming, however, to become truly Gender and Sexuality Diverse Inclusive, Council must adopt a best practise approach that exceeds the expectations of the community it serves.

While all parts of the community need to feel safe and included, research shows that Gender and Sexuality Diverse youth face greater risk of physical and mental health hazards than their

heterosexual or cisgender peers. Factors influencing these negative health outcomes include discrimination, harassment and physical harm and lack of family and social support, which culminate in experiences of 'minority stress', a unique set of stressors experienced by those on society's margins. Given these stressors, symbols of pride are particularly important.

When young people are exposed to the Pride Rainbow, they generally express positive feelings, including an attraction to certain areas of their cities, feeling good about themselves and a desire to incorporate the symbolism into positive visions for the future. The local display of rainbows is simple and inexpensive, but meaningful to Gender and Sexuality Diverse youth and includes flying the inclusive rainbow flag.

Melbourne's signature annual Gender and Sexuality Diverse celebration, Midsumma, is a federation of arts and cultural events spread over 85 different venues throughout Melbourne and regional Victoria. The festival is a significant attraction on the Melbourne festival calendar. The festival program is made up of a wide range of events and activities including visual art, theatre, spoken word, cabaret, film, live music, parties, sport, social events and public forums.

11 Reports of Special and Other Committees - Informal Meetings of Councillors

12 Reports by Delegates

13 Urgent Business

14 General Business

14.1 Planning Application 1024/19 - 543, 545, 547 & 555 Malvern Road, Toorak

Manager Statutory Planning: Alex Kastaniotis
Director Planning & Place: Annaliese Battista

Purpose of Report

For Council to consider a planning application for building and works to an existing shop (as of right use) in a Commercial 1 Zone and a reduction in the car parking requirement at 543, 545, 547 and 555 Malvern Road, Toorak.

Abstract

Proposal

The proposal seeks retrospective approval for a cool room constructed at the rear of 543-547 Malvern Road (Toscano's) without a planning permit. Approval is also sought for the construction of a roof over the existing cool rooms at 547 Malvern Road and associated wall cladding. The premises at 555 Malvern Road has been incorporated into the application in order to store waste at the rear.

Officer Recommendation Summary

That Council authorise Officers to issue a **Notice of Decision to grant a planning permit** subject to conditions outlined in the Officer Recommendation.

The proposal is supported for the following reasons:

- Toscano's is a key tenant along the commercial strip which has made a significant contribution to the area and is an important generator of local employment with over 75 staff including full time, part time and casual workers at the Hawksburn store alone. The cool room is considered to be a result of its success and increasing demand for fresh produce in the community and is considered possible to be accommodated whilst respecting the amenity of residents.
- Refusing the retrospective application would not have a noticeable (if any) impact on noise as evidenced by the submitted Acoustic Report. There is a cumulative impact of noise by many of the commercial tenancies within the vicinity of Toscano's which is due in part to their older equipment/motors.
- Sufficient safeguards can be put in place by permit condition to ensure amenity is protected.
- Many of the issues raised are related to the 'use' of the site and are not wholly attributed to the cool rooms at the rear.

Issues

The following are the key issues in respect of this application:

- Neighbourhood character.
- Loading/unloading operations and safety.
- Car parking.
- Noise and amenity.

Officer's Response

Sufficient safeguards can be put in place by permit condition to ensure amenity is protected. Many of the issues raised are related to the 'use' of the site and are not wholly attributed to the cool rooms at the rear.

In-depth discussions, phone calls and Zoom meetings have occurred between Council's Transport and Parking, Local Laws and Planning Departments in consultation with the applicant to ensure the issues are well known. This has resulted in the plans being revised, and appropriate permit conditions placed to manage the concerns raised.

Executive Summary

Applicant:	Sophie Jordan Consulting Pty Ltd
Ward:	North
Zone:	Commercial 1 Zone (C1Z)
Overlay:	None
Date Lodged:	16 December 2019
Statutory Days:	238
Trigger for Referral to Council:	Councillor call up and more than 7 objections
Cultural Heritage Plan	Not required
Number of Objections:	8
Consultative Meeting:	Yes – held on 19 August 2020
Officer Recommendation	Notice of Decision to grant a planning permit

Background

The Proposal

The plans that form part of the basis of Council's consideration include the architectural plans prepared by MHA Design, the Waste Management Plan prepared by Leigh Design and the Acoustic Report prepared by Enfield Acoustics Pty Ltd and are known as the advertised plans, and Council date stamped 17 April 2020. In addition, the submitted 'Safe System for Management of Workplace Traffic at Toscano's Hawksburn', which has been Council date stamped 7 September 2020 formed part of the consideration of this proposal.

The lodgement of this application is in response to a planning investigation which established that works had been undertaken without the necessary planning approval. The application seeks to remedy the breach.

Key features of the proposal include:

- Retrospective approval for a cool room sited at the rear of 543-545 Malvern Road. This cool room has already been installed on the site and is freestanding to the main retail tenancy. It is approximately 111 square metres in area and has a maximum height of 5.4 metres above the ground level. Access to the cool room is from within the rear of the site via a sliding door. The structure is similar to a shed in design and is constructed of galvanised metal sheeting with guttering and down piping contained within the title boundaries.

- Two cool rooms which have been approved as part of planning permit 645/09 on 19 November 2009 also form part of the proposal at 547 Malvern Road. The plans seek to slightly extend the wall by 1.1 metres and construct a roof over the cool rooms.
- Loading/unloading and waste storage associated with Toscano's is proposed to occur at the rear of 555 Malvern Road. This premises is under the same ownership as the operator of 543-547 Malvern Road, and currently provides space for pallets and bins.

Site and Surrounds

The site is located on the northern side of Malvern Road, approximately 105 metres east of Williams Road. The premises is currently operating as 'Toscano's' – a fruit and vegetable retailer which comprises of three allotments (543, 545 and 547 Malvern Road) with a frontage of approximately 13.76 metres wide and a site area of 707 square metres.

The area has the following significant characteristics:

- It is located along a busy commercial strip comprising of various single and double storey retailers including a bakery, butcher, a Woolworths supermarket, clothing retailers, a pharmacy, dentist and Post Office.
- The rear of 555 Malvern Road forms part of the proposal and is tenanted as a Bakers Delight bakery and contains an area of approximately 40 square metres for the storage of waste and pallets.
- An un-named L-shaped laneway runs along the rear which connects to May Road and is heavily utilised by the various commercial premises for loading and unloading.
- Behind this laneway, to the rear of the site along May Road comprises residential dwellings which are generally single storey in nature. The street contains a Neighbourhood Character Overlay due to its Victorian and Edwardian style of housing with pitched roofing, iron lattice works and decorative brickwork with bull-nosed verandahs. Further along is Mell Street and Evelina Road which are in the 'Bush Inn Estate' precinct which is significant for its Late-Victorian, Edwardian and Interwar building stock including double and single storey terrace rows, freestanding villas, semi-detached cottages and individually noteworthy early dwellings of high architectural quality.
- A Council owned car park which is partially leased to Woolworths is located to the north-east, providing 2 hour restricted parking for approximately 75 vehicles between 9am and 6pm Monday to Saturday.
- Car parking for approximately 14 vehicles is also provided along an unnamed road adjacent to Woolworth which provides a connection between Malvern Road and the rear laneway. Restricted on-street car parking is also provided along Malvern Road which is also a Tow Away Zone during the morning and afternoon peak.

Previous Planning Applications

A search of Council records indicates the following relevant planning applications:

543-545 Malvern Road

- Planning Permit 550/19 issued on 23 October 2019 for 'Use of the land for the sale of liquor (packaged liquor license) in association with a shop in a Commercial 1 Zone.' The permit allowed the sale and consumption of liquor to occur Monday to Thursday 8am to 6pm, Friday 8am to 7pm and Saturday 7:30am to 5pm. No buildings and works were proposed as part of this permit. The 'shop' use is as-of-right with the officer's report noting that staff car parking and a loading area is provided at the rear, accessible from the laneway – although this is not shown on the endorsed plans. One objection was received as part of this application.

545-547 Malvern Road

- Planning Permit 340/16 issued on 21 July 2016 for 'Packaged liquor licence associated with an existing shop in a Commercial 1 Zone.' It is noted that the endorsed plans show the provision of 3 car parking spaces at the rear of 543 Malvern Road. This planning permit has since lapsed and is no longer valid.

547 Malvern Road

- Planning Permit 645/09 issued on 19 November 2009 for 'Buildings and works in a Business 1 Zone.' This permit included two new cool rooms, a goods lift and retaining wall to the western boundary at the rear. The officer's report noted that the proposed cool rooms occupies the majority of the car parking space and included the demolition of the garage. The applicant at the time advised that they relied on the public car park, with the officer's report noting the benefit of waste storage being provided on site. This permit is still current.

555 Malvern Road

- Planning Permit 252/10 issued on 4 June 2010 for 'Buildings and works within a Business 2 Zone'. This permit allowed the demolition of toilets and the rear verandah.

The Title

The site is made up of four lots, registered on Title as:

- Lot 1 on Plan of Subdivision 303306M in Volume 09999 Folio 327 (543 Malvern Road).
- Lot 2 on Plan of Subdivision 303306M in Volume 09999 Folio 328 (545 Malvern Road).
- Lot 1 on Title Plan 375182J in Volume 04589 Folio 752 (547 Malvern Road).
- Lot 1 on Title Plan 343178E in Volume 04824 Folio 618 (555 Malvern Road).

It is noted that 543 and 545 Malvern Road contain common property at the rear. The land in this folio is affected by Owners Corporation Plan No PS303306M.

Land at 547 Malvern Road is affected by a party wall easement with 549 Malvern Road – although no works are proposed in this area. The land also has right of carriageway over the rear laneway and May Road.

Land at 555 Malvern Road is also affected by a party wall easement with 553 and 557 Malvern Road – although no works are proposed in this area. The land also has right of carriageway over rear laneway.

No covenants affect the land.

Planning Controls

The following controls/permit triggers are considerations for this application:

Zone

Clause 34.01 - Commercial 1 Zone

Pursuant to Clause 34.01-1 a permit is not required to use the land for the purpose of a 'shop.'

Pursuant to Clause 34.01-4 a permit is required for buildings and works.

Particular Provisions

Clause 52.06 – Car Parking

Clause 52.06 applies for an increase in the floor/site area of an existing use.

Pursuant to Clause 52.06-3 a permit is required to reduce (including reduce to zero) the number of car parking spaces required under Clause 52.06-5 which requires 3.5 car parking spaces to each 100 square metres of leasable floor area.

Clause 73.01 (General terms) defines leasable floor area as ‘that part of the net floor area able to be leased. It does not include public or common tenancy areas, such as malls, verandahs, or public conveniences.’

The cool rooms have a leasable floor area of approximately 111 square metres which would require the provision of 3.8 car space based on the extended area at the rear, none have been provided.

