



Agenda

Scheduled Council Meeting

Monday 11 April 2022 at 6:30 pm

You are advised that a Meeting of Council has been called by the Chief Executive Officer on Monday 11 April 2022 at 6:30 pm for the transaction of the following business.

This meeting will be held in the Council Chamber at Civic Centre, 25 Ferres Boulevard, South Morang 3752 and will be [livestreamed via Council’s website](https://www.whittlesea.vic.gov.au/about-us/council/council-meetings/).

**C Lloyd**

**Chief Executive Officer**

Administrators

Lydia Wilson Chair of Council

Peita Duncan Administrator

Chris Eddy Administrator

On 19 June 2020 the Acting Minister for Local Government appointed the Panel of Administrators for the City of Whittlesea and appointed Ms Lydia Wilson as Chair of the Panel. The Panel of Administrators comprises of Ms Lydia Wilson, Ms Peita Duncan and Mr Chris Eddy who will undertake the duties of the Council of the City of Whittlesea until the October 2024 Local Government Election.

Senior Officers

Craig Lloyd Chief Executive Officer

Frank Joyce Executive Manager Governance & Strategy

Kate McCaughey Director Community Wellbeing

Marilyn Kearney Interim Director Corporate & Shared Services

Janine Morgan Executive Manager Public Affairs

Justin O’Meara Director Planning & Development

Debbie Wood Director Infrastructure & Environment

Order of Business

The Chief Executive Officer submits the following business:

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[1.2 Acknowledgement of Traditional Owners Statement 6](#_Toc100146793)

[1.3 Attendance 7](#_Toc100146794)

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[3 Confirmation of Minutes of Previous Meeting/s 7](#_Toc100146796)

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[5.1.3 Amendment C257WSEA – Proposed Planning Provision Changes to 115 Trawalla Avenue, Thomastown 14](#_Toc100146805)

[5.1.4 Planning Application PLN-38193 - 90 Bodycoats Road, Wollert - Removal of Native Vegetation 24](#_Toc100146806)

[5.1.5 Ziebell's Farmhouse Museum, Heritage Garden and Caretaker Cottage - Late Report Notice 32](#_Toc100146807)

[5.2 Livable Neighborhoods 33](#_Toc100146808)

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[5.4 Strong Local Economy 33](#_Toc100146810)

[5.5 High Performing Organisation 34](#_Toc100146811)

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[7 Urgent Business 37](#_Toc100146814)

[8 Reports from Council Representatives and CEO Update 37](#_Toc100146815)

[9 Confidential Business 37](#_Toc100146816)

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[9.2 Confidential Livable Neighborhoods 37](#_Toc100146818)

[9.3 Confidential Strong Local Economy 37](#_Toc100146819)

[9.4 Confidential Sustainable Environment 37](#_Toc100146820)

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[9.6 Confidential Notices of Motion 37](#_Toc100146822)

[12 Closure 37](#_Toc100146823)

**Note:**

At the Chair of Council’s discretion, the meeting may be closed to the public in accordance with Section 66(2)(a) of the *Local Government Act 2020*. The provision which is likely to be relied upon to enable closure is set out in each item. These reports are not available for public distribution.

**Question Time:**

During the meeting, the Chief Executive Officer will answer questions from residents and ratepayers. Questions are required to be submitted in writing prior to the advertised commencement time of a Scheduled Council Meeting. It is preferred to receive any questions by 3.30pm unless this unreasonably prevents or hinders you from participating. A Question Time form can be downloaded from Council’s website and copies of the form are available at the meeting. Refer: <https://www.whittlesea.vic.gov.au/about-us/council/council-meetings/>

Council will hold public question time for up to 30 minutes at each Scheduled Council Meeting to allow members of the public to present the questions they have submitted to Council. When Council Meetings are held remotely by electronic means in accordance with Section 394 of the *Local Government Act 2020,* members of the public will be unable to present their questions, however the Chief Executive Officer will read out and answer questions from residents and ratepayers.

Council is committed to ensuring that all residents and ratepayers of the municipality may contribute to Council’s democratic process and therefore, if you have special requirements, please telephone the Governance Team prior to any Council Meeting on (03) 9217 2294.

**1 Opening**

**1.1 Meeting Opening and Introductions**

The Chair of Council, Lydia Wilson will open the meeting and introduce the Administrators and Chief Executive Officer:

Administrator, Ms Peita Duncan;

Administrator, Mr Chris Eddy; and

Chief Executive Officer, Mr Craig Lloyd.

The Chief Executive Officer, Craig Lloyd will introduce members of the Executive Leadership Team:

Executive Manager Governance and Strategy, Mr Frank Joyce;

Director Community Wellbeing, Ms Kate McCaughey;

Interim Director Corporate Services, Ms Marilyn Kearney;

Executive Manager Public Affairs, Ms Janine Morgan;

Director Planning and Development, Mr Justin O’Meara; and

Director Infrastructure and Environment, Ms Debbie Wood.

Following the Introductions, the Chief Executive Officer, Craig Lloyd will then read the following prayer:

*Almighty God, we ask for your blessing upon this council to make informed and good decisions to benefit the people of the City of Whittlesea.*

*Our father who art in heaven, hallowed be thy name, Thy kingdom come, Thy will be done in earth as it is in heaven. Give us this day our daily bread and forgive us our trespasses as we forgive them that trespass against us; and lead us not into temptation but deliver us from evil, For thine is the kingdom, the power and the glory, for ever and ever.*

*Amen*

**1.2 Acknowledgement of Traditional Owners Statement**

The Chair of Council, Lydia Wilson will read the following statement:

“On behalf of the City of Whittlesea I recognise the rich Aboriginal heritage of this country and acknowledge the Wurundjeri Willum Clan as the Traditional Owners of this place.

I would also like to personally acknowledge Elders past, present and emerging.”

**1.3 Attendance**

**2 Declarations of Conflict of Interest**

**3 Confirmation of Minutes of Previous Meeting/s**

**Recommendation**

**THAT the following Minutes of the preceding meeting as circulated, be confirmed:**

**Scheduled Meeting of Council held 21 March 2022**

**4 Public Questions, Petitions and Joint Letters**

**4.1 Public Question Time**

**4.2 Petitions**

Nil Petitions

**4.3 Joint Letters**

Nil Joint Letters

**5 Officers' Reports**

**5.1 Connected Communities**

5.1.1 Audit & Risk Committee Report on Activity

**5.1.1 Audit & Risk Committee Report on Activity**

**Responsible Officer** Executive Manager Governance & Strategy

**External in Attendance** Geoff Harry, Audit & Risk Committee Chairperson

**Attachments**

1. Audit Risk Committee March 2022 Report to Council [**5.1.1.1** - 4 pages]

**Purpose**

Section 54(5) of the *Local Government Act 2020* requires that the Audit & Risk Committee prepare a biannual report on its activities. A copy of that report is to be provided to the Chief Executive Officer for tabling at an ordinary Council meeting.

**Recommendation**

**That Council:**

1. **Note the Audit & Risk Committee’s Report on Activity.**

**Key Information**

The Audit & Risk Committee is an independent advisory committee of Council and its role is to report to Council and provide appropriate advice and recommendations on matters presented to it. It acts in this capacity by monitoring, reviewing and advising on issues within its scope of responsibility and assisting Council’s governance obligations to its community.

The Committee meets five times a year, in February, May, August, September and November.

In accordance with Section 54(5) of the *Local Government Act 2020*, the Audit & Risk Committee is required to prepare a biannual report on its activities. A copy of that report is to be provided to the Chief Executive Officer for tabling at an ordinary Council meeting. At its 12 November 2020 meeting, the Audit & Risk Committee determined that it would prepare a report for Council on its activities following 31 March and 30 September each year.

