



MELTON CITY COUNCIL

Notice is hereby given that the
Meeting of the Melton City Council
will be held in the Council Chamber, Civic Centre,
232 High Street, Melton
on 10 May 2021 at 7:00pm.

Due to the ongoing Covid environment members of the public are excluded from the gallery at this meeting.

The meeting will be livestreamed with a link to the livestream available on Council's website.

**THIS AGENDA CONTAINS REPORTS TO BE DEALT
WITH AT A CLOSED MEETING OF COUNCIL**

Kelvin Tori
CHIEF EXECUTIVE

TABLE OF CONTENTS

1.	OPENING PRAYER AND RECONCILIATION STATEMENT	4
2.	APOLOGIES AND LEAVE OF ABSENCE	4
3.	CHANGE TO THE ORDER OF BUSINESS	4
4.	DEPUTATIONS	4
5.	DECLARATION OF ANY PECUNIARY INTEREST, OTHER INTEREST OR CONFLICT OF INTEREST OF ANY COUNCILLOR	4
6.	ADOPTION AND CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS	4
7.	SUMMARY OF INFORMAL MEETINGS OF COUNCILLORS	5
7.1	SUMMARY OF INFORMAL MEETINGS OF COUNCILLORS IN ACCORDANCE WITH CHAPTER 6, RULE 1 OF THE COUNCIL'S GOVERNANCE RULES	5
8.	CORRESPONDENCE INWARD	11
8.1	PARLIAMENTARIAN AND DEPARTMENTAL LETTERS RECEIVED BY THE MAYOR	11
9.	PETITIONS AND JOINT LETTERS	18
10.	RESUMPTION OF DEBATE OR OTHER BUSINESS CARRIED OVER FROM A PREVIOUS MEETING	18
11.	PUBLIC QUESTION TIME	18
12.	PRESENTATION OF STAFF REPORTS	19
12.1	AUTHORISATION OF AFFIXING THE COMMON SEAL OF COUNCIL	19
	To For Council to adopt the schedule of documents requiring the Common Seal of Council.	

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- | | | |
|-------------|--|------------|
| 12.2 | ADVISORY COMMITTEES OF COUNCIL - AGGREGATED MEETING MINUTES | 22 |
| | To present the aggregated minutes of Advisory Committee meetings yet to be considered by Council. | |
| 12.3 | 2020-21 COUNCIL AND WELLBEING ANNUAL ACTION PLAN 3RD QUARTER PROGRESS REPORT | 72 |
| | To provide the third quarter update on the progressive achievement of the Council's 2020-2021 Council and Wellbeing Annual Action Plan | |
| 12.4 | COMMUNITY VISION 2041 - PUBLIC EXHIBITION | 106 |
| | To present the draft City of Melton Community Vision 2041 and seek endorsement to place the document on public exhibition for 21 days. | |
| 12.5 | RESPONSE TO NOTICE OF MOTION 759 (CR MAJDLIK) - COUNCIL TO CONSIDER BECOMING A PARTICIPANT IN THE CARER CARD PROGRAM | 128 |
| | To respond to Notice of Motion 759 (Cr Majdlik) as endorsed at the 12 April 2021 Meeting of Council. | |
| 12.6 | PLANNING APPLICATION PA 2020/7160 - DEVELOPMENT OF THREE DOUBLE STOREY DWELLINGS AT 17 CANTERBURY CIRCUIT, MELTON SOUTH | 131 |
| | To consider and determine the above planning application. | |
| 12.7 | PLANNING APPLICATION PA 2020/7288 - USE AND DEVELOPMENT OF THE LAND FOR TWO LEACHATE PONDS FOR THE EXISTING LANDFILL AT 227 RIDING BOUNDARY ROAD, RAVENHALL | 158 |
| | To consider and determine the above planning application. | |
| 12.8 | RESPONSE TO NOTICE OF MOTION 636 (CR ABBOUSHI) - SUGARGUM ESTATE, HILLSIDE SPECIAL CHARGE SCHEME | 177 |
| | To respond to Notice of Motion 636 (Cr Abboushi) and provide design and costings for Sugargum Drive development as well as a summary of options for a potential Special Charge Scheme for construction of footpath and drainage for Councillors future consideration. | |
| 12.9 | RESPONSE TO NOTICE OF MOTION 725 (CR TURNER) - INVESTIGATE AND PROVIDE STRATEGY FOR DUMPED SHOPPING TROLLEYS | 183 |
| | To provide a response to Notice of Motion 725 (Cr Turner) – That Melton City Council officers investigate and report to Council on a strategy to encourage local shopping centres to be proactive in organising the collection up of dumped shopping trolleys around our City. | |

12.10	RESPONSE TO NOTICE OF MOTION 757 (CR RAMSEY) - LOCAL LAW AMENDMENT TO ADDRESS HOON DRIVING	187
	To provide a response to Notice of Motion 757 (Cr Ramsey) in relation to the option of amending Council's General Local Law 2015, to address the problem of hoon-driving.	
12.11	INSTRUMENT OF APPOINTMENT AND AUTHORISATION	199
	To appoint authorised officers under section 147(4) of the <i>Planning and Environment Act</i> 1987 for the purposes and regulations made under that Act.	
13.	REPORTS FROM DELEGATES APPOINTED TO OTHER BODIES AND COUNCILLOR REPRESENTATIONS AND ACKNOWLEDGEMENTS	202
14.	NOTICES OF MOTION	203
14.1	NOTICE OF MOTION 762 (CR VANDENBERG)	203
14.2	NOTICE OF MOTION 763 (CR VANDENBERG)	204
14.3	NOTICE OF MOTION 764 (CR VANDENBERG)	205
14.4	NOTICE OF MOTION 765 (CR TURNER)	206
15.	COUNCILLOR'S QUESTIONS WITHOUT NOTICE	207
16.	URGENT BUSINESS	207
17.	CONFIDENTIAL BUSINESS	208
17.1	RECOMMENDATIONS OF THE CLUB CAROLINE SPRINGS GRANT ASSESSMENT PANEL MEETING	209
	To present the recommendations for the allocation of funds within The Club Caroline Springs Grants for 2020/2021	
17.2	RECOMMENDATIONS FROM THE SEMI-ANNUAL GRANT ASSESSMENT PANEL MEETING	217
	To present the recommendations for the allocation of funds within the Semi-Annual Grants Program (Round one of 2020/2021)	
18.	CLOSE OF BUSINESS	226

1. OPENING PRAYER AND RECONCILIATION STATEMENT

The Chairperson will read the opening prayer and reconciliation statement.

Prayer

'Almighty God we humbly beseech Thee to vouchsafe Thy blessing upon this Council, direct and prosper its deliberations to the advancement of Thy glory and the welfare of the people whom we serve – Amen.'

Reconciliation Statement

Melton City Council acknowledges that the land it now occupies has a history that began with the Indigenous occupants, the Kulin Nation. Council pays its respects to the Kulin Nation people and their Elders and descendants past and present.

2. APOLOGIES AND LEAVE OF ABSENCE

The Chairperson will call for any apologies received from any Councillors who are unable to attend this meeting.

3. CHANGES TO THE ORDER OF BUSINESS**4. DEPUTATIONS****5. DECLARATION OF ANY PECUNIARY INTEREST, OTHER INTEREST OR CONFLICT OF INTEREST OF ANY COUNCILLOR**

Pursuant to Part 6, Division 2 of the Local Government Act 2020 and Council's Governance Rules any Councillor must declare any General Conflict of Interest or Material Conflict of Interest.

6. ADOPTION AND CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**RECOMMENDATION:**

That the Minutes of the Meeting of Council held on 12 April 2021 be confirmed as a true and correct record.

7. SUMMARY OF INFORMAL MEETINGS OF COUNCILLORS**7.1 SUMMARY OF INFORMAL MEETINGS OF COUNCILLORS IN ACCORDANCE WITH CHAPTER 6, RULE 1 OF THE COUNCIL'S GOVERNANCE RULES**

- 12 April 2021 Summary of Informal Meetings of Councillors
- 12 April 2021 Summary of Informal Meetings of Councillors
- 19 April 2021 Summary of Informal Meetings of Councillors
- 26 April 2021 Summary of Informal Meetings of Councillors
- 3 May 2021 Summary of Informal Meetings of Councillors

RECOMMENDATION:

That the Summary of Informal Meetings of Councillors dated 12, 12, 19 & 26 April and 3 May 2021 attached to this Agenda be received and noted.

LIST OF APPENDICES

1. Summary of Informal Meeting of Councillors - dated 12 April 2021
2. Summary of Informal Meeting of Councillors - dated 12 April 2021
3. Summary of Informal Meeting of Councillors - dated 19 April 2021
4. Summary of Informal Meeting of Councillors - dated 26 April 2021
5. Summary of Informal Meeting of Councillors - dated 3 May 2021

8. CORRESPONDENCE INWARD

8.1 PARLIAMENTARIAN AND DEPARTMENTAL LETTERS RECEIVED BY THE MAYOR

- Matthew Schroder – General Manager, Infrastructure & Transport – Access & Pricing at Australian Competition & Consumer Commission - Fuel prices in Melton
- The Hon Melissa Horne MP – Minister for Consumer Affairs, Gaming and Liquor Regulation, Minister for Ports and Freight and Minister for Fishing and Boating – Melton City Council’s 2021—22 State Government submissions.
- The Hon Ben Carroll MP - Minister for Public Transport and Minister for Roads and Road Safety (forwarded by Marlene Kairouz MP) - Palmer Road corridor
- The Hon Shaun Leane MP – Minister for Local Government, Minister for Suburban Development and Minister for Veterans – Melton City Council’s State Budget Submission 2021-2022.
- The Hon Ben Carroll MP – Minister for Public Transport and Minister for Roads and Road Safety – Traffic noise along the Western Freeway in Rockbank

RECOMMENDATION:

That the Parliamentarian and Departmental letters received by the Mayor be received and noted.

LIST OF APPENDICES

1. Letter from Matthew Schroder – General Manager, Infrastructure & Transport – Access & Pricing at Australian Competition & Consumer Commission - Fuel prices in Melton - dated 8 April 2021
2. Letter from The Hon Melissa Horne MP – Minister for Consumer Affairs, Gaming and Liquor Regulation, Minister for Ports and Freight and Minister for Fishing and Boating – Melton City Council’s 2021—22 State Government submissions - dated 12 April 2021
3. Letter from The Hon Ben Carroll MP - Minister for Public Transport and Minister for Roads and Road Safety (forwarded by Marlene Kairouz MP) - Palmer Road corridor - dated 15 April 2021
4. Letter from The Hon Shaun Leane MP – Minister for Local Government, Minister for Suburban Development and Minister for Veterans – Melton City Council’s State Budget Submission 2021-2022 - dated 21 April 2021
5. Letter from The Hon Ben Carroll MP – Minister for Public Transport and Minister for Roads and Road Safety – Traffic noise along the Western Freeway in Rockbank - dated 3 May 2021

9. PETITIONS AND JOINT LETTERS

The Chief Executive will table any petitions and/or joint letters received prior to this meeting.

10. RESUMPTION OF DEBATE OR OTHER BUSINESS CARRIED OVER FROM A PREVIOUS MEETING

Nil.

11. PUBLIC QUESTION TIME

12. PRESENTATION OF STAFF REPORTS

12.1 AUTHORISATION OF AFFIXING THE COMMON SEAL OF COUNCIL

Author: Rebecca Bartlett - Governance Officer
Presenter: Kel Tori - Chief Executive Officer

PURPOSE OF REPORT

To For Council to adopt the schedule of documents requiring the Common Seal of Council.

RECOMMENDATION:

That the Council Seal be affixed to the documentation as detailed in the Schedule for Authorising of Affixing of the Common Seal of Melton City Council dated 10 May 2021.

REPORT

1. Executive Summary

Documents requiring the Common Seal to be affixed are detailed in **Appendix 1**.

2. Background/Issues

Use of the Council Seal is required where Council, as a body corporate, executes a document.

The *Local Government Act 2020* (s.14(1)(b)) prescribes that a Council must have a common seal. Section 14(2) says the common seal of a Council must—

- (a) bear the name of the Council and any other word, letter, sign or device the Council determines should be included; and
- (b) be kept at the Council office; and
- (c) be used in accordance with any applicable local law.