Relevant Planning Policies

Clause 17.01	Employment
Clause 17.02	Commercial
Clause 18.01	Integrated Transport
Clause 18.02	Movement networks
Clause 21.03	Vision
Clause 21.04	Economic Development

Advertising

The application has been advertised pursuant to Section 52 of the *Planning and Environment Act 1987* by sending notices to the owners and occupiers of adjoining land (and by placing two signs on the site). The public notification of the application has been completed satisfactorily and eight objections have been received.

On 23 June 2020, the applicant formally revised the application pursuant to Section 57 of the *Planning and Environment Act 1987*. These changes sought to incorporate 555 Malvern Road into the proposal to allow waste to be stored at the rear of that premises as well as enabling loading/unloading to occur for the small delivery vehicles. The premises is under the same ownership as Toscano’s with the Director of Barinta Pty Ltd signing a declaration to this effect. No new plans were submitted as part of this revision noting that 555 Malvern Road was already shown on the advertised plans. The revision was an administrative requirement which sought to formally incorporate the additional tenancy into the consideration of the permit application

A Consultative Meeting was held on 19 August 2020. The meeting was attended by Councillors Griffin, Koce and Chandler, representatives of the applicant, objectors and Council planning officers. The meeting did not result in any changes to the plans beyond the incorporation of 555 Malvern Road which was discussed during the consultative meeting.

Referrals

Transport and Parking

- *Concerns that the installation of the cool rooms impacts the availability of the space for loading.*
- *Concern that the parking space identified in the public car park to the north to be used for loading may not always be available and that vehicles would prop the laneway.*

Planning officer’s response:

Following the submission of the revised plans which proposed to use the rear of 555 Malvern Road for loading through the use of a small forklift, Council’s Traffic Engineer advised that the option was acceptable, noting that the laneway can be used by both vehicles and forklifts. However, concern was raised at the operation of loading and unloading activities,

particularly with the back and forward movement, storing of materials and loading/unloading occurring in an uncontrolled manner.

Due to these concerns, a meeting was held with Council’s Traffic Engineer in late August 2020 and with the applicant in October 2020 to discuss the issues. It was determined that the submission of an Occupational Health and Safety Plan and Waste Management Plan would satisfactorily address concerns relating to safety and waste. A condition of permit will ensure that no vehicles are permitted to stop in the laneway for the unloading of goods at any time.

Waste Department

- *No objection to having waste stored at the rear of 555 Malvern Road.*

Environment Sustainability Officer

- *A minimum 3000 litre rainwater tank with notations on the plans showing the tank and capacity as well as a notation it is to be used to hose down the rear is required.*
- *A STORM report is not required given the calculator assumes water will be used for toilet flushing.*

Planning officer’s response:

The above will form a condition on the permit.

Key Issues and Discussion

Noise and Amenity

Due to the site’s location within a Commercial Zone, and the use of the rear laneway by a number of tenancies, a higher level of noise can be reasonably expected to occur compared to a solely residential area. Whilst the use of the land is as-of-right and subsequently unable to be considered as part of this proposal, Clause 34.01-8 (Decision guidelines) requires a general consideration of ‘the interface with adjoining zones, especially the relationship with residential areas.’

The applicant was advised of noise concerns raised to Council’s Liveability and Compliance Department and provided an Acoustic Report prepared by Enfield Acoustics Pty Ltd. As part of the site inspection conducted by the acoustic engineers it was identified that other cool rooms from adjacent commercial premises contributed to the overall noise emissions at the nearest sensitive use at 24 and 26 May Road. In order to limit cumulative noise impacts from industry and commerce, SEPP N-1 requires that where two or more premises contribute to the effective noise level in a noise sensitive area, each shall be controlled so that the contribution from each of the premises, when combined, will meet the noise limit at the noise sensitive area. The purpose of this clause under SEPP N-1 is to limit cumulative noise impacts from industry and commerce. An overview of the measurements are summarised below – noting that the SEPP N-1 noise limit is 43 dB(A):

Cool room location (shaded rows are the subject site)	Measurement location	Noise level dB(A)	Exceedance dB(A)
543-545 Malvern Road (Retrospective Toscano’s cool room)	Rear of 24 May Road	43	-

547 Malvern Road (Existing Toscano's cool room)	Rear of 24 and 26 May Road	Inaudible	-
555 Malvern Road (part of Toscano's/subject site)	Rear of 26 May Road	46*	3

*This figure is an estimate. Exact measurements were not possible due to other cool room noise being present during the measurement

The Acoustic Report concluded that “no further attenuation works are deemed necessary to plant on the Subject Land (543-547 Malvern Road).” The applicant advises that due to the cool room being recently installed the motor does not produce as much noise as older units.

The acoustic measurements that have been taken identify that 555 Malvern Road (which has since been incorporated into the assessment of the application following the submission of a Section 57A revision) exceeds SEPP N-1 by three decibels. The applicant has advised that this can be resolved through small noise barriers or rubber absorption material. Subsequently, a condition of permit is recommended to address this.

The applicant has also offered to restrict the use of the rear roller door to between 6am and 8pm Monday to Saturday.

With regards to amenity impacts created by the generation and/or collection of waste, a number of safeguards are in place to ensure the proposal is sensitive to the residential interface. As specified in Council's Local Law, a person collecting and removing any commercial or industrial waste must only do so between the hours of 7:00am and 10:00pm Monday to Saturday and between the hours of 9:00am and 10:00pm on Sunday and public holidays. The waste collector will be required to protect the acoustic amenity by minimising noise during the collection.

The Operator will also be responsible for preventing overfilled bins, keeping lids closed and bungs leak-free. They will also be required to have the collection contractor to clean-up any spillage that might occur when clearing bins. The Operator is also required to regularly clean waste areas/equipment thereby minimising impacts to local amenity. These measures are contained within the submitted Waste Management Plan which will form part of the permit and are enforceable.

Waste Management

A number of objections raised concern with waste management process and suggested that the volume of goods will increase which will cause a greater volume of waste to be generated. It is important to note that the use of a grocery store is not a consideration of this application. The use is 'as of right' pursuant to the provisions contained within the Commercial Zone and a number of permits have since been issued for the premises. It is also noted that as part of the existing planning permit on the site (550/19) that was issued on 23 October 2019 for the sale of packaged liquor, waste management obligations are placed on the premises. Condition 4 of the planning permit already requires that:

Adequate provision must be made for the storage and collection of wastes and recyclables within the site prior to the commencement of use or occupation of the building. This area must be appropriately graded, drained and screened from public view to the satisfaction of the Responsible Authority.

It is considered the premises makes adequate provision for the storage of rubbish which has been improved through the incorporation of 555 Malvern Road to the current application. This

addresses initial concerns raised by Council's Waste Management Co-ordinator that the placement of waste ought to be provided on the property in line Section 173(2) of the City of Stonnington 2018 General Local Law which requires that:

The owner or owners corporation of commercial and residential land on which there is more than one premises or dwelling must:

- (a) construct on the land an area for storing waste receptacles;*
- (b) ensure that the area constructed is screened from view and maintained in a clean and sanitary condition; and*
- (c) ensure that the area is used to store waste receptacles.*

Due to the permit running with the land, regardless of whether the owners sell the property or divest their holdings, the requirements of any new planning permit would continue to apply to the land.

The submitted Waste Management Plan by the applicant estimates that 11.76 cubic metres of garbage and 2.39 cubic metres of commingled recycling will be generated each week. This necessitates the use of a private contractor to collect the waste. The report estimates that at least 10.6 square metres is required to store waste which has been provided at the rear of 555 Malvern Road. Garbage and recycling will be stored in two 4,500 litre bins which will be collected six times per week.

The premises will transfer waste from the internal receptacles to the bins located within the Bin Store (using a suitable trolley and the internal scissor lift if required). A private contractor will then collect waste from the rear using front-lift trucks. Waste collection will occur during off-peak periods to reduce traffic disruptions and to enable safer truck manoeuvres.

Car Parking and Loading/Unloading

Car parking

Clause 52.06 applies only to the increase in the floor area of an existing use, and noting that the use has been operating for a number of years, consideration of car parking has been limited to the cool room extension.

The cool rooms have a leasable floor area of approximately 111 square metres which would require the provision of 3.8 car space based on the extended area at the rear. Given that no car parking is being provided, the applications seeks a car parking dispensation.

The site is located within the Principal Public Transport Network (PPTN) which indicates an excellent provision of high quality, frequent public transport. Hawksburn Railway Station is less than 500 metres north-west of the site, whilst the route 72 tram runs between Camberwell and Melbourne University adjacent to the site along Malvern Road. The route 604 bus also serves Malvern Road providing a connection between Gardenvale – Alfred Hospital via Toorak Station. A Council-owned car park is also located to the north-east providing approximately 75 spaces for those who wish to drive.

It is also considered that the demand for car parking would remain relatively unchanged given that the use is not being intensified. This is based on the view that the cool rooms are ancillary to the main shop floor and merely provide a space for produce to be stored, rather than to serve additional customers or have more staff.

Furthermore, the rear of the site (prior to the cool rooms being constructed) provided provision for loading/unloading as well as waste storage and was not formally/solely dedicated to car parking. A reduction in car parking is therefore appropriate.

Loading/unloading

Planning Scheme Amendment VC142 was introduced by the State Government and gazetted on 16 January 2018. As part of this amendment Clause 52.07 (Loading and unloading of vehicles) was deleted from the planning scheme. This clause sought to ensure land was set aside for loading and unloading commercial vehicles to prevent loss of amenity and adverse effects on traffic flow and road safety. New decisions guidelines were added to Clause 65 which requires an assessment against the design and location of loading and unloading facilities.

The site currently utilises a small portion of the May Road car park at the rear for deliveries in the early morning (between 7am and 8:30am each day) and has been doing so for at least 10 years. Whilst private lots should not rely on the provision of public parking areas or Council land for their day to day operations, it is noted that this has been occurring during a time when usage of the car park is low, both in parking demand and pedestrian movement. This is evidenced by the parking restrictions not commencing until 9am in the morning.

The use of a large truck is essential to the operation of the business and is required to meet the volume of fresh food demanded by the community. The applicant has advised that the store receives between 10 to 16 tonnes of food deliveries six days a week making the use of smaller vehicles unviable. The truck is required to be large enough to take the weight of the palettes, and if the size of the truck was to be reduced it would result in an increase in the number of deliveries to provide the same volume of food to the store. It has been estimated by the applicant that utilising smaller vehicles in lieu of the large truck would result in an additional 8 to 10 deliveries per day. The larger truck deliveries occur once a day the majority of the year (increasing to two deliveries during the pre-Christmas period). Deliveries occur between 7am to 8.30am ensuring minimal disruption to the car park and visitors to the area.

Whilst the construction of the two cool rooms has reduced the space available for the unloading and loading of fruit, vegetables and groceries, there continues to be approximately 15 square metres available for this to occur, with recent aerial imagery confirming the space continuing to be used for loading and unloading. The owner further advised during the consultative meeting that the purpose of the new fridge was to get products out of the Council car park and reduce deliveries by having one large truck in lieu of two smaller trucks.

