

# Council Meeting

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## Agenda

**Tuesday, 13 June 2023**  
via Videoconference

## Information for Councillors and the community

### ACKNOWLEDGEMENT OF COUNTRY

Yarra Ranges Council acknowledges the Wurundjeri and other Kulin Nations as the Traditional Owners and Custodians of these lands. We pay our respects to all Elders, past, present, and emerging, who have been, and always will be, integral to the story of our region. We proudly share custodianship to care for Country together.



### COUNCIL VISION

Whether you live here or visit, you will see how much we care for country, how inclusive and connected our communities are, and how sustainable balanced growth makes this the best place in the world.

### VALUE OF HISTORY

We acknowledge that history shapes our identities, engages us as citizens, creates inclusive communities, is part of our economic well-being, teaches us to think critically and creatively, inspires leaders and is the foundation of our future generations.

### COUNCILLOR COMMITMENT

We'll be truthful, represent the community's needs, be positive and responsive and always strive to do better.

### OUR COUNCILLORS

**Billanook Ward:** Tim Heenan  
**Chandler Ward:** David Eastham  
**Chirnside Ward:** Richard Higgins  
**Lyster Ward:** Johanna Skelton  
**Melba Ward:** Sophie Todorov

**O'Shannassy Ward:** Jim Child  
**Ryrie Ward:** Fiona McAllister  
**Streeton Ward:** Andrew Fullagar  
**Walling Ward:** Len Cox

### CHIEF EXECUTIVE OFFICER & DIRECTORS

**Chief Executive Officer,** Tammi Rose  
**Director Built Environment & Infrastructure,** Hjalmar Philipp  
**Director Communities,** Jane Price

**Director Corporate Services,** Andrew Hilson  
**Director Planning and Sustainable Futures,** Kath McClusky

### GOVERNANCE RULES

All Council and Delegated Committee meetings are to be conducted in accordance with Council's Governance Rules, which can be viewed at: <https://www.yarraranges.vic.gov.au/Council/Corporate-documents/Policies-strategies/Governance-rules>

### PUBLIC PARTICIPATION IN MEETINGS

Members of the community can participate in Council meetings in any of the following ways:

- making a verbal submission for up to 5 minutes on matters not listed on the agenda.
- submitting a question.
- speaking for up to 5 minutes to a specific item on the agenda. For planning applications and policy issues, the Chair will invite one person to speak on behalf of any objectors and one person to speak on behalf of the applicant. For other matters on the agenda, only one person will be invited to address Council, unless there are opposing views. At the discretion of the Chair, additional speakers may be invited for items of large interest.
- speaking for up to 5 minutes to a petition to be presented at a meeting.

For further information about how to participate in a Council meeting, please visit: <https://www.yarraranges.vic.gov.au/Council/Council-meetings/Submissions-questions-petitions-to-Council>

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The Minutes produced after each Council Meeting form the official record of the decisions made by Yarra Ranges Council.

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In the case of an emergency during a meeting held at the Civic Centre, 15 Anderson Street, Lilydale, you should follow the directions given by staff and evacuate the building using the nearest available exit. You should congregate at the assembly point at Hardy Street car park.

## CONTACT US

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*In accordance with Chapter 7, Rule 4, of the Governance Rules developed by Council in accordance with section 60 of the Local Government Act 2020.*

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## **YARRA RANGES COUNCIL**

### **AGENDA FOR THE 583<sup>RD</sup> COUNCIL MEETING TO BE HELD ON TUESDAY 13 JUNE 2023 COMMENCING AT 7.00PM VIA VIDEOCONFERENCE**

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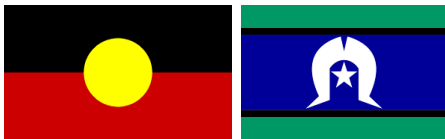
#### **1. MEETING OPENED**

## 2. ACKNOWLEDGEMENT OF COUNTRY

Yarra Ranges Council acknowledges the Wurundjeri and other Kulin Nations as the Traditional Owners and Custodians of these lands.

We pay our respects to all Elders, past, present, and emerging, who have been, and always will be, integral to the story of our region.

We proudly share custodianship to care for Country together.



### **3. INTRODUCTION OF MEMBERS PRESENT**

#### **OUR COUNCILLORS**

Billanook Ward: Tim Heenan  
Chandler Ward: David Eastham  
Chirnside Ward: Richard Higgins  
Lyster Ward: Johanna Skelton  
Melba Ward: Sophie Todorov  
O'Shannassy Ward: Jim Child  
Ryrie Ward: Fiona McAllister  
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Walling Ward: Len Cox

#### **CHIEF EXECUTIVE OFFICER & DIRECTORS**

Chief Executive Officer, Tammi Rose  
Director Built Environment & Infrastructure, Hjalmar Philipp  
Director Communities, Jane Price  
Director Corporate Services, Andrew Hilson  
Director Planning & Sustainable Futures, Kath McClusky

**4. APOLOGIES AND LEAVE OF ABSENCE**

An apology for this meeting was received from Councillor David Eastham.

**5. MAYORAL ANNOUNCEMENTS**

**6. CONFIRMATION OF MINUTES**

**RECOMMENDATION**

*That the Minutes of the Council Meeting held Tuesday 6 June 2023, as circulated, be confirmed.*



## 7. CONFLICTS OF INTEREST

*In accordance with Chapter 7, Rule 4, of the Governance Rules developed by Council in accordance with section 60 of the Local Government Act 2020.*

*The Local Government Act 2020 defines two categories of conflict of interest:*

- *a general conflict of interest, which is defined as "...a relevant person has a general conflict of interest in a matter if an impartial, fair-minded person would consider that the person's private interests could result in that person acting in a manner that is contrary to their public duty", and*
- *a material conflict of interest, which is defined as "...a relevant person has a material conflict of interest in respect of a matter if an affected person would gain a benefit or suffer a loss depending on the outcome of the matter. The benefit may arise or the loss incurred (a) directly or indirectly; or (b) in a pecuniary or non-pecuniary form."*

*In accordance with section 130 of the Local Government Act 2020, a conflict of interest must be disclosed in the manner required by the Governance Rules and the relevant person must exclude themselves from the decision-making process.*

No Conflicts of Interest have been received prior to the Agenda being printed.

**8. QUESTIONS AND SUBMISSIONS FROM THE PUBLIC**

*In accordance with Chapter 3, Rules 57 and 59, of the Governance Rules developed by Council in accordance with section 60 of the Local Government Act 2020.*

A person may make a submission to Council on matters that are not listed on the Agenda. A submission may be on any matter except if it:

- (a) is considered malicious, defamatory, indecent, abusive, offensive, irrelevant, trivial, or objectionable in language or substance;
- (b) is substantially the same as a submission made to a Council meeting in the preceding 12 months;
- (c) relates to confidential information as defined under the Act;
- (d) relates to the personal hardship of any resident or ratepayer; or
- (e) relates to any other matter which the Council considers would prejudice the Council or any person.

There were no Submissions from the Public received prior to the Agenda being printed.

**9. PETITIONS**

*In accordance with Chapter 3, Rules 60, of the Governance Rules developed by Council in accordance with section 60 of the Local Government Act 2020.*

A person may submit a petition to Council on matters that are not listed on the Agenda. Every petition or joint letter submitted to Council must:

- a) identify a 'Lead Petitioner' who Council can correspond with;
- b) be legible and in permanent writing;
- c) be clear and state on each page the matter and action sought from Council. Every page of a petition or joint letter must be a single page of paper and not be posted, stapled, pinned or otherwise affixed or attached to any piece of paper other than another page of the petition or joint letter;
- d) not be derogatory, defamatory or objectionable in language or nature;
- e) not relate to matters outside the powers of Council; and
- f) clearly state the names and addresses of at least seven (7) people who live, work, study or do business in the Municipal district.

There were no Petitions received prior to the Agenda being printed.

**YR-2022/944 - 59 Morris Road, Upwey – Planning Report****APPLICATION DETAILS**

<b>Site Address</b>	59 Morris Road, Upwey
<b>Application No.</b>	YR-2022/944
<b>Proposal</b>	To use the land for a plant nursery and for a reduction of car parking requirements
<b>Existing Use</b>	Single dwelling and associated outbuilding
<b>Applicant</b>	Tapir Design and Planning Pty Ltd
<b>Zone</b>	Clause 32.03 - Low Density Residential Zone (LDRZ) Clause 42.03 - Significant Landscape Overlay Schedule 22 (SLO22)
<b>Overlays</b>	Clause 44.01 - Erosion Management Overlay (EMO) Clause 44.06 - Bushfire Management Overlay Schedule 2 (BMO2)
<b>Permit trigger/s</b>	Clause 32.03 - Low Density Residential Zone <ul style="list-style-type: none"> <li>- A permit is required to use land for a plant nursery.</li> </ul> Clause 52.06 - Car Parking <ul style="list-style-type: none"> <li>- A permit is required to reduce the area of the land allocated to carparking for “landscape gardening supplies” to less than 10 percent.</li> </ul>
<b>Submissions</b>	16 objections and 16 letters of support
<b>Encumbrances on Title (Covenants/Section 173 Agreements)</b>	Nil
<b>Reason for Council Decision</b>	More than 10 objections
<b>Ward</b>	Streeton

**SUMMARY**

The application proposes to introduce a commercial plant nursery use to a residential area, within the existing outbuilding on the site. Three car parking spaces are designated, setback one metre from the front boundary to accommodate customer parking and provide an area for nursery deliveries and picks-up. The applicant

anticipates that no more than five members of the public will be on site at any one time and no more than twenty persons over an entire day.

There are amenity concerns with the scale of the commercial use operating in a residential setting, safety concerns regarding the customer vehicle access and egress. There are also concerns with the impact of inadequate car parking provision on the site, as well as the location of carparking in the front setback and the offsite traffic safety risks and impacts on the street network to support the use.

The proposal is inconsistent with a number of planning policies relating to non-residential uses in residential areas and out of centre development.

Sixteen objections and sixteen letters of support were received.

It has been assessed that given a number of particular site constraints, officers conclude that the site is not suitable for what is proposed. Overall, the application is considered to be inconsistent with the Yarra Ranges Planning Scheme and as such, it is recommended that the application be refusal.

## **RECOMMENDATION**

***That Council resolve to refuse Planning Application YR-2022/944 for Use of a plant nursery and reduction of car parking requirements at 59 Morris Road, Upwey and issue a Notice of Refusal subject to the grounds in Attachment 1 to the report.***

## **DISCLOSURE OF CONFLICT OF INTEREST**

No officers and/or delegates acting on behalf of the Council through the Instrument of Delegation and involved in the preparation and/or authorisation of this report have any general or material conflict of interest as defined within the *Local Government Act 2020*.

## **CULTURAL HERITAGE SIGNIFICANCE**

The application has been checked against the requirements of the *Aboriginal Heritage Act 2006* and *Aboriginal Heritage Regulations 2007 (Vic)* as to the need for a Cultural Heritage Management Plan (CHMP). It has been assessed that a CHMP is not required.

## **EXTRACTIVE INDUSTRY**

The subject site is not located within 500 metres of land on which a work authority has been applied for or granted under the *Mineral Resources (Sustainable Development) Act 1990*.

## HUMAN RIGHTS CONSIDERATION

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

## ENCUMBRANCES ON TITLE

There are no encumbrances on the Certificate of Title.

## SITE LOCATION AND DESCRIPTION

The subject site at 59 Morris Road Upwey, (Lot 4 on Lot Plan 11820) is 1,837 square metres in area. The site is on the north-west side of Morris Road, opposite the Thompson Road intersection. (Figure 1 and Figure 2).



**Figure 1 - Subject Site**



**Figure 2 - Broader site context (aerial)**

The subject site is developed with a recently constructed single storey dwelling and a 55.21 square metre outbuilding. The land is moderately vegetated along the northern side boundary and Morris Road frontage. Vehicle access to the site is from an existing concrete crossover and driveway off Morris Road. The internal driveway provides access to the garage. The nature strip in front of the subject site is occupied by six mature street trees (Figure 3).





**Figure 3 - Street view of subject site**



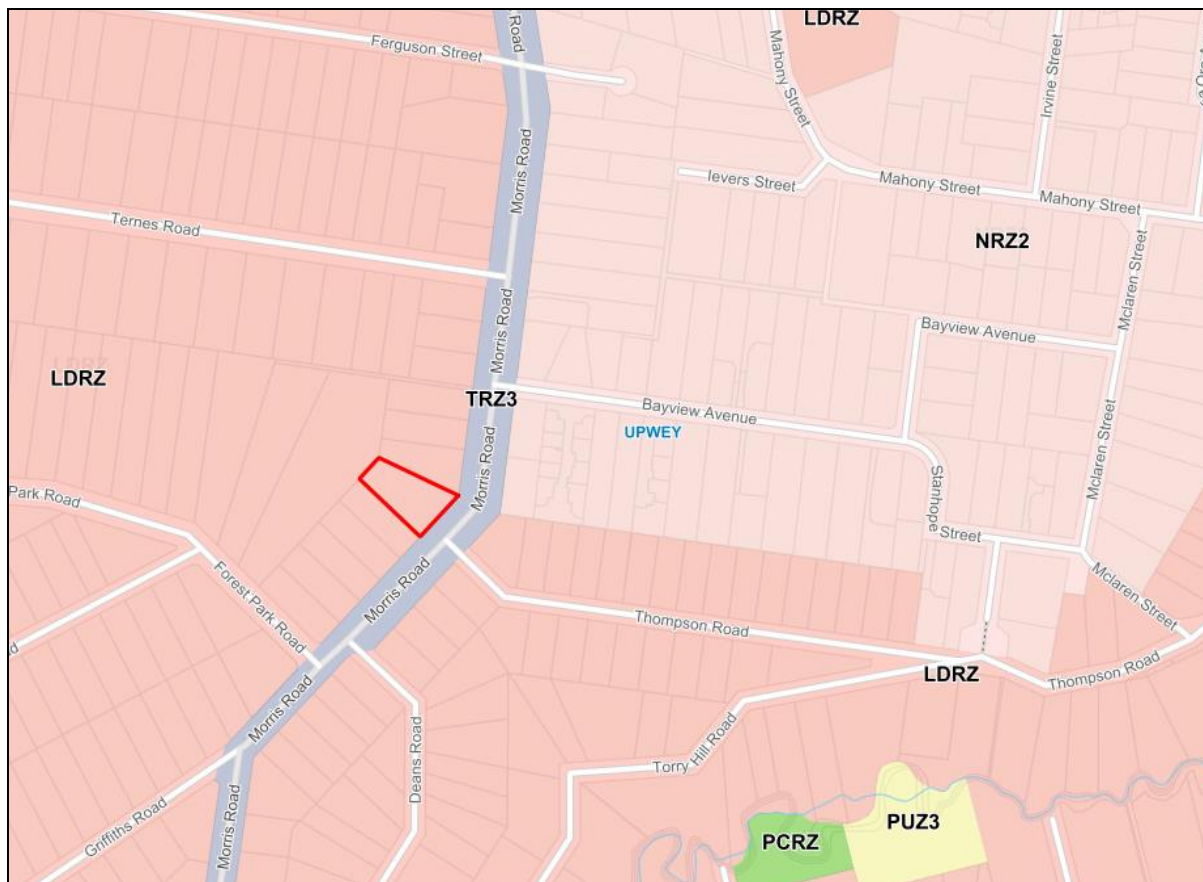
**Figure 4 - The outbuilding to be used for the nursery sales.**



There is no pedestrian path on the west side of Morris Road. Pedestrian movement along Morris Road is via a sealed footpath along the east side of Morris Road. Given the particular characteristics of the road, no on-street parking is available to supplement the on-site car parking arrangement, and there is no parking verge along the roadside.

## SURROUNDING AREA

The surrounding area consists predominantly of low-density residential lots ranging from approximately 1,200 square metres to 7,500 square metres in area. More conventional residential lots are located to the east of the site in the Neighbourhood Residential Zone (Figure 5).



**Figure 5 - Planning zones of the site and surrounds**

Immediately adjoining the subject site are:

- To the north (at 57 Morris Road) is a detached dwelling on a lot of approximately 1,446 square metres in area and is accessed by a crossover along Morris Road. The dwelling is setback approximately 11.4 metres from the site's frontage. The site is well vegetated throughout.
- To the south (at 61 Morris Road) is a detached dwelling on a lot of approximately 1,300 square metres in area and is accessed by a crossover along Morris Road. The dwelling is setback approximately 6.5 metres from the site's frontage. The site is well vegetated throughout.

- To the west (at 89 Forest Park Road) is a detached dwelling on a lot of approximately 7,200 square metres in area and is accessed by a crossover along Forest Park Road. The dwelling is located more than 70 metres away from the shared boundary. The site is densely vegetated.
- To the east (beyond Morris Road) at 42 Morris Road is a detached dwelling. The lot is approximately 1,307 square metres in area. The site is accessed from Thompson Road.

## PROPOSAL

It is proposed to:

- convert the existing shed into a plant nursery to create a storage and retail area (total of 55.21 square metres in area) for the sale of plants.
- create a plant care area (31.74 square metres in area) behind the existing shed.
- operate the plant nursery between 9.00am and 5.00pm Tuesday to Saturday.
- provide a crushed rock car park in the front setback capable of accommodating three vehicles. According to the applicant no cut or fill would be required. The car park would be setback one metre from the front (east) boundary and one metre from the south boundary.
- carry out day to day activities which would include potting and repotting plants, watering plants and stocking shelves. No bulk fertilisers or soils would be stored on the land, as this is stored off-site and brought to the shop as demand requires.



**Figure 6 - Proposed site layout**

The applicant has stated no staff who do not reside on the premises would be employed and only the residents of the dwelling will be involved in the running of the business.

The applicant has estimated that there would be no more than five members of the public at any one time on the land purchasing items and no more than twenty persons over an entire day.

There will be no heavy machinery required for the running of the business. A domestic mower, whipper snipper and power tools would suffice to maintain the land for both the proposed use and the domestic use of the land.

The submission states that there would be minimal waste so domestic Council bins and recycling services would be adequate to support the commercial use of the land.

There would be one to two small delivery vans per week and small box truck deliveries once a fortnight or month depending on sales and purchases. Most deliveries would be sent to an off-site storage facility then brought to the property in a personal vehicle.

## HISTORY

<b>Application Number and Decision Date</b>	Planning Permit YR-2019/111 was issued on 19 July 2019 for building and works to construct a dwelling. The endorsed plans have been amended once, under application YR-2019/111/1 to modify setbacks and reduce the size of the garage and outdoor living area to the dwelling.
<b>VCAT History</b>	N/A
<b>Other History</b>	N/A

## PLANNING CONTROLS

<b>Zoning:</b>	Clause 32.03 - Low Density Residential Zone
<b>Overlay:</b>	Clause 42.03 - Significant Landscape Overlay Schedule 22 Clause 44.01 - Erosion Management Overlay Clause 44.06 - Bushfire Management Overlay Schedule 2
<b>Planning Policy Framework:</b>	Clause 13.07-1S – Land Use Compatibility Clause 13.07-1L – Non-residential uses in residential area Clause 17.02-1S – Business Clause 17.02-2S – Out of centre development
<b>Clause 51.03:</b>	Not Applicable

<b>Schedule to Clause 51.03:</b>	Not Applicable
<b>Particular Provisions</b>	Clause 52.06 – Car Parking
<b>Other Requirements:</b>	Clause 65 – Decision Guidelines

Of relevance to the proposal, whilst uses such as these can operate as a home based business without a planning permit, there are three reasons why this use does not meet the test to qualify for Home Based Business requirements under Clause 52.11:

- There is the display of goods visible from the street (which the applicant has not indicated will not continue);
- Goods offered for sale online are being collected from the property; and
- The scale and intensity of this operation is not consistent with requirement that the business not impact on the amenity provision.

They would need to scale back the number of customers, as well as removing the carparking areas so as to not have a detrimental impact on the amenity of the area. There were complaints regarding the amenity impacts as a result of the operation of the business. The subsequent lodgement of this application is as a result of that investigation.

Even if the operational arrangements were modified to deliver to online customers (not have pick up), and not display goods in the front setback, the number of customers anticipated per day and week, and the resultant demand for carparking provision and management of vehicle egress from the site to safely manage the impact requires a planning permit to control any detrimental amenity impact on the adjoining, and nearby properties, and the local road network.

If this application is not supported, the business operation would need to be reduced to a scale where there are no offsite amenity impacts. Given that the use has generated complaints related to the amenity impacts, which were confirmed as being present, this was the trigger for the requirement to lodge the use application and to demonstrate how the amenity issues would be resolved.

For further information on the planning policies and controls refer to Attachment 2.

## **PERMIT TRIGGERS**

### ***Zoning***

The definition of “Plant nursery” in the Yarra Ranges Planning Scheme is:

*“Land used to propagate, grow, and sell plants. It may include the sale of gardening equipment and horticultural products.”*

Under the Low Density Residential Zone, “Plant nursery” is a Section 2 use therefore a permit is required to use the land for that purpose.

The plans show a crushed rock car park in the front setback, comprising three proposed car spaces. A site inspection revealed that the crushed rock surface is already existing. On this basis, a permit is not required for buildings and works under the Low Density Residential Zone.

### **Overlays**

A planning permit is not required under the Significant Landscape Overlay, Schedule 22, the Erosion Management Overlay or Bushfire Management Overlay, Schedule 2, as the application does not propose any building and works. There are no use triggers within the overlay provisions.

## **CONSULTATION**

### **External Referrals**

This application was not required to be referred to any external authorities.

### **Internal Referrals**

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

<b>Department</b>	<b>Summary of Response</b>	<b>Conditions required</b>
Waste	No objection and no conditions.	No conditions required.
Drainage Engineering	No objection and no conditions. A permit note is recommended to require stormwater to be discharged to the legal point.	The recommended note could be included if a planning permit were to be issued.
Traffic Engineering	No objection subject to conditions requiring the sealing of the internal parking area, a revised turning circle to show four (4) metres radius, and the requirement for left turn only from the site.	Recommending conditions could be included if a planning permit were to be issued.

**Public Notification and Consultation**

Notification of the application was undertaken by:

- Placing of one sign on the land
- Mailing notices to owners and occupiers of adjoining and/or nearby properties
- Placing the proposal on Council's website for a minimum of 14 days

A community consultation meeting was not held.

A total of 32 submissions have been received, comprising 16 objections and 16 submissions in support.

*The main grounds of objection can be summarised as follows:*

- Inappropriate use for Low Density Residential Zone. Retail outlets should be restricted to retail areas, as opposed to residential areas with families and children. This will change the amenity of the area.
- The proposal creates increased traffic and will exacerbate traffic issues in the area.
- The site is located just after a crest in the hill and increasing traffic to this site will be extremely dangerous.
- There are not sufficient sight distances to enter and exit the site in a safe manner.
- The Traffic Report fails to identify the gravel path frequented by children walking to and from school which is on the same side of the road as the proposed business.
- Devaluation of properties in the area.
- The business already appears to be operating without a permit.

*The main grounds of support can be summarised as follows:*

- The nursery will be an asset to the community of Upwey and surrounding areas.
- Have been long-standing customers of the business.
- Owners run a small family-based business which provides great service and is highly reputable in the industry.
- The business encourages both adults and children to take an interest in gardening and in being more connected with nature.
- Appropriately located as there is no other nursery locally.
- The health and wellbeing benefits of plants and gardening are widely documented and align with the long-term vision of greening our cities.
- The sector needs small, independent retail centres to have a strong presence to balance the large-scale commercial operators.

- The proposal will not impact or impede the local community. If anything, it will add a great diverse and aesthetically appealing small business that would enhance the local area in a positive and safe manner.

## **ASSESSMENT OF KEY ISSUES**

The application proposes to introduce a commercial use to a residential area, by proposing a plant nursery within the existing shed on the site. Following a review of the application material, constraints of the subject site and the current relevant provisions of the Yarra Ranges Planning Scheme, Council officers conclude that the site is not suitable for what is proposed.

The assessment below discusses these concerns and the reasons for recommending refusal of the proposed application.

The general reasons for refusing the application are summarised as follows:

- Inappropriate use in a Low Density Residential Zone.
- Traffic and carparking issues due to the scale and intensity of the use.
- Amenity impacts caused by customer numbers and hours of operation.

## **PLANNING POLICY AND ZONE**

The proposal has been assessed as not being in accordance with the applicable provisions of the Yarra Ranges Planning Scheme. These include Clause 32.03- Low Density Residential Zone, Clause 13.07-1S - Land Use Compatibility, Clause 13.07-1L - Non-residential uses in residential area, Clause 17.02-1S - Business and Clause 17.02-2S - Out of centre development.

### ***Clause 32.03 - Low Density Residential Zone***

The purpose of the Low Density Residential Zone seeks to create areas which support low density residential development on larger lot sizes, with spacious setbacks, a sense of space and preserved peaceful amenity. The application has failed to demonstrate how the amenity of this low density residential area will be protected, which leads to the conclusion that the intensity of the proposed activity is inconsistent with the purpose of the zone.

The applicant has proposed the hours of operation to be 9:00am to 5:00pm, Tuesday to Saturday, with a maximum number of five customers on site at any one time, a maximum of twenty customer across the day and approximately 100 customers weekly.

This is considered to be an excessive number of customers visiting a site in a low density residential area. At this intensity, the land use exceeds what would reasonably be associated with a dwelling in a low density residential zone. This would result in a detrimental impact on the amenity of the area through both the movement of customers and traffic (generating both noise and visual disruption), as well as the associated car parking issues discussed below.

The applicant has not confirmed how their proposed customer numbers will be managed or ad-hoc visitation prevented. As there is no certainty on how customer numbers will be controlled (or whether they can be), and no assurance on how customer levels will not exceed the maximum stated. Controlling the number of customers on-site through planning permit conditions would be difficult for Council.

Furthermore, deliveries, using a van, are proposed to occur one to two times per week as well as small truck deliveries to occur once a fortnight or once a month (depending on sales and purchases). This level of activity and movement to and from the site is inconsistent with a residential use and this will have detrimental amenity impacts on the neighbourhood and the surrounding area in terms of traffic and car parking.

***Clause 13.07-1L Non-Residential Uses in Residential Areas***

The strategies of Clause 13.07-1L Non-Residential Uses in Residential Area are to:

- Discourage the dispersal of medical facilities into residential areas.
- Discourage the incremental encroachment of commercial uses into residential neighbourhoods.
- Encourage non-residential uses to adjoin an activity centre or abut a Transport Zone.
- Discourage non-residential uses from forming ribbon development along land abutting a Transport Zone and forming a quasi-commercial area.

The design strategies are to:

- Design use and development to be compatible with the surrounding character and amenity of residential neighbourhoods.
- Set back non-residential development from common boundaries and provide effective landscaping and screening buffers to protect residential amenity of abutting and nearby residential land.
- Provide off-street car parking and design access to minimise the need for cars to travel through local residential streets.

The policy guideline to consider is:

- Whether a proposed non-residential land use or development demonstrates a need to locate in a residential area.

The proposal is not in accordance with Clause 13.07-1L Non-Residential Uses in Residential Area as it introduces a commercial use into a low-density residential area.

As stated above in the report the proposed use is not compatible with the surrounding character and amenity of the low density residential neighbourhood due to the impacts from vehicles and the number of customers attending the property.



The proposed car park is setback one metre from the front boundary and one metre from the south-west (side) boundary. Schedule 22 of the Significant Landscape Overlay seeks for proposals to retain an inconspicuous profile and not to dominate the landscape. Considering this, car parking areas must be designed to be inconspicuous and to integrate into the development. The proposal does not achieve this given the car parking is proposed to be, not only in front of the existing dwelling, but also within one metre of the front and side boundaries.

The submitted plans do not show any planting or landscaping which would provide screening of the activity from abutting land. A proposed one metre setback is not sufficient to allow for adequate screening to be planted, and while the roadside does have planting, this planting is mature, with elevated overstorey canopies, do not offer any screening to the site at a pedestrian level. The proposal results in a large hard stand area for car parking within the front setback on a residential lot. This is not consistent with the landscape character of this area and the Upwey township, or the Significant Landscape Overlay Schedule 22. Given the size and location of the shed and dwelling, as well as the size and shape of the site, there is no alternative location for the car park.

The commercial area of Upwey is located only 670 metres to the north of the site along Main Street and this has been designated as the appropriate location for retail uses where it can service the community. Given the incompatibility of the non-residential use, the proposal does not demonstrate the need to locate the nursery in a low density residential area outside of this designated commercial area in Upwey.

### ***Clause 13.07-1S Land Use Compatibility***

The objective of Clause 13.07-1S is to:

- To protect community amenity, human health and safety while facilitating appropriate commercial, industrial, infrastructure or other uses with potential adverse off-site impacts.

The strategies of Clause 13.07-1S are to:

- Ensure that use or development of land is compatible with adjoining and nearby land uses.
- Avoid locating incompatible uses in areas that may be impacted by adverse off-site impacts from commercial, industrial and other uses.
- Avoid or otherwise minimise adverse off-site impacts from commercial, industrial and other uses through land use separation, siting, building design and operational measures.
- Protect commercial, industrial and other employment generating uses from encroachment by use or development that would compromise the ability of those uses to function safely and effectively.

The proposal is inconsistent with Clause 13.07-1S - Land Use Compatibility as the proposal is not compatible with the existing surrounding residential uses.

The area can be described as a quiet, low-scale, low-density residential area consisting of dwellings and outbuildings on larger lots. The introduction of a retail component creates adverse amenity impacts on adjoining residential land through the proposed hours of operation, the number of customers and associated vehicle movements anticipated with this proposed.

The proposal will result in higher traffic volumes to a site that is in a hazardous location. The site access is at the crest of a hill with vehicles travelling at 60 kilometres per hour and at the junction of two roads (Morris Road and Thompson Road) immediately opposite the site, as shown images provided in **Error! Reference source not found.7** and **Error! Reference source not found.8**:



**Figure 7 - View along Morris Road looking north.**



**Figure 8 - View along Morris Road looking south.**

The Traffic Consultant confirms that the proposal does not comply with sight distance requirements for safe vehicle exit movements from the site (due to visibility being reduced by large trees and the existing vehicle crossing being on the inside of a bend in Morris Road). The applicant's Traffic Consultant has suggested that egress from the site be restricted to 'left turn only' turn onto Morris Road.

Whilst Council's Traffic Engineers have not specifically stated that the left turn only cannot be supported, a left turn only from a residential property is highly unusual, and poses an unreasonable burden and will constrain both the customers and also the residents/visitors of the dwelling. Council would also have to enforce this requirement.

As the site is surrounded by existing low density residential land, the separation of this land use is not an option. The nursery is proposed within the existing shed on the site, therefore alternative siting and building design considerations are not possible. To ensure the amenity of adjoining residential properties is not detrimentally impacted, would require restrictive permit conditions around hours of operation, number of customers and delivery times, which is likely to impact the effective operation of the business as it would be difficult for the operator to adhere to, and for Council to enforce.

### ***Entry and Exit of Vehicles***

The submitted traffic report states:

*"Egress from the land can be performed in a forward direction onto Morris Road. The sight distance north of the land does not satisfy the sight distance requirements of Australian Standard 2890.1. However, those requirements*



*are generally not satisfied for multiple properties along Morris Road including some intersections. When approaching the land from the north drivers would be travelling downhill likely causing them to inadvertently accelerate. Under such circumstances drivers would require a greater distance to stop thereby exacerbating sight line non-compliance. Driver sightlines are restricted by mature street trees. Given the proposed use of the land drivers are unlikely to be familiar with the road conditions along Morris Road. It is recommended that "Left Only" signage be installed within the subject land to restrict vehicle movements to "left only" when egressing the land."*

Figure 9 shows the limited sightlines on the approach from the north along Morris Road, beyond the corner. The site is just beyond the corner, where the angled tree is shown in the photo. Any vehicle not obeying a left turn only manoeuvre leaving the site will likely create point of conflict with oncoming vehicles:



**Figure 9 -Constrained sightlines approaching the site from the north.**

Council’s Traffic Engineer has cited the consultant traffic report and does not object to the use of ‘left turn only’ signage to address sightline concerns, as it functionally removes the potential point of conflict between a passing car and a car exiting the site.

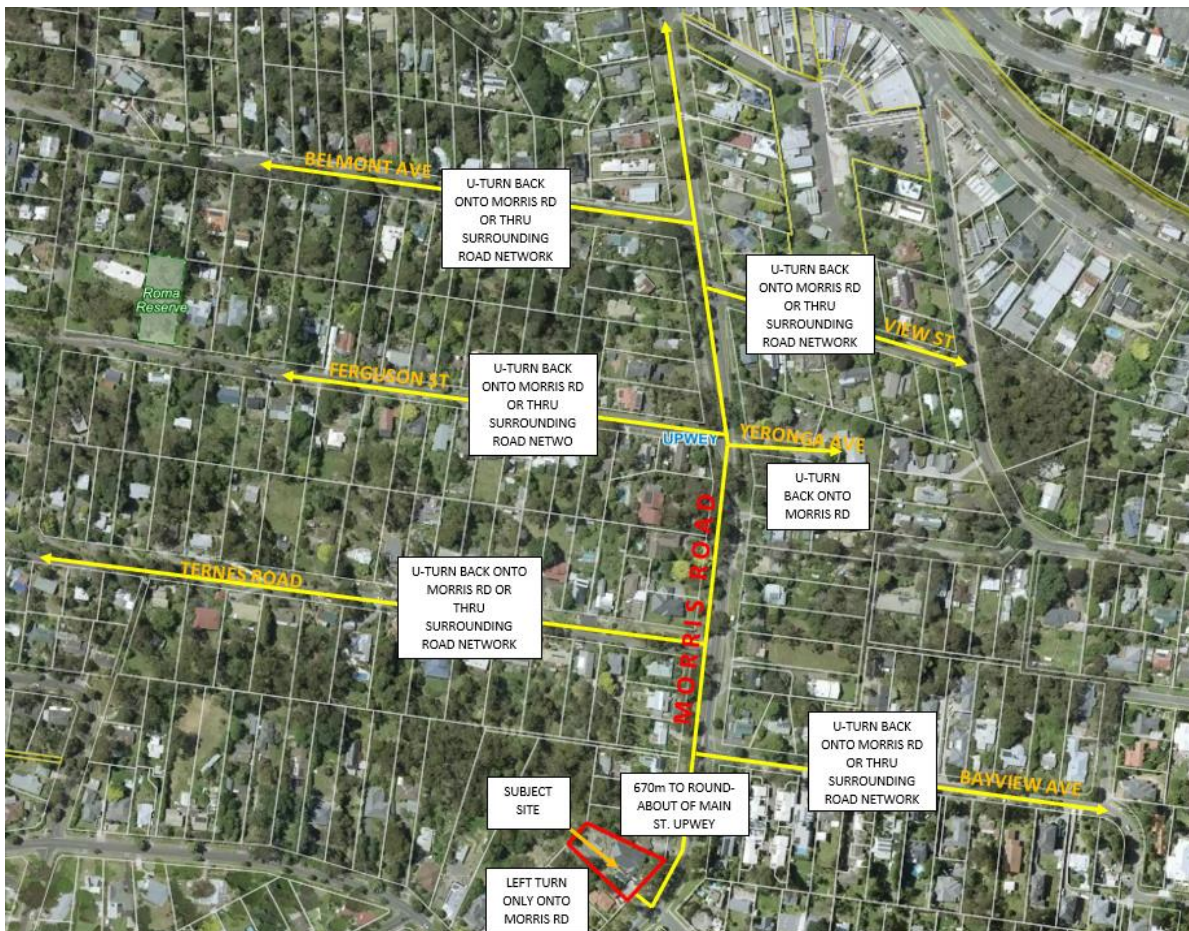
However, whilst the ‘left turn only’ restriction functions to prevent cars turning right out of the site onto Morris Road, and creating this direct point of potential collision,

there are a number of unreasonable practical and human-dependent behaviours to also consider when considering this as a solution.

For vehicles exiting the site and wanting to travel south back along Morris Road, the driver will turn left onto Morris Road and then need to make a U-turn within the surrounding side streets (i.e., Bayview Avenue, Ternes Road, Ferguson Street or View Street) and then turn back onto Morris Road in order to travel south. Alternatively, they will drive north approximately 670 metres to the roundabout at the junction of Morris Road and Main Street and will do a U-turn to travel south along Morris Road. Both rely on customers having local road network knowledge to function, and impose a series of vehicle manoeuvres within the local road network.



This is demonstrated at Figure 10:



**Figure 10 - Map of local road network required to support left turn only egress.**

This relies on local road network knowledge by the customer to succeed, to understand the options and risks to be willing to obey the left turn only signage.

In situations such as this, human nature is that the driver who is unaware of the reasons for the restriction, and does not have local knowledge of the alternative routes, is more likely to opt for a convenient easy solution, and to turn right illegally rather than lawfully turn left.

Given the majority of customers won't be repeat, regular (daily or weekly) visitors, this requirement relies on an unreasonable expectation that occasional customers will comply with this for it to succeed. Occasional customers have no local road knowledge, as well limited appreciation for the safety risk which is being mitigated.

In addition, there is a condition which burdens the permit holder to ensure their customers comply with the permit. Whilst a 'left turn only' sign may be displayed, it will be difficult for the permit holder to enforce that their customers adhere to this restriction when exiting the site, which would result in the permit holder/s being in breach of the condition each time an illegal turn is completed.

There is a road safety risk of vehicle collisions if the customer does not comply. There is also the risk for the permit holder in not being able to comply with permit

conditions, and difficulties for the permit holders to communicate and enforce the need to obey.

Formal enforcement of this permit condition would fall to Council. This is an unreasonable impost on resources, as surveillance would be challenging given the irregularity of customers (times and days), the limited opportunity for on street surveillance opportunities, the fact that customers would not be regular (daily or weekly) customers (as would be the case in other situations where attendees are repeat regular customers such as a child care centre).

As such, with a 'left turn only' sign and condition that is unlikely to be met, and which is difficult to enforce, it is not appropriate to include the requirement as it is of limited value as controlling traffic movements where safety of road users is an issue.

The alternative is to allow a vehicle to turn left or right from the site. given the proposal does not comply with sight line requirements and therefore will have limited visibility, this is not an acceptable alternative as this results in dangerous traffic movements and likely collisions between vehicles. The resultant risk could be on Council for allowing a use which results in these significant traffic safety issues.

As well as vehicle movements leaving the site, there are also issues of vehicle movements within the site. The turning circles required to exit the site in a forward direction are so precise that it would require an exact 'full wheel lock' to 'full wheel lock' manoeuvre to perform a three or five point turn. It also relies on one car parking space being available for the vehicle to successfully manoeuvre within the site, or the area in front of the garage to be empty.

Council's Traffic Engineer comments confirm this, with the following comments:

- *The proposal to widen the vehicle crossing from three (3) to four (4) metres is unnecessary and not supported.*
- *The submitted swept path analysis relies on vehicles being stationary when turning wheels from full lock to full lock, straight to full lock and full lock to straight which is unrealistic. The car park needs to be re-designed to enable a four (4) metre turning radius and the pavement in front of the garage of the dwelling must be available for occupiers of the three car spaces to use when exiting the car spaces.*
- *The car spaces and accessway must be fully sealed in accordance with Clause 52.06-11. If all three spaces are occupied, the applicant has not demonstrated how a customer who enters the site would be able to perform a three point turn and exit the site in a forward direction. The most likely scenario is that vehicles will reverse onto Morris Road to leave the site and find an alternate place to park.*

### **Supply of on-site Car Parking**

A plant nursery is not a specific land use listed within the car parking provisions of Clause 52.06. As such, to determine an appropriate car parking requirement, we can use the nesting diagrams in Clause 73.04, where a plant nursery is nested under landscape gardening supplies.

Landscape gardening supplies is listed in the car parking provisions of Clause 52.06. On this basis, '*landscape gardening supplies*' is the most suitable land use term to apply when considering what is an appropriate car parking provision.

A breakdown of the car parking requirements under Clause 52.06 and calculation of the car parking reduction is provided below.

<b>Use</b>	<b>Clause 52.06 - Car parking rate</b>	<b>Amount of site area required to be set aside for car parking purposes</b>	<b>Amount of site area proposed to be set aside for car parking purposes</b>	<b>Number of car spaces being reduced</b>
Landscape gardening supplies	10 percent of the site area to be set aside for car parking	The land area is 1,837 square metres, therefore 183 square metres in area is required for car parking.	84.48 square metres is set aside for car parking, which equates to 4.59 percent of the site area. <i>Note: includes three spaces and accessway (measuring at 10.8 metres by 7.8 metres).</i>	There is a shortfall of 98.52 square metres (5.41 percent), which equates to seven (7) car spaces. - A standard car space is 5.4 metres in length and 2.6 metres in width. - One car space equals 14.04 square metres.

On this basis, the proposal does not provide the required number of spaces stipulated under Clause 52.06 Car Parking of the Yarra Ranges Planning Scheme and a permit is needed to reduce this requirement. The impact of this needs to be assessed. To determine if a waiver/reduction is appropriate Council must consider what alternate opportunities exist, including on-street car parking, multi-purpose visitation to share the car parking demand, and public transport and alternate measures to visit a site.

In this case, three car spaces are provided for a maximum of five customers to attend the site. It is expected, given the site is not in a commercial/industrial area to share multipurpose trips, the limited public transport network servicing the site, and the out of town location (and the bulky nature of goods being sold), that walking access is unlikely, this will result in the demand for on-street car parking to supplement the shortfall on the site.

Whilst there are no 'no-standing' signs on the street, the road configuration does not allow opportunities for on-street car parking in front of the site, either on the roadside or nature strip. There is a single defined lane carriageway each way, which prevents cars crossing the double lines to deviate from the lane, and roadside parking opposite double lines is illegal. The dangerous road network explained above is managed this way due to the proximity of the site to the crest of the hill and its location on a bend, and opposite an intersecting street. There are also intermittent



traffic islands in the centre of the road which means no overtaking/lane departures are allowed. Illegal car parking on the nature strip in front of the site or along the roadside will impact the line of sight for both passing traffic, as well as customers leaving the site.

Parking on the nature strip is illegal, and there are a number of large trees along the nature strip which prevent customers from parking in this location.

The reduction in car parking area of seven spaces cannot be supplemented or absorbed through the use of on-street car parking in the event of the three on-site car parking spaces being utilised. If a customer were to attend the site, and not get a parking spot, there is a safety risk if they chose to park on the roadside. This would create further road safety issues on an already difficult section of road, and would unreasonably adversely affect the amenity of the area, its residents and generally result in an unreasonable traffic impact.

### ***Clause 17.02-1S (Business) and Clause 17.02-2S Out-of-centre Development***

The relevant objective of Clause 17.02-1S are:

- To encourage development that meets the community's needs for retail, entertainment, office and other commercial services.

The relevant strategies of Clause 17.01-2S are to:

- Ensure commercial facilities are aggregated and provide net community benefit in relation to their viability, accessibility and efficient use of infrastructure.
- Locate commercial facilities in existing or planned activity centres.

The relevant objective of Clause 17.02-2S are:

- To manage out-of-centre development.

The relevant strategies of Clause 17.02-2S are to:

- Discourage proposals for expansion of single use retail, commercial and recreational facilities outside activity centres.
- Give preference to locations in or on the border of an activity centre for expansion of single use retail, commercial and recreational facilities.
- Ensure that out-of-centre proposals are only considered where the proposed use or development is of net benefit to the community in the region served by the proposal or provides small scale shopping opportunities that meet the needs of local residents and workers in convenient locations.

Plant nurseries fall into the category of non-residential uses and is not an essential daily service. Plant nurseries are more appropriately located on larger Green Wedge or Green Wedge A Zoned land, or alternatively at a smaller scale in a commercial area, provided there is a strong justification for a local community need and benefit.

The proposal is inconsistent with the strategies of both Clauses 17.02-1S and 17.02-2S as the proposal is for a single use retail purpose, is located outside an existing

activity centre of Upwey and the applicant has not demonstrated a net community benefit nor demonstrated that there is a specific need for this use to be located outside of a commercial area.

The proposal fails to demonstrate a local need and benefit to the community sought by Clause 17.02-1S (Business), which emphasises the key words 'local' and 'need' in the context of community benefit.

### **Clause 71.03-2 Integrated decision making**

A Plant Nursery is a Section 2 Use in the Low-Density Residential Zone. Whilst a permit may be granted, in appropriate circumstances, pursuant to Clause 71.03-2 of the Planning Scheme, it does not imply that a permit should or will be granted.

The Responsible Authority must decide whether the proposal will produce acceptable outcomes in terms of the Municipal Planning Strategy, the Planning Policy Framework, the purpose and decision guidelines of the zone and any of the other decision guidelines in Clause 65.

Clause 71.02-3 (integrated decision making) of the Planning Scheme requires responsible authorities

*'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.'*

In making this recommendation, it has been determined that:

- The subject site is not close or abutting the Upwey commercial area,
- the proposed plant nursery will result in a land use that will be inconsistent with the existing low density residential area;
- the use will cause an unreasonable disruption in the land use of the residential area of Upwey;
- the operation results in an unreasonable safety risk associated with the traffic movements, and relies on complex vehicle movements through the surrounding road network to support the safe egress of vehicles leaving the site. The immediate safety of road users would be unreasonably compromised for the benefit of the land use, but with minimal broader benefit.

Given the relatively small scale of the proposed operation, there is limited justification to require the permit holder to be required by condition to undertake works and the significant capital investment to improve the broader road network to ensure safe traffic movements from the site.

It is considered that the application will not provide a net community benefit at a scale which outweigh the issues of concern with the proposal. The proposal does not demonstrate a sufficient broader net community benefit that outweighs the detracting

local amenity and neighbourhood character impacts, or the potential safety and traffic impacts on the local road network.

## COMMUNITY CONSULTATION - RESPONSE TO SUBMITTERS

The following is a response to the submissions made:

<b>Objections</b>	
<b>Grounds of Objection</b>	<b>Council Officer response</b>
Inappropriate location.	The main purpose of this zone is to provide low density residential development, which is often valued for the lifestyle opportunities it provides. The introduction of a retail component to this area will have detrimental amenity impacts on the immediate and surrounding properties as discussed in this report. For this reason, it is considered that the proposed retail nursery use is inappropriate.
The proposal creates increased traffic and will exacerbate traffic issues in the area.	Whilst Council's Traffic Department has not identified any particular concerns relating to traffic, Council Planning Officers are concerned that this is a high risk area being that the site is at the crest of a hill with vehicles travelling at 60 kilometres per hour and the access point is at the junction of two roads (Morris Road and Thompson Road). Introducing a use that will increase the number of vehicle movements to and from a site in a high risk area is irresponsible, particularly given the application does not demonstrate how customer numbers will be managed.
The site is located just after a crest in the hill. Increasing traffic to this site will be extremely dangerous.  There are not sufficient sight distances to enter and exit the site in a safe manner	As stated above in the report the proposal will ultimately result in higher traffic volumes to a site that is, at the crest of a hill with vehicles travelling at 60 kilometres per hour and the access point being at the junction of two roads (Morris Road and Thompson Road).  Whilst the 'left only' restriction may appear to be acceptable at face value, it does not address the accessibility issue. This, in turn with the effects of higher traffic volumes associated with the new use, will only further exacerbate an already dangerous traffic safety situation.
The Traffic Report fails to identify the gravel path frequented by children walking to and from school	Whilst the Traffic Report submitted by the Applicant fails to identify the gravel path, Council engineers have considered the pedestrian movements occurring outside the site and not

which is on the same side of the road as the proposed business.	identified any concerns.
Devaluation of properties in the area.	VCAT have determined multiple times that this is not a planning consideration nor a valid reason to refuse the application.
The business already appears to be operating, without a permit.	This planning application for the plant nursery has been lodged with intention of resolving this non-compliance. It is noted that rectification works have occurred on site that has removed all the plants from view and a fence erected to screen the plants on site, if the proposal met the numerical Home Based Business requirements under Clause 52.11, the use could operate without a planning permit.
<b>Submissions in Support</b>	
<b>Grounds of support</b>	<b>Council Officer response</b>
The nursery will be an asset to the community of Upwey and surrounding areas.	Whilst there may be a 'need' for a plant nursery in Upwey, this is not the right location for it. A commercially zoned site would be appropriate as the proposal would be consistent with the purpose and intent of the zone. At times, businesses outgrow their location, and the scale and intensity of this particular proposed use is not appropriate in this particular location.
Have been long-standing customers of the business.	Operating the business locally in a more appropriate commercial location set aside for this purpose would not prevent repeated customers from returning. In this location, the proposal does not comply with the Planning Scheme on a number of aspects and would result in unreasonable localised detrimental impacts which cannot be overcome.
Owners run a small family-based business which provides great service and is highly reputable in the industry.	As above.
The business encourages both adults and children to take an interest in gardening and in being more connected with nature.	As above.
Appropriately located as there is no other nursery locally.	It is considered to be an inappropriate location for a retail nursery. The site is in a Low Density Residential Zone, the purpose of which is to create areas which support low density residential

	<p>development on larger lot sizes, with spacious setbacks, a sense of space and preserved peaceful residential amenity.</p> <p>The application has failed to demonstrate how the residential amenity of this area will be protected. It is anticipated that, at this scale, the operation will be an unreasonable burden on the area, and is inconsistent with the purpose of the zone.</p>
<p>The health and wellbeing benefits of plants and gardening are widely documented and align with the long-term vision of greening our cities.</p>	<p>Operations to support the vision must be done in an appropriate location.</p>
<p>The sector needs small, independent retail centres to have a strong presence to balance the large-scale commercial operators.</p>	<p>This could be the case, but this is not the right location for a retail nursery. The proposal will have detrimental amenity impacts on the area. A retail nursery is more appropriately located in an area where off-site amenity impacts are reduced and where the site does not adjoin sensitive residential land. The commercial area of Upwey would be suitable.</p>
<p>The proposal will not impact or impede the local community. If anything, it will add a great diverse and aesthetically appealing small business that would enhance the local area in a positive and safe manner.</p>	<p>As detailed throughout this report, the retail nursery is proposed in an inappropriate area; the proposal will have a detrimental impact on the amenity of the area, particularly due to the number of customers proposed, hours of operation, lack of car parking and traffic and safety issues. The proposal also does not comply with car parking requirements, there is a shortfall of seven car spaces.</p>

## CONCLUSION

The use application has been assessed in accordance with Section 60(1) of the *Planning and Environment Act 1987* all relevant instruments and policies.

The proposal is considered to be inconsistent with the objectives of the relevant planning policies and zone provisions of the Yarra Ranges Planning Scheme.

As such, refusal is recommended.

**ATTACHMENTS**

- 1 Appendix 1 – Grounds of Refusal
- 2 Appendix 2 – Planning Scheme Policies
- 3 Appendix 3 – Development Plans
- 4 Appendix 4 –Town Planning Report
- 5 Appendix 5 –Traffic Report
- 6 Appendix 6 – Business Plan

# Council Report – Grounds of Refusal

**Application**      YR-2022/944

**Address of  
the Land**        59 Morris Road, Upwey

**Proposal**        Use and development of a retail plant nursery

## WHAT ARE THE REASONS FOR THE REFUSAL?

1. The proposed plant nursery is inappropriate in a Low Density Residential Zone as the application has failed to demonstrate how the amenity of this low density residential area will be protected and that the intensity of the proposed activity is inconsistent with the purpose of the zone.
2. The proposal is inconsistent with the objectives and strategies at Clause 13.07-1S (Land Use Compatibility) and Clause 13.07-1L (Non-residential uses in residential areas) as the proposal is of a scale which is not compatible with the existing surrounding residential uses.
3. The proposal is contrary to the objectives and strategies at Clause 17.02-1S (Business) and Clause 17.02-2S (Out-of-centre Development) as the proposal is for a single use retail purpose, is located outside an existing activity centre of Upwey and the applicant has not demonstrated a net community benefit nor demonstrated that there is a specific need for this use to be located outside of a commercial area.
4. The proposed car parking is inappropriately designed and is inconsistent with the landscape character of the area in that it is not inconspicuous and will dominate the landscape along Morris Road.
5. The proposal will have a detrimental impact on the amenity of the area. In particular through the level of activity and movement to and from the site as a result of the number of patrons, deliveries, associated traffic and car parking, and noise.
6. The proposal does not comply with the on-site car parking requirements of Clause 52.06 Car Parking of the Yarra Ranges Planning Scheme, thereby exacerbating traffic safety issues in the area. The proposal also fails to comply with sight distance requirements and relies on complex vehicle movements through the surrounding road network to support the safe egress of vehicles leaving the site.

## 13.07-1S Land use compatibility

03/03/2023  
VC215

### Objective

To protect community amenity, human health and safety while facilitating appropriate commercial, industrial, infrastructure or other uses with potential adverse off-site impacts.

### Strategies

- Ensure that use or development of land is compatible with adjoining and nearby land uses
- Avoid locating incompatible uses in areas that may be impacted by adverse off-site impacts from commercial, industrial and other uses.
- Avoid or otherwise minimise adverse off-site impacts from commercial, industrial and other uses through land use separation, siting, building design and operational measures.
- Protect commercial, industrial and other employment generating uses from encroachment by use or development that would compromise the ability of those uses to function safely and effectively.

### Policy documents

Consider as relevant:

- *Recommended separation distances for industrial residual air emissions* (Publication 1518, Environment Protection Authority, March 2013).



### 13.07-1L Non-residential uses in residential areas

09/03/2023  
C215yran

#### Policy application

This policy applies to non-residential uses in the Neighbourhood Residential Zone, General Residential Zone and Residential Growth Zone.

#### Location strategies

Discourage the dispersal of medical facilities into residential areas.

Discourage the incremental encroachment of commercial uses into residential neighbourhoods.

Encourage non-residential uses to adjoin an activity centre or abut a Transport Zone.

Discourage non-residential uses from forming ribbon development along land abutting a Transport Zone and forming a quasi-commercial area.

#### Design strategies

Design use and development to be compatible with the surrounding character and amenity of residential neighbourhoods.

Set back non-residential development from common boundaries and provide effective landscaping and screening buffers to protect residential amenity of abutting and nearby residential land.

Provide off-street car parking and design access to minimise the need for cars to travel through local residential streets.

#### Policy guidelines

Consider as relevant:

- Whether a proposed non-residential land use or development demonstrates a need to locate in a residential area.

### 13.07-2S Major hazard facilities

26/10/2018  
VC152

#### Objective

To minimise the potential for human and property exposure to risk from incidents that may occur at a major hazard facility and to ensure the ongoing viability of major hazard facilities.

#### Strategies

Ensure major hazard facilities are sited, designed and operated to minimise risk to surrounding communities and the environment.

Consider the risks associated with increasing the intensity of use and development within the threshold distance of an existing major hazard facility.

Apply appropriate threshold distances from sensitive land uses for new major hazard facilities and between major hazard facilities.