3. Council and Wellbeing Plan Reference and Policy Reference

The Melton City Council 2017-2021 Council and Wellbeing Plan references:

- 5. A high performing organisation demonstrating leadership and advocacy: An organisation operating with innovation, transparency, accountability and sustainability
 - 5.3 *Effective civic leadership, advocacy, partnerships and good governance.*

4. Financial Considerations

There are no financial considerations relating to the use of the Council Seal.

5. Consultation/Public Submissions

Not applicable.

6. Risk Analysis

Ensuring that the Council Seal is only affixed in accordance with a resolution of Council controls the potential risk of the Seal being incorrectly affixed to a document.

7. Options

Not applicable.

LIST OF APPENDICES

1. Authorising of Affixing the Common Seal of Council - dated 10 May 2021

12.2 ADVISORY COMMITTEES OF COUNCIL - AGGREGATED MEETING MINUTES

Author: Rebecca Bartlett - Acting Governance Officer
Presenter: Kel Tori - Chief Executive Officer

PURPOSE OF REPORT

To present the aggregated minutes of Advisory Committee meetings yet to be considered by Council.

RECOMMENDATION:

That Council:

1. adopt the minutes of the Advisory Committee meetings at **Appendix 1 - 4**
 2. adopt recommendations arising within the Minutes.
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REPORT

1. Executive Summary

Whilst not mentioned in the Local Government Act 2020 (the 2020 Act), Council has the power to create Advisory Committees pursuant to its general power set out in section 10 of the 2020 Act.

The minutes of the Advisory Committees attached to this report form a written record of meeting including any matters considered and any conflicts of interest disclosed.

The minutes also serve as the advice/recommendations to Council for its consideration.

2. Background/Issues

An Advisory Committee is a committee established by Council to provide advice to it or its delegate. Whilst not mentioned in the 2020 Act, Council has the power to create Advisory Committees pursuant to its general power set out in section 10 of the 2020 Act.

All advisory Committees are subject to their individual Terms of Reference. The membership varies depending upon the committee's specific role. Committee membership will generally comprise a Councillor(s), council staff and community representatives and may include key stakeholders, subject matter experts and/or community service providers and organisations.

Councillor representation on Advisory Committees is generally for one year and is reviewed annually. Advisory Committees for the 2020/21 municipal year were considered by the Councillor Representation Nominations Advisory Committee (CRNAC) when it met on Monday 23 November 2020.

The minutes of the Advisory Committees attached to this report forms the written record of the committee detailing matters considered and any conflicts of interest disclosed.

The minutes also serve as the advice/recommendations to Council.

Meeting Date	Advisory Committee	Attached
18 March 2021	Early Years Partnership Committee	Appendix 1
1 April 2021	Disability Advisory Committee	Appendix 2
8 April 2021	Intercultural Advisory Committee	Appendix 3
14 April 2021	Melton Transport Community Reference Group (MTCRG)	Appendix 4

3. Council and Wellbeing Plan Reference and Policy Reference

The Melton City Council 2017-2021 Council and Wellbeing Plan references:

5. A high performing organisation demonstrating leadership and advocacy: An organisation operating with innovation, transparency, accountability and sustainability

5.3 Effective civic leadership, advocacy, partnerships and good governance.

4. Financial Considerations

Advisory Committees are not responsible for operational expenditure and cannot direct Council officers to act without the consent of Council. Operational expenses and administrative actions arising from an Advisory Committee meeting are accommodated within Council's recurrent budgets, unless otherwise requested within the minutes of the meeting and detailed in a recommendation to Council for consideration.

5. Consultation/Public Submissions

Advisory Committees are one method of Council consulting and communicating with the community. Such a Committee may be established to provide strategic level input into a broad area of Council operations, such as community safety or arts and culture. An Advisory Committee may also be established for a specific time-limited project, such as a review of a Local Law.

6. Risk Analysis

With a mandatory responsibility to report to Council and restricted to making recommendations for Council consideration, risks attached to Advisory Committee actions are substantially mitigated.

It is prudent for Council to carefully consider any and all recommendations arising from Advisory Committee minutes, as Advisory Committees may canvass significant issues and significant expenditure in their deliberations.

7. Options

Advisory Committees are a Committee of Council, therefore Council has the discretion to accept, reject, amend or seek further information on any of the Committee minutes and/or recommendations.

LIST OF APPENDICES

1. Early Years Partnership Committee Meeting Minutes - dated 18 March 2021
2. Disability Advisory Committee Meeting Minutes - dated 1 April 2021
3. Intercultural Advisory Committee Meeting Minutes - dated 8 April 2021
4. Melton Transport Community Reference Group (MTCRG) Meeting Minutes - dated 14 April 2021

12.3 2020-21 COUNCIL AND WELLBEING ANNUAL ACTION PLAN 3RD QUARTER PROGRESS REPORT

Author: Bob Baker - Corporate Planning and Performance Coordinator

Presenter: Laura-Jo Mellan - Executive Manager Property and Projects

PURPOSE OF REPORT

To provide the third quarter update on the progressive achievement of the Council's 2020-2021 Council and Wellbeing Annual Action Plan

RECOMMENDATION:

That Council receive and note the 2020-2021 Council and Wellbeing Annual Action Plan - Third Quarter Progress Report (1 July 2020 – 31 March 2021) as presented at **Appendix 1**.

REPORT

1. Executive Summary

The 2017-2021 Melton City Council and Wellbeing Plan is prepared in accordance with the *Local Government Act 1989*. The Plan is reviewed on an annual basis to adapt to the evolving needs of our growing community.

Each year, Council produces an Annual Action Plan identifying the activities and initiatives that Council will work towards achieving, which respond to the strategic outcomes and strategies identified in the Council and Wellbeing Plan. This is aligned with the Council's annual budget development process.

The progressive achievement of the Annual Action Plan is reported at the conclusion of each quarter of the financial year, with a final summary provided at the conclusion of each financial year, through the production of Council's Annual Report.

Appendix 1 provides updated details on activity for the third quarter (1 January - 31 March 2021), in the progressive achievement of the 2020-2021 Council and Wellbeing Annual Action Plan.

2. Background/Issues

The Council and Wellbeing Plan is Council's primary vision and strategic planning document that establishes the direction Council has committed to for its term of office (4 years). The Council and Wellbeing Plan contains objectives, strategies and performance indicators.

Each year Council provides a range of services, activities and initiatives for the community. These key strategic activities and new initiatives are included in the development of an Annual Action Plan.

The 2020-2021 Council and Wellbeing Annual Action Plan provides 107 actions that Council has committed to deliver. Council provides the community with quarterly progress reports that support Council's commitment in providing transparency, through public access to relevant information, decision making and strategic documents.

Appendix 1 provides a detailed summary on the status of each action in the 2020-2021 Council and Wellbeing Annual Action Plan, inclusive of the period from 1 July 2020 - 31 March 2021. The areas with a stronger link to health and wellbeing are displayed with a heart icon ♥

The following table provides summary of progress against actions.

Status	Description	Number of actions
Achieved	The Action is completed.	12
On track	The action is on track and expected to be completed by the current timeline	90
Not On Track	The Action has been delayed impacting on the current timeline. An explanation and any remedial action and revised due date, where appropriate, is provided in the 'progress comments' column	5
Postponed	The Action has been deferred for the financial year. An explanation is provided in the 'progress comments' column	0
Total		107

Key achievements this quarter.

- The Eynesbury Station ELC commenced operations in January this year and was officially opened in March. Both the kindergarten service and the Maternal and Child Health services are operating well in the new space.
- The Reconciliation Roadmap 2018-2021 has been completed for 2020/21 and was reported on at the 8 February Ordinary Council meeting.
- A feasibility report on an Arts and Cultural facility in the City has been completed and will be presented to Council on April 19 2021.
- Implementation of a new marketing plan to the local business community including evolving dedicated website for Venture Melton Business Network, a dedicated electronic newsletter to local businesses and growing the Venture Melton Facebook Group has been completed.
- A traineeship program has been established in partnership with AFL Sports Ready. 3 Trainees have commenced within Council.

The impact of Covid-19 has had a significant impact on completing actions during the January to March quarter.

The five actions Not on Track are:

- Implement Sustainability Education Program for community – Progress was delayed pending filling of vacant positions after a department restructure but is now progressing.
- Review Councils tree planting and removal policy to further protect our tree assets – The legal information sought to progress this policy has been delayed due to prioritisation of the implementation of the Local Government Act 2020.
- Plan and deliver the 20/21 Building Component Renewal Program - On site delivery of projects delayed by COVID19 restrictions.
- Develop and enact an engagement program with visitor economy operators - on hold due to other priorities, particularly scoping projects and trader engagement for the \$2 million Melton Town Centre Revitalisation Program.

- Provide minimum bi-monthly targeted Visitor Economy learning and support program through the Venture Melton Business Network - on hold due to other priorities, particularly scoping projects and trader engagement for the \$2 million Melton Town Centre Revitalisation Program.

Upon Council receipt of this update, the Progress Report will be published on Council's website.

3. Council and Wellbeing Plan Reference and Policy Reference

The Melton City Council 2017-2021 Council and Wellbeing Plan references:

5. A high performing organisation demonstrating leadership and advocacy: An organisation operating with innovation, transparency, accountability and sustainability

5.4 An organisation that demonstrates excellence in local government leadership and customer and community service.

4. Financial Considerations

Initiatives and activities delivered from the Action Plan are contained within the Council approved 2020-21 Budget.

5. Consultation/Public Submissions

The 2017-2021 Council and Wellbeing planning process involved extensive consultation with stakeholders including the community, Council staff, government agencies, community organisations and private industry. This process resulted in the publication of the 2017-2021 Melton City Council and Wellbeing Plan. The 2019-2020 Council and Wellbeing Annual Action Plan is prepared from internal consultation of Council management.

6. Risk Analysis

Nil.

7. Options

Nil.

LIST OF APPENDICES

1. 2020-21 Council and Wellbeing Annual Action Plan - 3rd Quarter Progress Report

12.4 COMMUNITY VISION 2041 - PUBLIC EXHIBITION

Author: Michelle Venne-Rowe - Social Planning Officer
Presenter: Coral Cramer - Acting General Manager Community Services

PURPOSE OF REPORT

To present the draft City of Melton Community Vision 2041 and seek endorsement to place the document on public exhibition for 21 days.

RECOMMENDATION:

That Council:

1. Endorse the draft Community Vision 2041 being placed on public exhibition for 21 days effective from Tuesday 11 May 2021.
2. On completion of public exhibition, receive a report on the final Community Vision 2041 at the Meeting of Council to be held 28 June 2021.

REPORT

1. Executive Summary

The Community Vision 2041 is the community's vision for the City of Melton. It was developed by our community, for our community. It will help shape the future of the City of Melton by clearly outlining aspirations and priorities for what the community wishes to see achieved in the next two decades.

The Community Vision 2041 ensures that the community's voice, needs and aspirations are at the heart of Council's work. It provides a long term vision for the municipality along with five themes for achieving that vision that are based on evidence of current and future needs, as well as in depth community consultation.

The Community Vision is now legislated to be incorporated into Council planning, decision making, programs, services and advocacy. Under the *Local Government Act 2020*, the Community Vision will guide Council's work through the development and implementation of its Council and Wellbeing Plan, Asset Plan and Financial Plan.

2. Background/Issues

The first Community Vision—Melton City 2036—The City We Imagine was developed in 2017. Was endorsed by Council at the 6 February 2017 Ordinary Meeting of Council. At this time, Council committed to update it every four years.

The Community Vision 2041 will:

- help shape the future of our City, by outlining community aspirations and priorities
- establish the long term (20 year) community expectations for the municipality, along with five liveability themes for achieving it
- inform the work of Council.

Revisions to the Community Vision 2036

This draft Community Vision 2041 includes changes based on community feedback. The main change is a refresh of the themes, with the addition of 'our actively engaged people' now becoming a central theme in its own right.

The content has also been updated to reflect the changes to the *Local Government Act 2020* and alignment with strategic Council documents. Other minor changes in language and the general layout of the document have also been updated.

1. Council accepts responsibility for carriage of the Community Vision despite it technically being owned by the community.

The Community Vision's five themes are:

- Theme 1: Our Socially Connected City
- Theme 2: Our Thriving Natural Environment
- Theme 3: Our Well-Built City
- Theme 4: Our Strong Local Economy
- Theme 5: Our Actively Engaged People.

