

AGENDA



Meeting of the Strategic Planning Committee of Council

Under Section 89 of the Local Government Act 1989, Council may resolve that the Meeting be closed to members of the public if the Meeting is discussing any of the following issues Personnel Matters, Personal Hardship of any resident or ratepayer, Industrial Matters, Contractual Matters, Proposed Developments, Legal Advice, Matters affecting security of Council property, any other matter which the Council or Special Committee considers would prejudice the Council or any person.

To be held at the

Civic Centre

511 Burwood Highway

Wantirna South

On

Monday 9 September 2019 at 7:00 pm

Order of Business

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Tony Doyle
Chief Executive Officer

1 Apologies and Requests for Leave of Absence

2 Declarations of Conflict of Interest

3 Confirmation of Minutes

Confirmation of Minutes of Strategic Planning Committee Meeting on Monday 12 August 2019

4 Considering and Ordering Upon Officers' Reports

4.1 Audit Committee Annual Report 2018-19

SUMMARY: Manager, Governance and Strategy, Phil McQue

This report provides for the presentation of the Knox City Council Audit Committee's Annual Report for 2018-19 to Council, in accordance with the adopted Audit Committee Terms of Reference. The Knox City Council Audit Committee Annual Report 2018-19 will be presented by the Committee's Independent Chair, Ms Lisa Tripodi.

RECOMMENDATION

That Council receive and note the Knox City Council Audit Committee Annual Report 2018-19, shown at Attachment 1.

1. INTRODUCTION

In accordance with the Knox City Council Audit Committee (Audit Committee) Terms of Reference endorsed at the Ordinary Meeting of Council on 27 March 2017, an Annual Report is to be provided by the Committee to Council, summarising the activities undertaken during the previous year.

The draft Audit Committee Annual Report 2018-19 was presented and discussed at the Audit Committee meeting held on 22 August 2019. The Committee endorsed the report and authorised the Committee Chairperson to present it to Council on the Committee's behalf.

2. DISCUSSION

The Audit Committee Chairperson, Ms Lisa Tripodi, has been invited to present the report to Council. The two other independent members of the Audit Committee, Dr John Purcell and Mr Homi Burjorjee, have also been invited to attend.

The Audit Committee Annual Report provides an overview of the Committee's activities throughout 2018-19, including an examination of the issues discussed, policies reviewed and independent reports considered. In addition, the report provides an overview of the scope of each report considered as part of the Internal Audit Program and a summary of its findings and the management response.

3. CONSULTATION

To assist in the preparation of this Annual Report, consultation has included the Audit Committee members.

4. ENVIRONMENTAL/AMENITY ISSUES

There are no specific environmental issues arising from this report.

5. FINANCIAL & ECONOMIC IMPLICATIONS

This report relates to the performance of the Audit Committee, which is one of Council's mechanisms for providing oversight to the responsible financial management and custodianship of the community's resources.

6. SOCIAL IMPLICATIONS

There are no social implications arising from this report.

7. RELEVANCE TO KNOX COMMUNITY AND COUNCIL PLAN 2017-2021

Goal 8 - We have confidence in decision making

Strategy 8.1 - Build, strengthen and promote good governance practices across government and community organisations

8. CONFLICT OF INTEREST

Under section 80c of the Local Government Act 1989 officers providing advice to Council must disclose any interests, including the type of interest.

Author – Manager, Governance and Strategy, Phil McQue - In providing this advice as the Author, I have no disclosable interests in this report.

Officer Responsible – Director, Corporate Services, Michael Fromberg - In providing this advice as the Officer Responsible, I have no disclosable interests in this report.

9. CONCLUSION

The Audit Committee's Annual Report provides an overview of the Committee's activities throughout 2018-19 and its presentation to Council is an important part of the transparency and accountability of the work of the Committee.

10. CONFIDENTIALITY

There are no items of a confidential nature in this report.

Report Prepared By: **Manager, Governance and Strategy, Phil McQue**

Report Authorised By: **Director, Corporate Services, Michael Fromberg**

Attachments

1. Attachment 1 - Audit Committee Annual Report 2018-19 [**4.1.1** - 5 pages]

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Knox City Council Audit Committee

Annual Report 2018-2019

Message from the Chairperson

It is with pleasure that I submit my first Annual Report as Chairperson for the Knox City Council Audit Committee.

The key purposes of this report are to:

- Increase awareness of the purpose, role and objectives of the Audit Committee;
- Act as a communication link between the Internal and External Auditors and Council;
- Outline the key achievements of the Audit Committee; and
- Provide the Council with information on the future objectives of the Committee.

The Councillor membership of the Audit Committee for the 2018-19 financial year comprised Councillors Mayor Jake Keogh, Darren Pearce and Tony Holland.

The external membership of the Committee comprised Dr John Purcell and myself, with Ms Linda MacRae retiring from the Audit Committee on 8 December 2018.

Ms MacRae made a significant contribution to the Audit Committee over several years, many as Chairperson, and she was appropriately acknowledged and recognised on her retirement by the Council and Audit Committee.

Following a metropolitan-wide expression of interest process in late 2018, Mr Homi Burjorjee was appointed to the Audit Committee for a three year term in December 2018, with his first meeting being the February 2019 Audit Committee.

Mr Burjorjee has had extensive experience on various local government Audit Committees and is also involved with the Victorian Chapter of the Institute of Internal Auditors.

During 2018-19, Knox City Council underwent a tender process to appoint new internal auditors, following the conclusion of DFK Kidsons' contract.

Crowe Horwath were appointed for a three year period commencing 1 December 2018, following a rigorous process.

Crowe Horwath will support the Audit Committee with an intensive program of Internal Audit reviews.

The Victorian Auditor-General's Office appointed BDO Australia as Council's external auditors this year. They will play a key role in providing the Audit Committee with confidence that the annual financial audits fully reflect the financial performance of Council.

I believe the Audit Committee has performed a valuable oversight role for Council during 2018-19, assisting in Council's accountability, internal controls, risk management and statutory obligations.

It is a highly productive and engaged Committee, adding value through the diverse experience and knowledge of its members.

The Audit Committee is of the view that Council's financial, governance and risk control environment and associated systems are largely strong.

Our objective is to enhance and build further capacity and capability from a governance perspective during 2019-20.

I wish to thank Council's Chief Executive Officer, Tony Doyle and the Director Corporate Services, Michael Fromberg for their valued support and assistance.

Finally, I thank all my fellow Audit Committee Members for their participation, diligence, professionalism and contribution throughout 2018-19.

I commend the Annual Report to Council.

Ms Lisa Tripodi
Independent Chairperson
Knox City Council Audit Committee



The Audit Committee

The Terms of Reference set out the purpose of the Audit Committee as follows:

“The Committee’s purpose is to assist the Councillors and Council Management in fulfilling their responsibilities in relation to accounting and reporting practices, management of risk, maintenance of internal controls, operation of good governance practices and facilitation of sound organisational ethics.”

More specifically, the Audit Committee aims to provide independent assurance and assistance to Knox City Council, its Councillors, Chief Executive Officer and Management Team, in fulfilling their responsibilities by undertaking the following:

- To consider matters brought to its attention by Council, Committee members, Management, external auditors, internal auditors and other investigative/regulatory bodies;
- To consider the appropriateness of Council’s accounting policies and procedures, and any changes to them, ensuring they are in accordance with the stated financial reporting framework;
- To review the Council’s draft annual financial and performance statements prior to their approval by the Council;
- To understand the scope of the external audit as outlined to the External Auditor by the Auditor-General and the audit plan including proposed audit strategies as they relate to identified risk areas;
- To receive advice from the external auditors as to whether they have had full and open access to all personnel and information required to complete the audit;
- To discuss matters arising from the external audit with the external auditor and to obtain regular reports from Management and auditors concerning the resolution of the matters raised;
- To be represented on the Committee recommending the appointment of the internal auditor;
- To review the scope (nature, timing and extent) of the internal audit program and the effectiveness of the function;
- To ensure that the Internal Audit Program systematically addresses over time, internal controls over significant areas of risk and over revenue, expenditure, assets and liabilities and major contracts; the efficiency, effectiveness and economy of significant Council programs; compliance with legislation;
- To review reports of the Internal Auditor and obtain regular advice concerning the resolution of matters raised;
- To monitor the risk exposure of Council by determining if Management have adequate risk management processes over financial and non-financial risks and to monitor the operation of these processes and controls;
- To ensure that the internal audit program contains projects that consider effective governance of Council’s operations, including the primary good governance characteristics of fairness, discipline, independence, accountability, responsibility, transparency and social responsibility;
- To identify and request any specific projects or investigations or advice deemed necessary through the Chief Executive Officer;



- To obtain and review Management and auditor reports and advice concerning the adequacy of management information systems; currency and effectiveness of business continuity and disaster recovery plans; adequacy and timeliness of financial reports received by Council; compliance with statutory requirements for financial and performance reporting and corporate governance practices; the adequacy of the internal control environment; including significant transactions made outside of Council’s normal business hours; compliance with statutory obligations relevant to Council’s activities and the implementation status of major Council projects;
- To facilitate the enhancement of the credibility and objectivity of internal and external financial and performance reporting; and
- To report to Council all recommendations determined by the Committee, and any other matter or issue considered appropriate and within the Committee’s Terms of Reference.

