

AGENDA

SCHEDULED COUNCIL MEETING

WARRNAMBOOL CITY COUNCIL

5:45 PM - MONDAY 6 FEBRUARY 2023



VENUE:

Lighthouse Theatre Studio

Timor Street

Warrnambool

COUNCILLORS

Cr. Debbie Arnott (Mayor)

Cr. Otha Akoch

Cr. Ben Blain

Cr. Vicki Jellie AM

Cr. Angie Paspaliaris

Cr. Max Taylor

Cr. Richard Ziegeler

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can be obtained online at www.warrnambool.vic.gov.au

David Leahy

ACTING CHIEF EXECUTIVE OFFICER

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All Open and Special Council Meetings will be audio recorded, with the exception of matters identified as confidential items in the agenda. This includes public participation sections of the meeting. Audio recordings of meetings will be made available for download on the internet via the Council's website by noon the day following the meeting and will be retained and publicly available on the website for 12 months following the meeting date. The recordings will be retained for the term of the current Council, after which time the recordings will be archived and destroyed in accordance with applicable public record standards. By participating in Open and Special Council meetings, individuals consent to the use and disclosure of the information that they share at the meeting (including any personal/sensitive information), for the purposes of Council carrying out its functions.

BEHAVIOUR AT COUNCIL MEETINGS

Thank you all for coming – we really appreciate you being here. These meetings are the place where, we as Councillors, make decisions on a broad range of matters. These can vary greatly in subject, significance and the level of interest or involvement the community has. As part of making these decisions, we are presented with comprehensive information that helps us to form our position – you will find this in the agenda. It should also be remembered that the Council meeting is a “meeting of the Council that is open to the public”, not a “public meeting with the Council.” Each Council is required to have Governance Rules that pertains to meeting procedures. Warrnambool City Council has followed best practice in this regard and its Governance Rules provides regulations and procedures for the governing and conduct of Council meetings. Copies of the Conduct and Behaviour excerpt from Warrnambool City Council's Governance Rules can be obtained online at www.warrnambool.vic.gov.au. We thank you in anticipation of your co-operation in this matter.

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1. OPENING PRAYER & ORIGINAL CUSTODIANS STATEMENT

Almighty God
Grant to this Council
Wisdom, understanding and Sincerity of purpose
For the Good Governance of this City
Amen.

ORIGINAL CUSTODIANS STATEMENT

I wish to acknowledge the traditional owners of the land on which we stand and pay my respects to their Elders past, present and emerging.

2. APOLOGIES

3. CONFIRMATION OF MINUTES

3.1. CONFIRMATION OF MINUTES

RECOMMENDATION

That the Minutes of the Scheduled Meeting of Council held on 5 December 2022 and the Minutes of the Additional Council Meeting held on 13 December 2022, be confirmed.

4. DECLARATION BY COUNCILLORS AND OFFICERS OF ANY CONFLICT OF INTEREST IN ANY ITEM ON THE AGENDA

Section 130 of the Local Government Act 2020 (Vic) (**the Act**) provides that a relevant person must disclose a conflict of interest in respect of a matter and exclude themselves from the decision making process in relation to that matter including any discussion or vote on the matter at any Council meeting or delegated committee meeting and any action in relation to that matter.

Section 126(2) of the Act sets out that a relevant person (Councillor, member of a delegated Committee or member of Council staff) has a conflict of interest if the relevant person has a **general conflict of interest** within the meaning of section 127 of the Act or a **material conflict of interest** within the meaning of section 128 of the Act.

A relevant person has a **general conflict of interest** in a matter if an impartial, fair minded person would consider that the person's private interests could result in that person acting in a manner that is contrary to their public duty.

A relevant person has a **material conflict of interest** in a matter if an affected person would gain a benefit or suffer a loss depending on the outcome of the matter.

A Councillor who has declared a conflict of interest, must leave the meeting and remain outside the room while the matter is being considered, or any vote is taken. Councillors are also encouraged to declare circumstances where there may be a perceived conflict of interest.