Following the Audit & Risk Committee meeting held on 24 February 2022, a report has been prepared by the Committee on its activities for the six months to 31 March 2022. The report is included as Attachment 1. The Audit & Risk Committee Chairperson will attend the Council meeting to discuss the report.

**Alignment to Community Plan, Policies or Strategies**

Alignment to Whittlesea 2040 and Community Plan 2021-2025:

**High performing organisation**We engage effectively with the community, deliver efficient and effective services and initiatives, make decision in the best interest of our community and deliver value to our community

The establishment of the Audit & Risk Committee and the reports it receives are reflective of Council’s commitment to the implementation of good governance principles. The Committee provides advice to Council to assist with fulfilling its oversight responsibilities for the financial and non-financial reporting process, internal controls, the audit process, risk management and Council’s process for monitoring compliance with legislation and regulations and the Code of Conduct.

**Link to Strategic Risk**

**Strategic Risk** *Governance - Ineffective governance of Council’s operations and activities resulting in either a legislative or policy breach*

The Audit & Risk Committee assists Council in monitoring its governance requirements and provides advice to Council to assist with fulfilling its oversight responsibilities.

**Declaration of Conflict of Interest**

Under Section 130 of the *Local Government Act 2020* and Rule 47 of the Governance Rules 2021, officers providing advice to Council are required to disclose any conflict of interest they have in a matter and explain the nature of the conflict.  
  
The Responsible Officer reviewing this report, having made enquiries with relevant members of staff, reports that no disclosable interests have been raised in relation to this report.

**Conclusion**

In accordance with the requirements of the *Local Government Act 2020*, Council is provided with a copy of the Audit & Risk Committee’s Report on Activities for the six months to 31 March 2022.

5.1.2 Administrator Good Governance - 6 monthly update

**5.1.2 Administrator Good Governance - 6 monthly update**

**Responsible Officer** Executive Manager Governance & Strategy

**Attachments**

1. Administrator Action Plan 2020-2024 update March 2022 [**5.1.2.1** - 26 pages]
2. Activities of the Administrators September 2021 to March 2022 [**5.1.2.2** - 7 pages]

**Purpose**

To provide an update on the work, priorities, community engagement and achievements of the Panel of Administrators over the past six months to ensure good governance at Council.

**Brief Overview**

Council developed and endorsed the Administrator Action Plan 2020-2024 (the Action Plan) on 6 April 2021 to confirm actions and commitments to ensure continued good governance during Council’s four-year term. The Action Plan outlines priorities in line with the Community Vision, Whittlesea 2040: A place for all, and the Community Plan 2021 – 2025. The Action Plan also considers the Local Government Act and needs of the community in responding and recovering from the COVID 19 pandemic.

This six-monthly update (Attachments 1 and 2) is in line with Council’s commitment to publicly report on the Action Plan twice annually and provide transparency on key strategic decisions and work undertaken by Council over the past six months to ensure good governance in the best interest of the community.

As the Community Plan 2021-2025 has now been endorsed and is reported on quarterly and the vast majority of key elements of the Local Government Act have been implemented, the Administrator Action Plan will no longer be reported on in this format. In future, reports will include community engagement activities of Administrators (as per attachment 2), a summary of key highlights for the six-month period with reference to the quarterly Performance report and the annual report which also contain key details of achievements over the year.

**Recommendation**

**That Council:**

1. **Note to the Administrator Good Governance – 6 monthly update report and provide a copy of it to the Hon. Shaun Leane, the Minister for Local Government, Local Government Victoria and all local Members of Parliament.**

**Key Information**

The Panel of Administrators were appointed under the provisions of the Local Government (Whittlesea City Council) Act 2020 by the Minister for Local Government.

The Chair of the Panel of Administrators (Ms Lydia Wilson) takes on the role functions and duties of the Mayor and the Administrators (Ms Peita Duncan and Mr Chris Eddy) take on the roles, duties and functions of a Councillor. Together the Panel of Administrators form the Council of the City of Whittlesea. Ms Lydia Wilson, Ms Peita Duncan and Mr Chris Eddy will undertake the duties of the Council of the City of Whittlesea until the October 2024 Local Government Election.

An initial six-month report on the governance arrangements under Administrators was tabled at the Council Meeting held on 6 October 2020. On 6 April 2021 a 12-month report was tabled which included the Administrator Action Plan with a further update provided at the Council meeting held 4 October 2021.

A key emphasis throughout this period has been embedding good governance at the City of Whittlesea as recommended in the Municipal Monitor’s report tabled in Parliament on 17 March 2020 which recommended: *“Administrators develop, implement and publicly report on an action plan to embed good governance at the Council taking into account the reform opportunities in the Local Government Bill 2019.”*

The focus on good governance has included progressive implementation of the provisions of the Local Government Act 2020 and restoring stability to the organisation following a significant period of turmoil and disruption.

In addition to re-established good governance and effective decision-making, the Council has been diligent in re-building the reputation of the City of Whittlesea through community engagement, developing clear strategic directions including endorsing the Community Plan 2021-2025, responding to challenges associated with COVID-19 and developing and implementing the Administrator Action Plan, which serves as a roadmap for a successful future.

The Administrator Action Plan outlines the strategies and actions that have been identified to ensure good governance at the City of Whittlesea through to October 2024.

The actions are outlined under the five priority areas of the *Community Plan 2021-2025* and Community Vision, *Whittlesea2040: A place for all* together with the additional priorities of Good Governance/Effective Implementation of the *Local Government Act 2020* and Covid Response and Recovery.

The Plan provides a status update of the key actions over the past six months including a few highlights as outlined below:

* Adoption of the *Community Plan 2021-2025* (integrating the Public Health and Wellbeing Plan, Disability Action Plan and Pandemic Recovery Plan) and the *Community Plan Action Plan 2021-2022*
* Adoption of *Long-Term Financial Plan*
* Development of Advocacy Framework and priorities
* Implementation of inaugural Community Awards
* Implementation of Community Leadership program
* McLeans Road kindergarten building upgrade completed and opened
* Plenty Road stage 2 and intersection of Plenty Road/Bridge Inn Road completed
* Wollert East Community Centre constructed and open for use
* Adoption of the *Strong Local Economy Strategy*
* Adoption of *Complaints Policy*
* *Workforce Plan* and *Gender Equity Action Plan* completed
* Appointment of three new Audit and Risk Committee members in line with reviewed terms of reference
* Whittlesea Business network endorsed
* Significant community engagement as outlined in attachment 2

**Community Consultation and Engagement**

Administrators have engaged with the community through a variety of online activities and more recently through in person meetings, subject to COVID-19 restrictions. Attachment 2 includes key meetings, media and community engagement undertaken over the past six months.

**Alignment to Community Plan, Policies or Strategies**

Alignment to Whittlesea 2040 and Community Plan 2021-2025:

**High performing organisation**  
We engage effectively with the community, deliver efficient and effective services and initiatives, make decisions in the best interest of our community and deliver value to our community.

The report confirms Council’s engagement with community and key decisions, priorities and actions taken in the best interest of the community.

**Considerations**

**Environmental**

The Action Plan confirms work undertaken to support a Sustainable Environment.

**Social, Cultural and Health**

The Action Plan confirms work undertaken to support Social, Cultural and Health of the community in pandemic recovery, liveable neighbourhoods and connected community.

**Economic**

The Action Plan confirms work undertaken to support a Strong Local Economy.

**Financial Implications**

All work undertaken is included in the current budget.