Meetings and Membership

The Audit Committee met five times during 2018-19

- 23 August 2018
- 11 October 2018
- 6 December 2018
- 7 February 2019
- 2 May 2019

The following is a table of attendance for each of the Committee Members:

TERM	23 Aug 2018	11 Oct 2018	6 Dec 2018	7 Feb 2019	2 May 2019	
Councillors						
Cr Tony Holland	x	✓	✓	x	x	2 of 5
Cr Darren Pearce	✓	✓	✓	✓	✓	5 of 5
Cr Jake Keogh	✓	x	✓	✓	✓	4 of 5
Independent Members						
Linda MacRae (Chair)	✓	✓	✓	*	*	3 of 3
John Purcell	✓	✓	✓	✓	✓	5 of 5
Lisa Tripodi	✓	✓	✓	✓	✓	5 of 5
Homi Burjorjee	*	*	*	✓	✓	2 of 2

✓ = Attended x = Apology * = Not a Member

Audit Committee Outcomes 2018-19

The following are the key items considered by the Audit Committee during 2018-19:

- Development of a Three Year Internal Audit Program
- Audit Financial Statements and Performance Statement
- Annual External Audit Report 2017-18
- Audit Committee Annual Report 2017-18
- Monitoring Governance Framework
- Review Results of Annual Self-Assessment Questionnaire
- Risk Management Framework
- Strategic Risk Register Report
- Regular Risk Management Updates
- IT System Penetration Testing and Remediation
- Status of Implementation of Accounting Standards – 2018/19
- Essential Safety Measures Review Project Update
- IT System Penetration Testing and Remediation
- Internal Audit Scope – Project Management Governance (IT Project)
- Internal Audit Scope – Management of OHS (Employees and Contractors)
- Internal Audit Scope – Food and Health Services
- Internal Audit Scope – Contract Management
- Internal Audit Scope – Rates Management (inc. Data Analytics)
- Internal Audit Scope – Business Continuity and Disaster Recovery
- Regular ICT Program Updates
- Review of Policies Requiring Audit Committee Endorsement
- VAGO Financial Management Letter for Financial Year Ending 30 June 2018
- Australian Accounting Standards Update for Financial Year Ending 30 June 2019
- Draft External Audit Strategy for Financial Year Ending 30 June 2019
- Accounting Policies, Judgements, Estimates and Assumptions Report
- Energy Performance Contract Review
- Asset Management Implementation Report 2019
- KABA and Promaster Key System Replacement
- Strategic Internal Audit Plan
- Disclosure of Councillor Expenses
- Procurement Policy and Corporate Purchasing Card Policy
- External Audit Timetable 2019
- Status of Implementation of New/Revised Australian Accounting Standards

Outlook for 2019-20

We look forward to delivering upon the Three Year Internal Audit Program developed by the Audit Committee.

The Audit Committee will conclude its business for the 2018-19 financial year by working with the external auditor in relation to the 2018-19 Financial and Performance Statements and make recommendations to Council in respect to approving the draft Financial Statements and Performance Statement.

Ms Lisa Tripodi
Chairperson

4.2 Australia Day Awards 2020

SUMMARY: Acting Manager, Governance and Strategy, Andrew Dowling

This report seeks confirmation of the 2020 Australia Day Awards categories and past winners as committee members to enable the nomination process to commence.

RECOMMENDATION

That the Committee:

1. Approve the below categories for the 2020 Australia Day Awards:
 - Citizen of the Year
 - Young Citizen of the Year
 - Elder Citizen of the Year
 - Volunteer of the Year
 - Local Hero
 - Environmentalist of the Year.
2. Invite the 2019 Australia Day Award recipients to participate on the Australia Day Awards Committee for the 2020 Awards.
3. Note that Councillor appointments to this Committee will be made at the Statutory Meeting on 30 October 2019.
4. Thank the community representatives for their assistance and participation on the Australia Day Awards Committee for the 2019 awards.
5. Adopt revised Terms of Reference for the Australia Day Awards Committee consistent with those set out in Attachment 1.

1. INTRODUCTION

The Knox local Australia Day Awards commenced in 1994 and are held in conjunction with the National Australia Day Council. The awards program provides Council with an opportunity to recognize individuals who have contributed admirably to enriching the fabric of our local community.

2. DISCUSSION

Australia Day Awards 2019

The Australia Day Awards Committee was established to consider nominations and elect award recipients in preparation for a civic celebration on Australia Day.

The award categories approved in August 2018 are:

- Citizen of the Year
- Young Citizen of the Year
- Elder Citizen of the Year
- Volunteer of the Year
- Local Hero
- Environmentalist of the Year

The awards are presented to recipients at the Australia Day Breakfast held at the Civic Centre on 26 January. The awards ceremony provides an opportunity for award recipients both past and present to celebrate Australia Day and for Council to acknowledge the tremendous contributions of these truly inspirational community members.

For the 2019 awards, 16 people were nominated in recognition of their outstanding contributions in the community. The Knox Australia Day Awards Committee is charged with the very difficult task of selecting the award recipient for each category.

The award recipients for 2019 were:

- Citizen of the Year: Andrea Cobern and Johann Poppenbeck (joint winners)
- Young Citizen of the Year: Joel Porter
- Volunteer of the Year: Lyn Shepherd
- Elder Citizen of the Year: George and Pat Hetrel (joint winners)
- Local Hero: Shameela Essop

The morning's celebrations concluded with a flag raising ceremony and singing of the national anthem.

Special thanks are extended to the 2019 Australia Day Awards Committee for their participation and support of this important program:

- Cr Tony Holland - Chairperson
- Cr Jake Keogh -Mayor
- Cr Peter Lockwood – Deputy Mayor
- Mr Darren Wallace – Winner, 2018 Citizen of the Year
- Ms Jane Meehan – Winner, 2018 Volunteer of the Year
- Mr Hurtle Lupton – Winner, 2018 Elder Citizen of the Year

Terms of Reference

The current Terms of Reference were adopted by Council on 27 August 2018 for a period of four years.

One substantive change is proposed to the Terms of Reference (Attachment 1) to provide discretion for the Awards Committee to consider to consider nominees in the Citizen, Young Citizen, Volunteer, Elder Citizen or Environmentalist of the Year categories who are not residents of the municipality. This reflects the primary focus of the awards is to recognise Knox residents, while ensuring Council can recognise non-residents if their contributions, impact or actions have principally been within the municipality, or primarily for the benefit of the Knox community.

Minor administrative updates have also been made to reflect the custom and practice of the committee, achieve greater consistency with the terms of reference template in Knox's current Council Committee's Policy, and format the document consistent with Council's visual identity.

3. CONSULTATION

Current Councillor members of the Australia Day Awards Committee have been consulted on the substantive change to the terms of reference.

4. ENVIRONMENTAL/AMENITY ISSUES

There are no environmental or amenity issues associated with the preparation of this report.

5. FINANCIAL & ECONOMIC IMPLICATIONS

Council's Australia Day activities are funded as a component of the Civic Functions annual budget.

6. SOCIAL IMPLICATIONS

The Australia Day awards program provides Council and the community with an opportunity to acknowledge those people who work tirelessly helping others and in building a more connected community.

7. RELEVANCE TO KNOX COMMUNITY AND COUNCIL PLAN 2017-2021

Goal 7 - We are inclusive, feel a sense of belonging and value our identity

Strategy 7.3 - Strengthen community connections

Strategy 7.4 - Promote and celebrate the contribution of our volunteers

8. CONFLICT OF INTEREST

Under section 80c of the Local Government Act 1989 officers providing advice to Council must disclose any interests, including the type of interest.

Author – Acting Manager, Governance and Strategy, Andrew Dowling - In providing this advice as the Author, I have no disclosable interests in this report.

Officer Responsible – Director, Corporate Services, Michael Fromberg - In providing this advice as the Officer Responsible, I have no disclosable interests in this report.

9. CONCLUSION

It is recommended that Council confirm the 2020 Australia Day Awards categories and invitation of past winners as committee members to enable the nomination process to commence, and adopt the revised Terms of Reference.

10. CONFIDENTIALITY

There are no items of a confidential nature in this report.