Protect registered or licenced major hazard facilities as defined under Regulation 5 of the Occupational Health and Safety Regulations 2017 from encroachment of sensitive land uses.

## 17.02-1S Business

31/07/2018  
VC148

### Objective

To encourage development that meets the community's needs for retail, entertainment, office and other commercial services.

### Strategies

Plan for an adequate supply of commercial land in appropriate locations.

Ensure commercial facilities are aggregated and provide net community benefit in relation to their viability, accessibility and efficient use of infrastructure.

Locate commercial facilities in existing or planned activity centres.

Provide new convenience shopping facilities to provide for the needs of the local population in new residential areas and within, or immediately adjacent to, existing commercial centres.

Provide small scale shopping opportunities that meet the needs of local residents and workers in convenient locations.

Provide outlets of trade-related goods or services directly serving or ancillary to industry that have adequate on-site car parking.

Locate cinema based entertainment facilities within or on the periphery of existing or planned activity centres.

Apply a five year time limit for commencement to any planning permit for a shopping centre or shopping centre expansion of more than 1000 square metres leasable floor area.

## **17.02-2S Out-of-centre development**

31/07/2018  
VC148

### **Objective**

To manage out-of-centre development.

### **Strategies**

Discourage proposals for expansion of single use retail, commercial and recreational facilities outside activity centres.

Give preference to locations in or on the border of an activity centre for expansion of single use retail, commercial and recreational facilities.

Discourage large sports and entertainment facilities of metropolitan, state or national significance in out-of-centre locations unless they are on the Principal Public Transport Network and in locations that are highly accessible to their catchment of users.

Ensure that out-of-centre proposals are only considered where the proposed use or development is of net benefit to the community in the region served by the proposal or provides small scale shopping opportunities that meet the needs of local residents and workers in convenient locations.

**32.03**  
31/07/2018  
VC148

## LOW DENSITY RESIDENTIAL ZONE

Shown on the planning scheme map as **LDRZ** with a number (if shown).

### Purpose

To implement the Municipal Planning Strategy and the Planning Policy Framework.

To provide for low-density residential development on lots which, in the absence of reticulated sewerage, can treat and retain all wastewater.

**32.03-1**  
14/11/2022  
VC227

### Table of uses Section 1 - Permit not required

Use	Condition
<b>Automated collection point</b>	Must meet the requirements of Clause 52.13-3 and 52.13-5. The gross floor area of all buildings must not exceed 50 square metres.
<b>Bed and breakfast</b>	No more than 10 persons may be accommodated away from their normal place of residence. At least 1 car parking space must be provided for each 2 persons able to be accommodated away from their normal place of residence.
<b>Dependent person's unit</b>	Must be the only dependent person's unit on the lot. Must meet the requirements of Clause 32.03-2.
<b>Domestic animal husbandry (other than Domestic animal boarding)</b>	Must be no more than 2 animals.
<b>Dwelling (other than Bed and breakfast)</b>	Must be the only dwelling on the lot. Must meet the requirements of Clause 32.03-2.
<b>Home based business Informal outdoor recreation</b>	
<b>Medical centre</b>	The gross floor area of all buildings must not exceed 250 square metres. The site must adjoin, or have access to, a road in a Transport Zone 2 or a Transport Zone 3.
<b>Racing dog husbandry</b>	Must be no more than 2 animals.
<b>Railway Tramway</b>	

Use	Condition
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Any use listed in Clause 62.01      Must meet the requirements of Clause 62.01.

**Section 2 - Permit required**

Use	Condition
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**Accommodation (other than Community care accommodation, Dependent person's unit and Dwelling)**

**Agriculture (other than Animal production, Apiculture, Domestic animal husbandry and Racing dog husbandry)**

**Car park**

Must be used in conjunction with another use in Section 1 or 2.

**Car wash**

The site must adjoin, or have access to, a road in a Transport Zone 2 or a Transport Zone 3.

**Convenience restaurant**

The site must adjoin, or have access to, a road in a Transport Zone 2 or a Transport Zone 3.

**Convenience shop**

**Dependent person's unit – if the Section 1 condition is not met**

Must meet the requirements of Clause 32.03-2.

**Domestic animal boarding**

**Domestic animal husbandry (other than Domestic animal boarding) – if the Section 1 condition is not met**

Must be no more than 5 animals.

**Dwelling (other than Bed and breakfast) – if the Section 1 condition is not met**

Must result in no more than two dwellings on the lot.  
Must meet the requirements of Clause 32.03-2.

**Food and drink premises (other than Convenience restaurant)**

**Grazing animal production**

**Leisure and recreation (other than Informal outdoor recreation and Motor racing track)**

**Market**

**Place of assembly (other than Amusement parlour, Carnival, Cinema based)**

Use	Condition
entertainment facility, Circus and Nightclub) Plant nursery	
Service station	<p>The site must either:</p> <ul style="list-style-type: none"> <li>▪ Adjoin a commercial zone or industrial zone.</li> <li>▪ Adjoin, or have access to, a road in a Transport Zone 2 or a Transport Zone 3.</li> </ul> <p>The site must not exceed either:</p> <ul style="list-style-type: none"> <li>▪ 3000 square metres.</li> <li>▪ 3600 square metres if it adjoins on two boundaries a road in a Transport Zone 2 or a Transport Zone 3.</li> </ul>
Store	<p>Must be in a building, not a dwelling, and used to store equipment, goods, or motor vehicles used in conjunction with the occupation of a resident of a dwelling on the lot.</p>
Utility installation (other than Minor utility installation and Telecommunications facility)	
Any other use not in Section 1 or 3	

**Section 3 – Prohibited**

Use
Amusement parlour
Animal production (other than Grazing animal production)
Brothel
Cinema based entertainment facility
Extractive industry
Industry (other than Automated collection point and Car wash)
Motor racing track
Nightclub
Office (other than Medical centre)
Retail premises (other than Convenience shop, Food and drink premises, Market and Plant nursery)
Saleyard
Transport terminal

**Use**

**Warehouse (other than Store)**

**32.03-2 Use for one or two dwellings or a dependent person’s unit**

01/07/2021  
VC203

A lot may be used for one or two dwellings provided the following requirements are met:

- Each dwelling must be connected to reticulated sewerage, if available. If reticulated sewerage is not available, all wastewater from each dwelling must be treated and retained within the lot in accordance with the requirements in the Environment Protection Regulations under the *Environment Protection Act 2017* for an on-site wastewater management system.
- Each dwelling must be connected to a reticulated potable water supply or have an alternative potable water supply, with appropriate storage capacity, to the satisfaction of the responsible authority.
- Each dwelling must be connected to a reticulated electricity supply or have an alternative energy supply to the satisfaction of the responsible authority.

These requirements also apply to a dependent person’s unit.

**32.03-3 Subdivision**

31/07/2018  
VC148

**Permit requirement**

A permit is required to subdivide land.

Each lot must be at least the area specified for the land in a schedule to this zone. Any area specified must be at least:

- 0.4 hectare for each lot where reticulated sewerage is not connected. If no area is specified each lot must be at least 0.4 hectare.
- 0.2 hectare for each lot with connected reticulated sewerage. If no area is specified each lot must be at least 0.2 hectare.

A permit may be granted to create lots smaller than 0.4 hectare if the subdivision:

- Excises land which is required for a road or a utility installation.
- Provides for the re-subdivision of existing lots and the number of lots is not increased.

**VicSmart applications**

Subject to Clause 71.06, an application under this clause for a development specified in Column 1 is a class of VicSmart application and must be assessed against the provision specified in Column 2.

Class of application	Information requirements and decision guidelines
Subdivide land to realign the common boundary between 2 lots where:	Clause 59.01
<ul style="list-style-type: none"> <li>▪ The area of either lot is reduced by less than 15 percent.</li> <li>▪ The general direction of the common boundary does not change.</li> </ul>	

**32.03-4 Buildings and works**

04/12/2020  
VC180

A permit is required to construct or carry out any of the following:

- A building or works associated with a use in Section 2 of Clause 32.03-1.
- An outbuilding which has dimensions greater than those specified in a schedule to this zone.

This does not apply to structural changes to a dwelling provided the size of the dwelling is not increased or the number of dwellings is not increased.

**VicSmart applications**

Subject to Clause 71.06, an application under this clause for a development specified in Column 1 is a class of VicSmart application and must be assessed against the provision specified in Column 2.

Class of application	Information requirements and decision guidelines
<p>Construct a building or construct or carry out works where:</p> <ul style="list-style-type: none"> <li>▪ The building or works are not associated with a dwelling, primary school or secondary school and have an estimated cost of up to \$100,000; or</li> <li>▪ The building or works are associated with a primary school or secondary school and have an estimated cost of up to \$500,000; and</li> <li>▪ The requirements in the following standards of Clause 54 are met, where the land adjoins land in a residential zone used for residential purposes:                             <ul style="list-style-type: none"> <li>▪ A10 Side and rear setbacks.</li> <li>▪ A11 Walls on boundaries.</li> <li>▪ A12 Daylight to existing windows.</li> <li>▪ A13 North-facing windows.</li> <li>▪ A14 Overshadowing open space.</li> <li>▪ A15 Overlooking.</li> </ul> </li> </ul> <p>For the purposes of this class of VicSmart application, the Clause 54 standards specified above are mandatory.</p> <p>If a schedule to the zone specifies a requirement of a standard different from a requirement set out in the Clause 54 standard, the requirement in the schedule to the zone applies and must be met.</p>	<p>Clause 59.04</p>

**32.03-5 Application requirements**

01/07/2021  
VC203

**Subdivision**

An application must be accompanied by a site analysis, documenting the site in terms of land form, vegetation coverage and the relationship with surrounding land, and a report explaining how the proposed subdivision has responded to the site analysis. The report must:

- In the absence of reticulated sewerage, include a Land Capability Assessment on the risks to human health and the environment of an on-site wastewater management system constructed, installed or altered on the lot in accordance



with the requirements of the Environment Protection Regulations under the *Environment Protection Act 2017* .

- Show for each lot:
  - A building envelope and driveway to the envelope.
  - Existing vegetation.
  - In the absence of reticulated sewerage, an effluent disposal area.
- Show how the proposed subdivision relates to the existing or likely use and development of adjoining and nearby land.
- If a staged subdivision, show how the balance of the land may be subdivided.

### **32.03-6 Decision guidelines**

01/07/2021  
VC203

#### **General**

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- The Municipal Planning Strategy and the Planning Policy Framework.

#### **Subdivision**

- The protection and enhancement of the natural environment and character of the area including the retention of vegetation and faunal habitat and the need to plant vegetation along waterways, gullies, ridgelines and property boundaries.
- The availability and provision of utility services, including sewerage, water, drainage, electricity, gas and telecommunications.
- In the absence of reticulated sewerage:
  - The capability and suitability of the lot to treat and retain all wastewater as determined by a Land Capability Assessment on the risks to human health and the environment of an on-site wastewater management system constructed, installed, or altered on the lot in accordance with the requirements of the Environment Protection Regulations under the *Environment Protection Act 2017* .
  - The benefits of restricting the size of lots to generally no more than 2 hectares to enable lots to be efficiently maintained without the need for agricultural techniques and equipment.
- The relevant standards of Clauses 56.07-1 to 56.07-4.

### **32.03-7 Signs**

31/07/2018  
VC148

Sign requirements are at Clause 52.05. This zone is in Category 3.

**42.03**  
31/07/2018  
VC148

## SIGNIFICANT LANDSCAPE OVERLAY

Shown on the planning scheme map as **SLO** with a number.

### Purpose

To implement the Municipal Planning Strategy and the Planning Policy Framework.

To identify significant landscapes.

To conserve and enhance the character of significant landscapes.

**42.03-1**  
31/07/2018  
VC148

### Landscape character and objectives

A schedule to this overlay must contain:

- A statement of the nature and key elements of the landscape.
- The landscape character objectives to be achieved.

**42.03-2**  
28/10/2022  
VC224

### Permit requirement

A permit is required to:

- Construct a building or construct or carry out works. This does not apply:
  - If a schedule to this overlay specifically states that a permit is not required.
  - To the conduct of agricultural activities including ploughing and fencing (but not the construction of dams) unless a specific requirement for that activity is specified in a schedule to this overlay.
- Construct a fence if specified in the schedule to this overlay.
- Remove, destroy or lop any vegetation specified in a schedule to this overlay. This does not apply:
  - If the table to Clause 42.03-3 specifically states that a permit is not required.
  - To the removal, destruction or lopping of native vegetation in accordance with a native vegetation precinct plan specified in the schedule to Clause 52.16.

### VicSmart applications

Subject to Clause 71.06, an application under this clause for a development specified in Column 1 is a class of VicSmart application and must be assessed against the provision specified in Column 2.

Class of application	Information requirements and decision guidelines
Construct a fence.	Clause 59.05
Remove, destroy or lop one tree provided: <ul style="list-style-type: none"> <li>▪ A permit has not been granted for a VicSmart application to remove, destroy or lop a tree on the same land within the last 12 months.</li> <li>▪ There is no other current VicSmart application to remove, destroy or lop a tree on the same land.</li> </ul>	Clause 59.06
Construct a building or construct or carry out works for:	Clause 59.05

**Class of application**

**Information requirements and decision guidelines**

- A carport, garage, pergola, verandah, deck, shed or similar structure.
- A rainwater tank.

The buildings and works must be associated with a dwelling.

**42.03-3**  
17/02/2022  
VC200

**Table of exemptions**

**The requirement to obtain a permit does not apply to:**

<b>Emergency works</b>	<p>Vegetation that is to be removed, destroyed or lopped:</p> <ul style="list-style-type: none"> <li>▪ in an emergency by, or on behalf of, a public authority or municipal council to create an emergency access or to enable emergency works; or</li> <li>▪ where it presents an immediate risk of personal injury or damage to property. Only that part of the vegetation that presents the immediate risk may be removed, destroyed or lopped under this exemption.</li> </ul>
<b>Extractive industry</b>	<p>Vegetation that is to be removed, destroyed or lopped to the minimum extent necessary to enable the carrying out of extractive industry in accordance with a work plan approved under the <i>Mineral Resources (Sustainable Development) Act 1990</i> and authorised by a work authority granted under that Act.</p>
<b>Fire protection</b>	<p>Vegetation that is to be removed, destroyed or lopped to the minimum extent necessary to enable the carrying out of any of the following fire protection activities:</p> <ul style="list-style-type: none"> <li>▪ fire fighting;</li> <li>▪ planned burning;</li> <li>▪ making or maintaining of a fuelbreak or fire fighting access track (or any combination thereof) that does not exceed a combined width of 6 metres;</li> <li>▪ making of strategic fuelbreak up to 40 metres wide by, or on behalf of, a public authority in accordance with a strategic fuelbreak plan approved by the Secretary to the Department of Environment, Land, Water and Planning (as constituted under Part 2 of the <i>Conservation, Forests and Lands Act 1987</i>);</li> <li>▪ is ground fuel within 30 metres of a building and is vegetation other than native vegetation;</li> <li>▪ in accordance with a fire prevention notice issued under either:             <ul style="list-style-type: none"> <li>▪ Section 65 of the <i>Forests Act 1958</i> ; or</li> <li>▪ Section 41 of the <i>Country Fire Authority Act 1958</i> .</li> </ul> </li> <li>▪ keeping vegetation clear of, or minimising the risk of bushfire ignition from, an electric line in accordance with a code of practice prepared under Part 8 of the <i>Electricity Safety Act 1998</i> ;</li> <li>▪ minimising the risk to life and property from bushfire of a roadside of a public road managed by the relevant responsible road authority, and carried out by or</li> </ul>

	<p>on behalf of that authority, in accordance with the written agreement of the Secretary to the Department of Environment, Land, Water and Planning (as constituted under Part 2 of the <i>Conservation, Forests and Lands Act 1987</i>). In this exemption, roadside, public road and responsible road authority have the same meanings as in section 3 of the <i>Road Management Act 2004</i>.</p> <p><i>Note: Additional permit exemptions for bushfire protection are provided at Clause 52.12.</i></p>
<b>Geothermal energy exploration and extraction</b>	Vegetation that is to be removed, destroyed or lopped to the minimum extent necessary in accordance with operation plan approved under the <i>Geothermal Energy Resources Act 2005</i> .
<b>Greenhouse gas sequestration and exploration</b>	Vegetation that is to be removed, destroyed or lopped to the minimum extent necessary in accordance with an operation plan approved under the <i>Greenhouse Gas Geological Sequestration Act 2008</i> .
<b>Land management or directions notice</b>	Vegetation that is to be removed, destroyed or lopped to the minimum extent necessary to comply with a land management notice or directions notice served under the <i>Catchment and Land Protection Act 1994</i> .
<b>Land use conditions</b>	Vegetation that is to be removed, destroyed or lopped to the minimum extent necessary to comply with a land use condition served under the <i>Catchment and Land Protection Act 1994</i> .
<b>Mineral exploration and extraction</b>	<p>Vegetation that is to be removed, destroyed or lopped to the minimum extent necessary by the holder of an exploration, mining, prospecting, or retention licence issued under the <i>Mineral Resources (Sustainable Development) Act 1990</i> :</p> <ul style="list-style-type: none"> <li>• that is low impact exploration within the meaning of Schedule 4A of the <i>Mineral Resources (Sustainable Development) Act 1990</i> ; or</li> <li>• in accordance with a work plan approved under Part 3 of the <i>Mineral Resources (Sustainable Development) Act 1990</i>.</li> </ul> <p><i>Note: Schedule 4A of the Mineral Resources (Sustainable Development) Act 1990 specifies limits on the extent of native vegetation that may be removed as part of low impact exploration.</i></p>
<b>Noxious weeds</b>	Vegetation that is a noxious weed subject of a declaration under section 58 or section 58A of the <i>Catchment and Land Protection Act 1994</i> . This exemption does not apply to Australian Dodder ( <i>Cuscuta australis</i> ).
<b>Pest animal burrows</b>	<p>Vegetation that is to be removed, destroyed or lopped to the minimum extent necessary to enable the removal of pest animal burrows.</p> <p>In the case of native vegetation the written agreement of an officer of the department responsible for administering the <i>Flora and Fauna Guarantee Act 1988</i> is required before the vegetation can be removed, destroyed or lopped.</p>
<b>Planted vegetation</b>	Vegetation that is to be removed, destroyed or lopped that was either planted or grown as a result of direct seeding for Crop raising or Grazing animal production.

<b>Railways</b>	Vegetation that is to be removed, destroyed or lopped to the minimum extent necessary to maintain the safe and efficient function of an existing railway, or railway access road, in accordance with the written agreement of the Secretary to the Department of Environment, Land, Water and Planning (as constituted under Part 2 of the <i>Conservation, Forests and Lands Act 1987</i> ).
<b>Regrowth</b>	<p>Vegetation that is to be removed, destroyed or lopped that has naturally established or regenerated on land lawfully cleared of naturally established vegetation, and is</p> <ul style="list-style-type: none"> <li>▪ bracken ( <i>Pteridium esculentum</i> ); or</li> <li>▪ within the boundary of a timber production plantation, as indicated on a Plantation Development Notice or other documented record, and has established after the plantation.</li> </ul> <p>This exemption does not apply to land on which vegetation has been destroyed or otherwise damaged as a result of flood, fire or other natural disaster.</p>
<b>Road safety</b>	Vegetation that is to be removed, destroyed or lopped to the minimum extent necessary by and on behalf of a public authority or municipal council to maintain the safe and efficient function of an existing public road in accordance with written agreement of the Secretary of the Department of Environment, Land, Water and Planning (as constituted under Part 2 of the <i>Conservation, Forests and Lands Act 1987</i> ).
<b>Stone exploration</b>	<p>Vegetation that is to be removed, destroyed or lopped to the minimum extent necessary to enable the carrying out of Stone exploration.</p> <p>The maximum extent of vegetation removed, destroyed or lopped under this exemption on contiguous land in the same ownership in a five year period must not exceed any of the following:</p> <ul style="list-style-type: none"> <li>▪ 1 hectare of vegetation which does not include a tree.</li> <li>▪ 15 trees with a trunk diameter of less than 40 centimetres at a height of 1.3 metres above ground level.</li> <li>▪ 5 trees with a trunk diameter of 40 centimetres or more at a height of 1.3 metres above ground level.</li> </ul> <p>This exemption does not apply to costeaning and bulk sampling activities.</p>
<b>Surveying</b>	Vegetation that is to be removed, destroyed or lopped to the minimum extent necessary by, or on behalf of, a licenced surveyor (within the meaning of section 3 of the <i>Surveying Act 2004</i> ) using hand-held tools to establish a sightline for the measurement of land.
<b>Traditional owners</b>	<p>Vegetation that is to be removed, destroyed or lopped by a person acting under, and in accordance with:</p> <ul style="list-style-type: none"> <li>▪ a natural resources agreement under Part 6 of the <i>Traditional Owners Settlement Act 2010</i> ; or</li> <li>▪ an authorisation order made under sections 82 or 84 of the <i>Traditional Owner Settlement Act 2010</i> as those sections were in force immediately before the commencement of section 24 of the <i>Traditional owners Settlement Amendment Act</i> in 2016 (1 May 2017).</li> </ul>

<b>Tram stops</b>	Vegetation that is to be removed, destroyed or lopped to the minimum extent necessary by or on behalf of the Head, Transport for Victoria to construct a tram stop, including a tram stop shelter.
<b>Transport land</b>	Vegetation that is to be removed, destroyed or lopped to the minimum extent necessary by or on behalf of the Head, Transport for Victoria on land in a Transport Zone, or in a Public Acquisition Overlay if the Head, Transport for Victoria is the acquiring authority, to construct or maintain transport system infrastructure.

#### **42.03-4 Application requirements**

31/07/2018  
VC148

An application must be accompanied by any information specified in a schedule to this overlay.

#### **42.03-5 Decision guidelines**

31/07/2018  
VC148

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- The Municipal Planning Strategy and the Planning Policy Framework.
- The statement of the nature and key elements of the landscape and the landscape character objective contained in a schedule to this overlay.
- The conservation and enhancement of the landscape values of the area.
- The need to remove, destroy or lop vegetation to create a defensible space to reduce the risk of bushfire to life and property.
- The impact of the proposed buildings and works on the landscape due to height, bulk, colour, general appearance or the need to remove vegetation.
- The extent to which the buildings and works are designed to enhance or promote the landscape character objectives of the area.
- The impact of buildings and works on significant views.
- Any other matters specified in a schedule to this overlay.

08/07/2021  
C189yan**SCHEDULE 22 TO CLAUSE 42.03 SIGNIFICANT LANDSCAPE OVERLAY**

Shown on the planning scheme map as SLO22 .

**FOOTHILLS AND RURAL TOWNSHIPS**

Yarra Ranges is committed to preserving the unique areas of the municipality identified in Clause 14.01-2 including the Dandenong Ranges and Upper Yarra Valley.

The Upper Yarra and Dandenong Ranges Authority established under the *Upper Yarra Valley and Dandenong Ranges Authority Act 1976* prepared the Regional Strategy Plan, enabling increased protection for the special features and character of the region. The Regional Strategy Plan historically provided the basis for protection of the unique character of much of the residential area in the Shire. This Schedule has been further informed by work completed in 2002 in the *Shire of Yarra Ranges Neighbourhood Character Study* . The purpose of the control is to preserve and enhance these special residential areas.

**1.0**16/05/2013  
C97**Statement of nature and key elements of landscape**

The landscape significance of residential areas in the Shire is attributed to the quality of the environment which includes the vegetation and its relationship to the broader landscapes which contribute to a 'sense of place'. Many of these landscapes have National Trust classification including: the Western Face of the Dandenong Ranges, Sherbrooke Forest, Upper Yarra River and Environs, Silvan Agricultural Area and the Puffing Billy Railway Scenic Corridor.

Vegetation and buildings occurring in streamside areas are of particular significance as they play a role in the broader catchment.

**Dandenong Ranges Foothills**

**Belgrave, Upwey and Tecoma** - the treed slopes of the Dandenong Ranges have iconic significance for Melbourne, and the relationship between buildings and the surrounding landscape contributes significantly to the character of the area. Extensive vegetation in this area complements the conservation and habitat values of nearby bushland areas, many of which are included within the Dandenong Ranges National Park.

In the hillside areas of Belgrave, Upwey and Tecoma, houses and their grounds stand in a forested hills landscape. Dwellings are dominated by mostly native forest vegetation, which includes tall canopy trees and some understorey.

Buildings maintain similar orientation and setbacks to adjoining properties and integrate well with the topography and the streetscape. There is usually little or no formal delineation of front property boundaries.

Planting of native vegetation and where possible vegetation indigenous to the environs is encouraged in order to complement and enhance the visual and environmental qualities of the area.

**Coldstream**

A small settlement, Coldstream is a pocket of suburban style dwellings surrounded by a broad rural agricultural area. Developed over a 40 year period, scattered large exotic and native trees provide canopy, and a sense of connection to the landscape of the surrounding Yarra Valley.

**Healesville** is characterised by a strong 'country town' atmosphere, arising from varying block sizes, winding roads and well treed private gardens and public areas. These landscapes integrate well with the surrounding backdrop of mountains, wooded hills and farmland giving a sense of spaciousness and rural ambience.

Site coverage and hard surfaces are minimised providing room for vegetation and a sense of openness to be retained. There is often an informal rural character with either open style fencing or an absence of front fencing.

**Montrose and Mt Evelyn** – these foothill areas at the base of the Dandenong Ranges contain houses which although occurring at more suburban densities are well integrated into an environmental setting. Some strong remnants of dry forest remain in the landscape and private gardens are spacious with a mix of native and exotic vegetation.

**Lilydale** – is a mix of established and newer residential areas with both native and exotic plants and a sense of openness. Many areas are steep and the vegetation in these areas creates a prominent landscape feature in its own right as it can be viewed from much of the surrounding areas. The well treed areas provide the foreground to the broader surrounding landscape of low hills and undulating pastoral landscapes to the south and north and the heavily wooded Dandenong Ranges in the east.



The lower density areas contain blocks of irregular shape and size; gardens are extensively treed and have farm style fencing. Many houses are low, sprawling ranch or homestead style. A small area in the southern part of Lilydale is developed on the hillside among mature mostly native trees. This area has a semi-forested quality unique in Lilydale.

**Monbulk** sits below forested hills, with generous blocks and low level gardens. Remnant dry forest and other large canopy trees along with bush gardens, strengthen its landscape character. Monbulk straddles the ridge between two creeks and provides views to the Silvan Agricultural Area and The Patch classified landscapes.

**Mooroolbark** – this area includes the Bickleigh Vale Village subdivision and gardens designed by Edna Walling which are classified by the National Trust. Bickleigh Vale is recognised as one of the finest examples of a major landscape created by Walling. The prominent landscape feature is the way in which the houses have been integrated into the heavily vegetated environment. The subsequent development of the neighbouring areas adopted a similar informal garden character. The neighbourhood has strong garden landscapes sustained by profuse informal plantings, open frontages, semi native gardens and wide nature strips.

## Silvan

Silvan is located on the eastern side of the Dandenong Ranges overlooking the Silvan Agricultural Area (famous for its horticultural industry). The handful of dwellings in Silvan is complemented by mature trees and bush gardens which blend in and strengthen the connection with surrounding the rural landscape.

**Seville, Seville East and Woori Yallock** – are characterised by a strong ‘country town’ atmosphere, arising from varying block sizes, winding roads, absence of footpaths and some well treed areas. These towns integrate well in the surrounding pastoral landscapes including the Warramate Hills and Upper Yarra River and Environs which include belts of trees and the wooded slopes of neighbouring hills.

## Yarra Glen

Residential development in Yarra Glen spans from the 1880’s to recent development. Residential areas contain a mix of mature trees both exotic and native which occur throughout the residential areas. These trees and the town’s location in the Yarra Valley with a backdrop of the Christmas Hills contribute to the country town atmosphere.

**Wandin North** is located in an undulating rural landscape with a village like character attributed to a mixture of houses and block sizes, low level gardens which provide views to its well treed setting in the Yarra Valley.

**Warburton** is located in the cleft between steep hillsides. The town’s residential areas spread up the hillsides (Donna Buang Range) and along river flats, sometimes in open pastoral settings, sometimes in forested gullies and sometimes in conventional residential settings with varied lot sizes. The dominance of landscape over the buildings and the association of the area with a cottage or chalet style of design are valued characteristics of this unique place.

**Yarra Junction** enjoys a spacious country town feel of buildings set into a wider landscape context of the Upper Yarra River and Environs. Large blocks and low level often exotic gardens sit in a landscape that includes rolling paddocks and treed hillsides rising up from the Yarra Valley.

**Streamside areas** - Vegetation and buildings in streamside areas play a significant role in the broader catchment and should address the principles of ecologically sustainable development for the Upper Yarra River Catchment.

### The key elements of these landscapes are:

- A visual dominance of vegetation including large mature native and indigenous trees and garden planting of both native and exotic plants
- The majority of development sits within the landscape with minimal excavation and dwellings are partly obscured from view
- Hillsides appear to be covered with trees, even when developed with houses
- Vistas through development to hills, canopy trees and the surrounding landscape
- A general lack of front fencing.

## 2.0

08/07/2021  
C189yan

## Landscape character objectives to be achieved



- To recognise and conserve the environmental and visual sensitivity of residential areas
- To maintain vegetation as a dominant element of the landscape and encourage retention and regeneration of native vegetation
- To ensure development is sensitive to the natural characteristics of the land including slope, terrain and any existing vegetation
- To ensure setbacks are generous, consistent with nearby dwellings and allow sufficient space for mature plantings
- To ensure site cover maintains the ambience and sense of spaciousness
- To ensure that buildings and works retain an inconspicuous profile and do not dominate the landscape
- To ensure that the health of existing trees is not jeopardised by new development
- To maintain an absence of front fences and informal rural character with either open style front fencing or an absence of front fencing
- To protect and preserve the riparian areas along waterways.

### 3.0

09/03/2023  
C215yan

## Permit requirement

### Fences

A permit is required to construct a front fence.

This does not apply:

- if the fence is less than 1.2 metres in height or
- if the fence is more than 75% transparent.

### Vegetation

A permit is required to remove, destroy or lop any indigenous vegetation or substantial tree. A substantial tree is defined as having a diameter at breast height (DBH) greater than 0.16 metres 1.3 m above the ground. (Equivalent to a circumference of 0.5 metres at breast height).

This does not apply:

- If the pruning of vegetation is undertaken to assist its regeneration or
- If the vegetation is dead or
- To the partial removal of branches directly overhanging dwellings, garages or outbuildings so that they are not overhanging or within 2 metres of the building or
- If the vegetation to be removed is within 2 metres of a building
- If the species appears in the Incorporated Document *Yarra Ranges Council - List of Environmental Weeds 2019*.

### Buildings and Works

A permit is not required to construct a building or carry out works provided all the following requirements are met:

- The height of any part of a building is no more than 7.5 metres above the natural surface of the ground directly below it
- The total building footprint does not occupy more than 30% of the site and the total hard surface area (impervious surfaces) does not exceed 50% of the site
- The buildings and works are at least 4 metres from the base of any substantial tree. Works may occur closer than 4 metres provided they do not alter the existing ground level or topography of the land

- The buildings and works are at least 10 metres from a designated stream
- The buildings and works are at least 10 metres from a designated open Melbourne Water drain.

#### 4.0

16/05/2013  
C97

### Decision guidelines

Before deciding on an application, the responsible authority must consider as appropriate:

- Whether the development satisfies the statement of key elements of the landscape and character objectives of this schedule
- The role of vegetation in contributing to the character and environmental significance of the area
- The impact of the proposal on views within the foothills areas and on more distant views across the city and suburbs to the foothills of the Dandenong Ranges
- The impact of the proposal on the rural character of the townships where development is more spacious and allows views through to the Yarra Valley and/ or the foothills
- If the buildings are of a height that is below the tree canopy level and are inconspicuous in the landscape. Aspects such as the height of surrounding development, the slope of the land and the impacts on views to and from adjacent viewpoints should be carefully considered
- The site coverage allows for the planting of canopy trees and other vegetation
- The buildings are dispersed to allow trees to be planted among them and any works will not impact on the health of any substantial tree
- The habitats for native fauna, including wildlife corridors will be protected, strengthened or created
- If the buildings or works will adversely impact on the natural environment of the adjacent watercourse
- If front fences are commonly provided in the street and the style of fence, including degree of transparency, height, materials and finishes.

#### 5.0

09/03/2023  
C215yan

### Background Documents

Incorporated Document Yarra Ranges Council - List of Environmental Weeds 2019

**44.01 EROSION MANAGEMENT OVERLAY**

06/09/2021  
VC171

Shown on the planning scheme map as **EMO** with a number (if shown).

**Purpose**

To implement the Municipal Planning Strategy and the Planning Policy Framework.

To protect areas prone to erosion, landslip, other land degradation or coastal processes by minimising land disturbance and inappropriate development.

**44.01-1 Erosion management objectives and statement of risk**

31/07/2018  
VC148

A schedule to this overlay may contain:

- Erosion management objectives to be achieved.
- A statement of risk.

**44.01-2 Buildings and works**

17/02/2022  
VC200

A permit is required to construct a building or construct or carry out works, including:

- Roadworks (other than roadworks constructed or carried out by or on behalf of the Head, Transport for Victoria).
- Buildings and works associated with a dependent person’s unit.
- A domestic swimming pool or spa and associated mechanical and safety equipment if associated with one dwelling on a lot.
- Any other matter specified in Clause 62.02-2 if specified in a schedule to this overlay.

This does not apply if a schedule to this overlay specifically states that a permit is not required.

**VicSmart applications**

Subject to Clause 71.06, an application under this clause for a development specified in Column 1 is a class of VicSmart application and must be assessed against the provision specified in Column 2.

Class of application	Information requirements and decision guidelines
Construct a fence.	Clause 59.05
Construct a building or construct or carry out works for:	Clause 59.05
<ul style="list-style-type: none"> <li>▪ A carport, garage, pergola, verandah, deck, shed or similar structure.</li> <li>▪ A rainwater tank.</li> </ul>	
The buildings and works must be associated with a dwelling.	

**44.01-3 Vegetation removal**

31/07/2018  
VC148

A permit is required to remove, destroy or lop any vegetation. This does not apply:

- If a schedule to this overlay specifically states that a permit is not required.

- If the table to Clause 44.01-4 specifically states that a permit is not required.
- To the removal, destruction or lopping of native vegetation in accordance with a native vegetation precinct plan specified in the schedule to Clause 52.16.

**44.01-4**

17/02/2022  
VC200

**Table of exemptions**

The requirement to obtain a permit does not apply to:	
<b>Emergency works</b>	<p>Vegetation that is to be removed, destroyed or lopped:</p> <ul style="list-style-type: none"> <li>▪ in an emergency by, or on behalf of, a public authority or municipal council to create an emergency access or to enable emergency works; or</li> <li>▪ where it presents an immediate risk of personal injury or damage to property. Only that part of the vegetation that presents the immediate risk may be removed, destroyed or lopped under this exemption.</li> </ul>
<b>Extractive industry</b>	<p>Vegetation that is to be removed, destroyed or lopped to the minimum extent necessary to enable the carrying out of extractive industry in accordance with a work plan approved under the <i>Mineral Resources (Sustainable Development) Act 1990</i> and authorised by a work authority granted under that Act.</p>
<b>Fire protection</b>	<p>Vegetation that is to be removed, destroyed or lopped to the minimum extent necessary to enable the carrying out of any of the following fire protection activities:</p> <ul style="list-style-type: none"> <li>▪ fire fighting;</li> <li>▪ planned burning;</li> <li>▪ making or maintenance of a fuelbreak or fire fighting access track (or any combination thereof) that does not exceed a combined width of 6 metres;</li> <li>▪ making of a strategic fuelbreak up to 40 metres wide by, or on behalf of, a public authority in accordance with a strategic fuelbreak plan approved by the Secretary to the Department of Environment, Land, Water and Planning (as constituted under Part 2 of the <i>Conservation, Forests and Lands Act 1987</i>);</li> <li>▪ is ground fuel within 30 metres of a building and is vegetation other than native vegetation;</li> <li>▪ in accordance with a fire prevention notice issued under either: <ul style="list-style-type: none"> <li>▪ Section 65 of the <i>Forests Act 1958</i> ; or</li> <li>▪ Section 41 of the <i>Country Fire Authority Act 1958</i> .</li> </ul> </li> <li>▪ keeping vegetation clear of, or minimising the risk of bushfire ignition from, an electric line in accordance with a code of practice prepared under Part 8 of the <i>Electricity Safety Act 1998</i> ;</li> <li>▪ minimising the risk to life and property from bushfire on a roadside of a public road managed by the relevant responsible road authority, and carried out by, or on behalf of that authority in accordance with the written agreement of the Secretary to the Department of Environment, Land, Water and Planning (as constituted under Part 2 of the <i>Conservation, Forests and Lands Act 1987</i> ). In this exemption, roadside, public road and responsible road authority have the same meanings as in section 3 of the <i>Road Management Act 2004</i> .</li> </ul> <p><i>Note: Additional permit exemptions for bushfire protection are provided at Clause</i></p>

	52.12.
<b>Geothermal energy exploration and extraction</b>	Vegetation that is to be removed, destroyed or lopped to the minimum extent necessary in accordance with an operation plan approved under the <i>Geothermal Energy Resources Act 2005</i> .
<b>Greenhouse gas sequestration and exploration</b>	Vegetation that is to be removed, destroyed or lopped to the minimum extent necessary in accordance with an operation plan approved under the <i>Greenhouse Gas Geological Sequestration Act 2008</i> .
<b>Land management or directions notice</b>	Vegetation that is to be removed, destroyed or lopped to the minimum extent necessary to comply with a land management notice or directions notice served under the <i>Catchment and Land Protection Act 1994</i> .
<b>Land use conditions</b>	Vegetation that is to be removed, destroyed or lopped to the minimum extent necessary to comply with a land use condition served under the <i>Catchment and Land Protection Act 1994</i> .
<b>Mineral exploration and extraction</b>	<p>Vegetation that is to be removed, destroyed or lopped to the minimum extent necessary by the holder of an exploration, mining, prospecting, or retention licence issued under the <i>Mineral Resources (Sustainable Development) Act 1990</i> :</p> <ul style="list-style-type: none"> <li>▪ that is low impact exploration within the meaning of Schedule 4A of the <i>Mineral Resources (Sustainable Development) Act 1990</i> ; or</li> <li>▪ in accordance with a work plan approved under Part 3 of the <i>Mineral Resources (Sustainable Development) Act 1990</i> .</li> </ul> <p><i>Note: Schedule 4A of the Mineral Resources (Sustainable Development) Act 1990 specifies limits on the extent of native vegetation that may be removed as part of low impact exploration.</i></p>
<b>Noxious weeds</b>	Vegetation that is a noxious weed subject of a declaration under section 58 or section 58A of the <i>Catchment and Land Protection Act 1994</i> . This exemption does not apply to Australian Dodder ( <i>Cuscuta australis</i> ).
<b>Pest animal burrows</b>	<p>Vegetation that is to be removed, destroyed or lopped to the minimum extent necessary to enable the removal of pest animal burrows.</p> <p>In the case of native vegetation the written agreement of an officer of the department responsible for administering the <i>Flora and Fauna Guarantee Act 1988</i> is required before the vegetation can be removed, destroyed or lopped.</p>
<b>Planted vegetation</b>	Vegetation that is to be removed, destroyed or lopped that was either planted or grown as a result of direct seeding for Crop raising or Grazing animal production.
<b>Railways</b>	Vegetation that is to be removed, destroyed or lopped to the minimum extent necessary to maintain the safe and efficient function of an existing railway, or railway access road, in accordance with the written agreement of the Secretary to the Department of Environment, Land, Water and Planning (as constituted under Part 2 of the <i>Conservation, Forests and Lands Act 1987</i> ).

<p><b>Regrowth</b></p>	<p>Vegetation that is to be removed, destroyed or lopped that has naturally established or regenerated on land lawfully cleared of naturally established vegetation, and is:</p> <ul style="list-style-type: none"> <li>• bracken (<i>Pteridium esculentum</i>) ; or</li> <li>• within the boundary of a timber production plantation, as indicated on a Plantation Development Notice or other documented record, and has established after the plantation.</li> </ul> <p>This exemption does not apply to land on which vegetation has been destroyed or otherwise damaged as a result of flood, fire or other natural disaster.</p>
<p><b>Road safety</b></p>	<p>Vegetation that is to be removed, destroyed or lopped to the minimum extent necessary by or on behalf of a public authority or municipal council to maintain the safe and efficient function of an existing public road in accordance with the written agreement of the Secretary to the Department of Environment, Land, Water and Planning (as constituted under Part 2 of the <i>Conservation, Forests and Lands Act 1987</i> ).</p>
<p><b>Stone exploration</b></p>	<p>Vegetation that is to be removed, destroyed or lopped to the minimum extent necessary to enable the carrying out of Stone exploration.</p> <p>The maximum extent of vegetation removed, destroyed or lopped under this exemption on contiguous land in the same ownership in a five year period must not exceed any of the following:</p> <ul style="list-style-type: none"> <li>• 1 hectare of vegetation which does not include a tree.</li> <li>• 15 trees with a trunk diameter of less than 40 centimetres at a height of 1.3 metres above ground level.</li> <li>• 5 trees with a trunk diameter of 40 centimetres or more at a height of 1.3 metres above ground level.</li> </ul> <p>This exemption does not apply to costeaning and bulk sampling activities.</p>
<p><b>Surveying</b></p>	<p>Vegetation that is to be removed, destroyed or lopped to the minimum extent necessary by, or on behalf of, a licenced surveyor (within the meaning of section 3 of the <i>Surveying Act 2004</i> ) using hand-held tools to establish a sightline for the measurement of land.</p>
<p><b>Traditional owners</b></p>	<p>Vegetation that is to be removed, destroyed or lopped by a person acting under, and in accordance with:</p> <ul style="list-style-type: none"> <li>• a natural resources agreement under Part 6 of the <i>Traditional Owners Settlement Act 2010</i> ; or</li> <li>• an authorisation order made under sections 82 or 84 of the <i>Traditional Owner Settlement Act 2010</i> as those sections were in force immediately before the commencement of section 24 of the <i>Traditional owners Settlement Amendment Act</i> in 2016 (1 May 2017).</li> </ul>
<p><b>Tram stops</b></p>	<p>Vegetation that is to be removed, destroyed or lopped to the minimum extent necessary by or on behalf of the Head, Transport for Victoria to construct a tram stop, including a tram stop shelter.</p>

<b>Transport land</b>	Vegetation that is to be removed, destroyed or lopped to the minimum extent necessary by or on behalf of the Head, Transport for Victoria on land in a Transport Zone, or in a Public Acquisition Overlay if the Head, Transport for Victoria is the acquiring authority, to construct or maintain transport system infrastructure.
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**44.01-5 Subdivision**

31/07/2018  
VC148

A permit is required to subdivide land.

**44.01-6 Application requirements**

31/07/2018  
VC148

An application must be accompanied by any information specified in a schedule to this overlay and information showing:

- The existing site conditions, including land gradient and the extent of any existing erosion, landslip or other land degradation.
- The extent of any proposed earthworks.
- The means proposed to stabilise disturbed areas.
- Any other application requirements specified in a schedule to this overlay.

**44.01-7 Exemption from notice and review**

15/09/2022  
VC225

An application under this overlay is exempt from the notice requirements of section 52(1)(a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the Act.

**44.01-8 Decision guidelines**

20/03/2023  
VC229

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- The Municipal Planning Strategy and the Planning Policy Framework.
- Regional Catchment Strategy ( *Catchment and Land Protection Act 1994* ).
- Civil construction, building and demolition guide (Publication 1834, Environment Protection Authority, November 2020).
- Control of Erosion on Construction Sites, Soil Conservation Authority.
- Your Dam, an Asset or a Liability, Department of Conservation and Natural Resources.
- Any proposed measures to manage concentrated runoff and site drainage.
- Any proposed measures to minimise the extent of soil disturbance.
- Whether the removal of vegetation will increase the possibility of erosion, the susceptibility to landslip or other land degradation processes, and whether such removal is consistent with sustainable land management.
- The need to stabilise disturbed areas by engineering works or revegetation.
- Whether the land is capable of providing a building envelope which is not subject to high or severe erosion concern.
- Whether buildings or works are likely to cause erosion or landslip.
- Whether access and servicing of the site or building envelope is likely to result in erosion or landslip.
- Land Capability Report (if prepared) as developed by the Department of Energy, Environment and Climate Action.
- The need to remove, destroy or lop vegetation to a create defensible space to reduce the risk of bushfire to life and property.

- Any technical information or reports required to be provided by a schedule to this overlay.
- Any other matters specified in a schedule to this overlay.



08/07/2021  
C189yan**SCHEDULE TO CLAUSE 44.01 EROSION MANAGEMENT OVERLAY**Shown on the planning scheme map as **EMO** .**1.0**  
03/12/2009  
C40**Statement of nature and key elements of land susceptible to landslip**

The Shire contains areas of land which are susceptible to landslip, including land in the Dandenong Ranges, Silvan, the Don River Valley and Warburton.

A number of geotechnical studies have been undertaken, in various forms, in the former Shires of Lillydale, Upper Yarra, Healesville and Sherbrooke and in the broader region administered by the former Upper Yarra Valley and Dandenong Ranges Authority.

The Shire of Yarra Ranges subsequently adopted a shire wide slope stability classification system and guidelines for the development of land potentially affected by landslip.

All land included in the Erosion Management Overlay has been identified as having a sufficiently high risk of potential instability to warrant specific review of these risks prior to the issue of a planning permit. The control of environmental factors and development such as vegetation cover, drainage, rock and soil disturbance and effluent and stormwater disposal are important in managing the risk of landslip.

**2.0**  
10/03/2016  
C151**Definitions**

**AGS Guidelines 2007** means the article entitled 'Practice Note Guidelines for Landslide Risk Management 2007' published in the Journal of the Australian Geomechanics Society, Vol. 42 No 1 March 2007.

**Geotechnical Practitioner** means a specialist Geotechnical Engineer or Engineering Geologist who is degree qualified, is a member of a professional institute, and who has achieved professional status as a:

- Chartered Professional Engineer (CPEng); or
- Chartered Professional Geologist (CPGeo); or
- Registered Professional Geologist (RPGeo);

with experience in the management of slope stability problems and landslip risk management as a core competence to the satisfaction of the Responsible Authority.

**Landslip** means the movement of a mass of rock, debris or earth down a slope. This includes debris flow, which is the rapid flow of water saturated soil or rock debris.

**Tolerable Risk** means for new development or changes to existing development a risk to life and/or a risk to property which:

- For loss of life for the person(s) most at risk, is taken as having a probability of no greater than  $10^{-5}$  (1:100,000) per annum calculated in accordance with AGS Guidelines 2007;
- For property loss is 'Low' or 'Very Low' assessed qualitatively using AGS Guidelines 2007 and specifically Appendix C to that document.

**3.0**  
03/12/2009  
C40**Objectives**

- To manage the risk of landslip.
- To ensure that development can be carried out in a manner which will not adversely increase the landslip risk to life or property affecting the subject land or adjoining or nearby land.
- To ensure that on land where a Landslip Risk Assessment is required development is not carried out unless the risk associated with the development is a Tolerable Risk.
- To ensure that applications for development are supported by adequate investigation and documentation of geotechnical and related structural matters.
- To ensure that development is only carried out if identified geotechnical and related structural engineering risks to

life and property are effectively addressed.

- To ensure that development is appropriate to be carried out either conditionally or unconditionally, having regard to the results of those geotechnical and related structural investigations.
- To ensure that approved development is thereafter appropriately maintained.

## 4.0

10/03/2016  
C151

### Exemptions from permit requirements

No permit is required to construct or carry out any of the following buildings or works.

- Earthworks, either separately or as part of a buildings or works proposal, provided:
  - No cut or fill greater than 0.6 metres in height or depth is required;
  - No change is made to constructed drainage or fixed irrigation systems.
- Removal or destruction of any vegetation, either separately or as part of a buildings or works proposal, provided it is:
  - Having a trunk circumference less than 0.5 metres at one metre above the ground; or
  - Within 2 metres of a building; or
  - Dead and the roots below ground level are retained.
- Pruning provided it is for the purpose of improving a tree or shrub's health or structural stability in accordance with normal horticultural practice for the species involved.
- A fence of:
  - Post and wire construction; or
  - Paling construction, supported by posts and rails, where the base of the fence is at least 75 mm above the ground surface.
- Extensions or internal alterations to an existing building provided:
  - If the land is unsewered, approval to alter or install a wastewater system is required under the Environment Protection Act 1970.
  - There is no increase in the ground surface area covered by roofed buildings or structures greater than 20 square metres;
  - Stormwater from the roof is drained to the legal point of discharge.
- Non-habitable structures ancillary to a dwelling, including carports and garden sheds, provided:
  - The structure is constructed of lightweight, flexible materials (not bricks, concrete blocks or similar);
  - The ground surface area occupied by all such structures on the property does not exceed 40 square metres;
  - The slope of the land within 20 metres of the shed is 20 percent or less;
  - Stormwater from the roof is drained to the legal point of discharge.
- A permeable, uncovered deck provided:
  - The slope of the land within 20 metres of the deck is 20 percent or less;
  - There is no increase in the ground surface area covered by the deck greater than 20 square metres.
- A building associated with agricultural activities provided:
  - The building is constructed of lightweight, flexible materials (not bricks, concrete blocks or similar);
  - The ground surface area occupied by the structure does not exceed 40 square metres;
  - The development would result in not more than two such structures existing on the subject property;
  - The slope of the land within 20 metres of the shed is 20 percent or less;

- Stormwater from the roof is to the legal point of discharge.
- A domestic rainwater tank with a capacity of not more than 4500 litres provided it is constructed at ground level or above.
- A building:
  - Used for the storage of building materials and equipment; and
  - Not exceeding 10 square metres in floor area;
  - temporarily located on the subject property for the duration of building construction works allowed or approved under this scheme.
- A retaining wall that:
  - Does not exceed one metre in height,
  - Is not associated with other building construction work; and
  - Does not provide landslip protection for any adjoining land.
- Landscaping water features provided it does not entail ponding of more than 500 litres of water.

## 5.0

08/07/2021  
C189yan

### Application requirements

The following application requirements apply to an application for a permit under Clause 44.01, in addition to those specified in Clause 44.01 and elsewhere in the scheme and must accompany an application, as appropriate, to the satisfaction of the responsible authority:

- Development Plans;
- A written Geotechnical Assessment of the proposed development in relation to existing conditions.
- A written Landslip Risk Assessment of the proposed development in relation to existing conditions, if the Geotechnical Assessment or other landform data, indicates natural slopes on or immediately adjacent to the subject lot which:
  - are steeper than 20 percent in Tertiary Basalt areas; or
  - are steeper than 30 percent in all other areas; or
  - exhibit evidence of possible or past landsliding on or immediately adjacent to the site;
  - or where, in the opinion of the Responsible Authority, the Geotechnical Assessment is not sufficient to determine that the development can be carried out in a manner which will not adversely increase the landslip risk to life or property affecting the subject lot or adjoining or nearby land.
- A Geotechnical Declaration and Verification Form.

### Development Plans

Development plans, must be drawn to scale, dimensioned and based on survey, and show:

- The proposed development, including a site plan and building elevations, and any proposed cut and fill, retaining wall or effluent disposal system;
- Any existing development, including buildings, water tanks and dams on both the subject lot and adjacent land, cut and fill, stormwater drainage, subsurface drainage, water supply pipelines, sewerage pipelines or effluent disposal installations and pipelines and any otherwise identified geotechnical hazard;
- Details and location of existing vegetation, including any vegetation to be removed.

### Geotechnical Assessment

A written Geotechnical Assessment must be prepared or technically verified by a Geotechnical Practitioner and must include, to the satisfaction of the Responsible Authority:

- Details of the Geotechnical Practitioner and his or her qualifications and experience, including without limitation experience in the management of slope stability problems and landslip risk management.
- A statement that the assessment is based on field survey measurements which have been undertaken not more than 12 months prior to the application for planning permit or if field survey measurements are older than a signed statement from the geotechnical practitioner that the measurements remain valid.
- A detailed site description.
- Site assessment plans and cross-sections of the subject lot and related land form survey and field measurements with contours and ground slopes, as measured, shown and drawn to scale and dimensioned.
- A detailed assessment of subsurface conditions, including the underlying geology.
- A statement indicating whether there are natural slopes on or immediately adjacent to the subject lot which:
  - are steeper than 20 percent in Tertiary Basalt areas; or
  - are steeper than 30 percent in all other areas; or
  - exhibit evidence of possible or past landsliding on or immediately adjacent to the site.
- A detailed description of any evidence of slope instability.
- Details of all site investigations and any other information used in preparation of the geotechnical report.
- Whether site investigation requires subsurface investigation that may involve boreholes and/or test pit excavations or other methods necessary to adequately assess the geotechnical/geological model for the subject lot and details of all such investigations, boreholes, test pits or other methods.
- A conclusion which:
  - Is supported by the data and all stated assumptions contained in the assessment and is capable of being verified by a peer review.
  - States whether or not a Landslip Risk Assessment is required.
  - Where it is considered that a Landslip Risk Assessment is not required, states that, in the opinion of the Geotechnical Practitioner, the development can be carried out in a manner which will not adversely increase the landslip risk to life or property affecting the subject lot or adjoining or nearby land.
  - Provides justification, including any necessary calculations, for the conclusion.
- States whether or not the development should only be approved subject to conditions and, if so, states recommendations of what conditions should be required, including but without limitation conditions relating to:
  - The determination of appropriate footing levels and foundation materials and in any structural works, including all footings and retaining walls;
  - The location of and depth of earth and rock cut and fill;
  - The construction of any excavations and fill and the method of retention of such works;
  - Any details of surface and sub-surface drainage;
  - The selection and design of a building structure system to minimize the effects of all identified geotechnical hazards;
  - Retention, replanting and new planting of vegetation;
  - Any drainage and effluent discharge;
  - Any necessary ongoing mitigation and maintenance measures and any recommended periodic inspections, including performance measures;
  - The time within which works must be completed after commencement and the location/s and period in which materials associated with the development can be stockpiled;
  - Any requirements for geotechnical inspections and approvals that may need to be incorporated into a construction work plan for building approval purposes.