**Link to Strategic Risk**

**Strategic Risk** *Governance - Ineffective governance of Council’s operations and activities resulting in either a legislative or policy breach*

Transparency via regular reporting to the community plays a critical role in demonstrating good governance. This report is also in line with recommendations made in the Municipal Monitor’s report tabled in Parliament on 17 March 2020.

**Implementation Strategy**

**Communication**

A copy of the report will be provided to the Hon. Shaun Leane, the Minister for Local Government, Local Government Victoria and all local Members of Parliament. Administrators have an ongoing commitment to engage with community and Administrator engagement will continue to be reported to Council twice yearly.

**Critical Dates**

Future reports will be provided twice annually confirming Administrators community engagement and major achievements of Council. Regular reporting on the Community Plan Action Plan as well as reporting through the annual report will continue.

**Declaration of Conflict of Interest**

Under Section 130 of the *Local Government Act 2020* and Rule 47 of the Governance Rules 2021, officers providing advice to Council are required to disclose any conflict of interest they have in a matter and explain the nature of the conflict.  
  
The Responsible Officer reviewing this report, having made enquiries with relevant members of staff, reports that no disclosable interests have been raised in relation to this report.

**Conclusion**

The past two years has been an exceptionally busy period for the Panel of Administrators, working as Council, with considerable demonstrated achievements. In addition to the re-establishment of good governance and effective decision-making, considerable efforts have been made to re-build the reputation of the City of Whittlesea, to engage with the community and to improve staff morale.

In addition to the Administrator Action Plan, the *Community Plan 2021-2025* has been developed and endorsed following significant community consultation. This confirms Council’s priorities for the future and key initiatives and actions to be progressively implemented. Progress against the Community Plan will continue to be publicly reported on a quarterly basis and highlights from Administrators including Administrator engagement will be reported six monthly.

Administrators will continue to be vigilant in relation to the current COVID-19 challenges and supporting COVID-19 recovery whilst enhancing their visibility in the community now that restrictions have eased.

5.1.3 Amendment C257WSEA – Proposed Planning Provision Changes to 115 Trawalla Avenue, Thomastown

**5.1.3 Amendment C257WSEA – Proposed Planning Provision Changes to 115 Trawalla Avenue, Thomastown**

**Responsible Officer** Director Planning & Development

**Author** Coordinator Strategic Land Use Planning

**In Attendance** Linda Martin-Chew, Coordinator Strategic Land Use Planning

**Attachments**

1. C 257 Whittlesea Locality Plan [**5.1.3.1** - 3 pages]
2. Revegetation and Landscape Plan [**5.1.3.2** - 1 page]
3. C 257 Whittlesea 001 Zone Map 20 [**5.1.3.3** - 1 page]
4. C 257 Whittlesea 002 Overlay Map 20 [**5.1.3.4** - 1 page]

**Purpose**

The purpose of this report is to inform recommendations for a Council position on a proposed planning scheme amendment to rezone land formerly within the Merri Creek Reserve in Thomastown from Public Use Zone to Industrial 1 Zone. Melbourne Water owns the land and has formally requested Council’s views on the proposed rezoning of the land by 29 April 2022.

The Amendment will affect part of the land at 115 Trawalla Avenue, Thomastown with the objective being to ensure that the zoning of the land is consistent with its use.

The land has a complex planning and building compliance history. The current use of the subject land is a warehouse and car parking. The situation that the proposed Amendment seeks to resolve arose many years ago from the development of these buildings and works on Melbourne Water land without the necessary approvals.

Subsequently, the adjacent landowner has worked with Council and Melbourne Water to obtain the necessary retrospective approvals and the Amendment is being pursued by Melbourne Water to finally resolve the matter. The Amendment is the logical conclusion to an iterative process undertaken by both Melbourne Water and Council since 2014 to correct the situation.

The planning authority for the Amendment is the Minister for Planning. The amendment process is being conducted by the Government Land Planning Service and will be publicly exhibited from 15 March to 27 April 2022. Following exhibition of the Amendment, the sale of the land will be considered by the Government Land Standing Advisory Committee via a Public Hearing process in June 2022.

**Brief Overview**

The subject land at part 115 Trawalla Avenue, Thomastown is within the Merri Creek Reserve set aside for environmental purposes by Melbourne Water. The site is adjacent to the Bertocchi Smallgoods manufacturing complex at 67 Trawalla Avenue, Thomastown. The manufacturing operations were extended into the subject land when the subject site was partly developed with buildings and hardstand areas for car parking.

Retrospective planning permits to authorise the buildings and works, remove easements, and to remove the reserve status of the land have since been required to facilitate the current proposal to rezone the land and its potential transfer to private ownership via the sales process. The completion of this process would resolve the existing situation whereby publicly owned land is developed with a warehouse and carparking areas. The land is currently licensed by Bertocchi Smallgoods from Melbourne Water.

Bertocchi Smallgoods is a significant employer in the local and regional context, employing over 400 staff. The draft explanatory report for Amendment C257 advises that the rezoning and transfer of the land to Bertocchi Smallgoods will enable a $40 million expansion of the business, estimated to create an additional 80 jobs in the first stage with potential for a further 120 jobs to be created in later stages.

This report will provide a summary of the relevant planning history of the site subject to the Amendment. This is to provide context for the current process being undertaken by Melbourne Water to rezone and sell the land. The rezoning of the land is a condition of its sale to Bertocchi Smallgoods and Amendment C257 is being pursued by Melbourne Water to resolve the matter.

Melbourne Water has formally requested Council’s views on the proposed rezoning by 29 April 2022. The rezoning of the land is the logical conclusion to an iterative process undertaken by both Melbourne Water and Council since 2014 to retrospectively address the development of buildings and works on Melbourne Water land. This report will recommend that Council notify Melbourne Water Corporation that it supports the proposed planning scheme amendment. Given the procedural nature and status of the proposal it is not intended to provide a Council submission to the Government Land Standing Advisory Committee or Council representation at the public hearing.

**Recommendation**

**That Council:**

1. **Write to Melbourne Water Corporation providing support for Planning Scheme Amendment C257 which proposes to rezone part of the land at 115 Trawalla Avenue, Thomastown, to the Industrial 1 Zone and to apply the Development Contributions Plan Overlay Schedule 3.**

**Key Information**

**Background**

In 2014, the owner of the land at 67 Trawalla Avenue, Thomastown (AB Trawalla Holdings Pty Ltd and JB Trawalla Holdings Pty Ltd trading as Bertocchi Smallgoods) was made aware they were operating a small section (0.419 ha) of their business in an unsuitable zone. Upon further investigation this section was identified as an historical development on 115 Trawalla Avenue, Thomastown, zoned Public Use Zone 1 and owned by Melbourne Water Corporation (MW). The historical development on the land that is subject to rezoning is shown at Attachment 1, along with a map showing the existing zones, and a site context map.

In 2016, MW with the support of the Department of State Development, Business and Innovation (now known as Department of Jobs, Precincts and Regions, DJPR) entered a Contract of Sale as the vendor with Bertocchi Smallgoods and committed to subdivide and rezone the land prior to settlement. In the interim, the land is licensed by Bertocchi Smallgoods from Melbourne Water.

Council is responsible for the administration and enforcement of the Whittlesea Planning Scheme. As such, Bertocchi Smallgoods (with Melbourne Water consent) applied to Council for retrospective planning permits for the buildings and works at 115 Trawalla Avenue, Thomastown.