Report Prepared By: Acting Manager, Governance and Strategy, Andrew Dowling

Report Authorised By: Director, Corporate Services, Michael Fromberg

Attachments

1. Revised Terms of Reference - Australia Day Awards Committee [4.2.1 - 5 pages]

Australia Day Awards Committee

Directorate:	Corporate Development	Responsible Officer:	Manager Governance & Strategy
Approval Date:	9 September 2019	Committee Group:	Specific Purpose
Review Date:	27 August 2022		

1. Purpose

The purpose of the Australia Day Awards Committee is to acknowledge outstanding individuals who have made a valuable contribution to the Knox community through an annual awards program.

2. Objectives

2.1 The Australia Day Local Awards are held in conjunction with the Victorian Australia Day Committee. The objective of Council's Committee is to consider nominations and select annual award recipients in the following categories:

Citizen of the Year

For residents of Knox who could be described as role models in the community, who have given selflessly of themselves to others.

Young Citizen of the Year

For residents of Knox who are under 25 years of age on 26 January in the year the award is being presented and who have made an outstanding contribution to their community or school.

Volunteer of the Year

For residents of Knox who have given of themselves in a voluntary role.

Local Hero

For a community member who performed a heroic act or made a singular outstanding achievement in the Knox community.

Elder Citizen of the Year

For residents of Knox aged 65 and over who have made a significant contribution to the community or are an inspirational role model.

Environmentalist of the Year

For residents of Knox whose actions and ideas have had a significant positive impact on the natural environment.



2.2 The Committee may, through consensus, elect:

- not to select an award recipient in a particular category; and/or
- consider a nominee in a category other than that for which they have been nominated; and or
- to consider a nominee in the Citizen, Young Citizen, Volunteer, Elder Citizen or Environmentalist of the Year categories who is not a resident of the municipality, but whose contributions, impact or actions have principally been within the municipality, or primarily for the benefit of the Knox community.

2.3 Awards are presented to recipients at the Australia Day Local Awards event held annually at the Civic Centre on 26 January. Council staff will coordinate the presentation of the awards in conjunction with the Committee.

2.4 The Committee is expected to meet up to three times between October and January.

3. Membership, Period of Membership and Method of Appointment

Membership of the Australia Day Local Awards Committee is as follows:

- 3 Councillor(s) – appointed annually by Council at the Statutory Meeting.
- Current Australia Day Local Awards Recipients – current award recipients are invited to participate on the selection panel for the following years award recipients.

The Mayor is, by virtue of the Office, ex officio a member of the Committee. It is important that whilst the Mayor may not chair these meetings, appropriate recognition should be given to the presence of the Mayor if in attendance. The Mayor has no voting rights in their capacity as an ex officio member of the Committee.

Governance staff provide support and assistance to the Committee as required.

4. Delegated Authority and Decision Making

The Committee has the capacity to make a decision/s in relation to the objectives outlined in section 2 of this Terms of Reference.

In making decisions, the Committee must comply with Council's policies, procedures and guidelines. In accordance with section 76E of the Local Government Act 1989, a Councillor must not improperly direct or influence a member of Council staff in the exercise of any power or in the performance of any duty or function.

The Committee cannot make decisions outside the agreed scope detailed in its Terms of Reference.

5. Meeting Procedures

Meetings are to be held at a time and place determined by the Australia Day Local Awards Committee.

Committee meetings are confidential and closed to the public. Committee members must not disclose the matters discussed at the meeting with anyone other than a fellow Committee member.



Staff are authorised to disclose award recipients to third parties in order to plan for the Australia Day Awards Breakfast ceremony.

Meetings will:

- Commence on time and conclude by the stated completion time;
- Be scheduled and confirmed in advance with all relevant papers distributed (as appropriate) to each member;
- Encourage fair and respectful discussion, participation and respect for each other's views;
- Focus on the relevant issues at hand; and
- Provide advice to Council, as far as practicable, on a consensus basis

6. Chair

The position of Chairperson shall be appointed annually at the first meeting of the Committee.

Where there is one Councillor representative on the Committee that Councillor stands as chair. Where there is more than one Councillor the chair is to be agreed upon between Councillors. When this cannot be achieved, the Mayor of the day shall determine the chair.

A Committee may determine, with consent of the Councillor representative/s, to appoint another member other than the Councillor representative/s as Chairperson.

If the Chairperson is not present at a meeting, any other Councillor shall be appointed Chairperson. In the absence of any other Councillor representative/s, the Committee members shall appoint a Chairperson for the purpose of conducting the meeting.

The Chairperson must advise the Governance Team of the name of the chairperson within one week of appointment. These details will then be updated on the intranet and internet.

7. Agendas and Meeting Notes

Agendas and Minutes must be prepared for each meeting. The Agenda must be provided to members of the Committee not less than 7 days before the time fixed for the holding of the meeting.

The Chairperson must arrange for minutes of each meeting of the Committee to be kept.

The minutes of a meeting of a Specific Purpose Committee must

- (a) contain details of the proceedings and outcomes reached
- (b) be clearly expressed
- (c) be self-explanatory
- (d) in relation to outcomes recorded in the minutes, incorporate relevant reports or a summary of the relevant reports considered in the decision making process.

Minutes must be approved by the chair ~~and then formally endorsed at the subsequent meeting~~. Due to the nature and role of this Committee, minutes shall remain confidential.



8. Voting

In selecting the award recipients, Councillors and community members have voting rights. In the event of an equality of votes, the Committee must achieve consensus through discussion and further consideration of the nominees.

Staff provide support and advice to the Committee only and have no voting rights.

9. Conflict and Interest Provisions

In performing the role of Committee member, a person must:

- act with integrity;
- impartially exercise his or her responsibilities in the interests of the local community;
- not improperly seek to confer an advantage or disadvantage on any person;
- treat all persons with respect and have due regard to the opinions, beliefs, rights and responsibilities of other persons;
- commit to regular attendance at meetings; and
- not make improper use of information acquired because of their position or release information that the member knows, or should reasonably know, is confidential information.

Meetings of this Committee may potentially form an Assembly of Councillors. When this occurs, Councillors and officers are required to comply with the conflict of interest provisions as set down in the Local Government Act 1989.

Where a Councillor or officer declares a conflict of interest in relation to a matter in which the Committee is concerned, they must disclose the interest to the Committee before the matter is considered or discussed at the meeting. Disclosure must include the nature of the relevant interest and be recorded in the minutes of the meeting.

The member must leave the room while the matter is being considered and may return only after consideration of the matter and all votes on the matter.

Where a community member has an interest or a Conflict of Interest (as defined in the Local Government Act) in relation to a matter in which the Committee is concerned, or is likely to be considered or discussed, the community member must disclose the interest to the group before the matter is considered or discussed. Disclosure must include the nature of the relevant interest or conflict of interest and be recorded in the minutes of the meeting. It will be at the discretion of the Chairperson if the community member remains or leaves the room while the matter is discussed, and this must also be recorded in the minutes of the meeting.

Where a meeting is identified as an Assembly of Councillors, staff must complete a Record of Assembly of Councillors form. Where a Conflict of Interest is identified by a Councillor or staff member at an Assembly of Councillors, the relevant Conflict of Interest form must also be completed. Forms should be forwarded to the Manager – Governance and Innovation within 5 working days of the meeting. This information will be published at the next available Ordinary Council Meeting.

10. Reporting



~~A report will be presented annually to Council seeking nomination of Councillor representatives to the Australia Day Local Awards Committee. This report will provide an overview of the outcomes of the Committee's achievements for the year.~~

~~A report will be presented annually to Council to:~~

- ~~• provide an overview of the Awards presented in that year~~
- ~~• confirm the awards to be presented in the following year.~~

11. Administration Support

Administration support is provided to the Australia Day Local Awards Committee by the Governance Team.

12. Contact with the Media

Contact with the Media by members of the Committee will be conducted in accordance with the Councillor and Staff Media Policies. Community members should defer any media enquiries to the Chairperson in the first instance and should take care not to respond as a representative of the Committee.

13. ~~Sunset Clause~~ Review Date

~~The Terms of Reference will be reviewed within 4 years of the date of adoption.~~

~~The Terms of Reference will be reviewed as required, or as a minimum every 4 years.~~

14. Meals

The provision of refreshments during the course of a Committee meeting will be provided in accordance with the Meals and Beverages for Council Committees Policy.

4.3 390 Burwood Highway, Wantirna South

SUMMARY: Principal Planner, Nancy Neil

Planning Application P/2018/6465 for the use and development of the land for accommodation, education centre, and office within three (3) buildings, reduction in car parking and alteration of access to a Road Zone Category 1 at 390 Burwood Highway, Wantirna South.

