

HEARING OF SUBMISSIONS COMMITTEE - REPORT ON PROCEEDINGS

Report Author: Governance
Responsible Officer: Director Corporate Services
Ward(s) affected: (All Wards);

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.

PURPOSE

The purpose of this report is to provide Council with a report on proceedings, including a summary of hearings, of the Hearing of Submissions Committee meeting held 15 June 2022.

SUMMARY

The Hearing of Submissions Committee met on 15 June 2022 to hear submitters on the following two matters:

- Draft Council Action Plan 2022-25 and Draft Budget 2022-23; and
- Intention to sell four pieces of land in Kilsyth and Mooroolbark to support the proposed purchase of 150 Cambridge Road, Kilsyth:
 - 182-184 Cambridge Road, Kilsyth;
 - 9A Wannan Court, Kilsyth;
 - 16 Ellis Court, Mooroolbark; and
 - Part (2600m²) of 9A Tinarra Court, Kilsyth.

In accordance with section 223 of the *Local Government Act 1989*, the Hearing of Submissions Committee is required to provide a report on its proceedings, including a summary of hearings, to Council.

RECOMMENDATION

That Council receive and note the report on proceedings, including the summary of hearings, from the Hearing of Submissions Committee meeting held 15 June 2022.

RELATED COUNCIL DECISIONS

The decision to undertake consultation with the community in respect of the Draft Council Action Plan 2022-25 and the Draft Budget 2022-23 was made at the Council meeting held on 10 May 2022.

The decision to undertake consultation with the community in respect of the intention to sell four pieces of land in Kilsyth and Mooroolbark to support the proposed purchase of 150 Cambridge Road Kilsyth was made at the Council meeting held on 8 March 2022.

DISCUSSION

Background

Section 63 of the *Local Government Act 2020* provides for the establishment of a delegated committee with delegated power, duty, or function, via an instrument of delegation. The Hearing of Submissions Committee was established by Council 9 June 2020 to exercise Council's functions under section 223 of the *Local Government Act 1989* to:

- Hear persons speak to their submissions at a meeting to be heard in support of their submissions;
- Subsequently provide a report on its proceedings, including a summary of hearings, to Council; and
- To do all things necessary or convenient to be done for or in connection with the performance of those functions, duties and powers.

The Hearing of Submissions Committee met on 15 June 2022 to hear submitters on the following two matters:

- Draft Council Action Plan 2022-25 and Draft Budget 2022-23; and
- Intention to sell four pieces of land in Kilsyth and Mooroolbark to support the proposed purchase of 150 Cambridge Road, Kilsyth:
 - 182-184 Cambridge Road, Kilsyth;
 - 9A Wannan Court, Kilsyth;
 - 16 Ellis Court, Mooroolbark; and
 - Part (2600m²) of 9A Tinarra Court, Kilsyth.

Key Issues

The Mayor opened the meeting at 6.30pm which was a hybrid meeting held at the Council Chamber with an option for virtual participation.

All Councillors were in attendance, with the exception of Cr McAllister who had submitted an apology.

There were no declarations of conflict of interest in respect of the matters to be heard.

Details of all submissions received, together with comments from Officers on issues raised by each submitter, were provided before the meeting commenced and copies were also available on Council's website.

The Hearing of Submissions Committee heard from:

- 2 submitters who requested to speak in support of their written submission on the Draft Council Action Plan 2022-25 and the Draft Budget 2022-23.
- 5 submitters who requested to speak in support of their written submission on Council's intention to sell four pieces of land in Kilsyth and Mooroolbark to support the proposed purchase of 150 Cambridge Road Kilsyth.

All submitters were advised that they had up to five minutes in which to speak, after which Councillors may ask questions of them.

Summary of Hearing - Draft Council Action Plan 2022-25 and the Draft budget 2022-23

The Mayor advised that 11 submissions had been received and proceeded to call on those submitters who had made a request to speak to their submission.

- Submissions 8 & 11 - Derry Talvainn spoke to the following issues:
 - for Council to reconsider proceeding with the development of the Warburton Mountain Bike Destination as a future tourism attraction as it is projected to increase tourism at a rate that will exceed the current capacity of the town;
 - this development will not have benefits to the local economy and community and will have significant negative environmental impacts;
 - the development will also create a greater emphasis on a sport that is mainly male orientated, and that funding could be better used to support female activities; and
 - for Council to redirect funding from the current Warburton Mountain Bike Destination Project to support infrastructure for current tourism needs in the Warburton and surrounding area.
- Submission 10 - Paul Dempsey spoke to the following issues:
 - that the 2022 Council Budget and Council Action Plan give more weight to the need of addressing Climate Emergency responses;
 - that Council should place a higher focus on planting fruit trees to ensure food security for the future. There are many opportunities to plant the right trees now to secure the future for the next generations; and

- to consider the site near the Civic Centre along the By-Pass Reserve as a suitable strategic site to demonstrate and practice co-operative ventures to strengthen local communities such as community orchards and food gardens.

After hearing from each submitter, the Hearing of Submissions Committee unanimously resolved:

“ That:

Having considered the submissions received, the Committee’s response to each submission is as per Attachment 1 (published separately).

The responses are submitted to Council as the preliminary recommendations of the Committee for the Council Meeting on 28 June 2022 for the purpose of adopting the 2022-25 Council Action Plan, 2022- 23 to 2025-26 Budget and the 2022-23 to 2031-32 Capital Expenditure Program.”

Summary of Hearing – Council’s intention to sell four pieces of land in Kilsyth and Mooroolbark to support the proposed purchase of 150 Cambridge Road Kilsyth

The Mayor advised that 13 submissions had been received and proceeded to call on those submitters who had made a request to speak to their submission.