Having regards to the applicant's submission, and discussions with Council's Transport and Parking Department, it is considered that there is adequate provision for the loading and unloading of goods. Subject to recommended permit conditions, the amenity of the area can continue to be maintained whilst not disrupting traffic flow or creating road safety impacts.

With regard to concerns about vehicles blocking the laneway, regardless of the outcome of this application, the premises is prohibited from blocking the laneway and would be subject to penalties under Council's Local Laws.

The City of Stonnington General Local Law 2018 contains a provision in Section 127(1) which states:

A person must not, without a Permit:

- (a) place any item or thing or attach any structure, item or thing, on Council Land that creates an obstruction; or*
- (b) obstruct or restrict the use of any Road, footpath or Council Land by any means.*

The applicant and owner have both advised that Toscano's have been receiving their morning delivery via a large truck from the May Road car park for at least 10 years. This practice has occurred every day that the premises has been in operation and is typically

between the hours of 7am and 8.30am. It is therefore not a new activity and has occurred along with the many other businesses who are managing their deliveries at the rear of tenancies and from within the car park. Therefore, regardless of whether the cool rooms were deconstructed, deliveries are unlikely to shift to the rear of Toscano's due to the size of the truck required being unable to navigate the confines of the laneway.

The endorsed plans that accompanied planning permit 340/16 (now expired) nominated the rear of 543 Malvern Road for three car spaces and not a loading area. The rear portion of 547 Malvern Road accommodates a cool room and storage facility which was approved as part of planning permit 645/09 and also does not provide an area for loading or unloading.

Opportunities to utilise the front of the store for deliveries were considered, however, due to the layout of the tenancy and the limited space available on Malvern Road for kerbside loading, it is not considered a viable option and is contrary to the approach taken by other retail tenancies along Malvern Road. In particular, the volume of fresh food delivered to the store each day is greater than that of other shops and the use of a service laneway is considered in keeping with its core function as serving the operation of the commercial precinct.

The applicant has suggested a condition on the permit to designate and dimension at the rear of 555 Malvern Road a loading bay area. The current advertised plans suggest that the area for rubbish is 2.8 metres wide, however, the bins do not occupy this entire area and there is scope to have a small van/truck drive into the rear of this site and unload goods. The goods can then be delivered approximately 20 metres away to Toscano's by forklift.

Safety

In accordance with the decision guidelines outlined in Clause 34.01-8 (Commercial Zone) consideration is given to the movement of pedestrians and cyclists, and vehicles providing for supplies, waste removal, emergency services and public transport.

The applicant has advised that WorkSafe Victoria has inspected the premises and the business now has a detailed occupational health and safety plan (OH&SP) prepared which has been reviewed by WorkSafe Victoria. This is considered to go above and beyond town planning considerations but has nonetheless been provided to officers to assist with the assessment of the proposal.

It is useful to note that laneways at the rear of commercial premises are commonly associated with vans as well as delivery and service vehicles. The applicant has advised that the use of forklifts to move goods in a public area is not unusual and is a practice that can be seen at the Woolworths store to the east.

Whilst the operation of a forklift and the delivery of goods by small vans does create constant back and forward movement, material storage and parking requirements, the designation of a loading bay area at the rear of 555 Malvern Road will ensure this occurs in a controlled manner. A 'spotter' is always present who would ensure vehicles seeking access to property along the laneway or are trying to exit via the laneway could continue to do so with minimal delay. This forms part of the OH&SP which will be a condition on the permit.

All road users (including drivers, cyclists and pedestrians) have an obligation to safely move throughout an area, and laneways typically have slower vehicle movements and lower traffic volumes than standard roads. Notwithstanding, the construction of a cool room is not considered to have any unreasonable bearing on the safety of the laneway as a whole – noting the laneway serves at least 16 individual commercial lots, and rear residential garages for properties facing May Road. Regardless of the approval or otherwise of the cool

rooms, loading and unloading will continue to occur at Toscano's given that the 'use' is existing and that the laneway is a shared space which can be used by vehicles including forklifts. It is therefore not considered that this proposal negatively impacts safety with regard to the decision guidelines of the Commercial Zone.

Objections

In response to the grounds of objection not already discussed in the report, the following comments are made:

- Overdevelopment of the site

Planning officer's response: The cool room at 543 and 545 Malvern Road is not constructed to the boundary and is setback 5.25 metres from the rear of the neighbouring properties along May Road. At a height of 5.4 metres this is lower than a double storey house. It is noted that the shop/office at 537-541 Malvern Road is built significantly closer to the rear boundary and is taller. The remainder of the commercial tenancies located to the east of Woolworths are built to the rear boundary or significantly closer than that which is proposed.

- Neighbourhood character of 'Hawksburn Village'

Planning officer's response: A number of objections raised concerns that the proposal is not suitable for the local shopping strip and is more suited to a shopping centre or alternative location. The purpose of the proposal is not to consider the use of the land, or the existing presence of a grocer. An assessment can only be made to the cool room component of the site.

Whilst it is recognised that amendment C272 (Hawksburn Village Planning Controls) is under consideration by the Minister for Planning, no decision has been made to date. The assessment of the application must be based on the controls as they stand at this time. There is no suggestion that the proposed implementation of built form controls for the Hawksburn Village Neighbourhood Activity Centre (as articulated in the associated Structure Plan) would have an impact on the appropriateness of this proposal. It is noted that the proposed Design and Development Overlay which is sought to apply on this land would have a mandatory maximum building height of 14 metres and a preferred maximum rear wall height of 8 metres – well above the proposed cool room height.

- Overlooking and overshadowing

Planning officer's response: There are no habitable room windows proposed that could create overlooking opportunities and the proposal will not overshadow residential properties.

- Devaluation of property

Planning officer's response: The planning scheme does not enable an assessment of property prices when considering development applications.

- The proposal would set a precedent

Planning officer's response: Each application is assessed on a case by case basis on its own merits and the planning controls at the time.

Conclusion

Having assessed the application against the relevant planning controls, it is recommended that the proposal be supported for the following reasons:

- Toscano's is a key tenant along the commercial precinct which has made a significant contribution to the area and is an important generator of local employment with over 75

staff including full time, part time and casual workers at the Hawksburn store alone. The cool room is considered to be a result of its success and increasing demand for fresh produce in the community and is considered possible to be accommodated whilst respecting the amenity of residents.

- Refusing the retrospective application would not have a noticeable (if any) impact on noise as evidenced by the submitted Acoustic Report. There is a cumulative impact of noise by many of the commercial tenancies within the vicinity of Toscano's which is due in part to their older equipment/motor.
- Sufficient safeguards can be put in place by permit condition to ensure amenity is protected.
- Many of the issues raised are related to the 'use' of the site and are not wholly attributed to the cool rooms at the rear.

Governance Compliance

Conflicts of Interest Disclosure

No Council Officer and/or contractors who have provided advice in relation to this report have declared a conflict of interest regarding the matter under consideration.

Human Rights Consideration

This application has been assessed in accordance with the requirements of the Planning and Environment Act 1987 (including the Stonnington Planning Scheme), reviewed by the State Government and which complies with the Charter of Human Rights & Responsibilities Act 2006.

Attachments

1. 1024/19 - 543, 545, 547 and 555 Malvern Road, Toorak [14.1.1 - 29 pages]

Officer Recommendation

That Council AUTHORISE Officers to issue a Notice of Decision to Grant a Planning Permit No: 1024/19 for the land located at 543, 545, 547 and 555 Malvern Road, Toorak under the Stonnington Planning Scheme for Building and works to an existing shop (as of right use) in a Commercial 1 Zone and a reduction in the car parking requirement subject to the following conditions:

1. ***Within three months of the issue of this permit, amended plans drawn to scale and fully dimensioned must be submitted to and approved by the Responsible Authority. The plans must be generally in accordance with the advertised plans, Council date stamped 17 April 2020 but modified to show:***
 - a) ***The plans updated to show a minimum 3000 litre rainwater tank with notations provided to show the capacity and that the water will be used to hose down the rear of the property.***
 - b) ***A dedicated loading bay area is to be provided and dimensioned at the rear of 555 Malvern Road.***
 - c) ***Deletion of reference to 'area used for loading' within the May Road Council carpark.***
 - d) ***A Waste Management Plan generally in accordance with that prepared by Leigh Design, Council date stamped 17 April 2020.***
 - e) ***Any acoustic measures as required by condition 4-7.***

- f) **A 'Safe System for Management of Workplace Traffic' (OH&S Plan) generally in accordance with that submitted to Council and date stamped 7 September 2020.**

All to the satisfaction of the Responsible Authority.

2. **Within three months of the date of this Planning Permit (or an alternative date agreed to in writing by the Responsible Authority) plans must be endorsed.**
3. **The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason, without the prior written consent of the Responsible Authority.**
4. **Prior to the endorsement of the plans, an acoustic report must be submitted to and approved by the Responsible Authority to demonstrate how the refrigeration units at the rear of 555 Malvern Road will be acoustically treated to minimise noise transmission from the adjacent land uses to the satisfaction of the Responsible Authority.**
5. **Noise emanating from the subject land must not exceed the permissible noise levels when determined in accordance with State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1, to the satisfaction of the Responsible Authority. Any works required to ensure and maintain the noise levels from the refrigeration unit are in compliance with this policy must be completed within three months from the date of the planning permit unless otherwise agreed to by the Responsible Authority. Any works undertaken must be maintained thereafter, all to the satisfaction of the Responsible Authority.**
6. **All mechanical equipment in the form of refrigeration plant is to operate in accordance with the relevant State Environmental Protection Policies to the satisfaction of the Responsible Authority.**
7. **Within three months of the date of this Planning Permit (or an alternative date agreed to in writing by the Responsible Authority), the operator must provide an acoustic report prepared by a suitably qualified acoustic engineer to the satisfaction of the Responsible Authority assessing the use of the refrigeration unit at the rear of 555 Malvern Road as shown on the endorsed plans and must include:**
 - a) **The time and date during which noise levels are measured.**
 - b) **Measurements of the noise levels at the nearest residential property.**
 - c) **Conclusions and recommendations concerning compliance with the relevant State Environmental Protection Policies as they relate to noise emissions.**
8. **Use of the rear roller door is to only occur between 6am until 8pm Monday to Saturday to the satisfaction of the Responsible Authority.**
9. **No vehicles are permitted to stop in the laneway for the purpose of unloading of goods at any time to the satisfaction of the Responsible Authority.**
10. **Loading/unloading must occur from the rear of 555 Malvern Road to the satisfaction of the Responsible Authority.**

11. ***The collection of wastes and recyclables from the premises (other than normal Stonnington City Council collection) must be in accordance with Council's General Local Laws.***
12. ***Rainwater tanks for stormwater harvesting and re-use must be used for hosing down the rear of the site.***

NOTES

- A. ***The use of the May Road Council car park for loading/unloading of goods cannot be relied upon.***
- B. ***This permit is for the use of the land and/or buildings and does not constitute any authority to conduct a business requiring Health Act/Food Act registration without prior approval from the Council's Health Services.***
- C. ***This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.***
- D. ***The installation, maintenance and/or use of any intruder alarm system must at all times conform to the Environmental Protection (Audible Intruder Alarm) Regulations 1978.***
- E. ***At the permit issue date, Section 69 of the Planning and Environment Act 1987 stated that the Responsible Authority may extend the periods referred to if a request is made in writing within the following timeframes:***
 - i. ***Before or within 6 months after the permit expiry date, where the development allowed by the permit has not yet started; and***
 - ii. ***Within 12 months after the permit expiry date, where the development allowed by the permit has lawfully started before the permit expires.***

14.2 Council Financial Report Ending 31 Dec 2020

Chief Financial Officer: Julia Gallace

Linkage to Council Plan

Stewardship: Council will strive for excellence, ensuring that it has the capacity to deliver timely and efficient services to meet community needs and continually improve standards of service delivery.