RECOMMENDATION (SUMMARY)

That Council authorise officers to negotiate a settlement with the parties to the Victorian Civil and Administrative Tribunal (VCAT) Application for Review P158/2019 on the basis that the issue of a Planning Permit by VCAT for the use and development of the land for accommodation, education centre, and office, reduction in car parking and alteration of access to a Road Zone Category 1 at 390 Burwood Highway, Wantirna South be subject to the conditions detailed in the full recommendation in Section 10 below.

INTRODUCTION

Planning Application P/2018/6465 proposed the use and development of the land for accommodation, education centre, and office within three (3) buildings (ranging from 8-15 storeys), reduction in car parking and alteration of access to a Road Zone Category 1. The application was considered by a delegated officer, where it was determined to refuse the application on 17 January 2019. The applicant subsequently lodged an appeal at VCAT against the refusal of the application.

A compulsory conference was held at VCAT on 29 May 2019. At the conference, the applicant presented a 'without prejudice' package of amended plans and documentation to provide a net community benefit for the site, to justify the additional building height proposed.

The purpose of this report is to provide Council with the Council Planning Officer's assessment of the 'without prejudice' proposal to assist in forming a position on the application. It should be read in conjunction with the other attachments.

2. DISCUSSION

It is considered that subject to additional conditions, the 'without prejudice' proposal will provide a net community benefit to justify the overall building height proposed above the preferred height of 24m for the site, as stipulated by the Design and Development Overlay – Schedule 13 (DDO13).

The 'without prejudice' proposal will provide affordable housing, will enhance the Blind Creek Corridor, and will allow community use of the school facilities. The proposal will also provide a superior design response to that of Kubix (at 400 Burwood Highway) and will visually merge with the boulevard canopies and the Dandenong Ranges Backdrop.

CONSULTATION

The original application was advertised by way of two (2) signs on the site and notices were sent to adjoining property owners and occupiers. In total, six (6) objections were received, including one

petition of 163 signatures. The main issues related to additional traffic congestion at the intersection of Burwood Highway/Stud Road, reduction in car parking and building bulk/impact on views.

The application was referred to external authorities and internal departments for advice. The initial referrals are still relevant, and it is noted that VicRoads have provided in-principle support for the proposal and have provided 'without prejudice' draft conditions to be included in any permit to issue.

4. ENVIRONMENTAL/AMENITY ISSUES

There are no significant environmental impacts or amenity issues associated with the proposed use/development. A thorough assessment of the application against environmental and amenity considerations can be found at Section 4 of the Officer's Report at Attachment 1.

5. FINANCIAL & ECONOMIC IMPLICATIONS

There are no financial or economic implications associated with the proposed use/development for Council.

6. SOCIAL IMPLICATIONS

The proposed agreement (and subject to additional conditions) will provide a net community benefit. A thorough assessment of the application against all relevant considerations of the Knox Planning Scheme can be found at Section 4 of the Officer's Report at Attachment 1.

7. RELEVANCE TO KNOX COMMUNITY AND COUNCIL PLAN 2017-2021

Goal 1 - We value our natural and built environment

Strategy 1.1 - Protect and enhance our natural environment

Strategy 1.2 - Create a greener city with more large trees, indigenous flora and fauna

Strategy 1.3 - Ensure the Knox local character is protected and enhanced through the design and location of urban development and infrastructure

Goal 2 - We have housing to meet our changing needs

Strategy 2.1 - Plan for a diversity of housing in appropriate locations

Strategy 2.2 - Encourage high quality sustainable design

Strategy 2.3 - Support the delivery of a range of housing that addresses housing and living affordability needs

8. CONFLICT OF INTEREST

Under section 80c of the Local Government Act 1989 officers providing advice to Council must disclose any interests, including the type of interest.

Author – Principal Planner, Nancy Neil - In providing this advice as the Author, I have no disclosable interests in this report.

Officer Responsible – Director, City Development, Matt Kelleher - In providing this advice as the Officer Responsible, I have no disclosable interests in this report.

9. CONCLUSION

It is considered that the ‘without prejudice’ proposal in conjunction with additional conditions outlined below, will ensure the proposal provides a net community outcome for the site. It is therefore recommended that Council support the amended proposal at VCAT.

10. RECOMMENDATION

That Council authorise officers to negotiate a settlement with the parties to the Victorian Civil and Administrative Tribunal (VCAT) Application for Review P158/2019 on the basis that the issue of a Planning Permit by VCAT for the use and development of the land for accommodation, education centre, and office, reduction in car parking and alteration of access to a Road Zone Category 1 at 390 Burwood Highway, Wantirna South be subject to the following conditions:

Amended Development Plans

- 1. Prior to the commencement of the development approved under this Permit, amended development plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The development plans must be approved prior to other plans required by this permit. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions. The plans must be generally in accordance with the plans submitted with the application and the ‘without prejudice’ plans provided to Council on 24 June 2019 but modified to show:**
 - 1.1 The residential building reduced to a maximum height of 45m from natural ground level. This includes all plant/lift overruns etc.**
 - 1.2 The revised internal basement layout as shown in the package of plans submitted to Council on 24 June 2019.**
 - 1.3 The area nominated for the Dean of Boarding Accommodation (and any necessary alterations to the floor layouts) as shown in the package of plans submitted to Council on 24 June 2019.**
 - 1.4 The Blind Creek Interface package provided to Council on 24 June 2019 which details security and materiality of informal teaching space interfacing with the Blind Creek environs.**
 - 1.5 The Materiality Package provided to Council on 24 June 2019.**
 - 1.6 Any changes to reflect recommendations included in the Wind Report submitted to Council on 24 June 2019.**
 - 1.7 Demonstrate how the boarding accommodation can be adapted to accommodate a mentor and his/her family, if required in the future.**

- 1.8 The retention of Tree 50 (*Melaleuca linarifolia*) and any modifications required to ensure the development does not encroach more than 10% into the tree protection zone (TPZ) of the tree.
- 1.9 Heating and cooling units appropriately screened from external view.
- 1.10 Tree Protection Fencing and Tree Protection Zones to be drawn on the Development, Drainage and Landscape Plans.
- 1.11 All levels to be to AHD (Australian Height Datum).
- 1.12 Any changes required to comply with Melbourne Water Conditions 22-30.
- 1.13 An amended Sustainable Design Assessment in accordance with Condition 33 of this Permit and any necessary modifications to the plans.
- 1.14 An amended Waste Management Plan in accordance with Condition 35 of this Permit and any necessary modifications to the plans.
- 1.15 An Acoustic Report in accordance with Condition 36 and any noise amelioration recommendations shown on the Development Plans.
- 1.16 Any changes required to comply with VicRoads Conditions 37-42.

To the satisfaction of the Responsible Authority.

Other Plans

2. Prior to the commencement of the development or issue of a Building Permit for the development approved under this Permit, the following plans and computations must be submitted to the Responsible Authority as a complete set. When approved, the plans will be endorsed and will then form part of the permit. Construction must be in accordance with these plans. The plans must comprise the following:
 - 2.1 Drainage plans in accordance with Condition 3.
 - 2.2 Landscape plans in accordance with Condition 4.
 - 2.3 Use Management Plan in accordance with Condition 16.
 - 2.4 Construction Management Plan in accordance with Condition 53.

To the satisfaction of the Responsible Authority.

Drainage Plans

3. Prior to the commencement of the development approved under this Permit, drainage plans and computations must be submitted to and approved by the Responsible Authority. Construction of the drainage must be in accordance with these plans. The plans must show the following:
 - 3.1 All stormwater drainage discharge from the site connected to a legal point of discharge.
 - 3.2 The internal drains of the dwellings to be independent of each other.

- 3.3** An on-site detention system designed by a suitably qualified Civil Engineering Consultant to ensure no net increase in stormwater discharge from the proposed development.
- 3.4** The on-site detention system to be installed in a suitable location for easy access and maintenance.
- 3.5** A suitable overland flow path for the entire site to the satisfaction of the Responsible Authority. Details of the overland flow path are to be included on the plans.
- 3.6** The provision of WSUD design, raingardens and/or bioswales to treat the water runoff from the hard surfaces (car parks and access ways).
- 3.7** Location of fencing in accordance with the Development Plans approved pursuant to Condition 1 of this permit.
- 3.8** All levels to be to AHD (Australian Height Datum).

To the satisfaction of the Responsible Authority.