5. MAYORAL PRESENTATION

6. PUBLIC QUESTION TIME

7. REPORTS

7.1. AUDIT & RISK COMMITTEE - BIENNIAL REPORT OF ACTIVITIES

DIRECTORATE : Corporate Strategies

PURPOSE:

To present the Audit and Risk Committee biennial report.

EXECUTIVE SUMMARY

- Council is required by the Local Government Act 2020 (the Act) to establish an Audit and Risk Committee (the Committee) as an advisory committee of Council.
- Under the Act, and as captured in the updated Audit and Risk Committee Charter endorsed by Council on the 6 July 2020, the Audit and Risk Committee must prepare a biennial report on activities to Council – refer **Attachment 1**. This paper satisfies this reporting requirement.

RECOMMENDATION

That Council notes the Audit and Risk Committee biennial report which details activities of the Committee covering the meetings held on 2 September and 15 November 2022.

BACKGROUND

The Audit and Risk Committee (the Committee) is an independent advisory committee to Council established under section 54 of the Local Government Act 2020.

The purpose of the Committee is to advise Council on the effectiveness of the organisation's systems, processes and culture for complying with its legal and financial obligations and the management of risk. In fulfilling this role, the Committee is to aid in the implementation of the Council Plan.

The Committee is accountable to and reports directly to Council.

The Committee's work is to be informed by the requirements of the Act and best practice in audit, risk and governance principles and processes.

FINANCIAL IMPACT

There are no direct financial or resource impacts arising from this report.

LEGISLATION / POLICY / COUNCIL PLAN CONTEXT

5 An effective Council

5.2 Engaged and informed community: Council will ensure ongoing community engagement to identify changing needs and priorities when developing and delivering services and programs.

5.3 Customer-focused services: Council will continue to develop a program of Council services that are delivered to the community's satisfaction.

COMMUNITY IMPACT / CONSULTATION

Given the nature of this internal report, no external stakeholder consultation with the community has been undertaken in the preparation of the report.

LEGAL RISK / IMPACT

The Audit and Risk Committee has an oversight role in the identification and mitigation of risks.

OFFICERS' DECLARATION OF INTEREST

No declaration of conflict of interest noted.

CONCLUSION

The Audit and Risk Committee Biannual Report of Activities is presented to Council for noting.

ATTACHMENTS

1. Report of Activities 2nd Half 2022 [7.1.1 - 6 pages]

7.2. SHORT STAY ACCOMMODATION LOCAL LAW

DIRECTORATE : Corporate Strategies

PURPOSE:

This report provides information on the introduction of a new Short Stay Accommodation Local Law and the results of public consultation undertaken regarding the proposed new local law.

EXECUTIVE SUMMARY

At the Council meeting held on the 5 December 2022, Council considered the proposed new local law for short stay accommodation and released the draft document for public consultation.

Council received 14 submissions from the community regarding the proposed local law, 13 were responses to a survey on Council's "Your Say" website, and one written submission was received. The results of the public consultation are summarised in this report.

The 2022-23 Budget proposed to introduce a \$400 fee for short-term accommodation providers. This was in line with actions taken by other municipalities to address the inequity between registered visitor accommodation providers (e.g. motels and hotels) who pay a commercial rate and must meet strict registration requirements, and those also providing visitor accommodation through newer platforms such as Airbnb who do not.

In order to implement the new fee, Council has proposed to develop and adopt a local law specific to short stay accommodation. This local law would also introduce a code of conduct for property-owners that places responsibilities on them for anti-social behaviour. As part of any local law change, it was subject to community consultation, which was carried out between December 2022 and January 2023.

RECOMMENDATION

That Council adopt the new Local Law in relation to Short Stay Accommodation and implement the new Short Stay Accommodation fee.

BACKGROUND

In adopting the 2022-23 Annual Budget, Council signaled the introduction of a short stay accommodation fee to help address inequalities between registered accommodation and non-registered accommodation providers, whilst also contributing to services, events, infrastructure, and natural assets that support the local visitor economy.

In Warrnambool, motels and hotels (defined as "prescribed accommodation") must meet planning guidelines, are charged commercial rates, and must register and pay registration fees relating to:

- Providing an accommodation premises under the Public Health and Wellbeing Regulations 2009; and,
- if providing food, registration of a food premises under the Victorian Food Act 1984.