3. Council and Wellbeing Plan Reference and Policy Reference

The Melton City Council 2017-2021 Council and Wellbeing Plan references:

5. A high performing organisation demonstrating leadership and advocacy: An organisation operating with innovation, transparency, accountability and sustainability

5.3 Effective civic leadership, advocacy, partnerships and good governance.

4. Financial Considerations

The costs associated with this project have been approved as part of Council's operational budget.

5. Consultation/Public Submissions

Early in 2020, the community was invited to help reshape our original Community Vision—*Melton City 2036—The City We Imagine*. By March 2020, the sudden impact of COVID-19 meant that scheduled face-to-face community discussions went almost exclusively online. Despite this, over 500 of us shared what we love about living in the City of Melton and critiqued what needed to be updated and revisited from the original Community Vision developed in 2017.

In early 2021, Council brought together the City of Melton Community Panel - a panel of 41 randomly selected residents, who were broadly representative of the community as a whole, and who reflected the diversity of neighbourhoods, ages and backgrounds of the community. In March 2021, through deliberative engagement, the Community Panel were invited to contribute the vision statement for Melton City 2041, along with its new title.

Other data sources used to shape the Community Vision include online forums, the Annual Household Survey, participation in community workshops and input provided at community festivals and events (pre March 2020).

6. Risk Analysis

There are no major risks associated with the Community Vision.

7. Options

1. That Council approves the draft Community Vision 2041 being placed on public exhibition for 21 days from the 11 May 2021.
2. That Council does not approve the draft Community Vision 2041 being placed on public exhibition for 21 days

LIST OF APPENDICES

1. City of Melton Community Vision 2041 - undated

12.5 RESPONSE TO NOTICE OF MOTION 759 (CR MAJDLIK) - COUNCIL TO CONSIDER BECOMING A PARTICIPANT IN THE CARER CARD PROGRAM

Author: Anna Munro - Acting Wellness and Engagement Coordinator
Presenter: Coral Crameri – Acting General Manager Community Services

PURPOSE OF REPORT

To respond to Notice of Motion 759 (Cr Majdlik) as endorsed at the 12 April 2021 Meeting of Council.

RECOMMENDATION:

That Council:

1. Become a participant in the Victoria State Government Carer Card Program.
2. Explore further opportunities in existing and new Councils programs to provide Carer Card holders with additional offers and discounts to enjoy; and
3. Actively communicate, promote and provide information to local businesses and Carers who may be interested in registering or applying for the Carer Card Program.

REPORT

1. Executive Summary

At the 12 April 2021 Meeting of Council, Council resolved via Notice of Motion 759 raised by Cr Majdlik that:

In recognition and acknowledgment of the contributions that Carers make in our community, Council officers provide a report outlining the requirements, costs and benefits for Council to become a participant in the Carer Card Program, recognising and offering the appropriate discounts for Carer Card Holders.

This report is presented to Council for consideration in response to Notice of Motion 759.

2. Background/Issues

The Victorian Carer Card recognises the significant contribution carers make to the lives of people they care for and the communities in which they live.

More than 140,000 primary carers in Victoria play a critical role in supporting others in the community, including people with a disability or mental illness, children in foster care, and an increasing number of frail aged.

The purpose of the Carer Card Program is to recognise the incredible unpaid work that carers do in our community.

Of the 79 Councils across Victoria, the majority (56 Councils) are already enthusiastically supporting the Carer Card Program and actively participating in providing Carers with a variety of discounts and offers to local aquatic, recreation, sporting and performing arts venues.

Benefits for Carers & businesses:

The Carer Card provides carers with a wide range of discounts and benefits on offer from businesses, local government and community organisations.

From July 2019, Carer Card holders benefit and enjoy the same discounts available to Seniors Card holders. There are more than 4,000 participating businesses whose discounts are now available and these include a range of goods and services including:

- eating out
- shopping
- getting help with your finances
- leisure and recreation activities like seeing a movie at a Village cinema.

Carer transport concessions are also available for Carer Card holders, including half price public transport on weekdays, free weekend travel vouchers and free travel during Carers week. This is in addition to the free travel in two consecutive zones on weekends that carers are currently entitled to. Cardholders also have access to two or four free off-peak travel vouchers per year (depending on where they live) and can register for free travel vouchers via the Public Transport Victoria (PTV) website.

As for all participating businesses, they will be listed on the Victoria State Government online business directory. A range of promotional materials will also be provided to assist businesses in communicating participation in the program, such as stickers for registers and window displays.

Eligibility requirements for Carers & businesses:

To be eligible for a Carer Card, Carers must be a resident of Victoria and either:

- the primary carer of a person with a disability, severe medical condition or mental illness, or someone who is frail aged or in need of palliative care; or
- a foster, kinship or respite carer.

Eligibility can be confirmed by:

- providing the Centrelink Customer Reference Number (CRN) or the Department of Health & Human Services Vendor Number if in receipt of a carer payment or allowance; or
- verification of eligibility from a medical professional.

Professional carers that receive a wage for providing care are not eligible for a Carer Card.

All businesses wanting to participate in the Carer Card Program can complete the online form.

The Carer Card Program retains absolute discretion to refuse any business registration. Businesses that will not be accepted by the program include those that in the opinion of the Department of Families, Fairness and Housing:

- are characterised by volatility of operators or financial instability
- have an unfavourable record in relation to vulnerable customers
- propose an offer that creates difficulties when determining the actual benefit or discount
- provide goods or services inconsistent with Carer Card program principles.

Businesses participating in the program must:

- be of good standing and cannot contravene Acts administered by Consumer Affairs Victoria, other State or Commonwealth Departments, or any other consumer interest group or statutory authority

- operate on the basis of clearly advertised or displayed pricing levels
- not contravene any legislative provision or professional ethical standards.

3. Council and Wellbeing Plan Reference and Policy Reference

The Melton City Council 2017-2021 Council and Wellbeing Plan references:

1. A proud, inclusive and safe community: A City of people leading happy and healthy lives
 - 1.3 *Equitable, inclusive and accessible community and health infrastructure and services.*

4. Financial Considerations

There is no fee to join the program for carers or businesses. Program administration is fully funded by the Victorian Government.

A minor financial impact may apply once Council invests in providing additional offers and discounted services or programs for the Carer Card Program.

5. Consultation/Public Submissions

Officers have consulted with Council's Economic Development and Tourism and Communications departments in regards to the opportunity to actively communicate, promote and provide information to local businesses and Carers who may be interested in registering or applying for the Carer Card Program.

Further consultation with Carers at the Carers Hub at 5 McKenzie Street (once established) and the 2021 Care Melton Expo in October 2021 will occur.

Council will also explore and consult accordingly opportunities in existing and new Council services or programs to provide Carer Card holders' additional offers and discounted benefits to enjoy from Local Government.

6. Risk Analysis

Nil.

7. Options

Council has the option to:

1. Endorse the Officers recommendations as printed in this report.
2. Not proceed with the Carer Card Program initiative.

LIST OF APPENDICES

Nil

12.6 PLANNING APPLICATION PA 2020/7160 - DEVELOPMENT OF THREE DOUBLE STOREY DWELLINGS AT 17 CANTERBURY CIRCUIT, MELTON SOUTH

Author: Joseph Oyelowo - Development Planner
Presenter: Bob Baggio - Manager Planning Services

PURPOSE OF REPORT

To consider and determine the above planning application.

RECOMMENDATION:

That Council issue a Notice of Decision to Refuse to Grant a Permit subject to the grounds outlined in **Appendix 5** of this report.

REPORT

1. Background

This planning application was reported to Council at its last meeting on 12 April 2021, where Council resolved “that consideration of this item be deferred to the Meeting of Council to be held on 10 May 2021 to allow for the clarification of a number of matters.”

These matters essentially related to an email sent to Councillors before the meeting which indicated that a similar three dwelling development had previously been approved by Council on a nearby site at 13 Canterbury Circuit. On that basis, it was argued by the applicants that this proposal would not be out of character with other developments approved in this area.

This matter will be discussed further in the report, suffice to say that in the officers’ opinion, it doesn’t change the recommendation.

Executive Summary

Applicant:	Custovic Design
Proposal:	Three double storey dwellings
Existing Land Use:	Vacant Land
Zone:	General Residential Zone – Schedule 1
Overlays:	No
Number of Objections:	12
Key Planning Issues:	Strategic justification Respect for Neighbourhood character Intensification of development Amenity impacts, such as overshadowing, overlooking, solar access and noise Traffic and parking Increase in noise
Recommendation:	Refuse application

The Land and Surrounding Area

The subject land has an area of 833m² and is located on the northern side of Canterbury Circuit in Melton South. The land is within a residential estate known as the Hartland Estate. Other features of the land are as follows:

- The land is irregular in shape and vacant.
- An existing single width crossover is located near the south-western corner of the land.
- There is one street tree directly opposite the subject land.

The surrounding area can be characterised as a developing residential area comprising of single and double storey dwellings.

Apart from the subject land, there are a number of other vacant sites in the surrounding area, which are large enough to accommodate some form of medium density housing, subject to a planning permit. The adjoining site at 15 Canterbury Circuit, has an area of 663m² however at this stage no planning application has been lodged with Council for development. 13 Canterbury Circuit on the other hand, has an area of 860m² (similar to the subject site) with the most recent Council approval for two single storey dwellings. What is interesting however, was that originally a permit for three single storey dwellings was approved by Council, and that this was subsequently amended to the current development at the request of the applicants.

Refer to **Appendix 1** for a locality plan

The Application

The application proposes the development of the land with three double-storey dwellings.

The proposed development is summarised as follows:

- The dwellings are staggered down the land.
- Dwelling 1 contains four bedrooms and provided with a single car garage with a tandem space in front of the garage.
- Dwelling 2 and 3 contains three bedrooms each and provided with a double car garage and a single car garage with an open car space in tandem respectively.
- The proposed dwellings will have a contemporary design with a range of external wall materials including brick-veneer and render, tiled roofs and aluminium framed windows and doors.
- All dwellings will make use of the existing crossover.

Refer to **Appendix 2** for plans of the proposal

Planning Controls

Planning Policies	Clause 11 – Settlement Clause 15 – Built Environment and Heritage Clause 16 – Housing	The proposal is inconsistent with the relevant Planning Policies with respect to neighbourhood character.
Local Planning Policies	Clause 21 – Municipal Strategic Statement Clause 21.02 – Settlement Clause 21.07 – Built Environment and Heritage Clause 21.08 – Housing Clause 22.12 – Housing Diversity Policy	The proposal is inconsistent with the relevant Local Planning Policies with respect to neighbourhood character.
Zone	Clause 32.08 – General Residential Zone	A permit is required to construct two or more dwellings on a lot.
Overlays	Not applicable	Not applicable.
Particular Provisions	Clause 52.06 – Car Parking Clause 55 – Two or more Dwellings on a lot and Residential Buildings	The proposal is inconsistent with the objectives and standards of Clause 55 with respect to neighbourhood character.

A full list of the relevant Planning Policies within the Melton Planning Scheme is included in **Appendix 3**.

Clause 55 – ResCode

Under the requirements of the zone, the development of two or more dwellings on a lot must meet the requirements of Clause 55 of the Planning Scheme. Clause 55 requires that a development:

- must meet all of the objectives
- should meet all the standards.

If the Council however is satisfied that an application for an alternative design solution meets the objective, the alternative design solution may be considered.

The City of Melton Housing Diversity Strategy

In May 2014 Council adopted The City of Melton Housing Diversity Strategy. The Strategy provides a 20-year plan that establishes the types of housing needed and the suitability of different residential locations to accommodate different rates of housing change. According to the Council's Housing Diversity Strategy detached housing is expected to remain the predominant housing type and main source of additional housing supply in General Residential Zoned areas.

The Melton Housing Diversity Strategy locates the site within the existing character area 1: Melton. Area 1 constitutes the dominant residential character of the residential estates positioned to the northern, western and southern urban fringes of Melton. The various

precincts which make up Area 1 range in size from smaller pockets (located to the south) and larger more expansive estates (located to the north and west), but all consist of newly established residential development, which represents recent expansion of the existing township. This area broadly typifies a 'standard suburbia' format consisting of single and double storey detached dwellings with dominant garage frontages. While there are a range of styles, brick and render is a consistent material palette.