Whilst the process to rezone and the potential sale of the land are being proposed and undertaken by the state government agencies identified elsewhere in this report, Council is responsible for implementation of, and compliance with, planning permit conditions. The retrospective planning permit history is as follows:

* Permit 715136 issued 5 July 2017 for buildings and works relating to 67 Trawalla Avenue. It should be noted that permit conditions relating to landscaping to the satisfaction of MW were among the permit conditions required to be imposed by MW. The permit also requires that before the use of the development allowed by the permit starts, the title boundary must be realigned, or title consolidated, to ensure that the buildings are located entirely within one lot.
* Permit 716414 issued 4 September 2017 for car parking associated with the industrial uses, also relating to 67 and 115 Trawalla Avenue. One of the MW conditions on the permit requires completion of the landscaping as required under Permit 715136 to the satisfaction of MW.
* In November 2017, City of Whittlesea issued a Notice of Decision to grant Planning Permit 716537 in relation to 67 and 115 Trawalla Avenue. The permit allowed removal of the reserve status from the relevant part of the Merri Creek Reserve. Friends of Merri Creek Incorporated initiated a VCAT hearing to review the decision. Melbourne Water was a party to the hearing.
* VCAT upheld the Council decision and Planning Permit 716537 was issued at the direction of VCAT (ref: P2821/2017) in July 2018.
* Planning Permit 716537 sets time limits within which the subdivision must occur. The time limit for certification of the subdivision has since been extended and certification is now required by 20 July 2022.

With respect to landscaping, the inclusion of these conditions is to minimise impacts to the surrounding Merri Creek riparian zone and to screen the development from the future linear park along the creek (noting the future walking path is intended to be on the western side within Hume City Council). The finalised landscape plans have undergone a technical review by Friends of Merri Creek Incorporated. MW has advised that landscape plans have been approved (refer Attachment 2) and that works are underway at the site.

Council will need to ensure compliance to the landscape requirements even if the Minister for Planning approves the Amendment to rezone the land prior to their completion.

A further subdivision process will be required to allow the rezoned land to be disposed of separately and to ensure the requirements of the relevant planning permits can be achieved (that all of the buildings are contained within one lot). This will be progressed if the sale process receives Ministerial approval.

The list of approvals outlined above represents an iterative process undertaken by both MW and Council since 2014 to correct the situation. There has been a long period of discussion and negotiation on this matter. As noted in the following section, Council’s role in the rezoning and sale process is as a stakeholder rather than a decision maker. Melbourne Water, as the waterway manager and owner of the land, is the proponent of the rezoning and potential sale which would be a logical outcome in the circumstances.

As such, this report does not recommend providing a Council submission to the Government Land Standing Advisory Committee or Council representation at the public hearing that will consider the potential sale. Such a submission or representation would not affect the outcome of the process given the current status and circumstances of this proposal.

**Amendment Proposal**

The Minister for Planning is the planning authority for the Amendment, which has been made at the request of Melbourne Water Corporation (MW). The draft explanatory report for the Amendment notes the following with respect to consideration of agency views.

*“The amendment has considered the views of Melbourne Water, relevant to its obligations for the waterway, the land and adjoining land.*

*“The amendment is not likely to affect any other government agencies. However, the amendment has been prepared in consultation with the local council and important community groups, including the Merri Creek Management Committee.*

*“The views of these stakeholders have been considered in the preparation of the amendment and the finalisation of landscaping, revegetation and weed management plans for the land affected by the amendment.”*

The Amendment proposes to change the planning provisions for a 0.419-hectare portion of land that is owned by MW and that has been determined to be surplus to its requirements. The Amendment proposes to rezone the land from a Public Use Zone – Service and Utility (PUZ1) to the Industrial 1 Zone (refer Attachment 3) - in keeping with the zoning of the adjacent land already owned by Bertocchi Smallgoods.

It is also proposed to apply the Development Contributions Plan Overlay – Schedule 3

(DCPO3) to the land (refer Attachment 4). DCPO3 seeks to levy contributions towards drainage infrastructure and is applied across the municipality, including to the Bertocchi Smallgoods land at 67 Trawalla Avenue. The application of DCPO3 to the subject site will allow for a consistent approach to relevant developer contributions across the whole of the Bertocchi Smallgoods land, once the land transaction is complete.

No change is proposed to the overlays that already apply to the land, which are the Environmental Significance Overlay Schedule 3 (Merri Creek and Environs) and the Land Subject to Inundation Overlay.

The purpose of Land Subject to Inundation Overlay includes ensuring that development maintains the free passage and storage of floodwater, protects water quality and improves river health.

The objectives and guidelines of the Environmental Significance Overlay Schedule 3 (Merri Creek and Environs) include:

* to restore and revitalise the creeks and adjoining open space to a more natural and ecologically diverse environment.
* to provide a linear open space link including the provision of a shared pedestrian and cycle path along one side of the waterway corridor.
* to ensure that the scenic qualities and visual character of the waterway corridor are not compromised by the inappropriate siting of buildings, the placement of fill or lack of screening vegetation.

**Site Context**

The subject site forms part of 115 Trawalla Avenue, Thomastown, shown hatched in yellow in the locality plan (refer Attachment 1). Bertocchi Smallgoods is located on the adjacent land at 67 Trawalla Avenue. Part of 115 Trawalla Avenue has been developed with a warehouse and car parking areas that contribute to the operations of Bertocchi Smallgoods.

Bertocchi Smallgoods is seeking to purchase part of the land at 115 Trawalla Avenue from Melbourne Water, subject to the land being rezoned. The portion of the land to be rezoned is effectively landlocked between the Merri Creek and 67 Trawalla Avenue. The balance of the land at 115 Trawalla Avenue continues to form the riparian zone for Merri Creek.

Merri Creek forms the western boundary of the lot. On the western side of Merri Creek is the neighbouring municipality, Hume City Council. The Metropolitan Ring Road is located to the south-west.

The site is within the Thomastown Industrial Area, an industrial precinct identified in Plan Melbourne as of state significance. Surrounding uses to the north, east and south-east are industrial. A site context plan has been provided (refer Attachment 1).

**Reason for the Amendment**

The situation that Amendment C257 seeks to resolve arose many years ago from the development of buildings and works that contribute to the adjacent manufacturing operations on MW land, without the necessary approvals. Subsequently, the adjacent landowner has worked with Council and MW to obtain the necessary approvals and the Amendment is being pursued by MW to finally resolve the matter.

The subject land at part 115 Trawalla Avenue, Thomastown, is within the Merri Creek Reserve set aside for environmental purposes by Melbourne Water. The site is adjacent to the Bertocchi Smallgoods manufacturing complex at 67 Trawalla Avenue, Thomastown. The manufacturing operations of Bertocchi Smallgoods was extended into the subject land when it was partly developed with buildings and hardstand areas.

Retrospective planning permits to authorise the buildings and works, remove easements, and to remove the reserve status of the land have since been required to facilitate the current proposal to rezone the land and its potential transfer to private ownership via the sales process.

The Amendment is one of the final stages in a process to resolve the existing situation whereby publicly owned land is developed with a warehouse and carparking areas. In the interim, the land is licensed by Bertocchi Smallgoods from Melbourne Water.

Melbourne Water has determined that the land is surplus to their requirements and, as a government agency, is required to dispose of the land in accordance with the Victorian Government Land Transactions Policy and Guidelines*.* The requirements include that prior to offering land for sale by a public process, the most appropriate zoning (and any other relevant planning provisions) must be in place so that the land can be sold based on its highest and best use.

Planning Permit 716537 applies to 67 and 115 Trawalla Avenue and allows removal of the reserve status from the relevant part of the Merri Creek Reserve. Friends of Merri Creek Incorporated initiated a VCAT hearing to review the decision. In its evidence to the VCAT hearing, Bertocchi Smallgoods stated that it prefers to acquire the land rather than to continue with the licensing arrangement. It advised its business has occupied the site for several decades and is substantial, employing many people and supplying its products across Australasia. Offering a licence provides no security and no incentive to further invest in this site.