S1	The City's capacity to deliver the objectives of the Council Plan is based on our service culture, people, good governance, business systems and technology, asset and risk management and responsible financial planning.
----	--

Purpose of Report

To provide Council with an update on Stonnington City Council's financial performance for the second quarter 2020/21 (period ended 30 December 2020) performance to budget and seek approval for several unbudgeted items to be funded from the forecast surplus.

Officer Recommendation

That Council:

1. **NOTE the Council Financial Report for the period ending 31st December 2020, which is projecting a full year cumulative surplus of \$15.98 million which is \$3.98 million unfavourable compared to the budget of \$19.95 million (refer Attachment 1 – Financial Statements with accompanying explanatory notes).**
2. **APPROVE \$0.402 million of additional net capital works funding (refer Attachment 1 – Capital works expenditure overview) including:**
 - 2.1. **Ferrie Oval Redevelopment – change in scope and tender \$350K**
 - 2.2. **Minor Shopping Centre Precinct Upgrades \$100K**
 - 2.3. **Toorak Park Masterplan Implementation - latent conditions \$353K**
 - 2.4. **Carparks – Multideck – Urgent Maintenance and ICT Upgrades \$147K**
 - 2.5. **Landscape Plans/Master plans for Parks (\$353K)**
 - 2.6. **Road Safety Minor Works Implementation (\$192K)**
3. **APPROVE bringing forward of long-term financial plan programmed works of \$6.617m in capital expenditure and funding from the Future Fund Reserve for technology enablement initiatives. This extensive program of works will support enhanced efficiency and effectiveness for workforce members utilising Council ICT systems from the home environment. These initiatives have been endorsed by Council's Audit and Risk Committee.**

Executive Summary

A fiscal budget is adopted by Council for the following financial year by June 30 each year. An extension was provided by the Minister of Local Government for 2020/21 due to the uncertainty of COVID-19.

Budget 2020/21 was adopted in August 2020. It included the estimated financial impact of COVID-19 based on the first lockdown following extensive modelling and discussion with councillors and our community.

The City of Stonnington reports to the community on a quarterly basis on the progress against the adopted budget throughout 2020/21 financial year.

Budget 2020/21 addressed the projected \$15.2 million revenue impact for 2020/21 from 2019/20 levels due to COVID-19 by implementing several initiatives such as efficiency savings, service reductions, and a mix of capital portfolio reduction and deferral to future years.

Since the adoption of the budget, the Melbourne metropolitan area was placed under further Covid-19 restrictions. The Victorian Premier' announcement of the continuation of Stage 4 Lockdown at the start of September which resulted in travel bans, curfews and closures of all non-essential activities remaining in place until October and impacting the first and second quarter of 2020/21. The situation has been changing at a fast pace with a high degree of uncertainty and disruption. Our financial forecasts need to be continuously adjusted to reflect new information.

During the first quarter of the reporting period all non-essential and core services were heavily impacted as a direct result of Covid-19 lockdown. Services that remained closed or were significantly impacted during the first quarter of the reporting period included Aquatic Centers, Chapel off Chapel, Libraries, Venues, Carparks and outdoor and community events.

As at the end of December 2020, Council is projecting a full year operating surplus (Operating income less operating expenditure) of \$15.98m in comparison to the adopted budgeted surplus of \$19.96m (an unfavorable variance of \$3.98m). This variance has been driven by the following forecast to adopted budget movements:

- Operating Revenue – (\$6.31m) unfavorable variance; and
- Operating Expenditure - \$2.33m favorable variance.

The operating surplus comprises open space contributions income. These are levies placed on major developments and can be used for future project works and enhancements of open spaces within Council's area. Even though this money forms part of operating surplus, it can only be utilised for the acquisition, creation or enhancement of open spaces.

For the reporting period of 2020/21 Council is projecting open space contribution revenue of \$8m. Council's projected full year surplus excluding open space contribution is estimated to be \$7.98m compared to the budgeted surplus excluding open space contribution of \$11.96m (an unfavorable variance of \$3.98m).

Financially sustainable operating surpluses assist in funding Council's capital work's program. The budget includes a capital works program totaling \$72.25m which has been forecast down to \$67.54m as a result of \$5.12m in estimated project deferrals into 2021/22. This revised forecast includes requests for a net additional \$0.403m in funding for a number of projects that have exceeded original budget estimates. Additional funding requests for the

technology enablement initiatives the Digital Transformation program totaling \$6.617m are also proposed to be funded from Council's Future Fund Reserve. The total capital program forecast is \$74.15m.

At December 2020, Council undertook a comprehensive mid-year review process and updated operating and capital revenue and expenditure forecasts to 30 June 2021.

Despite the impact on forecast revenue resulting from COVID restrictions on services, Council remains in a strong financial position. We expect to continue to meet the Victoria Auditor-General Office (VAGO) financial sustainability overall low risk indicators over the medium to long-term.

Our Financial strategy approved in the Council Plan continues to be appropriate in the short-term. This includes not seeking above rates cap increases.

Background

Section 97 of the Local Government Act 2020 requires the provision of a quarterly financial report to an open Council Meeting comparing the budgeted revenue and expenditure for the financial year with the actual revenue and expenditure to date.

Key Issues and Discussion

Year-To-Date Position

The YTD surplus including open space contribution was \$73.8m against a budget of \$69.06m, resulting in a favorable variance of \$4.78m. This favorable result has been driven by the following actual to adopted budget variances:

Operating Income: \$0.883m unfavorable - predominantly resulting from:

Description	Variance F – Favorable U - Unfavorable	Main Driver(s)
Supplementary rates	\$0.517m F	Property supplementary rates higher than anticipated
Statutory fees and fines	(\$0.790m) U	Reduced parking infringement income due to continued work from home (WFH) arrangement and stage 4 lockdown and travel ban - (\$1.94m) Offset by: positive Fines Victoria collections - \$0.460m
User fees	(\$0.907m) U	Carpark operator income across all Council owned carparks and Ticket/meter income - (\$0.525m) Closed Aquatics facilities - (\$0.758m) Offset by: positive Lodgment/application (non-stat) - \$0.390m
Grants Operating	\$0.662m F	Timing of State & Commonwealth grants received
Grants Capital	(\$1.024m) U	Timing of revenue recognition on State and Federal grants to be received

Contributions	\$1.699m F	Timing of developer payments in regards to public open space and in accordance with property development
Other Income	(\$1.592m) U	Driven by reduced rental income from Council owned properties in line with hardship policy adopted by Council

Operating Expenditure: \$5.66m favorable - predominantly resulting from:

Description	Variance F – Favorable U - Unfavorable	Main Driver(s)
Employee Cost	(\$1.22m) U	Limited annual leave taken in the first 6 months of the year due to Covid-19 restrictions - (\$0.898m) Increased reliance on Contract staff to meet short-term Covid-19 response requirements - (\$0.371m)
Materials & services	\$4.46m F	Timing of expenditure for major/minor contracts, utilities, vehicle costs, Council election charges, land tax and fire services levy - \$1.52m Permanent savings for major/minor contracts, tipping and waste disposal, property maintenance, parking control, water charges and events and programs - \$1.91m Offset by: Increased telecommunications and security expenditure to meet Covid-19 response - (\$0.470m)
Other Expenses	\$0.699m F	Sundry expenditure & community grant expense
Operating initiatives	\$1.46m F	Rescoping and prioritisation of projects and programs as a result of Covid-19 restrictions imposed for the first 6 months of 2020/21.

Capital Works Expenditure: \$7.91m favorable - spending to date of \$24.11m compared to the budget of \$32.02m. This variance relates to delays in project works due to Covid-19 restrictions. At December 2020, \$5.17m of project expenditure will be deferred into 2021/22.

Full Year Forecast Position

The projected full year operating surplus is \$15.98m against the adopted budgeted surplus of \$19.96m, resulting in an unfavorable variance of (\$3.98m). This unfavorable result has been driven by the following full year forecast to adopted budget variances:

Operating Income: (\$6.3m) unfavorable - key variances impacting the forecast result are:

Description	Variance F – Favorable U - Unfavorable	Main Driver(s)

Rates Income	\$0.518m F	In line with YTD actuals for special rats & municipal charges.
Statutory Fees & Fines	(\$2.3m) U	Reduction in parking infringements income as a result of Covid-19 restrictions - (\$2.90m) Offset by: higher Court income as Fine Victoria able to recover higher than anticipated in line with YTD actuals - \$0.770m
User fees	(\$2.17m) U	Reduction in: User fees from Aquatic center & learn to swim program - (\$1.07m) Waste disposal& tipping fees - (\$0.241m) Compliance - Footpath trading fees - (\$0.348m) Retail sales in Aquatic & Chapel off Chapel - (\$0.138m) Carpark operations income - (\$0.254m) Ticket/meter income - (\$0.124m)
Grants Operating	\$0.919m F	Unbudgeted grants received for: Youth services income form Freeza & DET - \$0.188m Covid-19 Outdoor dining and entertainment - \$0.500m Local community infrastructure projects - \$0.149m
Grants Capital	(\$1.11m) U	Reduction due to timing of revenue recognition: Mount street master plan (\$0.550m) Local roads community infrastructure projects (\$0.425m) Dog Park (\$0.138m)
Net Gain on Disposal PP&E	\$0.436m F	As a result of proceeds from right of way
Other income	(\$2.65m) U	Reductions in rental income as a result of rental relief provided by Council in support of Covid-19 per financial hardship policy adopted by Council - (\$1.18m) Forecast adjusted to reflect Covid-10 impact on Community waiver rentals (direct offset in Other Expenses, minimal profit & loss impact) - (\$1.59m)

Operating Expenditure: \$2.3m favorable - key variances impacting the forecast result are:

Description	Variance F – Favorable U - Unfavorable	Main Driver(s)
Employee cost	(\$1.84m) U	Forecast unfavorable to budget as a result of: Annual leave taken by staff lower than budget due to Covid-19 restrictions for first 6 months of 2020/21 - (\$0.990m) Workcover increase as a result exiting the MAV scheme - (\$0.398m) Increase reliance on contract staff in infrastructure & environment in response to Covid-19 - (\$0.610m)
Material and services	\$0.797m F	Reduction in major/minor contract including parking control and Tipping and waste disposal fees (levy freeze) due to Covid-19 - (\$1.12m) Utilities cost reduction in forecast primarily driven by water usage for Parks & Horticulture (\$0.637) Offset by: increase in security for Council owned building during lockdown (\$0.386m) Increase Stamp duty/Lodgment cost with Fines Victoria (\$0.471m)
Other Expenses	\$2.29m F	Reduction in forecast sundry expenditure & community grant expense in line with YTD actual. Forecast adjusted to reflect Covid-10 impact on Community waiver rentals (direct offset in Other Income, minimal profit & loss impact) - (\$1.45m)
Operating Initiatives	\$1.14m F	Reduction is driven by various operating initiatives being put on hold or re-scoped during Covid lockdown/restrictions.