House Rules - Housing Character Assessment & Design Guidelines

The Housing Character Assessment & Design Guidelines was adopted at the Ordinary Meeting of Council on 13 October 2015. The site is located within the Compact Suburban 1 (CS1) character area. The essential components of the CS1 which need to be maintained into the future are:

- Majority of the front setback used as permeable garden landscape
- Absence of front fencing
- Limited visual separation between dwellings.

The preferred Character Statement requires that as change occurs, space will be provided for more tree planting, so these areas can become greener and leafier, by:

- Retaining sufficient space to grow a canopy tree in the front setback
- Minimising interruption of nature strips by driveways, so that regularly-spaced street tree avenues can be planted or retained.

Redevelopment of dwellings will occur in ways that maintain some characteristics of typical Garden Suburban style dwellings in the area, such as:

- Garages and carports occupy a minor proportion of the dwelling frontage
- The visual dominance of the roof structure.

Is the land affected by a Restrictive Covenant?

The land is affected by two Restrictive Covenants; however the proposal does not breach any conditions of the Covenants.

Is the land of Cultural Heritage Sensitivity?

The land is considered to be of cultural heritage sensitivity under the *Aboriginal Heritage Regulations 2007*; however exempt from requiring the preparation of a Cultural Heritage Management Plan as the development of three or more dwellings is an exempt activity provided the subject land is less than 0.11 hectares (1100sqms) and is not within 200 metres of the coast or the Murray River.

2. Council and Wellbeing Plan Reference and Policy Reference

The Melton City Council 2017-2021 Council and Wellbeing Plan references:

3. A well planned and built City: A City with a clear vision to manage growth in a sustainable and accessible way.

3.1 A City that strategically plans for growth and development.

3. Financial Considerations

No Council related financial considerations are involved with the application.

4. Consultation/Public Submissions

Public notification of the application

The application was subject to notification. The notification was satisfactorily completed and 12 objections were received.

The grounds of objection may be summarised as follows:

- The proposed development is not respectful of neighbourhood character;
- The proposal is an overdevelopment;
- Scale and visual bulk of the double storey dwellings;
- Overlooking;
- Overshadowing;
- Increase in noise; and
- Increase in traffic.

A response to the objections is provided in **Section 5** below.

Referral of the application

The application was referred to a number of Council Departments for comment and advice. A complete list of responses is included in **Appendix 4**.

5. Issues

Planning Assessment

The proposal has been assessed against and deemed to be inconsistent with the relevant State and Local Planning Policies, Zoning provisions, Particular provisions and fails to satisfy the decision guidelines at Clause 65 of the Melton Planning Scheme.

Strategic Justification

The proposal meets the overarching objectives of the housing policies within the Planning Policy Framework as it would provide for urban consolidation in an area that has good access to local services and facilities. The Housing Diversity Policy seeks to encourage a range of affordable housing options within the municipality, but also to identify increased residential densities in strategic locations.

The site is reasonably located to established services and facilities including open space, schools and community facilities. A bus stop is located along Rees Road, within a short walking distance from the subject land. The bus stop provides future residents with full access to public transport. The development of the land for three dwellings would add housing diversity at the same time making good use of existing infrastructure and services.

The Housing Diversity Strategy (HDS) identifies that the GRZ is an area where some change, including change of the nature that is proposed, is to be expected. The expected housing type in the GRZ is a mixture of single dwellings, dual occupancies with some villa units and in limited circumstances, townhouses, where appropriate. The type of housing proposed in this case is consistent with the expected housing type.

Although the proposal would meet the objectives of urban consolidation and maximising use of existing services and infrastructure, the proposal fails to respect the neighbourhood character of the area. A balance has not been struck with respect to neighbourhood character and housing growth as part of this proposal.

Neighbourhood character and intensification of development

It is recognised that the immediate surrounding area is characterised by low scale buildings and of a detached nature, with backyards, and only carports or garages constructed on one side boundary. It is worth noting however that there are examples of approved multi-unit development in the surrounding area as follows:

- 13 Canterbury Circuit – PA2019/6865 - Development of the land with two single storey dwellings;
- 31 Albert Drive – PA2019/6454 - Development of the land with two single storey dwellings;
- 32 Albert Drive – PA2019/6274 - Development of the land with two single storey dwellings;
- 8 Cardigan Close – PA2018/6427 - Development of the land with two double storey dwellings;
- 10 Cardigan Close – PA2018/6428 - Development of the land with two double storey dwellings; and
- 12 Cardigan Close – PA2019/6809 - Development of the land with two dwellings (one single storey and one double storey dwelling).

The original proposal for the application consisted of four double storey dwellings and two vehicle accessways. The applicant was informed that a proposal for four double storey dwellings would be considered too intense in the General Residential Zone and would likely result in neighbourhood character issues. The applicant revised the design several times and the final proposal is for the development of three double storey dwellings and the use of one vehicle crossover instead of two.

The objectors contend that the scale and visual bulk of three double-storey dwellings is not in keeping with the existing neighbourhood character of the area. The proposed development must respond in a meaningful way to the site and its surrounds. For a design to respond appropriately to the existing neighbourhood character, it needs to be more than having all separate houses: it is also about setbacks, building massing, and the way the buildings are separated. Council Officers consider that two singles or a double and a single would be more appropriate for this site.

The applicants contend that the proposal will be respectful of neighbourhood character as similar developments have been approved in the surrounding area, as outlined above. In particular, attention is directed to the permit issued previously for 13 Canterbury Circuit. In relation to this permit, it is worth noting that the site has a wide frontage to the road and proposes single storey dwellings, which is more in keeping with the scale of existing development in the immediate area.

The use of the existing crossover and accessway means the majority of the front setback will continue to be used as permeable garden landscape in accordance with the Compact Suburban 1 (CS1) character area. However, the proposed side setbacks is not consistent with the neighbourhood character as it does not maintain a continuous rhythm of building spacing in the streetscape.

The building massing of the proposed development is considered to be inappropriate for the surrounding area. Although there is limited change to the Canterbury Circuit streetscape however, significant change will be seen from the adjoining properties to the north and east of the site. The scale and visual bulk of the proposed dwellings is not adequately addressed through the setbacks or articulation of walls.

The General Residential Zone anticipates housing growth which facilitates a diversity of housing types in locations offering good access to services and transport which is achieved on this site. Though the proposed dwellings make better use of the land by providing increased housing in an area that can take advantage of existing infrastructure, services and transport links, it is considered that the proposed development is not respectful of the prevailing neighbourhood character and a suitable response has not been provided.

Overshadowing existing secluded private open space

The submitted overshadowing diagrams shows that more than 40 square metres of the secluded private open space of the property to the north and east of the subject land will receive more than five hours of sunlight between 9am and 3pm on 22 September. Noting that only a small portion of the secluded private open space of these dwellings are overshadowed between these hours. Hence, the proposal complies with Standard B21.

Overlooking and internal views

Objectors are concerned about overlooking into their backyards. The habitable room windows of Dwelling 1, 2 and 3 complies with Standard B22. All windows have a fixed, obscure glazing in any part of the window below 1.7 metres above floor level in accordance with Standard B22.

It has been deemed that the all proposed windows are designed to comply with Standard B23 (internal views into the secluded private open space and habitable windows of dwellings within the development).

Noise

Objectors are concerned about the increase in noise from future residents of the proposed development. Whilst noise issues can arise as result of the development, the noise generated will be residential in nature and not unreasonable in a residential area.

Detailed Design

Clause 55.06-1 encourages design detail that respects the existing neighbourhood character, and site services. As mentioned above the proposal does not comply with the relevant standards in relation to design that respects the existing neighborhood character.

Traffic and Parking

Residents have expressed concern regarding insufficient car parking and increased traffic volumes as a result of the development. The proposed development is considered unlikely to impose vehicle movements that will exceed that which is common to residential traffic volumes. Council's Traffic Officers have not raised any concerns regarding increased vehicle traffic.

The amount of car parking to be provided for residents as on-site car parking is adequate. Clause 52.05 of the Melton Planning Scheme requires that the proposal provides one on-site car parking space for every one or two bedroom dwelling and two on-site car parking spaces for every three or more bedroom dwellings. The proposed development makes provision for six on-site car parking spaces. Hence, there will be no need for on-street parking.

6. Options

Council can either support the application by issuing a Notice of Decision to Grant a Permit or not support the proposal by issuing a Notice of Refusal.

7. Conclusion

The application has been assessed against the State Planning Policy Framework, Local Planning Policy Framework, Zone provisions and Clause 65 of the Melton Planning Scheme.

It is considered that the proposal does not comply with the relevant requirements of the Planning Scheme.

Therefore, it is recommended that the application be refused as outlined in **Appendix 5**.

LIST OF APPENDICES

1. Locality Plan - dated 8 January 2021
2. Plans for the proposal - dated 4 February 2021
3. Relevant Planning Policy Provisions - dated 15 January 2021
4. Referral Responses - dated 15 January 2021
5. Notice of Refusal to Grant a Permit - dated 3 March 2021

12.7 PLANNING APPLICATION PA 2020/7288 - USE AND DEVELOPMENT OF THE LAND FOR TWO LEACHATE PONDS FOR THE EXISTING LANDFILL AT 227 RIDING BOUNDARY ROAD, RAVENHALL

Author: Joseph Oyelowo - Development Planner
Presenter: Bob Baggio - Manager Planning Services

PURPOSE OF REPORT

To consider and determine the above planning application.

RECOMMENDATION:

That Council issue a Planning Permit subject to the conditions outlined in **Appendix 6** of this report.

REPORT

1. Background

Executive Summary

Applicant:	ESA2 Pty Ltd
Proposal:	Use and development of the land for two leachate ponds for existing Melbourne Regional Landfill (MRL)
Existing Land Use:	Extractive industry and Landfill
Zone:	Special Use Zone – Schedule 1 (SUZ1)
Overlays:	Specific Control Overlay (SCO5)
Number of Objections:	Not applicable as the application was not advertised
Key Planning Issues:	Environmental impacts Amenity impacts on the surrounding land uses
Recommendation:	Approve application

Planning History

The existing Melbourne Regional Landfill operates under a number of planning permits, the main one being Planning Permit PA2091/97, issued in July 1998, which allowed the development of the site as a municipal waste landfill in six stages. The permit was amended in June 2004 to allow operation 24 hours a day, 7 days a week.

The MRL has been operating at Ravenhall since the late 1990s. Up until 2015 it was run by Boral when the operation was taken over by Landfill Operations Pty Ltd, a wholly owned subsidiary of Cleanaway.

The landfill operates by backfilling basalt quarry voids and then creating a landfill mound above natural ground surface. The existing operation has capacity to take waste for approximately another 5 years.

Council would be well aware of the planning permit application lodged in February 2016, which proposes the major expansion of the landfill into the western and northern parts of the overall quarry land. This application was 'called-in' by the Minister for Planning, and has been subject to years of planning hearings and subsequent legal proceedings, which continue to this day. If eventually approved, the expansion would make the landfill one of the largest in the State.

Further more recently, the Minister for Planning has approved Planning Scheme Amendment C222 which would enable the storage, testing and disposal of contaminated spoil from the West Gate Tunnel Project at the MRL site.

Refer to **Appendix 1** for the existing landfill and future landfill expansion on the land.

The Land and Surrounding Area

The land is broadly bounded by Hopkins Road to the west, the Melbourne–Ballarat Railway Line to the east, Christies Road to the east and Middle Road to the south. The land has been located within the Urban Growth Boundary (UGB) since 2010.

More specifically, the location for the proposed development is relatively central to the overall quarry / landfill site, roughly west of the boundary of the permitted landfill and north of the proposed expanded landfill area.

Refer to **Appendix 2** for a locality plan.

The Application

Landfill Operations propose to increase capacity of their leachate pond system at the Melbourne Regional Landfill. The proposal is to install two additional leachate ponds with a combined capacity of 20ML for the existing landfill, increasing total leachate storage capacity to 48ML at the site. Leachate is currently pumped to leachate ponds located in the northern portion of Stage 2 of the landfill.

The purpose of the leachate pond is to store the percolated water that drains at the base of a landfill cell resulting from rainwater and decomposition of waste. The pond liner design has been engineered to consist of structural fill, clay liner, plastic geomembrane and geosynthetic liner system that is compliant with EPA Best Practice Environmental Management.