Landscaping

- 4.** Prior to the commencement of the development approved under this Permit, a landscape plan prepared by a suitably qualified Landscape architect or a suitably qualified landscape designer to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority in accordance with Council's 'Landscape Plan Guidelines'. When approved, the plan will be endorsed and will then form part of the permit. The plan must show:
 - 4.1** A survey (including botanical names, height and width) of all existing vegetation to be retained and / or removed.
 - 4.2** The identification and removal of all vegetation identified as an environmental weed in Knox (as outlined in Council's 'Landscape Plan Guidelines').
 - 4.3** Buildings and trees (including botanical names, height and width) on neighbouring properties within three metres of the boundary including all trees that have their Tree Protection Zone extending into the subject site.
 - 4.4** Details of the surface finishes of pathways and driveways.
 - 4.5** Details and location of all existing and proposed services including above and below ground lines, cables and pipes.
 - 4.6** A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
 - 4.7** Landscaping and planting within all open areas of the site (including additional planting within open space areas of the existing dwelling/s).
 - 4.8** The plan must also show the provision of at least 30 additional trees and eight (8) additional large feature shrubs with a height of 4-5 metres chosen

from plant list 1 or 2 of Council's 'Landscape Plan Guidelines'. These canopy trees must be a minimum of 1.5 – 2.0 metres tall when planted and in the following areas:

- (i) 3 large canopy trees and 2 medium canopy trees in the front setback on Burwood Highway
- (ii) 2 large canopy trees and 2 small canopy trees on the eastern side of the proposed private residential building
- (iii) 7 large canopy trees and 5 medium-small canopy trees along the easement on the western boundary
- (iv) 9 small canopy trees planted in suitably sized raised beds throughout the upper ground level of the development. Refer to the Knox Landscape Plan Guidelines 2018 for the Knox Standard for Raised Planter Detail.
- (v) 8 large feature shrubs with a mature height of 4-5metres in the wider garden bed along the southern boundary
- (vi) Any additional landscaping as agreed by VicRoads

4.9 Planting of this site to comprise 40% of the vegetation species to be indigenous (across all plant forms) from plant list 1 of the 'Landscape Plan Guidelines' and 40% additional native species (across all plant forms) from plant list 2 of the 'Landscape Plan Guidelines'. Remaining plant species (20%) can be indigenous, native or exotic (across all plant forms) provided they are not listed as weeds.

4.10 The provision of WSUD design, raingardens and/or bioswales to treat the water runoff from the hard surfaces (car parks and access ways).

To the satisfaction of the Responsible Authority.

- 5.** Before the occupation of the development, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the responsible authority.
 - 6.** The landscaping shown on the endorsed plans must be maintained to the satisfaction of the responsible authority. Any dead, diseased or damaged plants are to be replaced.
 - 7.** In consultation with Melbourne Water, a planting strategy for the Blind Creek embankment interface with the Subject Site must be prepared to the satisfaction of the Responsible Authority, which specifically considers the following:
 - 7.1** Removal of low-lying vegetation and shrubbery;
 - 7.2** Re-planting with mature plant coverage;
 - 7.3** Safety of students of the school and residents of the boarding accommodation.
 - 8.** The approved strategy must be implemented to the satisfaction of the Responsible Authority prior to occupation of the boarding accommodation or use of the school, whichever occurs first.
-

General

- 9. All development must be in accordance with the endorsed plans.**
- 10. The use and development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.**
- 11. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.**
- 12. Prior to the occupation of the dwellings the development is to be completed in accordance with the endorsed plan/s to the satisfaction of the Responsible Authority.**
- 13. All walls on the boundaries of adjoining properties must be cleaned and finished to the satisfaction of the Responsible Authority.**

Staff numbers

- 14. A maximum of fifty (50) staff may be present at the site at any given time.**

Student numbers

- 15. A maximum of 500 students may be present at the site at any given time.**

Use Management Plan

- 16. Prior to the commencement of the accommodation associated with the education centre hereby permitted, a Use Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The Use Management Plan shall detail the following but not be limited to:**

- 16.1 Types of activities to be undertaken**
- 16.2 Hours of operation**
- 16.3 Details and numbers of staff and patrons**
- 16.4 Traffic and car parking management**
- 16.5 Noise**
- 16.6 Security**
- 16.7 Emergency contact information**

to the satisfaction of the Responsible Authority.

Delivery of school and boarding accommodation

- 17. Occupation of the residential building must not occur until the school and boarding accommodation have been practically completed.**

Blind Creek Corridor

- 18. All costs associated with the improvement of the Blind Creek Corridor are to be borne by the permit holder/developer.**

Provision of affordable housing

- 19. The owner must enter into a legally binding agreement with a Registered Housing Provider, prior to commencing construction of the residential building, to provide 6 of the dwellings (comprising a mix of 1, 2 and 3 bedrooms) approved in the residential building for the sale and lease as affordable housing at 50% of the market cost, or 3 dwellings (comprising a mix of 1, 2 and 3 bedrooms) approved in the residential building fully gifted as social housing.**

Section 173 agreement

- 20. Prior to the commencement of the development hereby permitted, an agreement under Section 173 of the Planning and Environment Act 1987 must be entered into between the Owner of the land and the Responsible Authority in a form satisfactory to the Responsible Authority providing that:**

- 20.1 Occupation of the residential building must not occur until the school and boarding accommodation have been practically completed;**
- 20.2 The owner must enter into a legally binding agreement with a Registered Housing Provider, prior to commencing construction of the residential building, to provide 6 of the dwellings (comprising a mix of 1, 2 and 3 bedrooms) approved in the residential building for the sale and lease as affordable housing at 50% of the market cost, or 3 dwellings (comprising a mix of 1, 2 and 3 bedrooms) approved in the residential building fully gifted as social housing; and**
- 20.3 The days and hours where the school facilities can be used by Knox City Council, Community Groups or the general public. The facilities include (but not limited to): Sports Hall, Equipment Store, Change Rooms and Bathrooms, Library, Lecture Theatre, Study Lounge and Conference Room.**

Noise

- 21. Noise from the property must not exceed limits prescribed by the State Environment Protection Policy (Control of noise from Commerce Industry & Trade) No. N-1 and State Environment Protection Policy (Control of noise from Public premises) No. N-2.**

Melbourne Water Conditions

- 22. Layout of buildings and works as shown on plans must not be altered without prior written consent from Melbourne Water.**
- 23. Minimum 5 metre setback from the lower part of the western property boundary must be maintained to any proposed structures.**
- 24. A minimum 2 metre vegetated buffer from the western property boundary along the Blind Creek corridor must be shown.**
- 25. Prior to start of construction, landscape details and drawings must be submitted to Melbourne Water for approval.**

26. **Finished Floor levels of all habitable buildings must be set no lower than 67.57 metres to Australian Height Datum which is 600mm above the applicable flood level of 66.97 metres to AHD.**
27. **Finished Floor levels of all non-habitable buildings (eg. outbuildings, sheds) must be set no lower than 67.27 metres to Australian Height Datum which is 300mm above the applicable flood level of 66.97 metres to AHD.**
28. **Entry apex to proposed basement must be set no lower than 67.57 metres to Australian Height Datum which is 600mm above the applicable flood level of 66.97 metres to AHD.**
29. **Any openings to basement must be set no lower than 67.57 metres to Australian Height Datum which is 600mm above the applicable flood level of 66.97 metres to AHD.**
30. **No earth filling must be placed within the 1% AEP flood extent.**

Transport for Victoria Conditions

31. **The permit holder must take all reasonable steps to ensure that disruption to bus operation along both Burwood Highway and Stud Road are kept to a minimum during the construction of the development. Foreseen disruptions to bus operations and mitigation measures must be communicated to Public Transport Victoria eight (8) weeks prior by telephoning 1800 800 007 or emailing customerservice@ptv.vic.gov.au**
32. **The permit holder must ensure that public transport infrastructure is not altered without the consent of Public Transport Victoria or damaged. Any damage to public transport infrastructure must be rectified to the satisfaction of Public Transport Victoria at the full cost of the permit holder.**

Sustainable Design Assessment

33. **Prior to the commencement of the development approved under this Permit, a Sustainable Design Assessment detailing Sustainable Design initiatives to be incorporated into the development must be submitted to and approved by the Responsible Authority. The Sustainable Design Assessment must outline the proposed sustainable design initiatives to be incorporated throughout the development such as (but not limited to) energy efficiency, water conservation, stormwater quality, waste management and material selection, to the satisfaction of the Responsible Authority.**
34. **Prior to the occupation of the development, the development must be constructed in accordance with the Sustainable Design Assessment.**

Waste Management Plan

35. **Prior to the commencement of the development approved under this Permit, a waste collection and management plan must be submitted to and approved by the Responsible Authority, demonstrating how waste collection will be undertaken on site, including the operation of the garbage and recyclables storage area. Garbage**

and recyclables storage and collection must be undertaken in accordance with the approved plan/documentation to the satisfaction of the Responsible Authority.

Acoustic Report

36. Prior to the commencement of the development approved under this Permit, plans must be submitted to and approved by the Responsible Authority showing that the dwellings along the western and southern boundaries have been designed to protect the occupants from noise impacts in accordance with a report from a suitably qualified and experienced Acoustic Engineer who is a current member of the Australian Association of Acoustical Consultants (AAAC).