Melbourne Water has approval from the Victorian Government Land Monitor to sell the land directly to the adjoining landowner, Bertocchi Smallgoods, at 67 Trawalla Avenue, Thomastown, by virtue of its landlocked status. As such, the land is not required to be offered for sale on the open market.

To facilitate the sale, the land would be rezoned from the Public Use Zone Schedule 1 to Industrial 1 Zone via Amendment C257 noting the rezoning of the land is a condition of its sale to Bertocchi Smallgoods.

The Amendment is the logical conclusion to an iterative process undertaken by both MW and Council since 2014 to correct the situation. There has been a long period of discussion and negotiation on this matter. Melbourne Water, as the waterway manager and owner of the land, is the proponent of the rezoning and potential sale.

**Community Consultation and Engagement**

Consultation for the amendment process is being conducted by Government Land Planning Service in accordance with the Victorian Government Land Transactions Policy and Guidelines (DELWP, 2016), as follows:

* Exhibition: 15 March – 27 April 2022 (6 weeks)
* Public information session: 6.30pm, Tuesday 5 April 2022
* Directions Hearing: Week of 9 May 2022
* Public Hearing: Week of 14 June 2022

However, as mentioned earlier in the report, the matter has been subject to an iterative process over a lengthy period involving engagement by Melbourne Water with the following key stakeholders:

* Bertocchi Smallgoods
* City of Whittlesea
* Merri Creek Management Committee
* Department of Jobs, Precincts and Regions (formerly Department of State Development, Business and Innovation).

Information provided by MW indicates that whilst the Merri Creek Management Committee (MCMC) has been amongst the stakeholders consulted during the process, this does not mean that MCMC supports the rezoning and sale of the land.

**Alignment to Community Plan, Policies or Strategies**

Alignment to Whittlesea 2040 and Community Plan 2021-2025:

**Strong local economy**  
Our City is a smart choice for innovation, business growth and industry as well as supporting local businesses to be successful, enabling opportunities for local work and education.

*Response*:

Bertocchi Smallgoods is a significant employer in the local and regional context, employing over 400 staff. The explanatory report for the amendment advises that the rezoning and transfer of the land to Bertocchi Smallgoods will enable a $40 million expansion of the business, estimated to create an additional 80 jobs in the first stage with potential for a further 120 jobs to be created in later stages.

**Thomastown Industrial Area Plan 2018-2038**

The Thomastown Industrial Area Plan was endorsed by Council in 2018, with aims including to support economic investment; and to improve the amenity and environmental conditions of the area through enhancements to the open space network, waterways and landscaping.

*Response:*

Council officers have worked with Melbourne Water and Bertocchi Smallgoods to facilitate retrospective planning permits to authorise the buildings and works, remove easements, and to remove the reserve status of the land. Whilst this has supported the business in its continued operation, there are conditions of the permit that require landscaping along the boundary of the future lot. The inclusion of these conditions at the request of Melbourne Water is to minimise impacts to the surrounding Merri Creek riparian zone and to screen the development from the future linear park along the creek.

**Planning Policy Context**

The amendment proposal is aligned with the following planning policy:

Clause 71.02-3 (Integrated decision making) provides that planning and responsible authorities should endeavour to integrate the range of planning policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations.

Planning authorities should identify the potential for regional impacts in their decision making and coordinate strategic planning with their neighbours and other public bodies to achieve sustainable development and effective and efficient use of resources.

Clause 17.01-1L (Diversified economy) provides that planning should facilitate a greater diversity in economic investment in the municipality by supporting commercial, industrial and office development and employment generating uses within the Thomastown Industrial Area.

**Considerations**

**Financial Implications**

Requests for support from the Government Land Planning Service can be provided for in the current operational budget.

This report does not recommend providing a Council submission to the Government Land Standing Advisory Committee or Council representation at the public hearing.

**Link to Strategic Risk**

*Not linked to the risks within the Strategic Risk Register*

The Minister for Planning is the planning authority with respect to the Amendment and the decision maker in relation to the sale of the land.

**Implementation Strategy**

**Communication**

Melbourne Water owns the land subject to the Amendment and has formally requested Council’s views on the proposed rezoning by 29 April 2022.

This report recommends that Melbourne Water be notified that Council supports the proposed Amendment.

**Critical Dates**

* 25 February 2022: Due date for stakeholder information to be provided by Council officers to Government Land Planning Service (GLPS) to facilitate the notification aspect of the Amendment.
* 15 March – 27 April 2022: Exhibition of the Amendment by GLPS
* 5 April 2022: Public information session by GLPS
* 29 April 2022: Melbourne Water has requested Council provide its views on the rezoning of the land by this date.
* Week commencing 9 May 2022: Directions Hearing (Planning Panels Victoria and Government Land Standing Advisory Committee)
* Week commencing 14 June 2022: Public Hearing (Planning Panels Victoria and Government Land Standing Advisory Committee)

**Next Steps**

Government Land Standing Advisory Committee Process

The rezoning of the land is being considered under Stream B of the Government Land Planning Services process, whereby the Minister for Planning seeks advice from the Government Land Standing Advisory Committee before agreeing to the sale of the land.

It is government policy that before public land can be sold, it must be rezoned to a more appropriate zone. In the context of the subject land, the zone proposed is Industrial 1 which is reflective of the zoning of the abutting land.

The Amendment proposal has been referred to the Government Land Standing Advisory Committee which, with Planning Panels Victoria assistance, will commence and facilitate a public consultation process as follows.

* Exhibition: 15 March – 27 April 2022 (6 weeks)
* Public information session: 6.30pm, Tuesday 5 April 2022
* Directions hearing: Week of 9 May 2022
* Public hearing: Week of 14 June 2022

Following the hearing, the Advisory Committee decision/recommendations are provided to the Minister for Planning to inform a decision on the sale of the land.

**Declaration of Conflict of Interest**

Under Section 130 of the Local Government Act 2020 and Rule 47 of the Governance Rules 2021, officers providing advice to Council are required to disclose any conflict of interest they have in a matter and explain the nature of the conflict.

The Responsible Officer reviewing this report, having made enquiries with relevant members of staff, reports that no disclosable interests have been raised in relation to this report.

**Conclusion**

Amendment C257 applies to part of the land at 115 Trawalla Avenue, Thomastown and seeks to rezone the land from Public Use Zone Schedule 1 to Industrial 1 Zone.

The planning authority for the Amendment is the Minister for Planning. The draft explanatory report prepared for the Amendment confirms that Council is a stakeholder rather than a decision maker. Notwithstanding, Melbourne Water owns the land subject to the Amendment and is seeking Council’s views on the proposed rezoning by 29 April 2022.

The objective of the Amendment is to ensure that the zoning of the land is consistent with its use. The land has a complex planning and building compliance history, with the amendment seeking to change the zoning to match the current use of the land for a warehouse and car parking.

The situation that the proposed Amendment seeks to resolve arose many years ago from the development of buildings and works that contribute to the manufacturing operations of Bertocchi Smallgoods on Melbourne Water land, without the necessary approvals. Subsequently, the adjacent landowner has worked with Council and Melbourne Water to obtain the necessary approvals and the Amendment is being pursued by Melbourne Water to finally resolve the matter.

The Amendment is the logical conclusion to an iterative process undertaken by both Melbourne Water and Council since 2014 to correct the situation. Melbourne Water as the waterway manager and owner of the land is the proponent of the rezoning and potential sale.

As such, the report recommends that Council write to Melbourne Water Corporation stating that it supports the proposed planning scheme amendment.