The proposed new leachate ponds are designed to have an unroofed surface area of 1.6 Ha and a combined capacity of 20ML, which will result in a total of 48ML of leachate storage capacity at the site. The pond embankment height is designed to maintain a safe freeboard of 500mm (above storage capacity) which is in accordance with EPA best practice.

Prior to the design of the new leachate ponds, Cleanaway met separately with EPA and Melton City Council. The design brief confirmed the pond location was strategically positioned at the lowest point of the quarry pit (approx. 10m below surrounding land) and within the central half of the site (furthest point to the site fence and sensitive receptors). The leachate ponds are outside of the current landfill operation and outside of the landfill expansion area. Locating the pond in the most suitable position was a key consideration in attempts to address any potential risks of odour and visual impact as well as dust control during construction and ongoing operation of the ponds once commissioned. The ponds will have an odour curtain around their perimeter as part of Cleanaway best practice and odour management.

The option towards the centre of the site was chosen due to the following desirable criteria:

1. Well screened visually by topography and the vegetation around the boundary of the premises, reducing visual impact.
2. In an area where the ground condition is already heavily disturbed from quarrying activities.
3. Greater than 900m from the nearest sensitive receptor, achieving a reduced risk of amenity impact.
4. Power able to be connected from nearby existing sources.
5. Enough capacity for future requirements (20ML).
6. Accessible from the current landfill.
7. On stable land to prevent subsidence; and
8. On Boral owned land in which Landfill Ops intend to use and manage in future.

Noise emissions for the proposed leachate ponds can be divided into two distinct phases:

1. Construction Phase: The construction of the leachate ponds will be conducted during daytime hours (07:00 to 18:00 Monday-Friday and 07:00 to 13:00 Saturday). Noise emissions will be from mobile plant and trucks.
2. Operational Phase: Noise during the operational phase will be limited to mechanical agitators/

Prior to construction works commencing a Construction Environmental Management Plan (CEMP) is proposed to be prepared to meet the requirements of EPA Publication 480, EPA Publication 275, EPA Publication 788 and EPA Publication 1323. As part of the construction management, no night time construction works are proposed.

Refer to **Appendix 3** for plans of the proposal

Planning Controls

Zone	(Clause 37.01-1 – Schedule 1 Special Use Zone)	Permit required for use and building and works associated with a refuse disposal facility.
Overlays	(Clause 45.12 – Specific Controls Overlay (SCO5))	The SCO5 specifies controls in the Incorporated Document 'Ravenhall Spoil Processing Facility, October 2020' which permits the use and development of the land covered by the SCO5 for the receipt, storage, treatment, handling, testing analysis, containment, placement, and removal off-site of spoil generated by the construction of the West Gate Tunnel Project. The Incorporated Document does not restrict or otherwise affect any use or development of the land for any purpose that is lawful under the Scheme.
Particular Provisions	(Clause 52.08– Earth and Energy Resource Industry)	A permit is required to use and develop land for earth and energy resources industry.
	(Clause 52.09- Stone extraction and extractive industry areas)	The subject site is included within the area that has been approved for quarrying. The development of the land for two additional leachate ponds does not prejudice the sites future quarrying feasibility.

Refer to **Appendix 4** for relevant Planning Policy provisions

Is the land affected by a Restrictive Covenant?

The land is not affected by a Restrictive Covenant.

Is the land of Cultural Heritage Sensitivity?

The land is considered to be of cultural heritage sensitivity under the *Aboriginal Heritage Regulations 2007*; however the proposal constitutes an exempt activity which does not require a cultural heritage management plan.

2. Council and Wellbeing Plan Reference and Policy Reference

The Melton City Council 2017-2021 Council and Wellbeing Plan references:

3. A well planned and built City: A City with a clear vision to manage growth in a sustainable and accessible way.

3.1 *A City that strategically plans for growth and development.*

3. Financial Considerations

No Council related financial considerations are involved with the application.

4. Consultation/Public Submissions

Public notification of the application

Given the location of the proposed ponds, the application was not subject to notification as it is considered that the amenity of surrounding residents will not be affected.

Referral of the application

The application was referred to a number of Council Departments for comment and advice. The application was also required to be referred to Environmental Protection Authority (EPA) and Department of Economic Development, Jobs, Transport and resources (DEDJTR), who did not offer any objection to the proposal.

A complete list of responses is included in **Appendix 5**.

5. Issues

Planning Assessment

A recommendation to support the proposal is based on an assessment against the requirements of the Melton Planning Scheme.

Environmental impacts

EPA confirms that the Works Approval application as per this proposal has been lodged. EPA advises that the potential environmental impacts from the proposed works will be fully assessed by EPA through the works approval process. However, EPA does not object to Council granting a planning permit for the above application, subject to EPA approval of the works approval under the *Environment Protection Act 1970*. Therefore EPA requests that the following permit note be included on the planning permit, should the permit be issued:

1. This permit is not an EPA works approval or licence.
2. Before the use or development authorised under this permit starts, the permit holder must ensure that any obligations or duties that arise under the Environment Protection Act 1970 are met. This may include obtaining a works approval or licence.

EPA's recommended permit note will be included on any permit issued by Council. A Construction Environmental Management Plan will also form part of the conditions should the permit be issued. This plan will mitigate the potential impact of the construction phase of the leachate ponds on the environment and surrounding land uses.

Amenity impacts on the surrounding land uses

It is considered that Council should assess the proposal based on whether adequate controls have been put in place, or can be put in place, to ensure the proposed use and development will not result in unreasonable amenity impacts on the surrounding area.

In regard to odour an air impact assessment was undertaken by Ektimo Pty Ltd that involved odour monitoring of the existing leachate ponds at the Melbourne Regional Landfill. The assessment considered the current operation of the existing leachate ponds onsite, and in addition an odour dispersion modelling was undertaken, to assess the potential impacts the proposed leachate ponds may have on sensitive land uses, and whether the additional ponds would contribute to cumulative odour emissions from the site. During the monitoring rounds it was noted that at the immediate existing leachate pond location, the ponds had odour characteristics with notes of seawater and algae and odour was noted as strong up to 15 metres from the perimeter of the ponds. Strong odour intensities were not observed beyond 15 metres. Weak intensities of odour were observed from 20 to 50 metres downwind of the liquid surface. The assessment concluded that the current ponds onsite were being managed well and there was a negligible odour contribution from them compared to other odour sources at the site. The assessment also concluded that odours emitted from the current ponds, is considered an accurate indication of odours expected from the proposed ponds with the same landfill source for leachate.

In regard to noise pollution, noise emissions from the site must comply with the State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1 (SEPP N-1). Compliance with SEPP N-1 is mandatory for all commercial premises in the Melbourne Metropolitan area under Section 46 of the *Environment Protection Act 1970*. The leachate ponds are to be located centrally within the quarry site and immediately west of the current landfill. The closest residence is located approximately 900m south west of the land. It is anticipated that during the construction phase, noise will be limited to daytime hours. In the operation phase of the leachate ponds, noise will be limited to mechanical agitators/aerators. The leachate ponds will have negligible noise contribution once construction is complete. Conditions on the permit will require that SEPP N-1 requirements must be met. This conditions is adequate to manage any noise impacts generated from the land.

In regard to traffic after the construction period, the proposed leachate ponds will not generate additional traffic movements on and off the site as the leachate ponds are a component of the existing landfill operation and will be accessed by the landfill site only.

6. Options

Council can either support the application by issuing a Notice of Decision to Grant a Permit or not support the proposal by issuing a Notice of Refusal.

7. Conclusion

The application has been assessed against the State Planning Policy Framework, Local Planning Policy Framework, Zone/Overlay provisions and Clause 65 of the Melton Planning Scheme.

It is considered that the proposal generally complies with the relevant requirements of the Planning Scheme.

Therefore, it is recommended that the application be approved as outlined in **Appendix 6**.

LIST OF APPENDICES

1. Existing Landfill and Future Landfill Expansion - dated 22 December 2020
2. Locality Plan - 24 March 2021
3. Plans for the proposal - dated 22 December 2020
4. Relevant Planning Policy Provisions - undated
5. Referral Responses - undated
6. Notice of Decision to Grant a Permit - undated

12.8 RESPONSE TO NOTICE OF MOTION 636 (CR ABBOUSHI) - SUGARGUM ESTATE, HILLSIDE SPECIAL CHARGE SCHEME

Author: Bhavin Mehta - Principal Planning Engineer
Presenter: Luke Shannon - General Manager Planning & Development

PURPOSE OF REPORT

To respond to Notice of Motion 636 (Cr Abboushi) and provide design and costings for Sugargum Drive development as well as a summary of options for a potential Special Charge Scheme for construction of footpath and drainage for Councillors future consideration.

RECOMMENDATION:

That Council:

1. Endorse Option 3 as presented within this report.
 2. Advise its intention to implement a Special Charge Scheme for Sugargum Drive allowing Council officers to commence preliminary community consultation with the preferred option.
 3. Receive a report at a future meeting of Council presenting a Special Charge Scheme Policy.
-

REPORT

1. Executive Summary

At its Ordinary Meeting held 22 July 2019 Notice of Motion 636 (Cr Abboushi) was carried. The resolution was:

That Council:

1. *Undertake the preparation of comprehensive functional layout plans for the provision of kerb and channel and footpaths within the Sugargum Estate to enable appropriate costings to be undertaken for these works.*
2. *Upon completion of the comprehensive functional layout plans that Council officers undertake extensive consultation with the residents within the estate regarding the potential scope of works, costings and their willingness to contribute financially through a special charge.*

Council officers have assessed the request, and have produced detailed designs including construction costs estimated at \$3.5M.

Presently, Melton City Council has approximately 70km of road network with no footpaths and additionally approximately 80km of connector and arterial road network with under provision of footpaths (i.e. footpaths only on one side of busy roads or missing connections). Consequently, there are a number of high risk footpath projects across the municipality that would get a precedence over provision of footpaths within the Sugargum Estate in the event that it was financed solely by Council funds.

It is recommended that Council adopt Option 3 presented for a Special Charge Scheme for the provision of footpaths within Sugargum Estate and endorse the development of a Special Charge Scheme Policy for future implementation.

2. Background/Issues

At its Ordinary Meeting held 22 July 2019, Notice of Motion 636 (Cr Abboushi) was carried. The resolution was:

That Council:

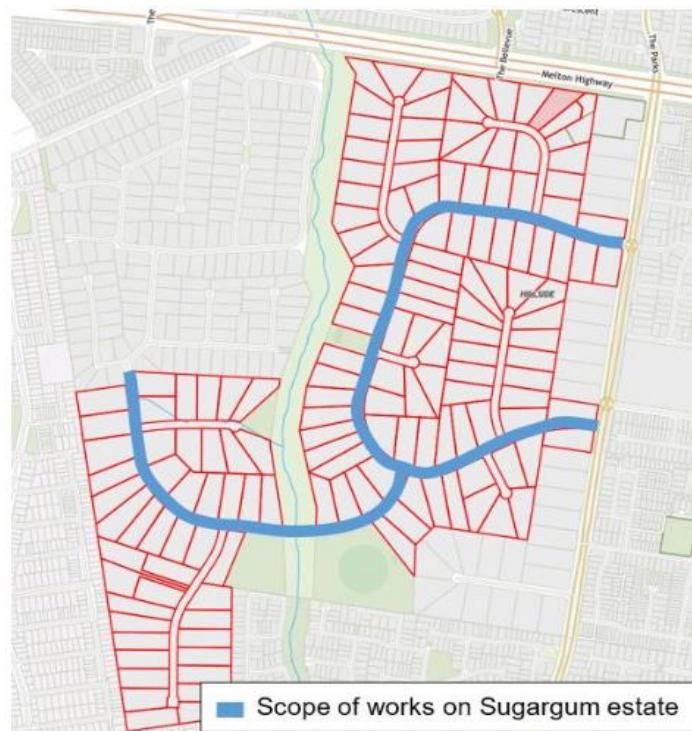
1. *Undertake the preparation of comprehensive functional layout plans for the provision of kerb and channel and footpaths within the Sugargum Estate to enable appropriate costings to be undertaken for these works.*
2. *Upon completion of the comprehensive functional layout plans that Council officers undertake extensive consultation with the residents within the estate regarding the potential scope of works, costings and their willingness to contribute financially through a special charge.*

Subsequently, officers have prepared functional layouts as well as preliminary costings for footpath and drainage works for Sugargum Drive and Boronia Drive excluding other small court bowls within the Sugargum Estate. Preliminary costs for construction of footpath and drainage works were estimated between \$3.0M and \$4.0M, however there were several concerns in relation to service provision and cost overruns.