## Landslip Risk Assessment

A written Landslip Risk Assessment must, to the satisfaction of the Responsible Authority:

- Be completed by a Geotechnical Practitioner.
- Contain a copy of or include the Geotechnical Assessment prepared for the subject land and proposal and, if not prepared by the Geotechnical Practitioner preparing the Landslip Risk Assessment, contain a response by the Geotechnical Practitioner preparing the Landslip Risk Assessment that the findings and conclusions of the Geotechnical Assessment are agreed with.
- If the geotechnical practitioner preparing the Landslip Risk Assessment does not agree with the findings and conclusions of the Geotechnical Assessment for the subject land and proposal, another Geotechnical Assessment must be prepared by that Geotechnical Practitioner.
- Be based on field survey and measurements which have been undertaken not more than 12 months prior to lodgement of the application for planning permit or if field survey measurements are older than 12 months a signed statement from the geotechnical practitioner that the measurements remain valid.
- Include a full assessment of the risk posed by all reasonably identified geotechnical hazards which have the potential to, either individually or cumulatively impact, upon people or property on the subject lot or related land. This assessment must be in accordance with AGS Guidelines 2007.
- Contain a conclusion as to whether the subject lot is suitable for the proposed development. This must be in the form of a specific statement that the subject lot is suitable, or can be made suitable, for the proposed development and that the subject lot and/or the proposed development can meet the tolerable risk criteria, as defined in this schedule. The report must specify all conditions required to achieve this outcome.

At all times, any decision regarding the degree of investigations and assessment required must be dictated by the consideration of risk to life and property.

### 6.0

03/12/2009  
C40

## Independent Review

The responsible authority may require a Geotechnical Assessment and/or a Landslip Risk Assessment that has been submitted with an application, to be reviewed by an independent geotechnical practitioner at the applicant's cost.

### 7.0

08/07/2021  
C189yran

## Decision Guidelines

The following decision guidelines apply to an application for a permit under Clause 44.01, in addition to those specified in Clause 44.01 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- The recommendations of the Geotechnical Assessment, any Landslip Risk Assessment and any other information accompanying the application;
- The advice of any Geotechnical Practitioner who has reviewed the application;
- The risks associated with the development requiring ongoing monitoring and maintenance of all mitigation measures;
- The risks associated with non-compliance with any conditions of any permit which may be subsequently issued.

### 8.0

03/12/2009  
C40

## Permit Conditions

The responsible authority must ensure that any permit issued for the construction of a building, works or the removal of vegetation contains those conditions recommended by the Geotechnical Assessment or, where applicable, the Landslip Risk Assessment or any Geotechnical Practitioner engaged to review those assessments.

Prior to the occupation of any building or structure or the commencement of any use authorised by the permit, the applicant must submit to the responsible authority a statement made by the Geotechnical Practitioner, who prepared the Geotechnical Assessment or Landslip Risk Assessment, stating that the conditions have been complied with and the permitted development is suitable to be used or occupied for the purpose for which permission has been granted.

## References

Journal of the Australian Geomechanics Society, Vol. 42 No 1, March 2007.

'Landslip Zoning of the Shire of Yarra Ranges' Coffey Partners International Pty Ltd Report No M2964/1-CF, Sept 1999

'Study of the Risk of Debris Flows and Other Landslips, Montrose, Victoria' Coffey Partners International Pty Ltd Report No M2120/1-AJ Volumes 1, 2 & 3 dated August 1991 and Volume 4 M2120/1-AL, April 1992.

**44.06 BUSHFIRE MANAGEMENT OVERLAY**31/07/2018  
VC148

Shown on the planning scheme map as **BMO** with a number (if shown).

**Purpose**

To implement the Municipal Planning Strategy and the Planning Policy Framework.

To ensure that the development of land prioritises the protection of human life and strengthens community resilience to bushfire.

To identify areas where the bushfire hazard warrants bushfire protection measures to be implemented.

To ensure development is only permitted where the risk to life and property from bushfire can be reduced to an acceptable level.

**44.06-1 Bushfire management objectives and application of schedules**19/09/2017  
VC132

A schedule to this overlay must contain a statement of the bushfire management objectives to be achieved for the area affected by the schedule and when the requirements within it apply.

**44.06-2 Permit requirement**08/08/2019  
VC159**Subdivision**

A permit is required to subdivide land. This does not apply if a schedule to this overlay specifically states that a permit is not required.

**Buildings and works**

A permit is required to construct a building or construct or carry out works associated with the following uses:

- Accommodation (including a Dependent person's unit)
- Education centre
- Hospital
- Industry
- Leisure and recreation
- Office
- Place of assembly
- Retail premises
- Service station
- Timber production
- Warehouse

This does not apply to any of the following:

- If a schedule to this overlay specifically states that a permit is not required.
- A building or works consistent with an agreement under Section 173 of the Act prepared in accordance with a condition of permit issued under the requirements of Clause 44.06-5.
- An alteration or extension to an existing building used for a dwelling or a dependent person's unit that is less than 50 percent of the gross floor area of the existing building.
- An alteration or extension to an existing building (excluding a dwelling and a dependent person's unit) that is less than 10 percent of the gross floor area of the existing building.

- A building or works with a floor area of less than 100 square metres not used for accommodation and ancillary to a dwelling.
- A building or works associated with Timber production provided the buildings or works are not within 150 metres of Accommodation or land zoned for residential or rural residential purposes.

#### 44.06-3 Application requirements

20/03/2023  
VC229

Unless a schedule to this overlay specifies different requirements, an application must be accompanied by:

- A **bushfire hazard site assessment** including a plan that describes the bushfire hazard within 150 metres of the proposed development. The description of the hazard must be prepared in accordance with Sections 2.2.3 to 2.2.5 of AS3959:2018 Construction of buildings in bushfire prone areas (Standards Australia) excluding paragraph (a) of section 2.2.3.2. Photographs or other techniques may be used to assist in describing the bushfire hazard.
- A **bushfire hazard landscape assessment** including a plan that describes the bushfire hazard of the general locality more than 150 metres from the site. Photographs or other techniques may be used to assist in describing the bushfire hazard. This requirement does not apply to a dwelling that includes all of the approved measures specified in Clause 53.02-3.
- A **bushfire management statement** describing how the proposed development responds to the requirements in this clause and Clause 53.02. If the application proposes an alternative measure, the bushfire management statement must explain how the alternative measure meets the relevant objective.

If in the opinion of the responsible authority any part of these requirements is not relevant to the assessment of an application, the responsible authority may waive, vary or reduce the requirement.

#### 44.06-4 Requirements of Clause 53.02

31/07/2018  
VC148

An application must meet the requirements of Clause 53.02 unless the application meets all of the requirements specified in a schedule to this overlay.

A schedule to this overlay may specify substitute approved measures, additional alternative measures and additional or substitute decision guidelines for the purposes of Clause 53.02.

#### 44.06-5 Mandatory condition

31/07/2018  
VC148

##### Subdivision

A permit which creates a lot for a single dwelling on land zoned for residential or rural residential purposes must include the following condition:

*“Before the statement of compliance is issued under the Subdivision Act 1988 the owner must enter into an agreement with the responsible authority under Section 173 of the Planning and Environment Act 1987. The agreement must:*

- *State that it has been prepared for the purpose of an exemption from a planning permit under Clause 44.06-2 of the [\*insert name of applicable planning scheme] Planning Scheme.*
- *Incorporate the plan prepared in accordance with Clause 53.02-4.4 of this planning scheme and approved under this permit.*
- *State that if a dwelling is constructed on the land without a planning permit that the bushfire protection measures set out in the plan incorporated into the agreement must be implemented and maintained to the satisfaction of the responsible authority on a continuing basis.*

*The land owner must pay the reasonable costs of the preparation, execution and registration of the Section 173 Agreement.”*

This does not apply:



- If a schedule to this overlay specifies that a Section 173 Agreement is not required.
- Where the relevant fire authority states in writing the preparation of an agreement under Section 173 of the Act is not required for the subdivision.
- For the subdivision of the land into lots each containing an existing dwelling or car parking space.

A permit to subdivide land must include any condition specified in a schedule to this overlay.

### **Buildings and works**

A permit to construct a building or construct or carry out works must include the following condition:

*“The bushfire protection measures forming part of this permit or shown on the endorsed plans, including those relating to construction standards, defensible space, water supply and access, must be maintained to the satisfaction of the responsible authority on a continuing basis. This condition continues to have force and effect after the development authorised by this permit has been completed.”*

A permit allowing a dwelling to be constructed to the next lower bushfire attack level in accordance with AM1.2 in Clause 53.02-3 must include the following condition:

*“Before the development starts, the owner must enter into an agreement with the responsible authority under section 173 of the Planning and Environment Act 1987 to provide for the following:*

- *A dwelling constructed in accordance with planning permit [\*insert planning permit reference] must not be occupied until a private bushfire shelter (a Class10c building within the meaning of the Building Regulations 2006) is:*
  - *Constructed on the same land as the dwelling.*
  - *Available for use by the occupants of the dwelling at all times.*
  - *Maintained in accordance with the requirements of the building permit issued for that private bushfire shelter.*

*The land owner must pay the reasonable costs of the preparation, execution and registration of the Section 173 Agreement.”*

A permit to construct a building or construct or carry out works must include any condition specified in a schedule to this overlay.

### **44.06-6 Referral of applications**

19/09/2017  
VC132

An application must be referred under Section 55 of the Act to the person or body specified as the referral authority in Clause 66.03, unless a schedule to this overlay specifies otherwise.

### **44.06-7 Notice and review**

31/07/2018  
VC148

An application is exempt from the notice requirements of section 52(1)(a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the Act, unless a schedule to this overlay specifies otherwise.

A schedule to this overlay may specify that notice be given to any person or body in accordance with section 52(1)(c) of the Act.

### **44.06-8 Decision guidelines**

31/07/2018  
VC148

Before deciding on an application, in addition to the decision guidelines in Clause 53.02 and Clause 65, the responsible authority must consider, as appropriate:

- The Municipal Planning Strategy and the Planning Policy Framework.
- Any other matters specified in a schedule to this overlay.

**44.06-9 Transitional arrangements**

19/09/2017  
VC132

The requirements of Clause 44.06 Bushfire Management Overlay do not apply to a single dwelling, or a dependent person's unit, when a permit under the *Building Act 1993* was issued before the commencement of Amendment GC13, if:

- vegetation is managed to accord with the bushfire attack level assessment undertaken at the time the building permit was issued; and
- a static water supply of:
  - 2500 litres on lots of 500 square metres or less
  - 5000 litres on lots of more than 500 square metres, is provided to the satisfaction of the responsible authority.
- no permit was required for such development under Clause 44.06 before the commencement of Amendment GC13.

03/10/2017  
GC13**SCHEDULE 2 TO CLAUSE 44.06 BUSHFIRE MANAGEMENT OVERLAY**Shown on the planning scheme map as **BMO2** .**HEALESVILLE, BELGRAVE, TECOMA, UPWEY, LILYDALE, MONBULK, MONTROSE, MOOROOLBARK, MT EVELYN, WANDIN NORTH BAL-29 AREAS****1.0 Statement of the bushfire management objectives to be achieved**08/07/2021  
C189yan

To specify bushfire protection measures to construct or extend one dwelling on a lot.

To specify referral requirements for applications to construct or extend one dwelling on a lot.

**Application**

The application to construct or extend one dwelling on a lot must include all the requirements set out in this schedule.

Clause 53.02 applies in all other circumstances.

**2.0 Permit requirement**03/10/2017  
GC13

None specified.

**3.0 Application requirements**08/07/2021  
C189yan

The following application requirements apply to an application for a permit under Clause 44.06:

- A bushfire management plan that:
  - Shows all of the required bushfire protection measures specified in this schedule,
- Includes written conditions that implement the required bushfire protection measures,
- Identifies water supply including the location of any fire hydrant within 120 metres of the rear of the building, and
- Details vehicle access.

**4.0 Requirements to be met**08/07/2021  
C189yan

The following requirements apply to an application to construct a single dwelling on a lot:

- The dwelling must be constructed to BAL-29
- Defendable space is to be provided for a distance of 30 metres around the dwelling or to the property boundary, whichever is the lesser and maintained in accordance with the vegetation management requirements of Clause 53.02 with the following variation:
  - The canopy of trees must be separated by at least 5 metres.
- A static water supply must be provided in accordance with Clause 53.02, and
- Vehicle access must be provided in accordance with Clause 53.02.

If these requirements are not met, the requirements of Clause 53.02 apply.

**5.0 Substitute approved measures for Clause 53.02**08/07/2021  
C189yan

None specified.

**6.0 Additional alternative measures for Clause 53.02**08/07/2021  
C189yan

None specified.

**7.0 Mandatory Condition**

08/07/2021  
C189yan

None specified.

**8.0 Referral of application not required**

03/10/2017  
GC13

An application for a single dwelling on a lot meeting all of the required bushfire protection measures is not required to be referred under Section 55 of the Act to the person or body specified as the referral authority in Clause 66.03.

**9.0 Notice and review**

03/10/2017  
GC13

None specified.

**10.0 Decision guidelines**

03/10/2017  
GC13

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider whether all of the bushfire protection measures in this schedule have been met.

**52.06 CAR PARKING**31/07/2018  
VC148**Purpose**

To ensure that car parking is provided in accordance with the Municipal Planning Strategy and the Planning Policy Framework.

To ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality.

To support sustainable transport alternatives to the motor car.

To promote the efficient use of car parking spaces through the consolidation of car parking facilities.

To ensure that car parking does not adversely affect the amenity of the locality.

To ensure that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use.

**52.06-1 Scope**01/07/2014  
VC116

Clause 52.06 applies to:

- a new use; or
- an increase in the floor area or site area of an existing use; or
- an increase to an existing use by the measure specified in Column C of Table 1 in Clause 52.06-5 for that use.

Clause 52.06 does not apply to:

- the extension of one dwelling on a lot in the Neighbourhood Residential Zone, General Residential Zone, Residential Growth Zone, Mixed Use Zone or Township Zone; or
- the construction and use of one dwelling on a lot in the Neighbourhood Residential Zone, General Residential Zone, Residential Growth Zone, Mixed Use Zone or Township Zone unless the zone or a schedule to the zone specifies that a permit is required to construct or extend one dwelling on a lot.

**52.06-2 Provision of car parking spaces**19/04/2013  
VC95

Before:

- a new use commences; or
- the floor area or site area of an existing use is increased; or
- an existing use is increased by the measure specified in Column C of Table 1 in Clause 52.06-5 for that use,

the number of car parking spaces required under Clause 52.06-5 or in a schedule to the Parking Overlay must be provided to the satisfaction of the responsible authority in one or more of the following ways:

- on the land; or
- in accordance with a permit issued under Clause 52.06-3; or
- in accordance with a financial contribution requirement specified in a schedule to the Parking Overlay.

If a schedule to the Parking Overlay specifies a maximum parking provision, the maximum provision must not be exceeded except in accordance with a permit issued under Clause 52.06-3.

**52.06-3 Permit requirement**04/10/2018  
VC149

A permit is required to:

- Reduce (including reduce to zero) the number of car parking spaces required under Clause 52.06-5 or in a schedule to the Parking Overlay.
- Provide some or all of the car parking spaces required under Clause 52.06-5 or in a schedule to the Parking Overlay on another site.
- Provide more than the maximum parking provision specified in a schedule to the Parking Overlay.

A permit is not required if a schedule to the Parking Overlay specifies that a permit is not required under this clause.

A permit is not required to reduce the number of car parking spaces required for a new use of land if the following requirements are met:

- The number of car parking spaces required under Clause 52.06-5 or in a schedule to the Parking Overlay for the new use is less than or equal to the number of car parking spaces required under Clause 52.06-5 or in a schedule to the Parking Overlay for the existing use of the land.
- The number of car parking spaces currently provided in connection with the existing use is not reduced after the new use commences.

A permit is not required to reduce the required number of car parking spaces for a new use of an existing building if the following requirements are met:

- The building is in the Commercial 1 Zone, Commercial 2 Zone, Commercial 3 Zone or Activity Centre Zone.
- The gross floor area of the building is not increased.
- The reduction does not exceed 10 car parking spaces.
- The building is not in a Parking Overlay with a schedule that allows a financial contribution to be paid in lieu of the provision of the required car parking spaces for the use.

### **VicSmart applications**

Subject to Clause 71.06, an application under this clause to reduce the required number of car parking spaces by no more than 10 car parking spaces is a class of VicSmart application and must be assessed against Clause 59.10.

#### **52.06-4 Exemption from notice and review**

31/07/2018  
VC148

An application under Clause 52.06-3 is exempt from the notice requirements of section 52(1)(a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the Act if:

- the application is only for a permit under Clause 52.06-3; or
- the application is also for a permit under another provision of the planning scheme and in respect of all other permissions sought, the application is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.

#### **52.06-5 Number of car parking spaces required under Table 1**

24/01/2020  
VC160

Table 1 of this clause sets out the car parking requirement that applies to a use listed in the Table.

A car parking requirement in Table 1 may be calculated as either:

- a number of car parking spaces; or
- a percentage of the total site area that must be set aside for car parking.

A car parking requirement in Table 1 is calculated by multiplying the figure in Column A or Column B (whichever applies) by the measure (for example square metres, number of patrons or number of bedrooms) in Column C.

Column A applies unless Column B applies.

Column B applies if:

- any part of the land is identified as being within the Principal Public Transport Network Area as shown on the *Principal Public Transport Network Area Maps* (State Government of Victoria, August 2018); or
- a schedule to the Parking Overlay or another provision of the planning scheme specifies that Column B applies.

Where an existing use is increased by the measure specified in Column C of Table 1 for that use, the car parking requirement only applies to the increase, provided the existing number of car parking spaces currently being provided in connection with the existing use is not reduced.

If in calculating the number of car parking spaces the result is not a whole number, the required number of car parking spaces is to be rounded down to the nearest whole number.

Where the car parking requirement specified in Table 1 is calculated as a percentage of the total site area, the area to be provided for car parking includes an accessway that directly abuts any car parking spaces, but does not include any accessway or portion of an accessway that does not directly abut any car parking spaces.

The car parking requirement specified in Table 1 includes disabled car parking spaces. The proportion of spaces to be allocated as disabled spaces must be in accordance with Australian Standard AS2890.6-2009 (disabled) and the Building Code of Australia.

The car parking requirement specified for a use listed in Table 1 does not apply if:

- a car parking requirement for the use is specified under another provision of the planning scheme; or
- a schedule to the Parking Overlay specifies the number of car parking spaces required for the use.

**Table 1: Car parking requirement**

<b>Use</b>	<b>Rate Column A</b>	<b>Rate Column B</b>	<b>Car Parking Measure Column C</b>
<b>Amusement parlour</b>	4	3.5	To each 100 sq m of net floor area
<b>Art &amp; craft centre</b>	4	3.5	To each 100 sq m of net floor area
<b>Bar</b>	0.4		To each patron permitted
		3.5	Space to each 100 sq m of leasable floor area
<b>Betting agency</b>	4	3.5	To each 100 sq m of leasable floor area
<b>Bowling green</b>	6	6	To each rink plus 50 per cent of the relevant requirement of any ancillary use
<b>Child care centre</b>	0.22	0.22	To each child
<b>Cinema based entertainment facility</b>	0.3	0.3	To each patron permitted
<b>Convenience restaurant</b>	0.3		To each patron permitted

<b>Use</b>	<b>Rate Column A</b>	<b>Rate Column B</b>	<b>Car Parking Measure Column C</b>
		3.5	To each 100 sq m of leasable floor area
<b>Convenience shop if the leasable floor area exceeds 80 sq m</b>	10		To each premises
		3.5	To each 100 sq m of leasable floor area
<b>Display home centre</b>	5		To each dwelling for five or fewer contiguous dwellings, plus
	2		To each additional contiguous dwelling
		3.5	To each 100 sq m of floor area
<b>Dwelling</b>	1	1	To each one or two bedroom dwelling, plus
	2	2	To each three or more bedroom dwelling (with studies or studios that are separate rooms counted as a bedrooms) plus
	1	0	For visitors to every 5 dwellings for developments of 5 or more dwellings
<b>Education centre other than listed in this table</b>	0.4	0.3	To each student that is part of the maximum number of students on the site at any time
<b>Food and drink premises other than listed in this table</b>	4	3.5	To each 100 sq m of leasable floor area
<b>Freezing and cool storage,</b>	1.5	1	To each 100 sq m of net floor area
<b>Fuel depot</b>	10	10	Per cent of site area
<b>Funeral Parlour</b>	0.3	0.3	To each patron permitted
<b>Gambling premises other than listed in this table</b>	0.4		To each patron permitted
		3.5	To each 100 sq m of leasable floor area
<b>Golf course</b>	4	4	To each hole plus 50 per cent of the relevant



<b>Use</b>	<b>Rate Column A</b>	<b>Rate Column B</b>	<b>Car Parking Measure Column C</b>
			requirement of any ancillary uses.
<b>Home based business</b>	1	0	To each employee not a resident of the dwelling
<b>Hotel</b>	0.4		To each patron permitted
		3.5	To each 100 sq m of leasable floor area
<b>Industry other than listed in this table</b>	2.9	1	To each 100 sq m of net floor area
<b>Landscape gardening supplies</b>	10	10	Per cent of site area
<b>Mail centre</b>	3.5	3	To each 100 sq m of net floor area
<b>Manufacturing sales</b>	4	3.5	To each 100 sq m of leasable floor area
<b>Market</b>	8	3.5	To each 100 sq m of site area
<b>Materials recycling</b>	10	10	Per cent of site area
<b>Medical centre</b>	5		To the first person providing health services plus
	3		To every other person providing health services
		3.5	To each 100 sq m of leasable floor area
<b>Milk depot</b>	10	10	Per cent of site area
<b>Motel</b>	1	1	To each unit, and one to each manager dwelling, plus 50 per cent of the relevant requirement of any ancillary use
<b>Motor repairs</b>	3	3	To each 100 sq m of net floor area plus
	1	1	for each vehicle being serviced, repaired or fitted with accessories, including vehicles waiting to be serviced, repaired, fitted with accessories or collected by owners

<b>Use</b>	<b>Rate Column A</b>	<b>Rate Column B</b>	<b>Car Parking Measure Column C</b>
<b>Office other than listed in this table</b>	3.5	3	To each 100 sq m of net floor area
<b>Place of assembly other than listed in this table</b>	0.3	0.3	To each patron permitted
<b>Postal agency</b>	4	3.5	To each 100 sq m of leasable floor area
<b>Primary produce sales</b>	4	3.5	To each 100 sq m of leasable floor area
<b>Primary school</b>	1	1	To each employee that is part of the maximum number of employees on the site at any time
<b>Research and development centre</b>	3.5	3	To each 100 sq m of net floor area
<b>Residential aged care facility</b>	0.3	0.3	To each lodging room
<b>Residential village</b>	1	1	To each one or two bedroom dwelling plus
	2	2	To each three or more bedroom dwelling (with studies or studios that are separate rooms counted as a bedrooms) plus
	1	0	For visitors to every five dwellings for developments of five or more dwellings
<b>Retirement village</b>	1	1	To each one or two bedroom dwelling plus
	2	2	To each three or more bedroom dwelling (with studies or studios that are separate rooms counted as a bedrooms) plus
	1	0	For visitors to every five dwellings for developments of five or more dwellings
<b>Restaurant</b>	0.4		To each patron permitted
		3.5	To each 100 sq m of leasable floor area

<b>Use</b>	<b>Rate Column A</b>	<b>Rate Column B</b>	<b>Car Parking Measure Column C</b>
<b>Restricted retail premises</b>	3	2.5	To each 100 sq m of leasable floor area
<b>Rooming house</b>	1	1	To each four bedrooms
<b>Saleyard</b>	10	10	Per cent of site area
<b>Secondary school</b>	1.2	1.2	To each employee that is part of the maximum number of employees on the site at any time
<b>Shop other than listed in this table</b>	4	3.5	To each 100 sq m of leasable floor area
<b>Squash court – other than in conjunction with a dwelling</b>	3	3	To each court plus 50 per cent of the relevant requirement of any ancillary use
<b>Store other than listed in this table</b>	10	10	Per cent of site area
<b>Supermarket</b>	5	5	To each 100 sq m of leasable floor area
<b>Swimming pool – other than in conjunction with a dwelling</b>	5.6	5.6	To each 100 sq m of the site
<b>Tennis court – other than in conjunction with a dwelling</b>	4	4	To each court plus 50% of the requirement of any ancillary use
<b>Trade supplies</b>	10	10	Per cent of site area
<b>Veterinary centre</b>	5		To the first person providing animal health services plus
	3		To every other person providing animal health services
		3.5	To each 100 sq m of leasable floor area
<b>Warehouse other than listed in this table</b>	2	2	To each premises plus

Use	Rate	Rate	Car Parking Measure
	Column A	Column B	Column C
	1.5	1	To each 100 sq m of net floor area
Winery	0.4		To each patron permitted
		3.5	To each 100 sq m of leasable floor area

**52.06-6 Number of car parking spaces required for other uses**

16/01/2018  
VC142

Where a use of land is not specified in Table 1 or where a car parking requirement is not specified for the use in another provision of the planning scheme or in a schedule to the Parking Overlay, before a new use commences or the floor area or site area of an existing use is increased, car parking spaces must be provided to the satisfaction of the responsible authority. This does not apply to the use of land for a temporary portable land sales office located on the land for sale.

**52.06-7 Application requirements and decision guidelines for permit applications**

25/05/2017  
VC133

**For applications to reduce the car parking requirement**

An application to reduce (including reduce to zero) the number of car parking spaces required under Clause 52.06-5 or in a schedule to the Parking Overlay must be accompanied by a Car Parking Demand Assessment.

The Car Parking Demand Assessment must assess the car parking demand likely to be generated by the proposed:

- new use; or
- increase in the floor areas or site area of the existing use; or
- increase to the existing use by the measure specified in Column C of Table 1 in Clause 52.06-5 for that use.

The Car Parking Demand Assessment must address the following matters, to the satisfaction of the responsible authority:

- The likelihood of multi-purpose trips within the locality which are likely to be combined with a trip to the land in connection with the proposed use.
- The variation of car parking demand likely to be generated by the proposed use over time.
- The short-stay and long-stay car parking demand likely to be generated by the proposed use.
- The availability of public transport in the locality of the land.
- The convenience of pedestrian and cyclist access to the land.
- The provision of bicycle parking and end of trip facilities for cyclists in the locality of the land.
- The anticipated car ownership rates of likely or proposed visitors to or occupants (residents or employees) of the land.
- Any empirical assessment or case study.

Before granting a permit to reduce the number of spaces, the responsible authority must consider the following, as appropriate:

- The Car Parking Demand Assessment.
- Any relevant local planning policy or incorporated plan.

- The availability of alternative car parking in the locality of the land, including:
  - Efficiencies gained from the consolidation of shared car parking spaces.
  - Public car parks intended to serve the land.
  - On street parking in non residential zones.
  - Streets in residential zones specifically managed for non-residential parking.
- On street parking in residential zones in the locality of the land that is intended to be for residential use.
- The practicality of providing car parking on the site, particularly for lots of less than 300 square metres.
- Any adverse economic impact a shortfall of parking may have on the economic viability of any nearby activity centre.
- The future growth and development of any nearby activity centre.
- Any car parking deficiency associated with the existing use of the land.
- Any credit that should be allowed for car parking spaces provided on common land or by a Special Charge Scheme or cash-in-lieu payment.
- Local traffic management in the locality of the land.
- The impact of fewer car parking spaces on local amenity, including pedestrian amenity and the amenity of nearby residential areas.
- The need to create safe, functional and attractive parking areas.
- Access to or provision of alternative transport modes to and from the land.
- The equity of reducing the car parking requirement having regard to any historic contributions by existing businesses.
- The character of the surrounding area and whether reducing the car parking provision would result in a quality/positive urban design outcome.
- Any other matter specified in a schedule to the Parking Overlay.
- Any other relevant consideration.

**For applications to allow some or all of the required car parking spaces to be provided on another site**

Before granting a permit to allow some or all of the car parking spaces required under Clause 52.06-5 or in a schedule to the Parking Overlay to be provided on another site, the responsible authority must consider the following, as appropriate:

- The proximity of the car parking on the alternate site to the subject site.
- The likelihood of the long term provision and availability of the car parking spaces.
- Whether the location of the car parking spaces is consistent with any relevant local policy or incorporated plan.
- Any other matter specified in a schedule to the Parking Overlay.

**For applications to provide more than the maximum parking provision specified in a schedule to the Parking Overlay**

An application to provide more than the maximum parking provision specified in a schedule to the Parking Overlay must be accompanied by a Car Parking Demand Assessment.

The Car Parking Demand Assessment must assess the car parking demand likely to be generated by the proposed use or increase to the existing use.

The Car Parking Demand Assessment must address the following matters, to the satisfaction of the responsible authority:

- The likelihood of multi-purpose trips within the locality which are likely to be combined with a trip to the land in connection with the proposed use.
- The variation of car parking demand likely to be generated by the proposed use over time.
- The short-stay and long-stay car parking demand likely to be generated by the proposed use.
- The availability of public transport in the locality of the land.
- The convenience of pedestrian and cyclist access to the land.
- The provision of bicycle parking and end of trip facilities for cyclists in the locality of the land.
- The anticipated car ownership rates of likely or proposed visitors to or occupants (residents or employees) of the land.
- Any empirical assessment or case study.

### **52.06-8 Requirement for a car parking plan**

25/05/2017  
VC133

Plans must be prepared to the satisfaction of the responsible authority before any of the following occurs:

- a new use commences; or
- the floor area or site area of an existing use is increased; or
- an existing use is increased by the measure specified in Column C of Table 1 in Clause 52.06-5 for that use.

The plans must show, as appropriate:

- All car parking spaces that are proposed to be provided (whether on the land or on other land).
- Access lanes, driveways and associated works.
- Allocation of car parking spaces to different uses or tenancies, if applicable.
- Any landscaping and water sensitive urban design treatments.
- Finished levels, if required by the responsible authority.
- Any other matter specified in a schedule to the Parking Overlay.

Plans must be provided to the responsible authority under Clause 52.06-8 wherever Clause 52.06 applies, whether or not a permit application is being made under Clause 52.06-3 or any other provision of the planning scheme.

Where an application is being made for a permit under Clause 52.06-3 or another provision of the planning scheme, the information required under Clause 52.06-8 may be included in other plans submitted with the application.

Clause 52.06-8 does not apply where no car parking spaces are proposed to be provided.

### **52.06-9 Design standards for car parking**

03/02/2022  
VC199

Plans prepared in accordance with Clause 52.06-8 must meet the design standards of Clause 52.06-9, unless the responsible authority agrees otherwise.

Design standards 1, 3, 6 and 7 do not apply to an application to construct one dwelling on a lot.

#### **Design standard 1 – Accessways**

Accessways must:

- Be at least 3 metres wide.
- Have an internal radius of at least 4 metres at changes of direction or intersection or be at least 4.2 metres wide.
- Allow vehicles parked in the last space of a dead-end accessway in public car parks to exit in a forward direction

with one manoeuvre.

- Provide at least 2.1 metres headroom beneath overhead obstructions, calculated for a vehicle with a wheel base of 2.8 metres.
- If the accessway serves four or more car spaces or connects to a road in a Transport Zone 2 or Transport Zone 3, the accessway must be designed so that cars can exit the site in a forward direction.
- Provide a passing area at the entrance at least 6.1 metres wide and 7 metres long if the accessway serves ten or more car parking spaces and is either more than 50 metres long or connects to a road in a Transport Zone 2 or Transport Zone 3.
- Have a corner splay or area at least 50 per cent clear of visual obstructions extending at least 2 metres along the frontage road from the edge of an exit lane and 2.5 metres along the exit lane from the frontage, to provide a clear view of pedestrians on the footpath of the frontage road. The area clear of visual obstructions may include an adjacent entry or exit lane where more than one lane is provided, or adjacent landscaped areas, provided the landscaping in those areas is less than 900mm in height.

If an accessway to four or more car parking spaces is from land in a Transport Zone 2 or Transport Zone 3, the access to the car spaces must be at least 6 metres from the road carriageway.

If entry to the car space is from a road, the width of the accessway may include the road.

### Design standard 2 – Car parking spaces

Car parking spaces and accessways must have the minimum dimensions as outlined in Table 2.

**Table 2: Minimum dimensions of car parking spaces and accessways**

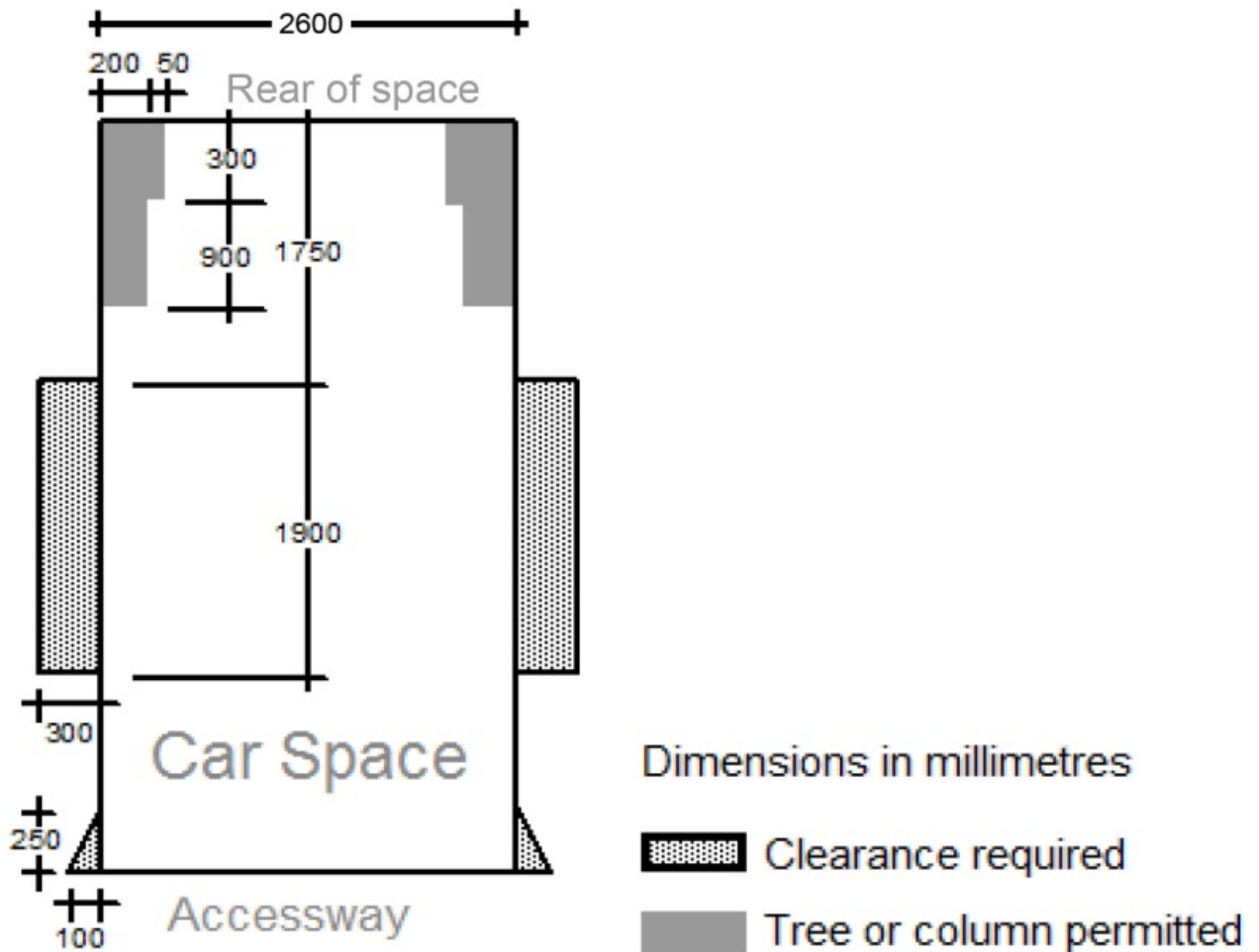
Angle of car parking spaces to access way	Accessway width	Car space width	Car space length
Parallel	3.6 m	2.3 m	6.7 m
45°	3.5 m	2.6 m	4.9 m
60°	4.9 m	2.6 m	4.9 m
90°	6.4 m	2.6 m	4.9 m
	5.8 m	2.8 m	4.9 m
	5.2 m	3.0 m	4.9 m
	4.8 m	3.2 m	4.9 m

*Note Some dimensions in Table 2 vary from those shown in the Australian Standard AS2890.1-2004 (off street). The dimensions shown in Table 2 allocate more space to aisle widths and less to marked spaces to provide improved operation and access. The dimensions in Table 2 are to be used in preference to the Australian Standard AS2890.1-2004 (off street) except for disabled spaces which must achieve Australian Standard AS2890.6-2009 (disabled).*

A wall, fence, column, tree, tree guard or any other structure that abuts a car space must not encroach into the area marked ‘clearance required’ on Diagram 1, other than:

- A column, tree or tree guard, which may project into a space if it is within the area marked ‘tree or column permitted’ on Diagram 1.
- A structure, which may project into the space if it is at least 2.1 metres above the space.

**Diagram 1 Clearance to car parking spaces**



Car spaces in garages or carports must be at least 6 metres long and 3.5 metres wide for a single space and 5.5 metres wide for a double space measured inside the garage or carport.

Where parking spaces are provided in tandem (one space behind the other) an additional 500 mm in length must be provided between each space.

Where two or more car parking spaces are provided for a dwelling, at least one space must be under cover.

Disabled car parking spaces must be designed in accordance with Australian Standard AS2890.6-2009 (disabled) and the Building Code of Australia. Disabled car parking spaces may encroach into an accessway width specified in Table 2 by 500mm.

### Design standard 3: Gradients

Accessway grades must not be steeper than 1:10 (10 per cent) within 5 metres of the frontage to ensure safety for pedestrians and vehicles. The design must have regard to the wheelbase of the vehicle being designed for; pedestrian and vehicular traffic volumes; the nature of the car park; and the slope and configuration of the vehicle crossover at the site frontage. This does not apply to accessways serving three dwellings or less.

Ramps (except within 5 metres of the frontage) must have the maximum grades as outlined in Table 3 and be designed for vehicles travelling in a forward direction.



**Table 3: Ramp gradients**

Type of car park	Length of ramp	Maximum grade
<b>Public car parks</b>	20 metres or less	1:5 (20%)
	longer than 20 metres	1:6 (16.7%)
<b>Private or residential car parks</b>	20 metres or less	1:4 (25%)
	longer than 20 metres	1:5 (20%)

Where the difference in grade between two sections of ramp or floor is greater than 1:8 (12.5 per cent) for a summit grade change, or greater than 1:6.7 (15 per cent) for a sag grade change, the ramp must include a transition section of at least 2 metres to prevent vehicles scraping or bottoming.

Plans must include an assessment of grade changes of greater than 1:5.6 (18 per cent) or less than 3 metres apart for clearances, to the satisfaction of the responsible authority.

#### **Design standard 4: Mechanical parking**

Mechanical parking may be used to meet the car parking requirement provided:

- At least 25 per cent of the mechanical car parking spaces can accommodate a vehicle height of at least 1.8 metres.
- Car parking spaces that require the operation of the system are not allocated to visitors unless used in a valet parking situation.
- The design and operation is to the satisfaction of the responsible authority.

#### **Design standard 5: Urban design**

Ground level car parking, garage doors and accessways must not visually dominate public space.

Car parking within buildings (including visible portions of partly submerged basements) must be screened or obscured where possible, including through the use of occupied tenancies, landscaping, architectural treatments and artworks.

Design of car parks must take into account their use as entry points to the site.

Design of new internal streets in developments must maximise on street parking opportunities.

#### **Design standard 6: Safety**

Car parking must be well lit and clearly signed.

The design of car parks must maximise natural surveillance and pedestrian visibility from adjacent buildings.

Pedestrian access to car parking areas from the street must be convenient.

Pedestrian routes through car parking areas and building entries and other destination points must be clearly marked and separated from traffic in high activity parking areas.

#### **Design standard 7: Landscaping**

The layout of car parking areas must provide for water sensitive urban design treatment and landscaping.

Landscaping and trees must be planted to provide shade and shelter, soften the appearance of ground level car parking and aid in the clear identification of pedestrian paths.

Ground level car parking spaces must include trees planted with flush grilles. Spacing of trees must be determined having regard to the expected size of the selected species at maturity.

**52.06-10 Decision guidelines**25/05/2017  
VC133

Before deciding that a plan prepared under Clause 52.06-8 is satisfactory the responsible authority must consider, as appropriate:

- The role and function of nearby roads and the ease and safety with which vehicles gain access to the site.
- The ease and safety with which vehicles access and circulate within the parking area.
- The provision for pedestrian movement within and around the parking area.
- The provision of parking facilities for cyclists and disabled people.
- The protection and enhancement of the streetscape.
- The provisions of landscaping for screening and shade.
- The measures proposed to enhance the security of people using the parking area particularly at night.
- The amenity of the locality and any increased noise or disturbance to dwellings and the amenity of pedestrians.
- The workability and allocation of spaces of any mechanical parking arrangement.
- The design and construction standards proposed for paving, drainage, line marking, signage, lighting and other relevant matters.
- The type and size of vehicle likely to use the parking area.
- Whether the layout of car parking spaces and access lanes is consistent with the specific standards or an appropriate variation.
- The need for the required car parking spaces to adjoin the premises used by the occupier/s, if the land is used by more than one occupier.
- Whether the layout of car spaces and accessways are consistent with Australian Standards AS2890.1-2004 (off street) and AS2890.6-2009 (disabled).
- The relevant standards of Clauses 56.06-2, 56.06-4, 56.06-5, 56.06-7 and 56.06-8 for residential developments with accessways longer than 60 metres or serving 16 or more dwellings.
- Any other matter specified in a schedule to the Parking Overlay.

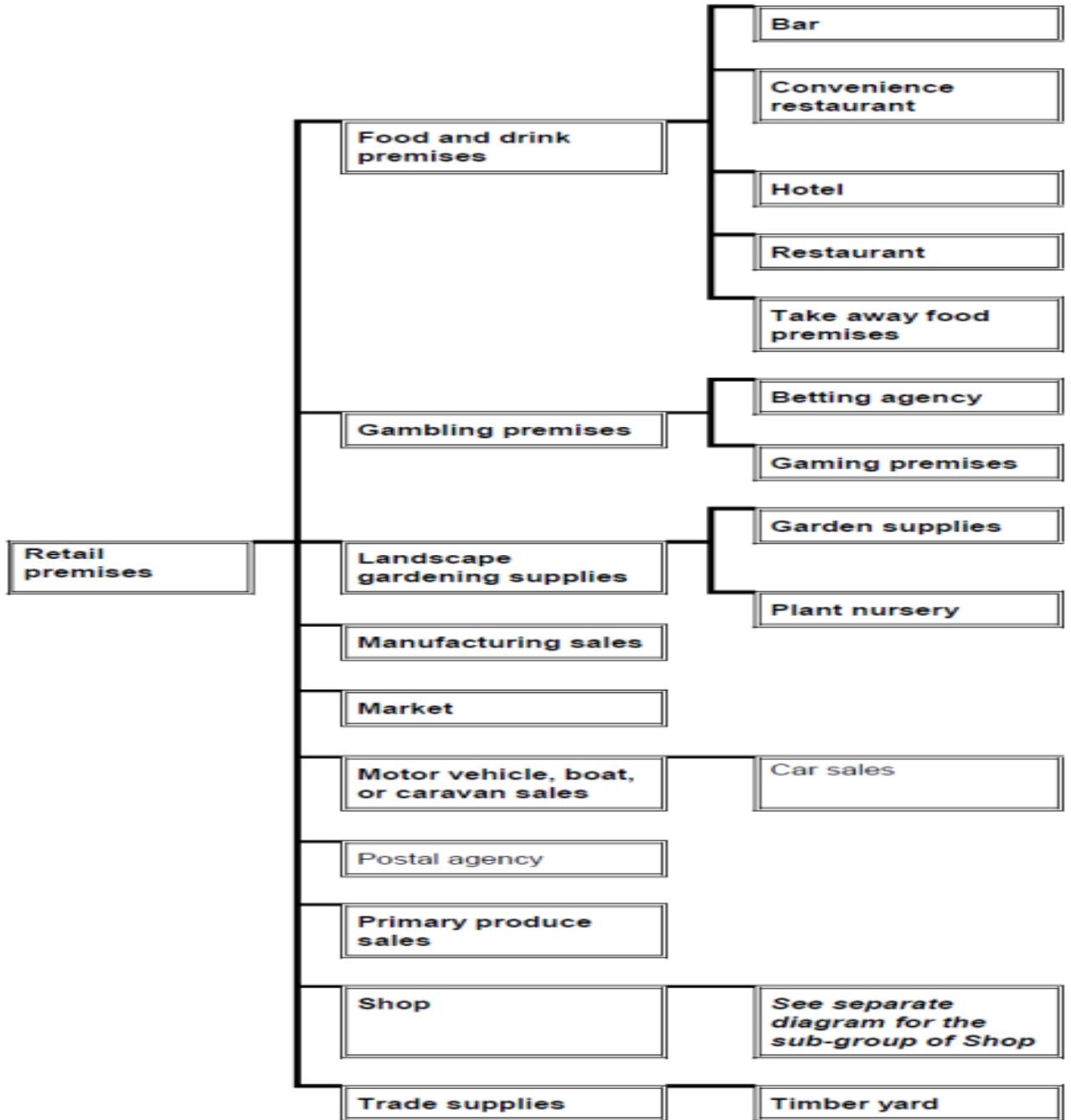
**52.06-11 Construction of car parking**25/05/2017  
VC133

Where a plan is required under Clause 52.06-8, the car parking spaces, access lanes, driveways and associated works and landscaping shown on the plan must be:

- constructed and available for use in accordance with the plan approved by the responsible authority; and
- formed to such levels and drained so that they can be used in accordance with the plan; and
- treated with an all-weather seal or some other durable surface; and
- line-marked or provided with some other adequate means of showing the car parking spaces,

before any of the following occurs:

- the new use commences; or
- the floor area or site area of the existing use is increased; or
- the existing use is increased by the measure specified in Column C of Table 1 in Clause 52.06-5 for that use.



**73.04-12 Retail premises group (sub-group of Shop)**

08/08/2019  
VC159



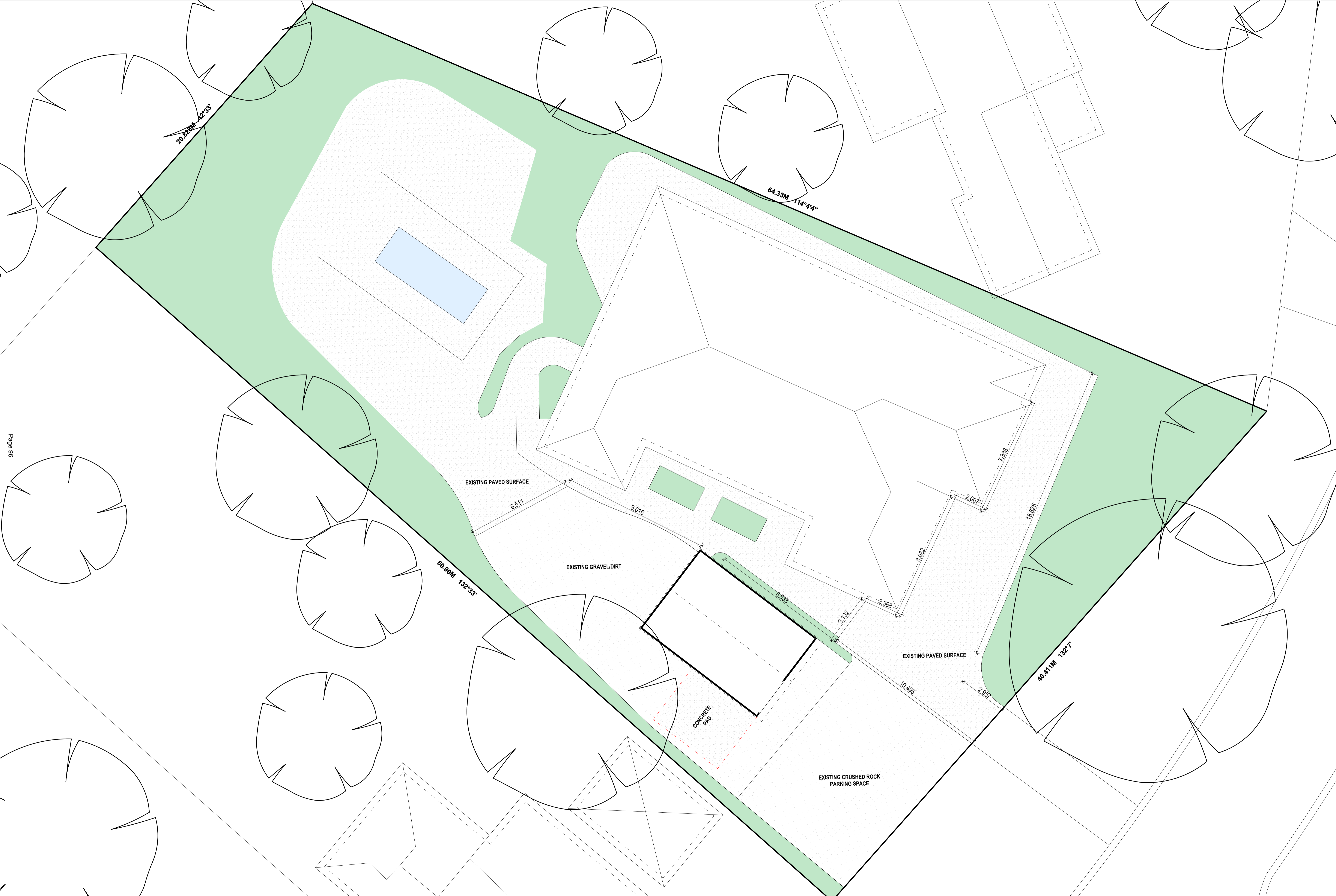
LEGEND			
	TD DOWN PIPE	AI ARTICULATION JOINTS	KP-L SELECTED KUP-LOK ROOFING
	DS DOWN PIPE WITH SPREADER	TL SELECTED TILE FLOORING	BG-2 TYPICAL PARAPET GUTTER
	ED EXISTING DOWN PIPE	FB SELECTED TIMBER FLOORING	ADJUST TO SUIT GUTTER
	FW FLOOR WASTE	CP SELECTED CARPET	BG-3 100x300 BOX GUTTER
	EF EXHAUST FAN TO EXTERNAL AIR TOU / HE	TD SELECTED TIMBER DECKING	PC POLISHED CONCRETE
	SA SMOKE ALARM	PC POLISHED CONCRETE	CR SELECTED COLORBOND ROOFING
		PC POLISHED CONCRETE	CR SELECTED COLORBOND ROOFING



TAPIR DESIGN

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NOTE: ALL WORK SHALL BE COMPLETED BY 15:00 HOURS ON THE DAY OF COMMENCEMENT OF ANY WORK IF ANY DISCREPANCY OR CONFLICT EXISTS BETWEEN THE DRAWING AND THE PROJECT DATA SHEET, THE DRAWING SHALL PREVAIL.	Date: 04.04.2022
DO NOT SCALE THE DRAWING. DIMENSIONS SHALL BE TAKEN FROM THE ORIGINAL CAD FILE. DIMENSIONS SHALL BE TAKEN FROM THE ORIGINAL CAD FILE. DIMENSIONS SHALL BE TAKEN FROM THE ORIGINAL CAD FILE.	Scale: 1:100 @ A1
THESE PLANS SHALL BE THE PROPERTY OF TAPIR DESIGN AND SHALL NOT BE REPRODUCED OR COPIED WITHOUT THE WRITTEN PERMISSION OF TAPIR DESIGN.	Drawn: H.L.
	Checked: N.F.