16 Ellis Crt, Mooroolbark

- Submission 35 - Stephen Wyatt spoke to the following issues:
 - Council should not sell open spaces to fund the purchase of 150 Cambridge Rd
 - Ellis Crt reserve site should be improved for better use as a passive park, and the tree canopy protected. No playground needed as there is one nearby
 - Legal defects in Council’s approach, including:
 - Lack of Council resolution to give notice of intention to sell
 - Replenishment of cash reserves is an illegal use of the sale proceeds of sale of open spaces
 - Council cannot apply either the open space contributions or the proceeds of the sale of open space to make up for past deficiencies in open space
 - Council has not revised and adopted it’s budget through proper process
 - Council’s persistent pursuit (3rd attempt) to sell the site - past assurances have been given that procedures would be stopped and unlikely to resume
 - 100% of affected residents are opposed to the sale of their reserves.

- Submission 25 – Timothy Heemskerk spoke to the following issues:

- Disingenuous consultation. Council has not engaged in an open and genuine approach, effectively making the issue a popularity contest
 - Disapproves Council selling open spaces. Increasing densification increases importance of open spaces, and sale would be contrary to Council's own social justification commentary around the importance of parks
 - Geographic disconnect between Ellis Crt and 150 Cambridge Rd, with residents required to drive to access it
 - Asserts the land, vegetation and tree canopy should be retained and improved for future generations.
- Submission 28 – Jill Jackson spoke to the following issues:
 - Perceived bias of council linking sale to the purchase of 150 Cambridge Rd as it doesn't allow due consideration of sale on its merits
 - The land provides an environmental benefit (abundant trees, grasses, birds and animals), and community health benefit as a place of respite. People need quiet, passive, contemplative spaces - Luke Polkinghorn Reserve (with playground) provides a different purpose
 - The retention of vegetation, tree canopy and environmental diversity aligns with Council's Environmental Strategy prioritising improvement of vegetation in urban forests, also considering Ellis Crt's close proximity to a high density development area. Significant losses during June 2021 storms exacerbated already significant vegetation losses in the area
 - Proposed vegetation offsets at 150 Cambridge Road are not reasonable given long establishment times of tree canopies
 - Elderly residents cannot walk to the Cambridge Road land.

9A Tinarra Crt, Kilsyth

- Submission 20 – Paul Baker spoke to the following issues:
 - Represents a collective advocating for affordable housing – which seeks to address housing affordability and rental disadvantage issues
 - Requests an open conversation with Council about Council making land available for affordable housing development
 - Of the properties listed, has a preference for Tinarra Crt land as a location for such development.

9A Wannan Crt, Kilsyth

- Submission 37 – Colin Matheson spoke to the following issues:
 - Council's failure to notify that the land is a park and is actually used
 - The land was planted out by him and neighbours years ago and mowed and maintained since, representing good value to Council whilst meeting the needs of community

- Used by local children, dog walkers and residents of a nearby aged care facility as a place of recreation and relaxation – it doesn't need swings on it as there are some nearby
- The land's abundant bird/animal (possums) life – important given the loss of vegetation in 2021 storms. Further loss through sale would be contrary to Council's statements around the importance of flora and fauna
- Supports the purchase of 150 Cambridge Rd purchase (approx. 2.7km away) but not through selling the reserve. Residents can't be expected to walk there. When you sell the land, you can't get it back.

After hearing from each submitter, the Hearing of Submissions Committee unanimously resolved:

"That:

1. *The Delegated Committee, having received and heard all submissions in relation to Council's intention to sell 182-184 Cambridge Rd, Kilsyth, 9A Wannan Court, Kilsyth, 9A Tinarra Court, Kilsyth and 16 Ellis Court, Mooroolbark, incorporate its recommendations into a report to be considered at a future Council meeting.*
2. *All submitters be informed of the date, time and location of the Council meeting at which Council will make its decision in respect of each of the four land parcels.*
3. *The confidential attachment to this report remains confidential indefinitely as it relates to matters specified under section 3(1)(f) of the Local Government Act 2020."*

At the close of the meeting, the Mayor advised that Council will consider all submissions received and that all submitters would receive a response from Council to their submission.

Recommended option and justification

Providing a report to Council from the Hearing of Submissions Committee, including a summary of the hearings, will assist Council in making an informed decision on the two matters with a full understanding of community views and input.

FINANCIAL ANALYSIS

There are no financial implications associated with this report. Any financial implications with the matters heard at the Hearing of Submissions Committee have been identified prior to the Hearing of Submissions Committee meeting.

APPLICABLE PLANS AND POLICIES

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

- *Connected and Healthy Communities: Communities are safe, resilient, healthy, inclusive and socially well connected. Quality services are accessible to everyone.*

- High Performing Organisation: *An innovative, responsive organisation that listens and delivers quality, value for money services to our community.*

RELEVANT LAW

Receipt of this report by Council ensures compliance with the obligations of the Hearing of Submissions Committee under section 223 of the *Local Government Act 1989* as established under section 63 of the *Local Government Act 2020* as a Delegated Committee.

SUSTAINABILITY IMPLICATIONS

There are no sustainability implications associated with this report.

COMMUNITY ENGAGEMENT

No consultation has been undertaken with respect to the recommendations in this report. The matters heard by the Hearing of Submissions Committee were advertised for a period of 28 days in accordance with section 223 of the *Local Government Act 1989* and members of the community invited to make submissions.

COLLABORATION, INNOVATION AND CONTINUOUS IMPROVEMENT

No collaboration with other Councils, Governments or statutory bodies was sought.

RISK ASSESSMENT

There are no risks associated with the recommendation in this report. The Hearing of Submissions Committee is not responsible for making the decision with respect to the submissions made and Council is asked to receive and note the report on proceedings and the summary of hearings.

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. Nil