Although regulation of short term accommodation proprietors has been traditionally seen to be a State Government responsibility, the lack of action or acknowledgement of issues created by digital interruption to the market have not been addressed at a state level, and do not seem to be a legislative priority. Council is thus proposing to implement this local law to ensure that proprietors maintain a level of responsibility commensurate with the responsibilities of traditional accommodation providers.

In considering the implementation of an annual fee, Council reviewed how other municipalities were addressing the inequalities between prescribed accommodation providers and short stay accommodation providers, and what application method was most appropriate for the fee. It concluded that the implementation of a new local law was the most appropriate method of imposing the fee.

The attached research paper – refer **Attachment 4** was prepared for Councillors in early 2022 and presented at a budget briefing. It compared the options available to Council to impose a charge for short term rental accommodation and cited benefits and challenges from implementing these different types of charges. The paper recommended a local law and fee as the most appropriate course of action.

Although the original research paper noted that the income from the local law fee would go towards ensuring compliance with local laws, it is anticipated that the compliance aspects would be able to be managed within existing budgets for Council's local laws department, and any funds collected by Council would be contributed towards improving the local visitor economy.

ISSUES

The short stay accommodation industry is not regulated, and many properties fall outside the definition of "prescribed accommodation" that requires registration. These properties benefit from investment in the local visitor economy, but do not directly contribute to that investment.

Whilst these non-traditional forms of accommodation have increased options for consumers looking for short stay accommodation, the rapid growth in the industry, together with gaps in regulatory oversight from State and Commonwealth governments, has led to challenges such as rental supply and availability, anti-social behaviour, and online scams.

The 2022-23 Warrnambool City Council Annual Budget outlined a fee of \$400 to be applied to short stay accommodation providers to help address this inequity and ensure the industry makes a contribution to the visitor economy that drives it.

At that time, it was estimated that on an average fee of \$200 per night and occupancy rates of 40%, short-term accommodation providers would yield \$29,200 annually. This suggests that the fee proposed by Council would not be considered an excessive amount. The annual fee would also be a tax-deductible expense to those declaring income on Short Term Accommodation.

Consideration of the fee implementation process found that the introduction of a new local law was the most appropriate method. Examples and experiences at other municipalities were taken into account when considering the proposed local law.

Division 3 of the Local Government Act 2020 (Act) outlines Council's power to create local laws, and the requirements of a local law, including consistency with existing acts, laws, regulations, and planning schemes.

There are a number of relevant sections under the Act related to this proposed local law:

Section 73 of the Act states that before Council makes a local law, it must Publish a notice stating:

- the objectives of the proposed local law; and
- the intended effect of the proposed local law; and that a copy of the local law is available for inspection at the Council's office and on its website.

Section 74 requires Council to obtain a legal opinion that the local law is consistent with the legal requirements of creating a local law.

Section 77 states that a local law may determine a fee, charge, fare, or rent in relation to any property, undertaking, good, service, or other act, matter or thing, and prescribe the conditions under which Council collects this revenue.

Section 79 allows penalties to be applied for contravention of the local law.

Section 83 states that a local law comes into operation at the beginning of the day on which the local law is made or at the beginning of such later day as expressed in the local law as the date it comes into operation.

The draft Short Stay Rental Accommodation Local Law (the local law) is presented to Council as an attachment to this report – refer **Attachment 3**. It states its objectives as to:

1. provide clear guidelines on the required standards for the operation of this type of accommodation;
2. ensure equity within the municipal tourism sector by Short Stay Rental Accommodation providers contributing to the tourism sector;
3. enhance neighbourhood amenity;
4. provide for the administration of this Local Law and of Council's powers and functions; and
5. assist with the Peace, order and good governance of the municipal district.

The local law requires owners of short stay accommodation properties to be registered with Council and maintain compliance with the Short Stay Rental Accommodation Code of Conduct – refer **Attachment 3**, which covers:

- displaying the code of conduct for occupants and visitors;
- taking responsibility for the behaviour of occupants and visitors and addressing unacceptable behaviour;
- informing occupants and visitors of waste disposal arrangements and removing any excess waste left by occupants and visitors;
- providing off-street parking for occupant's motor vehicles, and providing parking arrangement information to occupants prior to arrival;
- banning additional accommodation by way of tents, caravans, campervans, or similar facilities;
- restricting the use of outdoor areas between 11pm and 7am; and
- maintaining land connected to the dwelling in good condition.