Orientation	
	Project Status: TP
	1 of 6





**AREA ANALYSIS**

SITE AREA	1837.82m <sup>2</sup>	100%
SHED AREA	55.21m <sup>2</sup>	3.00%
PLANT CARE AREA	31.74m <sup>2</sup>	1.73%

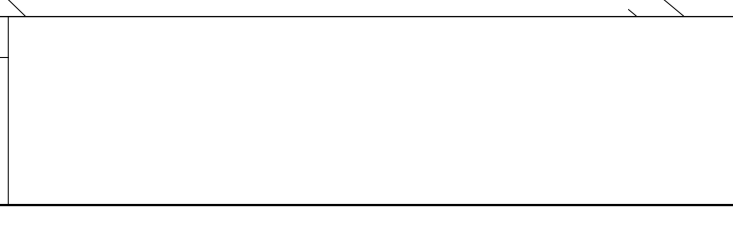
**SITE PLAN**  
SCALE 1:100

Project PROPOSED RENOVATIONS  
Property Address 59 MORRIS ROAD, UPWEY

Client  
Document Set ID: 7410253  
Version: 1, Version Date: 01/12/2022

**LEGEND**

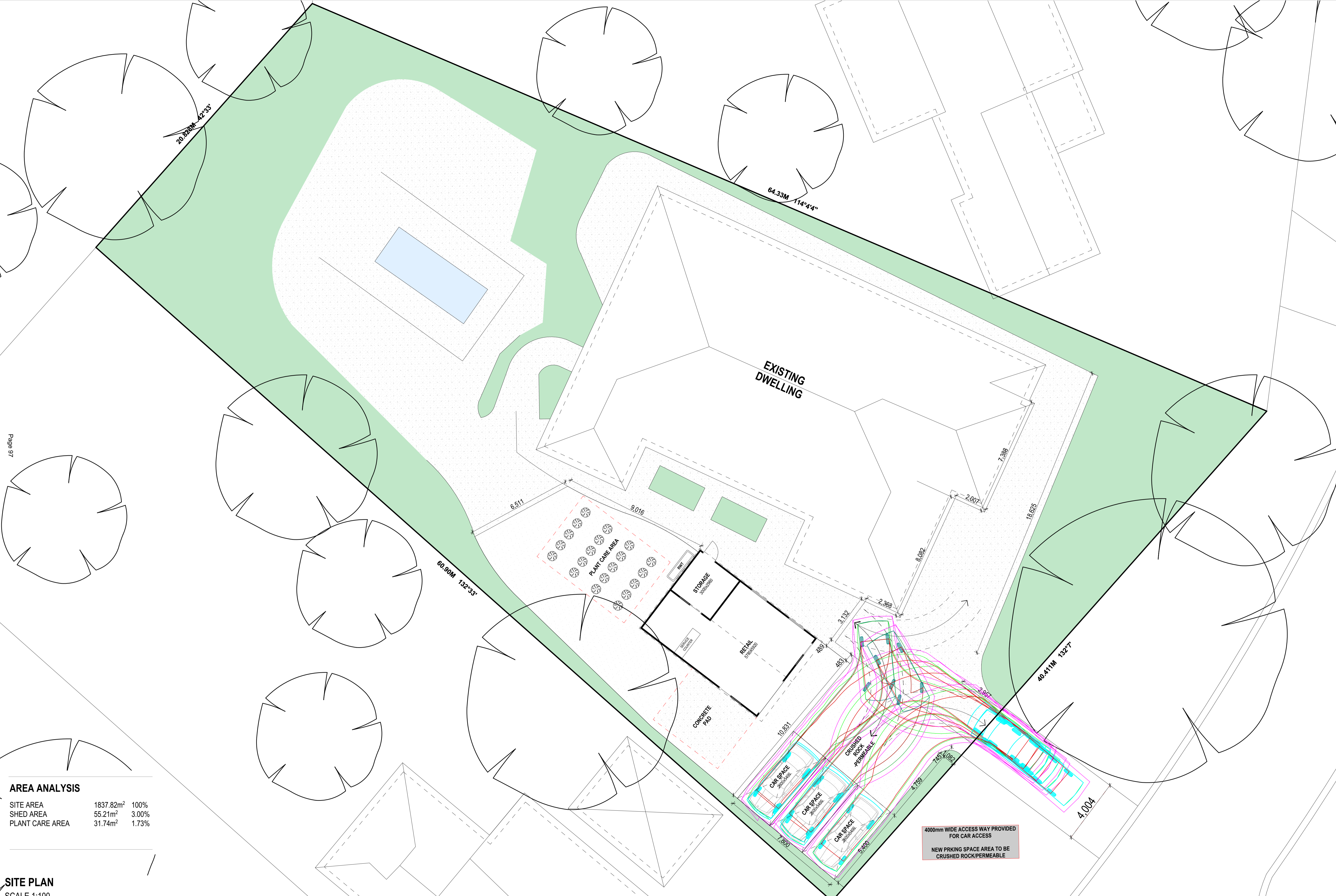
<ul style="list-style-type: none"> <li>Timber Stud Framing</li> <li>Brickwork</li> <li>Brick-Ventiler Wall</li> <li>Brick-Cavity Wall</li> <li>100mm Foam on Stud</li> <li>Existing Structure</li> </ul>	<ul style="list-style-type: none"> <li>Down Pipe</li> <li>Down Pipe with Spreader</li> <li>Existing Down Pipe</li> <li>Floor Waste</li> <li>Exhaust Fan to External</li> <li>Smoke Alarm</li> </ul>	<ul style="list-style-type: none"> <li>Articulation Joints</li> <li>Selected Tile Flooring</li> <li>Selected Timber Flooring</li> <li>Selected Carpet</li> <li>Selected Timber Decking</li> <li>Poured Concrete</li> <li>Selected Colorbond Roofing</li> </ul>	<ul style="list-style-type: none"> <li>Selected Klip-Lok Roofing</li> <li>Typical Parapet Gutter</li> <li>Rock/Silt Gutter</li> <li>Adjust to Suit Gutter</li> <li>Fall Direction</li> </ul>
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**NOTES**

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Scale: 1:100 @ A1	Orientation: Project Status:
Drawn: H.L.	TP
Checked: N.F.	2 of 6





### EXISTING PAVEMENT PLAN SCALE 1:100

Project PROPOSED RENOVATIONS  
Property Address 59 MORRIS ROAD, UPWEY

EXISTING GRAVEL/DIRT

CONCRETE PAD

EXISTING CRUSHED ROCK  
PARKING SPACE

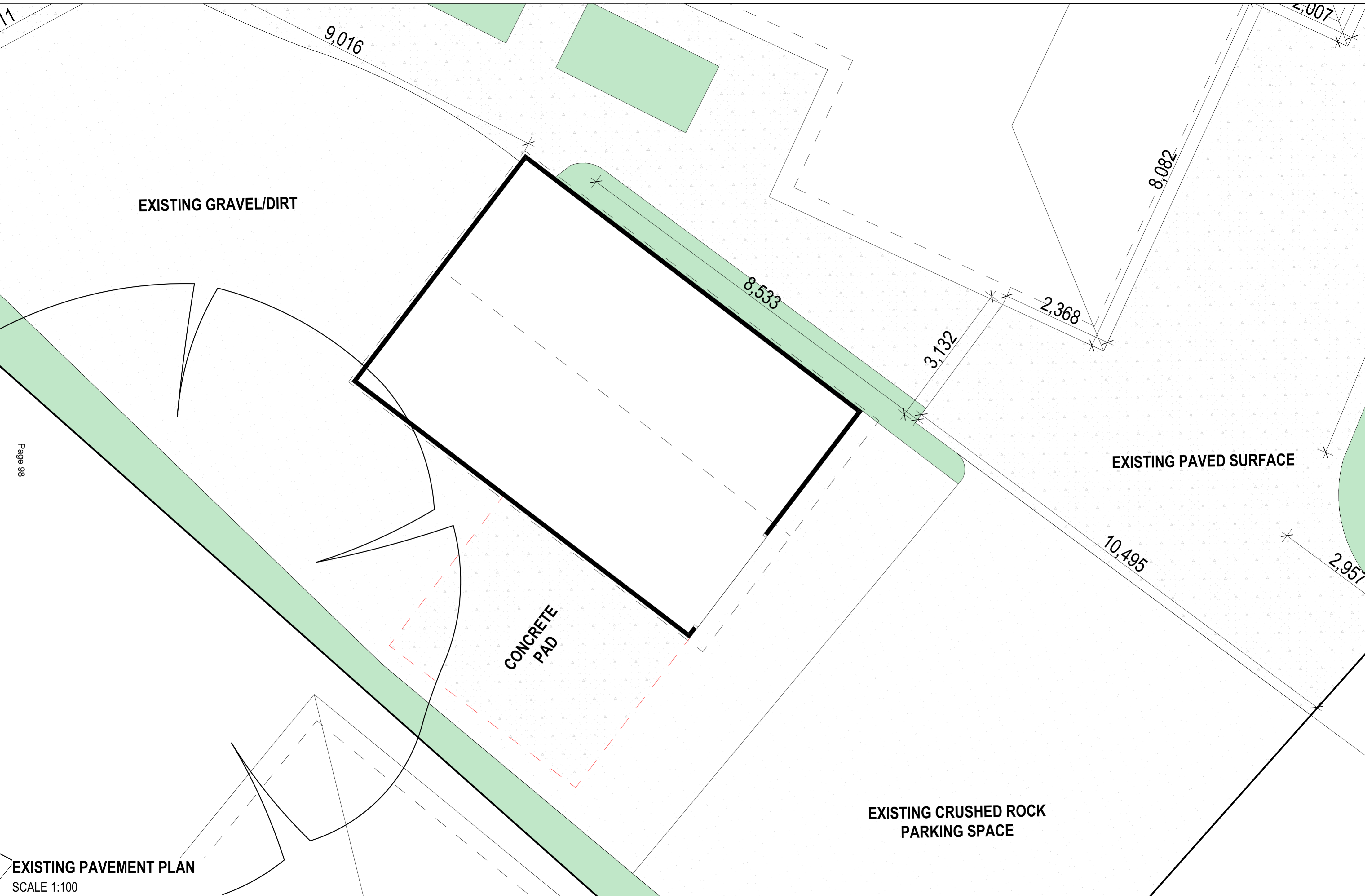
EXISTING PAVED SURFACE

LEGEND			
	● dp DOWN PIPE	AJ ARTICULATION JOINTS	KP-L SELECTED KLIP-LOK ROOFING
	● dps DOWN PIPE WITH SPREADER	TILE SELECTED TILE FLOORING	BG.2 TYPICAL PARAPET GUTTER ADJUST TO SUIT ONSITE
	● Edp EXISTING DOWN PIPE	FB. SELECTED TIMBER FLOORING	BG.3 100x300 BOX GUTTER ADJUST TO SUIT ONSITE
	● FW FLOOR WASTE	CP. SELECTED CARPET	← FALL DIRECTION
	⊙ EXHAUST FAN TO EXTERNAL AIR TONS / HF	TD. SELECTED TIMBER DECKING	
	⊙ SMOKE ALARM	PC. POLISHED CONCRETE	
		CR. SELECTED COLORBOND ROOFING	

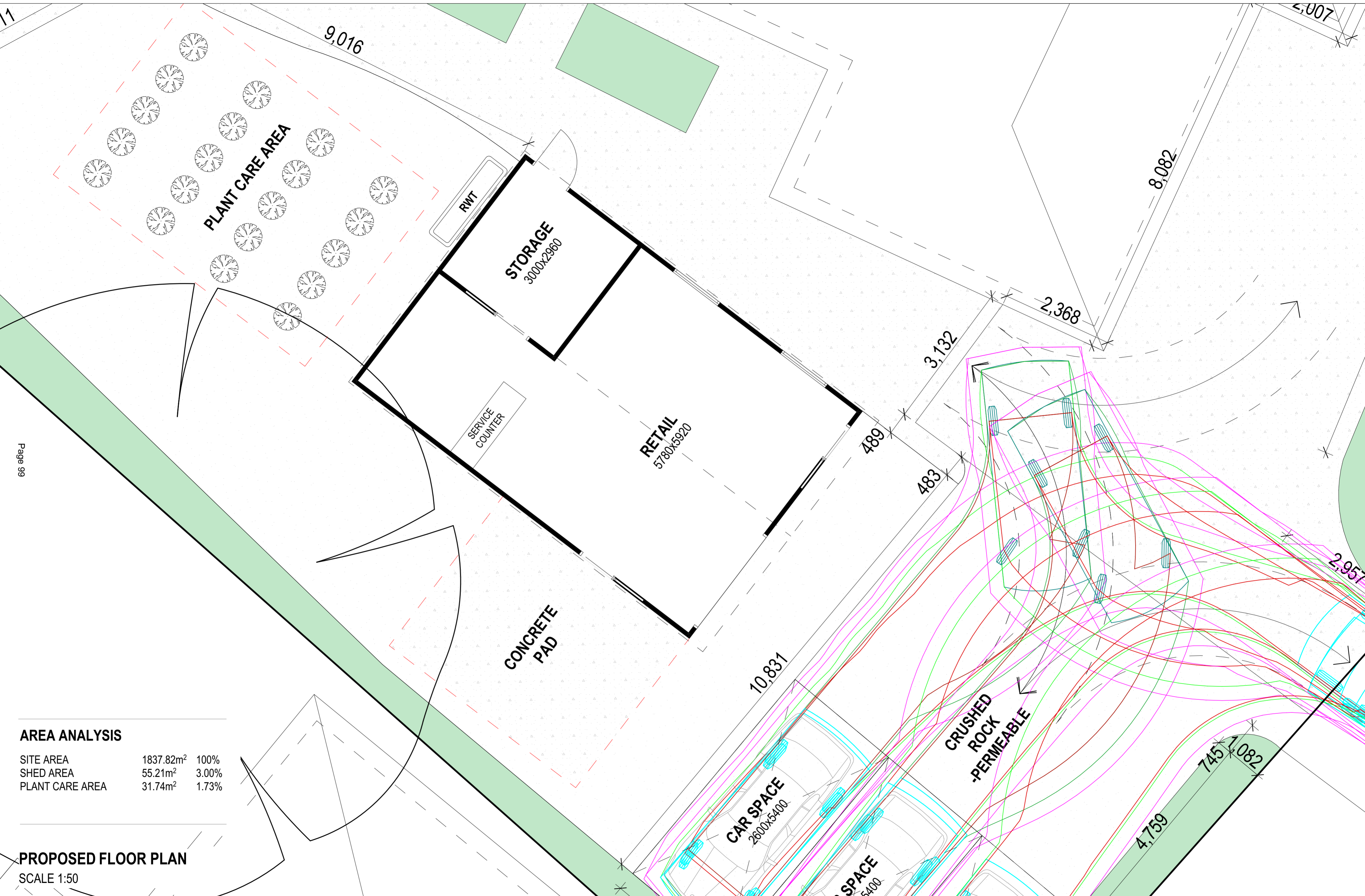


NOTES

NOTE: SITE & FLOOR LEVELS TO BE CONFIRMED ON SITE BY BUILDER PRIOR TO COMMENCEMENT OF ANY WORKS IF ANY DISCREPANCIES ARE FOUND CONTACT OFFICE IMMEDIATELY	Date: 04.04.2022	Revision Date: 29/11/2022
*DON'T SCALE THIS DRAWING *FIGURED DIMENSIONS TO TAKE PRECEDENCE OVER SCALE. BUILDERS & CONTRACTORS TO VERIFY ALL DIMENSIONS ON SITE PRIOR TO COMMENCEMENT OF WORKS.	Scale: 1:50 @ A2	Orientation:
© THESE PLANS REMAIN THE PROPERTY OF TAPIR DESIGN AND ARE SUBJECT TO COPYRIGHT REGULATIONS	Drawn: H.L	Project Status: TP
	Checked: N.F	4 of 6







**AREA ANALYSIS**

SITE AREA	1837.82m <sup>2</sup>	100%
SHED AREA	55.21m <sup>2</sup>	3.00%
PLANT CARE AREA	31.74m <sup>2</sup>	1.73%

**PROPOSED FLOOR PLAN**  
SCALE 1:50

Project PROPOSED RENOVATIONS  
Property Address 59 MORRIS ROAD, UPWEY

**LEGEND**

TIMBER STUD FRAMING	● dp DOWN PIPE	AJ ARTICULATION JOINTS	KP-L SELECTED KLIP-LOK ROOFING
BRICKWORK	● dpS DOWN PIPE WITH SPREADER	TILE SELECTED TILE FLOORING	BG-2 TYPICAL PARAPET GUTTER ADJUST TO SUIT ONSITE
BRICK-VENEER WALL	● Edp EXISTING DOWN PIPE	FB SELECTED TIMBER FLOORING	BG-3 100x300 BOX GUTTER ADJUST TO SUIT ONSITE
BRICK-CAVITY WALL	● Edp FLOOR WASTE	CP SELECTED CARPET	← FALL DIRECTION
100mm FOAM ON STUD	⊗ EXHAUST FAN TO EXTERNAL AIR TON / HF	TD SELECTED TIMBER DECKING	
EXISTING STRUCTURE	⊕ SMOKE ALARM	PC POLISHED CONCRETE	
		CR SELECTED COLORBOND ROOFING	



**NOTES**

- NOTE: SITE & FLOOR LEVELS TO BE CONFIRMED ON SITE BY BUILDER PRIOR TO COMMENCEMENT OF ANY WORKS IF ANY DISCREPANCIES ARE FOUND CONTACT OFFICE IMMEDIATELY
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Date:	04.04.2022	Revision Date:	29/11/2022
Scale:	1:50, 1:100 @ A2	Orientation:	Project Status:
Drawn:	H.L		<b>TP</b> 5 of 6
Checked:	N.F		

# PLANNING REPORT

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**59 Morris Avenue,  
Upwey**

**Change of use - Retail Nursery**

**Tapir Design & Planning Pty Ltd**

Suite 1, Level 1 54-58 Wells  
Street, Frankston VIC 3199

Written by Chelci Cox  
Email: [chelci@tapir.com.au](mailto:chelci@tapir.com.au)



TAPIR DESIGN  
AND PLANNING



**Table of Contents // Report Inclusions**

<b>Introduction and Context</b>	.....	3
<b>Proposal</b>	.....	6
<b>Planning Policy Assessment</b>	.....	7
<b>Summary</b>	.....	12

## **Introduction // Town planning report**

This report demonstrates that the development is appropriate in terms of achieving compliance with the State and Municipal planning policy. The proposal is for a small nursery on site concurrent with the existing dwelling. The nursery will be run by the dwelling owner.

### **The following permit triggers apply to the proposal:**

1. Change of use to a small scale retail plant nursery in the LDRZ

### **This report should be read in conjunction with full submission documents which include:**

1. Planning Drawings by Tapir Design and Planning
3. Copy of Title

## **Subject Site // Existing conditions**

The subject site is located at 59 Morris Road, Upwey approximately 45km south-east of the CBD. The site is currently developed with a single residential dwelling and shed. Vegetation is scattered across the site.



Figure 1. Existing dwelling and shed. (Google Maps, 2022)





Figure 1. Existing shed (Tapir, 2022)



Figure 1. Rear of existing shed (Tapir, 2022)



## Neighbourhood // Character and features of the local area

The site is located within a Low-Density Residential Zone (LDRZ) area. Lots are a mix of sizes and vegetation is a prominent feature of the area. There are examples of businesses operating out of dwellings in the immediate area – which can be seen on the aerial view shown below.

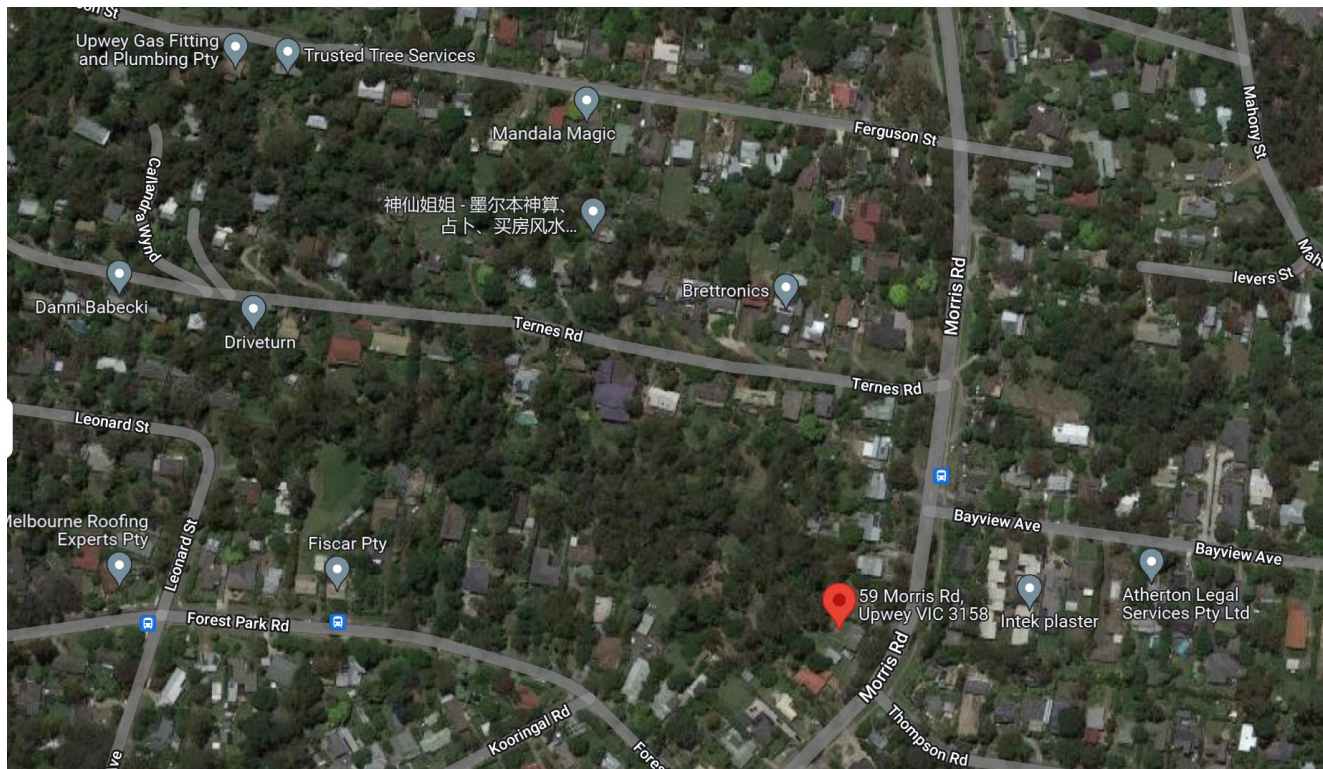


Figure 3. Aerial image of the site and surrounds (Google Maps, 2022)

## Development Proposal // What is proposed?

The proposal is for a change of use, to convert the existing shed into a small-scale retail plant nursery, as shown on the below site plan. The proposed nursery is very low scale, and will not cause disruption to the neighbourhood. All equipment and tools except the garden hose will be stored inside and as such there will be very little change to the outlook of the site, given the outbuilding is existing. The shed (54sqm total) will be used partially for a store area, and partially for a small retail area (5780 x 5920mm) for the sale of plants. A small plant care area (35sqm) is proposed to the rear of the shed. The existing dwelling will remain as is, and the owners and residents of the dwelling (husband and wife team) will operate the nursery on their own. No staff will be required on site. Three car spaces are proposed to service customers. The proposed parking layout is similar to how many surrounding residents park their cars (it is not uncommon for there to be 3-4 cars on a site in this area and as such will not look out of the ordinary). The opening hours will be modest, with no late nights or early mornings. Hours will be very limited on weekends. The proposal is well supported in the community and a letter of support from the adjoining neighbour and other community members is attached to this application.



Figure 4 (Proposed Site Plan, 2022)

## Planning Policy Framework//

### Clause 13// Environmental Risks and Amenity

#### Clause 13.02-1S // Bushfire Planning

The objective of Clause 13.02-1S is as follows:

*To strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life*

#### **Response:**

The site is covered located within a bushfire prone area. It is noted that the proposed small-scale nursery on site will not pose any risk to life. The outbuilding to be used is already existing and as such no buildings and works is required. The owners who live on site are aware of bushfire risks in the area being locals and would not operate if it is not safe to. The nursery will not attract large groups of people to the site and will not pose a risk to the community.

#### Clause 13.04-2S // Erosion and Landslip

The objective of Clause 13.04-2S is as follows:

*To Protect areas prone to erosion, landslip or other land degradation processes*

#### **Response:**

The site is partially covered by the Erosion Management Overlay. It is noted that no site cut or fill is proposed, as the outbuilding is already existing. It is also important to note that the area of operation for the nursery is not in the area covered by the overlay.

### Clause 17// Economic Development

#### Clause 17.02 // Commercial

#### Clause 17.02-1S // Business

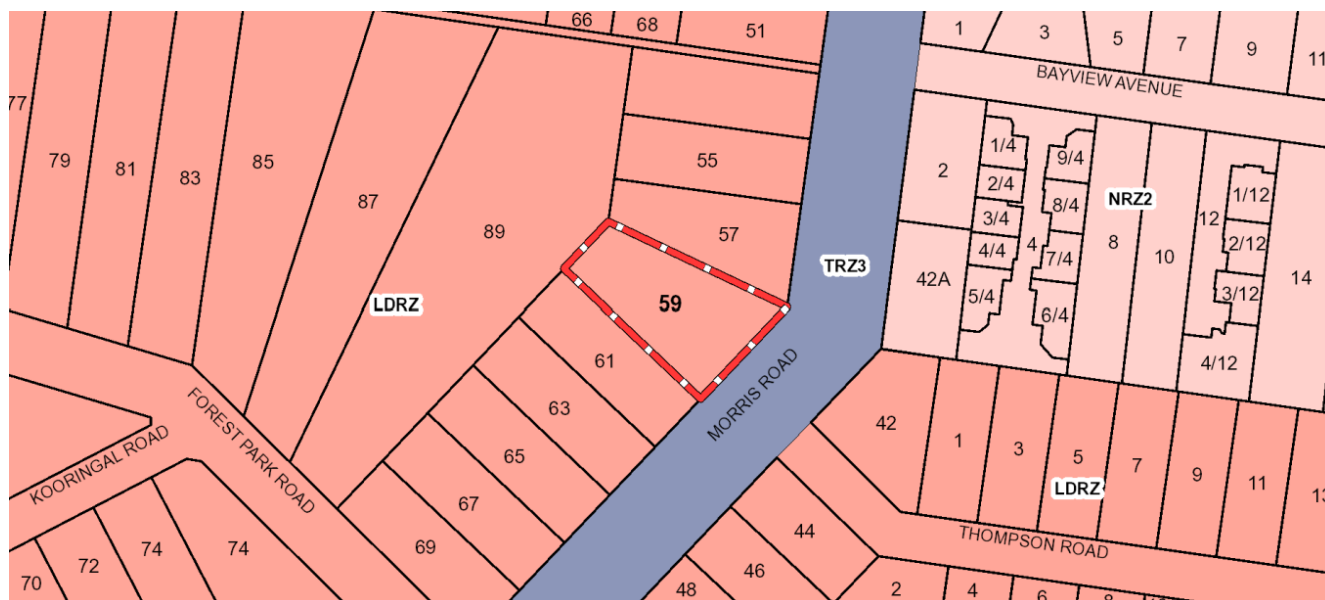
The objective of Clause 17.02-1S is as follows:

*To encourage development that meets the community's needs for retail, entertainment, office and other commercial services.*

#### **Response:**

The proposed nursery will be a positive addition to local businesses in Upwey, although will be run on a very small scale. A nursery is a completely appropriate business for the area, and will operate on limited hours, with only a small number of customers visiting the site. The owners and residents of the dwelling will operate the nursery with no other staff and as such this provides the opportunities for locals to run a small business to support the local economy.

## Zone // Clause 32.03 Low Density Residential Zone (LDRZ)



The purpose of this zone is as follows:

- *To provide for low-density residential development on lots which, in the absence of reticulated sewerage, can treat and retain all wastewater.*

### Response:

The nursery is compliant with the zone, as it does not compromise the low-density living of the site. The existing dwelling will remain, and the small-scale nursery will be operated by the husband and wife who live in the dwelling. The outbuilding out of which the nursery will be run is existing already, and the use of it as a nursery provides the opportunity for a small horticultural business which will contribute positively to the area and is completely appropriate for this part of the Yarra Ranges. The nursery has support from the community as noted before and will not impact the neighbourhood in any way. The nursery will not attract large groups of people, and car parking can be provided on site.



## Overlays //

### Clause 42.03// Significant Landscape Overlay 22– (SL022)



The purpose of the Significant Landscape Overlay is as follows:

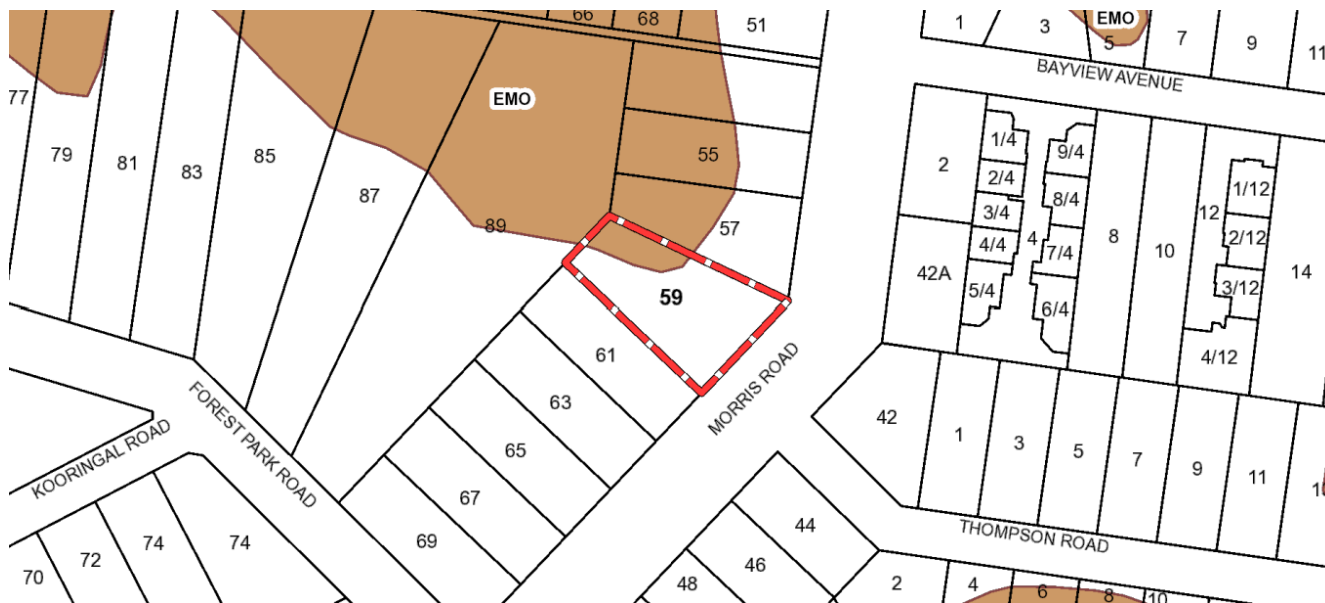
- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To identify significant landscapes.
- To conserve and enhance the character of significant landscapes

#### Response:

No vegetation is required to be removed, as the outbuilding is existing. The proposal will increase the landscape amenity of the site, through the proposed plant care area and the provision of a small nursery on site.



### Clause 44.01// Erosion Management Overlay



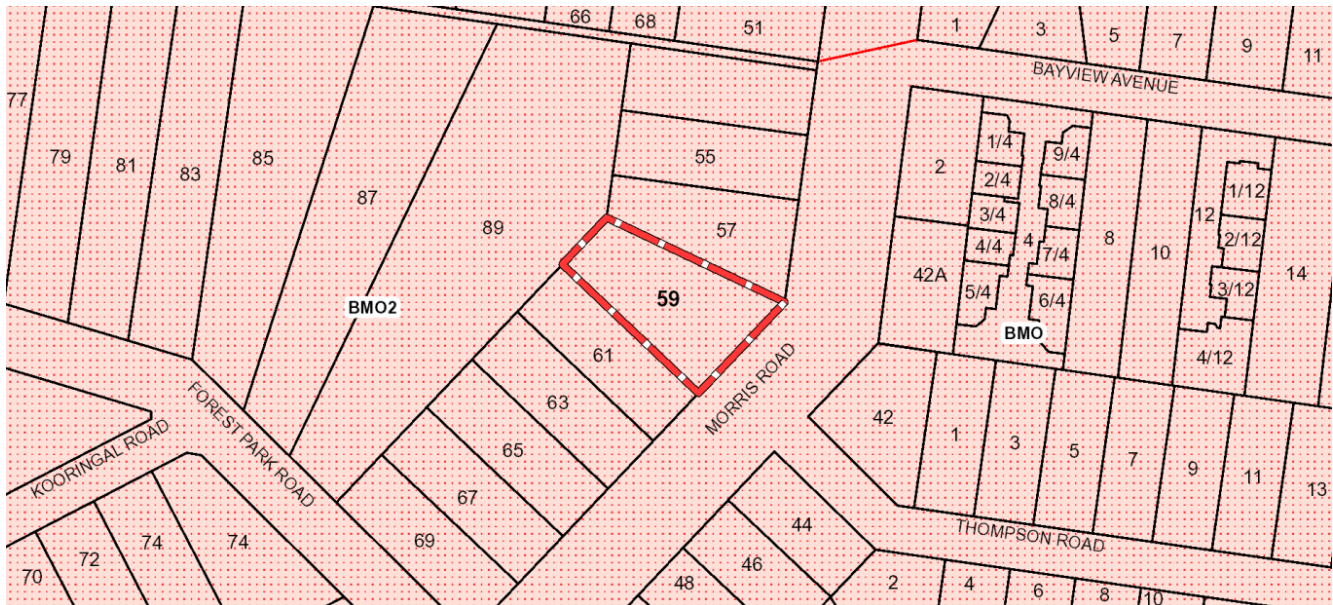
The purpose of Erosion Management Overlay is as follows:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To protect areas prone to erosion, landslip, other land degradation or coastal processes by minimising land disturbance and inappropriate development.*

#### Response:

The site is partially covered by the Erosion Management Overlay. It is noted that no site cut or fill is proposed, as the outbuilding is already existing. It is also important to note that the area of operation for the nursery is not in the area covered by the overlay.

## Clause 44.06// Bushfire Management Overlay – Schedule 2 (BMO2)



The purpose of Bushfire Management Overlay is as follows:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To ensure that the development of land prioritises the protection of human life and strengthens community resilience to bushfire.*
- *To identify areas where the bushfire hazard warrants bushfire protection measures to be implemented.*
- *To ensure development is only permitted where the risk to life and property from bushfire can be reduced to an acceptable level.*

### Response:

The site is covered by the Bushfire Management Overlay and is also located within a bushfire prone area. It is noted that the proposed small-scale nursery on site will not pose any risk to life. The outbuilding to be used is already existing and as such no buildings and works is required. The owners who live on site are aware of bushfire risks in the area being locals and would not operate if it is not safe to. The nursery will not attract large groups of people to the site and will not pose a risk to the community.

## Summary

The proposed small-scale nursery will be a positive addition to the area, and in keeping with the low density, tree-lined outlook of Upwey and the Dandenong Ranges. The change of use is completely appropriate and in line with planning policy. We look forward to progressing this application.

For any enquiries regarding this report, please contact Chelci Cox at Tapir Design and Planning ([chelci@tapir.com.au](mailto:chelci@tapir.com.au)).

23 November 2022

Ms N Foster  
 Tapir Planning and Design  
 PO BOX 4113  
 Frankston Heights

Document Reference 16025L01

Dear Ms Foster

**Application No YR – 2022/944 – 59 Morris Road, Upwey**

I have been requested by the Applicant to review the vehicle access arrangements of the site, specifically the egress of vehicles from the subject site onto Morris Road. This request is due to a request for further information dated 15 November 2022 from Yarra Ranges Council including item 1 below:

1. **Demonstrate that there is adequate sight distance for safe vehicle exit movements from the site as it is reduced by large trees and the existing vehicle crossing being on the inside of a bend in Morris Road.**

**Existing Conditions – Morris Road**

Morris Road is a major local road under the management of Yarra Ranges Shire Council. The road is approximately 8.7 metres wide from kerb to kerb and features a painted median. The median assists in reducing vehicle speeds by narrowing the traffic lanes in each direction as well as offsetting opposing vehicle movements. The median also supports pedestrians to cross the road in stages. Parking is not permitted along Morris Road within the vicinity of the subject site.

Morris Road is a 60 km/h road. A 40 km/h school zone speed limit operates along the frontage of Upwey South Primary School. The 40 km/h school zone speed limit operates from 8 am until 9:30 am and from 2:30 pm until 4 pm on school days. The school zone speed limit does not extend along the frontage of the subject site.



**Figure 1: Morris Road facing north**



**Figure 2: Morris Road facing south**

The road gradient along Morris Road is steep at multiple sections. This includes the section of road immediately north of the subject site where the road ramps up until Bayview Avenue. The road flattens at Bayview Road for approximately 180 metres before ramping down again.

South of the site Morris Road ramps down towards Forest Park Road, however between Forest Park Drive and Griffiths Road approximately 90 metres further south the road grade is generally flat.

**Morris Road – general off street vehicle access**

Vehicle access the site is proposed via a sealed 3 m wide crossover. Swept path diagrams prepared by Traffkd confirm egress from the site can be performed in a forward direction onto Morris Road.

During the site inspection undertaken by Traffkd, vehicles parked within the were parked in a configuration that would require vehicles to egress from the site in a reverse motion. A similar observation was made of other properties proximate to the site.

**Site Distance at the subject site when egressing onto Morris Road**

A review of sight distance of the existing driveway has been completed including a review of visibility both to the north and south of the site for right and left turning movements respectively. This has been completed in accordance with Figure 3.2 of AS2890.1. A summary of the assessment completed by Traffkd has been summarised in the table below.

<b>Movement to be accommodated onto Morris Road</b>	<b>Direction of Sight distance checked</b>	<b>Speed Limit</b>	<b>Desirable Sight Distance</b>	<b>Minimum Sight Distance</b>	<b>Sight Distance observed during site inspection</b>
Left turn	South	60 km/h	83 m	65 m	96m
Right turn	North				41m





Figure 3: Drivers sight line facing north when egressing from 59 Morris Road

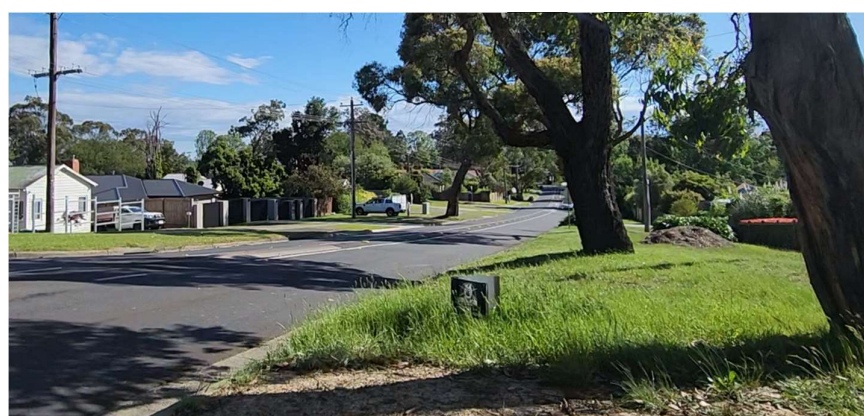


Figure 4: Drivers sight line facing south when egressing from 59 Morris Road

As part of Traffkd’s assessment a review of VicRoads crash stats dataset has been completed updated on 5 August 2021. No crashes have been recorded in the most recent five-year period available within a 200-metre radius of the site along Morris Road.

Whilst no crashes have occurred within the vicinity of the site in the most recent five year period it is noted the sight distance to the north of the site does not satisfy the sight distance requirements included in AS2890.1 This is generally not achieved for multiple sites along Morris Road including some intersections. It is noted however in the context of the subject site, vehicles travelling south along Morris Road are travelling downhill when approaching the subject site. This exacerbates the noncompliance of sight lines for right turning given vehicles would be likely to accelerate whilst travelling downhill towards the site and also require a greater distance to stop on the downhill slope. Drivers also have a restricted view of vehicles due to trunks of mature tree obstructs drivers’ sightlines. Given the commercial use of the site proposed, drivers are unlikely to be familiar with the road conditions along Morris Road.

In light of the above it is recommended that “Left Only” signage is installed within the subject to restrict vehicle movements left only when egressing from the site. This can be implemented by way of permit condition.

Yours sincerely,



**Chris Tsiafidis**  
**Traffic Engineer**  
 B. Eng Civil (Hons)  
 Traffkd Pty Ltd

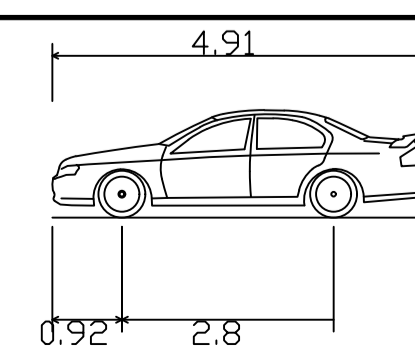
# APPENDIX A – SWEPT PATH DIAGRAMS



SEWER  
DIAMETER  
DEPTH  
OFFSET

SEWER  
DIAMETER  
DEPTH  
OFFSET

REV	DATE	DESIGN REVIEW	REV'D PMCR	APP'D PMCR	REVISIONS	DRN	CHKD	APP



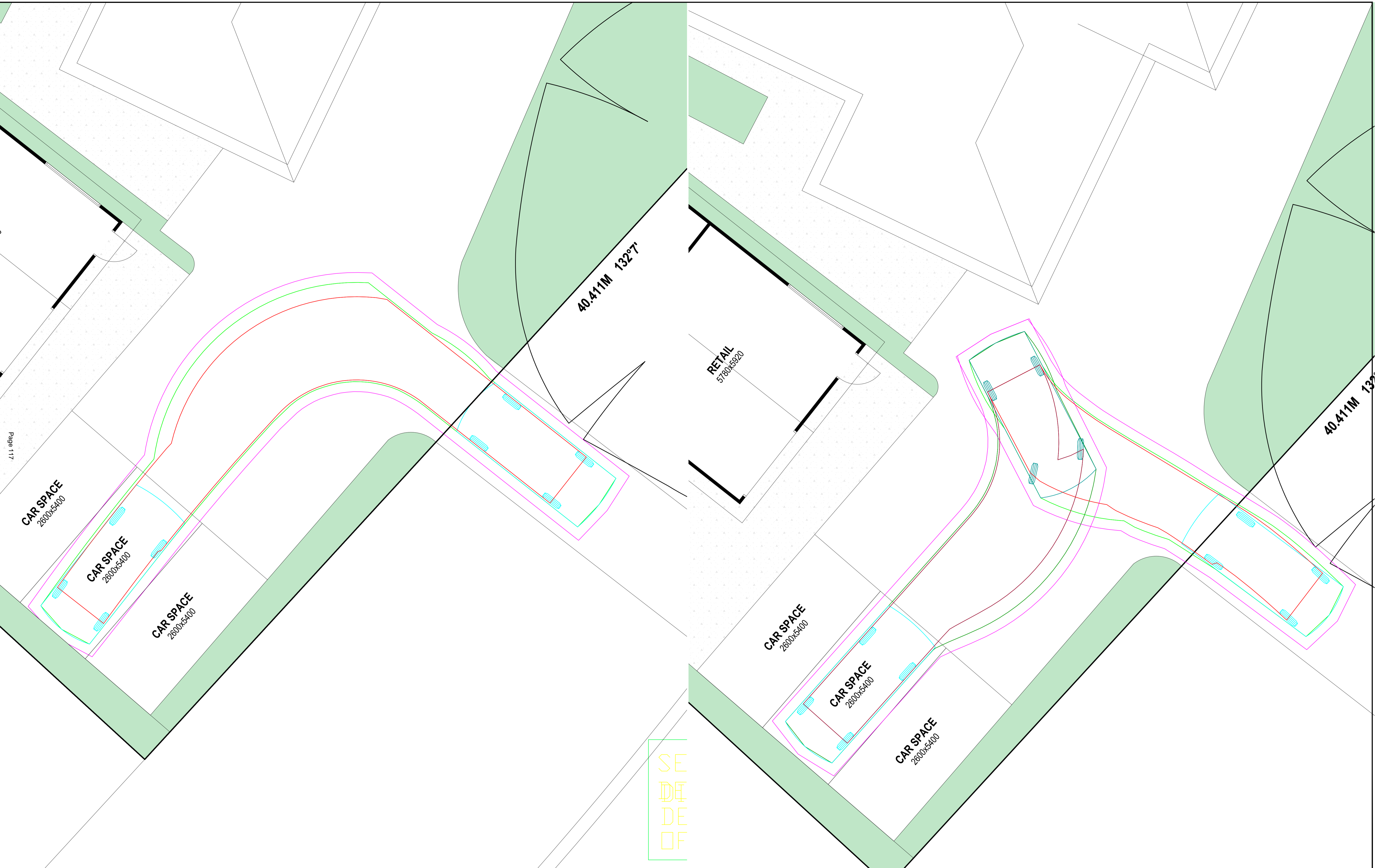
**B85 Vehicle (AS 2890.1)**  
 Overall Length 4.910m  
 Overall Width 1.870m  
 Overall Body Height 1.421m  
 Track Width 1.770m  
 Vehicle Body Clearance +300mm  
 Wheel Path (forward) —  
 Wheel Path (reverse) —

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**TRAFFIC ENGINEERING**  
**CONSULTANTS**  
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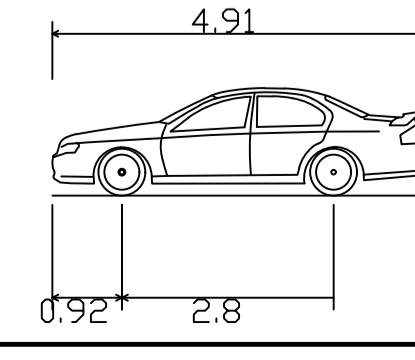
SCALE 1:50 @ A1  
 SURVEYED: --  
 DRAWN: C. Tsiofidis

JOB TITLE  
**Proposed Residential Development**  
**59 Morris Road, Upwey VIC 3158**  
 CLIENT: Tapir Planning and Design  
 SHEET NUMBER: 1 of 3  
 DRAWING REF: 16008SPD  
 VERSION: 1





REV	DATE	DESIGN REVIEW	REV'D PMCR	APP'D PMCR	REVISIONS	DRN	CHKD	APP



**B85 Vehicle (AS 2890.1)**  
 Overall Length 4.910m  
 Overall Width 1.870m  
 Overall Body Height 1.421m  
 Track Width 1.770m  
 Vehicle Body 0.92m  
 Wheel Path (forward) 2.8m  
 Wheel Path (reverse) 2.8m  
 Vehicle Body Clearance +300mm

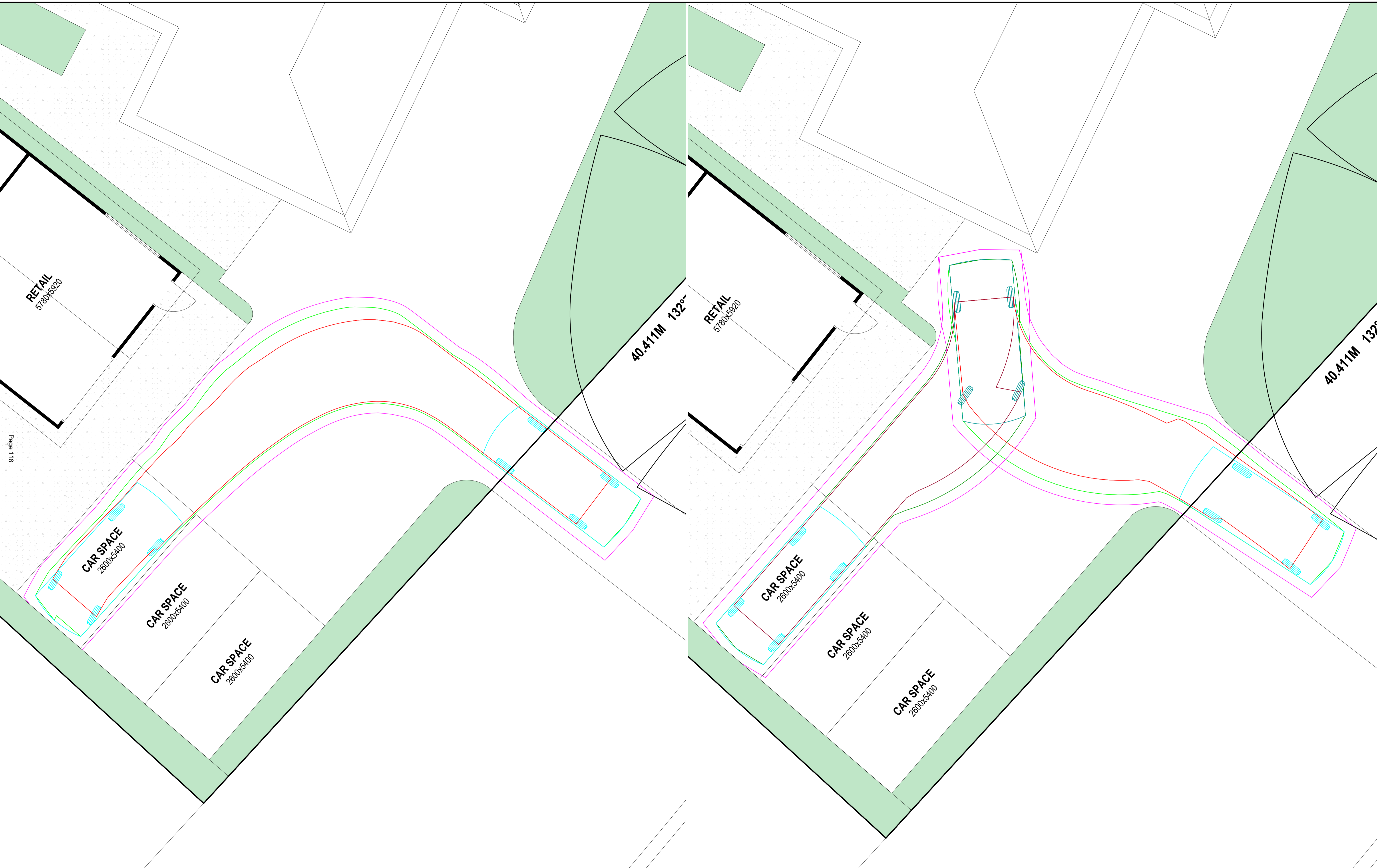
SIDE OF

**TRAFFKD**  
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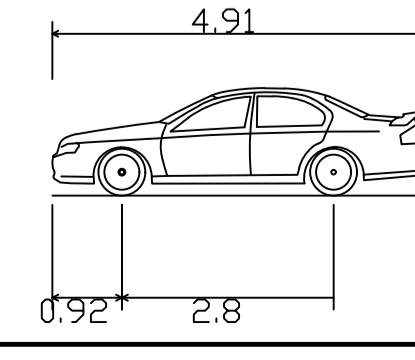
SCALE 1:50 @ A1  
 SURVEYED: -- DRAWN: C. Tsiofidis

JOB TITLE <b>Proposed Residential Development 59 Morris Road, Upwey VIC 3158</b>		
CLIENT: Tapir Planning and Design	SHEET NUMBER 2 of 3	DRAWING REF 16008SPD
VERSION 1	DATE 29.8.22	DRAWN C. Tsiofidis





REV	DATE	DESIGN REVIEW	REV'D PMCR	APP'D PMCR	REVISIONS	DRN	CHKD	APP



**B85 Vehicle (AS 2890.1)**  
 Overall Length 4.910m  
 Overall Width 1.870m  
 Overall Body Height 1.421m  
 Track Width 1.770m  
 Vehicle Body  
 Wheel Path (forward) ———  
 Wheel Path (reverse) ———  
 Vehicle Body Clearance +300mm ———

**TRAFFKD**  
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SCALE 1:50 @ A1  
 SURVEYED -- DRAWN C. Tsiofidis

JOB TITLE  
**Proposed Residential Development**  
 59 Morris Road, Upwey VIC 3158  
 CLIENT: Tapir Planning and Design  
 SHEET NUMBER 3 OF 3 DRAWING REF 16008SPD VERSION 1

## Business Plan – Harvest and Homewares

The following information outlines the business operations for Harvest and Homewares in response to the request for further information.

- **Details of potential noise output from the use:**

The nursery has no mechanical or industrial machinery outside of normal domestic equipment such as a mower and whipper snipper and occasional power tools for maintaining the grounds. Most activities will include potting and repotting plants, watering plants and stocking shelves. Traffic will also be limited to a very small number of vehicles coming and going from the site and this is also similar to a domestic residence.
- **Details of how any adverse amenity impacts (including noise, waste and odours) are to be managed:**

Due to the very small operation at the site, and as detailed through the RFI response, waste is minimal with management through standard Council bins and recycling programs. Noise is limited to normal household and garden management equipment. Odours are unlikely to occur as the operations are not a sand and soil business and no open fertilisers or soils are stored on site. Odours, much like traffic, noise and waste will be more similar to a domestic home than a commercial business.
- **Operating hours:**

Tuesday to Saturday from 9am until 5pm.
- **Maximum number of staff/consultants at any one time:**

There will be two members of staff per day and both staff reside at the residence on site.
- **Maximum number of patrons proposed at any one time:**

A maximum number of 5 people would be on site at any one time, and this may fluctuate if larger family units arrive in one car. We expect a maximum of 20 people across the day and this would include a significant increase from the current number of people picking up purchases from the home based nursery business.
- **All signs (including the type of signs) associated with the proposed use:**

1 x A-Frame sign measuring 900mm x 600mm  
1 x Business identification signage "H & H" mounted on the front of the shed and measuring 900mm x 900mm
- **Provide details on deliveries to the site, including days, times and types of delivery vehicles expected:**

While it is hard to predict an exact schedule for deliveries due to variations in sales and seasons, it would be reasonable to expect 1-2 vans per week delivering small items. There are small box truck deliveries once a





TAPIR DESIGN  
AND PLANNING

fortnight or month depending on sales and purchases. Most deliveries are sent to an offsite storage facility and handled there, then brought to the property in a personal vehicle. Deliveries are kept to a minimum where possible to the site.

- **Provide details on what the business does, what they will be selling:**

This small boutique nursery store will be selling plants and trees and offering assistance and guidance to plant out all garden areas.

To complement these products and services, they will also sell:

- Potting mix/compost etc (Bagged Product only, no loose soils or composts)
- Weed/feed and treatment products
- Garden accessories and tools such as stakes and secateurs
- Outdoor garden wall art and ornamental windmills
- Nursery related giftware

Should Council require any additional information regarding the operations, please do not hesitate to contact Nicci Foster [REDACTED]

## COMMUNITY WASTE RESOURCE RECOVERY PLAN

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Report Author: Executive Officer - Resource Recovery  
 Responsible Officer: Director Planning & Sustainable Futures  
 Ward(s) affected: (All Wards);

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*The author(s) of this report and the Responsible Officer consider that the report complies with the overarching governance principles and supporting principles set out in the Local Government Act 2020.*

### CONFIDENTIALITY

This item is to be considered at a Council meeting that is open to the public.

### SUMMARY

In preparation for future waste service changes, a Community Waste Resource Recovery Plan (Plan) was developed. This Plan outlines the future service direction and priorities for waste management services for the Yarra Ranges' Community. The Plan is a key part of the process facilitating Council meeting the requirements of the State Government's *Recycling Victoria Policy – A new Economy*, and the service changes in the Plan are required under this policy.

Community consultation on the draft Plan was conducted between September and November 2022. In response to feedback from our community, some changes were made to the Plan including strengthening the vision, including a new advocacy action around product stewardship, and introducing an option for reduced recycling bin sizes for smaller households. A summary of the consultation is provided as Attachment 1.

The Plan is now ready to be presented to Council for final approval and adoption.

### RECOMMENDATION

#### ***That Council***

- 1. Adopts the Community Waste Resource Recovery Plan as the strategic document for future waste services.***
- 2. Implements the service changes and actions outlined in the Community Waste Resource Recovery Plan.***

### RELATED COUNCIL DECISIONS

Council Meeting 13 September 2022. Council approval was provided to release the draft Waste and Resource Recovery Plan for community consultation.

## DISCUSSION

### *Purpose and Background*

#### *Purpose*

In December 2020 the Victorian Government released its *Recycling Victoria Policy – A new Economy*. This policy outlines some of the largest reforms in the Waste and Resource Recovery Sector, many of which Council is responsible for implementing.

The adoption of the Plan will assist in providing direction on future service requirements that meet the State Government's level of service requirements, whilst also balancing input from the community to ensure that the services being delivered meet its needs. The Plan outlines the actions that Council will take to ensure best practice services are provided that maximise resource recovery and reduce the reliance on landfill.

The Plan envisions a future where Council and our community are committed to producing less waste, maximising the life of the materials used and the recovery of recyclable materials.

#### *Background*

Waste disposal to landfill has a significant impact on the environment. There is a clear need to change community behaviour to reduce the amount of waste households produce, and to ensure that material is placed in the correct bins.

Reducing waste to landfill by putting food waste into the Food Organics and Garden Organics (FOGO) bin, and all recyclables in the recycling bin, will significantly reduce greenhouse gas emissions and environmental impact.

Additionally, landfills are filling up quickly and the last available landfill in the Eastern suburbs is expected to close around 2025, which will require us to transport waste across Melbourne for disposal in the Western suburbs.

This Plan seeks to promote the change in behaviour that is required to maximise resource recovery, reduce waste going to landfill and reduce our impact on the environment.

### *Service Change Summary & Education Campaign*

The Plan details the required changes to the waste collection services to be implemented over the next seven years. The changes to waste collection will assist Council in reducing waste, maximising resource recovery and meeting the State Government's 2030 targets under the *Recycling Victoria Policy – A new Economy*.

To meet the State Government's targets, the following collection services will change:

- Change the optional **fortnightly** Garden Organic bin service to a Shire wide **weekly** Food Organics and Garden Organics Service (FOGO) – to commence 2 October 2023;
- Change the **weekly** waste bin lid to red and collect **fortnightly** – to commence 2 October 2023;
- Introduce a **monthly** Glass bin collection service – to commence in 2025/2026; and
- The fortnightly Recycling bin service will remain **unchanged**.