VicRoads Conditions

37. Unless otherwise agreed in writing by VicRoads, prior to the commencement of any works, a revised Functional Layout Plan (FLP) showing the proposed access arrangements must be submitted to VicRoads for approval. The Functional Layout Plan must be generally in accordance with the preliminary Functional Layout Plan submitted (Drawing No. G23993-01, Issue B dated 27 May 2019 prepared by TraffixGroup) but modified to show:
- 37.1 Large splitter island separating entry/exit movements at Stud Road access point
 - 37.2 'Keep Clear' pavement marking along Stud Road;
 - 37.3 Electronic School Speed Limit Signs (ESSLS) along Stud Road and Burwood Highway as per VicRoads Speed Zone Guidelines;
 - 37.4 Revised swept path assessment for all vehicles expected to access the site;
 - 37.5 Car parking management plan;
 - 37.6 Signage and line marking plan;
 - 37.7 Functional stage Road Safety Audit (RSA) undertaken by an independent VicRoads pre-qualified road safety auditor and be conducted in accordance with Austroads Road Safety Audit (Second Edition, 2002) requirements. Any identified issues must be addressed to VicRoads' satisfaction;
 - 37.8 Revised Functional Layout Plan (FLP) as per the findings of the functional stage road safety audit;
38. Revised site layout plan to accommodate the above changes. When approved by VicRoads, the plan may be endorsed by the Responsible Authority and will then form part of the permit.
39. Subsequent to the approval of the Functional Layout Plan and prior to the commencement of any road works required by VicRoads under this permit, the permit holder must submit the detailed engineering design plans, along with a detail design stage Road Safety Audit, to VicRoads for review and obtain written approval. The detailed design plans must be generally in accordance with the approved Functional Layout Plan. Any identified issues in the Road safety Audit must be

addressed in the detailed design plans to the satisfaction of and at no costs to VicRoads;

40. Where the proposed roadworks lies within private property, a widening of the road reserve will be required, at no cost to VicRoads. The permit holder must engage a licensed surveyor to prepare a Plan of Subdivision and submit to the Responsible Authority for certification under the Subdivision Act 1988 to show:
 - 40.1 Any land set aside as Road must be labelled "ROAD" on the plan of subdivision.
 - 40.2 All land to be vested as road or reserve, for which the Roads Corporation is to be responsible, must be vested in the name of the ROADS CORPORATION (not VicRoads) upon certification of the Plan of Subdivision, without any encumbrances.
41. Unless otherwise agreed in writing by VicRoads, prior to the commencement of the use of the development hereby approved, the following must be completed to the satisfaction of VicRoads and the Responsible Authority and at no costs to VicRoads:
 - 41.1 all roadworks as required by VicRoads must be completed generally in accordance with the approved Functional Layout Plan (FLP) and detailed design plans;
 - 41.2 the permit holder must reimburse VicRoads and the Responsible Authority with all the costs associated with the declaration of the land as arterial road pursuant to the provisions of the Road Management Act 2004 and the rezoning of the land to Road Zone Category 1 (RDZ1) pursuant to the provisions of the Planning and Environment Act 1987.
42. All disused or redundant vehicle crossings must be removed, and the area reinstated to match with the adjacent road environment to the satisfaction of the Responsible Authority and at no cost to the Roads Corporation prior to the commencement of the use of the development hereby approved.

Tree Protection

43. All works, including excavation, within the critical root zone areas of the tree/s to be retained and other critical root zones on the land and adjoining properties must be undertaken under the supervision of a qualified Arborist to ensure that there is no unreasonable damage to the root system of trees to be retained and/or protected, to the satisfaction of the Responsible Authority. Before the development starts, the owner must submit to the Responsible Authority details of the name of the Arborist who will supervise the works and the tasks to be undertaken by the Arborist, to the satisfaction of the Responsible Authority.
44. Prior to any works commencing on the site, all trees and vegetation to be retained including other critical root zones must be fenced off to create a protection zone. The protection zone must extend around the trees canopy drip-line unless an alternative tree protection zone has been approved by the responsible authority.
45. The fence is to be chain link or wire mesh, comprise either wooden or steel posts set into the ground or on concrete pads, and be a minimum height of 1.4 metres.

Signage is to be affixed to the fence advising that the area is a tree protection zone and a no-go development area.

- 46. The fence and signage is to be maintained throughout the construction period and removed at the completion of all works.**
- 47. No temporary removal of the fence, or encroachment into the protection zone is permitted without the written consent of the responsible authority.**
- 48. Prior to erecting the fence around the tree protection zone, all unwanted vegetation and weed species must be removed from within the zone, and the ground within the protection zone must be covered with a layer of well composted organic mulch (maximum 100mm depth). The area is to be watered at least fortnightly throughout the construction period.**
- 49. The following activities are prohibited from the tree protection area, without the written consent of the responsible authority:**
 - 49.1 Construction activities.**
 - 49.2 Dumping and/or storage of materials, goods and/or soil.**
 - 49.3 Trenching or excavation.**
 - 49.4 Lopping branches, nailing or affixing signs, service lines, lights etc to the trees.**
- 50. Prior to any works commencing on site, the Responsible Authority must be contacted to inspect the Tree Protection fencing.**

Car Parking & Accessways

- 51. Before the dwellings are occupied, driveways and car parking areas must be:**
 - 51.1 Fully constructed to the minimum standard of 100mm reinforced concrete and available for use in accordance with the plans submitted to and approved by the Responsible Authority; and**
 - 51.2 Formed to such levels and drained so that they can be used in accordance with the approved plan; and**
 - 51.3 Treated with an all-weather seal or some other durable surface; and**
 - 51.4 Line-marked or provided with some other adequate means of showing the car parking spaces.**

To the satisfaction of the Responsible Authority.

- 52. Parking areas and driveways must be kept available and maintained for these purposes at all times to the satisfaction of the Responsible Authority.**

Construction Management Plan

- 53. Prior to the commencement of the development approved under this Permit, a Construction and Traffic Management Plan (CMP) to the satisfaction of the Responsible Authority, must be submitted to and approved by the responsible**

authority. When approved, the plan will be endorsed as evidence of its approval and will then form part of the permit and must thereafter be complied with. The CMP must specify and deal with, but is not limited to, the following:

- 53.1 A detailed schedule of works including a full project timing;**
 - 53.2 A traffic management plan for the site, including when or whether any access points would be required to be blocked, an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services; and preferred routes for trucks delivering to the site. The traffic management measures must minimise disruption to the operation of roadway during construction;**
 - 53.3 The location for the parking of all construction vehicles and construction worker vehicles during construction;**
 - 53.4 A fully detailed plan indicating where construction hoardings would be located;**
 - 53.5 A waste management plan including the containment of waste on site, disposal of waste, stormwater treatment and on-site facilities for vehicle washing;**
 - 53.6 Containment of dust, dirt and mud within the site and method and frequency of clean up procedures in the event of build-up of matter outside the site;**
 - 53.7 Site security;**
 - 53.8 Public safety measures;**
 - 53.9 Construction times, noise and vibration controls;**
 - 53.10 Restoration of any Council assets removed and/or damaged during construction;**
 - 53.11 Protection works necessary to road and other infrastructure (limited to an area reasonably proximate to the site);**
 - 53.12 Remediation of any damage to road and other infrastructure (limited to an areas reasonably proximate to the site);**
 - 53.13 An emergency contact that is available for 24 hours a day.**
 - 53.14 All contractors associated with the construction of the development must be made aware of the requirements of the Construction Management Plan.**
- 54. During the construction, the following must occur to the satisfaction of the Responsible Authority:**
- 54.1 Any stormwater discharges into the stormwater drainage system is to comply with EPA guidelines;**

- 54.2 Stormwater drainage system protection measures must be installed as required to ensure that no solid waste, sediment, sand, soil, clay or stones from the premises enter the stormwater drainage system;**
- 54.3 Vehicle borne material must not accumulate on the roads abutting the site;**
- 54.4 The cleaning of machinery and equipment must take place on site and not on adjacent footpaths, roads or parks;**
- 54.5 All litter (including items such as cement bags, food packaging and plastic strapping) must be disposed of responsibly; and**
- 54.6 All site operations must comply with the EPA Publication 1254 (including all revisions or replacement guidelines).**

Fencing

- 55. All costs associated with the provision of the fencing are to be borne by the owner/developer under this permit.**
- 56. Prior to the occupancy of the development all fencing must be in a good condition to the satisfaction of the Responsible Authority.**

Amenity

- 57. The amenity of the area must not be detrimentally affected by the development or use including through the:**
 - 57.1 the appearance of building, works or materials on the land;**
 - 57.2 parking of motor vehicles;**
 - 57.3 transporting of materials or goods to or from the site;**
 - 57.4 hours of operation;**
 - 57.5 stockpiling of top soil or fill materials;**
 - 57.6 air borne dust emanating from the site;**
 - 57.7 emission of noise;**
 - 57.8 rubbish and litter'**
 - 57.9 sediment runoff'**
 - 57.10 vibration.**

Should the development cause undue detriment to the amenity of the area then immediate remedial measures must be undertaken to address the issue as directed by, and to the satisfaction of, the Responsible Authority.