5.1.4 Planning Application PLN-38193 - 90 Bodycoats Road, Wollert - Removal of Native Vegetation

**5.1.4 Planning Application PLN-38193 - 90 Bodycoats Road, Wollert - Removal of Native Vegetation**

**Responsible Officer** Director Planning & Development

**Author** Principal Growth Areas Planner

**In Attendance** Jessica Higgins, Principal Growth Areas Planner

**Attachments**

1. Locality Maps [**5.1.4.1** - 2 pages]
2. Tree Retention Removal Plan [**5.1.4.2** - 1 page]
3. Site Context Plan [**5.1.4.3** - 1 page]
4. Arborist Report [**5.1.4.4** - 22 pages]

**Applicant** **Whiteman Property and Associates**

**Council Policy** **Clause 12.01-1L River Redgum Protection Policy**

**Zoning** **Urban Growth Zone – Schedule 5**

**General Residential Zone (applied zone)**

**Overlay** **Development Contributions Plan Overlay – Schedule 16**

**Particular Provision** **Clause 52.17 Native Vegetation**

**Referral** **Landscape Assessment, Rural & Environmental Planning**

**Objections** **The application is exempt from notice, pursuant to Clause 37.07-14**  **of the Whittlesea Planning Scheme.**

**Proposal**

Council’s approval is being sought for the removal of 15 river red gums to support the subdivision of the subject land in accordance with the Wollert Precinct Structure Plan (PSP), which was approved by the Minister for Planning and gazetted via Amendment C187 on 23 February 2017.

There is a mandatory requirement titled R3 within the PSP which requires that:

‘*Except with the written consent of the Responsible Authority, a minimum of 80 per cent of river red gums classified as Medium, Large, or Very Large...must be retained on each parcel for their landscape and amenity value’*.

Due to existing constraints, including the location of a connector road which runs east to west through the middle of the site and is required by the PSP, as well as previously approved subdivisions on adjoining sites, the application for subdivision of the land does not retain 80% of all the trees within the site. The application results in 44%, or 11, of the river red gums subject to R3 within the site being retained (see *Attachment 2*). A proposal which does not retain a minimum of 80% triggers a planning permit for removal of native vegetation under Clause 52.17 of the Whittlesea Planning Scheme.

The applications inability to comply with this requirement has been explored in detail in conjunction with the assessment of the multi-lot subdivision application on the site due to the numerous existing constraints that were required to be designed into the subdivisions layout. Trees proposed for removal within the site are further detailed in the table below:

|  |  |  |  |
| --- | --- | --- | --- |
| **Tree Number** | **DBH** | **Health** | **Comments** |
| 93 | 105 | Dead | Requested for removal to achieve a logical subdivision layout. Stump relocated to open space for habitat purposes |
| 125 | 65 | Fair | Requested for removal to achieve a logical subdivision layout |
| 128 | 62 | Fair | Requested for removal to achieve a logical subdivision layout |
| 136 | 113 | Fair to poor | Required to be removed to allow for construction of required Connector Road |
| 142 | 67 | Fair | Required to be removed to allow for construction of required Connector Road |
| 157 | 117 | Fair to poor | Due to approved road alignments to the south, tree falls within developable land and cannot be appropriately retained |
| 158 | 112 | Fair to poor | Due to approved road alignments to the south, tree falls within developable land and cannot be appropriately retained |
| 161 | 94 | Fair to poor | Required to be removed due to the road alignment approved within adjoining site to the south |
| 162 | 78 | Fair to poor | Due to approved road alignments to the south, tree falls within developable land and cannot be appropriately retained |
| 163 | 116 | Dead | Due to road alignments to the south, tree falls within developable land and cannot be appropriately retained. Stump to be relocated to open space for habitat purposes |
| 166 | 103 | Fair | Required to be removed to allow for construction of required Connector Road |
| 168 | 76 | Fair | Required to be removed to allow for construction of required Connector Road |
| 174 | 118 | Fair | Due to approved road alignment to the north, tree falls within developable land and cannot be appropriately retained |
| 176 | 100 | Fair to poor | Required to be removed due to the road alignment approved within adjoining site to the north |
| 186 | 104 | Dead | To allow for the continuation of the road alignment approved within adjoining site to the south – stump relocated to open space for habitat purposes |

Trees not subject to the 80% retention policy (small trees less than 60cm DBH) are exempt from requiring a planning permit for removal, pursuant to Clause 52.17 of the Whittlesea Planning Scheme, and are not considered in this assessment.

**Brief Overview**

The application is for the removal of 15 river red gums of fair to poor health, including three dead trees, to facilitate a multi-lot residential subdivision of the site in accordance with the approved Wollert Precinct Structure Plan (PSP).

12 of these trees are proposed to be removed due to the trees being within existing road alignments required within the PSP or approved by existing multi-lot residential subdivision Permits on adjoining sites.

The application cannot be determined under delegation as the proposal includes the removal of two or more river red gum trees that have a trunk diameter of 50 centimetres or more at 1.3 metres above ground level.

**Recommendation**

**THAT Council approve Planning Application No 38193 and issue a Permit for the removal of native vegetation (15 scattered trees), in accordance with the endorsed plans as the trees are unable to be retained due to connector roads required by the approved Wollert Precinct Structure Plan, as well as previous issued Permits. The proposed tree removal is therefore unavoidable in order for the land to be able to be developed generally in accordance with the PSP and removal is to be offset under the State applied Melbourne Strategic Assessment levy. Council approval is subject to the following conditions:**

1. **No native vegetation may be removed until the first stage of the subdivision approved under any future planning permit for the subject land is certified.**
2. **No vegetation or tree shown for retention on the endorsed plans is to be removed, lopped, pruned or destroyed without the further written consent and approval of the Responsible Authority. Unless otherwise agreed in writing by the Responsible Authority, any request for such consent must be accompanied by the report of a suitably qualified and experienced arborist to assist the Responsible Authority in determining whether to give written consent.**
3. **Tree removal as permitted by this Permit must be undertaken in accordance with the following:**
4. **Each tree nominated for removal shall be suitably marked prior to its removal and an inspection arranged with an appropriate Council Officer to verify that the marked tree(s) accords with the permit and/or endorsed plans;**
5. **Prior to removal, the tree to be removed shall be inspected by an appropriately qualified and experienced zoologist to determine the presence of any native animals living or nesting in the tree. Should any native animals be detected they must be caught and relocated to a site deemed appropriate by the zoologist;**
6. **Tree removal is to be undertaken in a safe manner;**
7. **All services either above or below ground are to be located prior to the commencement of any works;**
8. **Stumps and any surface roots are to be ground down below ground level. Ground and chipped material to a depth of 50mm is to be removed from site at the direction of the project manager. The project manager must supply and place suitable topsoil and seed the area making certain that the reinstated ground surface is level, even and safe;**
9. **Stumps shall be removed within 14 days of removal of the tree. All stumps not removed immediately after removal of the tree are to be paint marked with a suitable bright yellow reflective marking paint;**
10. **After a tree has been felled, the tree must be protected from firewood harvesting via temporary fencing and signage to the satisfaction of Council until such time as the tree has been relocated for habitat or mulched;**
11. **All timber greater than 300mm in diameter that cannot be reused as habitat, furniture or another use determined appropriate by the responsible authority shall be hammer milled and shredded for reuse as mulch within the site; and**
12. **All timber less than 300mm in diameter and branch/leaf material shall be shredded for reuse as mulch within the subject site.**
13. **This permit will expire if:**
14. **The approved tree removal does not start within two (2) years of the date of this permit; or**
15. **The approved tree removal is not completed within six (6) months of commencement.**