Capital Works Expenditure: \$4.715m favorable - key variances impacting the forecast as a result of deferrals into 2021/22 and budget transfers include:

- Prahran Market Substation upgrade - \$0.500m
- Prahran Market Distribution boards upgrades - \$0.300m
- Chapel Street Precinct masterplan implementation - \$0.750m
- Landscape plans/masterplans for parks - \$0.353m
- HHSC (Harold Holt Swim Center) Masterplan \$2.898
- Mount Street Masterplan delivery - \$0.400m
- Car Parks – Multi Deck urgent maintenance - (\$0.147m)
- Toorak Park Masterplan implementation - (\$0.353m)

- Healey Pavillion Upgrade - \$0.120m
- Ferrie Oval Redevelopment - (\$0.350m)
- Road Safety Minor Works Implementation - \$0.192m

The Digital Transformation forecast variance to budget of (\$6.617m) is a result of future year budget brought forward into 2020-21 to fund technology enablement initiatives. These initiatives have been endorsed by the Audit Committee and Council via Briefing, and the initiatives prioritised as a result of a high percentage of our staff working from home.

Balance Sheet: The Cash and investments balance is forecast to be \$75.62m at 30 June 2021, which is an unfavourable variance of (\$5.81m) compared to budget. This is due to the forecast shortfall in operating surpluses and the re-forecast of the capital program.

Infrastructure, property, plant and equipment favourable forecast to budget variance of \$36.52m relates primarily to the timing of our annual asset revaluation that was finalised in July 2020.

Cashflow: Council is closely monitoring cash and cash equivalents against intended allocations each month.

Other Information requested by Council:

The information provided below is for Calander Year 1 Jan 2020 to 31 December 2020 and has been provided exclusive of 9.5% superannuation.

Information requested	Response
Total amount paid in executive salaries in 2020	\$1,506,613
Number of council staff who were paid executive salaries in 2020	9
Total amount paid by Council in executive bonuses in 2020	Nil
Highest executive full time equivalent salary in 2020	\$335,031
Average executive full time equivalent salary in 2020	\$215,230
Number of equivalent full time employees, employed under the EBA in 2020	623
Average equivalent full time salary for EBA employees in 2020	\$83,886

The attached report provides Council with the following detailed financial statements and commentary as at 31 December 2020.

- Financial Overview.
- Income Statement.
- Full year Forecast major variances.
- Year to date Budget variance overview.
- Capital works expenditure.
- Capital works Project income.
- Balance Sheet.
- Statement of Cash Flow

Conclusion

At December 2020, Council undertook a comprehensive mid-year review process and updated operating and capital revenue and expenditure forecasts to 30 June 2021 as reflected above.

Despite the impact on forecast revenue resulting from Covid-19 restrictions on services and facilities, Council has managed to mitigate some of this shortfall through expenditure savings and re-scoping of initiatives. Council has forecast a surplus that is 20% below budget for 30 June 2021.

Governance Compliance

Policy Implications

There are no policy implications associated with this report.

Financial and Resource Implications

The annual budget sets out the financial resourcing required to deliver on the Council Plan.

Conflicts of Interest Disclosure

No Council Officer and/or contractors who have provided advice in relation to this report have declared a conflict of interest regarding the matter under consideration.

Legal / Risk Implications

There are no legal / risk implications relevant to this report.

Stakeholder Consultation

There was no requirement for external stakeholder consultation in this proposal.

Human Rights Consideration

Complies with the Charter of Human Rights & Responsibilities Act 2006.

Attachments

1. Council Financial Report for the period ending 31 December 2020 [**14.2.1** - 25 pages]

14.3 Tree Work Permit Appeal - 43 Central Park Road, Malvern East

Manager Open Space & Environment: Simon Holloway

Director Environment & Infrastructure: Rick Kwasek

Linkage to Council Plan

Environment: A cleaner, safer and better environment for current and future generations to enjoy.

E4 Protect, maintain and grow the City's street tree population to enhance the character, identity and liveability of the City of Stonnington.

Purpose of Report

To present an appeal for a Tree Work Permit application for the removal of two (2) Significant Trees under the City of Stonnington Local Law to Council for consideration and final decision.

Cr Lew requested that this matter be brought to Council for determination.

Officer Recommendation

That Council UPHOLD the appeal and not issue a permit for the removal of two (2) significant Sydney Blue Gum (*Eucalyptus saligna*) trees located at 43 Central Park Road, Malvern East.

Executive Summary

A property owner in the City of Stonnington has applied for a permit under Council's Local Law to remove two (2) Significant Trees from their property. An appeal has been lodged, seeking to overturn a Council officer decision to refuse to issue a permit to remove the two trees.

This report outlines the details of the permit application, Council officer decisions and justification for refusal to issue permits and the appeal to Council.

Background

The property owner of 43 Central Park Road, Malvern East, has applied for a permit to remove two large 'Significant Trees' under Council's Local Law - Part 14 Tree Protection (attached).

Council officers, informed by an independent consulting arborist assessment of the subject trees, refused to issue a permit to remove the trees. Council issued a permit to prune each of the two trees.

The property owner has appealed this officer decision to refuse to issue a permit to remove two large Sydney Blue Gum (*Eucalyptus saligna*) trees and is seeking to have the matter considered by Council.

Site Context

43 Central Park Road, Malvern East, is a property of approximately 1,250m² located between Kingston Street and Nott Street, in close proximity to Central Park. The following image illustrates the location of this property.



The property was created following a subdivision of the rear of 1 Kingston Street. The former tennis court has been removed and a new dwelling and ancillary building are currently being constructed.

Subject trees

The two (2) trees for which removal permits have been sought and refused and are being appealed include:

	Common name	Botanical Name	Height	Spread	Site Ref
1.	Sydney Blue Gum	<i>Eucalyptus saligna</i>	25m	22m	Tree 1
2.	Sydney Blue Gum	<i>Eucalyptus saligna</i>	25m	22m	Tree 2

The two trees, large mature specimens of the same species, are growing as a co-located pair, with a unitary crown (shared canopy). The trees are located in the rear of the property approximately 3 metres east of the western boundary. The two trees, together, have a large spreading canopy in all directions that extends over the subject property and surrounding properties / dwelling.

The two trees are a prominent feature of the property and provide a significant contribution to the wider visual amenity.

Images of the trees are contained in attachments 2 and 3 (tree assessment reports – September 2020).

Reason for request to remove trees

The reasons provided by the applicant for the proposed removal of the trees, as stated in the permit application, are:

- *Tree not appropriate in domestic setting*
- *Danger falling limbs from extreme height*

The property is currently under development, following subdivision, with a large detached building being constructed to the south of the tree together with an ancillary building to the northeast.

It is understood that the subject trees are not impeding the planned development of the site.

There has been strong support expressed for the removal of the trees from neighbouring properties. There has also been objection to the potential loss of the trees conveyed to Council from other residents.

Local Law

The City of Stonnington's General Local Law provides a statutory framework for regulating and managing a range of activities throughout the municipality, including the protection of Significant Trees on private land.

Part 14 of the Local Law pertains to Tree Protection. A tree work permit is required under the Local Law to prune or remove a 'Significant Tree', as defined by the local law (based on size).

When assessing an application for a permit in relation to a Significant Tree, officers must take into consideration the following where relevant:

- a) the condition of the tree (health and structural condition)
- b) whether the proposed action is to be undertaken for reasons of health or safety
- c) whether the tree is causing significant property damage
- d) the effect of the proposed action on the amenity of the neighbourhood
- e) any other matter relevant to the circumstances of the application that is drawn to Council's attention or of which Council is aware.

The City of Stonnington follows a clear protocol with respect to tree work permit applications and appeals made under the Local Law, as follows. This is aimed at ensuring the intention of the Local Law to protect Significant Trees is met and that applicants have a fair and reasonable process.

1. Initial application

- Tree work permit applications made under the Local Law are assessed by Council's arboriculture unit.
- For each application, Council engages an independent, qualified consulting arborist to assess each tree and provide Council with advice on its health, structure, risk, management options and a recommendation on its retention or removal.
- In assessing the application, Council officers consider all relevant factors under the Local Law and takes into consideration the advice and recommendation of the consulting arborist.
- Council (officers) advises the applicant of its decision and reasoning in writing. If refused, the applicant is advised that they can appeal the decision in writing and are encouraged to supply additional supporting documentation.

2. Administrative appeal

- Initial appeals are assessed by the Manager Open Space & Environment and senior arborists, taking into account the original application and any additional supporting documentation provided by the applicant.
- Council (officers) advises the applicant of its decision and reasoning in writing. If refused, the applicant is advised that they can raise the matter with a Ward Councillor and seek to have the matter brought before Council for a final decision.

3. Council appeal

- If requested by a Councillor, a report is prepared for Council outlining the full history of the permit application and includes an officer recommendation.
- The appeal is considered at a formal Council Meeting and Council's decision is final.

Urban Forest Strategy

In assessing the tree work permit applications, reference is also given to Council's Urban Forest Strategy and its objectives for tree management on public and private land throughout the city.

The City of Stonnington's Urban Forest Strategy provides a clear policy framework for Council's position on the protection of healthy, established trees throughout the city. The strategy notes the critical importance of a healthy, diverse and mature urban forest to the city's liveability, environment and prosperity.

The strategy notes the progressive loss of large, established trees from private land – estimated at more than 1,000 per year. Over time, this will erode the extent of tree canopy cover over the city, diminish the positive values that trees provide in an urban landscape and increase exposure to urban heat island effect. Council's is committed to protecting and increasing tree canopy cover throughout the city.

A key priority of the Urban Forest Strategy is to maximise the protection and retention of existing trees in the urban landscape (Key Direction 1). Under this direction, Council commits to, among other things:

- Promote the value and importance of retaining trees in urban landscapes.
- Maximise the retention of high-value trees and established trees with large canopies.
- Protect trees defined as Significant Trees through continued administration of the Local Law.
- Minimise tree removals through the land use planning process.
- Only support the removal of healthy, established trees when there is a compelling arboricultural, community safety or public value reason to do so.