A Community Impact Statement was been prepared to help inform community members during the community consultation period.

FINANCIAL IMPACT

The 2022-23 Annual budget includes an assumption of \$20,000 in revenue from the introduction of the Short Term Rental Accommodation fee.

LEGISLATION / POLICY / COUNCIL PLAN CONTEXT

3 A strong economy

3.3 Visitor growth: Council will facilitate Warrnambool's visitor growth and year-round visitation through industry development, effective destination management and promotion of attractions, experiences and by leveraging key events.

TIMING

The Short Term Rental Accommodation Local Law is anticipated to be considered for adoption at the February or March 2023 Council meeting, with the registration fee payable from adoption for the 2023 calendar year.

If the Local Law is adopted at the 6 February 2023 Council meeting, a letter will be sent to Short Term Accommodation providers identified in the preparation of the local law outlining their responsibilities and the process for registering their properties with Council. It is anticipated that registration will be available through Council's website in March 2023. Once registered, the accommodation providers will be prompted to pay the \$400 fee (if implemented by Council), being for the 2023 calendar year.

COMMUNITY IMPACT / CONSULTATION

Community consultation took place in December 2022 and January 2023, meeting the requirements of the Act and in line with Council's Community Engagement Policy. Some informal prior engagement had been undertaken during the public exhibition of the 2022-23 Annual budget.

During the consultation process, Council hosted a survey on its "Your Say" website and also invited comment. Council received 13 completed surveys with some commentary. A written submission was also received. The responses are summarised below

Survey Questions:	Response
<i>Have you read the Draft Short Stay Accommodation Local Law and the associated Draft Code of Conduct</i>	Yes - 13 (100%)
<i>Are you an accommodation provider in the Warrnambool Municipality?</i> - No - Yes, short stay accommodation available through an online platform - Yes, registered accommodation provider	10 (76%) 1 (8%) 2 (16%)
<i>If Council were to introduce a \$400 fee, would that impact your decision to offer short stay accommodation?</i> - No - Yes - Not answered	10 (76%) 0 (0%) 3 (23%)
<i>Do you agree that measures should be put in place to manage the behaviours and expectations of short stay accommodation guests?</i> - No - Yes	2 (16%) 11 (84%)
<i>Should Council endeavor to reduce inequity between different groups of commercial accommodation providers (ie. Between existing registered accommodation providers and short stay accommodation providers?)</i> - No - Yes	2 (16%) 11 (84%)
<i>Do you believe the \$400 is a reasonable fee for short stay accommodation providers to contribute towards the visitor economy?</i> - No - Yes	5 (39%) 8 (61%)

The Survey included the opportunity for respondents to add additional commentary to their responses. These are summarised below:

- *"The proposed Short Stay Accommodation Local Law should be amended to make it fair on all property's. a large 5 bedroom property should pay 5 times as much as a 1 bedroom property. and the same for 2,3,4, & 6+ properties Also short stay properties must provide plans of the property, showing number of beds and occupants, weather food etc is provided and if so must register under the health act. Fire Management plans, etc. where parking is provided and neighbouring properties should have knowledge 'prior' to any short stay being approved to operate. I am happy to assist council with implementing these policies so that*

WCC can therefore have funds to put towards events in the off-season months (e.g) winter to increase the occupancy of all accommodation providers both regulated and unregulated and therefore properties can receive occupancy and income throughout the quieter months. This information is private and confidential for councillors and internal WCC staff only. It may also be made available to committees on approval of myself."