**The responsible authority may extend the periods referred to above if a request is made in writing. This request must be made before or within 6 months after the permit expiry date where the development has not yet started, and within 12 months after the permit expiry date where the development allowed by the permit has lawfully started before the permit expires.**

**NOTES**

**Melbourne Strategic Assessment levy area**

**In accordance with the Melbourne Strategic Assessment (Environment Mitigation Levy) Act 2020, levy liabilities for the removal of native vegetation in growth areas are payable after the issue of statement of compliance. Future subdivision of the subject land will therefore trigger the levy liability to compensate the loss of native vegetation allowed by this permit. The liabilities will be considered satisfied upon payment of the levy assessment notice and receipt of the appropriate MSA certificate as issued by the Department of Environment, Land, Water and Planning.**

**Site and Surrounding Area**

The site is located on the eastern side of Bodycoats Road, approximately 850 metres north of its intersection with Boundary Road and has a total area of 8.169 hectares (see *Attachments 1 and 3*). The site is rectangular in shape, with a frontage of 202.38 metres, a depth of 402.90 metres and a rear boundary with a width of 202.63 metres.

The site is relatively flat and features an existing single storey residential dwelling, outbuildings and dams, a large man-made mound in the centre of the site and a significant number of scattered trees, including 33 River Red Gums.

The site is bound by private properties to the north (120 Bodycoats Road), east (39 and 41 Andrews Road) and south (80 Bodycoats Road).

The site and surrounding area all forms part of the Wollert PSP area approved by the Minister for Planning via Amendment C187 on 23 February 2017 and is identified for residential use. While currently rural land, the area is rapidly developing in line with the PSP. The sites to the north and south of the subject site have approved Planning Permits for residential multi-lot subdivisions and the site directly to the east at 39 Andrews Road currently has a live Planning application for a residential multi-lot subdivision.

**Restrictions and Easements**

The subject land is formally known as Lot 3 on Plan of Subdivision 127705 and includes a 6.04 metre wide easement for the purpose of drainage and sewerage.

There are no restrictions on title which would preclude Council from determining this application.

**Public Notification**

The application is not subject to advertising as it is exempt pursuant to Clause 37.07-13 of the Whittlesea Planning Scheme, noting it is considered that the application is ‘generally in accordance’ with the PSP.

**Community Consultation and Engagement**

The application was not advertised to the community due to being exempt from any external notification and referrals pursuant to Clause 37.07-13 and the provisions of Clause 66.01 of the Whittlesea Planning Scheme.

The proposal has been extensively discussed and reviewed by internal stakeholders. Council’s Landscape Assessment and Environmental Planning teams have both reviewed the proposal as part of their assessment of the multi-lot subdivision application on the site (Planning Application No. 36856). The application originally proposed the removal of 16 river red gums on site. Following Council’s review and a site inspection, the applicant was requested to redesign the subdivision layout to ensure that Tree No. 180 could be retained. The tree was identified by Council’s Arborist as being the most significant tree on site, with high visual character. The subdivision was subsequently revised to ensure its retention, and an amended proposal for the removal of 15 scattered trees. The relocation of dead trees into open space was supported by both departments, who identified the benefits of stumps within open space areas as habitat. In addition, numerous small river red gums were identified which are within open space which will be provided within the site and therefore are sought to be retained.

Both departments are supportive of the application, subject to the above changes and relevant conditions being included on any permit issued.

**Assessment Against the Whittlesea Planning Scheme**

**Clause 12.01-1L - River Red Gum protection**

The objective of the policy is:

*To retain and provide for the long-term viability of River Red Gums.*

It is considered the proposal is consistent with the policy. While the proposal results in the removal of 15 river red gums from the site, 11 river red gums are retained within the site and the reserves and parks they are to be retained within will maximise their protection. Three dead trees within the site are to be removed and will be relocated and retained within open space, which provides habitat for local fauna.

In addition to this, groups of trees are predominantly retained in a single area and small river red gums within these areas can also be explored for retention, subject to detailed design as part of any multi lot subdivision Permit to issue on the subject site. This results in the potential retention of approximately 19 additional river red gums in public open space as identified in the submitted Arborist Report (see *Attachment 4*). The small river red gums support the long-term viability of river red gum retention within the future urban fabric and will contribute to regeneration within the site, adding to the sense of place that is afforded by their preservation. Small river red gums which may be able to be retained in open space are identified in Attachment 2.

**Clause 52.17 - Native Vegetation**

Pursuant to Clause 52.17 of the Whittlesea Planning Scheme, planning approval is required to remove, destroy or lop native vegetation, including dead vegetation, on land that together with all contiguous land in one ownership, has an area greater than 0.4 hectares. This does not apply:

* *If the table to Clause 52.17-7 specifically states that a permit is not required.*
* *To the removal, destruction or lopping of native vegetation specified in the schedule to this clause.*
* *To an area specified in the schedule to this clause.*

The schedule to the clause, identifies that:

*All native vegetation shown on Plan 7b in the incorporated Wollert Precinct Structure Plan, December 2016 where the removal, destruction or lopping which is required for any development that is subject to and carried out in accordance with the following approval made pursuant to section 146B of the Environment Protection and Biodiversity Conservation Act 1999 (Cth):*

* *‘Final approval for urban development in three growth corridors under the Melbourne urban growth program strategic assessment, 5 September 2013’.*

*This does not apply to:*

* *Native vegetation or scattered trees identified as ‘to be retained’ on Plan 7b in the incorporated Wollert Precinct Structure Plan, December 2016.*
* *Trees shown as ‘tree subject to 80% retention policy’ on Plan 7b in the incorporated Wollert Precinct Structure Plan, December 2016 where the removal, destruction or lopping does not comply with R3 in the incorporated Wollert Precinct Structure Plan, December 2016.*

As previously noted, the Wollert PSP seeks to retain a minimum of 80% of river red gums identified as being subject to the policy on Plan 7b of the PSP, or as identified by a site-specific arborist report. Plan 7b in the PSP identifies 33 trees within the subject site as trees subject to the 80% retention policy. It is however noted that the arborist report (see *Attachment 4*) identifies only 28 trees as subject to R3 of the PSP due to eight trees identified in Plan 7.b. being ‘small trees’ or not a river red gum. In addition, the arborist report identifies two trees which were not identified on Plan 7.b. but are subject to the 80% retention policy (trees 125 and 128). It is noted there is one tree which has previously been approved for removal to facilitate the widening of Bodycoats Road (tree 19). Therefore, a total of 26 trees subject to R3 are considered for the purposes of the calculations within this report.

Council officers have considered the extent of tree removal in the context of the decision guidelines of Clause 52.17 which requires the Council to have regard to the following three step approach in accordance with the *Guidelines for the removal, destruction or lopping of native vegetation* (Department of Environment, Land, Water and Planning, 2017):

1. *Avoid the removal, destruction or lopping of native vegetation.*
2. *Minimise impacts from the removal, destruction or lopping of native vegetation that cannot be avoided.*
3. *Provide an offset to compensate for the biodiversity impact if a permit is granted to remove, destroy or lop native vegetation.*

*To manage the removal, destruction or lopping of native vegetation to minimise land and water degradation.*

It is considered that the applicant has sought to avoid removal where possible and this has been demonstrated by their efforts to retain Tree No. 180 within the subdivision layout. The removal of the 15 river red gums is required due to existing road connections approved on adjoining sites, as well as to facilitate is the connector road in accordance with the requirements of the PSP. The connector road is a key infrastructure item and as such the removal of the trees that fall within its path is unable to be entirely avoided.