Key Issues and Discussion

Assessment of application – 2 subject trees

To assist with processing the tree work permit application for the subject trees, Council commissioned an assessment of each tree by an independent, qualified consulting arborist with the request to provide Council with advice on its health, structure, risk, management options and a recommendation on its retention or removal.

A copy of the original Tree Assessment Report (September 2020) for each of the subject trees is attached. Note, Council's standard practice is to not make public these reports.

The independent, consulting arborist advice provided on the trees can be summarized as follows:

	Common name	Botanical Name	Site Ref	Advice

1.	Sydney Blue Gum	<i>Eucalyptus saligna</i>	Tree 1	<ul style="list-style-type: none"> • Fair health in terms of foliage size, density, and colour. • No recent limb wounds or failures were noted. • The tree was in a conspicuous location and consequently prominent in the landscape. • Removal does not appear to be warranted. • Council could issue a permit to reduce canopy over neighbour's house and to remove deadwood.
2.	Sydney Blue Gum	<i>Eucalyptus saligna</i>	Tree 2	<ul style="list-style-type: none"> • Fair health in terms of foliage size, density, and colour. • No recent limb wounds or failures were noted. • The tree was in a conspicuous location and consequently prominent in the landscape. • Removal does not appear to be warranted. • Council could issue a permit to reduce canopy over neighbour's house and to remove deadwood.

On the basis of the independent tree assessments, advice of the consulting arborist and context of Council's commitments under its Urban Forest Strategy, the application to remove the two subject trees was refused.

The advice to the applicant (attached) noted that the trees were assessed as being viable and that there is no arboricultural reason to justify the removal of these prominent specimens which provide a significant contribution to the character of the area.

The property owner was advised of the avenue and process to appeal the decision.

Administrative Appeal

An appeal of the decision to refuse to issue removal permits for the two subject trees was submitted by the property owner (attached). The basis for the appeal was twofold:

- Health and safety risk
- Trees causing property damage

The appeal contained an updated arborist report commissioned by the property owner. This was prepared by Adam Hamilton and dated September 2020 (attached). Note the findings of this tree assessment differed in conclusions from an assessment of the same trees by the same consulting arborist conducted in April 2020, previously provided by the property owner (attached).

The appeal raised a number of findings regarding the health, structural stability, risk and retention suitability of the trees that were not identified in the earlier arborist report from the same consultant (April 2020), nor Council's independent assessment of the trees.

In light of the assertions about the risk of the trees, the health and significance of the trees in the landscape and inconsistency of arboricultural assessment findings, Council officers decided to seek further arboricultural advice on the trees. Council commissioned a further and final tree inspection from a different independent consulting arborist and requested that it be conducted using the International Society of Arboriculture (ISA) Tree Risk Assessment Qualification (TRAQ) methodology (attached). This methodology assesses tree risk based on an international standard.

The most recent assessment of the two subject trees commissioned by Council, conducted using the ISA TRAQ methodology found that:

- There are no sound arboricultural reasons to justify the premature removal of either of the two trees.

- Both trees, as individual specimens, are visually prominent and significant features of the site and surrounds.
- The two trees share a unitary canopy and together they provide a highly important contribution to the wider amenity.
- Both trees were assessed to present a **Low Risk** to the property and remain healthy and viable.
- Given that canopy reduction pruning has already been undertaken, the potential for branch failures, particularly in severe weather conditions, has been significantly reduced.

Based on the consideration of all available information, including the most recent independent tree assessment using the ISA TRAQ methodology, Council officers determined to uphold the appeal and not issue permits to remove the two trees.

This decision was conveyed to the applicant in writing (attached), noting reasons for the decision and advising that under our process a final appeal can be made to Council, requesting that it be brought by a Councillor to a Council meeting for review and a final decision.

Council Appeal

The property owner submitted an appeal to East Ward Councillors. Cr Lew requested that the matter be brought to Council for determination.

Conclusion

An application has been made to remove two large, 'Significant Trees' under Council's Local Law (Part 14 Tree Protection) at 43 Central Park Road, Malvern East.

The application has been through the full administrative process and has now been referred to Council for determination.

Governance Compliance

Policy Implications

There are no policy implications associated with this report.

Financial and Resource Implications

There are no financial and resource implications associated with this report.

Conflicts of Interest Disclosure

No Council Officer and/or contractors who have provided advice in relation to this report have declared a conflict of interest regarding the matter under consideration.

Legal / Risk Implications

Council officer decisions to-date to refuse a permit to remove the two large subject trees have been based on multiple independent arborists assessments, using best practice tree assessment methodology, that have concluded that the trees present low risk and should not be removed.

Stakeholder Consultation

There was no requirement for external stakeholder consultation in this proposal.

Human Rights Consideration

Complies with the Charter of Human Rights & Responsibilities Act 2006.

Attachments

1. CONFIDENTIAL REDACTED - Tree Work Permit Application [**14.3.1** - 2 pages]
2. CONFIDENTIAL REDACTED - Tree Assessment Report Tree 1 September 2020 [**14.3.2** - 2 pages]
3. CONFIDENTIAL REDACTED - Tree Assessment Report Tree 2 September 2020 [**14.3.3** - 2 pages]
4. CONFIDENTIAL REDACTED - Permit application decision letter November 2020 [**14.3.4** - 1 page]
5. CONFIDENTIAL REDACTED - Administrative appeal letter from property owner November 2020 [**14.3.5** - 4 pages]
6. CONFIDENTIAL REDACTED - Arborist risk assessment report provided by property owner September 2020 [**14.3.6** - 22 pages]
7. CONFIDENTIAL REDACTED - Arborist risk assessment report provided by property owner April 2020 [**14.3.7** - 26 pages]
8. CONFIDENTIAL REDACTED - Tree Assessment Report ISA TRAQ Tree 1 December 2020 [**14.3.8** - 3 pages]
9. CONFIDENTIAL REDACTED - Tree Assessment Report ISA TRAQ Tree 2 December 2020 [**14.3.9** - 3 pages]
10. CONFIDENTIAL REDACTED - Administrative appeal decision letter January 2021 [**14.3.10** - 3 pages]

14.4 Bendigo Street, Prahran (between High Street and Murray Street) - Consultation Results of Traffic Management Proposal

Manager Transport & Parking: Ian McLauchlan

Director Environment & Infrastructure: Rick Kwasek

Linkage to Council Plan

Liveability: The most desirable place to live, work and visit.

L6 Maintain Council's infrastructure and assets essential for the sustainable operation of the City.

Purpose of Report

To advise Council of the consultation results for the proposal to install traffic management devices (speed cushions) in Bendigo Street, Prahran (between High Street and Murray Street), and to seek approval to proceed with the proposal.

Officer Recommendation

That Council:

1. **APPROVES the installation and associated expenditure of 2 sets of speed cushions in Bendigo Street, Prahran, between High Street and Murray Street (approximately near 12 Bendigo Street and 42 Bendigo Street).**
2. **AUTHORISES officers to notify those consulted of the decision.**
3. **NOTES that officers will conduct further speed and volume surveys in the following streets 1 year after the speed cushions are installed in Bendigo Street:**
 - a. **Lewisham Road North**
 - b. **Mackay Street**
 - c. **Francis Street and**
 - d. **York Street (both north and south of Murray Street).**

Executive Summary

Officers consulted properties abutting Bendigo Street, Prahran, between High Street and Murray Street on a proposal to install traffic management devices (speed cushions). Due to the majority of respondents being in favour, it is recommended that the proposal proceed, and the speed cushions be installed. Officers will also conduct new speed and volume counts in Lewisham Road North, Mackay Street, Francis Street and York Street 1 year after the installation of speed cushions in Bendigo Street.

Background

A study was undertaken in the through streets bounded by Bendigo Street (south of Murray Street), York Street (north of Murray Street), Malvern Road, Williams Road and High Street in Prahran to determine traffic conditions operating in the area. The results of the study were reported to a Council Meeting on 19 August 2019, and can be seen in the **First Background Report**.

Based on the results in that study, a decision was made to consult properties in Bendigo Street, Clarke Street and Murray Street, on whether they would like any speed restriction devices installed in their street (this was the initial consultation). This was undertaken in October 2019. If any devices were installed in either of these 3 streets, then new speed and volume counts were to be undertaken 1 year after installation in Lewisham Road North, Mackay Street, Francis Street and York Street (both north and south of Murray Street).

At the Council Meeting on 17 February 2020, a report was presented outlining the initial consultation results in Bendigo Street (between High Street and Murray Street), Clarke Street and Murray Street, and can be seen in the **Second Background Report**.

As there were mixed responses and no clear desire for speed restriction devices from those who responded in Clarke Street and Murray Street, no further consultation was proposed in those 2 streets. However, based on feedback from some Murray Street respondents, a pedestrian (zebra) crossing would be investigated near Victoria Gardens after an adjacent property completes building works and relocates a vehicle crossing.

As there was support from Bendigo Street respondents for speed restriction devices, a detailed consultation to install speed cushions in Bendigo Street, between High Street and Murray Street was undertaken.

This report considers the results of the detailed consultation for Bendigo Street, between High Street and Murray Street.

Key Issues and Discussion

The initial consultation in October 2019 deemed speed cushions as the preferred traffic management treatment in Bendigo Street. Speed cushions are made from moulded rubber segments that are fastened to the carriageway. They are quicker to install than traditional road humps (which are asphalt/concrete), and can be professionally removed in future without significant damage to the road surface (and thus without incurring large capital costs to reconstruct the carriageway surface).

Based on the length of Bendigo Street between High Street and Murray Street, it was determined that 2 sets of speed cushions would be appropriate. The proposed locations are approximately near #12 and #42. These locations were chosen to not impact property access, and also because they are near street lighting. The spacing is appropriate to encourage motorists to maintain the 40 km/h speed limit on the street.

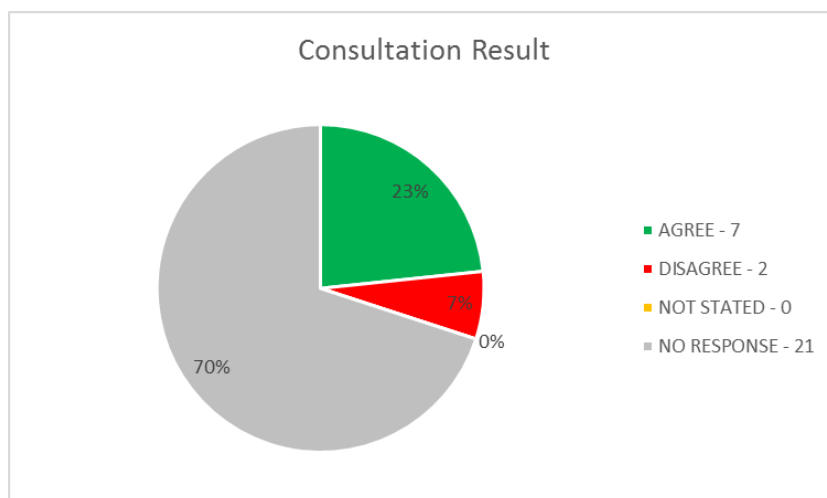
As this section of Bendigo Street is within a Melbourne Water overlay, written approval from Melbourne Water was required, and officers obtained this. Once this was received, detailed consultation was distributed to abutting properties on 27 November 2020 (see **Consultation Material**).