Due to significant unknowns at the time, it was decided to develop detailed designs and tender ready documentation prior to public consultation for a Special Charge Scheme. Engineering Services have now completed detailed designs and total construction cost is estimated at \$3.5M, of which approximately \$500k is for footpath works and the remaining \$3.0M is attributed towards drainage and other services works.

Site Assessment:

The image below provides an overview of Sugargum Estate and 150 rate paying properties that would get some benefit only from footpath works. Properties that only front Gourlay Road or Grevillea Close has been excluded from the consideration as they would not get any benefit from the works.



Additionally, only 76 rate paying properties out of 150 are fronting the scope for works and would directly benefit from both footpath and drainage works. This is shown in the image below. In addition to 76 rate paying properties, 5 Council open space reserves would also get some benefit from footpath works as they directly front the scope of works.



Special Charge Scheme Options Assessment:

Considering the property numbers mentioned above, following options are presented to Council for consideration in relation to a Special Charge Scheme;

Option 1: Area wide charge scheme

This option considers the total cost of civil works and distributes evenly across 150 rate paying properties in addition to 5 Council properties. It is likely to be highly contentious option due to fairness and equity as only 76 properties out of 150 directly benefit from the drainage works.

Option 2: Charge scheme for properties fronting the scope of works (direct beneficiaries)

Under this option, the total cost of civil works is distributed evenly across 76 rate paying properties in addition to 5 Council properties. Similar to Option 1, this option is likely to be unpopular as only 76 rate paying properties subsidise footpath for all 150 properties.

Option 3: Hybrid option of area wide charge scheme

This option is essentially a hybrid between the Option 1 and Option 2. It considers the cost of the footpath (\$500K) and distributes it evenly across 150 private plus 5 Council properties, while the costs of drainage works (\$3.0M) is distributed across 76 private plus 5 Council properties.

Options 1 to 3 are standard industry practice and have been implemented across various Councils including Cardinia, Mornington Peninsula and apportions the total cost of project directly to the beneficiaries, in this instance majority of private property owners.

Option 4: Footpath component fully funded by Council

Under this option, Council can consider the health and community benefits provided by provision of footpaths and choose to fully fund the footpath (\$500k) component of the works while acknowledging that footpath and drainage works are mutually non-exclusive meaning footpath cannot be constructed without completing the drainage works.

With this option, 76 direct beneficiary properties would pay for the drainage works (\$3M) and Council would fully fund the footpath component (\$500k) of the civil works.

Option 5: Evaluation of overall community benefit and an example of Special Charge Scheme policy adopted by City of Casey

As Melton City Council does not have a fully realised Special Charge Scheme, Council officers have looked at other practices including the one adopted by City of Casey which proposes;

- Minimum 50% Council contribution towards construction of footpaths in local streets (higher apportionment due to health and community benefits presented by footpaths)
- Minimum 25% Council contribution towards construction of kerb and channel in local streets

Sugargum Drive and Boronia Drive are classified as local roads and any improvements to drainage works are not expected to provide any broader community benefits. Based on the above, this option considers 50% apportionment for cost of footpath works distributed across 150 Properties (direct and indirect beneficiaries) as well as 75% apportionment for cost of drainage works distributed across 76 properties (direct beneficiaries).

Proposal

The process of implementing a Special Charge Scheme generally includes the following steps in accordance with the *Local Government Act 1989*:

1. Identification of a potential scheme; a report is presented to Council providing the background to the issue and an overview of the proposal and seeking endorsement on one of the options to undertake preliminary consultation to gauge the level of community support.
2. Preliminary consultation; engagement with all likely benefiting property owners, including a formal survey, to gauge the level of support for the proposal.
3. Finalise degree of direct and indirect benefit and Council contribution in accordance with the Special Rates & Charges Ministerial Guidelines. Formalise the proposed works.
4. Outcomes of initial engagement; a further report is presented to Council on the outcome of the consultation and providing all of the detail around the proposed scheme with a recommendation. Council will be required at this point to resolve to abandon, alter or give public notice of its intention to enter into a scheme.
5. Establishment of a detailed Special Charge Scheme Policy which would consider the following aspects of charge schemes for future implementation;
 - Type of works and minimum council cost contributions;
 - Cost Apportionment;
 - Engineering and administration costs;
 - Methods and terms of payment;
 - Interest on special charge scheme;
 - Consideration of submissions and objections;
 - Abandonment of Schemes; and
 - Formation of Special Charge Scheme review group.

To gauge the level of community support for the implementation of a scheme, it is proposed that officers undertake preliminary consultation with residents (step 2 above) and present the proposed work and the steps involved in a Special Charge Scheme.

A further report to Council on the outcome of this consultation is expected to be presented to the 27 September 2021 Council meeting while a draft Special Charge Scheme Policy is expected to be presented to the 25 October 2021 Council meeting.

3. Council and Wellbeing Plan Reference and Policy Reference

The Melton City Council 2017-2021 Council and Wellbeing Plan references:

3. A well planned and built City: A City with a clear vision to manage growth in a sustainable and accessible way

3.2 *Community facilities, infrastructure and services that are equitably planned for, provided and maintained.*

4. Financial Considerations

The following Table summarises both the Council and Private contribution for each of the five options outlined above, excluding the administrative costs of running a Special Charge Scheme.

It is estimated that Council would need to contribute between \$112.9K and \$1.0M depending upon the option taken. It could be even higher should Council choose to contribute a higher amount than that shown in Option 5.

Private contribution varies from \$22.5K per property to \$43.2K (or \$2,258 to \$4,321 per year over ten years) per property for properties that directly front these works. Cost of design and project management are included in the above.

Options	Footpath	Drainage	Council cost	Private cost per property (direct)	Private cost per property (indirect)
Option 1: Area wide charge scheme	\$ 500,000	\$ 3,000,000	\$ 112,903	\$ 22,581	\$ 22,581
Option 2: Direct beneficiaries	\$ 500,000	\$ 3,000,000	\$ 216,049	\$ 43,210	\$ -
Option 3: Hybrid of Option 1 and 2	\$ 500,000	\$ 3,000,000	\$ 201,314	\$ 40,263	\$ 3,226
Option 4: Footpath fully funded by Council	\$ 500,000	\$ 3,000,000	\$ 500,000	\$ 39,474	\$ -
Option 5: Overall community benefit	\$ 500,000	\$ 3,000,000	\$ 1,000,000	\$ 31,272	\$ 1,667

Assumptions used in above assessment:

1. Cost of footpath construction and cost of drainage are mutually non-exclusive meaning only footpaths cannot be constructed without completing the drainage works;
2. Administration cost for the Special Charge Scheme is not included in the above analysis;
3. Number of lots have been used for distribution of costs. Other methods include apportionment by length of abutting boundaries, apportionment by lot sizes and any other reasonable special benefits;
4. Method of repayment and interest rate:
 - considering the large lump sum amount, it is standard practice to offer quarterly instalments (10 to 15 year term),
 - an interest rate is not considered in above calculation. An interest rate could be applied along with the standard practices around current rate deferral notices or Council's borrowing interest rate plus one percent (1.0%) for administration costs.

5. Consultation/Public Submissions

The recommendation of this report is to proceed with preliminary community consultation with residents of the Sugargum Estate in relation to the preferred option.

6. Risk Analysis

Not applicable.

7. Options

Option 1: Area wide charge scheme

This option considers the total cost of civil works and distributes evenly across 150 rate paying properties in addition to 5 Council properties. It is likely to be highly contentious option due to fairness and equity as only 76 properties out of 150 directly benefit from the drainage works.

Option 2: Charge scheme for properties fronting the scope of works (direct beneficiaries)

Under this option, the total cost of civil works is distributed evenly across 76 rate paying properties in addition to 5 Council properties. Similar to Option1, this option is likely to be unpopular as only 76 rate paying properties subsidise footpath for all 150 properties.

Option 3: Hybrid option of area wide charge scheme

This option is essentially a hybrid between the Option 1 and Option 2. It considers the cost of the footpath (\$500K) and distributes evenly across 150 private plus 5 Council properties, while the costs of drainage works (\$3.0M) is distributed across 76 private plus 5 Council properties.

Option 4: Footpath component fully funded by Council

Under this option, Council can consider the health and community benefits provided by provision of footpaths and choose to fully fund the footpath (\$500k) component of the works while acknowledging that footpath and drainage works are mutually non-exclusive meaning footpath cannot be constructed without completing the drainage works.

Option 5: Evaluation of overall community benefit and an example of Special Charge Scheme policy adopted by City of Casey

As Melton City Council does not have a fully realised Special Charge Scheme, Council officers have looked at other practices including the one adopted by City of Casey which proposes;

- Minimum 50% Council contribution towards construction of footpaths in local streets (higher apportionment due to health and community benefits presented by footpaths)
- Minimum 25% Council contribution towards construction of kerb and channel in local streets

LIST OF APPENDICES

Nil

12.9 RESPONSE TO NOTICE OF MOTION 725 (CR TURNER) - INVESTIGATE AND PROVIDE STRATEGY FOR DUMPED SHOPPING TROLLEYS

Author: Phil Lovelace – Manager Community Safety
Presenter: Luke Shannon - General Manager Planning & Development

PURPOSE OF REPORT

To provide a response to Notice of Motion 725 (Cr Turner) – That Melton City Council officers investigate and report to Council on a strategy to encourage local shopping centres to be proactive in organising the collection up of dumped shopping trolleys around our City.

RECOMMENDATION:

That Council;

1. Note the report; and
2. Note the proposed enforcement activities.

REPORT

1. Executive Summary

This report is in response to Notice of Motion 725 (Cr Turner) requesting *“That Council officers investigate and report back to Council in relation to investigating options to address the increase in number of abandoned shopping trolleys on Council owned land with shopping trolleys”*.

Since this resolution Council Officers have tested the current system, benchmarked with other councils and considered options to address the increase in the number of abandoned shopping trolleys on Council land.

Recent audit outcomes indicates that the current self-management approach is not effective in reducing the number of trolleys left on Council owned land. Considering this, it is recommended that Council increase enforcement activities in accordance with the Local Law 2015 Clause 31 which would include conducting daily patrols of all commercial activity centres between 7am and 9am. Subsequently any trolley found on Council owned land between these hours, be impounded. Officers will then issue an impoundment letter to the trolley owner providing a 7 day period to collect the trolley. Failure to do so would result in a \$100 infringement notice/trolley being issued to the owner, and the trolley is then to be disposed of in accordance with the Local Law.

2. Background/Issues

Council has received a number of complaints from local residents regarding shopping trolleys being abandoned on Council owned land. Numbers have increased over the past three years. In 2018, the Community Safety Department conducted an audit of the municipality in relation to the abandonment of trolleys in streets and public areas. Officers patrolled the streets within 1 to 2 kilometres of each shopping centre in the municipality. They also patrolled the length of main roads such as Caroline Springs Blvd and High Street,

Melton. The audit located 69 trolleys, of these, 33 trolleys were recovered within 48 hours by their owners and the remaining 36 trolleys were impounded by Council.

A similar audit was conducted in February 2021. A total of 60 trolleys were located, of these, 13 trolleys were recovered by their owners the following day. After reporting these to their owners (or via the Trolley Tracker App) a further 11 were recovered by their owners. The remaining 36 trolleys were impounded by Council.

Shopping trolleys are regulated in accordance with Clause 31 of Council's *General Local Law 2015* which states;

31. SHOPPING TROLLEYS

1. Except where a Person (being the Owner or Occupier of Retail Premises) has 25 Shopping Trolleys or less, a Person must not make a Shopping Trolley available for use, or allow it to be used, unless the Shopping Trolley has either:

a) a coin operated mechanism attached to it; or

b) the Person has an agreed 12 month renewable management plan in place with Council for the effective control and retrieval of Shopping Trolleys.

Penalty: 2 Penalty Units

2. The Person referred to in subclause 31.1 must ensure that it has a sign on each Shopping Trolley that legibly identifies his or her name or the trading name of the business to which it belongs and a current contact telephone number.