Over the next few months Council will be promoting the key changes to the waste service delivery as well as providing detailed community education campaigns in preparation for the service changes. The campaign will include direct mailouts, social media engagement, development of a micro website that explains key changes and text messages sent to residents.

### ***Community Consultation***

Community consultation on the draft Plan was extensive, running over an eight-week period beginning in September 2022. It included online consultation via Council's Shaping Yarra Ranges website, pop-up stalls at community events and festivals and webinars. A total of 435 community members were directly engaged through these various touch points, including 78 online responses provided via the Shaping Yarra Ranges website.

The feedback received was largely focussed on the new waste collection services, rather than commentary on the content of the draft Plan. The concerns raised by community included concerns over smelly bins and nappies, and lack of need for FOGO bins. All these concerns will be addressed through our community education campaign which we will be rolling out prior to the changes in services being implemented. A copy of the consultation summary on the draft plan is contained in Attachment 1.

Based on the feedback from the consultation process the Waste Management Team have undertaken some amendments to the Plan outlined below in the *Options considered and recommendations* section of this Report. A copy of the updated Plan is contained in Attachment 2.

### ***Options considered and recommendations***

The following summarises the consultation feedback considered in the development of the Plan.

**Item 1:** Council currently provides a 120-litre recycling bin option only for residents living in retirement villages or who have physical difficulties in moving a larger bin to the kerb.

Several respondents to the consultation have requested that the 120-litre recycling bin option be made available to everyone, so that people in smaller households, low-waste households etc who don't need a 240-litre recycling bin can select this option.



### **Recommendation**

To include the 120L recycling bin as a future service option for all properties to be available in 2024 (after initial service transition) to allow small households, businesses and residents who produce less recyclables to opt for a smaller bin.

**Item 2:** Several residents suggested that Council offers programs and incentives for households to adopt low-waste lifestyles, including rebates and rate relief.

*Note – Council already offers composting rebates, and the team are currently looking at opportunities to support households with using re-usable nappy and sanitary items. Council also has different waste service charges based on residents selecting and using the smaller bin options which provides a financial incentive.*

### **Recommendation**

- To primarily provide encouragement and assistance for waste minimisation through Council's waste education programs; and
- To continue to provide Council's compost rebate program and expand it to cover systems to manage pet waste. This incentivises residents to compost organic waste that can't be placed into FOGO bins (e.g., pet waste by encouraging the use of in-ground systems located away from edible gardens).

**Item 3:** Several respondents raised concerns regarding the amount of packaging of food and other household items, and the resultant difficulty for people to reduce waste without regulated product stewardship.

### **Recommendation**

- To include a specific action in the Plan to strengthen Council's role in advocating to Government and industry for product stewardship and highlight the importance of avoidance in Council's community education packages.
- To advocate on behalf of Council and the community to Government and the waste industry for improvements in packaging recyclability, recovery and product stewardship. Wherever possible, this will be done in collaboration with partner councils, networks and bodies such as the Municipal Association of Victoria.

**Item 4:** It was highlighted that the focus for the Plan should be on circular economy rather than zero waste, as waste is inevitable in any system and the focus should be on maximising reuse of resources, in addition to reducing waste.

### **Recommendation**

- To amend the overall vision of the Plan to include the key outcome of creating a circular economy.

**From:** Our vision is for a Yarra Ranges community working together towards zero waste sent to landfill.

**To:** Our vision is for a Yarra Ranges community working together towards a circular economy, minimising waste sent to landfill and maximising resources.

A summary of the key changes can be found at attachment 3.

### **FINANCIAL ANALYSIS**

The collection services changes within the Plan are required under the new *Recycling Victoria Policy – A new Economy* and will be covered under the new waste contract service arrangements.

Based on the service changes required to implement the new services, an increase in the waste budget of approximately \$2.6m has been forecast. This is largely attributed to:

- The provision of additional FOGO bins to properties who don't currently have a garden organics bin;
- The changing of all waste bin lids to red;
- The changes in service delivery frequencies; and
- Additional staff resources to implement the service changes.

There are ongoing service costs over the contract term, however the additional resourcing costs for the implementation will reduce and drop off post implementation.

Next year's 2023/24 budget also includes an increase in education resources of approximately \$200,000. These funds will cover service information development and distribution, as well as increased education resources, to ensure smooth implementation during the transition period.

Discussions will be required with Council's collection contractor to implement the inclusion of the 120-litre recycling bin as a standard service offering to all properties.

### **APPLICABLE PLANS AND POLICIES**

This Report contributes to the following strategic objective(s) in the Council Plan:

*Protected & Enhanced Natural Environment* - A healthier environment for future generations.

Develop a *Municipal Waste Plan*, education programs and pursue innovative waste processing technologies to maximise waste resource recovery for a more sustainable future.

## RELEVANT LAW

The works and outcomes associated with this report relate directly to the requirements outlined in the State Government's *Recycling Victoria Policy – A new Economy*.

## SUSTAINABILITY IMPLICATIONS

### ***Economic Implications***

A municipal wide service that recovers material and reduces waste to landfill along with additional education programs to promote recycling and waste minimisation will assist in the direction of a circular economy and a reduction of resources.

By reusing material that is currently in our economy, we see greater value in products due to a sustainable footing for growth over the long term.

Economic impacts have been considered as part of finalisation of the Community Waste Plan.

### ***Social Implications***

Social impacts of the Plan will include social connection. For example, we envision community gatherings with options for groups to be involved in repair style cafes, recycling workshops and webinars; this is identified in the Community Waste and Resource Recovery Plan.

### ***Environmental Implications***

The introduction of services that comply with the *State Government Recycling Victoria Policy – A new Economy* will lead to reduced environmental impacts by introducing services to minimise waste, maximise resource recovery and reduce waste to landfill.

## COMMUNITY ENGAGEMENT

Extensive engagement with the community has been undertaken as part of the Community Waste Survey in 2021 and draft Community Waste and Resource Recovery Plan consultation in 2022 in accordance with Council's Community Engagement Policy.

A high-level summary of the feedback is detailed in the discussion section above, it largely focussed on the new waste collection service. Detailed analysis of the consultation is provided in Attachment 1.

Further community consultation and community education will be a focus throughout the transition process and beyond to ensure continued engagement with the community on the circular economy and waste reduction.

## **COLLABORATION, INNOVATION AND CONTINUOUS IMPROVEMENT**

The Plan outlines future services required to meet state requirements and objectives which includes maximising recovery and seeking alternative methods for managing and disposing of waste to landfill.

### **RISK ASSESSMENT**

The State Government's legislated policy directs Council's action in the introduction of services to minimise waste, maximise resource recovery and reduce waste to landfill.

Council's reputational risk is a consideration in the delivery of the new services.

The kerbside collection services provided to the Yarra Ranges community is for residential, non-residential and commercial properties. The changes in the residential services, including collection frequencies will apply to all properties that utilise Council collection services.

As the service will be standardised to the residential service, there will not be an opportunity for commercial businesses to have waste collections multiple times per week or at different frequencies to the standard service. This is to ensure that all Council services provided are based on compliance with service requirements and maximising resource recovery. Altering the services for commercial businesses to have a varied collection cycle for waste bins would impact the maximisation of recycling and recovery.

Businesses do not have to utilise Council's collection service, this is provided as an optional service to them, and they will only be charged for the service if they choose to use it. Businesses have the option to engage a private contractor to undertake their waste and recycling collection services that may better suit their needs. Many businesses in the Shire already utilise private contractors for this purpose.

This may not satisfy all commercial businesses, potentially impacting Council's reputational risk. This is because having Council providing and charging the service through the rates notice is sometimes more convenient than having to engage a separate service provider. This will be addressed through communication material and direct engagement with businesses.

Multi-unit development (MUD) properties are anticipated to contact Council with concerns around the number of bins associated with storage and collection locations. The team will work with these developments/body corporates to find a mutually agreed solution.

### **CONFLICTS OF INTEREST**

No officers and/or delegates acting on behalf of the Council through the Instrument of Delegation and involved in the preparation and/or authorisation of this report have any general or material conflict of interest as defined within the *Local Government Act 2020*.

**ATTACHMENTS TO THE REPORT**

1. Draft Community Waste Resource Recovery Plan – Consultation Summary
2. Updated Community Waste Resource Recovery Plan
3. Community Waste Resource Recovery Plan changes summary.



**Yarra Ranges** Council

Draft Community Waste and Resource  
Recovery Plan 2023–2030

**Community Consultation Summary**



## About the consultation

The draft Community Waste and Resource Recovery Plan for Yarra Ranges Council was released to the community for comments between 14 September and 9 November 2023.

The consultation invited comments via the Shaping Yarra Ranges website, and comments were also submitted via direct email/mail to Council and in face-to-face conversations at stalls at different locations.

The consultation period was advertised by an email update to Shaping Yarra Ranges subscribers, via social media, newspaper advertising and notices in Council and community newsletters.

### Community participation in consultation

**A total of 435 respondents participated in the consultation, including:**



78 responses to online survey on the Shaping Yarra Ranges website



170 responses received during face-to-face discussions at six local pop-up stalls and displays



12 responses via letter or email



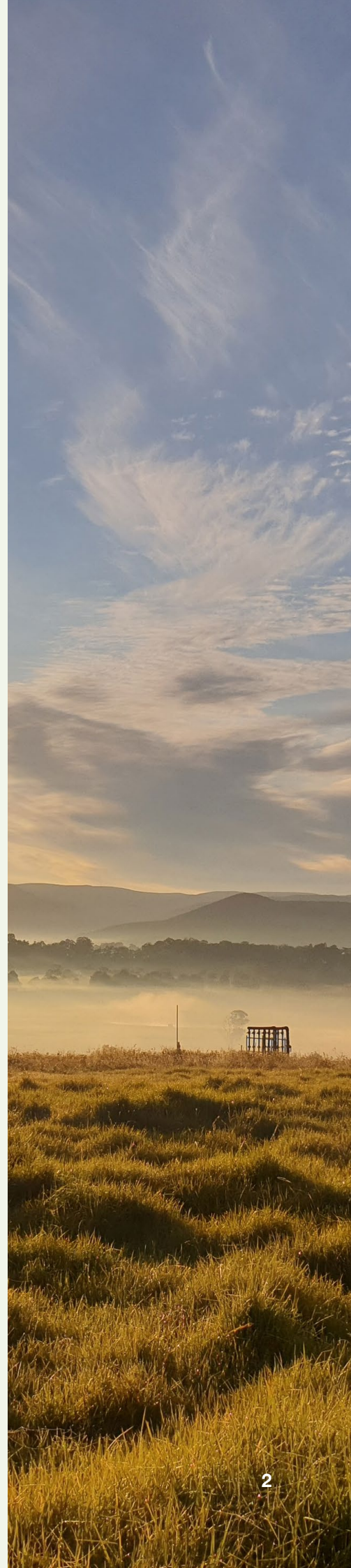
175 people viewing community webinars

- 56% of respondents were female; 44% were male
- 70% of respondents were aged between 35-65 years

## Types of feedback received

Much of the feedback received through the consultation related to the upcoming changes to waste collection services, rather than providing suggestions for improvement of the content of the plan.

Feedback on how changes to waste collections will impact on the community and how these impacts could be minimised has been noted. This information will be considered when planning the changes to Council's waste services.





# Key Points of Feedback

We proposed a vision for ‘a Yarra Ranges community working together towards zero waste sent to landfill’.

---



## You told us:

- The focus for plan should be on circular economy rather than zero waste, as there is waste in every system.



## In our final plan, we will:

- Amend our vision to include the concept of circular economy:  
Our vision is for a Yarra Ranges community working together towards a circular economy, minimising waste sent to landfill and maximising resources.
- 

We asked what you thought of our proposed waste targets of:

- **20% reduction in total waste generation per capita by 2030.**
  - **Divert 90% of waste from landfill by 2030, with an interim target of 75% by 2025.**
  - **Cut the volume of organic material going to landfill by 60% by 2030, with an interim target of 25% by 2025.**
- 



## You told us:

- Our targets for waste reduction were admirable, however difficult for the community to implement where the systems that create waste (consumption of highly packaged items) is out of the community’s control.
- You generally agreed that Council should play a role in advocating for more sustainable and recyclable packaging.



## In our final plan, we will:

- Maintain our current targets, which aim to exceed the targets set by the Victorian Government. These have been set considering the impact that Alternative Waste Processing and organics collections are likely to have on waste levels.
- Strengthen Council’s role in advocating to government and industry for sustainable management of packaging waste and include this as a specific action.

We asked what you thought about the actions listed in our Action plan under the themes of ‘Avoid and Reduce’; ‘Recover and Recycle’; ‘Engage and Empower’; and ‘Lead by Example’.

### About the actions under the theme of ‘Avoid and Reduce’:

---



#### You told us:

- Education should extend to schools, sports and community groups to multiply the positive effects.
- Programs to support activities such as the adoption of reusable nappies and soft plastics recycling should be given high priority.
- More priority should be given to assisting with the reuse/rehoming/upcycling of waste that would otherwise end up on hard rubbish. This would include increasing access to tip shops.



#### In our final plan, we will:

- Address each of these aspects within existing actions in our action plan.
- Consider options for increasing the profile and awareness of reusing items rather than putting items out for hard rubbish.

---

### About the actions under the theme of ‘Recover and Recycle’



#### You told us:

- Several respondents expressed interest in the proposed action to investigate larger bin options for residentially rated, multi-unit developments. It was suggested to consider providing the same option for larger households, and that any decisions on these kinds of matters be informed by the input of affected residents.
- Several residents expressed that they have insufficient glass for a separate glass recycling bin.



#### In our final plan, we will:

- Address these aspects within existing actions in our action plan.
- Ensure that residents of multi-unit developments are included in decision making through body corporates and representative groups.

## About the Actions under the theme of ‘Engage and Empower’

---



### You told us:

- Many comments were received on the need for extensive education that is simple, available by multiple communication avenues (online, printed, face-to-face) and encourages correct use of the services.
- Use of enforcement was suggested by some respondents.
- As previously stated, providing education through schools, early years centres and sporting/ community groups will help to extend the reach of our educational messages.



### In our final plan, we will:

- Address each of these aspects under existing actions in our Action Plan.
- Include varied audiences and target groups in the development of waste education plans.

---

## About the actions under the theme of ‘Leading by Example’



### You told us:

- Several respondents expressed interest in improving access and visibility of tip shops to improve reuse.
- The action plan item relating to minimising waste at events could be strengthened, working toward all Council-led and supported events being zero-waste to landfill by 2030.



### In our final plan, we will:

- Address the prominence of tip shops in the municipality through existing actions in our Action Plan.
- Consider strengthening the wording for these actions, with agreement of relevant teams within Council.

## Other general feedback

During the feedback, a variety of comments were received outlining community concerns about changes to Council's waste collection services. While not directly relevant to the themes and targets of the plan, these items will be considered in the delivery of actions outlined in the plan, rollout of changes to waste collection services, and developments beyond the life of the plan.

- Council needs to ensure the delivery of actions is inclusive of people of all ages and abilities, helping them to manage their waste – elderly, less educated, less wealthy, people with limited mobility (physical and logistical).
- Respondents are interested in being able to recycle more items – soft plastics, polystyrene, agricultural waste (plant pots, large plastic containers, plastic wrap), pet waste.
- There is interest in how Council can support households who are making efforts to live a low-waste lifestyle, and to encourage others to take up low-waste and sustainable options.
- Many respondents requested that all bin sizes are available to all residents, allowing them to choose sizes that reflect their needs and waste levels. Currently, smaller recycling bins are limited to aged residents and those in retirement villages. It was expressed by many, particularly in face-to-face conversations, that this should be extended to low-waste and single-person households.
- Hard waste collections need to treat waste with reuse in mind – at present items go into a compactor and are destroyed.
- Waste collections should work towards adopting a 'user-pays' model for all streams.







## Feedback relating to changes toward a four-stream collection service

Much of the feedback received was more relevant to the transition of waste services, as opposed to directly responding to the content of the plan.

The online survey on the Shaping Yarra Ranges website asked the 78 respondents to select the main issues that will most affect them from a list of issues identified through the Community Waste Survey and more recent community interactions. Key concerns included increased costs, space for bins and within bins, lack of need for a FOGO bin for some residents, hygiene, nappies overfilling rubbish bins, lack of need for a glass bin, soft plastics and the implementation of changes in rental and short stay accommodation.

These concerns will all be considered in the roll out of new bins and collection services over the coming year.

## Conclusion

A range of feedback from the community has been presented during the extensive consultation for the Draft Community Waste and Resource Recovery Plan.

Each item outlined in this summary, as well as other general feedback received, will be considered in the development of the final plan, and in the design and delivery of Council's new waste collection services.

**The final copy of the Community Waste and Resource Recovery Plan will be available for public viewing from mid-2023.**



Yarra Ranges Council

# Community Waste and Resource Recovery Plan 2023–2030



# Acknowledgement of Country



Yarra Ranges Council acknowledges the Wurundjeri and other Kulin Nations as the Traditional Owners and Custodians of these lands. We pay our respects to all Elders, past, present, and emerging, who have been, and always will be, integral to the story of our region.

We proudly share custodianship to care for Country together.

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# Mayor's message



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**Cr Jim Child,  
Mayor of Yarra Ranges**

People in Australia and in the Yarra Ranges are more aware of their waste than ever before.

When recycling was introduced in the 1990s, it was a pivotal change not just in the way we treated our products, but in the way we thought about what we used.

Separating out hard plastics, glass, paper products and metals gave us a chance to give materials a second life, to reduce what was made fresh and to lighten our impact on the world.

Thirty years on, we now know a lot more, and we can do a lot more. We're more environmentally conscious, and we're aware that our planet's resilience is being stretched beyond its limits.

What we buy, and what we do with things we don't want, has a tremendous impact on the environment. While there has been steps forward, in recycled packaging and reductions in plastic, we need to do more to make sure what we use can be re-used wherever possible.

This goes further than just making sure you put your items in the correct bin. It's thinking about when something needs to be thrown away – if it can be repaired, re-purposed or find another home. It's about finding places to recycle electronic items and batteries, soft plastics and appliances.

More than anything, it's a change of thinking bigger than when recycling first came about.

It's about knowing that when you get rid of rubbish, you're not throwing it away. You're sending it somewhere else – to be re-used, or to be buried in landfill, where items can potentially release harmful chemicals and take hundreds of years to start decomposing.

This Community Waste and Resource Recovery Plan has also been prompted by the State Government's Recycling Victoria Policy – where every household in the state will move from rubbish and recycling to a four-stream system: food and garden organics, mixed recycling, glass, and rubbish (sent to landfill or alternative processing).

This plan has been informed by a Community Waste Survey, where thousands of people let us know how they'd like this new system to work for their household.

That feedback, along with expert advice, has shaped this plan.

When reading through this, and as we adjust to the new bin system, it's vital that we remember that everything we buy and use has an impact, big or small, on the world around us. By being thoughtful about what we buy, how we use it and how we dispose of it, we can help preserve and improve our world for those who come after us.

We will need to work together, and this will be all of our responsibility. There will be challenges, but we'll be here to support you at Council and we'll manage this how we've managed the challenges of recent years – together.

# Executive summary

Each year, our modern lifestyles create increasing amounts of waste that pose a risk to human health and the environment. The need to reduce the amounts we create and dispose of it better is recognised by governments and the broader community.

In December 2020, the Victorian Government released its Recycling Victoria policy. This policy outlines some of the biggest changes to waste management since recycling was introduced to Victorian homes around 30 years ago.

The Yarra Ranges Community Waste and Resource Recovery Plan has been developed in response to the Recycling Victoria policy, as well as growing concern in the local community about waste and recycling.

The plan presents a vision for a Yarra Ranges community working together towards a circular economy, minimising waste sent to landfill and maximising resources - avoiding waste, reusing and rehoming items wherever possible, sorting recycling well and minimising rubbish.

There are many challenges to improving how waste is managed. Population growth across eastern Melbourne and within Yarra Ranges will increase the overall amount of waste. The closure of our closest landfill site in coming years, the increased cost of transport to landfill located further away, increasing waste levy disposal fees and the environmental cost of continuing to dispose of rubbish into landfill means new solutions are necessary.

The desire to make better use of the items we no longer need is leading to the innovation of new technologies. Technologies such as advanced waste processing may allow energy to be made from rubbish rather than sending it to landfill. Recycled product is being used to make new products that could be used by Council and local businesses. Council has an important role in keeping up with these new technologies and developments, ensuring they can be used in Council activities and promoting these opportunities to local industry and businesses.

In response to these challenges and opportunities, changes are being made to how waste is collected in Victoria. These changes will reduce the amount of rubbish sent to landfill and make more material available for recycling.

Currently, Council collects recycling (fortnightly), green waste (fortnightly) and rubbish (weekly) from households and a small number of businesses.

In accordance with the Victorian Government's Recycling Victoria policy, Yarra Ranges Council will move to a four-stream waste collection over the next four years.

From October 2023, Council will collect food and garden organics (weekly), mixed recycling (fortnightly), and rubbish (fortnightly).

In 2025/26, a specific collection for glass (only) will be introduced. From this point, glass will no longer be accepted in the mixed recycling bin.

A comprehensive education program will be provided to all residents and businesses using Council collections, helping them use the new system correctly.

The plan proposes ambitious targets for Council and the Yarra Ranges community, to minimise waste and significantly cut the amount sent to landfill. The actions outlined in the plan demonstrate the types of activities Council will deliver in working toward these targets.

The achievement of this plan relies on Council and the community working together to choose, use, sort and dispose of our items better, for the benefit of our community and our environment.



# 1. Vision

Our vision is for a Yarra Ranges community working together towards a circular economy, minimising waste sent to landfill and maximising resources.

This plan envisions a future where our community is committed to produce less waste, and to maximise the life of the materials we use and the recovery of recyclable materials.

Our Council operations, local business and industry, residents and visitors will work together to protect the environment, amenity and liveability of our townships, and create a strong, resilient and financially sound circular economy.



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## 2. Setting the scene – the need for change

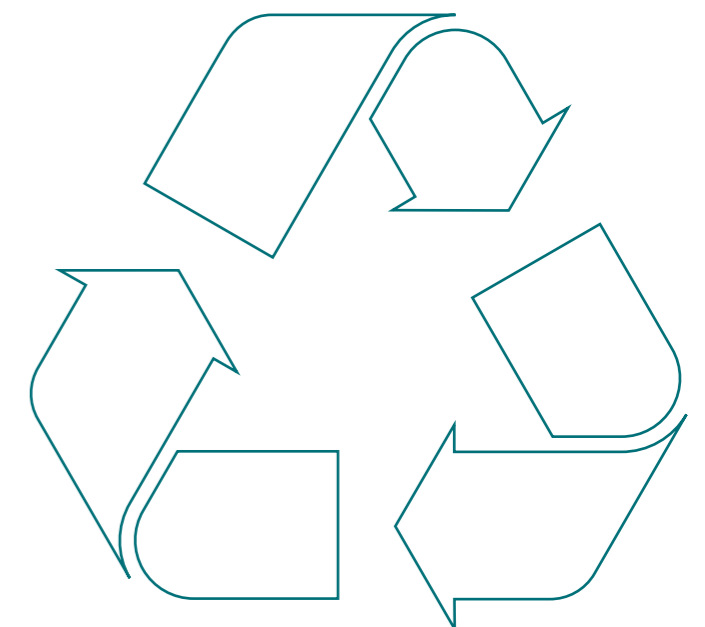
Waste management presents a complex and growing challenge. Our modern lifestyles are creating increasing amounts of waste, including problematic wastes such as plastics and electronic wastes that pose a contamination threat to the natural environment and community health.

Community attitudes are also changing significantly, with growing concern for the environmental costs of consumption and interest in minimising waste through reuse, repair and recycling.

These new expectations necessitate change in how we manage waste at all levels of government. New government policies are being developed, particularly at the state level, to directly address these concerns.

This plan details the context for change to how we manage waste in Yarra Ranges, in response to community concern and new waste regulations, and how these changes will occur over the coming decade. It outlines an action plan for Council and the community to maximise resource use and minimise waste sent to landfill.

Delivery of actions will occur between 2022 – 2030, to align with Council’s responsibilities under the Recycling Victoria Policy (2020 – 2030).



## Upcoming changes in Victoria's waste management industry

Waste management in Yarra Ranges is influenced by the actions, strategies and legislative requirements of different levels of government, and several of Council's own plans and policies.

### Victorian Container Deposit Scheme

Container deposit schemes incentivise recycling through providing a refund when designated containers are returned to a specified place for reuse or recycling.

The first state-run container deposit scheme in Australia was introduced in 1977 in South Australia, where ten-cent deposit paid is on nominated containers, and a refund paid on return of the container. The scheme achieved a recovery rate of 80%.

The Victorian Container Deposit Scheme will begin in November 2023. The scheme is being introduced to encourage recycling of eligible drink containers and to encourage the removal of these common types of litter from the environment.

This scheme will provide an opportunity to significantly reduce litter and enhance recycling in Yarra Ranges.

### Recycling Victoria policy

In February 2020, the Victorian Government released its waste policy 'Recycling Victoria: a new economy'.

This is a 10-year policy and action plan for waste and recycling in Victoria.

The policy aims to reform the kerbside waste and recycling system in Victoria, transforming how the Victorian economy uses materials, and focussing attention on reuse, repair and recycling of materials.

The policy outlines key reforms for household waste collections, to be delivered by Councils to households across Victoria, including:

- The introduction of a four-stream waste collection service to all Victorian households by 2030, with bin lid colours meeting the Australian Standard:
  - Food & Garden Organics – lime green lid (food waste, green waste)
  - Mixed Recycling – yellow lid (paper, cardboard, plastics, metals)
  - Glass Recycling – purple lid (bottles, jars)
  - Rubbish – red lid (non-recyclable household waste)
- Targets to prioritise reduction in overall waste generation and waste sent to landfill

These reforms will be complimented by an extensive state-wide education campaign. Council is responsible for local implementation of these education campaigns.





## Future challenges influencing waste management in Yarra Ranges

### Population Growth

The population of Greater Melbourne – including Yarra Ranges – is expected to grow to 7.5 million people by 2046. At current rates, this will mean an extra half a million tonnes of rubbish will go to landfill each year.

The landfill site currently used by Yarra Ranges Council will close by approximately 2025. It is estimated that two new landfill sites would be required in metropolitan Melbourne to meet current and future needs – if rubbish continues to go to landfill at the same rate.

Landfills have obvious issues for local communities – odour, aesthetics and the need for ongoing management of leachate liquid and methane gas released by the decomposing rubbish. These have a clear and detrimental impact on the environment.

There are also costs to transfer rubbish to landfill sites, which increase for communities further away. These costs are reflected in the annual waste charge on Council rates.

Several eastern Metropolitan Councils are working together to explore alternatives to sending rubbish to landfill. Options include using advanced waste processing to turn rubbish into energy.

The move to a four-stream waste collection will dramatically reduce what gets sent to landfill by reducing contamination in recycling bins and allowing food and garden organic waste to be composted.

Council will continue investigating ways to promote and support reusable and sustainable options in the community to minimise waste sent to landfill.

### Landfill and Waste Fees

Since 1992, Councils have been paying a landfill levy, based on the tonnes of rubbish collected from bins and hard waste that go into landfill.

This cost is passed on to households as part of their waste charge on rates notices. When rubbish is taken to a tip, a large part of the fee paid at the gate reflects the landfill levy. This fee has gone up significantly every year, which in turn makes waste fees higher.

In 2021, this charge was replaced with a waste levy, which it functions in the same way. The State Government can use money from this levy to fund sustainability and waste minimisation projects.

Waste levy fees can be kept lower in future years by minimising rubbish sent to landfill. However, this relies on less material going into rubbish bins.

The four-bin service will allow more material to be collected for recycling, reduce contamination of recyclables and help to keep the amount of waste going to landfill at a minimum.

### Geographic constraints

The Yarra Ranges is one of the most unique local government areas in Victoria, with urban towns and regional areas, unmade roads and steep areas that can be difficult for trucks to access.

Due to these factors, rubbish, recycling and hard waste collections cost more, and require specialised trucks that can deal with the demands of the terrain.

Currently, rubbish is taken to the Hallam South Landfill, where it is buried. This landfill is expected to close in approximately 2025, and the next-nearest sites are much further away. Using landfill sites located further away would lead to an increase in landfill costs when the Hallam landfill closes.

Councils across the east of Melbourne are working together to find alternatives to landfill – both to keep costs down, and to reduce the amount of rubbish being buried.

### Changing community needs

Community attitudes to waste and recycling have changed considerably in the past ten years.

There is a lot of variation in the amount of waste (recyclable and rubbish) generated by different households across Yarra Ranges.

Some households are trying to live a 'low-waste' lifestyle, requiring minimal collection services. Some households generate increasing amounts of waste for a variety of reasons, and experience difficulties in reducing their waste.

This variation is a challenge for the development of a generic waste collection service that meets the needs of a broad spectrum of the Community.

### Sustainability and climate change

There is increasing awareness in the community of environmental sustainability, and the actions that can be taken to live lighter on the earth.

Council supports several community groups delivering waste-related projects across the Yarra Ranges, including community workshops, clean-up days, composting, low-waste living and shifting away from plastic bag use. Council also provides waste collection support for community events.

Climate change is a significant threat to our environment and community. Decomposing organic waste sent to landfill continues to create methane gases after burial, and owners of closed landfill sites need to manage these emissions for many decades.

The introduction of a food and garden organics bin will allow this waste to be diverted from landfill for composting, using processes that significantly reduce methane emissions, and turning it into useful products for farms and gardens.





## Emerging Trends in Waste Management

### Advanced Waste Processing

Advanced waste processing (AWP) is a technique used successfully around the world to sort household rubbish materials and use residual waste to produce electricity and/or heat. It provides an alternative to burying waste in landfill, particularly in areas without suitable space for landfill construction.

AWP facilities are used in many large cities in the United Kingdom, Europe, Asia and North America, complying with strict safety and emission standards.

Advanced sorting and separation is part of the AWP process. Facilities can sort materials on arrival to retrieve recyclables from rubbish. Recyclable metals can also be retrieved using magnetic technology after incineration for energy production.

Data from Sustainability Victoria indicates that at least 10% of materials collected in rubbish bins in Victoria is recyclable paper, cardboard, plastics and glass.

Advanced sorting and separation technologies at an AWP facility could enable this material to be retrieved, a feature not available when sending rubbish directly to landfill.

A medium-sized AWP facility can process 300,000-400,000 tonnes of waste per year, using a mix of anaerobic digestion, gasification and combustion technologies to create energy.

There is a small amount of ash and residual material left over after processing and incineration. Once leftover metals are retrieved from the residue, this material is tested for contamination. Uncontaminated material is sent to landfill, and any contaminated material is sent to an appropriate hazardous waste facility.

Advanced waste processing reduces the volume of waste sent to landfill by around 80%. This will significantly assist Councils to reach waste reduction targets set in the Recycling Victoria policy.

There are currently no existing AWP facilities able to

process the volume of waste being collected from households across eastern Melbourne.

Yarra Ranges Council is part of a group of Councils planning to construct their own AWP facility by 2026. This new facility will assist a number of Councils to avoid disposing to landfill.

Further AWP facilities are planned for other areas of Australia, including Perth (WA), Woodlawn (NSW), Swanbank (QLD), Laverton North (VIC) and Morwell (VIC).

The Victorian Environment Protection Authority is supportive of AWP facilities being commissioned in Victoria. A study conducted for the EPA (Vic) concluded that there is little potential for health impacts or risk from exposure to airborne emissions from modern AWP facilities. Studies by Public Health England (the UK health protection agency) demonstrated that ‘particle levels caused by combustion (AWP) facilities are extremely low and could often not be distinguished from other background sources such as traffic’.

### New and emerging markets for recycled product

One of the key commitments within the Recycling Victoria policy is to increase the use of products created with recycled content in Victoria. The Victorian Government has created a Recycled Markets Acceleration Package to encourage industry innovation, drive demand for products with recycled content, and develop industry standards for the use of recycled content in commercial, industrial and construction settings.

The Victorian Government has committed to increase the use of recycled content in their

procurement of goods. Funding is also being provided to Councils to work in partnership with industry in developing new uses and local industry markets for recycled content.

### Product Stewardship Schemes

Product Stewardship Schemes place responsibility for product disposal and/or recycling with producers, importers and retailers of goods responsible rather than consumers – particularly for items that are difficult to dispose of or recycle.

Examples of existing product stewardship schemes include:

- Cartridges for Planet Ark – supported by Brother, Canon, Epson, HP, Konica Minolta and Kyocera;
- Mobile Muster – supported by phone handset and accessory manufacturers
- National Television and Computer Recycling Scheme – supported by the electrical goods industry
- Tyre Stewardship Australia – supported by a range of tyre importers, as well as automotive manufacturers Mercedes Benz, Porsche and Volkswagen.

The Federal Department of Agriculture, Water and Environment annually calls for submissions from industry, public and consumers recommending future stewardship schemes to be developed by industry with government support.

Councils can support product stewardship schemes by investigating options for local material collection points and promoting programs to local businesses and the community.

# 3. The Bigger Picture of Waste Management

## Strategic and policy context

Waste management in Yarra Ranges is influenced by the actions, strategies and legislative requirements of different levels of government, and several of council's own plans and policies.

### Federal waste policy



The Federal Government's 'National Waste Policy: Less Waste, More Resources' was released in 2018. The policy provides a framework for nation-wide waste and resource recovery. It outlines five key principles for transitioning to a circular economy, including:

- Waste avoidance
- Improved resource recovery
- Increased use of recycled materials and market development for these products
- Better management of materials to improve human and environmental health
- Improved information for innovation, investment and decision making.

The Federal Government currently regulates the export of all plastic, glass and tyre waste from Australia. From 2024, it will regulate the export of paper and cardboard, ensuring that waste cannot be sent overseas. These regulations impact how the waste collected from households can be processed and turned into new products.

The Federal Government also supports national product stewardship schemes to provide collections for difficult items such as electronics, packaging and vehicle tyres.

### State waste policy – Recycling Victoria



State and territory governments are responsible for the regulation of waste management and resource recovery within their state.

In February 2020, the Victorian Government released its waste policy 'Recycling Victoria: a new economy'. This is a 10-year policy and action plan for waste and recycling in Victoria, reforming kerbside collections to a state-wide four-stream system.

As well as outlining future kerbside collection reforms, the Recycling Victoria policy also outlines focus areas for broader change in how the Victorian community manages waste, including:

- Support for businesses to reduce waste and improve product stewardship
- Support for wide ranging efforts to repair and reuse products rather than send them to landfill
- Preventing plastic pollution and banning single-use plastics
- Introducing a container deposit scheme for Victoria by 2022-23
- Creating new markets for recycled materials
- Support for development of facilities to generate energy from rubbish incineration before sending waste to landfill
- Improving the safe management of hazardous materials

### Regional context – Metropolitan Melbourne and Eastern Suburbs



Yarra Ranges Council is an active member of networks across Metropolitan Melbourne with other Councils, state government and the broader waste industry.

Council works collaboratively with other Councils on joint procurement of waste services, delivery of waste minimisation projects, community education and sharing of knowledge and experience.

### Local Council – relevant strategies, policies, and plans



Waste services within Yarra Ranges Council influence, and are influenced by, several key Council strategies and policies

### Council Plan 2021–2025

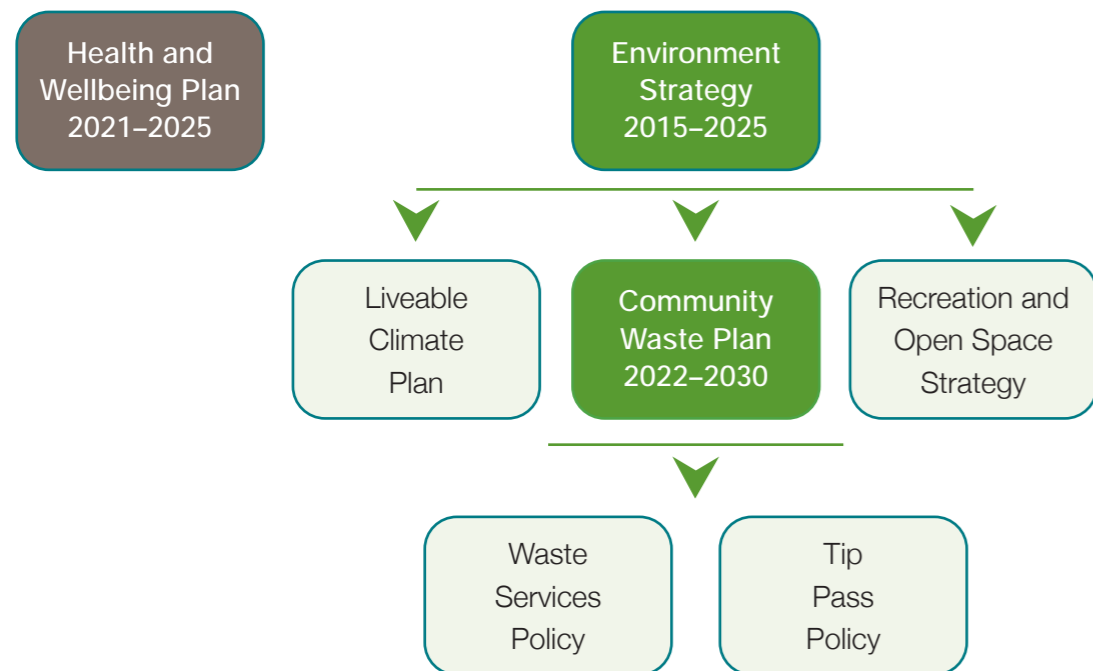
The Yarra Ranges Council Plan aims to deliver a range of services that build inclusive and connected communities, with sustainable and balanced growth.

#### Strategic Objectives

The delivery of a new Community Waste Plan is a key action under the **‘Protected and Enhanced Natural Environment’** strategic objective of the Council Plan.



#### Other relevant Council Strategies and Plans



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### Yarra Ranges Environment Strategy 2015-2025

The Yarra Ranges Environment Strategy 2015-2025 has several strategic goals relevant to waste management, including

<b>Goal 1</b>	Our iconic places and their natural character are actively protected	Examples of how we may achieve this goal include: <ul style="list-style-type: none"> <li>Managing litter in our natural areas, parks, and streetscapes, and providing appropriate opportunities for disposal of waste in public areas.</li> </ul>
<b>Goal 4</b>	Our local economies are strengthened by environmentally sustainable activities	Examples of how we may achieve this goal include: <ul style="list-style-type: none"> <li>Providing a commercial waste collection to small businesses that enables them to manage their waste in a sustainable manner.</li> <li>Where possible, supporting local industries to develop innovative solutions to local waste issues</li> </ul>
<b>Goal 5</b>	Our communities are resilient in the face of a changing climate and more extreme events	Examples of how we may achieve this goal include: <ul style="list-style-type: none"> <li>Providing green waste collection services that assist property owners to reduce bushfire risk</li> <li>Providing sustainable waste management solutions in response to local emergencies</li> <li>Providing waste management services and education that will assist in reducing carbon emissions from waste disposal (e.g. composting food and organic waste rather than sending it to landfill).</li> </ul>
<b>Goal 6</b>	All who live and work in the Yarra Ranges see themselves as stewards of our environment	Examples of how we may achieve this goal include: <ul style="list-style-type: none"> <li>Provide the community with waste-focused education and resources to minimise waste</li> <li>Engage with the community and provide environmentally focused education, support, resources and events.</li> <li>Encourage environmentally sustainable choices for people’s homes, properties and businesses.</li> </ul>



## Yarra Ranges Community Profile



**162,346**

est. individuals currently residing in **Yarra Ranges**



**60,663**

est. **rateable properties** in Yarra Ranges for 2022



**55+**

**townships** in Yarra Ranges covering **2,500 square km**



### Neighbourhood character

of townships range from **urban** to **forested hills** and **rural** towns and localities



### More than 70%

of the population is concentrated on **smaller blocks** in urban and township settings



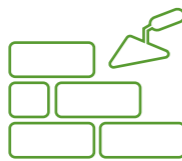
### Approx 90%

of dwellings are separate houses, **5.9% are medium density**, and **0.2% are high density** dwellings



**185,902**

projected population in 2041, with **expected growth of 20%** over next 20 years



**3,000**

new homes expected at former Lilydale quarry, with **most significant growth** to occur in this township



### Future growth

also projected in Chirnside Park, Kilsyth, Mooroolbark, Yarra Junction, Millgrove and Wesburn

## Community feedback

### The Yarra Ranges community is very passionate about waste.

In June 2021, Yarra Ranges Council conducted a Community Waste Survey to determine community views and expectations for local waste collections and waste management.

More than 7000 responses to the survey were received via the Shaping Yarra Ranges website and postal survey forms - well-exceeding expectations, and providing a statistically significant snapshot of community opinion.

Residents, landlords and local businesses detailed their satisfaction with the current waste services, preferences for future services complying with the Recycling Victoria policy, and suggestions for how waste education and engagement could be improved.

The findings of the Community Waste Survey have informed the service changes detailed in this plan, considered together with research into best practice in waste management.

Further community consultation on a draft version of the Community Waste and Resource Recovery plan was conducted in 2022. Feedback from the consultation was considered in the development of the final plan.

Copies of the survey and consultation reports can be found on the Council website.



Many respondents to the Community Waste Survey indicated they would like advice and/or assistance to manage 'difficult to dispose' items, such as polystyrene





## 4. Current waste management services provided by Council

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### Kerbside bin collection services

Yarra Ranges Council provides kerbside waste collection services to more than 60,000 households across the municipality.

Kerbside waste collections (e.g. rubbish, recycling) are also provided to small businesses, non-residential and non-rateable properties such as community centres, sporting clubs, community groups and churches. These services include either a twice-weekly collection of a 120- litre rubbish bin and fortnightly collection of a 240- litre recycling bin, or an equivalent service.

### 2022/23 kerbside residential waste collection services

	Frequency	Bin size	Options
<b>Rubbish</b>	Weekly	120L	80L for reduced annual fee
<b>Recycling</b>	Fortnightly	240L	120L available for elderly residents or those living in retirement villages
<b>Green waste</b>	Fortnightly	Optional; 120L or 240L	Green waste collection is available in urban areas, townships and the Dandenong Ranges.
<b>Hard rubbish</b>	Annual (residential properties)	Up to 3 cubic metres, plus unlimited metals	Collected in January – March
<b>Bundled branches</b>	Twice-yearly (residential properties)	Up to 3 cubic meters	Collected in November/ December and January – March

## Household bin collection statistics

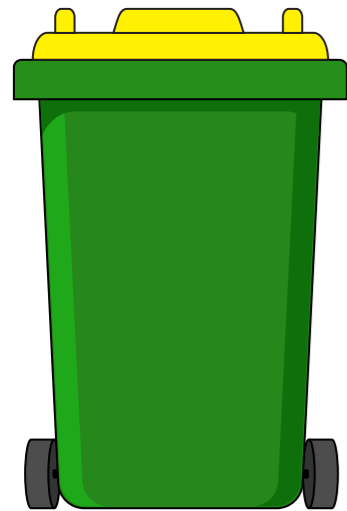
The amount of waste collected in each of the three current kerbside bins is recorded by Council’s Waste Management team for each financial year.

### RECYCLABLES

280kg recyclables produced per household per year

Higher than average compared to state-wide and outer metro averages.

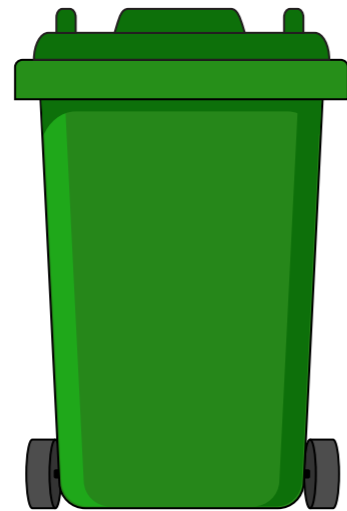
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### RUBBISH

504kg rubbish produced per household per year

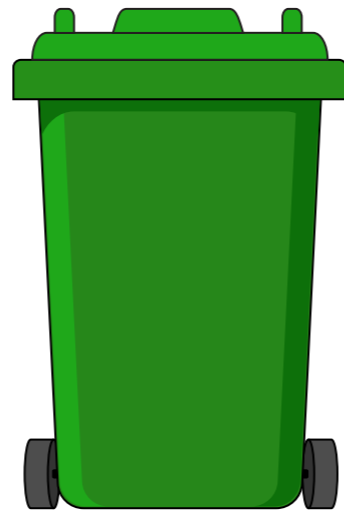
Slightly higher than state-wide averages, but consistent with other outer metro averages.



### GREEN WASTE

410kg green waste produced per household per year

Higher than state-wide and outer metro averages.



## Recyclable resource recovery and contamination in household bins

The current rate of materials diverted from landfill from household bins in Yarra Ranges is 45% (not including contaminating items). This means that out of the total amount of waste from all streams collected from properties across Yarra Ranges, almost half of all waste is diverted away from landfill and collected within recycling and green waste bins.

Contamination of materials collected in recycling bins is an ongoing issue across the municipality. Contamination of recycling bins with materials that are not recyclable through Council’s collection leads to materials that are of lesser quality of repurposing into new products. Contaminating items can cause damage to machinery that sorts materials collected for recycling. In extreme cases, high levels of contamination can cause an entire truck load of recyclables to be sent directly to landfill.

An audit of one truckload of recyclable materials collected from the kerbside in Yarra Ranges was conducted by VISY Industries (Council’s recyclables receiver) in 2019. This audit showed a contamination rate in recyclables of 10.5%.

In this audit, common contaminants included soft plastics (such as shopping bags and food packaging), textiles, bagged waste (including bagged recyclables that should have been disposed loose into the recycling bin) and shredded paper (not recyclable in kerbside bins).

This contamination rate is the same as the state-wide average during the 2018/19 financial year.

In the 2019/20 financial year, the state-wide average contamination rate increased to 13.3%.

Further audits are being conducted from April 2023 after a pause due to COVID restrictions.

Ongoing education for residents about what is and is not acceptable in recycling bins is required to reduce contamination rates and improve the rate of materials diverted from landfill.



## Hard Rubbish collections

Hard rubbish collections are provided once per year to each residential property in Yarra Ranges. These collections occur between January and March. The purpose of hard rubbish collections is to provide for the collection of materials that cannot be repurposed, donated, reused by others and can't fit into kerbside rubbish bins.

Each property may dispose of up to 3 cubic metres of materials, including:

- Unwanted furniture that cannot be donated or reused by others

- Electronic waste – such as computers, televisions, monitors, all other battery and power-operated items and items with an electrical cord
- Mattresses

Each property may also dispose of unlimited household whitegoods and metals.

The level of material recycled from kerbside hard waste collections is low, with an average recovery rate of 24% per year.



## Bundled Branches collections

Bundled Branches collections are provided twice per year to each residential property. These collections occur in November-December (to assist with fire season preparations) and in conjunction with hard rubbish collections conducted between January and March.

The purpose of the bundled branches collections is to provide for the collection of materials that are too big to be placed into kerbside green waste bins.

Each property may dispose of up to 3 cubic metres of branches including branches up to 1.5m long and 200mm diameter, or single limbs of between 75mm and 200mm diameter and 1.5m long.

The bundled branches collection does not collect stumps, roots, timber pieces, bamboo, creepers and vines, palm trees or thorny plants. These plants should be cut up and disposed of into green waste bins or taken to a waste transfer station for disposal.

Over the last five years, an average of 405 tonnes of bundled branches has been collected each year from across the municipality. This material is composted to create products for gardeners and horticultural industries.

## Public place litter bins

Approximately 940 litter bins are distributed in townships, parks, reserves and sporting clubs through the Yarra Ranges. These bins provide a disposal point for rubbish and recyclables in locations used by the community. Waste collected in litter bins is currently sorted by Council's receiving contractor to capture recyclables.

Over the last five years, the amount of rubbish collected in these bins has averaged around 400 tonnes per year. In 2019/20 and 2020/21 these totals decreased by approximately 50 tonnes, likely due to reduced visitor numbers during coronavirus lockdowns.





## Waste Transfer Stations

Waste transfer stations are central locations for the disposal of bulky recyclables and waste destined for landfill.

The items that can be taken to waste transfer stations for disposal often include bulk amounts of cardboard, green waste and hard rubbish, timber, bricks and concrete, glass, mattresses, and hazardous waste materials such as chemical containers, light globes, batteries, motor oil, electronic waste, paint and tyres.

Waste Transfer Stations in Yarra Ranges are operated by private waste management companies, and are located in:

- Lysterfield (operated by Cleanaway)
- Coldstream and Wesburn (operated by KTS Recycling)
- Montrose Transfer Station (operated by Grosvenor Lodge)

Some facilities also operate a ‘tip shop’ where reusable goods in reasonable condition can be purchased for a small fee. This includes both garden and construction materials, toys and household goods.



## Other waste collections and services

Council supports the community with the management of other waste materials, either directly, through the delivery of activities, partnership with groups and industry, and through promotion of other service providers.

These services include:

- Promotion of drop off locations for household batteries
  - Delivery of Detox Your Home events with Sustainability Victoria
  - Waste collection services for local Clean Up Australia Day activities
  - Waste management assistance to groups organising community events (delivered through Council’s Community Grants program)
  - Delivery of waste-focussed community events and educational workshops with community and industry partners
  - Delivery of education, incentive and rebate projects and programs, such as educational webinars and Council’s Home Composting Rebate Program
- Provision of special collections or tip passes for the disposal of materials, available to:
    - Charities disposing of unwanted and unsaleable goods, and materials collected from property clean up by charities
    - Emergency services disposing of materials from clean-outs or unsaleable donated goods
    - Friends Groups assisting with the collection and disposal of waste and weeds from Council-owned bushland reserves
    - Residents applying for Weed Wipeout vouchers for assistance with removal of selected environmental weeds from private property.



## Closed Landfill management

Yarra Ranges Council is responsible for the ongoing management of five former landfill sites. These include:

Coldstream closed landfill	active from 1977 to 2004
Healesville closed landfill	active from 1975 to 1997
Wesburn closed landfill	active from approx. 1970 to 1993
Lysterfield closed landfill	active from approx. 1968 to 1995
Mt Evelyn closed landfill	active from approx. 1960 to 1992

Due to the ongoing decomposition of landfill materials in these sites, active management will be required for around 30 to 50 years after closure. Methane gases, leachate liquid and ground water are monitored over this time, until the sites are declared as no longer posing a risk by the Victorian Environmental Protection Authority.

The Coldstream and Healesville sites are managed in accordance with their Post Closure Management Plans and EPA Post Closure Pollution Abatement Notices.

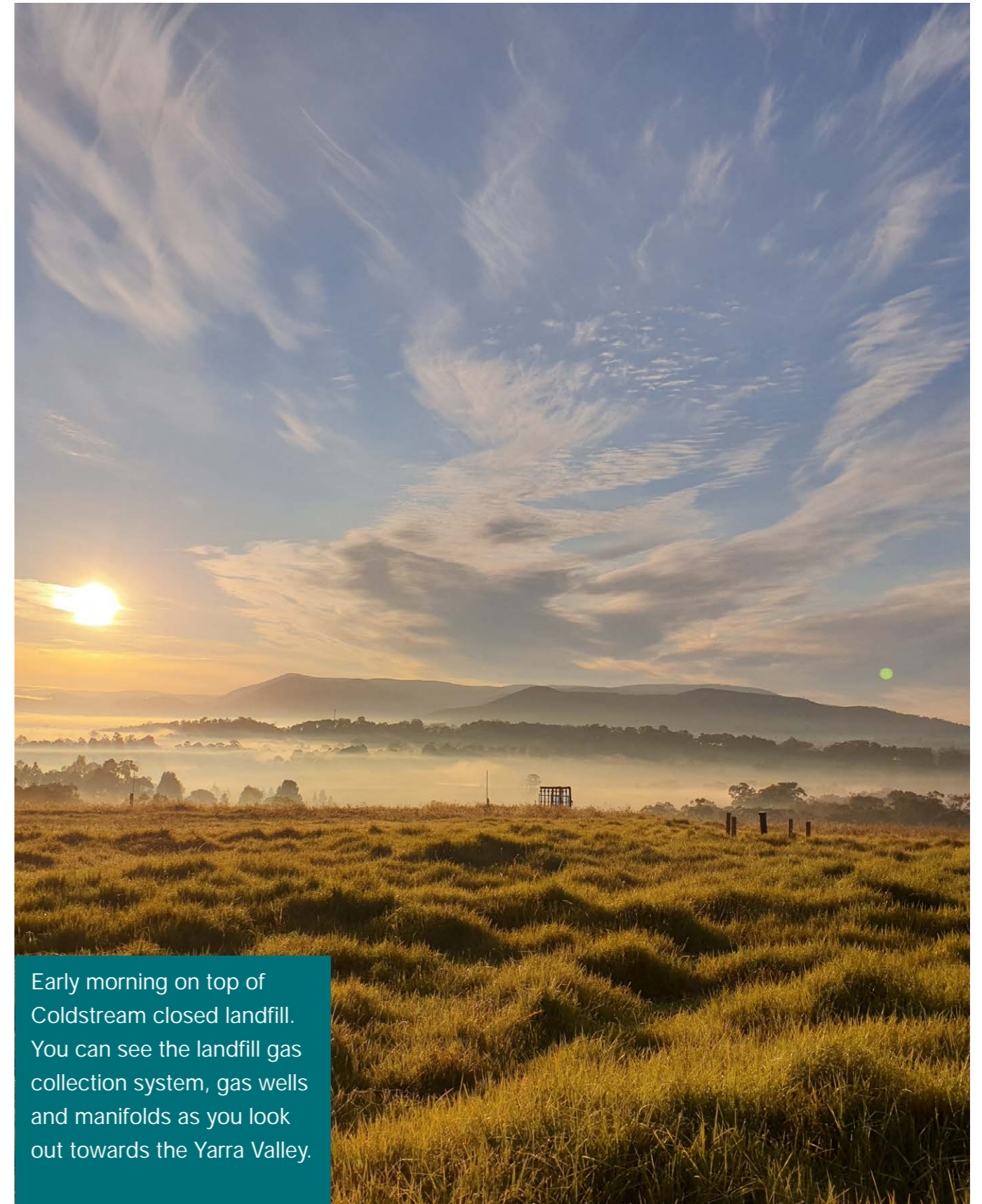


Coldstream leachate plant – the plant processes leachate liquid collected from the landfill for disposal into the sewer system. This is important to ensure that the liquid does not contaminate local groundwater and the surrounding environment.

Once landfill sites are full, they are capped with a clay layer and grass or other low vegetation. This cap contains the materials and prevents infiltration of rainfall or surface water that may filter through the waste materials, picking up chemicals and other hazardous liquids, creating excess contaminated leachate.