Community Response

A total of 30 properties were distributed the circular with 11 replies received, equating to a 30% response rate.

Proposal	Agree	Disagree	Responded, But Opinion Not Stated	Did Not Respond
----------	-------	----------	-----------------------------------	-----------------

Install Speed Cushions	7 (23%)	2 (7%)	0 (0%)	21 (70%)
------------------------	------------	-----------	-----------	-------------



The detailed response analysis can be seen in **Consultation Report**.

Officer Recommendation

Based on the responses received, it is recommended that the proposal proceed and the speed cushions be installed. Speed cushions align with Council's Road Safety Strategy 'Towards Zero'. The intention is to install the devices as a permanent treatment. However, as mentioned earlier, speed cushions can be professionally removed in future if required.

Timing of Implementation

During the consultation, a concern was raised relating to the adjacent Office of Housing construction project between Bendigo Street and Bangs Street. The concern was the potential for the construction vehicles to potentially damage the speed cushions, and whether it may be appropriate to defer any installation until the construction was complete.

Officers have reviewed the available information, and key data such as construction timelines and methodologies (such as construction vehicle access points) have not been set. Although the devices are designed to be driven over by heavy vehicles, the frequency of use may damage the speed cushions. As they are a relatively low cost, they are easy to replace if required.

It may not be reasonable to compromise on safety by deferring the installation. The initial investigation deemed traffic management devices are appropriate, and the devices have been supported by the abutting properties. It is recommended that the speed cushions be installed as soon as practicable.

Outstanding Matters

As part of the first report presented on 19 August 2019, a decision was to undertake new speed and volume counts in Lewisham Road North, Mackay Street, Francis Street and York Street (both north and south of Murray Street) if any devices were installed in either Bendigo

Street, Clarke Street or Murray Street. The timing was 1 year after devices were installed, to allow for any traffic patterns to establish.

In line with this decision, officers will undertake counts in those streets 1 year after devices are installed in Bendigo Street.

As part of the second report presented on 17 February 2020, a decision was to investigate the feasibility of a pedestrian (zebra) crossing on Murray Street, outside Victoria Gardens, once the building works for the property opposite the proposed location are complete and the vehicle crossing relocated.

The works have not been completed yet, however once complete, the investigation can take place.

Conclusion

Properties abutting Bendigo Street between High Street and Murray Street were consulted in November 2020 on whether they supported 2 sets of speed cushions (approximately near #12 and #42). A 30% response rate was received, and 23% of those consulted were in favour, and 7% were opposed.

As the majority of respondents were in favour of speed cushions, it is recommended that the proposal proceed and the speed cushions be installed.

Governance Compliance

Policy Implications

The proposal will align with Council's Road Safety Strategy 'Towards Zero', and key strategic direction 5 – Infrastructure and Speed Limits.

Financial and Resource Implications

The installation is approximately \$8,528 (ex GST), and is to be funded from X9249. There are sufficient funds to proceed.

Conflicts of Interest Disclosure

No Council Officer and/or contractors who have provided advice in relation to this report have declared a conflict of interest regarding the matter under consideration.

Legal / Risk Implications

There are no legal / risk implications relevant to this report.

Stakeholder Consultation

The detailed consultation and response analysis can be seen in the **Consultation Report**.

Human Rights Consideration

Complies with the Charter of Human Rights & Responsibilities Act 2006.

Attachments

1. Bendigo Street, Prahran - First Background Report [14.4.1 - 10 pages]
2. Bendigo Street, Prahran - Second Background Report [14.4.2 - 6 pages]
3. Bendigo Street, Prahran - Consultation Material [14.4.3 - 4 pages]
4. Bendigo Street, Prahran - Consultation Report [14.4.4 - 2 pages]

14.5 CitiesWithNature Australia

Manager Open Space & Environment: Simon Holloway

Director Environment & Infrastructure: Rick Kwasek

Linkage to Council Plan

Community: An inclusive City that enhances the health and wellbeing of all residents, where people can feel safe, socially connected and engaged.

C1 Enhance community health and wellbeing outcomes through quality service delivery and strategic partnerships.

Environment: A cleaner, safer and better environment for current and future generations to enjoy.

E3 Enhance biodiversity values throughout the City to protect and increase flora and fauna.

Liveability: The most desirable place to live, work and visit.

L4 Enhance the design outcomes of public spaces, places and buildings.

Purpose of Report

To seek endorsement from Council to join the CitiesWithNature Australia program as a 'Pioneer City', demonstrating Council's commitment to protecting and enhancing nature in Stonnington.

Officer Recommendation

That Council ENDORSE joining the CitiesWithNature Australia program as a Pioneer City.

Executive Summary

Council recognises that a healthy environment supports a healthy community and is committed to protecting and enhancing biodiversity in Stonnington and building community connection to the natural environment.

Council has an opportunity to join the CitiesWithNature Australia program as a Pioneer City, demonstrating its commitment and raising its profile within the community as a leader in biodiversity and the environment.

Background

Council has a strong commitment to protecting and enhancing biodiversity in the city and supporting community connections to nature.

In 2019, Council completed the Yarra River Biodiversity Project - one of the largest regeneration projects in the river's history. Council invested over \$8.4 million to increase habitat connectivity, improve water quality, grow the urban forest and provide recreational and educational opportunities for the community to interact with Melbourne's landmark river. Awarded the 2018 Keep Victoria Beautiful Sustainable Cities Award for Protection of the Environment, the project was recognised for its positive contribution to protecting and enhancing the local environment.

Following the success of the Yarra River Biodiversity Project, Council has redirected its attention along Gardiners Creek and surrounding area to achieve similar nature and community outcomes. The Gardiners Creek (KooyongKoot) Masterplan was adopted by Council in September 2020, outlining its vision to transform this important corridor within the city.

CitiesWithNature program

CitiesWithNature is a global initiative that aims to enhance the value of nature in and around cities across the world. The program was founded by ICLEI Local Governments for Sustainability (ICLEI), The Nature Conservancy and the International Union for Conservation of Nature (IUCN) and provides a shared platform for cities to engage and connect around nature-based solutions and biodiversity to help create more sustainable cities.

Councils that join the program commit to working with nature in planning, building and managing cities for the benefit of both communities and nature. Councils are invited to share policies, plans and commitments related to nature to create a resource where councils can connect, share and learn from each other.

Key Issues and Discussion

The Australian arm of ICLEI is seeking to develop a local CitiesWithNature Australia program and are looking for 'Pioneer Cities'. Each Pioneer City will be required to:

- Register on the CitiesWithNature global website
- Participate in a research project with Swinburne University and ICLEI: 'Mapping the knowledge and governance needs for implementing nature-based solutions in Australian cities'
- Be part of an advisory group for the development of the CitiesWithNature Australia program
- Agree to be profiled as a role model for urban greening and biodiversity

There are currently eight councils across Australia that are part of this initial pioneer group including Melbourne, Adelaide, Onkaparinga, Unley, West Torrens, Newcastle, Byron Bay and Cairns. ICLEI are aiming for a cohort of 20 Australian councils to be part of this pioneer group.

Participation in this program is a great opportunity for Stonnington to participate in a global environmental initiative and further raise its profile in the community as a sustainability leader.

Conclusion

Signing up to the CitiesWithNature Australia program as a Pioneer City provides a strong opportunity for Council to demonstrate its commitment to protecting and enhancing biodiversity in the city and supporting community connection to nature.

Governance Compliance

Policy Implications

Environment is one of the four pillars of the *Council Plan 2017-21*, which includes strategies to manage, strengthen and develop local biodiversity and protect and increase local flora and fauna. Additionally, the *Urban Forest Strategy* and *Sustainable Environment Strategy*

2018-2023 both outline Council's commitment to protect and enhance biodiversity across the city and address climate change mitigation and adaptation.

Financial and Resource Implications

Pioneer Cities are also asked to pay \$2,500 to join the program. This amount can be funded from existing biodiversity budgets.

Conflicts of Interest Disclosure

No Council Officer and/or contractors who have provided advice in relation to this report have declared a conflict of interest regarding the matter under consideration.

Legal / Risk Implications

There are no legal / risk implications relevant to this report.

Stakeholder Consultation

There was no requirement for external stakeholder consultation in this proposal.

Human Rights Consideration

Complies with the Charter of Human Rights & Responsibilities Act 2006.

Attachments

Nil

14.6 Councillor Code of Conduct

Chief Governance Officer: David Taylor

Linkage to Council Plan

Stewardship: Council will strive for excellence, ensuring that it has the capacity to deliver timely and efficient services to meet community needs and continually improve standards of service delivery.

- S1** The City's capacity to deliver the objectives of the Council Plan is based on our service culture, people, good governance, business systems and technology, asset and risk management and responsible financial planning.

Purpose of Report

To adopt a new Councillor Code of Conduct, which will provide guidance for the Council in carrying out its' role and the expected behaviours required of a Councillor.

The adoption of the Code of Conduct by the 24 February 2021 is a requirement of the new *Local Government Act 2020*.

Officer Recommendation

That Council:

- 1. APPROVE the Councillor Code of Conduct (refer Attachment 1);**
- 2. NOTE that as a demonstration of commitment to the behaviours and expectations of the Councillor Code of Conduct, a copy of the code will be signed by all Councillors;**
- 3. NOTE that a sub-committee titled the Councillor Code of Conduct Working Group will be established to review implementation of the new Code of Conduct and assess any further amendments to the Code of Conduct which may be required into the future.**

Executive Summary

A requirement of the *Local Government Act 2020 (Section 139)* is that a new Councillor Code of Conduct be adopted by 24 February 2021, being four (4) months after a general election.

The existing Code of Conduct was adopted by the previous Council in 2017 and is still in effect until the acceptance of a new Code of Conduct. The Code of Conduct must include the standards of conduct expected to be observed by Councillors in the course of performing their duties and functions as Councillors, including prohibiting discrimination, harassment (including sexual harassment) and vilification.

The Councillors Code of Conduct must be passed at a Council meeting by at least two-thirds of the total number of Councillors elected to the Council.

The proposed Code of Conduct for the current Council has been drafted with guidance from Local Government Victoria, reference to the *Local Government Act 2020 (and Regulations)* and has been reviewed by local government specialist lawyers for accuracy, relevance and completeness.

Accordingly, this Code of Conduct is submitted for Council's consideration and will remain current for the 2021/25 period or unless a review or amendment is undertaken.

Key Issues and Discussion

The Code of Conduct provides parameters for Councillors to observe and adhere, including a staged process for dispute resolution amongst Councillors.

The Code provides specific guidance for Councillors regarding their roles and responsibilities, good governance and reputational issues. Provisions have also been included regarding the use of Social Media.