Penalty: 2 Penalty Units

3. The Person referred to in subclause 31.1 who provides a Shopping Trolley must ensure that the Shopping Trolley is not left on any Road, in any Public Place or on any Council Land unless it is left on land provided or set aside by Council as an area for that purpose.

Penalty: 2 Penalty Units

4. A Shopping Trolley found on a Road, in a Public Place or on Council Land which is not the Property on which it is usually kept may be removed and impounded by an Authorised Officer in accordance with clause 109.

5. Upon notification that a Shopping Trolley has been impounded, a Shopping Trolley may be claimed by the Person referred to in subclause 31.1 after the impounding fees have been paid in full in accordance with clause 109.

6. Any Person referred to in subclause 31.1 who does not claim an impounded Shopping Trolley within the time specified by Council for collection in any notice given to that Person is guilty of an offence.

Penalty: 2 Penalty Units

7. A Person must not use a Shopping Trolley for any purpose other than for the purpose for which the Shopping Trolley has been specifically designed.

Penalty: 2 Penalty Units

All retailers within the municipality are compliant with subclause 1, as they have either an agreement with Council or have a coin operated mechanism attached to their trolleys.

All local retailers have engaged a private company named Trolley Tracker to retrieve any trolley reported abandoned. Residents and Council staff are encouraged to report abandon trolleys by contacting the relevant collection service which are listed on Council's webpage.

A benchmarking exercise was conducted with the following councils;

- Whittlesea City Council;
- Brimbank City Council; and
- Wyndham City Council.

Feedback from all three councils indicate that they have a similar approach to trolleys as the Melton City Council program which is the reliance on trolley owners to collect them and the use of Trolley Tracker App to report abandoned trolleys. However Wyndham City Council consider trolleys as litter in accordance with the *Environment Protection Act 1970* and dispose of them immediately (no recovery opportunity for owners).

3. Council and Wellbeing Plan Reference and Policy Reference

The Melton City Council 2017-2021 Council and Wellbeing Plan references:

1. A proud, inclusive and safe community: A City of people leading happy and healthy lives
 - 1.1 *A community where all people feel welcome, valued and proud.*

4. Financial Considerations

The enforcement and administration of shopping trolley requirements under Council's Local Law is funded within the current operational budget of Council's Community Safety Department program however the extra two-hour morning patrols would be an additional cost to Council. Council would also be required to purchase a purpose built trailer to collect and dispose of the abandoned trolleys. The annual cost for five patrols per week would be approximately \$42,016. The purpose built trailer has been estimated at a cost of \$7,500.

The above expenditure would be offset from income derived by infringement notices issued for unclaimed trolleys and/or lease fees for impounded trolleys. This cost is estimated at approximately \$52,000 (2 trolleys/day x 5days x \$100/infringement/ notice/release).

The net result of the increased enforcement program would be approximately \$10k favourable (after initial purchase of trailer).

5. Consultation/Public Submissions

An extensive education process would need to be undertaken by the Community Safety Department to inform trolley owners of their responsibilities under the Local Law and that increased enforcement activities will be undertaken by Council. This process would include a letter being sent to all retailers who own trolleys and provide an opportunity for owners to meet with staff to discuss the program.

Consultation will commence in May 2021 and patrols would commence in June 2021.

6. Risk Analysis

Council may be exposed to any damage a trolley causes if it was reported to and not collected. The proposed enforcement program would significantly reduce this exposure.

7. Options

The current self-management approach to the recovery of abandoned trolleys appear to be unsuccessful in reducing the number of trolleys located on Council land therefore the only option to manage this issue is to increase enforcement activities. This would include the following;

- Patrolling all activity centres (and surrounding streets) between 7am and 9am weekdays. Any trolley located on Council land during this period would be impounded;
- Issuing an Impoundment Notice to trolley owners providing a 7 day period to collect the impounded trolley and pay the \$95F release fee;
- Issuing a \$100 infringement notice to the trolley owner if not collected within the 7 day period; and
- Modify City Wide's current process from reporting abandoned trolleys in parks via the trolley tracker app to impound and transport to the Operations Centre.
- Dispose of all unclaimed trolleys.

LIST OF APPENDICES

Nil

12.10 RESPONSE TO NOTICE OF MOTION 757 (CR RAMSEY) - LOCAL LAW AMENDMENT TO ADDRESS HOON DRIVING

Author: Cole Sloan - Legal Officer
Presenter: Christine Denyer - Manager Legal and Governance

PURPOSE OF REPORT

To provide a response to Notice of Motion 757 (Cr Ramsey) in relation to the option of amending Council's General Local Law 2015, to address the problem of hoon-driving.

RECOMMENDATION:

That Council:

1. Note the report.
2. Consider addressing irresponsible behaviour associated with vehicles in 2021-2022 as part of Council's scheduled review of the General Local Law.

REPORT

1. Executive Summary

At the Meeting of Council on 15 March 2021, Notice of Motion 757 was considered and Council resolved the following:

'That Council officers investigate and report on what other Western Region Councils have introduced into their Local Laws to address the problem of hoon driving'

Officers conducted an investigation and analysis of other Western Region Councils as well as Hume City Council.

The table at **Appendix 1** summarises the information gathered. Specifically, the following offences were considered:

- Noise (general)
- Noise (vehicle)
- Irresponsible behaviour
- Irresponsible behaviour - vehicles

The table shows that Council does have powers in its current Local Law in respect of noise from vehicle sound equipment (clause 34) as well as in respect of behaviour which is boisterous, harmful, indecent, offensive or abusive or which annoys or disturbs the quiet enjoyment of others or is detrimental to property (clause 27). In respect of the latter, it is noteworthy that five out of the six Councils (including Melton) have a similar Local Law aimed at irresponsible behaviour.

However, Council does not currently have a Local Law which specifically refers to 'hooning' or 'hoon drivers' such as has been adopted by three of the six Councils (including Melton), viz, Brimbank, Hobson's Bay and Moonee Valley.

Council has no information as to whether or not the validity of these 'hoon laws' have been tested in Court, in circumstances where a Local Law cannot be inconsistent with a State Law and when State legislation is the primary source of road safety law.

Should Council be minded to consider a 'hoon law' it should only do so after proper consultation with the community and in conjunction with specific legal advice as to the wording, noting that any Local Law made pursuant to the 2020 Act will require certification by a lawyer.

This could be done in conjunction with a review of Council's entire Local Law, which was programed to commence between June and August 2021, and be considered by Council in June 2022.

In the interim, Council could seek further information from officers as to the use and reliance of the existing power in its current *General Local Law 2015*.

2. Background/Issues

At the Meeting of Council on 15 March 2021, Notice of Motion 757 was considered and Council resolved as follows:

'That Council officers investigate and report on what other Western Region Councils have introduced into their Local Laws to address the problem of hoon driving'

Accordingly, officers conducted an investigation and analysis of a number of other Councils as well as the current law in relation to Council making and/or amending Local Laws.

Law relating to the making and/or amending of Local Laws

Currently, the provisions of the *Local Government Act 1989* ('the 1989 Act') apply to the making of Local Laws. However from 1 July 2021, the new *Local Government 2020* ('the 2020 Act') will apply to the making of Local Laws.

Accordingly, any resolution to *immediately* commence a process of adding a clause to the Local Law would mean an amendment to the current *General Local Law 2015*, commenced pursuant to the 1989 Act. That process would typically take approximately 6-8 months, including statutory notice periods, providing an opportunity for any person to be heard in support of their submission in accordance with section 223 of the 1989 Act, and may also have to consider and/or adhere to Council's current Public Engagement Policy. Council would need to obtain specific legal advice in relation to any amendment commenced now under the 1989 Act, because the amendment would be part way complete when the relevant provisions of the 2020 Act become operational and the provisions of the 1989 Act are repealed on 1 July 2021.

Notwithstanding the repeal, the 2020 Act provides that any existing Local Law continues in force until its sunset date (s 71(6) 2020 Act), which in the case of Council's current Local Law is 12 October 2025. Thereafter, Councils will need to implement any Local Law, under the 2020 Act. Whilst there is no statutory requirement to adopt a Local Law, it is a vital law enforcement instrument used for encouraging and maintaining safe and reasonable behaviour by people in the municipality.

Council's Legal & Governance 2020 Act Implementation Plan (internal operational plan) includes a timetable for all actions required pursuant to the 2020 Act including a proposed date for the review and implementation of Council's new Local Law, with a report proposed to be presented at the June 2022 Council Meeting (date to be confirmed upon adoption of 2022 Council meeting dates). However as stated the revised Local Law is not due to be delivered by a set date and can be adopted any time before the current Local Law sunsets.

Broadly, the process for a new Local Law should involve 8-12 month adoption plan setting out a robust consultation process that aims to create a uniform application of local laws across municipalities where possible, and includes a Local Law Community Impact

Statement (LLCIS) in accordance with the Local Government Victoria 'Guidelines for Local Laws Manual'. Council must also comply with its own Community Engagement Policy.

The 2020 Act also requires that prior to the adoption of Council's proposed Local Law a suitably qualified Australian lawyer must provide a Compliance Certificate stating the Local Law is consistent with the 'Local Law Requirements' as set out in section 72 of the 2020 Act.

The Local Law Requirements include, but are not limited to:

- (a) a requirement (as subordinate legislation) to not be inconsistent with state legislation; and
- (b) a requirement to not be inconsistent with the *Victorian Charter of Rights and Responsibilities* 2006 (Charter);

The proposed local law must then be publicly advertised through a Public Notice stating the title of the local law, its objectives and effects, prior to being made available for public inspection and published in the Government Gazette and on Council's internet site.

(a) Consistency with State Legislation

As mentioned above, consistency with State Legislation must be considered in relation to any Local Law made under the 2020 Act and also any amendment made pursuant to the 1989 Act (Schedule 8 of 1989 Act).

As of July 2011, Victoria Police have broad powers for the impoundment, immobilisation and forfeiture of motor vehicles. In addition to the ability to give a lawful direction for a person to stop their vehicle, Victoria Police have the ability to charge members of the public with the improper use of a motor vehicle, for any driving that involves the loss of traction, creating unnecessary noise/smoke or failure to have proper control over a vehicle. These powers along with a police presence often serves as a greater deterrent than the issuance of infringements as it can result in the impoundment or immobilisation of a vehicle for a first time offence.

Victoria Police also have the power to issue 'move on directions' if they believe on reasonable grounds that a person(s) in a public place is or is likely to breach the peace or cause injury or damage to another person or property (s 6 *Summary Offences Act* 1966). Once given this notice, a person(s) will be directed to leave the public place.

Victoria Police have the power to declare a designated place as defined in the *Victoria Police Act* 2013. In addition to the general deterrence of a police presence at a hooning event or 'car meet up', should Victoria Police receive notification of an event that is of a concerning size or has attracted particular public attention prior to an event, they may declare a designated area further enabling Protective Services Officers the power to issue move on directions (s6 of the *Summary Offences Act*).

In summary there are a number of statutory powers open to Victoria Police to address and take action particularly in relation to complaints received from the public in relation to hoon driving.

Accordingly, Council would need to obtain specific legal advice/certification as to whether or not any proposed 'hooning' Local Law is inconsistent with the police powers under the State Law described above.

(b) Consistency with the Charter

Council in all its decision making and specifically in its implementation of a local law must give consideration to the Charter.

Section 16 of the Charter recognises the right to assembly and the freedom of association, the limits on these rights prescribed by law makers have often been in reference to protecting the interests of public safety but through restricting *criminal associations*, this

would likely not extend to the spectators of an event who are not engaging in criminal activity by attending or being in proximity to an event. A similar principle of legality was brought up in the case of *Melbourne Corporation v Barry* [1922] HCA 56, where the High Court found there was a right to remain assembled on a public highway despite a by-law made by the Melbourne City Council at the time attempting to regulate traffic and processions.

The current application of this decision and of the Charter generally would need to be considered in further detail, before Council introduced a local law in this area.

Enforcement of Local Law – OHS - Authorisation of a Police

Council's General Local Law is enforced by Council staff commonly referred to as enforcement officers. As an employer, Council must also consider its obligations to provide and maintain a safe workplace, pursuant to Occupational Health and Safety laws. Even if Council were to implement extra training for its enforcement officers, this training will never be to the same level of specific and specialised training as that provided to Victoria Police. Council must consider the risk that officers may be taking to their health and safety when attending a 'hoon event' or dealing generally with 'hoon drivers' and when trying to de-escalate hoon behaviour.