Stormwater

- 58. Stormwater runoff from all buildings and hardstanding surfaces must be properly collected and discharged in a complete and effective system of drains within the property and must not cause or create a nuisance to abutting properties.**

External Materials

- 59. The external materials of the development hereby permitted (including the roof) must be non-reflective and finished in subdued tones and/or colours to the satisfaction of the Responsible Authority.**

Permit Expiry

- 60. This permit will expire if one of the following circumstances applies:**
- 60.1 The use is not commenced within two years of the date of this permit.**
 - 60.2 The use is discontinued for a continuous period of two years.**
 - 60.3 The development is not started within two years of the date of this permit.**
 - 60.4 The development is not completed within four years of the date of this permit.**

Pursuant to Section 69 of the Planning & Environment Act 1987, the Responsible Authority may extend:

- The commencement date referred to if a request is made in writing before the permit expires or within six (6) months afterwards.**
- The completion date referred to if a request is made in writing within 12 months after the permit expires and the development started lawfully before the permit expired.**

11. CONFIDENTIALITY

There are no items of a confidential nature in this report.

Report Prepared By: Principal Planner, Nancy Neil

Report Authorised By: Director, City Development, Matt Kelleher

Attachments

Attachment 1 - Officer Report for 390 Burwood Highway Wantirna South P/2018/6465

Attachment 2 – Maps, Plans and Supporting Documents for 390 Burwood Highway Wantirna South

Attachment 1



Planning Application P/2018/6465 for the use and development of the land for accommodation, education centre, and office within three (3) buildings (ranging from 8-15 storeys), reduction in car parking and alteration of access to a Road Zone Category 1 at 390 Burwood Highway, Wantirna South.

1. Summary:

Subject Site:	390 Burwood Highway, Wantirna South
Proposed Development:	Use and development of the land for accommodation, education centre, and office within three (3) buildings (ranging from 8-15 storeys), reduction in car parking and alteration of access to a Road Zone Category 1
Existing Land Use:	Funeral Home
Site Area:	7,557m ²
Planning Scheme Controls:	Mixed Use Zone / Land Subject to Inundation Overlay & Design and Development Overlay – Schedule 13
Application Received:	8 August 2018
Number of Objections:	Six (6)
PCC Meeting:	N/A
Ward:	Scott

2. Purpose

Planning Application P/2018/6465 proposed the use and development of the land for accommodation, education centre, and office within three (3) buildings (ranging from 8-15 storeys), reduction in car parking and alteration of access to a Road Zone Category 1. The application was considered by a delegated officer, where it was determined to refuse the application on 17 January 2019. The applicant subsequently lodged an appeal at VCAT against the refusal of the application.

A compulsory conference was held at VCAT on 29 May 2019. At the conference, the applicant presented a 'without prejudice' package of amended plans and documentation detailing how a net community benefit can be achieved, to justify the additional building height proposed for the site.

The purpose of this report is to provide Councillors with the Council Planning Officer's assessment of the 'without prejudice' proposal and for Council to determine its position on the application and the resolution of this matter at VCAT. It should be read in conjunction with the other attachments.

3. Background

3.1 Subject Site and Surrounds

The location of the subject site and surrounds is shown in Attachment 2.

- The site is located on the south-western corner of the intersection of Burwood Highway and Stud Road, Wantirna South, within the Knox Central Principal Activity Centre. The site is irregular in shape, with a frontage to Burwood Highway of approximately 30 metres and 133 metres to Stud Road (excluding the corner splay). The total area of the site is 7,557m² and the fall of the land is approximately 4 metres from east to west. Vehicular access is via crossovers along both Burwood Highway and Stud Road. The site is currently occupied by Allison Monkhouse Funeral Homes.
- The surrounding area is a mix of residential and commercial including a paint shop and Blind Creek Reserve to the immediate west, Wantirna Retirement Village further west, the Wantirna Club to the south, and the Kubix apartment buildings to the east (opposite Stud Road). Knox City Shopping Centre is located further to the north-east.

3.2 The Proposal (Assessed by Council – 17 January 2019)

Secondary School (education centre for year levels 10-12)

- Maximum number of students – 500, Maximum number of staff – 50
- Building of 6 storeys (7 including lower ground level due to fall of land)
- Facilities include a gymnasium, lecture theatre, library, outdoor teaching spaces and terraces, after-school tuition

Boarding School (student accommodation)

- Accommodation for students of the school. Includes communal areas.
- Building of 10 storeys (11 including lower ground level due to fall of land)

Mixed Use Building/Apartments

- 291m² of office space
- 2 retail tenancies (totalling 254m²)
- Building of 14 storeys (15 including the lower ground floor level)
- Apartments comprising of 12 one bedroom dwellings, 48 two bedroom dwellings, and 12 three bedroom dwellings.

Car Parking and Access

- 60 car parking spaces are proposed for the Secondary School and Boarding accommodation
- 105 car parking spaces are proposed for the Mixed Use/Apartment building (80 for residential, 10 for the office space, 4 for the shop space, and 11 shared/visitor spaces)
- Vehicle access is proposed via and entry only crossover to Stud Road, and an exit only (left out) onto Burwood Highway.

The plans for the original proposed can be viewed at Attachment 2.

3.3 Assessment of the Application

On 17 January 2019, the application was refused by a delegated officer for the following reasons:

1. The proposal fails to satisfy relevant Planning Policy strategies and objectives, in particular Clause 15 - Built Environment and Heritage, and Clause 16 - Housing of Knox Planning Scheme.

2. The proposal fails to comply with the Municipal Strategic Statement (MSS), in particular Built Environment and Heritage (Clause 21.05), Housing (Clause 21.06), Knox Central Activity Centre (Clause 21.10).
3. The proposal is inconsistent with the Objectives and Standards of the Mixed Use Zone. The proposal does not respond to the preferred neighbourhood character and the proposed design response is not appropriate in scale and form.
4. The development does not provide a design of outstanding architecture for a building exceeding the suggested height limit of the Design and Development Overlay – Schedule 13 (DDO13) Knox Central Activity Centre. It is considered that the increase in height (essentially doubling the preferred height) has disregarded Council’s vision for the heights and scale within the Activity Centre, and will essentially ‘bookend’ the precinct when travelling east along Burwood Highway. The proposal is also considered inconsistent with this policy in terms of the setback provided to Burwood Highway, the resultant landscaping provision, and the retention of a significant tree located in the road reserve.
5. The proposal is considered inconsistent with Clause 21.05 Built Environment and Heritage of the Knox Planning Scheme. The front setback provided to Burwood Highway does not allow for substantial canopy tree planting consistent with the objectives of providing for Bush Boulevard landscaping as required. In addition, the scale of the proposal is inconsistent with the preferred building heights for the site, and the proposal does not provide high quality architecture and urban design outcomes that justifies the proposed height and scale of the building.
6. The proposal is inconsistent with Clause 21.10-2 - Knox Central Activity Centre. The proposal does not satisfactorily meet the vision for the Burwood Highway Corridor specified in this policy. The proposal will lead to an inconsistent built form outcome along Burwood Highway and will not deliver a tree-lined boulevard.
7. The proposed development does not provide an appropriate level of car parking, inconsistent with Clause 52.06 (Car Parking) of the Knox Planning Scheme.
8. The proposal fails to comply with the Objectives and Standards of Clause 58 (Apartment Developments) of the Knox Planning Scheme. In particular, the proposal is insufficient in terms of Residential Policy, Integration with the Street, and Storage.
9. The proposal fails to comply with Clause 52.29 (Land Adjacent to a Road Zone, Category 1) of the Knox Planning Scheme as VicRoads has objected to the proposal.

3.4 VCAT – Compulsory Conference and subsequent meetings

Following on from Council’s decision, the applicant lodged an appeal with VCAT against Council’s refusal.

On 29 May 2019, a compulsory conference was held at VCAT. A compulsory conference is a meeting chaired by a member of the tribunal with all parties in attendance. The purpose of the compulsory conference is to identify and clarify the issues in dispute and to promote a settlement of the dispute. Parties to the conference were Council, the permit applicant and a representative from VicRoads.

Council was represented by Maddocks Lawyers with guidance provided by Mr McGauran from MGS Architects to inform discussions at the compulsory conference. Mr McGauran was supportive of the proposed use and the built form, subject to ensuring suitable net community benefit was achieved.