Common issues with closed landfill sites that require careful management include the management of toxins and leachate from hazardous materials within the landfill, and the management of methane emissions emitted from organic waste, such as food and garden waste breaking down within the landfill.

Each of the closed landfill sites in Yarra Ranges is actively managed by Council to minimise the risk to the environment and human health, in line with obligations under the State Environment Protection Act 2017.



Early morning on top of Coldstream closed landfill. You can see the landfill gas collection system, gas wells and manifolds as you look out towards the Yarra Valley.

# 5. Our Guiding Principles for Change

**There are two key guiding principles for waste management that should be considered in the planning of all future waste services.**

## Waste Hierarchy Principle

The Waste Hierarchy Principle ranks waste disposal options from most preferable to least preferable. It is represented as an inverted triangle, the larger portions representing the options that should be selected more frequently and disposal being a last option.

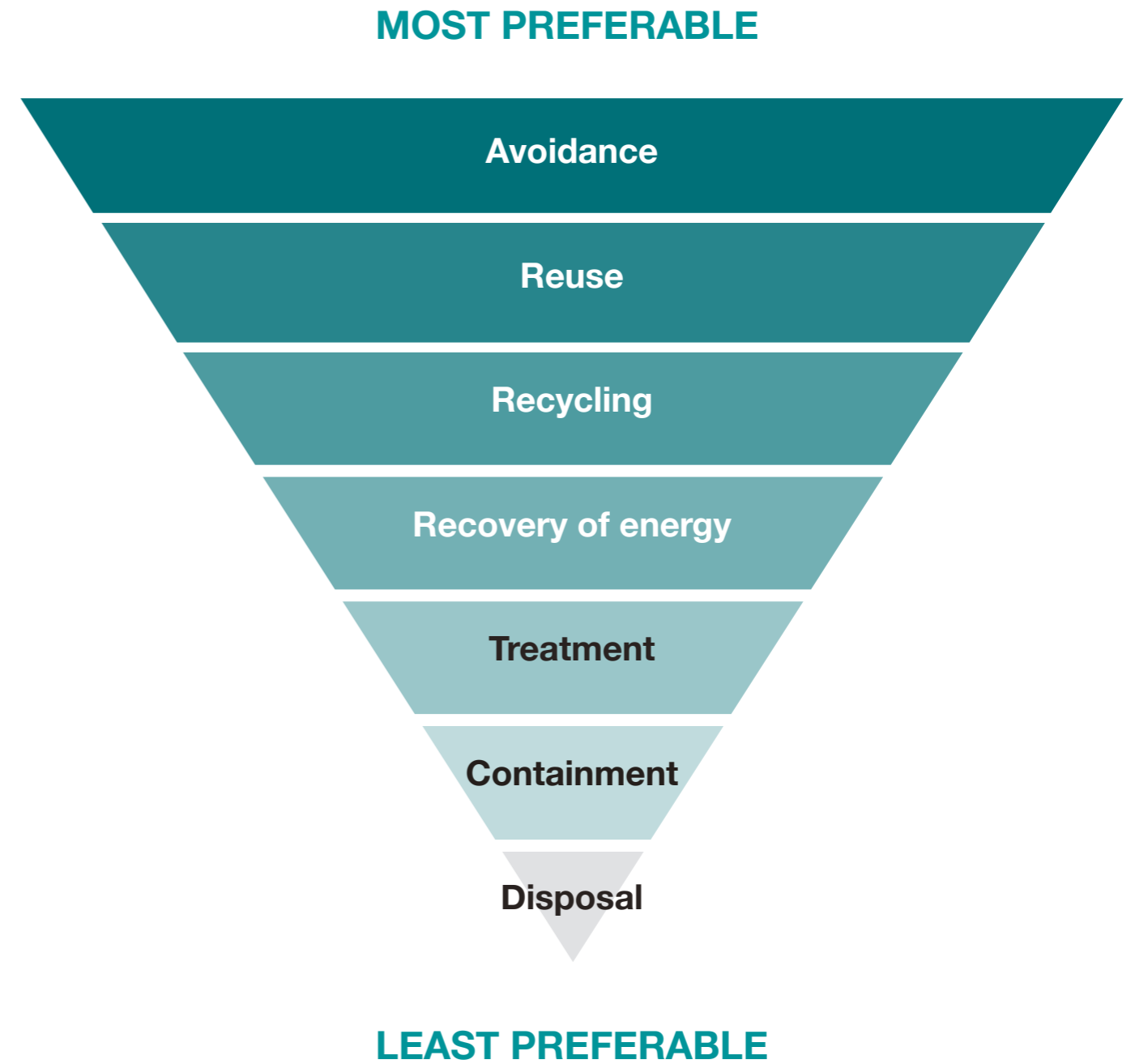
At the top of the hierarchy, waste avoidance should be considered most often, selecting items that will create minimal waste in the future. Reuse is the next option when considering how to deal with an item no longer wanted. Recycling is the next preferable option when reuse by yourself or another person is not possible.

Recovery of energy (e.g. incinerating rubbish to generate electricity) is the next option for items that cannot be dealt with by the higher ranked options.

Treatment and containment follow as next preferable, and this option is particularly relevant to hazardous waste items such as asbestos and radioactive waste.

Disposal in landfill is considered as the least preferable and last resort if no higher ranked option is possible.

The proposed changes to waste collection services in Yarra Ranges, together with waste education, should encourage the community to choose upper options from the waste hierarchy wherever possible.





## Circular economy principle

The Australian economy has traditionally always been linear in nature. This means that the steps in sourcing natural resources, manufacturing and using products, and creating waste has most often been a one-way system.

The concept of a circular economy has arisen from the realisation that our natural resources are finite, and their use to create products causes negative impacts on our environment.

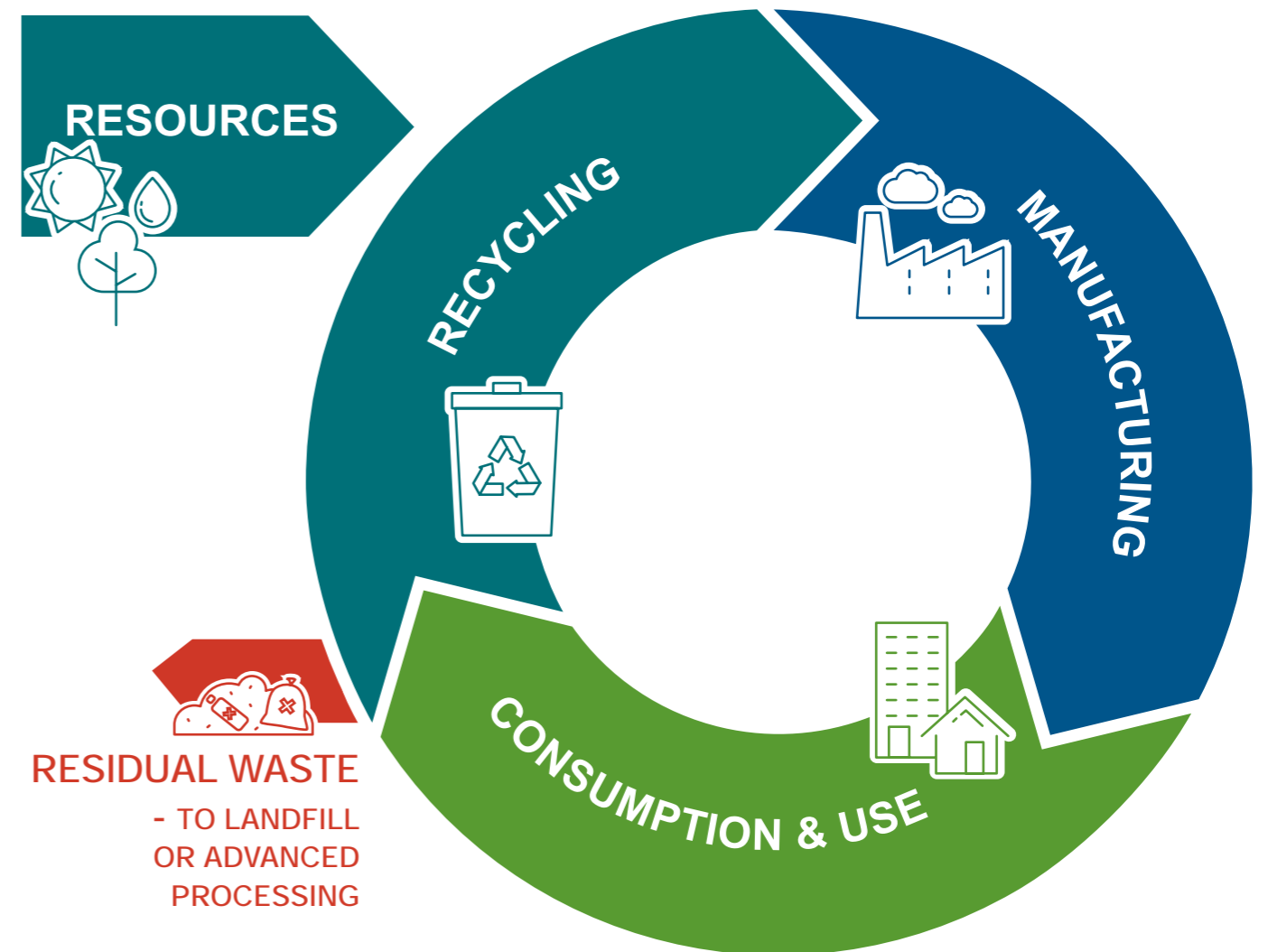
A circular economy is an alternative model to the linear economy. It looks to find new uses for waste products through reuse, recycling, or recovery of resources for other purposes such as waste to energy. It encourages the management of waste using the waste hierarchy principle.

The proposed changes to waste collection services in Yarra Ranges, together with waste education, should encourage the community to consider the circular economy and take responsibility for the waste they will create in their lifestyle and purchases.

### Linear Economy



### Circular Economy





## Working together to reduce waste and create a circular economy - we all have a role to play

We all create waste, and we all have a role to play to ensure that it is appropriately managed to conserve natural resources and minimise the amount we send to landfill.

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### Australian Government



Ensuring international obligations for waste management are met. Oversees national waste policy, administers product stewardship schemes

### Victorian Government



Sets strategy policy direction, makes laws and regulates waste management across the State

### Local Government



Delivers waste and recycling services to households and some businesses. Educates the community on how to use these services appropriately.

### Waste and resource recovery industry



Collect, sort and manage waste for recycling and disposal.

### Local industry



Makes decisions on how they use resources, design products or services and manage waste generated by their operations and products

### Local households and businesses



Purchases products and make decisions about how they maintain, use and dispose of those products.

### Community groups



May run projects to help their community minimise waste, such as educational workshops, tool sheds, repair cafes and clothing swaps.

### Educational institutions



Help learners to understand their world, including the potential impacts of their decisions and how to make sustainable choices.

Based on example from Recycling Victoria policy

# 6. Working together to reduce waste

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## Strategic Directions

Council will work to develop services and programs for waste management around four key themes.

### Avoid & Reduce

Council will encourage waste avoidance and reduction through education programs and supporting community programs for sharing, repurposing and repair of products and materials.

### Recover & Recycle

Council will encourage the recovery and recycling of materials through education programs and delivery of collection services focussed on maximising recovery of recyclables.

### Engage & Empower

Council will encourage and support community leadership of waste minimisation projects and involve a diverse range of participants in activities aimed to improve how we manage our waste.

### Lead by Example

Council will prioritise waste minimisation, procurement of recycled and recyclable goods, and the trial and use of recycled contents in its operations and delivery of projects and programs. We will become a leader in organisational sustainability, leading by example in the pursuit of our vision to reduced waste and create a circular economy.



## Our Targets for Action

The Recycling Victoria policy sets three key targets to be achieved across the state by 2030.

The changes to waste collection services described in this plan will assist to achieve these targets.

### Recycling Victoria Target

**1. 15% reduction in total waste generation per capita between 2023 and 2030**

**2. Divert 80% of waste from landfill by 2030, with an interim target of 72% by 2025**

**3. Cut the volume of organic material going to landfill by 50% between 2022 and 2030, with an interim target of 20% by 2025**

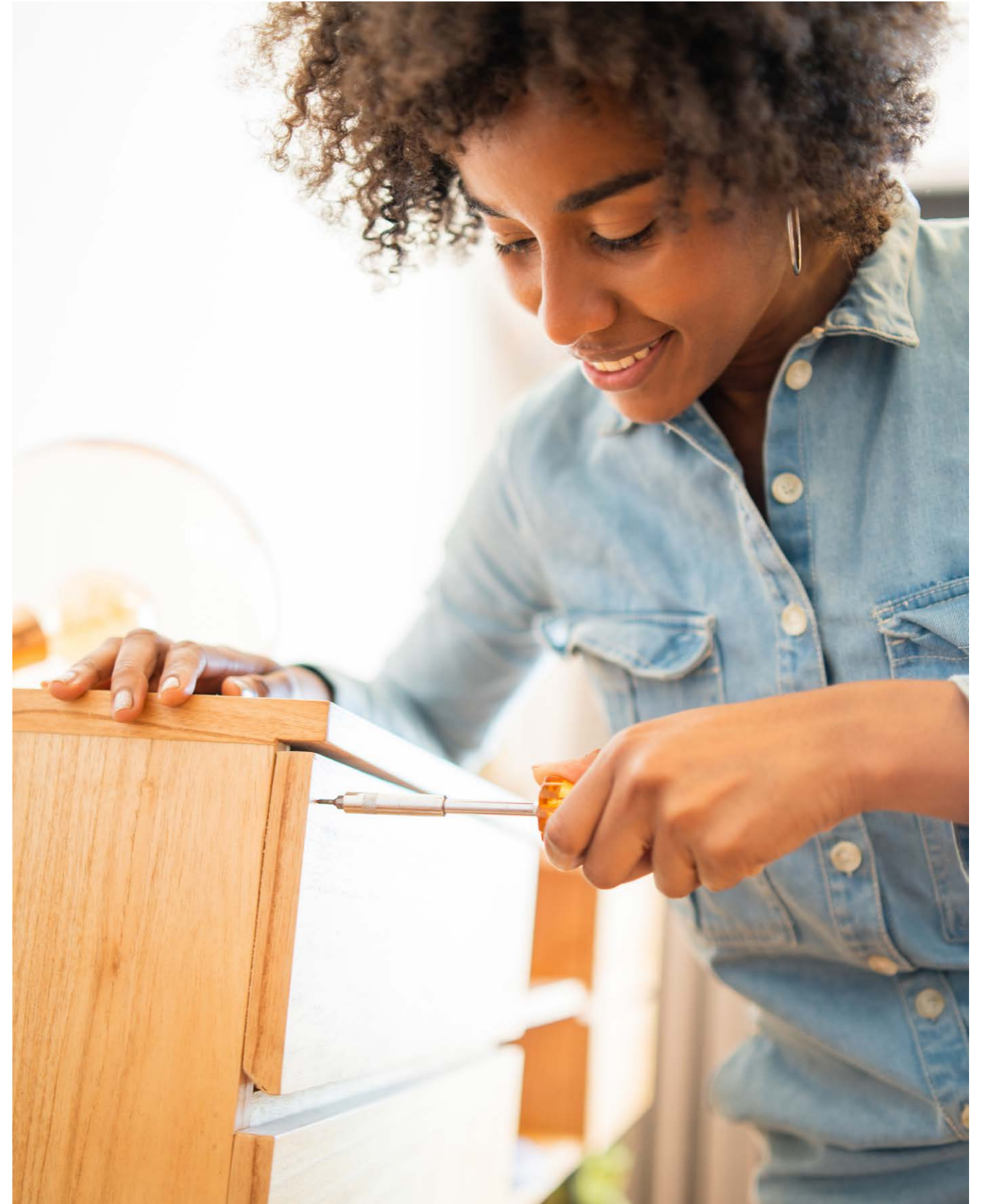
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With increased community education programs, Council believes that exceeding these targets is possible and desirable. Therefore, Yarra Ranges will aim to achieve the following waste reduction targets:

**1. 20% reduction in total waste generation per capita by 2030.**

**2. Divert 90% of waste from landfill by 2030, with an interim target of 75% by 2025.**

**3. Cut the volume of organic material going to landfill by 60% by 2030, with an interim target of 25% by 2025.**

Meeting these targets will depend on the level of behaviour change and correct use of the four-stream collection system achieved in the Yarra Ranges community in coming years.



## Future Changes to Residential Waste Collections

Upcoming reform of the kerbside waste collections will significantly contribute to the reduction of waste sent to landfill, allowing the community to recover more materials for recycling (including composting).

Council proposes the following changes to waste and recycling collection services to begin from October 2023, with changeover complete in 2025/26 with the introduction of a separate glass collection service:



Food & Garden Organics (starting October 2023)	
<b>Frequency</b>	Weekly
<b>Bin size</b>	240L or 120L
<b>Put in this bin</b>	<ul style="list-style-type: none"> <li>Fruit and vegetable scraps</li> <li>Citrus, onions, garlic</li> <li>Seafood, meat scraps, bones (raw and cooked)</li> <li>Leftovers</li> <li>Coffee grounds, tea leaves</li> <li>Plants, leaves, grass, twigs, branches</li> </ul>

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Mixed Recycling (continuing)	
<b>Frequency</b>	Fortnightly
<b>Bin size</b>	240L or 120L
<b>Put in this bin</b>	<ul style="list-style-type: none"> <li>Plastic bottles, containers</li> <li>Steel cans; aluminium cans, trays and foil</li> <li>Cardboard, paper</li> </ul>

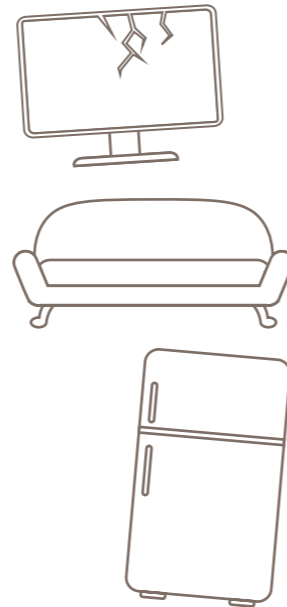
Rubbish (continuing, with lid changed to red from July 2023)	
<b>Frequency</b>	Fortnightly
<b>Bin size</b>	80L or 120L
<b>Put in this bin</b>	<ul style="list-style-type: none"> <li>Non-recyclable plastics, polystyrene</li> <li>Plastic bags and soft plastic packaging</li> <li>Broken glass, ceramics, non-electrical household items</li> <li>Bagged pet waste</li> <li>Disposable nappy and sanitary waste, wipes</li> <li>Bedding, clothing and textiles</li> </ul>

Glass Recycling (introduced 2025/26) (Bin or centralised collection - yet to be finalised)	
<b>Frequency</b>	Monthly
<b>Bin size</b>	80L (if provided as a bin)
<b>Put in this bin</b>	<ul style="list-style-type: none"> <li>Wine bottles</li> <li>Other beverage bottles (soft drink, cordial, kombucha, beer)</li> <li>Jars – e.g., pasta, sauces, jam, salsa, marinade/dressing</li> </ul>



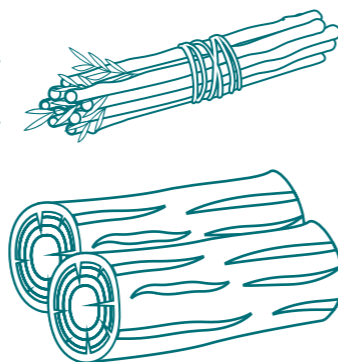
## Other residential collections provided by Council

Hard (bulky) Rubbish	
<b>Frequency</b>	Annually January – March *
<b>Bin size</b>	3 cubic metres per property plus unlimited metals
<b>Put out for collection</b>	<ul style="list-style-type: none"> <li>Unwanted furniture and items that cannot be repurposed, donated or reused by others and are too large to place into kerbside rubbish bins</li> <li>Whitegoods &amp; metal (unlimited)</li> <li>Electronic waste – computers, TV's, monitors, battery/power cord operated items</li> <li>Mattresses</li> <li>Glass, shower screens, mirrors (wrapped and marked 'glass')</li> </ul>



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Bundled Branches	
<b>Frequency</b>	Twice per year - November/December and January - March during Hard (bulky) Rubbish collection
<b>Bin size</b>	3 cubic metres per collection per property
<b>Put out for collection</b>	<ul style="list-style-type: none"> <li>Logs 75mm - 200mm wide, up to 1.5m long; straight and clean with side branches removed.</li> <li>Branches up to 75mm wide tied into bundles with non-plastic twine. Maximum of 20 bundles that are no longer than 1.5m and no more than 200mm wide.</li> </ul>



\*Previous hard rubbish collection arrangements will remain, in line with the significant outcomes of the Community Waste Survey regarding this collection.

## Council-supported Collections

Council will continue to support special collections including Detox Your Home, Clean-Up Australia Day and special tip passes for charities, emergency services, community service groups and environmental weed control activities.

Council will continue and enhance its promotion of various special collections available in the community, such as electronic waste, soft plastics, textiles, batteries, polystyrene and chemical containers.

## Other Council waste collection services

As part of the delivery of the Action Plan, Council will conduct a review of the current commercial bin collection service, including services provided to community and sporting groups. This review will be conducted prior to the implementation of the new collection service in October 2023, and users notified of any changes to be made to collections.





## 7. Action Plan

The following table outlines the actions Council will take towards achievement of the strategic objectives and targets of this plan.

Theme	Action	Potential Delivery Partners		Priority		
		Internal	External	2023-2024	2025-2027	2028-2030
<b>Avoid &amp; Reduce</b>	1 Promote the avoidance of, and alternatives to, single use plastics within waste education programs	Waste Management, Communications	Community Groups, Businesses	●	●	
	2 Investigate ways to support reuse, repair, share with sectors in the community through activities such as repair cafes and tool/toy/equipment libraries	Waste Management, Sustainability	Community Groups	●	●	
	3 Provide advice and support for general community projects targeted at waste avoidance and minimisation	Waste Management, Community Partnerships & Wellbeing	Community Groups	●	●	●
	4 Advocate for reuse shops to be established at all transfer stations across the municipality, to increase recovery of saleable second-hand goods	Waste Management	Transfer Stations	●	●	
	5 Support Yarra Ranges Food Connections and other local food groups and networks to include food waste avoidance in programs and activities	Waste Management, Community Partnerships & Wellbeing	Community Groups	●	●	●
	6 Advocate to government and industry for more sustainable packaging options for common household items, such as recyclable food packaging, increased recycled content in packaging and for the establishment of industry product stewardship schemes	Waste Management, Sustainability	Industry, Other Councils	●	●	●
<b>Recover &amp; Recycle</b>	7 Review and develop a plan for waste collection services to sporting clubs and community groups to ensure equitable provision of services	Waste Management, Recreation & Active Living	Sporting Clubs, Community Groups	●		
	8 Investigate options for larger bin sizes for residentially-rated, multi-unit developments to reduce kerbside and bin storage challenges	Waste Management, Planning Services	Developers, Property Managers	●		
	9 Investigate options for kerbside glass collection to ensure selection of the most appropriate option for the service to achieve maximum recovery	Waste Management	Recycling Victoria	●	●	
	10 Investigate appropriate options for park and street litter bins to meet requirements of collection reforms, with consideration of response measures to high levels of contamination in street litter recycling bins	Waste Management	Collection Contractor	●	●	

Theme	Action	Potential Delivery Partners		Priority			
		Internal	External	2023-2024	2025-2027	2028-2030	
<b>Engage &amp; Empower</b>	11	Develop and deliver a Waste and Resource Recovery Education Plan for residents, businesses and tourists using Council's waste services	Waste Management, Economic Development, Sustainability	Community Groups, Businesses	●	●	●
	12	Deliver education programs in line with state-wide Recycling Victoria education campaigns	Waste Management, Communications	Sustainability Vic/ Recycling Victoria	●	●	●
	13	Develop a change management plan for implementation of future waste services, including delivery of educational materials	Waste Management, Communications, Economic Development & Investment		●		
	14	Investigate options for promotion and incentivising use of waste minimisation items such as reusable nappies and sanitary items	Waste Management, Sustainability	Partner Councils	●		
	15	Initiate and deliver quarterly online reporting of waste data to the community – including recycling streams, waste sent to landfill	Waste Management, Strategy & Transformation	Waste audit consultant	●	●	●
	16	Review current recycling bin provisions to school and early years services. Develop a policy for provision of new collections to schools in line with education programs	Waste Management, EASL - ResourceSmart Schools	Schools	●	●	
	17	Increase promotion of collections for hazardous and difficult to dispose items and increase participation of Council-supported collections, based on 2022 levels	Waste Management, Communications	Recycling Victoria, Transfer Stations	●	●	
<b>Lead by Example</b>	18	Review litter and dumped rubbish enforcement procedures to ensure they align with regulatory expectations	Waste Management, Community Safety		●		
	19	Promote Council's Community Grants programs to attract and support waste minimisation projects in the community	Waste Management, Community Development & Wellbeing	Community Groups	●	●	
	20	Develop and implement a plan for measuring, monitoring, waste minimisation and reducing waste sent to landfill from all Council facilities	Waste Management, Property & Facilities Management, EcoLeaders, Venue Management		●	●	
	21	Review and amend Council event policies and procedures to reflect changes to waste collection services, and strengthen requirements for waste minimisation in Council-led and supported events	Waste Management, Cultural Facilities	Community Groups, Event Organisers	●	●	
	22	Work with Council departments, contractors and designers in the creation of infrastructure and facilities that are designed for resource efficiency and include use of recyclable and recycled materials	Waste Management, Property & Facilities Management, Infrastructure Services, etc.	Contractors, Consultants, Recycling Victoria		●	●
	23	Strengthen waste minimisation principles and actions in Council procurement policies to utilise more recycled and recyclable product and ensure suppliers prioritise waste avoidance practices	Waste Management, Procurement Services	Recycling Victoria	●	●	●

# 8. Monitoring our performance

**We will monitor our performance against this plan, its strategic objectives and targets on a regular basis.**

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Monitoring	Methods
Benchmarking Council performance	Conduct regular truck audits across the collection streams to determine recovery and contamination rates
Monitoring	Truck audits – every two years Quarterly collation of Council collection data Quarterly online recovery rate updates to the community via Council’s website
Reporting on achievement of this plan	Mid-term reporting in 2026 Final reporting of outcomes in 2030/31



## 9. Glossary

<b>Advanced Waste Processing</b>	a technique used to sort household rubbish materials, remove all misplaced recyclables and use residual waste to produce electricity and/or heat
<b>Bundled Branches</b>	a twice-yearly collection provided by Council to collect branches and other specified plant material for composting, especially prior to bushfire season
<b>Circular Economy</b>	a system that focuses on reuse and recycling of materials rather than disposing of them as waste (e.g. to landfill), allowing the continued production of goods in a sustainable way
<b>Collection contractor</b>	the company that picks up waste from properties on behalf of Council
<b>Container deposit scheme</b>	a scheme that provides a small refund (~10 cents per container) on drink containers dropped off at specified locations and sends them for recycling
<b>Contamination</b>	undesirable items included with collected waste items, for example old clothing disposed in a recycling bin would be considered as contamination
<b>Detox Your Home</b>	a collection run by the Victorian Government, allowing residents to drop off chemicals for safe disposal
<b>Electronic waste</b>	unwanted items that are battery-operated or have a power cord
<b>Four-stream collection system</b>	the new Victorian waste collection system that includes four bin/collection types – Food & Garden Organics, Mixed Recycling, Glass Recycling and Rubbish
<b>Hard plastics</b>	recyclable plastic household containers that can hold or return to their shape when crunched; especially food and beverage containers
<b>Hard rubbish</b>	an annual collection provided by Council to collect specified unwanted large, bulky items that cannot be placed into rubbish bins
<b>Kerbside bin/collection</b>	waste bins and collections that are collected from the side of the road at the front of resident’s properties
<b>Landfill</b>	a location where rubbish is taken for disposal by burial in enclosed pits
<b>Landfill Levy/Waste Levy</b>	a fee charged on each tonne of rubbish disposed into landfill
<b>Materials Recovery Facility</b>	the facility where recyclables collected from kerbside bins are sorted into material types and bundled for recycling.

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<b>Methane gas/emissions</b>	a colourless and odourless gas that occurs in nature, produced by the break down of organic material such as the decay of plant matter in landfill, or the digestion of food by animals. Methane is a significant greenhouse gas contributing to climate change. The decomposition of organic matter in landfill is one of the top three contributors of global greenhouse emissions
<b>Organic waste</b>	waste of plant or animal origin that is biodegradable
<b>Product stewardship scheme</b>	a scheme run by producers that assists customers to return used items for correct disposal or recycling. For example, some television and computer companies provide recycling (product stewardship) schemes for used television and computer equipment
<b>Residual waste</b>	the waste left over after all recyclable (including compostable) materials have been taken away for recycling; also called rubbish
<b>Resource recovery</b>	the recovery of items (resources) for recycling, reuse or repair rather than sending it to landfill. This term considers items as having a value, rather than being ‘waste’ to be thrown away
<b>Single-use plastics</b>	plastic items that are normally used once – such as plastic straws, spoons, plates, take-away drink cups
<b>Soft plastics</b>	plastic packaging that does not hold its shape once emptied, and mostly remains as a ball when crunched up rather than bouncing back into its original shape. Often in the form of bags that hold food items such as pasta, bread, lollies, potato chips
<b>Waste avoidance</b>	doing things in a way that avoids the creation of waste materials, whether recyclable or not
<b>Waste charge</b>	fees charged by Council on rates notices to provide for the cost of waste collection and related information and services to homes and business
<b>Waste education</b>	information, programs and activities that provide guidance on how to manage different types of waste, maximise recycling and minimise the amount of material sent to landfill
<b>Waste transfer station</b>	a location where waste materials (recyclables and rubbish) are collected for sorting and transferred to a suitable location for recycling, processing or burial





## Yarra Ranges Council


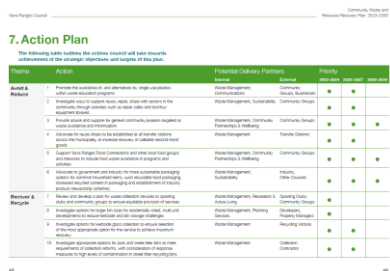

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**MAJOR CHANGES TO COMMUNITY WASTE AND RESOURCE RECOVERY PLAN – FINAL COPY**

Page	Change text from	To
<p>8/9</p> 	<p>Change to Vision statement – From:</p> <p>Our vision is for a Yarra Ranges community working together towards zero waste sent to landfill.</p>	<p>Updated vision</p> <p>Our vision is for a Yarra Ranges community working together towards a circular economy, minimising waste sent to landfill and maximising resources.</p> <p><i>Change also reflected in Executive Summary</i></p>
<p>18/19</p> 	<p>Change to description of Regional Context – From:</p> <p>Over the past decade, Yarra Ranges Council has been a member of the Metropolitan Waste and Resource Recovery Group, who work together to plan and deliver collaborative projects and contracts in waste management.</p> <p>Regional Waste and Resource Recovery Groups across Victoria will soon merge with the waste business unit within the Department of Environment, Land, Water and Planning, to create the Recycling Victoria Authority. This authority will oversee the state-wide kerbside waste service reform and the implementation of the Recycling Victoria policy.</p> <p>The development of collective regional waste collection and processing contracts will continue with the transition to a new authority. Regional partnerships for waste education projects will also continue.</p>	<p>To:</p> <p>Yarra Ranges Council is an active member of networks across Metropolitan Melbourne with other councils, state government and the broader waste industry.</p> <p>Council works collaboratively with other councils on joint procurement of waste services, delivery of waste minimisation projects, community education and sharing of knowledge and experience.</p>

<p>22/23</p>  <p>The infographic displays various statistics for the Yana Ranges Community Profile, including population figures (162,346, 60,663, 55+), household character (Neighbourhood character, 185,902, 3,000), and future growth. It also includes a section for 'Community feedback' with a photo of a person in a pink jacket.</p>	<p>Updated information on latest community consultation</p>	<p>Added: Further community consultation on a draft version of the Community Waste and Resource Recovery plan was conducted in 2022. Feedback from the consultation was considered in the development of the final plan. Copies of the survey and consultation reports can be found on the Council website.</p>
<p>48/49</p>  <p>The table titled '7. Action Plan' lists various actions under themes like 'Avoid &amp; Reduce' and 'Recycle &amp; Reuse'. It includes columns for 'Theme', 'Action', 'Potential Delivery Partners', and 'Priority'. The table contains 18 numbered rows of specific actions.</p>	<p>Addition of an action in the Avoid and Reduce theme</p>	<p>Added action:  Advocate to government and industry for more sustainable packaging options for common household items, such recyclable food packaging, increased recycled content in packaging and establishment of industry product stewardship schemes.  Internal partners – Waste Management, Sustainability  External partners – Industry, Other Councils</p>
<p>44/45</p>  <p>The infographic details 'Future Changes to Residential Waste Collections' and 'House Recycling (introduced 2022-23)'. It lists bin sizes (240L and 120L) and lists items that can and cannot be placed in bins, such as garden waste, household appliances, and various types of recycling.</p>	<p>Change to availability of 120L recycling bins  Change from 'Bin Size – 240L (120L available for elderly residents, those in retirement villages)</p>	<p>Change to:  Bin Size – 240L or 120L</p>

## COUNCIL ACTION PLAN 2023-25

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Report Author: Corporate Planning & Performance Coordinator

Responsible Officer: Chief Executive Officer

Ward(s) affected: (All Wards);

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*The author(s) of this report and the Responsible Officer consider that the report complies with the overarching governance principles and supporting principles set out in the Local Government Act 2020.*

### CONFIDENTIALITY

This item is to be considered at a Council meeting that is open to the public.

### SUMMARY

Based on the *Local Government Act 2020*, Council must review the Council Plan on an annual basis to ensure the strategic direction and the services it provides are aligned to the long-term Community Vision 2036 and current community needs.

The *Council Action Plan 2022-2025*, adopted in June 2022, has been revised for 2023-25, the remaining period of the current Council Plan. This document articulates Council's focus for the next two years in accordance with the *Council Plan 2021-2025*.

Following internal consultation and taking into consideration feedback provided through recent community engagement on the budget, no material changes have been made to the Council Action Plan. However, one environment focused action has been added.

### RECOMMENDATION

***That Council approve and adopt the Council Action Plan 2023-2025.***

### RELATED COUNCIL DECISIONS

- *Council Plan 2021-2025* (including *Community Vision 2036*) – adopted at the Council Meeting on 26 October 2021.
- *Council Action Plan 2022-2025* – adopted at the Council Meeting on 28 June 2022.

These documents can be found on [Council's website](#).

## DISCUSSION

### *Purpose and Background*

The *Council Plan 2021-2025* is the connection point between Yarra Ranges communities' vision for the future, Vision 2036 and Council's planning process.

The *Council Action Plan 2023-2025* articulates the initiatives, projects and actions that Council will focus on to deliver on the strategic objectives and strategies outlined in the Council Plan.

Following review of recent community feedback on the budget and internal consultation, no material changes have been made from the existing Council Action Plan for 2023-2025. The exception being that an additional action has been proposed for the key strategic objective, Protected and Enhanced Natural Environment, to reflect the emerging need and desire from the community for a greater focus on climate adaptation. This target is derived from the *Nature Plan* that is under development and will provide an annual progress measure specific to the natural environment.

The additional action is as follows:

*"Improve our green corridors to enable native wildlife movement across the landscape by investing in restoration and revegetation works on private and council land."*

## FINANCIAL ANALYSIS

The delivery of the projects and initiatives outlined in the Council Action Plan is aligned to annual budget planning. At this stage, there are no additional financial implications.

## APPLICABLE PLANS AND POLICIES

*Vision 2036* articulates the future aspirations for our community and the municipality. The Council Plan is Council's strategic planning guide to outline Council's direction and focus to achieve the vision for our community. *The Council Plan 2021-25* sets a clear direction for Council and the supporting Council Action Plan articulates the focussed key initiatives and projects to be undertaken by Council.

## SUSTAINABILITY IMPLICATIONS

### *Economic Implications*

The Council Action Plan outlines the key initiatives of Council to increase economic growth and support businesses and the community.

### ***Social Implications***

The Council Action Plan outlines the key initiatives that will enable Council to work towards providing quality services, infrastructure and programs to promote the health and wellbeing of all within the municipality.

### ***Environmental Implications***

The Council Action Plan identifies key environmental initiatives of the Council that enable the delivery of the key goals in the *Environment Strategy 2015-2025* and the *Nature Plan* (under development) to improve the health and biodiversity of our natural environment. These initiatives aim to reduce resources and energy consumption through environmental best practice.

## **COMMUNITY ENGAGEMENT**

The revised Council Action Plan has been informed through recent community feedback provided for the Council Budget. Due to no material changes made from the *Council Action Plan 2022-2025*, the *Council Action Plan 2023-2025* has been submitted for Council endorsement.

## **RISK ASSESSMENT**

Annually reviewing the Council Action Plan ensures organisational efforts are focused on achievement of Council Plan objectives. No action or initiative is assessed as being at risk of delivery failure.

## **CONFLICTS OF INTEREST**

No officers and/or delegates acting on behalf of the Council through the Instrument of Delegation and involved in the preparation and/or authorisation of this report have any general or material conflict of interest as defined within the *Local Government Act 2020*.

## **ATTACHMENTS TO THE REPORT**

1. Council Action Plan 2023-2025





# Yarra Ranges Council **Action Plan 2023–2025**

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## What is a Council Action Plan?

This Council Action Plan contains the activities that Council will complete to deliver on the Council Plan 2021-25. The activities include major initiatives, projects Council has identified as the most critical to delivering on our five strategic objectives, as well as other projects to support the achievement of the long-term vision for the municipality. This Action Plan is an attachment to the Council Plan 2021-25. It is reviewed annually to ensure our plans reflect the changing needs and priorities of our community.

## Acknowledgement of Country

Yarra Ranges Council acknowledges the Wurundjeri and other Kulin Nations as the Traditional Owners and Custodians of these lands. We pay our respects to all Elders, past, present, and emerging, who have been, and always will be, integral to the story of our region. We proudly share custodianship to care for Country together.



## What we want to achieve

Council has identified five important goals to describe what we are working towards – how we want Yarra Ranges to be in the future. These goals, and the activities we will complete over the coming four years, have been developed in response to our community’s priorities and the big issues facing Yarra Ranges. All activities completed by the organisation contribute to one or more of these goals.



### **Connected and Healthy Communities**

Communities are safe, resilient, healthy, inclusive and socially well connected. Quality services are accessible to everyone.



### **Protected & Enhanced Natural Environment**

A healthier environment for future generations.



### **High Performing Organisation**

An innovative, responsive organisation that listens and delivers quality, value for money services to our community.

**Quality Infrastructure and Liveable Places**  
Quality facilities and infrastructure meets current and future needs. Places are well planned and are hubs of activity that foster wellbeing, creativity and innovation.



**Vibrant Economy, Agriculture and Tourism**  
Our tourism, agriculture, health, manufacturing and other industries are leading and dynamic. Strong investment and attraction underpins sustainable economic growth and job creation.



## How we will achieve what is most important

The voices of the community have played a critical role in identifying and determining the priorities for the coming three years through the Council Plan Community Panel and broader community engagement. The following pages outline in detail the full list of activities Council together with the community will complete to achieving our goals during the 2021-25 period.

The most important initiatives and projects that Council will prioritise over the next four years include:

<b>Major Initiatives for 2021-2025</b>	<b>The desired community outcomes</b>	<b>How will Council achieve this</b>	<b>Partners involved</b>
<b>1. Improve Aboriginal health and wellbeing by providing a range of supports to Oonah Health and Community Services Aboriginal Corporation to establish the Healesville Belonging Place, an integrated Aboriginal health facility.</b>	Improve health and wellbeing for Aboriginal people across the municipality	Through supporting Oonah Health and Community Service to establish a purpose designed and built Aboriginal Health and Wellbeing facility, under the principles of self-determination.	Council/ Oonah Health/ Department Family Fairness and Housing.
<b>2. Become a world class trails and eco-tourism destination through project development, delivery, advocacy and partnerships, including the delivery of the and Ridges and Rivers projects.</b>	A trail network that provides locals with improved connections and recreation options to help improve health outcomes and active transport alternatives. It will create a tourism destination to support economic growth	Delivering projects including the Warburton Mountain Bike Destination, Yarra Valley Trail, RidgeWalk, Olinda Creek Trail, Brushy Creek Trail upgrade, Nelson Road Shared User Path and Millgrove River Trail. Continuing funding advocacy for other trails.	Council/ State Government/ Tourism Board.
<b>3. Ensure the plants, animals and ecologies of Yarra Ranges that our community value so much are supported and retained alongside us in healthy landscapes, by preparing and implementing a Biodiversity Plan that provides renewed focus for Council, the community, and partners.</b>	Better protection for our threatened species, plant and animals, environmental stewardship, protected and enhanced parks and gardens to support physical and mental health and wellbeing. Supported sustainable tourism initiatives.	Preparing and implementing a Biodiversity Plan and Action Plan that provides renewed focus for Council, the community, and partners through prioritising conservation programs.	Council/ State Government/ Melbourne Water/ Community/ Friends of Group/ Landcare.

<b>Major Initiatives for 2021-2025</b>	<b>The desired community outcomes</b>	<b>How will Council achieve this</b>	<b>Partners involved</b>
<p><b>4. Reduce our ecological footprint through our commitment to shift to sourcing 100% renewable energy and help our communities to thrive in a changing climate through adaptive, resilient and regenerative programs and projects. .</b></p>	<p>Improved energy resilience for our communities, reduction in Council's greenhouse gas emissions, support community to adapt to climate change.</p>	<p>Project will include a Micro grid feasibility study to explore future locations of solar and battery systems in Council facilities for communities to access.</p> <p>A Power Purchase agreement to purchasing 100 renewable energy and transition the fleet to low emission vehicles.</p>	<p>Council/ Community Renewable Energy Groups/ State Government/ Easter Alliance for Greenhouse Action (EAGA)/ Federal Government.</p>
<p><b>5. Improve mental health &amp; wellbeing outcomes for the community, strengthen social connections, and support and encourage equitable and accessible mental health services across the municipality.</b></p>	<p>Community have good mental health and wellbeing. All community members feel socially connected, especially community members from priority populations. Community members requiring mental healthcare can easily access services close to them in a timely manner.</p>	<p>Establishing the Yarra Ranges Mental Wellbeing Network; bringing together key partners to collaborate and codesign approaches that fit community need.</p> <p>Mental Wellbeing Major Initiative Project; YRC internal collective impact working group.</p> <p>Projects and initiatives around help seeking behaviours, addressing stigma, building on protective factors</p>	<p>Council/ Eastern Health/ Inspiro Community Health/ EACH/ EDVOS/ ECLC/ Womens Health East/ Neighbourhood House Network/ Oonah/ Department Education and Training/ Cire/ Headspace / Eastern Regional Libraries.</p>
<p><b>6. Undertake and deliver integrated place planning for priority activity centres and town centres to achieve coordinated community outcomes across Yarra Ranges, in accordance with the Living Places Framework.</b></p>	<p>Prioritised delivery of place projects and improved methodology for place planning, with shared investment across the different sizes of centres.</p>	<p>Use industry standard tools for place planning, including Structure Plans, Urban Design Frameworks and Masterplans, on priority centres.</p> <p>Deliver short to medium term projects and plan for long term projects.</p>	<p>Council / State Government Funding bodies (DJPR) / Statutory authorities (DELWP, CFA, Melbourne Water, DoT) / Wurundjeri Council.</p>



<b>Major Initiatives for 2021-2025</b>	<b>The desired community outcomes</b>	<b>How will Council achieve this</b>	<b>Partners involved</b>
<p><b>7. Strengthen community resilience by working together to achieve greater emergency planning and preparedness with a focus on traditional cultural burning practices. This will include the development a firestick program across public, private land and local training hubs.</b></p>	<p>Communities have plans in place and are prepared for emergencies that may happen in the future.</p> <p>Mitigate the risk of wildfire through empowering the community to build resilience and incorporating indigenous knowledge, systems regarding land management to rebuild the health of Country.</p>	<p>Working with interested communities and partner agencies to strengthen and develop community disaster resilience. Building on existing community disaster resilience networks in Yarra Ranges.</p> <p>Increasing awareness of the practice of cultural burning to the broader community and provide opportunities for engagement for key stakeholders in the emergency management sector.</p>	<p>Council/ Montrose Township Group, Millgrove Residents Action Group/ Yarra Ranges Township Group Network /Regional Community Recovery Committee</p> <p>Council/ Wurundjeri Council/ Firestick Alliance Aboriginal Cooperation.</p>
<p><b>8. Implement a “build back better” approach to economic recovery and adaptation activities that improves the well-being of the community and business.</b></p>	<p>Increase community and business resilience to any future economic shocks.</p> <p>Sustainable business supply chains that provide access to a range of jobs, goods and services locally.</p>	<p>Implementation of the Region of Choice strategy to address skill shortages.</p> <p>Support existing and the establishment of new Business and Trader Groups to lead the delivery of economic outcomes for businesses, townships, and regions of Yarra Ranges.</p> <p>Facilitated investment through the Priority Investment and Better Approvals Projects Concierge service.</p> <p>Continue the Buy, Employ and Enjoy initiative.</p> <p>Encouraging access to local jobs, goods and services.</p>	<p>Council/ Trader and Business Groups/ Tourism Board/ State Government/ Education Institutions/ Businesses/ Industry Groups.</p>



## Connected and Healthy Communities

Communities are safe, resilient, healthy, inclusive and socially well connected.  
Quality services are accessible to everyone.

### Council Plan Actions

No	Council Plan 2021-25 Actions	The desired community outcomes	How will Council achieve this	Partners involved
1	<b>Implement priority actions arising from the Health and Wellbeing Plan.</b>	A much healthier community overall with a focus in areas including: - <ul style="list-style-type: none"> <li>- Mental wellbeing</li> <li>- Physical activity</li> <li>- Climate change and impacts on health</li> <li>- Reduce harm from alcohol</li> <li>- Health impacts of emergencies</li> <li>- Gender Equity</li> <li>- Healthy eating</li> </ul>	Identify the specific short, and long, term activities to implement as part of the Health and Wellbeing Plan	Council/ State Agencies/Community Health Services, community organisations Businesses/Volunteers
2	<b>Implement Council's Healthy and Active Ageing Plan to increase the age and dementia friendliness of the municipality and improve social connection.</b>	A municipality that works well for elderly people	Consult with age care providers and older residents to inform future activity and build social connection, challenge ageism, increasing age friendly housing, improve dementia awareness, and activities to reduce and prevent accidents	Council/ Federal Government/ State Agencies
3	<b>Implement the Pandemic Recovery and Resilience Framework and other key recovery actions to support the rebuilding of community resilience.</b>	A community that has managed the pandemic	For realistic recovery from the pandemic, identify the specifics needed for the various sectors of the community	Council/ State and Federal Government/ State Agencies
4	<b>Update the Aquatics Strategy to</b>	An updated aquatics plan to make sure the	Work to provide aquatic facilities that	Council / State Government

No	Council Plan 2021-25 Actions	The desired community outcomes	How will Council achieve this	Partners involved
	strategically plan for the provision of aquatic facilities across the municipality that are inclusive, sustainable, well designed and positioned to improve community health and wellness.	right type of facilities are accessible to cater for the needs of the community across the municipality	are sustainable and well designed and will improve community health and wellness.	
5	Revise and implement key actions of the Recreation and Open Space Strategy to increase community access, support community connections and activate Council's community facilities and open space network.	A community that has better access to, and better involvement in, Council's community facilities	Review Council's Open Spaces approach to ensure residents can enjoy and benefit from Council facilities	Council/ State Agencies/ State and Federal Government/ Sporting Groups
6	Implementing key actions in the Integrated Transport Strategy 2040 with a focus on people's localised movements and advocating for a cohesive public transport network that connects people with services, employment and to each other.	A better public transport network	Advocate more strongly for a cohesive and convenient public transport network that people can use easily to get them where they want to go	Council/ State Agencies/ State and Federal Government/ Businesses



## Quality Infrastructure and Liveable Places

*Quality facilities and infrastructure meets current and future needs. Places are well planned hubs of activity that foster wellbeing, creativity and innovation.*

### Council Plan Actions

No.	Council Plan 2021-25 Actions	The desired community outcome	How will Council achieve this	Partners included
1	<b>Improve our social infrastructure planning by working across council to integrate place, service and infrastructure planning to meet the needs of our diverse communities and improve the unique places they live.</b>	The community are connected, have flexible and multipurpose facilities that cater for all abilities and ages	Develop an accepted standard for service planning, place planning, open space and infrastructure planning	Council/ State Agencies/ State and Federal Government/
2	<b>Develop and implement a strategic approach for activating and providing functional and affordable community assets and spaces that are welcoming to all and support the wellbeing and connectedness of the community.</b>	The community benefits from the way Council properties are managed and used	Develop a plan so that all Council properties are measured against community benefit	Council
3	<b>Continue to evolve the maturity and sophistication of Council's Asset Management planning to ensure existing community infrastructure is renewed and maintained for the benefit of future generations.</b>	Council puts the focus on projects that meet current and future needs of the community	All projects to be checked against community needs	Council/ State Government
4	<b>Activate, develop and construct significant community facility projects across the municipality to respond to current and future community and social needs.</b>	Community facilities are accessible, resilient, effectively used by the community and cater for the varied needs of the community	Engage with community to determine their needs and ensure current and future facilities are fit for purpose, energy resilient and accessible for all.	Council / State Government/ Community Groups/ Residents
5	<b>Seal gravel roads in townships across the municipality enabled through funding provided by the Federal Government combined with landowner contributions to</b>	Council seal gravel roads wherever possible with the funding supplied by	Ensure Council teams and equipment are ready to seal roads as funds become available	Council / Federal Government / Residents

No.	Council Plan 2021-25 Actions	The desired community outcome	How will Council achieve this	Partners included
	improve local amenity and liveability for the community.	the Federal Government		
6	Integrate and strengthen the planning, maintenance and management of community assets to ensure the needs and priorities of current and future communities are balanced against investment requirements and Council's ability to pay for them.	Within budget constraints, Council does as much as possible to manage all public assets for the benefit of the community	Develop an inventory of assets and assess what improvements are needed	Council / State and Federal Council
7	Complete the Lilydale Structure Plan and incorporate key actions into the Planning Scheme through an amendment to provide clear direction of the future land use, urban design, transport and access and landscaping forms for Lilydale.	The Lilydale Structure Plan completed to give clear direction for the future of Lilydale.  Fostering investment and local employment while preserving the character of Lilydale.	Work collaboratively across Council and ensure resources are available for this plan to be completed	Council / State Government / Businesses/ State Agencies
8	Amend the planning scheme by using the outcomes of the reviewed Housing Strategy to ensure housing needs of the community are met, new housing is well designed, provides for housing choice and improve neighbourhood character outcomes in residential areas.	Overall housing needs of the community are met with appropriate design, plenty of choice and improved neighbourhood character	Actively liaise with building and architectural bodies to strongly put forward Council views	Council / State Government / Businesses/ State Agencies
9	Plan, facilitate and develop urban renewal projects, including Lilydale Revitalisation project, Kinley re-development and Level Crossing Removal to facilitate the revitalisation of Lilydale. Ensuring alignment with Council's place making objectives of encouraging a vibrant, attractive, sustainable, healthy and connected community.	Complete all necessary planning for the redevelopment of the Lilydale Quarry Ensure the community gets maximum benefit from the level crossing removal project	Actively engage with relevant bodies to ensure planning work is completed	Council / State Government / Businesses
10	Establish a municipal wide Development Contributions Plan to provide funds for new infrastructure to support future growth and development.	Development Contributions Plan established for funding new infrastructure	Make sure resources are available for this plan to be completed	Council / Developers





## Protected and Enhanced Natural Environment

*A healthier environment for future generations.*

### Council Plan Actions

No.	Council Plan 2021-25 Actions	The desired community outcome	How will Council achieve this	Partners involved
1	Implement actions of the Liveable Climate Plan and shift to low carbon and renewable energy sources across all facilities, buildings, plant and fleet to reduce Council's climate impact.	Climate footprint reduced due to Council action	Produce an inventory of the major tasks and work on completing them all.	Council / State and Federal Government/ Environmental Volunteers Groups/ Businesses
2	Deliver actions of the Urban Tree Canopy Strategy and deliver the parks and reserves improvement program to enhance amenity, access and participation in public spaces and places.	Streets, public parks and gardens generally improved for greater community amenity	Ensure the relevant departments on the ground, focus on community amenity.	Council
3	Develop a Municipal Waste Plan, education programs and pursue innovative waste processing technologies to maximise waste resource recovery for a more sustainable future.	Sustainability improvement with better waste technologies and continuing community education	Dedicate appropriate resources to ensure the Municipal Waste Plan is completed	Council / State Government/
4	Continue to develop and support the capability of Environmental Volunteer Groups including seeking funding support to invest in our shared environment.	Local biodiversity is secured and communities are supported to be more sustainable	Deliver educational program of webinars, support groups and to build capacity and membership base of groups. Review model to create broaden avenues of volunteering.	Council / State Government/ Volunteers / local communities.
5	Improve our green corridors to enable native	Health and wellbeing,	Community incentive extension	Council / State Gov /

No.	Council Plan 2021-25 Actions	The desired community outcome	How will Council achieve this	Partners involved
	wildlife movement across the landscape by investing in restoration and revegetation works on private and council land.	connection to country, habitat connectivity and restoration of our landscapes	programs, i.e Ribbons of Green & Gardens for Wildlife to restore private land and bushland reserve network restoration works along with weed control programs	Melbourne Water / Community (environmental volunteers, Landcare)



## Vibrant Economy, Agriculture and Tourism

*Our tourism, agriculture, health, manufacturing and other industries are leading and dynamic. Strong investment and attraction underpins sustainable economic growth and job creation.*

### Council Plan Actions

No.	Council Plan 2021-25 Actions	The desired outcome	How will Council achieve this	Partners involved
1	Implement a plan that improves employment opportunities and mental health outcomes for everyone.	A better life for everyone in terms of employment and mental health	Work with local partners to develop an integrated response into mental health well-being programs as well as entry or re-entry and employment	Council / State Government/ State Agencies / Youth Ambassadors/ Businesses / Educators / Community Health Services
2	Develop and deliver improvements to Council's network of recreational trails across the municipality to support improved recreational, health, social, and economic needs of the community and become a world class trails, agritourism and eco-tourism destination.	Yarra Ranges recognised as a world class trails and eco-tourism destination	Work closely with relevant local providers and, as well, channel sufficient funding into the required initiatives Progress of the delivery of the Ridges and Rivers Project Growth and development of ecotourism in Yarra Ranges	Council / State Government/ State Agencies / Tourism Board
3	Finalise and implement a new Economic Development Strategy and Investment Attraction Plan, to create local jobs, business, and investment to deliver positive and sustainable economic community outcomes.	An Economic Development Strategy that gives the community a major economic boost	Ensure sufficient resources are devoted to this Plan to ensure it is not delayed and that it is effective Continued support for existing businesses. Growth in Small to Medium Businesses.	Council / State and Federal Government/ State Agencies / Businesses/ Tourism Board/ Business, Trader and Industry Groups / Educators
4	Deliver key initiatives outlined in the Bayswater Business Precinct Transformation	Measurable economic benefits gained from delivering	For the Bayswater Business Precinct Transformation Strategy select the key	Council / State and Federal Government/ State

No.	Council Plan 2021-25 Actions	The desired outcome	How will Council achieve this	Partners involved
	Strategy that create jobs, attracts future investment and progresses the revitalisation of the Precinct, in association with Knox and Maroondah Councils.	carefully chosen recommendations of the Bayswater Business Precinct Transformation Strategy	initiatives and get steps underway for delivering these initiatives without delay. Leverage the Bayswater Business District to create and grow jobs in the areas and wider Yarra Ranges.	Agencies / Businesses
5	Raise the cultural profile of Yarra Ranges to drive creative industry development and cultural tourism spend via attracting and retaining new creative professionals and businesses and supporting existing creative professionals and businesses.	Yarra Ranges viewed as a creative hub for professionals, businesses and cultural tourism	Investigate the development of a cultural and creative brand Identify and document existing creative industry assets Identify opportunities for development and growth to support existing creative professionals and attract new sectors into the region.	Council / State and Federal Government/ State Agencies/ Businesses/ Tourism Board
6	Develop a destination management Plan with Yarra Ranges Tourism Board to support the right eco-tourism, infrastructure growth that also protects our natural environment.	Yarra Ranges is natural environment is values and supported by the right eco-tourism	Develop a plan for appropriate eco-tourism opportunities	Council / State and Federal Government/ Businesses/ Tourism Board



## High Performing Organisation

*An innovative, responsive organisation that listens and delivers quality, value for money services to our community.*

### Council Plan Actions

No.	Council Plan 2021-25 Actions	The desired organisational outcomes	How will Council achieve this	Partners involved
1	Ensure Council's workforce reflects the community it serves by embedding the principles of diversity and inclusion in our day-to-day leadership and share our experience and knowledge with the community.	Council leadership and workforce reflect the total diversity within the community	Introduce appropriate training for relevant staff to ensure our leadership understands, respects and reflects the diversity of the community	Council / State Government
2	Improve the community's trust and connection with Council through more meaningful and inclusive community engagement and innovative approaches to communication.	Innovative Council approach to communication and engagement improves community trust and, therefore, connection	Research and explore ways that Council can build trust through communication	Council
3	Develop and grow an organisational culture committed to delivering exceptional customer experience.	The whole of Council committed to and delivering exceptional customer service	Research and explore ways that Council can become more customer focused, identify any departments that need to improve and introduce the necessary training	Council
4	Streamline internal Council processes and improve systems to deliver more efficient services and improved interactions with our community.	All Council processes and systems improved for added efficiencies	Identify any Council processes and systems that are not performing optimally and make the necessary changes	Council
5	Increase the community's visibility, understanding of and access to Council's information and performance to improve accountability to the community.	Council is more upfront about all aspects of performance	Introduce a KPI related to the transparency of Council performance against commitments	Council / State Government



<b>No.</b>	<b>Council Plan 2021-25 Actions</b>	<b>The desired organisational outcomes</b>	<b>How will Council achieve this</b>	<b>Partners involved</b>
6	Consolidate and strengthen advocacy through evidence and stronger relationships to ensure other levels of government are effectively and efficiently engaged to support local services and programs.	Council effectively engages state and federal governments to gain all relevant support	Develop stronger links with state and federal government representatives in order to ensure Yarra Ranges is front of mind when decisions are made by these decision makers	Council/ State and Federal Government
7	Adapt and improve our service delivery to ensure the measurable provision of services that are supporting our municipality to rebuild resilience.	Overall improved services from Council for the benefit of the community generally	Investigate where Council service delivery is outstanding and where it falls down and make the necessary changes	Council
8	Strengthen relationships and networks to support local community groups and build their capacity to be active in achieving community outcomes.	Stronger community networks who are supported to achieve great community outcomes	Identify and develop key relationships in the local community and provide support to build local capacity	Council / community networks

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## National Relay Service:

**133 677** - for callers who have a hearing, speech or communication impairment and for Text Telephone or modem callers

**1300 555 727** - for callers using Speech to Speech relay

**9658 9461**-TTY

## Translation and Interpreting Service:

131 450 Translating and Interpreting Services (TIS) National. An interpreting service is available if required.