Should Council be minded to consider widening the enforcement of its General Local Law to include Victoria Police officers it can do so pursuant to section 224(1) of the 1989 Act (this provision remains in operation after 1 July 2021 and has not been repealed).

An authorisation of this nature cannot be provided to police officers generally but to a specifically named individual and would require a separate resolution of Council giving effect to an Instrument of Authorisation, to enforce one or more local laws.

Anecdotally this can be problematic as Victoria Police frequently move between station postings and/or have regular shift changes.

Analysis of other Councils

Officers conducted an investigation and analysis of other Western Region Councils as well as Hume City Council.

The table at Appendix 1 summarises the investigation and analysis. Specifically, the following offences were considered:

- Noise (general)
- Noise (vehicle)
- Irresponsible behaviour
- Irresponsible behaviour - vehicles

The table shows that Melton Council does have comparable powers in its current Local Law in respect of noise from vehicle sound equipment (clause 34) as well as in respect of behaviour which is boisterous, harmful, indecent, offensive or abusive or which annoys or disturbs the quiet enjoyment of others or is detrimental to property (clause 27). In respect of the latter, it is noteworthy that five out of the six Councils (including Melton) have a similar local law aimed at irresponsible behaviour.

However, Council does not currently have a Local Law which specifically refers to 'hooning' or 'hoon drivers' such as has been adopted by three of the six Councils (including Melton), viz, Brimbank, Hobson's Bay and Moonee Valley.

Officers have no information as to whether nor not these local laws have been considered by a Court and thus it is not clear whether or not they are, or would be certified by a lawyer (as is the new requirement) to not be inconsistent with State legislation.

In addition to the Table at **Appendix 1**, Officers note the following further information.

Brimbank City Council

According to media articles, this was the first Victorian Council to introduce an anti-hooning into its General Local Law (*reference to Brimbank North West Star Weekly Newspaper 'Hoon Laws Working' article 16 March 2021*).

Brimbank has issued a total of 327 infringements for a breach of its Local Law 26, this includes a response to a single incident in 2019 that resulted in more than 200 infringement notices issued to participants and spectators of an alleged large scale hooning event

Officers have no information as to whether the recipients of any of these infringements opted instead to have the matter determined by a Court. Similarly, there is no information available as to the number or result of any applications for review pursuant to the *Infringements Act 2006* (Vic).

3. Council and Wellbeing Plan Reference and Policy Reference

The Melton City Council 2017-2021 Council and Wellbeing Plan references:

1. A proud, inclusive and safe community: A City of people leading happy and healthy lives
 - 1.2 A safe and equitable community.

4. Financial Considerations

Nil.

5. Consultation/Public Submissions

The public consultation processes required in relation to an amendment or making of a Local Law were broadly discussed above. The specific requirements may vary depending upon whether the process is commenced under the 1989 Act or the 2020 Act.

6. Risk Analysis

There is anecdotal reputational risk to Council in failing to take what the public may consider reasonable action in relation to 'hoon drivers'. To the extent that this risk is already present and can be mitigated immediately by Council taking action (or taking further action) pursuant to the existing Local Law provisions.

There is also potential reputational risk from Council adopting a Local Law specifically aimed at 'hoon driving' and having that legislation overturned or deemed ultra vires by a Court.

There are risks with Council enforcing both the existing and any specifically aimed 'hoon driving' law because its officers are not trained to the extent and with the same specialisation as Victoria Police, who is the entity chiefly responsible for the enforcement of Road Safety.

7. Options

Option 1 - Adopt the recommendation as set out including conducting robust community consultation and legal sign off, as part of the new Local Law to be adopted in 2022 pursuant to the Local Government Act 2020 programed to commence between June and August 2021.

Option 2 - Note the report, including the significant State powers and seek a further report on Council's use and reliance of its existing powers as set out in the existing Local Law.

Option 3 - Seek external legal advice as to the validity of amending the current Local Law during the period of transition to the Local Government Act 2020 (noting, pragmatically, that the time taken to receive such advice may make the question redundant).

LIST OF APPENDICES

1. Local Laws Comparison Table - Western Region Councils

12.11 INSTRUMENT OF APPOINTMENT AND AUTHORISATION

Author: John Whitfield - Governance Coordinator
Presenter: Christine Denyer - Manager Legal and Governance

PURPOSE OF REPORT

To appoint authorised officers under section 147(4) of the *Planning and Environment Act 1987* for the purposes and regulations made under that Act.

RECOMMENDATION:

In the exercise of the powers conferred by 147(4) of the *Planning and Environment Act 1987* and the other legislation referred to in the attached Instrument of Appointment and Authorisation (the Instrument), Melton City Council resolves that:

1. the Instrument authorised by Council on 28 May 2018 be revoked.
2. the members of Council staff referred to in the Instrument in **Appendix 1** be appointed and authorised as set out in the Instrument.
3. the Instrument comes into force immediately the common seal of Council is affixed to the Instrument, and remains in force until Council determines to vary or revoke it.
4. the Instrument be sealed.

REPORT

1. Executive Summary

Council has responsibilities for and acts under various pieces of legislation. In order to carry out some specific duties, functions and responsibilities authorised officers are required to be appointed. This report seeks Council approval for the appointment of authorised officers under section 147(4) of the *Planning and Environment Act 1987* for the purposes and regulations made under that Act.

2. Background/Issues

Most legislation under which the Council acts contain powers of sub-delegation. This enables the Chief Executive Officer to issue an Instrument of Sub-delegation to Staff given that the Council has beforehand resolved to issue an Instrument of Delegation to the CEO. Similarly, the CEO can directly appoint 'authorised officers' under most legislation.

However the *Planning and Environment Act 1987* does not contain an express power of sub-delegation. This is why delegations under that Act are made by the Council directly to staff. Similarly, the appointment of authorised officers for the purposes and regulations made under that Act require a Council resolution.

An Instrument of Appointment and Authorisation to the five officers named in **Attachment 1** was authorised by Council at its meeting on 28 May 2018. This report seeks to update the Instrument now that section 232 of the *Local Government Act 1989* has been repealed and section 313 of the *Local Government Act 2020* has been proclaimed. These sections relate to the authority of an officer to institute proceedings for offences against the *Planning and Environment Act 1987* and regulations made under that Act.

The attached Instrument reflects the current appointment of staff who carry out authorised officer responsibilities under the *Planning and Environment Act 1987*. It is the same five Council officers that the Council authorised at its meeting held 28 May 2018.

3. Council and Wellbeing Plan Reference and Policy Reference

The Melton City Council 2017-2021 Council and Wellbeing Plan references:

5. A high performing organisation demonstrating leadership and advocacy: An organisation operating with innovation, transparency, accountability and sustainability

5.3 Effective civic leadership, advocacy, partnerships and good governance.

4. Financial Considerations

There are no financial implications in making appointments as authorised officers.

5. Consultation/Public Submissions

Not applicable.

6. Risk Analysis

The Council requires duly appointed authorised officers to carry out a ranges of duties, functions and responsibilities under the *Planning and Environment Act 1987*. Without these appointments these matters, including a range of enforcement, recovery and legal proceedings, cannot be properly carried out under law.

7. Options

Nil.

LIST OF APPENDICES

1. Instrument of Appointment and Authorisation under the Planning and Environment Act 1987 - undated

13. REPORTS FROM DELEGATES APPOINTED TO OTHER BODIES AND COUNCILLOR REPRESENTATIONS AND ACKNOWLEDGEMENTS

Reports on external Committees and external Representative Bodies for which Councillors have been appointed by Council.

Address from Councillors in relation to matters of civic leadership and community representation, including acknowledgement of community groups and individuals, information arising from internal Committees, advocacy on behalf of constituents and other topics of significance.

14. NOTICES OF MOTION**14.1 NOTICE OF MOTION 762 (CR VANDENBERG)****Councillor: Ashleigh Vandenberg - Councillor**

I hereby give notice of my intention to move the following motion at the Meeting of Council to be held on 10 May 2021

MOTION:

That to assist in addressing the shortage of health and community services organisations in the City of Melton, Council write to the Hon Daniel Andrews, Premier, and the Hon James Merlino, Deputy Premier, calling on them to establish a Victorian Public Service hub in Melton, which will boost the local economy, establish a strong community presence, strengthen departmental and local government rapport, increase community services and provide local employment opportunities

OFFICER'S COMMENTS:

The localised provision of health and community services is a priority for council. Council officers will prepare correspondence in accordance with the Notice of Motion above.

14.2 NOTICE OF MOTION 763 (CR VANDENBERG)

Councillor: Ashleigh Vandenberg - Councillor

I hereby give notice of my intention to move the following motion at the Meeting of Council to be held on 10 May 2021

MOTION:

That Officers provide a report to Council on the Social and Economic Impacts of COVID-19 on the City of Melton and its impacts on local businesses, employment including social and emotional wellbeing such as health, mental health and family violence.

OFFICER'S COMMENTS:

If the motion is endorsed, Council Officers will present a report to a future meeting of Council.

14.3 NOTICE OF MOTION 764 (CR VANDENBERG)

Councillor: Ashleigh Vandenberg - Councillor

I hereby give notice of my intention to move the following motion at the Meeting of Council to be held on 10 May 2021

MOTION:

That in response to the increased dumping of waste by “rogue” waste removal operators, Council officers report, with costings, on introducing a waste removal licensing system which includes monitoring that ensures waste removal in the City of Melton can only be undertaken with a permitted and licensed operator who must provide evidence waste was properly disposed of, with penalty notices issued for businesses illegally dumping waste.

OFFICER’S COMMENTS:

There currently no legislative framework that regulates the handling of this type of waste, other than the Environment Protection Act making the dumping of any waste illegal. As of 1 July 2021 however, there are changes to the Act which will deliver on the intent of this motion. A report will be prepared to detailing the changes and the role of Council and others in its implementation.

Under the changes, household waste, as soon as it is picked up in a skip or as soon as a commercial arrangement is made for its removal, it is classified as “Industrial waste”. There are duties placed on generators of waste, waste transporters and waste receivers in addition to the General Environmental Duty which applies to all:

Duties if you provide industrial waste to others (eg Residents arranging a skip bin)

- You must take reasonable steps to identify and classify your waste.
- You must take all reasonable steps to make sure your waste is taken to a lawful place. For example, by engaging a reputable contractor to transport and dispose of your waste.

Duties if you deposit industrial waste (eg Residents taking waste to a disposal location)

If you deposit, or dispose of industrial waste, it must be at a ‘lawful place’. This includes sorting, recovery and disposal facilities. If you receive or deposit industrial waste, it is your responsibility to know whether it is a lawful place.

Duties if you receive industrial waste (eg waste disposal contractors/transporters)

If you receive industrial waste, you must be a ‘lawful place’ as defined by the Act.

14.4 NOTICE OF MOTION 765 (CR TURNER)**Councillor: Bob Turner - Councillor**

I hereby give notice of my intention to move the following motion at the Meeting of Council to be held on 10 May 2021

MOTION:

That Council write to the Hon Ben Carroll MP, Minister for Public Transport and the Member for Melton, Mr Steve McGhie MP asking for an investigation into the sequencing and duration of the boom gates staying down for both level crossings in Exford Road and Coburns Road. The two crossings coinciding and for long periods of time creates a traffic congestion issue along the two roads.

OFFICER'S COMMENTS:

Council Officers will prepare correspondence in accordance with the Notice of Motion above.

15. COUNCILLOR'S QUESTIONS WITHOUT NOTICE

16. URGENT BUSINESS

17. CONFIDENTIAL BUSINESS

Recommended Procedural Motion

That pursuant to section 66(1) and (2)(a) of the *Local Government Act 2020* the meeting be closed to the public to consider the following reports that are considered to contain **confidential information** on the grounds provided in section 3(1) of the *Local Government Act 2020* as indicated:

- 17.1 **Recommendations of the Club Caroline Springs Grant Assessment Panel Meeting**
(f) personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs;
- 17.2 **Recommendations from the Semi-Annual Grant Assessment Panel Meeting**
(f) personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs;

Recommended Procedural Motion

That the meeting be opened to the public.

18. CLOSE OF BUSINESS