Mr McGauran also raised some concerns with how the education centre component would operate to ensure the safety of students. It was considered that the height of the proposal could not be justified without an improved net community benefit outcome.

Matters discussed at the compulsory conference included: Affordable Housing Offerings; Dean of Boarding; Blind Creek Interface; Façade Details; Community Use Management Plan; VicRoads and Planting along Burwood Highway; Wind Report; and Internal Basement Layout.

Further to the compulsory conference, a set of documents (which can be viewed at Attachment 2) were submitted to assist Council in its assessment of the proposal and which respond to the following matters:

Affordable Housing Offering

1. At the compulsory conference, options regarding the provision of affordable housing/social housing to provide a net community benefit for the site were discussed. The applicant has agreed to provide three dwellings as affordable housing, including 2 x 1 bedroom dwellings and 1 x 2 bedroom dwelling. These dwellings would be sold at 50% at market price to a Registered Housing Association as defined in the *Housing Act 1983* (amended January 2005).

Dean of Boarding

2. At the compulsory conference, options regarding where a Dean of Boarding could be accommodated in the student accommodation building were discussed, including particular floor layouts which could be adopted depending on the needs of the Dean. Plans prepared by Cox Architects demonstrate both a two and three bedroom room which could be allocated to the Dean of Boarding and it is intended that there be flexibility in this arrangement depending on the ultimate operator and their requirements.

Blind Creek Interface

3. Cox Architects have prepared a set of renders and sections which show the proposed interface to Blind Creek in more detail, and which have regard to security, materiality and the relevant easement over which this podium structure is to be built. The perspectives show how this interface is to work and how it will be utilised as an informal teaching space to supplement the schools offering.

Façade Details

4. Cox Architects have prepared a set of material detail plans which depict the proposed materiality, both by way of material selection (depicted in thumbnail imagery) and sections which demonstrate where each material is to be applied. These cross sections demonstrate the overall design intent for the proposal.

Community Use Management Plan

5. The proposed education centre has offered a number of community benefits that are associated with the Knox City Campus. This primarily consists of allowing Council and Community Groups access to several facilities at the school offers. These areas include but are not limited to: Sports Hall; Equipment Store; Change Rooms and Bathrooms; Library; Lecture Theatre; Study Lounge; and Conference Room. This Management Plan is accompanied by a set of plans and diagrams prepared by Cox Architects which delineates the areas which are to be set aside for community uses.

VicRoads and Planting along Burwood Highway

6. Additional planting is proposed along Burwood Highway to enhance the Bush Boulevard. The planting is supported by VicRoads.

Wind Report

7. A preliminary wind report has been prepared which includes a number of recommendations. These recommendations have been incorporated into the without prejudice plans.

Internal Basement Layout

8. Discussions were held with VicRoads in terms of an alternative ground floor layout and consequential internal basement design. A set of amended plans have been prepared which shows these changes.

Plans

9. A set of amended plans which incorporate the recommendations noted above were also supplied.

At the conclusion of the compulsory conference, it was agreed that the 'without prejudice' plans and documentation would be reported to the 26 August Council Meeting as a confidential item.

Should Council not support the plans and documentation, a second compulsory conference is scheduled for 16 September 2019 and a full hearing is listed for 15 January 2020 at VCAT.

The VCAT hearing would be based on the original proposal (as assessed by council officers on 17 January 2019), unless the applicant formally substitutes the plans and documentation prior to the hearing.

4. Consultation

4.1 Advertising

The original application was advertised by way of two (2) signs on the site and notices were sent to adjoining property owners and occupiers. In total, six (6) objections were received, including one petition of 163 signatures. The main issues related to additional traffic congestion at the intersection of Burwood Highway/Stud Road, reduction in car parking and building bulk/impact on views.

4.2 Referrals

The application was referred to external authorities and internal departments for advice. The initial referrals are still relevant, and it is noted that VicRoads have provided in-principle support for the proposal and have provided 'without prejudice' draft conditions to be included in any permit to issue.

5. Discussion

This section considers the 'without prejudice' proposal discussed in Section 3.4 of this report and whether the proposal provides a suitable net community benefit to justify the overall building height proposed.

Mr McGauran has reviewed the 'without prejudice' plans and documentation and has provided Council with independent urban design advice. In summary, Mr McGauran is generally supportive of the proposed changes however has made commentary on the affordable housing provision and the overall building height proposed as discussed below.

Affordable Housing

- *The Planning Act and provisions makes affordable housing a key purpose of urban development in Victoria. Support for taller built form needs to be accompanied by material community dividends. The inclusion of affordable housing should in my view be confirmed as a key element of any support for development uplift above the preferred heights in the Planning Scheme.*

- *The applicant has indicated that they are prepared to provide for discounted provision of affordable housing equivalent to 5% of the development and indicated this as three units. I note they are confident that this arrangement is consistent with the needs of housing agencies operating in the area despite the understanding the project would be unlikely to be available for more than two years.*
- *Whilst I am supportive of the direction, I note the applicant has suggested 5675sqm of NSA and in addition providing for over 6000sqm in the boarding housing. This would suggest putting the boarding house to one side that 5% of the balance of residential accommodation would equate to 285sqm approximately. The applicant has offered 2 x 1 bedroom units and 1 x 2 bedroom unit. The floor areas within their scheme would suggest this offer equates to 57 x 2 + 83 x 1 or indicatively 197sqm. This would appear to equate to less than 3.5%. This is inadequate and would suggest that 2 two bedroom units and 2 one bedroom units as I had previously indicated would be more closely aligned with the 5% target.*

In light of Mr McGauran's advice on the provision of affordable housing, it is recommended that the affordable housing offer should include a total of six affordable housing dwellings (comprising a mix of 1, 2 and 3 bedrooms) sold at 50% of market price to a Registered Housing Association, or three dwellings (comprising a mix of 1, 2, and 3 bedrooms) fully gifted as social housing to a Registered Housing Association.

Height

- *The 50m+ of development is ambitious in a context where the envisaged scale opposite at the Kubix site (400 Burwood Highway) is 34m and where the height on the subject site is sought at 24m. My own view is that the 24m is under ambitious and equally the 50m at in excess of twice the preferred maximum is very ambitious. Typically I have supported 25% enhancements over preferred scale with benefits such as enhanced public open space and in the context also supported further uplift for the inclusion of affordable housing where the offsite impacts are limited. In this case the community benefit needs to be delivered via a suite of positives; notably affordable housing, community use of school facilities to meaningful and measurable intensity to make a valuable contribution, local jobs and enhanced Blind Creek interfaces.*
- *Intuitively the Community use and affordable housing elements are, in addition to public realm improvements, the measures that will take the built form above the 25% uplift in combination with excellence in placemaking and architectural quality. My own view is the architecture is generally well handled and warrants development at the upper end of the benchmarks. That said an outcome more than two times the preferred is overly ambitious. I think there is an argument to say the outcome for the site could be argued around the following:*
 - *The site offers similar scope as a gateway to its eastern neighbour and the neighbour has a height preferred of 34m. Development uplift of 25%-30% for development achieving greater strategic outcomes should be acceptable around this benchmark in that instance. This would represent an outcome with a building height between 42.5m and 45m.*

Given Mr McGauran's comments relating to the overall building height of the proposal, it is recommended that the draft conditions require the residential building to be reduced to 45m from natural ground level. This will reduce the built form by two storeys.

It is also acknowledged that the proposal comprises an architectural presentation that is superior to that of the Kubix form and given its palette of more 'muted' tones, will visually merge with the boulevard canopies and the Dandenong Ranges backdrop. Put simply, the proposal will largely conceal Kubix from view when on approach to Knox from the west.

5.1 General Decision Guidelines

Clause 65 of the Knox Planning Scheme and Section 60 of the Planning and Environment Act 1987 set out decision guidelines/matters which the responsible authority must consider when deciding any planning application.

- The decision guidelines of Clause 65 of the Knox Planning Scheme and Section 60 of the Planning and Environment Act (1987) have been appropriately considered.

6. Conclusion

Clause 71.02-3 of the Knox Planning Scheme requires Council to balance relative policy objectives when making decisions to ensure resulting development is sustainable and achieves a net community gain. It is considered that the 'without prejudice' proposal, in conjunction with additional conditions, will ensure a net community outcome is achieved for the site.

It is therefore recommended that Council authorise officers to negotiate a settlement between all parties at the VCAT Compulsory Conference to allow VCAT to issue a Planning Permit for the use and development of the land for accommodation, education centre, and office, reduction in car parking and alteration of access to a Road Zone Category 1 at 390 Burwood Highway, Wantirna South subject to the changes discussed in this report.

5 Motions for Which Notice has Previously Been Given

6 Supplementary Items

7 Urgent Business

7.1 Urgent Business

7.2 Call Up Items

8 Confidential Items