### Chinese Simplified (Mandarin)

如需要，可拨打全国翻译服务处（TIS）的电话 131 450 提供口译服务。

### Chinese Traditional (Cantonese)

如需要，可撥打全國翻譯服務處（TIS）的電話 131 450 提供傳譯服務。

### Chin Hakha

Hohlet na herh ah cun Translating and Interpreting Services (TIS) kha 131450 ah chawnh in hlohleh rian tuawn nak kha hman khaw h a si

### Dutch

Indien nodig kunt u onze tolken- en vertaaldienst Translating and Interpreting Services (TIS) bellen op 131 450 om met een tolk te spreken

### Italian

Un servizio di interpretariato è disponibile, se richiesto, contattando i Servizi di traduzione e interpretariato nazionali (TIS) al numero 131 450

## Community Links

### Lilydale

15 Anderson Street

### Healesville

110 River Street

### Monbulk

21 Main Road

### Yarra Junction

2442-2444 Warburton Highway

### Upwey

40 Main Street

This document is available in text format online at

[yarraranges.vic.gov.au](http://yarraranges.vic.gov.au)

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## **EASTERN REGIONAL LIBRARIES - TRANSITION TO A BENEFICIAL ENTERPRISE**

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Report Author: Manager Creative and Connected Communities

Responsible Officer: Director Communities

Ward(s) affected: (All Wards);

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*The author(s) of this report and the Responsible Officer consider that the report complies with the overarching governance principles and supporting principles set out in the Local Government Act 2020.*

### **CONFIDENTIALITY**

This item is to be considered at a Council meeting that is open to the public.

### **SUMMARY**

The introduction of the *Local Government Act (LGA) 2020* has a requirement for Regional Library Corporations to be wound up in accordance with section 330(4) and a beneficial enterprise established in accordance with section 110. In line with this requirement, Eastern Regional Libraries Corporation (ERL) is transitioning to Your Library Ltd (YLL) to continue delivering library services on behalf of Yarra Ranges Council, Knox City Council and Maroondah City Council. The transition is scheduled to occur on 1 July 2023.

At the 28 June 2022 Council Meeting, pursuant to Section 110(1) of the LGA, Council resolved to participate in the formation of, and become a founding member of, Your Library Ltd (a public company limited by guarantee) on the terms of the Your Library Ltd Constitution as set out in attachment 1.

Over recent months, the ERL board has considered options and obtained legal advice regarding equity share and treatment of accumulated surpluses on transition to the new entity. At the ERL Board meeting on 4 April 2023, the Board resolved to proceed with the original equity share.

In 2021, a \$2M distribution from ERL's accumulated surplus was made to each member council. This resulted in the equity share changing. In order to return the equity share back to the original allocation following the ERL Board's decision, a distribution will be made to Yarra Ranges Council of \$1,011,920 and to Knox City Council of \$924,066. The ERL Board has resolved that these funds are to be held in a reserve fund to be used for library purposes.

The final step in undertaking the transition is for the Member Councils to adopt the Your Library Ltd Agreement for execution as set out in attachment 2.

## RECOMMENDATION

### *That Council*

- 1. Resolves to adopt the Your Library Ltd Agreement;**
- 2. Authorises the Chief Executive Officer to execute the Your Library Ltd Agreement on behalf of Council before 30 June 2023; and**
- 3. Notes that prior to transition, a distribution of \$1,011,920 will be made to Yarra Ranges Council, as adopted by the Eastern Regional Libraries Board, with funds to be used for library purposes.**

## RELATED COUNCIL DECISIONS

At the 28 June 2022 Council Meeting, the following resolution was passed.

That Council:

1. Note the proposal that the Eastern Regional Library Corporation be wound up in accordance with section 330(4) of the Local Government Act 2020 and a Beneficial Enterprise be established in accordance with Section 110 of the Local Government Act 2020 to deliver library services on behalf of the Yarra Ranges, Knox and Maroondah City Councils.
2. Note that officers have assessed the proposal to participate in a beneficial enterprise and are satisfied that Council has met, and can continue to meet, the requirements of sections 110(1) and 111 of the Local Government Act 2020.
3. Note the risk assessment, management and mitigation strategies to address these risks set out in attachment two of the report.
4. Pursuant to section 110(1) of the Local Government Act 2020, resolve to participate in the formation of, and become a founding member of, Your Library Ltd (a public company limited by guarantee) on the terms of the Your Library Ltd Constitution as set out in Attachment one and:
  - a. Appoints the following two natural persons as the inaugural Directors of Your Library Ltd:
    - Name 1: Councillor Jim Child
    - Name 2: Councillor Andrew Fullagar
  - b. Appoints the following natural person as its Corporate Representative:
    - Name: Clinton Hong Manager Creative & Connected Communities
5. Note that the Eastern Regional Library Corporation will continue to provide library services under the current model, while officers from the member Councils and Eastern Regional Library Corporation negotiate and finalise the terms of the Your Library Agreement which will govern the relationship between the Member Councils and Your Library Limited.



## DISCUSSION

### *Purpose and Background*

Council's original participation in ERL commenced in 1996 with the establishment of ERL by the Member Councils in accordance with section 196 of the Local Government Act 1989. The Board of ERL governs the Corporation in accordance with the relevant provisions of the Local Government Act 1989, the Regional Library Agreement and other adopted policies and procedures. The agreement was reviewed and renewed in 1999 and 2009.

The introduction of the Local Government Act 2020 requires Regional Library Corporations to transition to a Beneficial Enterprise structure within ten (10) years from 1 July 2020. This is underway with Eastern Regional Libraries Corporation (ERL) transitioning to Your Library Ltd (YLL).

### **Equity share in the new entity**

The initial equity percentages were established in 1996 when ERL commenced. These remained in place until 2021 when a \$2M distribution from accumulated surplus was made to each member council. This changed the equity share in ERL to:

Member Council	Original	After distribution
Yarra Ranges	38.72%	42.79%
Knox	36.39%	38.7%
Maroondah	24.89%	18.52%

Over recent months, the ERL Board has explored a range of options for equity share distribution in the new entity including transitioning:

- Under the current equity share (equating to 42.79% for Yarra Ranges Council);
- Under an equal equity share arrangement; or
- Under the original equity share (equating to 38.72% for Yarra Ranges Council)

On 4 April 2023, the ERL Board resolved to transition with the original equity share. This requires a distribution of \$1,011,920 to Yarra Ranges Council and \$924,066 to Knox City Council.

This decision was based on consideration of the financial position of ERL. When the Victorian Auditor-General's Office (VAGO) Indicators were applied, this option was deemed an acceptable risk by the ERL Board. Member council preferences were also considered in making this decision.

***Options considered*****Withdraw from the arrangement and deliver library services directly.**

This was discounted as it is likely to require a larger investment from Council and negatively impact relationships with neighbouring councils so was not considered. A 2019 VAGO Council Libraries report found sharing services makes libraries more efficient, enabling them to deliver more services to the community with fewer resources. VAGO data analysis shows that, overall regional library corporations and co-operative models deliver core library services more efficiently than most standalone libraries.

***Recommended option and justification*****Continue with the partnership between member councils and transition to the new entity to deliver library services on Councils behalf.**

This delivery model has proven to be successful over many years and Council has previously resolved to become a founding member of Your Library Ltd on the terms of the Your Library Ltd Constitution as set out in attachment 1. The final step is to adopt the Your Library Ltd Agreement for execution as set out in attachment 2.

**FINANCIAL ANALYSIS**

Council contributes funds to ERL to deliver its library service. Since 2016-17, member councils agreed to an annual increase in line with the rate cap. In 2023-2024 Council has budgeted for a \$3,899,888 contribution. The transition to the new entity does not have any effect on Council's annual contributions.

Costs associated with transitioning to a beneficial enterprise will be funded by ERL.

In a company limited by guarantee, liability of the members is \$1, apart from future obligations that may arise from a call on the Defined Benefits Superannuation Scheme. ERL currently has staff in the defined benefit scheme and the estimated total liability is approximately \$2.5M. This equates to a Yarra Ranges Council liability of approximately \$968,000 (equity share of 38.72%).

**Contribution to Your Library Ltd on transition**

<b>Member Council</b>	<b>*Initial Contributions</b>	<b>Plus accumulated surpluses at the date of transition (AS)</b>	<b>Total contribution to YLL</b>
	<b>\$,000</b>		<b>\$,000</b>
Yarra Ranges Council	\$1,429	38.72% of AS	\$1,429 + 38.72% of AS**
Knox City Council	\$1,342	36.39% AS	\$1,342 + 36.39% of AS
Maroondah City Council	\$918	24.89% AS	\$918 + 24.89% of AS
<b>Total Member Councils' contributions to YLL</b>	<b>\$3,689</b>	<b>100% of AS</b>	<b>\$3,689 + 100% of AS</b>

*\*Initial Contributions are derived from the initial contributions to ERL in 1996*

*\*\*The dollar value of the Member Council's contribution will be adjusted as at the date of transition as the value of accumulated surpluses will fluctuate until the day of transition. The calculation will use the following formula for Yarra Ranges Council: \$1,429,000 (Initial contribution) + % share (38.72%) of the accumulated surpluses as at the date of transition = Total Equity of Yarra Ranges Council in Your Library Ltd.*

The percentage equity will be the percentage distribution available to the Member Councils in the event of withdrawal or dissolution.

## **APPLICABLE PLANS AND POLICIES**

Library services support Council's strategic objectives:

- Connected and Healthy Communities
- Quality Infrastructure and Liveable Places
- Protected and Enhanced Natural Environment
- Vibrant Economy, Agriculture and Tourism

## **RELEVANT LAW**

The *Local Government Act 2020* requires Regional Library Corporations to be wound up in accordance with section 330(4) and a beneficial enterprise established in accordance with section 110 and Council to comply with section 111.

## **SUSTAINABILITY IMPLICATIONS**

### ***Economic Implications***

There are no known economic impacts arising from the recommendation in this report.

### ***Social Implications***

There are no known social impacts arising from the recommendation in this report.

### ***Environmental Implications***

There are no known environmental impacts arising from the recommendation in this report.

## **COMMUNITY ENGAGEMENT**

Not applicable

## COLLABORATION, INNOVATION AND CONTINUOUS IMPROVEMENT

The information within this report is based on discussions with:

- ERL management;
- ERL Board Members including Yarra Ranges Council Councillor representatives;
- Council officers including Financial Services and Creative & Connected Communities; and
- Other proposed member councils Knox City Council and Maroondah City Council officers.

## RISK ASSESSMENT

Risk	Likelihood	Mitigation
Risk to financial viability of new entity	Improbable	<ul style="list-style-type: none"> <li>• Risk assessment completed by ERL</li> <li>• External legal services review of new entity documentation and associated risks</li> <li>• Strong history of ERL financial performance and healthy financial position</li> <li>• Councillor representation on Board</li> </ul>
Reputational damage to Council	Improbable	<ul style="list-style-type: none"> <li>• Risk assessment completed by ERL</li> <li>• Strong historical performance of ERL</li> <li>• Councillor representation on Board</li> <li>• Demonstrated evidence of successful model of outsourcing library service to external organisation</li> </ul>
A member council withdraws from the arrangement	Improbable	<ul style="list-style-type: none"> <li>• Strong relationships with member councils and goodwill built over 28 years</li> <li>• Strong historical performance of ERL</li> </ul>
Underperforming operation	Improbable	<ul style="list-style-type: none"> <li>• Risk assessment completed by ERL</li> <li>• External legal services review of new entity documentation and associated risks</li> <li>• History of ERL operating success</li> <li>• Councillor representation on Board</li> </ul>

Likelihood rating: Improbable (Risk unlikely to occur), Possible (Risk will likely occur), Probable (Risk will occur)

## CONFLICTS OF INTEREST

No officers and/or delegates acting on behalf of the Council through the Instrument of Delegation and involved in the preparation and/or authorisation of this report have any general or material conflict of interest as defined within the *Local Government Act 2020*.

**ATTACHMENTS TO THE REPORT**

1. Your Library Ltd Constitution
2. Your Library Ltd Agreement



## Your Library Ltd

**A Public Company Limited by Guarantee**

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## 1 Preamble

- (a) The Founding Member Councils first established the Eastern Regional Libraries Corporation (ABN 67 990 548 408) on or about 14 June 1996 by an agreement made under section 196 of the Local Government Act 1989 (Vic).
- (b) In accordance with section 330(4) of the Local Government Act 2020 (Vic), as an existing regional library, the Eastern Regional Libraries Corporation must be wound up by 1 July 2031.
- (c) Section 110(1) of the Local Government Act 2020 (Vic) allows the Founding Member Councils to become members of and participate in the formation of a corporation and appoint directors.
- (d) Therefore, on the 27th and 28th June 2022, the Founding Member Councils resolved to apply section 110 of the Local Government Act 2020 (Vic) to establish the Company as a new not-for-profit, public library, registered as a company limited by guarantee under the Corporations Act.
- (e) The Founding Member Councils will record their initial contribution and transfer of assets, licences, operations and activities from the Eastern Regional Libraries Corporation to the Company under a separate agreement.

## 2 Name of Corporation

The name of the company is **Your Library Ltd.**

## 3 Status of the Constitution and replaceable rules

This is the Constitution of the Company. The provisions of the Corporations Act that apply as replaceable rules are displaced by this Constitution and accordingly do not apply to the Company.

## 4 Interpretation

### 4.1 Definitions

In this Constitution unless the contrary intention appears:

**Auditor** means the person appointed for the time being as the auditor of the Company.

**ABN** means Australian Business Number.

**ACNC** means the Australian Charities and Not-for-profits Commission.

**ACNC Act** means the *Australian Charities and Not-for-profits Commission Act 2012* (Cth) and includes any regulations made under the ACNC Act and any rulings or requirements of the Commissioner made under the ACNC Act having application to the Company.



**ASIC** means the Australian Securities and Investments Commission.

**Appointed Board Member** means a Director appointed pursuant to clause 18.1(b) from time to time.

**Board** means the Directors present at a meeting, duly convened as a Board meeting, at which a quorum is present.

**Business Day** means a day which is not a Saturday, Sunday or bank or public holiday in Melbourne, Victoria, Australia.

**Company** means **Your Library Ltd (ACN )**.

**Constitution** means this constitution as amended from time to time.

**Corporations Act** means the *Corporations Act 2001* (Cth).

**Deductible Contributions** mean a contribution of money or property as described in item 7 or item 8 of the table in section 30-15 of the Tax Act in relation to a fundraising event held for that purpose.

**Director** means a person who is a director for the time being of the Company and **Directors** means more than one Director.

**Founding Member Councils** means the Knox City Council, Maroondah City Council and Yarra Ranges Shire Council.

**Gifts** mean gifts of money or property for the Objects of the Company.

**ITAA97** means the *Income Tax Assessment Act 1997* (Cth).

**Member** means the Member Councils and any other body corporate who is, or who is registered as, a member of the Company.

**Members** mean more than one Member.

**Membership** means being a Member of the Company.

**Member Councils** means the Knox City Council, Maroondah City Council and Yarra Ranges Shire Council, and where a subsequent Council is admitted as a Member, includes that Council.

**Objects** mean the objects of the Company set out in **clause 5.1**.

**Property** means any real, personal, tangible, intangible, moveable or immovable property of any kind where ever situated including money and choses in action.

**Register of Members** means the register of Members maintained pursuant to the Corporations Act.

**Replaceable Rules** means the replaceable rules applicable to a public company limited by guarantee set out in the Corporations Act.

**Representative** means a body corporate or the Member Councils' representative as appointed under clause 15.

**Rule** means a rule, by-law or policy made by the Directors in accordance with clause 19(e), and includes all rules, by-laws or policies previously adopted by the Eastern Regional Libraries Corporation and which become the rules, by-laws or policies of the Company at the date of incorporation of the Company.

**Secretary** means any person appointed for the time being as, or to perform the functions of, secretary of the Company.

**Tax Act** means the *Income Tax Assessment Act 1997* (Cth) and the *Income Tax Assessment Act 1936* (Cth) as appropriate.

## **4.2 Interpretation**

In this Constitution:

- (f) the words “including”, “include” and “includes” are to be construed without limitation;
- (g) a reference to legislation is to be construed as a reference to that legislation, any subordinate legislation, regulations and instruments made under it, and that legislation and subordinate legislation, regulations and instruments, as amended, re-enacted or replaced from time to time;
- (h) a reference to a “person” includes a corporate representative appointed pursuant to section 250D of the Corporations Act;
- (i) headings are used for convenience only and are not intended to affect the interpretation of this Constitution;
- (j) a reference to a meeting includes a meeting by digital or other technology where all attendees have reasonable opportunity to participate;
- (k) a reference to a person being present in person includes an individual participating in a meeting as described in clause 4.2(e);
- (l) a reference to a person being present includes an individual participating in a meeting in person or through a Representative; and
- (m) a word or expression defined in the Corporations Act and used, but not defined, in this Constitution has the same meaning given to it in the Corporations Act when used in this Constitution.

## **4.3 Operation of Corporations Act**

While the Company is a registered charity under the ACNC Act the provisions of the Corporations Act in Part 2G.2 and Part 2G.3<sup>1</sup> apply as if section 111L(1) of the Corporations Act was not enacted and if one of those provisions includes a reference to lodging documents with or notifying ASIC that requirement does not apply to the Company.

## **4.4 Signing**

Where, by a provision of this Constitution, a document including a notice is required to be signed, that requirement may be satisfied in relation to an electronic communication of the document in any manner permitted by law or by any State or Commonwealth law relating to electronic transmissions, or in any other manner approved by the Directors.

## **5 Objects and purpose**

### **5.1 Objects and purpose**

The Object and principal purpose of the Company is to be a charity (with charitable sub-type advancing culture) and a public library (endorsed as a deductible gift recipient under item 12.1.2 of the table of cultural organisations set out in section 30-100 of the ITAA97) pursuing the following charitable objects:

- (a) to operate a digital library, library branches and provide library services to and within the Member Councils, and to provide similar services to other Councils, Beneficial Enterprises or library corporations through a service level agreement;
- (b) provide services, resources and programs aimed at meeting the information, recreation, educational, placemaking, business, economic and cultural needs of the diverse communities of the Member Councils in an equitable, effective, efficient, responsive and forward looking manner in accordance with the values and objectives as determined by the Board;

---

<sup>1</sup> Part 2G.2 and 2G.3 are provisions in relation to meetings of members and keeping minutes

- (c) to act as trustee and to perform and discharge the duties and functions incidental to acting as a trustee where this is incidental or conducive to the attainment of these Objects; and
- (d) to do such things as are incidental or ancillary to the attainment of these Objects.

## **5.2 Limitation of Powers**

The Company is prohibited from making distributions to Members and paying fees (or other remuneration) to the Directors. The Secretary must approve all other payments the Company makes to Directors and provide a report on any such payments at the first available general meeting.

## **5.3 Non profit**

The assets and income of the Company must be applied solely in furtherance of the Objects, and no portion shall be distributed, paid or transferred directly or indirectly by way of dividend, bonus or by way of profit to members, directors or any trustees of the Company.

## **5.4 Payment in good faith**

Clause 5.3 does not prevent payment, directly or indirectly, in good faith to a Member:

- (a) of reasonable remuneration for services to the Company;
- (b) for goods supplied in the ordinary course of business;
- (c) of fair and reasonable interest on money borrowed from a Member at a rate not exceeding that fixed for the purposes of this clause 5.4(c) by the Company in a General Meeting;
- (d) of reasonable rent for premises let by a Member;
- (e) a contribution towards a grant or project in furtherance of the Objects and Purposes of the Company; or
- (f) in furtherance of the Objects and Purposes of the Company poses of the Company.

## **5.5 Conduit Policy**

Any allocation of funds or property to other persons or organisations must be made in accordance with the Objects of the Company and must not be influenced by the preference of the donor.

## **6 Amendment of this Constitution**

### **6.1 Amendment by Special Resolution**

This Constitution may be modified or repealed only by a special resolution of the Company in a general meeting.

### **6.2 Date of effect of the amendment**

Any modification or repeal of this Constitution takes effect on the date the special resolution is passed or any later date specified, or provided for, in the resolution.

### **6.3 Notification to the ACNC**

The Company will notify ASIC or, if a registered charity, the ACNC (as applicable) of any modification or repeal of this Constitution within the time specified in the ACNC Act or the Corporations Act.

## **7 Member's Liability**

### **7.1 Liability to contribute**

Each Member during the year ending on the day of the commencement of the winding up of the Company, undertakes to contribute to the property of the Company for:

- (a) payment of debts and liabilities of the Company;
- (b) payment of the costs, charges and expenses of winding up; and
- (c) any adjustment of the rights of the contributories among Members.

## **7.2 Limited liability**

The amount that each Member or past Member is liable to contribute under clause 7.1 is not to exceed \$1.00.

## **8 Membership**

### **8.1 Founding Members**

The Founding Member Councils are the founding Members of the Company.

### **8.2 Categories of membership**

Additional categories and classes of members, if required, may be created by a special resolution of the Members of the Company in a general meeting.

### **8.3 Admission as a Member**

The Company may admit a body corporate as a Member where:

- (a) The applicant is eligible under clause 8.5 and makes an application to the Directors in accordance with clause 8.6;
- (b) The Board recommends that the applicant be admitted as a member to its Member Councils; and
- (c) The existing Member Councils agree in writing to admit a new Member, which such written consent to be provided once that Council has approved the admission of a new Member at a Council meeting.

### **8.4 Becoming a Member**

Subject to the Corporations Act, a body corporate becomes a Member on the registration of that body corporate's name in the Register of Members.

### **8.5 Eligibility for Membership**

To be eligible to be a Member, a body corporate must:

- (a) be nominated by 1 existing Member;
- (b) consent in writing to become a Member; and
- (c) agree to be bound by this Constitution.

### **8.6 Application for Membership**

- (a) Only a body corporate satisfying the eligibility requirements for Membership may apply for Membership.
- (b) The Board may prescribe the process, information and supporting documents required for an applicant to apply for Membership and the form in which the application for Membership is to be made.
- (c) An application for Membership must:
  - (i) be in writing signed by the applicant;
  - (ii) if the Board has prescribed the form of the application for Membership, be in that prescribed form;
  - (iii) if the Board has prescribed information and supporting

documents to be included as part of an application, include the information and supporting documents, and

- (iv) be accompanied by the membership fee, if any, determined by the Directors.

#### **8.7 Consideration for application for Membership**

- (a) At the first meeting of the Board after an application for Membership has been received by the Board, the Board must consider the application and in their discretion either accept, accept subject to conditions, defer the decision to a subsequent meeting of the Board or reject the application.
- (b) If the Board accepts the application for Membership, or accepts subject to conditions, the application must be submitted to the Member Councils for consideration;
- (c) The Member Councils may only accept an application in accordance with clause 8.3(c).
- (d) The Board and the Member Councils are not required to give reasons for refusing an application for membership.

#### **8.8 Membership fees**

The Members must pay such membership fees as prescribed from time to time by the Directors.

#### **8.9 Registration as a Member**

If the Company accepts an application for Membership, as soon as practicable, the Secretary must notify the applicant of the decision and must register the name of the body corporate in the Register of Members and record any conditions imposed on that Member's Membership.

### **9 Rights of Members are non-transferable**

The rights and obligations of a Member are specific to that body corporate and are not transferable.

### **10 Cessation of Membership**

#### **10.1 Cessation of Membership**

A Member ceases to be a Member:

- (a) if the Member resigns as a Member in accordance with this Constitution;
- (b) if the Member is expelled as a Member in accordance with this Constitution;
- (c) if the Member is being wound up or ceasing to exist;
- (d) if the Member is placed under external administration or becomes insolvent

unless the Member Councils (but not including a Member Council whose membership is the subject of this clause) unanimously resolve for that Member to remain a Member of the Company.

#### **10.2 Resignation of Member**

A Member may resign from the Company by giving the Board at least 12 months' notice.

#### **10.3 Termination of membership**

- (a) A Member Council may recommend to the Board that the Company terminate the membership of a Member if the Member Council is of the view that the Member is not complying with its obligations as a Member of the Company.



- (b) At the first meeting of the Board after a recommendation is received to terminate a Membership, the Board must consider termination and in their discretion and subject to clause 10.3(c) either accept, accept subject to conditions, defer until further information is provided or reject the recommendation. Any such decision must be based on one of the following substantive grounds:
  - (i) the Member has failed to pay any fee that may be prescribed by the Directors from time to time within 12 months after the fee was due and payable;
  - (ii) where the Member is a Member Council, both Appointed Board Member positions for that Council have been vacant for 12 months, or no Appointed Board Members appointed by that Member Council have attended Board meetings for 12 months;
  - (iii) where the Member is a Member Council, that Member Council has failed to attend 3 consecutive general meetings of the Company;
  - (iv) the Member refuses or neglects to comply with this Constitution; or
  - (v) the Member engages in conduct which is prejudicial to the interests of the Company.
- (c) Before deciding to accept or accept subject to conditions the recommendation the Board must provide the Member whose Membership is under consideration notice of the proposed action and provide the Member with an opportunity to respond. The Board must allow the Member at least 14 days from when the Board provides the notice to respond to the notice;
- (d) If the Board decides to accept or accept subject to conditions the recommendation must be submitted to the Member Councils for consideration;
- (e) The Board's final resolution on the termination is subject to each Member Council (but not including a Member Council whose membership is the subject of this clause) agreeing in writing to terminate the Member; and
- (f) If the Member Councils (but not including a Member Council whose membership is the subject of this clause) agree in writing to terminate the Member, the Board must terminate the Membership of that Member by giving 14 days' notice of the termination to that Member.
- (g) If a dispute arises regarding the termination of a Member's membership under this clause 10.3, the dispute resolution procedure contained in clause 34 must be followed and, for the purposes of clause 34.1, written notification under clause 10.3(a) will be the notice of the dispute (as defined in clause 34.1).

## **11 Maintenance of Register**

### **11.1 Register of Members**

The Secretary must maintain a Register of Members setting out:

- (a) the name and address of each Member;
- (b) the date on which each person became a Member;
- (c) any conditions imposed on a Member's Membership; and
- (d) in respect of each body corporate who has ceased to be a Member, the date on which that body corporate ceased to be a Member.

### **11.2 Inspection of Register of Members**

The Company must provide access to the Register of Members in accordance with the Corporations Act.

## **12 General Meetings**

### **12.1 Annual general meetings**

The Company must hold an annual general meeting:

- (a) within 6 months of incorporation; and
- (b) after the first annual general meeting, before 30 August in each calendar year.

The Board or Secretary shall convene the annual general meeting.

### **12.2 Business at an annual general meeting**

The business of an annual general meeting may include any of the following, even if not referred to in the notice of meeting:

- (a) the consideration of the annual financial report, directors' report and auditor's report;
- (b) the appointment of the auditor; and
- (c) determination of auditor's remuneration.

### **12.3 Director and Chief Executive Officer convening a general meeting**

Any Director or the Directors may convene a general meeting.

The Chief Executive Officer under delegation by the Board may convene a general meeting.

### **12.4 Meetings requested by Members**

- (a) If the Board receives a request from a Member or Members with a right to vote at any general meeting the Board must convene a general meeting within 21 days after the date of receipt of that request.
- (b) The request must detail any proposed resolution, the names of the Members requesting the meeting and be signed by all of the Members making the request. For this purpose, the signatures of the Members may be contained in more than one document.
- (c) A general meeting requested by the Members must be held no later than two calendar months after the request is received.

### **12.5 Notice of general meeting**

At least 21 days' notice of a general meeting must be given to the Members, Directors and Auditor. The notice must:

- (a) state the date, time and place (or places) of the meeting;
- (b) state the general nature of the business to be conducted at the meeting; and
- (c) state any proposed resolutions.

### **12.6 Shorter notice of general meeting**

Subject to the Corporations Act, a shorter notice of a general meeting may be given if the calling of the notice of the general meeting on shorter notice is agreed to by all Members entitled to attend and vote at the meeting and any such general meeting will be treated as having been duly convened.

### **12.7 Notice of resumption of an adjourned meeting**

If a general meeting is adjourned for 30 days or more, at least 30 days' notice must be given to the Members, Directors and Auditor of the day, time and place (or places) for the resumption of the adjourned general meeting.

## **12.8 Use of technology**

A general meeting may be held in one place or two or more places. If a general meeting is held in two or more places, the Company must use technology that gives Members a reasonable opportunity to participate at that general meeting.

## **12.9 Postponement or cancellation of a general meeting**

- (a) Subject to this Constitution and the Corporations Act, the Board may change the place (or places) of a general meeting, or postpone or cancel a general meeting.
- (b) If a general meeting is convened pursuant to a request by Members, the Board may not postpone or cancel the general meeting without the consent of the requesting Members.

## **12.10 Notice of change, postponement or cancellation of a meeting**

- (a) If the Directors have convened a general meeting, the Board may change the place (or places) of the general meeting, postpone or cancel the general meeting. If a Director has convened a general meeting, only the Director who convened the general meeting may change the place (or places) of the general meeting, or postpone or cancel the general meeting.
- (b) If the Board changes the place (or places) of a general meeting, notice must be given to each Member and each person entitled to receive notice of the meeting of the new place (or places) of the meeting.
- (c) If the Board postpones a general meeting, notice must be given to each Member and each other person entitled to receive notice of the new date, time and place (or places) of the meeting.
- (d) If the Board cancels a general meeting, notice must be given to each Member and each other person entitled to receive notice of general meetings.

## **12.11 Omission to give notice relating to a general meeting**

No resolution passed at or proceedings at any general meeting will be invalid because of any unintentional omission or error in giving or not giving notice of:

- (a) that general meeting;
- (b) any change of place (or places) of that general meeting;
- (c) postponement of that general meeting, including the date, time and place (or places) for the resumption of the adjourned meeting; or
- (d) resumption of that adjourned general meeting.

## **13 Proceedings at general meetings**

### **13.1 Quorum**

- (a) A quorum at a general meeting is where a simple majority of Representatives of the Member Councils is present in person, but must include a Representative of each of the Member Councils. The quorum must be present at all times during the general meeting.

Lack of Quorum

- (b) If a quorum is not present within 30 minutes after the time appointed for a general meeting (or any longer period of time as the chair may allow) or ceases to be present at any time during the general meeting, the general meeting:
  - (i) if convened by a Director or on the request of Members, is

dissolved; or

(ii) in any other case:

(A) is adjourned to be resumed on a day, time and place (or places) as the chair determines or if the chair is not present as the Directors or Director at the meeting may determine; or

(B) if the Directors do not so determine, no Director is present or no Director present so determines:

(1) the date for the resumption of the adjourned general meeting will be on the same day in the next week;

(2) the time for the resumption of the adjourned general meeting will be at the same time as the adjourned meeting; and

(3) the place (or places) for the resumption of the adjourned general meeting will be at the same place (or places) as the adjourned meeting.

(c) If a quorum is not present within 30 minutes after the time appointed for the resumption of the adjourned general meeting or ceases to be present during the meeting, the general meeting is dissolved.

### **13.2 Chairing general meetings**

- (a) The chair of the general meeting will be the Director elected for the time being as chair of the Board meetings.
- (b) If the chair is not present within 15 minutes after the time appointed for any general meeting or if the chair is unwilling or unable to act as chair for the whole or any part of that general meeting, the Directors present may elect a Director present to chair that general meeting.
- (c) If no Director is elected or if all the Directors present decline to take the chair for the whole or any part of that general meeting, or the Members present otherwise determine that they wish to appoint a different person as chair, the Members present may elect a Member present (in person) to chair for the whole or any part of that general meeting. If the Members do not so elect a chair, the meeting will be adjourned to be resumed on the same day, at the same time and the same place (or places) in the following week.

### **13.3 Conduct of general meetings**

The chair of each general meeting has charge of the conduct of that meeting, including the procedures to be adopted and the application of those procedures at that meeting.

### **13.4 Adjournment**

- (a) The chair of a general meeting may adjourn the meeting to another date, time and place (or places) if it appears to the chair that it is likely to be impracticable to hold or to continue to hold the meeting because of the number of Members who wish to attend but who are not present.
- (b) If a majority of Members present at a general meeting in person or by proxy determine that the meeting should be adjourned, the chair must adjourn the meeting to another date, time and place (or places) determined by the chair.
- (c) No business may be transacted on the resumption of an adjourned or postponed general meeting other than the business referred to in the

notice convening the adjourned or postponed general meeting.

#### **14 Proxy**

A Member must not appoint a proxy to attend a general meeting or vote on their behalf.

#### **15 Body Corporate Representative**

##### **15.1 Appointment of a Corporate Representative**

- (a) Each Member must appoint at least one (1), and up to two (2), natural persons as its Representative(s) to exercise on its behalf any or all of the powers it may exercise:
  - (i) at meetings of the Members;
  - (ii) at meetings of creditors or debenture holders; or
  - (iii) relating to resolutions to be passed without meetings.
- (b) In the event that a Member does not appoint any Representative, the Director(s) appointed by that Member shall be deemed to be the Member's Representative(s).
- (c) Where a Member appoints two (2) Representatives, the Representatives will have one collective vote and must vote as a block. In the event of a division between the Representatives of a Member with respect to any resolution, the vote of that Member will be in the negative.
- (d) The appointment of a Representative may be a standing one.

##### **15.2 Authority to act as a Representative**

- (a) An appointment of a Representative must be in writing and be signed by the body corporate or the Member Council appointing the Representative and state:
  - (i) the Member's or Member Council's name and address, or
  - (ii) the Company's name;
  - (iii) the Representative's name or the name of the office held by the Representative; and
  - (iv) the general meeting at which the Representative may act, or if the appointment is a standing one, a clear statement to that effect.
- (b) The instrument appointing the Representative may specify the manner in which the Representative(s) must vote on any particular resolution and may restrict the exercise of any power.
- (c) The Company may rely on an instrument appointing a Representative as definitive evidence that the Representative has been validly appointed in accordance with the rules and procedures of that Member for the making of such an appointment.

##### **15.3 Instrument to be received by the Company**

- (a) An instrument purporting to appoint the Representative is not valid unless it is received by the Company at least 48 hours before the general meeting or, in the case of an adjourned meeting, at least 48 hours before the resumption of an adjourned general meeting.
- (b) An instrument appointing a Representative must be received by the Company at any of the following:
  - (i) the registered office; or



- (ii) a place or electronic address specified for that purpose in the notice of the general meeting.

#### **15.4 Revocation of appointment of Representative**

The appointment of a Representative may be revoked by the Member who appointed the Representative by notice to the Company from the Member stating that the appointment of the Representative is revoked or by appointing a new Representative.

### **16 Voting**

#### **16.1 Entitlement to vote**

Each Member entitled to vote at a general meeting may vote in person through their Representative(s). Each Member has one vote, whether on a show of hands, or a poll.

#### **16.2 No Casting vote**

If there is an equality of votes, either on a show of hands or on a poll, then the chairperson of the meeting is not entitled to a casting vote in addition to any votes to which the chairperson is entitled as a Member or Representative, and consequently, the resolution fails.

#### **16.3 Voting on resolution**

At any general meeting, a resolution put to a vote must be determined by a show of hands unless a poll is demanded in accordance with this Constitution. A resolution is taken to be carried if a simple majority of the votes cast on the resolution are in favour of it.

#### **16.4 Objection to right to vote**

- (a) A challenge to a right to vote at a general meeting:
  - (i) may only be made at that general meeting; and
  - (ii) must be determined by the chair.
- (b) A determination made by the chair in relation to a challenge to a right to vote is binding on all Members and is final.

#### **16.5 Written resolutions**

Members may pass a resolution without a general meeting being held if all the Members entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. For this purpose, signatures of the Members may be contained in more than one document and a signature includes an electronic signature.

#### **16.6 Minutes**

- (a) Unless a poll is demanded in accordance with this Constitution, a declaration by the chair that a resolution has, on a show of hands, been:
  - (i) carried;
  - (ii) carried unanimously;
  - (iii) carried by a particular majority; or
  - (iv) lost or not carried by a particular majority,

is conclusive evidence of the fact declared. An entry to that effect made in the minutes book of the Company and the minutes are adopted at the next general meeting is evidence of that fact unless the contrary is proved.

- (b) After each general meeting, the Directors must record or cause to be recorded in the minutes book:

- (i) the proceedings and resolutions of each general meeting;
  - (ii) any declarations at each general meeting; and
  - (iii) all resolutions passed by Members without a general meeting.
- (c) The chair, or the chair of the next meeting, must sign the minutes within one month after the general meeting.
  - (d) The minute books must be kept electronically at the registered office and distributed to the Directors electronically within three months after each general meeting.
  - (e) Members may inspect the minute books electronically at any time on the Company's Intranet. No amount may be charged for inspection.

**16.7 Disputes to be resolved by the chair**

The chair will determine any dispute in relation to any vote, and the determination of the chair is binding on all Members and is final.

**17 Poll**

**17.1 Chair may determine to take a poll**

The chair of a general meeting may determine that a poll be taken on any resolution.

**17.2 Right to demand a poll**

A poll may be demanded on any resolution at a general meeting other than the election of a chair or the question of an adjournment by any Member present at the meeting.

**17.3 Procedure for demanding a poll**

- (a) A poll may be demanded:
  - (i) before a vote on a show of hands is taken;
  - (ii) before the result of a vote on a show of hands is declared; or
  - (iii) immediately after the result of a vote on a show of hands is declared.
- (b) If a poll is demanded on the election of a chair or the question of an adjournment, it must be taken immediately. If a poll is demanded on any other matter, it may be taken in the manner and at the time and place (or places) as the chair directs.
- (c) Other than where a poll is demanded on the election of a chair or the question of an adjournment, a demand for a poll may be withdrawn at any time by the person or persons who demanded it. A demand for a poll which is withdrawn does not invalidate the result of a show of hands declared before the demand for the poll was made.
- (d) Other than where a poll is demanded on the election of a chair or the question of an adjournment, a demand for a poll does not prevent the general meeting from continuing for the transaction of any business.

**18 Appointment and removal of Directors**

**18.1 Number and Composition of Directors**

- (a) The Company must have six (6) Directors upon its incorporation.
- (b) The Directors shall consist of two (2) Board Members appointed by each of the Member Councils (Appointed Board Member).

- (c) Once appointed, the Appointed Board Member holds office in accordance with clause 18.4.
- (d) The Member Councils who have nominated an Appointed Board Member may withdraw their nomination at any time if the person so nominated no longer holds office with that Member Council or is no longer suitable to be nominated as the Appointed Board Member.
- (e) If an Appointed Board Member is unable to be present at a Board meeting, the Board shall allow a Senior Executive Officer of the Member Council that appointed Board Member to attend the Board meeting in the place of the absent Appointed Board Member. The Senior Executive Officer shall not have a vote and does not have the powers of a director.

### **18.2 Retirement or Vacancy**

The Company may, at a General Meeting at which:

- (a) a Director retires or otherwise vacates office; or
  - (b) a Director vacancy exists by operation of clause 18.7 or otherwise,
- request that the Board seeks a new nomination from the Member Council for an Appointed Board Member in accordance with clause 18.1.

### **18.3 Qualifications of Directors**

- (a) To be eligible for the office of Director a person must consent in writing to act as a Director.
- (b) In the event that it is required under a law, regulation or guideline applicable to the Company, the Company must ensure that a majority of the Directors are persons who have the requisite level or degree of responsibility to the general public.

### **18.4 Terms and retirement of Directors**

- (a) Subject to clause 18.5, Directors are elected for terms of four (4) years.
- (b) At each Annual General Meeting, any Director who has held office for four (4) years or more since last being elected, must retire from office but subject to clauses 18.2 and 18.5 is eligible for reappointment. A retiring Director holds office until the conclusion of the meeting at which that Director retires.
- (c) The Members may by ordinary resolution increase or decrease the period of time for which a Director holds office under clause 18.4(a).
- (d) The Members may by ordinary resolution remove any Director before the expiration of that Director's period of office, and may then request that the Board seek a new nomination from the Member Council for an Appointed Board Member in accordance with clause 18.1.

### **18.5 Reappointment of Directors**

Directors are entitled to seek reappointment as Directors provided that they are still nominated by the Member Councils as their Appointed Board Member and the Director's period of continuous service to the Company does not exceed a period of eight (8) years unless the Members, by ordinary resolution in General Meeting or unanimous written resolution, elect to waive this requirement for a particular Director.

### **18.6 Casual vacancy or additional Director**

- (a) The Directors may at any time request a new nomination from the Member Council for an Appointed Board Member in accordance with clause 18.1 either to fill a casual vacancy or as an addition to the existing Directors, provided the total number of Directors does not exceed the maximum number of Directors appointed by that Member Council set out in clause 18.1(b).

- (b) A Director appointed under clause 18.6(a) holds office until the conclusion of the next Annual General Meeting of the Company but is eligible for appointment at that meeting.

#### **18.7 Vacation of office of Director**

In addition to the circumstances in which the office of a Director becomes vacant under the Corporations Act, a person ceases to be a Director and the office of Director is vacated if the person:

- (a) is removed from office as a Director by a resolution of the Company at a general meeting;
- (b) ceases to be eligible under clause 18.3;
- (c) resigns as a Director by notice in writing to the Company;
- (d) is no longer nominated by the Member Council as its Appointed Board Member under clause 18.1(d).
- (e) if the person is subject to assessment or treatment under any mental health law and the Board resolves that the person should cease to be a Director;
- (f) dies;
- (g) is disqualified from acting as a Director under the Corporations Act;
- (h) is absent from Board meetings for a continuous period of six months without leave of absence from the Board.

#### **19 Powers and duties of Board**

- (a) The primary objective of the Board is to achieve the best library service outcomes for the communities of the Member Councils within the context of each of the Member Councils' available resources and competing demands. These outcomes include the provision of resources and programs aimed at meeting the information, recreation, educational, placemaking, business, economic and cultural needs of the diverse communities of the Members in an equitable, effective, efficient, responsive and forward looking manner in accordance with the values and objectives as determined by the Board
- (b) Subject to this Constitution and the Corporations Act, the activities of the Company are to be managed by, or under the direction of, the Board.
- (c) Subject to this Constitution and the Corporations Act, the Board may exercise all powers of the Company that are not required to be exercised by the Company in a general meeting.
- (d) The powers of the Board include the power to:
  - (i) borrow or otherwise raise money;
  - (ii) mortgage, charge (including in the form of a floating charge) any of the Company's assets (both present and future); and
  - (iii) issue debentures and other securities, and any instrument (including any bond).
- (e) Subject to this Constitution, the Directors may from time to time by resolution make and rescind or alter Rules which are binding on the Members for the management and conduct of the business of the Company.
- (f) The rules, by-laws or policies previously adopted by the Eastern Regional Libraries Corporation become the rules, by-laws or

policies of the Company at the date of incorporation of the Company.

## **20 ACNC governance standards**

The Company and each Director must comply with the duties described in governance standard 5 as set out in the regulations made under the ACNC Act and such other obligations as apply under the ACNC Act and the Corporations Act from time to time.

## **21 Delegation**

- (a) The Board may delegate any of its powers to:
  - (i) a Director;
  - (ii) a committee in accordance with clause 21;
  - (iii) an employee of the Company; or
  - (iv) any other person.
- (b) The power may be delegated for such time as determined by the Directors and the Directors may at any time revoke or vary the delegation.
- (c) The delegate must exercise the powers delegated in accordance with any directions of the Directors, and the exercise of the power by the delegate is as effective as if the Directors had exercised it.
- (d) The Directors may continue to exercise any power they have delegated.

## **22 Committees**

### **22.1 Delegation to committees**

- (a) The Directors may delegate any of their powers, to a committee which may consist of one or more Directors and such other persons as they think fit.
- (b) A committee to which any powers have been delegated under clause 22.1(a) must exercise those powers in accordance with any directions of the Directors. A power so exercised is taken to have been exercised by the Directors.
- (c) Notwithstanding any delegation of authority under this clause 22.1, the Directors remain responsible for any decisions of a committee appointed by them and must ensure that the committee exercises its powers appropriately.

### **22.2 Meetings of committees**

A committee may meet and adjourn as it thinks proper.

### **22.3 Chairperson of a committee**

The members of a committee may elect one of their number as chairperson of their meetings. If a meeting of a committee is held and:

- (a) a chairperson has not been elected; or
- (b) the chairperson is not present within 10 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act;

then the committee members involved may elect one of their number to be chairperson of the meeting.

### **22.4 Determination of questions**

- (a) Questions arising at a meeting of a committee are to be determined by a majority of votes of the members present and voting.
- (b) In the event of an equality of votes, the chairperson of the meeting does not have a casting vote.

## **23 Negotiable instruments**



All negotiable instruments and all receipts for money paid to the Company must be signed, drawn, accepted, endorsed or otherwise executed in such manner as the Board may determine.

## **24 Remuneration and reimbursement for expenses**

### **24.1 Remuneration of Director**

The Company must not pay and a Director is not entitled to receive any fee (or other remuneration) from the Company for services performed as a Director.

### **24.2 Reimbursement of expenses**

Directors are entitled to be reimbursed by the Company for reasonable costs and expenses incurred or to be incurred in connection with attendance at meetings of the Board and committees of the Board, if approved by the Board.

## **25 Board meetings**

### **25.1 Convening meetings**

- (a) In the ordinary course, the Chief Executive Officer will convene Board meetings in accordance with the determinations of the Board.
- (b) A Director may at any time convene a Board meeting by notice to the other Directors.

### **25.2 Notice of meetings**

- (a) Reasonable notice of each Board meeting must be given to the Directors entitled to receive a notice (if any).
- (b) Each notice must state:
  - (i) the date, time and place (or places) of the Board meeting;
  - (ii) the general nature of the business to be conducted at the Board meeting; and
  - (iii) any proposed resolutions.

### **25.3 Omission to give notice**

No resolution passed at or proceedings at any Board meeting will be invalid because of any unintentional omission or error in giving or not giving notice of:

- (a) that Board meeting;
- (b) any change of place (or places) of that Board meeting;
- (c) postponement of that Board meeting; or
- (d) resumption of that adjourned Board meeting.

### **25.4 Use of technology**

A Board meeting may be held in one, two or more places using such technology as determined by the Board and set out in the notice. The Board must use technology that gives Directors a reasonable opportunity to participate at that Board meeting. The clauses relating to meetings of Directors apply to each such meeting in the usual manner.

### **25.5 Quorum at meetings**

- (a) A quorum at a Board meeting is where each Member Council has at least one Appointed Board Member present in person. The quorum must be present at all times during the Board meeting.
- (b) However, the quorum requirement shall not apply with respect to the Appointed Board Member(s) of a particular Member Council where that

Appointed Board Member(s) have failed to attend the prior two Board meetings, provided that after each Board meeting the Company advised the Member in writing that its Appointed Board Member(s) failed to attend the Board meeting.

#### **25.6 Chair of meetings**

- (a) At the first Board meeting a chair and deputy chair will be elected from the Directors present in person.
- (b) Subject to a vote of the Board to the contrary:
  - (i) The chair and deputy chair of the Board shall be held on an annual rotational basis;
  - (ii) A chair and deputy chair shall serve for the duration of a calendar year; and
  - (iii) At the first Board meeting of a new calendar year, a new chair and deputy chair shall be elected from the Directors appointed by the Member whose turn it is to hold the chair and deputy chair.
- (c) The Directors may elect a Director to chair a Board meeting by a majority vote.
- (d) If the chair is not present within 15 minutes after the time appointed for a Board meeting or if the chair is unwilling or unable to act as chair for the whole or any part of that Board meeting, the Directors present may elect a Director present to chair that Board meeting.

#### **25.7 Passing resolutions at meetings**

- (a) A resolution of the Board must be passed by a majority of the votes cast by the Directors entitled to vote on the resolution.
- (b) Each Director present in person is entitled to vote and has one vote.

#### **25.8 No Casting vote**

If on any resolution an equal number of votes is cast for and against a resolution, the chair does not have a casting vote in addition to any vote cast by the chair as a Director and subsequently, the resolution is lost.

#### **25.9 Conduct of meetings**

The chair of each Board meeting has charge of the conduct of that meeting, of the procedures to be adopted and the application of those procedures at that meeting.

#### **25.10 Written resolutions**

The Board may pass a resolution without a Board meeting being held if all the Directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. For this purpose, signatures can be contained in more than one document, with each document to be identical to each other document and a signature can be an electronic signature.

#### **25.11 Minutes of meetings**

- (a) Within three months after each Board meeting, the Directors must record or cause to be recorded in the minute books:
  - (i) the proceedings and resolutions of each Board meeting; and
  - (ii) all resolutions passed without a Board meeting.
- (b) The chair, or the chair of the next Board meeting, must sign the minutes

within three months after the meeting.

- (c) The minute books must be kept at the registered office.
- (d) The Directors may inspect the minute books between the hours of 9.00 am and 5.00 pm on any Business Day. No amount may be charged for inspection.

## **26 Director's conflict of interests**

### **26.1 Declaration of interest**

- (a) Any Director who has a material personal interest in a contract or proposed contract of the Company, holds any office or owns any property such that the Director might have duties or interests which conflict or may conflict either directly or indirectly with the Director's duties or interests as a Director, must give the Board notice of the interest at a Board meeting.
- (b) A notice of a material personal interest must set out:
  - (i) the nature and extent of the interest; and
  - (ii) the relation of the interest to the affairs of the Company.
- (c) The notice must be provided to the Board at a Board meeting as soon as practicable.

### **26.2 Voting by interested Directors**

A Director who has a material personal interest in a matter that is being considered at a Board meeting must not:

- (a) vote on the matter at a meeting; or
- (b) be present while the matter is being considered at the meeting, and accordingly will not count for the purposes of determining whether there is a quorum.

## **27 Appointment of Secretary and Chief Executive Officer**

### **27.1 Secretary**

- (a) The Company must have at least one Secretary. The Board has the power to appoint a natural person to act as secretary on the terms and for such period as the Board may determine.
- (b) Any Secretary appointed may be removed at any time by the Board.

### **27.2 Chief Executive Officer**

- (a) The Directors may appoint a Chief Executive Officer on such terms and conditions (including as to remuneration) as they consider appropriate.
- (b) The Directors may delegate any of their powers to the Chief Executive Officer:
  - (i) on the terms and subject to any restrictions they decide; and
  - (ii) so as to be concurrent with, or to the exclusion of, the powers of the Board,and may revoke the delegation at any time.
- (c) The Chief Executive Officer may be invited to attend all meetings of the Directors, but may not hold the office of a Director and is not entitled to vote.