A key variation from the previous Code of Conduct is the provision of a section that addresses the agreed values determined by this Council and will be included in addition to the general standards of conduct. This will be addressed at the Councillor Strategy Workshop scheduled for 26-27 February 2021 following which the Code will require amendment.

The standards of conduct expected for Councillors as extracted from the *Local Government Regulations (Governance & Integrity) 2020*, Schedule 1 are:

1 Treatment of others

A Councillor must, in performing the role of a Councillor, treat other Councillors, members of Council staff, the municipal community and members of the public with dignity, fairness, objectivity, courtesy and respect, including by ensuring that the Councillor—

- a) takes positive action to eliminate discrimination, sexual harassment and victimisation in accordance with the Equal Opportunity Act 2010 ; and*
- b) supports the Council in fulfilling its obligation to achieve and promote gender equality; and*
- c) does not engage in abusive, obscene or threatening behaviour in their dealings with members of the public, Council staff and Councillors; and*
- d) in considering the diversity of interests and needs of the municipal community, treats all persons with respect and has due regard for their opinions, beliefs, rights and responsibilities.*

2 Performing the role of Councillor

A Councillor must, in performing the role of a Councillor, do everything reasonably necessary to ensure that the Councillor performs the role of a Councillor effectively and responsibly, including by ensuring that the Councillor—

- a) undertakes any training or professional development activities the Council decides it is necessary for all Councillors to undertake in order to effectively perform the role of a Councillor; and*
- b) diligently uses Council processes to become informed about matters which are subject to Council decisions; and*
- c) is fit to conscientiously perform the role of a Councillor when acting in that capacity or purporting to act in that capacity; and*
- d) represents the interests of the municipal community in performing the role of a Councillor by considering and being responsive to the diversity of interests and needs of the municipal community.*

3 Compliance with good governance measures

A Councillor, in performing the role of a Councillor, to ensure the good governance of the Council, must diligently and properly comply with the following—

- a) any policy, practice or protocol developed and implemented by the Chief Executive Officer in accordance with section 46 of the Act for managing interactions between members of Council staff and Councillors;*
- b) the Council expenses policy adopted and maintained by the Council under section 41 of the Act;*
- c) the Governance Rules developed, adopted and kept in force by the Council under section 60 of the Act;*
- d) any directions of the Minister issued under section 175 of the Act.*

4 Councillor must not discredit or mislead Council or public

- 1. In performing the role of a Councillor, a Councillor must ensure that their behaviour does not bring discredit upon the Council.*
- 2. In performing the role of a Councillor, a Councillor must not deliberately mislead the Council or the public about any matter related to the performance of their public duties.*

5 Standards do not limit robust political debate

It should be noted that there is nothing in the Code of Conduct or standards is intended to limit, restrict or detract from robust public debate in a democracy.

As a commitment to the Councillors Code of Conduct, it is recommended that all Councillors sign a copy of the adopted Code.

Governance Compliance

Policy Implications

There are no policy implications associated with this report, but the Code will be an operational document for all Councillors once adopted.

A separate Code of Conduct will be prepared for Council Staff. There will also be a revision of the Council's Complaints policy to capture complaints from the community against Councillors and staff. In addition, a protocol for interaction between Councillors and staff will be developed and implemented by the CEO.

Financial and Resource Implications

There are no financial and resource implications associated with this report.

Conflicts of Interest Disclosure

No Council Officer and/or contractors who have provided advice in relation to this report have declared a conflict of interest regarding the matter under consideration.

Legal / Risk Implications

Council is obliged to comply with this process under the various provisions of the *Local Government Act 2020* and the associated *Local Government Regulations*.

Stakeholder Consultation

There is no requirement for public consultation regarding the Councillors Code of Conduct as it will specifically relate to the Council of the day and it is the parameters that it has chosen for its operations and interactions.

Human Rights Consideration

Complies with the Charter of Human Rights & Responsibilities Act 2006.

Attachments

1. Councillor Code of Conduct [**14.6.1** - 24 pages]

14.7 Community Sports Infrastructure Stimulus Program - Princes Gardens Sports Courts & Skate Park Redevelopment

Manager Active Communities: James Rouse
Director Community & Wellbeing: Cath Harrod

Linkage to Council Plan

Community: An inclusive City that enhances the health and wellbeing of all residents, where people can feel safe, socially connected and engaged.

- C1** Enhance community health and wellbeing outcomes through quality service delivery and strategic partnerships.
- C2** Strengthen Council's commitment to support our diverse and inclusive communities.
- C3** Implement community safety initiatives and fair compliance processes to address community safety issues.
- C4** Enhance community engagement to ensure Council makes long-term decisions in the best interests of the community.
- C5** Increase participation in physical activity through long-term recreation planning and service delivery.

Economy: A City that will grow its premier status as a vibrant, innovative and creative business community.

- EC1** Develop long-term plans to ensure sustainability of Stonnington's activity centres.
- EC4** Promote Stonnington's premier precincts, employment clusters and cultural assets as hubs for shopping, hospitality, entertainment and culture.

Environment: A cleaner, safer and better environment for current and future generations to enjoy.

- E1** Reduce energy use and associated greenhouse gas emissions.
- E6** Enhance sustainable purchasing of goods, materials and services with reduced environmental impacts.

Liveability: The most desirable place to live, work and visit.

- L1** Strategically invest in open spaces, sporting fields and community facilities, and optimise use according to community needs.
- L2** Preserve Stonnington's heritage architecture and balance its existing character with complementary and sustainable development.
- L4** Enhance the design outcomes of public spaces, places and buildings.

Purpose of Report

To seek Council endorsement of a grant application for the redevelopment of the Princes Gardens Sports Courts and Skate Park through the Victorian Government's Community Sports Infrastructure Stimulus Program.

Officer Recommendation

That Council:

- 1. NOTE the details and timelines of the grant application for the Princes Gardens Multi-purpose Sports Courts, Skate Park and Basketball Court; and**

2. ENDORSE Council's intention to apply for the Victorian State Government grant to fund Princes Gardens Multi-Purpose Sports Courts & Skate Park redevelopment under project number X9698 Princes Gardens Masterplan

Executive Summary

Council recently received an invitation from the Victorian Government to re-apply for a \$2.51 million grant for the redevelopment of the Princes Gardens Multi-Purpose Sports Courts, Skate Park and Basketball Court. A Council resolution supporting the project and its readiness to commence construction by December 2021 is required for the grant submission.

All facilities included within the grant application are planned stages of the Princes Gardens Masterplan, endorsed by Council in August 2018. Concept designs were completed in 2020 and a co-design process with users and stakeholders is currently under way to develop the schematic skate park designs for submission with the grant application.

Background

In 2020 the Victorian Government launched a \$68 million Community Sports Infrastructure Stimulus Program, part of the government's \$2.7 billion Building Works Package. The aim of the stimulus program is to create jobs and boost Victoria's economic recovery from the Coronavirus pandemic, by fast-tracking shovel-ready community sports infrastructure projects across Victoria. The program funded projects between \$1 million - \$10 million, with up to 90% of the project cost funded by grants. Council was unsuccessful in its initial applications.

In late 2020, the Victorian Government announced an additional \$110 million of funding via a second-round resubmission process of selected applications that submitted meritorious but unfunded applications from Round 1 of the program. Council has received an invitation to re-apply for the Princes Gardens Multi-Purpose Sports Courts & Skate Park redevelopment.

The application is seeking funding of \$2,517,624, which covers 85% of the total project cost (\$2,961,911). These costs cover the:

- Redevelopment of the Prahran Skate Park;
- Upgrade of the multi-purpose sports courts – resurfacing, lighting and fencing;
- Upgrade of the basketball court – resurfacing and lighting.

All facilities are planned stages of the Princes Gardens Masterplan (Attachment 1), endorsed by Council in August 2018. The redevelopment of the identified sport and recreation facilities aims to increase participation, safety and inclusiveness through the provision of:

- High quality, highly accessible, safe and compliant facilities;
- Flexible, multi-use facilities that appeal to a diverse range of users and meet the needs of the current and future local community;
- Places where people will feel welcome and comfortable attending to participate and socialise.

A mandatory requirement for resubmitted applications is a Council resolution supporting the project and its readiness to commence construction within six months of executing a funding agreement (i.e. by December 2021). Grant submissions are due by 2nd March 2020.

Key Issues and Discussion

Concept designs are attached to this report (Attachment 2), and a co-design process is currently under way to develop the schematic skate park designs for submission with the grant application.

Should the funding application be successful, construction is required to commence by December 2021 (within six months of the funding agreement being awarded). The ability to adhere to this timeline has been verified by the consultants working on the Princes Gardens Masterplan, and by Council officers responsible for project delivery.

The portion of project costs not covered by the stimulus program will be funded through Council's adopted capital works budget, with project X9698 (Princes Gardens Masterplan) able to meet Council's financial requirement.

Conclusion

The invitation from the Victorian Government to re-apply for a \$2,517,624 grant for the Princes Gardens Sports Courts and Skate Park shows a desire from the State Government to consider support for projects that deliver improved access to safe, inclusive and flexible sport and recreation facilities for local communities. The redevelopment of the Princes Gardens Sports courts and Skate Park are 'shovel-ready' projects, endorsed within the Princes Gardens Masterplan that Council has the capacity to commence before December 2021.

Council officers and design consultants will continue to work closely with user groups and stakeholders to develop designs that meet the needs of the community and the project objectives.

Governance Compliance

Policy Implications

There are no policy implications associated with this report.

Financial and Resource Implications

If successful Council will secure State Government funding of \$2,517,624 to fund the redevelopment of facilities at Princes Gardens.

Council's co-contribution of \$444,287 will be allocated against capital project X9698 Princes Gardens Masterplan with the timing of the budget allocation spread across 2 financial years (2020/21 and 2021/22).

Conflicts of Interest Disclosure

No Council Officer and/or contractors who have provided advice in relation to this report have declared a conflict of interest regarding the matter under consideration.

Legal / Risk Implications

There are no legal / risk implications relevant to this report.

Stakeholder Consultation

Community consultation and stakeholder engagement on the skate park and sports courts has been ongoing since endorsement of the Masterplan. The consultation process has and continues to engage closely with facility users, sports associations (Skate Australia, Victorian Skateboard Association, Tennis Victoria, Netball Victoria, Football Victoria, Futsal Australia),

program providers (YMCA Action Sports, Social Sport), local skate businesses (e.g. Ownlife), and the local community via Connect Stonnington surveys and online workshops.

Human Rights Consideration

Complies with the Charter of Human Rights & Responsibilities Act 2006.

Attachments

1. Princes Gardens Staging Plan [**14.7.1** - 1 page]
2. Concept Plans and Aerial Map - Princes Gardens [**14.7.2** - 3 pages]

15 Confidential Business

15.1 Public Health Venue Investigation

Director COVID Response: Cath Harrod

Confidential report is circulated separately

This document is confidential information under Section 66 (2) (a) of the Local Government Act 2020. The matter is deemed to be confidential under Section 3 (1) (a) Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released.