The retention of the 11 river red gums on site has been maximised through:

* Providing ample space within tree reserves to ensure they are protected and enhanced within the ultimate built environment.
* Retaining dead tree stumps in open space for habitat.
* Retaining groups of trees together where possible to maximise their visual amenity and value.
* Seeking retention of small river red gums which do not contribute to the 80% retention rate calculations but are within open space and parks and therefore may be retained.

Finally, their removal can be appropriately offset. In accordance with the *Melbourne Strategic Assessment (Environmental Mitigation Levy) Act* 2020, the issue of a Statement of Compliance for a plan of subdivision (I.e., subdivision), will trigger the payment of the levy (offset) on this land to the Department of Environment, Land, Water and Planning (DELWP). The levy is calculated per scattered tree within the developable land, and therefore, the future subdivision of the land will facilitate the offset of the vegetation removal considered under this Permit. As such, it is considered there is no ‘net loss’ to biodiversity as a result of the proposed tree removal in accordance with the purpose of Clause 52.17. The levy per scattered tree is $18,999 (as of July 2021) and the levy revenue is identified by DELWP to be used for conservation purposes, including the protection and management of Biodiversity Conservation Strategy (BCS) areas, of which there are eight which fall within, or partly within, the City of Whittlesea. In addition, the levy is nominated to be used for the creation and management of the proposed 1200-hectare Grassy Eucalypt Woodland Reserve which traverses Mernda, Wollert and Woodstock.

**Declaration of Conflict of Interest**

Under Section 130 of the *Local Government Act 2020* and Rule 47 of the Governance Rules 2021, officers providing advice to Council are required to disclose any conflict of interest they have in a matter and explain the nature of the conflict.

The Responsible Officer reviewing this report, having made enquiries with relevant members of staff, reports that no disclosable interests have been raised in relation to this report.

**Conclusion**

It is considered that the removal of the 15 river red gums is in accordance with the relevant provisions of the Whittlesea Planning Scheme. The removal has been approved by relevant internal stakeholders and is required in order to facilitate the development of the land in accordance with the Wollert PSP and existing planning approvals.

Accordingly, it is recommended that the application for the removal of native vegetation be supported subject to the conditions within this report.

5.1.5 Ziebell's Farmhouse Museum, Heritage Garden and Caretaker Cottage - Late Report Notice

**5.1.5 Ziebell's Farmhouse Museum, Heritage Garden and Caretaker Cottage - Late Report Notice**

**Responsible Officer:** Director Community Wellbeing

**Author:** Manager Active & Creative Participation

**In Attendance:** Anthony Traill, Manager Active & Creative Participation

In accordance with rule 12.2 and 12.3 b) of the *Governance Rules 2021* the Chief Executive Officer, with the agreement of the Chairperson, has withdrawn this matter from the Agenda of this meeting.

The item has been withdrawn to allow for further discussions to occur between Council officers and the Friends of Westgarthtown Group before the matter is considered by Council at a future meeting.

**5.2 Livable Neighborhoods**

Nil reports

**5.3 Sustainable Environment**

Nil reports

lacement along Palm Street, Thomastown

**5.4 Strong Local Economy**

Nil reports

**5.5 High Performing Organisation**

5.5.1 Interstate Conference - Australian Local Government Association National General Assembly 2022

**5.5.1 Interstate Conference - Australian Local Government Association National General Assembly 2022**

**Responsible Officer** Executive Manager Governance & Strategy

**Author** Coordinator Governance Administration

**Attachments** No Attachments

**Purpose**

The purpose of this report is to authorise Chair of Council, Lydia Wilson and Administrator Chris Eddyto attend the Australian Local Government Association (ALGA) National General Assembly which is taking place in Canberra from 19-22 June 2022.

**Brief Overview**

The ALGA National General Assembly is the peak annual conference for Local Government attended by Mayors, Councillors, Administrators and Chief Executive Officers (CEOs). This conference provides an opportunity for members of Local Government to engage directly with the Federal Government to develop and influence national policy. A range of motions impacting Local Government are discussed at the assembly and attendance by the Administrators and CEO will enable the needs of the City of Whittlesea to be represented and considered in the discussions and workshops with key decision makers. Council approval is required for any interstate or overseas travel by Administrators.

**Recommendation**

**THAT Council authorise Chair of Council, Lydia Wilson and Administrator Chris Eddy to attend the ALGA National General Assembly, 19-22 June 2022 in Canberra.**

**Key Information**

The ALGA National General Assembly provides an opportunity for the Administrators and CEO to advocate to Federal Government and raise awareness of the needs of the local Whittlesea community. It also provides opportunities to build relationships with other Local Councils and Federal Government and influence national policy to better support our local community.

A range of motions are considered with a focus on new ways the Australian Government could partner to strengthen the local government sector to advance community well-being, local economic development, create jobs, address environmental challenges, climate change and complex social issues such as housing affordability.

Attending the assembly provides opportunities to meet with relevant and local Members of Parliament following the Federal election to progress Council's advocacy priorities. Attendance at the conference will also provide access to network with a range of Local Government partners and service providers.

The Chair of Council, Lydia Wilson and Administrator Eddy, along with the CEO are proposing to attend the assembly to represent Council’s interests.

**Alignment to Community Plan, Policies or Strategies**

Alignment to Whittlesea 2040 and Community Plan 2021-2025:

**High performing organisation**We engage effectively with the community, deliver efficient and effective services and initiatives, make decision in the best interest of our community and deliver value to our community

Administrator attendance at the ALGA National General Assembly provides Administrators with the opportunity to directly influence Federal Government policies in the best interest of our community and to deliver value to our community.

**Considerations**

**Environmental**

No implications

**Social, Cultural and Health**

No implications

**Economic**

No implications

**Financial Implications**

The costs of attending the conference include the early bird registration fee of $989 each plus travel costs, accommodation and meals.

The CEO and Administrators propose to travel to the conference together by car to minimise the costs associated with travel and attendance at the conference.

The costs are included in the relevant operating budget.

**Link to Strategic Risk**

**Strategic Risk** *Not linked to the risks within the Strategic Risk Register*

**Implementation Strategy**

**Critical Dates**

To obtain the early bird rate for onsite registrations, registration is required by 6 May 2022.

**Declaration of Conflict of Interest**

Under Section 130 of the *Local Government Act 2020* and Rule 47 of the Governance Rules 2021, officers providing advice to Council are required to disclose any conflict of interest they have in a matter and explain the nature of the conflict.  
  
The Responsible Officer reviewing this report, having made enquiries with relevant members of staff, reports that no disclosable interests have been raised in relation to this report.

**Conclusion**

The ALGA National General Assembly conference provides an opportunity for members of Local Government to engage directly with the Federal Government to develop and influence national policy. It is recommended that Council authorise interested Administrators to accompany the CEO to attend the ALGA National General Assembly so that the needs and priorities of the City of Whittlesea community can be represented at the national conference.

**6 Notices of Motion**

Nil Notices of Motion

**7 Urgent Business**

Nil Urgent Business

**8 Reports from Council Representatives and CEO Update**

**9 Confidential Business**

Under section 66(2) of the *Local Government Act 2020* a meeting considering confidential information may be closed to the public. Pursuant to sections 3(1) and 66(5) of the *Local Government Act 2020*.

**9.1 Confidential Connected Communities**

Nil Reports

**9.2 Confidential Livable Neighborhoods**

Nil reports

**9.3 Confidential Strong Local Economy**

Nil reports

**9.4 Confidential Sustainable Environment**

Nil Reports

**9.5 Confidential High Performing Organisation**

Nil Reports

**9.6 Confidential Notices of Motion**

Nil reports

**12 Closure**