## **28 Removal and remuneration of Auditor**

### **28.1 Appointment of Auditor**

An Auditor will be appointed by the Company at a general meeting for a period not exceeding four years from the date that the Auditor provided a request for quote.

### **28.2 Remuneration of Auditor**

The remuneration of the Auditor may be determined by the Company at a general meeting. If the remuneration is not determined at a general meeting, it may be determined by the Directors at a Board meeting.

### **28.3 Removal of Auditor**

- (a) Subject to the Corporations Act, the Company may remove an Auditor by resolution at a general meeting; and
- (b) Complying with the Corporations Act requirements of 2 months' notice to the Company.

### **28.4 Auditor's attendance at general meetings**

The Auditor must be notified of, and may attend, any general meeting and any Audit or Risk Advisory Committee meeting. The Auditor is entitled to be heard at any general meeting or Audit and Risk Advisory Committee it attends on any part of the business of the general meeting which concerns the Auditor.

## **29 Execution of documents**

Documents executed for and on behalf of the Company must be executed by:

- (a) Directors;
- (b) a Director and the Secretary; or
- (c) the Chief Executive Officer under delegation.

## **30 Financial records**

### **30.1 Member's access to financial records**

A Member or any other person may inspect financial or any other records of the Company where such inspection is authorised by the Board or its delegate, or required by law or by order of a court with jurisdiction.

### **30.2 Directors' access to financial records**

Any Director may at any time access and inspect any financial and any other record of the Company, other than those protected by privacy principles, freedom or information or other legislation.

### **30.3 Access to financial records after ceasing to be a Director**

The Board may determine that any person who is to cease or has ceased to be a Director may continue to have access to and inspect any financial record and any other record of the Company relating to the time during which the person was a Director, if required by law or by order of a court.

## **31 Notices**

### **31.1 General**

Any notice, statement or other communication under this Constitution must be in writing, except that any notice convening a Board meeting does not need to be in writing.

### **31.2 How to give a communication**

In addition to any other way allowed by the Corporations Act, a notice or other communication may be given by being:

- (a) personally delivered;
- (b) left at the person's current address as recorded in the Register of Members;
- (c) sent to the person's address as recorded in the Register of Members by pre-paid ordinary mail or, if the address is outside Australia, by pre-paid airmail;
- (d) sent by email to the person's current email address for notices; or
- (e) by other electronic means.

### **31.3 Communications by post**

A communication is given if posted:

- (a) within Australia to an Australian address, three Business Days after posting;
- (b) outside Australia or to an address outside Australia, ten Business Days after posting.

### **31.4 Communications by email**

A communication is taken to be given if sent by email immediately on sending the email unless the sender receives a delivery failure notification indicating that the email has not been delivered to the information system of the recipient.

### **31.5 After hours communication**

If a communication is given:

- (a) after 5.00 pm in the place of receipt; or
- (b) on a day which is a Saturday, Sunday or bank or public holiday in the place of receipt,

it is taken as having been given at 9.00 am on the next day which is not a Saturday, Sunday or bank or public holiday in that place.

## **32 Indemnity and insurance**

### **32.1 Indemnity**

- (a) To the extent permitted by the Corporations Act and subject to the Corporations Act, the Company may procure directors and officeholders insurance or pay any premium in respect of a contract of insurance between an insurer and a director or other officer or any person who has been a director or other officer of the Company in respect of the liability suffered or incurred in or arising out of the conduct of any activity of the Company and the proper performance by the director or other officer of any duty.
- (b) The indemnity in **clause 32.1(a)**:
  - (i) is enforceable without the officer first having to make a payment or incur an expense;
  - (ii) is enforceable by the officer notwithstanding that the officer has ceased to be an officer of the Company; and
  - (iii) applies to any liability, loss, damage, cost or expense incurred or suffered or to be incurred or suffered by the officer, whether incurred before or after the date of this Constitution.

### **32.2 Documenting indemnity**

The Company may enter into an agreement containing an indemnity in favour of



any officer. The Board will determine the terms of the indemnity contained in the agreement.

### **32.3 Insurance**

- (a) To the extent permitted by the Corporations Act and subject to the Corporations Act, the Company may pay any premium in respect of a contract of insurance between an insurer and an officer or any person who has been an officer of the Company in respect of the liability suffered or incurred in or arising out of the conduct of any activity of the Company and the proper performance by the officer of any duty.
- (b) If the Board determines, the Company may execute a document containing rules under which the Company agrees to pay any premium in relation to such a contract of insurance.

## **33 Winding up and revocation**

### **33.1 Winding up of the Company**

- (a) In the case of the winding-up of the Company, any surplus assets that remain after the satisfaction of all debts and liabilities, then, subject always to clause 33.2, those surplus assets must be transferred to another organisation with charitable purposes which is not carried on for the profit or gain of its individual members.
- (b) The organisation will be determined by a special resolution of the Members at or before the time of dissolution.

### **33.2 Transfer of surplus assets – deductible gift recipients**

- (a) Where the Company has been endorsed as a deductible gift recipient under Subdivision 30 BA of the Tax Act, either as an entity or in relation to a fund or an institution it operates, then where:
  - (i) the Company is wound up;
  - (ii) the fund or institution is wound up; or
  - (iii) the endorsement under Subdivision 30 BA of the Tax Act is revoked;
- (b) any surplus:
  - (i) Gifts;
  - (ii) Deductible Contributions; and
  - (iii) money received by the Company because of such Gifts or Deductible Contributions,

remaining after payment of all liabilities must be transferred to one or more organisations, funds or institutions that comply with clause 33.1 and are deductible gift recipients.

## **34 Dispute resolution**

### **34.1 Handling a dispute**

Where there is a dispute, grievance or another disagreement between a Member and the Company, or between a Member and a Member, whether arising out of the application of this Constitution or otherwise (**Dispute**), then the party raising the Dispute must, prior to the commencement of any proceedings in a Court or Tribunal or before any authority or board, notify the other party in writing of the nature of the Dispute, and the following must occur:

- (a) the parties must in the period of 14 days from the service of the notice of the Dispute (Initial Period) use their best endeavours to resolve the Dispute;
- (b) if the parties are unable to resolve the Dispute within the Initial Period, then the Dispute must be referred for mediation to a mediator agreed by the

- parties;
- (c) if the disputants are unable to agree on a mediator within 7 days of the expiration of the Initial Period, the parties may request the chairperson of the Resolution Institute to nominate a mediator to whom the Dispute will be referred;
  - (d) the costs of the mediation must be shared equally between the parties; and
  - (e) where:
    - (i) the party receiving the notice of the Dispute fails to attend the mediation required by clause 34.1(b);
    - (ii) the mediation has not occurred within 6 weeks of the date of the notice of the Dispute; or
    - (iii) the mediation fails to resolve the Dispute;

then the party serving the notice of Dispute will be entitled to commence any proceedings in a Court or Tribunal or before any authority or board in respect of the Dispute.

#### **34.2 Urgent interlocutory relief**

The procedure in clause 34.1 will not apply in respect of proceedings for urgent or interlocutory relief.

# Schedule 1

## Appointment of Representative at a General Meeting

Name: Your Library Ltd

ACN: 662 838 020

The Member Council: ..... (name)  
of ..... (address)

being a member of the above named Company hereby appoint

..... (name)  
of ..... (address)

and ..... (name)  
of ..... (address)

as our Representative to attend and vote for us on our behalf at the meeting of the members of the Company to be held on the ..... day of ..... 20 ..... and at any adjournment of that meeting.

[TO BE INSERTED IF DESIRED] This form is to be used in favour of/against the resolution (Strike out whichever is not desired)

[INSERT DETAILS OF SPECIFIC RESOLUTIONS IF DESIRED]

Signed: .....

Name: .....

Position: .....

Dated: .....

This notice must be returned to Your Library Ltd ACN 662 838 020 at:

[ADDRESS/EMAIL ADDRESS/FAX No]

by [TIME] on [DATE]

[INSERT SPECIFIC DETAILS ENSURING THAT THE TIME IS 48 HOURS BEFORE THE TIME FOR THE MEETING]

# YOUR LIBRARY AGREEMENT

## Your Library Ltd

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# YOUR LIBRARY AGREEMENT

made the [REDACTED] day of [REDACTED] 2023.

**BETWEEN:**

**KNOX CITY COUNCIL**

- and -

**MAROONDAH CITY COUNCIL**

- and -

**YARRA RANGES COUNCIL**

- and -

**YOUR LIBRARY LTD ACN 662 838 020**

- and -

**EASTERN REGIONAL LIBRARIES CORPORATION ABN 67 990 548 408**



## 1 Background

- 1.1 The Founding Member Councils first established the Eastern Regional Libraries Corporation (ABN 67 990 548 408) on or about 14 June 1996 by agreement made under section 196 of the Local Government Act 1989 (Vic).
- 1.2 In accordance with section 330(4) of the Local Government Act 2020 (Vic), as an existing regional library, the Eastern Regional Libraries Corporation must be wound up by 1 July 2031.
- 1.3 Section 110(1) of the Local Government Act 2020 (Vic) allows the Founding Member Councils to become members of and participate in the formation of a corporation and appoint directors.
- 1.4 Therefore, on or about 1 July 2023, the Founding Member Councils resolved to apply section 110 of the Local Government Act 2020 (Vic) to establish the Company as a new not-for-profit, public library, registered as a company limited by guarantee under the Corporations Act.
- 1.5 The Company is established as a beneficial enterprise under the Local Government Act 2020, section 110, to
  - a) provide resources and programs aimed at meeting the information, recreation, educational and cultural needs of the diverse communities of Knox, Maroondah and Yarra Ranges in an equitable, effective, efficient, responsive and forward-looking manner in accordance with the values and objectives of the Corporate Plan;
  - b) provide or ensure the provision of, subject to any conditions attached to any State government library subsidies and grants to the Company or the Member Councils, a regional library service for the Member Councils;
  - c) make By-Laws relating to the Company and perform any other functions which are conferred on Company under this Agreement or its Constitution, including defining overall policy objectives, developing strategic policy, letting tenders for the provision of services, monitoring contracts under which services are provided, and approving a corporate plan and a strategic resources plan; and
  - d) to do all things necessary or expedient in accordance with this Agreement and the Constitution for the carrying out of its functions.
- 1.6 The Founding Member Councils have agreed to record their initial contribution and transfer of assets, licences, operations and activities from the Eastern Regional Libraries Corporation to the Company pursuant to **Schedule 1** of this Agreement, which shall operate in addition to the Constitution of the Company.
- 1.7 The Company will continue to service the area comprising the Member Councils' municipal districts.
- 1.8 The Founding Member Councils have agreed to contribute certain sums of money annually for the purposes of the Company pursuant to the terms of this Agreement and the corporation's annual budget process.

## 2 Purpose of this Agreement

- 2.1 The purpose of this Agreement is to govern the relationship between the Member Councils as members of the Company, including with respect to the contribution of assets to the Company and ongoing support and contributions to be provided by the Member Councils to the Company.
- 2.2 The Member Councils and the Company have entered into their respective undertakings and agreements contained in this Agreement in consideration of the efficient and orderly conduct and management of the Company, in the interests of the Company and the Member Councils.
- 2.3 The Member Councils jointly and severally covenant that during the continuance of this Agreement, each of them will abide by the provisions of this Agreement and will exercise their rights and powers as Members of the Company, in accordance with the provisions contained in this Agreement.
- 2.4 Each of the Member Councils covenant that the provisions of this Agreement will be enforceable by or against each of them and by or against any of the other Member Councils, and in the event of an inconsistency between this Agreement and the Constitution, this Agreement shall take precedence.
- 2.5 Each of the Member Councils will act, and execute such further instruments, consents and make such decisions and vote on resolutions of meetings of the Company and exercise their powers of appointment to the Board, so as to give full effect to the provisions of this Agreement.
- 2.6 The Company acknowledges that the Member Councils have agreed to regulate their conduct in accordance with this Agreement. The Company will conduct its business and affairs by ensuring that it will act on lawful resolutions and directions given by the Member Councils in accordance with this Agreement in respect of any matter which is governed or regulated by this Agreement.
- 2.7 Eastern Regional Libraries Corporation joins this Agreement to accept the transfer of assets and liabilities to the Company pursuant to this Agreement

## 3 Duration

- 3.1 This Agreement commences on the date of this Agreement and will continue to be binding on each of the Member Councils while that Member Council remains a member of the Company and, insofar as is relevant and appropriate in respect to continuing obligations, after that Member Council has ceased to be a member of the Company.

## 4 Interpretation

### 4.1 Definitions

In this **Agreement** unless the contrary intention appears:

**Agreement** means this agreement, to be known as the “Your Library Agreement”.

**Board** means the directors of the Company present at a meeting, duly convened as a Board meeting, at which a quorum is present.

**CEO** means the Chief Executive Officer of the Company.

**Company** means **Your Library Ltd (ACN 662 838 020)**.

**Constitution** means the constitution of the Company as amended from time to time.

**Eastern Regional Libraries Corporation** means Eastern Regional Libraries Corporation (ABN 67 990 548 408) incorporated under section 196 of the Local Government Act 1989 (Vic).

**Financial Contribution** means the annual financial contribution of the Member Councils to the Company.

**Founding Member Councils** means the Knox City Council, Maroondah City Council and Yarra Ranges Council.

**Initial Contributions** means the equity transferred to the Company from the Eastern Regional Libraries Corporation for the benefit of library services within the LGAs the Founding Member Councils

**LGA** means Local Government Area.

**Member Councils** means the Knox City Council, Maroondah City Council and Yarra Ranges Shire Council and, where a subsequent Council is admitted as a Member, includes that Council.

**Premises** means the premises of the library branches occupied by the Eastern Regional Libraries Corporation at the date of this Agreement listed in the Schedule.

**Schedule** means the schedule to this Agreement.

**Specific Contribution** means specific contributions made to the Company by a Member Council for the benefit of libraries and library branches within the LGA of that Member Council.

## **5 Contribution of Initial Contribution and Assets**

- 5.1 The Founding Member Councils record that the Eastern Regional Libraries Corporation holds or has the use of the Initial Contributions and assets provided by or obtained for the benefit of libraries operated by the Eastern Regional Libraries Corporation within the LGAs of the respective Founding Member Councils.
- 5.2 The parties record that:
- a) the Founding Member Councils have made available to the Eastern Regional Libraries Corporation the Premises set out in the Schedule for the purpose of the Company operating library branches; and
  - b) the Eastern Regional Libraries Corporation holds the Initial Contributions set out in the Schedule for the use of library services within the LGAs of the Founding Member Councils.
- 5.3 Legal title and ownership of assets held by the Eastern Regional Libraries Corporation as at the date of this Agreement shall be deemed to be transferred to the Company upon the execution of this Agreement, and the parties shall do all things reasonably necessary to effect the transfer of such assets.
- 5.4 The Company shall assume the rights and responsibilities of the Eastern Regional Library Corporation with respect to the Premises on the date of this Agreement.
- 5.5 The parties agree that the Company shall utilise the Initial Contributions set out in the Schedule for the benefit of library services within the LGA of the relevant Founding Member Council. In complying with this clause, the Company shall have consideration of the overall value of the Initial Contribution, including any depreciation of the value of the assets comprising the Initial Contribution, rather than any specific asset comprising a part of the Initial Contribution.

## **6 Specific Contribution of Assets**

- 6.1 A Member Council may make a Specific Contribution of assets to the Company.
- 6.2 Subject to any specific agreement at the time of the Member Council making the Specific Contribution, the Company shall utilise the Specific Contribution for the benefit of libraries within the LGA of the relevant Member Council that contributed the Specific Contribution, and otherwise in accordance with the Member Council's reasonable directions.
- 6.3 In complying with this clause, the Company shall have consideration of the overall value of the Specific Contribution, including any depreciation of the value of the assets comprising the Specific Contribution, rather than any specific asset comprising a part of the Specific Contribution.

## **7 Corporate Plan**

- 7.1 The Company and the Board shall be responsible for the development of a corporate plan. The corporate plan may operate for one or more years, but shall not operate for more than five years.
- 7.2 The Company and the Board shall formulate the corporate plan in consultation with the Member Councils.
- 7.3 The Board shall present the corporate plan to a general meeting of the Company for approval by the Member Councils.
- 7.4 The Company must not substantially deviate from an adopted corporate plan without first obtaining the Member Councils' written approval.

## **8 Budget and Strategic Resource Plan**

- 8.1 The CEO, in collaboration with the Board, shall be responsible for developing a proposed budget and strategic resource plan each February for consultation.
- 8.2 The budget and strategic resource plan will be adopted by the Board prior to 30 June each year.
- 8.3 The budget and strategic resource plan shall identify the financial and other resource requirements of the Corporation.
- 8.4 The proposed budget shall be developed in accordance with generally accepted accounting principles and the Australian Accounting and Financial Reporting Standards, and each Member Council's obligations with respect to budgeting and financial management under the *Local Government Act 2020* (Vic), and shall include:
  - (a) Current financial reports showing the assets, liabilities and equity of the Company;
  - (b) The amount of each Member Council's proposed Financial Contribution to the Company for the financial year commencing on 1 July, calculated in accordance with clause 9;
  - (c) The amount of funds expected to be received from other sources for the financial year commencing on 1 July; and
  - (d) The expected expenses of the Company for the financial year commencing on 1 July.
- 8.5 Upon the Board approving the budget in a general meeting of the Company, the Member Councils must pay the Financial Contributions in accordance with clause 9 or as otherwise specified in the budget.
- 8.6 The Company is not responsible for specific maintenance, repair, replacement and operating costs of assets owned by any one or more of the Councils, including furniture.
- 8.7 Each Member Council will cover the maintenance, repair, replacement and operating costs of its assets, including furniture.
- 8.8 The Company must not take any step to outsource the whole of a service or major service delivery component contract that are outside the objectives and purposes of the company as defined in the Constitution (clause 5.1) without the prior written consent of all the Member Councils.

## **9 Member Council Financial Contributions**

- 9.1 In developing the proposed Financial Contributions of each Member Council, the Company shall have regard to:
  - (a) The number of libraries, library services and other services provided or expected to be provided by the Company in the Member Council's LGA;
  - (b) The proportion of the Company's administrative staffing and resources that will be utilised in the Member Council's LGA;
  - (c) The State Governments' Public Library Grant made available by the Member Council to the Company; and
  - (d) The council rate cap set by the Minister for Local Government in the previous calendar year.
- 9.2 The Financial Contributions shall be calculated with the purpose of covering the ongoing operational costs of the Company, other than operational costs that can be funded by revenue generated by the Company or obtained by other external funding.
- 9.3 The amount to be contributed to the Company by each Member Council during each financial year shall be the sum of:
  - (a) the amount specified in the Company's adopted annual budget in accordance with the formula determined by the Board and formally endorsed by each Member Council during the annual budget process.
  - (b) all State Government library grants and subsidies received by the Council for library services, unless otherwise agreed by the Board;
  - (c) funds received by the Member Council from any other sources for library services to be provided by the Company; and
  - (d) funds received by the Member Council from any other sources for library services to be provided by the Company, in respect of which no provision has been made in the Company's budget.
- 9.4 Each Member Council's Financial Contribution to the Company under clause 9.1 shall be paid in quarterly instalments on the first day of July, October, January and April of each year, or, if pursuant to a contract with an external service provider, the Company is required to make payments more frequently than quarterly, with sufficient frequency to ensure that the Company is capable of observing its contractual obligations with the external service provider.
- 9.5 If the proposed annual budget has not been approved by each Member Council by 1 July, the first instalment of the Financial Contribution for that year shall be the same amount paid by the Member Council in the previous quarter and the second instalment shall include any adjustment to ensure that the two instalments together equal half of the amount to be paid by that Member Council for that financial year or as soon as reasonably practicable.
- 9.6 All other Council contributions under clause 9 shall be paid within one month of receipt of the monies by the Member Council.

## **10 Reporting & Accounts**

- 10.1 The Company must ensure that the Chief Executive Officer provides each Member Council with a copy of the Company's annual report, including audited financial accounts, to ensure that they meet their reporting requirements and timelines in accordance with the Local Government Act 2020:
  - (a) within three months of the end of each financial year,
  - (b) or at another date (or dates) to be agreed with the Member Councils.
- 10.2 The Company must provide each Member Council with quarterly financial reports which include a full suite of financial statements (inclusive of operating statement, balance sheet, cash flow, statement of capital works). Quarterly financial statements must also include the year-to-date position to year-to-date budget and the forecast position for the full financial year compared with the full year adopted budget.
- 10.3 The books of accounts and all other financial records of the Company shall be available for inspection at all reasonable times by any Director, a person authorised by a Member Council or any person authorised by the Secretary of the Department responsible for administering State Government library subsidies and grants from which the Company or Member Councils receive funds.
- 10.4 The audited financial accounts and quarterly financial reports will comply with the Australian Accounting Standards and other authoritative pronouncements of the Australian Accounting Standards Board (AASB).

## **11 Library Services and Branch Libraries**

- 11.1 The Company and a Member Council may enter into an agreement for the Member Council to provide the Company with services, including the lease or licence of a premises;
- 11.2 The Company and a Member Council may open new library branches.
- 11.3 The Company and a Member Council may expand, renovate or develop existing library branches.
- 11.4 The Company and a Member Council may enter into a funding arrangement whereby the Member Council provides the Company with Specific Contributions towards establishing a new library branch or undertaking a significant expansion, renovation or development of a library branch.
- 11.5 The occupancy of branch (including mobile) libraries may be subject to a separate agreement between the respective Member Council and the Company that sets out the obligations and the responsibilities of the parties.
- 11.6 If, in respect of any of the branch (including mobile) libraries described in the Schedule, no agreement of the type described in clause 11.5 exists as of the date of this Agreement, the Member Council that requires that there be an agreement to which clause 11.5 applies must negotiate in good faith with the Company to procure the execution of an agreement.
- 11.7 Nothing in this clause of this Agreement generally requires a Member Council to continue to provide the facilities or services provided to the Company at the commencement of this Agreement or subsequently, nor restricts a Member Council from adding to, changing or withdrawing any of the facilities provided to the Company.
- 11.8 Where a Member Council adds to, changes or withdraws any of the services provided by, or facilities provided to, the Company that leads to excess employees, then that Member Council will be liable for the redundancy costs for excess employees, whether deployed in branch libraries, the administration of the Company or otherwise. This clause is subject to every attempt first being made by the Company to redeploy the affected employees within its operations.

## **12 Premises provided by a Member Council**

- 12.1 For the avoidance of doubt, the Company and a Member Council may renegotiate any agreement or enter into a new agreement with respect to any Premises listed in Schedule 1.

### **13 Admission of New Member Councils**

13.1 The parties agree that a new Member Council shall only be admitted to membership of the Company pursuant to clause 8.3(c) of the Constitution in circumstances where the new Member Council enters into this Agreement with the Company and each existing Member Council.

13.2 The admission of a new Member requires the agreement of all existing Members.

### **14 Distribution of Assets upon a Member Council ceasing to be a Member**

14.1 In the event that a Member Council ceases to be a member of the Company, the Member Council may require the Company to transfer assets held by the Company for the benefit of library branches within the LGA of that Member Council to another library corporation or other body corporate, provided that the library corporation or body corporate is an organisation which the Company could make a distribution of surplus assets to under clause 33 of the Constitution were the Company being wound up.

14.2 The Company may charge the Member Council its reasonable costs associated with complying with a direction under clause 14.1.

14.3 For the purposes of clause 14.2, the cost to the Company of a Council's withdrawal from this Agreement, shall include (but not be limited to):

- (a) redundancy costs for excess employees (whether deployed in branch libraries, the administration of the Company or otherwise);
- (b) the cost of extracting bibliographic records for that Council's books and materials; and
- (c) the cost of amending bibliographic records to account only for those books and materials which remain.

14.4 The portion of assets to which a Member Council is entitled to have directly transferred to another library corporation or body corporate under clause 14.1:

- (a) is those books and like materials housed within a branch (including mobile) library located in its municipal district; and
- (b) may not be taken in the form of other property or cash unless the Board agrees; and
- (c) the cost of removing the books and like materials shall be paid for by the Member Council.

14.5 The portion of assets (other than books and like materials) to which a Member Council is entitled to have transferred to another library corporation or body corporate under clause 14.1:

- (a) shall be calculated according to the value of the assets as disclosed by the relevant audited financial statements;
- (b) shall be the value of the Member Council's proportionate share of the Initial Contributions and Specific Contributions, as adjusted by any increase or decrease in that value from the date of the Initial Contribution or Specific Contribution(s) and the date of the Member Council's withdrawal; and
- (c) may be taken in such combination of property and cash as agreed between that Member Council, the other Member Councils and the Company.

14.6 For the purposes of clause 14.5, the increase or decrease in the value of a Member Council's Initial Contribution and Specific Contributions will be calculated in the same proportion as the Member Council's financial contribution to the Company relative to all other Member Councils' contributions to the Company between the date of the Initial Contribution or Specific Contribution(s) and the date of that Member Council's withdrawal.

### **15 Contribution to liabilities upon a Member Council ceasing to be a Member**

15.1 A Member Council that withdraws from this Agreement shall be liable for a portion of the liabilities, including contingent liabilities, of the Company as at the date of its withdrawal from the Agreement.

15.2 The portion of the liabilities and contingent liabilities to which a Member Council is liable under clause 15.1:

- (a) shall be calculated according to the liabilities and contingent liabilities as disclosed by the relevant audited financial statements and reports, and any notes attached to them; and
- (b) shall be the value of the Member's Council's proportionate share in the Initial Contributions and Specific Contributions, as adjusted by any increase or decrease in those values between the date of the Initial Contribution or Specific Contribution(s) and the date of that Member Council's withdrawal.



15.3 For the purposes of clause 15.2 (b), the increase or decrease in the value of a Member Council's Initial Contribution and Specific Contributions will be calculated in the same proportion as the Member Council's financial contribution to the Company relative to all other Member Councils' contributions to the Company between the date of the Initial Contribution or Specific Contribution(s) and the date of that Member Council's withdrawal.

## **16 Distribution of Assets upon winding up of Company**

16.1 In the event that the Company is wound up, each Member Council may nominate a library corporation or other body corporate to receive surplus assets of the Company.

16.2 The Member Councils, in exercising their power under clause 33 of the Constitution to distribute surplus assets of the Company, shall act in a manner that is fair and reasonable to each Member Council, and in particular:

- (a) The parties shall, as far as is reasonably practicable, transfer assets held by the Company for the benefit of library branches within the LGA of a particular Member Council to the library corporation or other body corporate nominated by that Member Council; and
- (b) The calculation of the distribution of assets will be in accordance with the provisions of clause 14 *Distribution of Assets upon a Member Council ceasing to be a Member*.

## **17 Contribution to liabilities upon winding up of Company**

17.1 The calculation of the contribution for liabilities will be in accordance with the provisions of the Constitution, clause 7, Member's Liability.

17.2 Each Member during the year ending on the day of the commencement of the winding up of the Company, undertakes to contribute to the property of the Company for:

- (a) payment of debts and liabilities of the Company;
- (b) payment of the costs, charges and expenses of winding up; and
- (c) any adjustment of the rights of the contributories among Members.

## **18 Amendment of this Agreement**

18.1 An amendment to this Agreement has no effect unless it is:

- (a) in writing and signed by all parties to the Agreement; and
- (b) the parties agree that if a Council transfers assets to the Company or makes available additional assets for the use of the Company in accordance with the clauses 6 and 11, this does not constitute an amendment to this Agreement.

## **19 Agreement Review**

19.1 The Member Councils shall, together with the Board, review the operation of this Agreement at least once in every four years.

## **20 Cessation of the original agreement**

20.1 Subject to clause 20.2, the Original Regional Library Agreement ceases on the day on which this Agreement takes effect.

20.2 Any:

- (a) right accrued; or
- (b) obligation incurred

by reason of the Original Agreement will continue to exist notwithstanding the cessation of the Original Agreement.

## **21 Dispute Resolution**

21.1 Any dispute, grievance or other disagreement between Member Councils concerning the interpretation or application of this Agreement shall be dealt with in the same manner as a dispute would be dealt with under the Constitution of the Company.

**22 Agreement Execution**

The parties execute this Agreement to evidence being bound by it:

**EXECUTED BY KNOX CITY COUNCIL** by being signed by the persons authorised to sign on behalf of the Council

.....  
(signature)

Name of authorised officer:

.....  
Position:

.....

Date: ...../...../2023

.....  
(signature)

Name of witness:

.....  
Position:

.....

**EXECUTED BY MAROONDAH CITY COUNCIL** by being signed by the persons authorised to sign on behalf of the Council

.....  
(signature)

Name of authorised officer:

.....  
Position:

.....

Date: ...../...../2023

.....  
(signature)

Name of witness:

.....  
Position:

.....

**EXECUTED BY YARRA RANGES COUNCIL** by being signed by the persons authorised to sign on behalf of the Council

.....

*(signature)*

Name of authorised officer:

.....

Position:

.....

Date: ...../...../2023

.....

*(signature)*

Name of witness:

.....

Position:

.....

**EXECUTED BY YOUR LIBRARY LTD** by being signed by the persons authorised to sign on behalf of the Company

.....

*(signature)*

Name of authorised officer:

.....

Position: Director

Date: ...../...../2023

.....

*(signature)*

Name of witness:

.....

Position: Director

**EXECUTED BY EASTERN REGIONAL LIBRARIES CORPORATION** by  
being signed by the persons authorised to sign on behalf of the  
Company

.....

*(signature)*

Name of authorised officer:

.....

Position: Director

Date: ...../...../2023

.....

*(signature)*

Name of witness:

.....

Position: Director

## SCHEDULE 1

### PREMISES & INITIAL CONTRIBUTIONS



Your Library Ltd will occupy under licence the following premises:

- Bayswater Library
- Boronia Library
- Ferntree Gully Library
- Knox Library
- Rowville Library

#### Calculation of contribution to Your Library Ltd

##### Initial contribution to ERLC 1996:

	\$,000	%
Member Councils' initial contributions to ERLC		
<b>Knox</b>	<b>\$1,342*</b>	<b>36.39%**</b>
Maroondah	\$918	24.89%
Yarra Ranges	\$1,429	38.72%
<b>Total Member Councils' initial contributions to ERLC</b>	<b>\$3,689</b>	<b>100.00%</b>

\* The dollar value of the Member Council's contribution will be adjusted as at the date of transition to the new entity using the following formula:

$$\begin{aligned} & \$1,342,000 \text{ (Initial contribution)} \\ + & \text{ \% share (36.39\%) of the Accumulated Surpluses as at the date of transition} \\ = & \text{ Total Equity of Knox City Council in Your Library Ltd.} \end{aligned}$$

\*\* The percentage equity will be the percentage distribution available to the Member Councils on withdrawal or dissolution.

## SCHEDULE 1 (cont...)

### PREMISES & INITIAL CONTRIBUTIONS



Your Library Ltd will occupy under licence the following premises:

**Premises:**

- Croydon Library
- Realm Library

**Calculation of contribution to Your Library Ltd**

**Initial contribution to ERLC 1996:**

	\$,000	%
Member Councils' initial contributions to ERLC		
Knox	\$1,342	36.39%
<b>Maroondah</b>	<b>\$918*</b>	<b>24.89%**</b>
Yarra Ranges	\$1,429	38.72%
<b>Total Member Councils' initial contributions to ERLC</b>	<b>\$3,689</b>	<b>100.00%</b>

- \* The dollar value of the Member Council's contribution will be adjusted as at the date of transition to the new entity using the following formula:

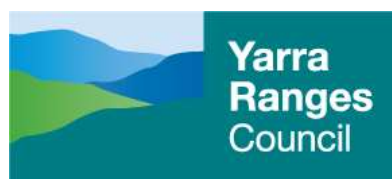
$$\begin{aligned} & \$918,000 \text{ (Initial contribution)} \\ + & \text{ \% share (24.89\%) of the Accumulated Surpluses as at the date of transition} \\ = & \text{ Total Equity of Maroondah City Council in Your Library Ltd.} \end{aligned}$$

- \*\* The percentage equity will be the percentage distribution available to the Member Councils on withdrawal or dissolution.



## SCHEDULE 1 (cont...)

### PREMISES & INITIAL CONTRIBUTIONS



Your Library Ltd will occupy under licence the following premises	Your Library Ltd will provide limited services to the following Reading Rooms
<ul style="list-style-type: none"> <li>• Belgrave Library</li> <li>• Healesville Library</li> <li>• Lilydale Library</li> <li>• Montrose Library</li> <li>• Mooroolbark Library</li> <li>• Yarra Junction</li> <li>• Flexi Vehicle</li> </ul>	<ul style="list-style-type: none"> <li>• Monbulk</li> <li>• Mt Evelyn</li> <li>• Yarra Glen</li> </ul>

#### Calculation of contribution to Your Library Ltd

##### Initial contribution to ERLC 1996:

	\$,000	%
Member Councils' initial contributions to ERLC		
Knox	\$1,342	36.39%
Maroondah	\$918	24.89%
<b>Yarra Ranges</b>	<b>\$1,429*</b>	<b>38.72%**</b>
<b>Total Member Councils' initial contributions to ERLC</b>	<b>\$3,689</b>	<b>100.00%</b>

\* The dollar value of the Member Council's contribution will be adjusted as at the date of transition to the new entity using the following formula:

$$\begin{aligned}
 & \$1,429,000 \text{ (Initial contribution)} \\
 + & \text{ \% share (38.72\%) of the Accumulated Surpluses as at the date of transition} \\
 = & \text{ Total Equity of Yarra Ranges Council in Your Library Ltd.}
 \end{aligned}$$

\*\* The percentage equity will be the percentage distribution available to the Member Councils on withdrawal or dissolution.

## VARIATION PAYMENT DATES PREVIOUSLY DECLARED SPECIAL CHARGE SCHEMES

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Report Author: Special Charge Scheme Officer  
Responsible Officer: Director Built Environment and Infrastructure  
Ward(s) affected: (All Wards);

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*The author(s) of this report and the Responsible Officer consider that the report complies with the overarching governance principles and supporting principles set out in the Local Government Act 2020.*

### CONFIDENTIALITY

This item is to be considered at a Council meeting that is open to the public.

### SUMMARY

Council at its meeting 11 April 2023 resolved that Council consider a report at a future meeting prior to 1 July 2023 to modify the payment dates for seven Special Charge Schemes that will proceed to construction but will not begin delivery when the Special Charge Scheme is due to be levied on 1 July 2023.

This report recommends modifying the commencement of landowner payment dates from 1 July 2023 to 1 July 2024 for the following (referred as the seven Special Charge Schemes):

- Alpine Street, Cecil Street and Glenbrook Road, Warburton
- Welham Road, Mooroolbark - Bretby Way, Montrose
- Emery Lane Montrose
- Alfred Street and John Street, Wandin North
- Tainton Street and Railway Parade, Wandin North
- Cedar Court, Burns Way (includes Harvest Close), Loch Avenue and Mayview Drive, Monbulk

**RECOMMENDATION*****That Council***

1. ***Modify the landowner payment dates for seven Special Charge Schemes from 1 July 2023 until 1 July 2033 to 1 July 2024 until July 2034 as the road construction will not commence before charges are due to be levied.***
  - (a) ***Alpine Street, Cecil Street and Glenbrook Road, Warburton.***
  - (b) ***Welham Road, Mooroolbark.***
  - (c) ***Bretby Way, Montrose.***
  - (d) ***Emery Lane, Montrose.***
  - (e) ***Alfred Street and John Street, Wandin North.***
  - (f) ***Tainton Street and Railway Parade, Wandin North.***
  - (g) ***Cedar Court, Burns Way (includes Harvest Close), Loch Avenue and Mayview Drive, Monbulk.***
2. ***Modify the expiry date of the special charge if it is not levied to each person liable to pay it from within 12 months to within 24 months after the day on which the declaration to which the rate or charge it relates to was made.***
3. ***Notify those persons liable to pay the special charge of the modification of payment dates for the Special Charge Scheme and provide new instalment arrangements.***

**RELATED COUNCIL DECISIONS**

- 11 April 2023 Council considered a report on Federal Funding Cuts to the Roads to the Community Program;
- 14 June 2022, Council advised of its intent to declare a special charge for works associated with Alpine Street, Cecil Street and Glenbrook Road, Warburton;
- 13 September 2022, Council advised of its intent to declare a special charge for works associated with Welham Road, Mooroolbark and Bretby Way & Emery Lane, Montrose; and
- 27 September 2022, Council advised of its intent to declare a special charge for works associated with Tainton Street and Railway Parade Wandin North. Cedar Court, Burns Way (includes Harvest Close, Loch Avenue and Mayview Drive, Monbulk.

The reports have been published on Council's website and are available by searching the Agenda for the relevant Council meeting dates.

## **DISCUSSION**

### ***Purpose***

The purpose of this report is to seek formal Council approval to modify landowner payments to special charge schemes that have been delayed as a result of recent Road for Community Funding Cuts. The period for when payments are levied, and instalment arrangements is to be amended to align with construction start dates.

### ***Background***

The Local Government Act 2020 introduced changes that a Special Charge Scheme expires if the charge is not "levied" within 12 months of the Scheme date, this standard reference refers more appropriately to Special Rate Schemes (like promotion/economic development schemes for, say a shopping area) which apply year on year but must have a time period.

Due to the delays because of the Federal Government reducing the funding for the Roads for the Community Initiative, the Schemes that are to continue need to be levied within 12 months and a payment instalment process put in place to align the commencement of construction with the due payment. Each of the seven schemes that have been preserved may have different construction start dates and corresponding instalment payment dates.

To ensure the process is manageable in the future and address the administrative issues associated with Capital Schemes being levied within the 12-month deadline, a date for payment falling due of 2 years might be considered or a consistent date and instalment plan within the scheme process established.

At its meeting 11 April 2023 Council considered a report on Federal Funding Cuts to the Roads to the Community Program.

One of the recommendations was to modify the landowner payment dates for the seven Special Charge Schemes that will proceed to construction but not begin delivery when the Special Charge Scheme is due to be levied on 1 July 2023.

The payment start instalment dates are to align with the construction start dates and be in place for a period of 10 years.

### ***Recommended option and justification***

That Council modifies the landowner payment dates from 1 July 2023 to 1 July 2024 for the seven Special Charge Schemes and notify those landowners who are liable to pay the special charge.

That Council also modify the expiry date of the special charge if it is not levied to each person liable to pay it from within 12 months to within 24 months after the day on which the declaration to which the rate or charge relates was made.

That before the Special Charge Scheme is levied new instalment plan arrangement is to be offered for a period from 1 July 2024 for a period of 10 years or such other trigger date or event as advised.

## **FINANCIAL ANALYSIS**

Council has approved the remaining Federal Government Roads for Community funding be used towards funding the seven road construction projects.

The modification in landowner repayment dates will not adversely impact the cost or delivery of these projects.

## **APPLICABLE PLANS AND POLICIES**

The construction of local roads as a Special Charge Scheme meets the Council Plan 2021-2025 strategic objective of Quality Infrastructure and Liveable Places. Local road construction also has benefits related to the strategic objective of a Vibrant Economy, Agriculture and Tourism.

Council's *Special Rate and Charge Policy for Infrastructure Improvements* sets out in detail the procedures for managing Special Charge Schemes.

## **RELEVANT LAW**

Special Charge Schemes for Infrastructure Improvements are implemented under the Special Charge provisions of the *Local Government Act 1989*.

After complying with the procedure for levying a special charge a Council may vary the special charge under Section 166 of the *Local Government Act 1989*.

Council must ensure that those persons who are liable to pay the special charge are notified of the decision to vary the special charge. The key to the ability to defer instalments is founded in separation of the declaration of the scheme from the payment arrangements.

## **SUSTAINABILITY IMPLICATIONS**

### ***Economic Implications***

The construction of the roads would be undertaken utilising contractors from Council's Road Construction and Associated Works Panel. This panel was established with a majority of local smaller contractors which will help provide economic support to these local businesses.

### ***Social Implications***

Special Charge Schemes for road construction require sizeable contributions from abutting landowners. These contributions can lead to social and economic impacts for affected landowners. Council's *Special Rate and Charge Policy for Infrastructure Improvements* notes that these landowners with a demonstrated financial hardship may apply for assistance in accordance with Council's Rate Recovery and Financial Hardship Policy.

### ***Environmental Implications***

All works will be completed in compliance with Council's Code of Environmental Practice for Works on Council Managed Land.

The sealing of local roads assists in reducing the impacts to the road condition from increased storm events, predicted as a result of climate change. Unsealed roads greatly deteriorate in condition following storm events creating an increased stress on service delivery for the unsealed road network.

## **COMMUNITY ENGAGEMENT**

Landowners of properties that abut projects that will be proceed have been provided with update letters regarding the status of their project following the recent Federal Government funding cuts to the program.

On adoption of this report's recommendations, affected landowners will be notified of modification of payment dates of the Special Charge Scheme.

## **COLLABORATION, INNOVATION AND CONTINUOUS IMPROVEMENT**

Projects constructed under the Roads for Recovery Program have been jointly funded by the Federal Government and participating landowners.

## **RISK ASSESSMENT**

Construction of the roads would provide the following benefits/risk reduction to landowners:

- Continued and safer vehicular access to and from properties abutting or gaining primary access via the road;
- Improved stormwater drainage runoff control directed towards the road from abutting properties, and protection of low side properties from stormwater runoff from the road; and
- Enhanced physical and environmental amenity for abutting properties.



## **CONFLICTS OF INTEREST**

No officers and/or delegates acting on behalf of the Council through the Instrument of Delegation and involved in the preparation and/or authorisation of this report have any general or material conflict of interest as defined within the *Local Government Act 2020*.

## **ATTACHMENTS TO THE REPORT**

Nil

## **DISCONTINUANCE FOR PREVIOUSLY DECLARED SPECIAL CHARGE SCHEME ROADS**

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Report Author: Manager Infrastructure Services  
 Responsible Officer: Director Built Environment & Infrastructure  
 Ward(s) affected: (All Wards);

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*The author(s) of this report and the Responsible Officer consider that the report complies with the overarching governance principles and supporting principles set out in the Local Government Act 2020.*

### **CONFIDENTIALITY**

This item is to be considered at a Council meeting that is open to the public.

### **SUMMARY**

On 11 April 2023 Council considered a report on these Federal Government funding cuts to the Roads for the Community Program, from \$150M to \$47.7M

The 11 April 2023 Council report recommended Council consider, at a meeting to be held prior to 1 July 2023, discontinuance of six Special Charge Schemes previously declared by Council.

This report presents to Council a list of six Special Charge Scheme road construction projects (Attachment 1) to be discontinued due to Federal Government funding cuts.

### **RECOMMENDATION**

#### ***That Council***

- 1. *Discontinue the following Special Charge Schemes, in accordance with section 164 of the Local Government Act 1989.***
  - (a) Park Street, Nicholas Street, Mary Road, Elsie Street, Royal Avenue and Imperial Avenue, Wandin North.***
  - (b) Austral Avenue, Upwey.***
  - (c) Nevada Avenue, Upwey.***
  - (d) Belbrook Road, Carween Avenue, The Highway, Weldon Grove and Mast Gully Road (service road), Upwey.***
  - (e) Henry Street, Yarra Junction.***
  - (f) Henry Street and Lester Street, Woori Yallock.***
- 2. *Notify those persons who are liable to pay the special charge of the discontinuance of the special charge.***

## **RELATED COUNCIL DECISIONS**

At its meeting of 11 April 2023 Council considered a report on Federal Government funding cuts to the Roads for the Community Program. There are thirteen projects where Council has declared Special Charge Schemes that have no current commitment for cost involved with their construction. The report advised that following a comparison of expenditure and commitments, there were sufficient funds to construct seven of these thirteen Special Charge Schemes previously declared by Council.

The report recommended Council consider, at a meeting to be held prior to 1 July 2023, discontinuance of six Special Charge Schemes previously declared by Council.

The report has been published on Council's website and is available by searching the Agenda for the 11 April 2023 Ordinary Meeting.

## **DISCUSSION**

### ***Purpose***

This report presents to Council a list of six Special Charge Scheme road construction projects to be discontinued due to Federal Government funding cuts.

### ***Background***

On 10 January 2023 Council received formal notification from the Federal Government that the \$150 Million Federal Government funding initiative would be reduced with Council only receiving total funding in the program of \$47.7 Million.

On 11 April 2023 Council considered a report on Federal Government funding cuts to the Roads for the Community Program. The report detailed what projects could be delivered based on the funding available in the program and where projects have been committed.

A comparison of expenditure and commitments was undertaken and found that there is a surplus of funding in the program based on the estimated figures. This surplus in funds can be used to deliver further road sealing projects in the program.

There are thirteen projects where Council has declared Special Charge Schemes that have no current commitment for cost involved with their construction. The surplus funds in the program can be utilised to deliver seven of these projects until funding is exhausted. The remaining six projects are recommended to be discontinued.

The six Special Charge Schemes that are recommended to be discontinued are listed in Attachment 1.

***Recommended option and justification***

That Council discontinue six Special Charge Scheme road construction projects listed in this report due to Federal Government funding cuts and notify those persons who are liable to pay the special charge of the discontinuance of the special charge.

**FINANCIAL ANALYSIS**

Estimated costs for the schemes that are recommended for discontinuance are in Attachment 1

**RELEVANT LAW**

Special Charge Schemes for Infrastructure Improvements are implemented under the Special Charge provisions of the *Local Government Act 1989*.

After complying with the procedure for levying a special charge a Council may discontinue the special charge under Section 164 of the *Local Government Act 1989*.

Council must ensure that those persons who are liable to pay the special charge are notified of the decision to discontinue the special charge.

**SUSTAINABILITY IMPLICATIONS*****Economic Implications***

The construction of roads in the Federal Government program has mainly been undertaken utilising contractors from Council's Road Construction and Associated Works Panel. This panel was established with a majority of local smaller contractors to help provide economic support to these local businesses.

Discontinuance of six special charge schemes will reduce work available to these local businesses.

***Social Implications***

Special Charge Schemes for road construction require sizeable contributions from abutting landowners. These contributions can lead to social and economic impacts for affected landowners.

***Environmental Implications***

The sealing of local roads assists in reducing the impacts to the road condition from increased storm events, predicted as a result of climate change. Unsealed roads greatly deteriorate in condition following storm events creating an increased stress on service delivery for the unsealed road network.

## **COMMUNITY ENGAGEMENT**

Landowners of properties that abut projects to be discontinued have been provided with update letters regarding the status of their project following the recent Federal Government funding cuts to the program.

On adoption of this report's recommendations, affected landowners will be formally notified of discontinuance of the Special Charge Scheme.

## **COLLABORATION, INNOVATION AND CONTINUOUS IMPROVEMENT**

Projects constructed under the Roads for Community Initiative have been jointly funded by the Federal Government and participating landowners.

The key principles of the program have been to construct unmade roads:

- Servicing schools, community facilities and sporting facilities;
- Within the urban growth boundary and township areas within Yarra Ranges;
- That significantly support bushfire risk and emergency situations to allow the community to safely exit areas of high risk;
- That support the growth and development of tourism across the municipality; and
- Where sections of high-volume rural roads intersect with collector/arterial roads

The uptake and support from community for these projects has been very strong. With the reduction of Federal Funding to this program, continued advocacy will need to be undertaken to try and have funding re-established and provide benefits of road sealing to the community.

Council will continue to advocate for the Roads for the Community Initiative funding to be reinstated as one of our priority initiatives. Council Officers are working collaboratively with the Cardinia Shire Council on a campaign and have made submissions to the Australian Government's budget process to request that the funding be restored so residents can have their road sealed as planned.

## **RISK ASSESSMENT**

The sealing of unsealed roads would provide the following benefits/risk reduction to landowners:

- Continued and safer vehicular access to and from properties abutting the road.
- Improved stormwater drainage runoff control due to the reduction of road gravel washing out and blocking drainage paths.
- Enhanced physical and environmental amenity for abutting properties.

If the proposed construction of a road does not proceed, inspections and service reports/requests to Council identify whether an unacceptable or unmanageable risk would be experienced by Council.

## **CONFLICTS OF INTEREST**

No officers and/or delegates acting on behalf of the Council through the Instrument of Delegation and involved in the preparation and/or authorisation of this report have any general or material conflict of interest as defined within the *Local Government Act 2020*.

## **ATTACHMENTS TO THE REPORT**

1. Special Charge Scheme road construction projects proposed to be discontinued



Road Project / Street Names	Ward	Special Charge Scheme Declaration Date	Estimated Construction Cost including 10% Contingency
Park Street, Nicholas Street, Mary Road, Elsie Street, Royal Avenue and Imperial Avenue, Wandin North	Chandler	25/10/2022	\$2,600,165
Austral Avenue, Upwey	Streeton	25/10/2022	\$297,856
Nevada Avenue, Upwey	Streeton	25/10/2022	\$208,388
Belbrook Road, Carween Avenue, The Highway, Weldon Grove and Mast Gully Road (service road), Upwey	Streeton	25/10/2022	\$816,269
Henry Street, Yarra Junction	O'Shannassy	22/11/2022	\$477,526
Henry Street and Lester Street, Woori Yallock	O'Shannassy	22/11/2022	\$1,389,563
		<b>Total</b>	<b>\$5,789,767</b>

**11. COUNCILLOR MOTIONS**

*In accordance with Chapter 3 Division 4 of the Governance Rules developed by Council in accordance with section 60 of the Local Government Act 2020.*

There were no Councillor motions received prior to the Agenda being printed.

**12. ITEMS THROUGH THE CHAIR**

**13. REPORTS FROM DELEGATES**

## 14. DOCUMENTS FOR SIGNING AND SEALING

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Report Author: Governance Officer  
Responsible Officer: Director Corporate Services  
Ward(s) affected: Chandler

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*The author(s) of this report and the Responsible Officer consider that the report complies with the overarching governance principles and supporting principles set out in the Local Government Act 2020.*

### CONFIDENTIALITY

This item is to be considered at a Council meeting that is open to the public.

### SUMMARY

It is requested that the following document be signed and sealed:

***Creation of Easement – Deed of Release- Yarra Ranges Shire Council and Elizabeth Mercuri.***

Creation of Easement (E1) for drainage purposes in favour of Yarra Ranges Shire Council, being part of land contained in Certificate of Title Volume 11208 Folio 110 and known as 15 Woodside Road, Seville.

### RECOMMENDATION

***That the following listed document be signed and sealed:***

***Creation of Easement – Deed of Release- Yarra Ranges Shire Council and Elizabeth Mercuri.***

## 15. INFORMAL MEETINGS OF COUNCILLORS

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Report Author: Governance Officer  
 Responsible Officer: Director Corporate Services  
 Ward(s) affected: All Wards

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*The author(s) of this report and the Responsible Officer consider that the report complies with the overarching governance principles and supporting principles set out in the Local Government Act 2020.*

### CONFIDENTIALITY

This item is to be considered at a Council meeting that is open to the public

### SUMMARY

Chapter 8, Rule 1, of the Governance Rules requires that records of informal meetings of Councillors must be kept and that the Chief Executive Officer must ensure that a summary of the matters discussed at the meeting tabled at the next convenient Council meeting and recorded in the Minutes of that Council meeting.

An 'informal meeting of Councillors' is defined in the Governance Rules as a meeting of Councillors that:

- is scheduled or planned for the purpose of discussing the business of Council or briefing Councillors;
- is attended by at least one member of Council staff; and
- is not a Council meeting, Delegated Committee meeting or Community Asset Committee meeting.

The records for informal meetings of Councillors are attached to the report.

### RECOMMENDATION

***That the records of the Informal Meetings of Councillors, copies of which are attached to the report, be received and noted.***

### ATTACHMENTS TO THE REPORT

1. 1 June 2023 - Sustainable Environment Advisory Committee



# Informal Meeting of Councillors

## Public Record



<b>Meeting Name:</b>	Sustainable Environment Advisory Committee	
<b>Date:</b>	1 June 2023	Start Time: 5.30      Finish Time: 7.40
<b>Venue:</b>	Civic Centre, Anderson Street and via Zoom	
<b>Attendees:</b>	<b>Councillors:</b> Cr Johanna Skelton	
	<b>Other attendees:</b> Graeme George (member), Ron Sawyer (member), Lauren Dwyer (member), Laurence Gaffney (member), Peter Martin (member), Ross Bleazby (Melbourne Water),	
	<b>CEO/Directors:</b> Monika Winston (YRC), Jess Rae (YRC),	
	<b>Officers:</b> Joerg Werdin (YRC), Suzanne Burville (YRC), Amanda Smith (YRC), Brian Davey (YRC),	
<b>Apologies</b>	Cr Tim Heenan, Kym Saunders (YRC), Tom Meek (YRC), Graham Brew (YRC), Melanie Birtchnell (member), Lucy Gilchrist (member), Clinton Muller (member), Bec Brannigan (member), Jonathan Gay (member), Merryn Kelly (DELWP)	
<b>Disclosure of Conflicts of Interest:</b>	None	
<b>Matter/s Discussed:</b>	1.1	Biochar
	1.2	YRC Deer program
	1.3	Biolinks plan
<b>Completed By:</b>	Suzanne Burville	

**16. URGENT BUSINESS**

*In accordance with Chapter 3 Rule 24 of the Governance Rules developed by Council in accordance with section 60 of the Local Government Act 2020.*

**17. CONFIDENTIAL ITEMS**

*In accordance with Chapter 3 Rule 24 of the Governance Rules developed by Council in accordance with section 60 of the Local Government Act 2020.*

There were no Confidential Items listed for this meeting.

**18. DATE OF NEXT MEETING**

The next meeting of Council is scheduled to be held on Tuesday 27 June 2023 commencing at 7.00pm, via videoconference.



**In providing for the good governance of its community, Councillors are reminded of their obligation to abide by the provisions as set within the Local Government Act 2020 and the Code of Conduct for Councillors.**

**When attending a Council Meeting, Councillors should adhere to the procedures set out in the Governance Rules developed by Council in accordance with section 60 of the Local Government Act 2020.**

The following is a guide for all Councillors to ensure they act honestly, in good faith and in the best interests of Yarra Ranges as a whole.

1. Councillors will respect the personal views of other Councillors and the decisions of Council.
2. Councillors may publicly express their own opinions on Council matters but not so as to undermine the standing of Council in the community.
3. The Mayor is the official spokesperson for Council.
4. Councillors will incur expenditure in a responsible manner and in accordance with the Councillor Expenditure and Policy.
5. Councillors will avoid conflicts of interest and will always openly disclose any direct and indirect interests where they exist.
6. Councillors will act with integrity and respect when interacting with Council staff and members of the public.
7. Councillors will demonstrate fairness in all dealings and conduct and be open with and accountable to the community at all times.
8. Councillors will conduct themselves in a manner that does not cause detriment to Council or the Yarra Ranges community.