- *"The introduction of a \$400.00 fee is the average cost of 2 nights stay in a Short stay accommodation, which I believe is insignificant to these property owners thus the fee will not deter these property owners from continuing to operate. Given these property owners are not paying commercial rates to operate a registered accommodation, they are currently "bringing in the cash" for very little outlay expense. With the lack of long term rentals properties for long term residential purposes, due to these properties being used as short stays, it's having a profound effect on local businesses trying to fill job vacancies especially in tourism/hospitality roles. The impact of local families having to relocate elsewhere, as they face the situation of being homeless is causing a further drain on skilled workers for our town & region. The flow on effect of families moving away from the town and region is not only the loss of skilled workers, but also changes the demand for local supports such as doctors etc, thus impacting the growth of our region & communities. All these issues have spiked rapidly since the introduction to the market of short stay's. As for tourism - Short stay properties do not have a "meet & greet" staff member, the majority of these properties are managed remotely, with the guest being told where to find the accommodation key, thus no-one is at the property to assist the guests with local tourism attractions, restaurants etc. There is further ongoing risks to our local residents, of uncontrolled parties, gang fights etc – we have all seen the news & see how quickly things get out of control as there are no Protocols in place. When you stay in a Motel or Caravan park, there are staff on site to greet you & provide you with plenty of information on what to see, do & where to spend their tourism dollars at local restaurants, shops etc. These same registered accommodation providers have Management plans in place which can be enacted instantly, as there are always staff onsite & on call, to action any form of danger or issue that may arise. I feel for the poor residents that live next door to these short stays, as they are constantly harassed and their enjoyment of their own home is impacted negatively by the inconsideration of short stay guests that have no intention of showing respect for others around them. Council needs to lobby the State Government to amend legislation to incorporate these short stays, at the same costings as that of registered accommodation providers."*
- *"Clause 8.7 of the Code of Conduct "Outdoor areas including swimming pools, spas, outdoor decking and balconies are not to be used between 11.00 pm to 7.00 am." is a bit over the top, as long as there is no unacceptable behavior and noise as outlined in Clause 8.3 guests should be able to still use these facilities at any time for example eating breakfast on the balcony at 6:30am is hardly likely to impact any neighboring properties."*
- *"Homes/rental properties in residential streets are not meant to be Motels, there is more than enough registered accommodation providers for tourist and travelling workers. Warrnambool City Council has a duty of care to all residents of Warrnambool, to ensure all Short stays/ AirBnB etc comply with the Public Health and Wellbeing ACT 2008. The first step that council is proposing of introducing a fee is a step in the right direction, however, I believe an additional fee is required to cover council inspections of each property, to ensure the properties are compliant with Council. The ACT also requires a CFA inspection and an Emergency management plan inspection to be undertaken. The relevant CFA inspection charge is to be worn by the property holder, as it is with all Caravan Parks etc. The CFA inspection of fire equipment is a twice a year check for registered providers at a fee to the host. Under section 67 of the Act, it appears that short stay properties are already in breach of the Act. As per the Definition of Prescribed accommodation, under the Act: prescribed accommodation means any of the following, which is prescribed, or is of a class which is prescribed, to be prescribed accommodation— (a) any area of land which a person or persons are frequently, intermittently or seasonally permitted to use for camping on payment of consideration and any facilities provided on the land for the use of that person or those persons; (b) any premises used as a place of abode, whether*

temporary or permanent, fixed or mobile, where a person or persons can be accommodated on payment of consideration. Look back 10 years, we didn't have a lack of rentals or homeless problem, there was no shortage of employees. Now the lack of rentals that are over priced is causing a huge effect of business finding staff. Every council needs to engage with each other and lobby the Government for the same regulation for short stays to make it fair and reasonable and equal to registered accommodation providers. When Air BNB was introduced it was for house sharing, a spare room to help a traveller, their philosophy has changed dramatically in that time. Our great city of Warrnambool has enough registered accommodation providers such as Hotels/Motels, Caravan/Cabin parks & Registered Bed n Breakfast, to cater for visitors every day of the year. What our town is lacking severely, is affordable long term rentals."

- *"Many other councils have such laws already in place. As long as all approvals will be handled fair by council and the power of "who knows who" would never come into play that would be a great tool to implement. Sorry about implying that a tool for greater equality could also be used to the opposite effect. "*
- *"A. References to divisions e.g. Part 1 - Division 210(1) do not seem to reflect the actual numbering. "Division 2.10(1)" or "Clause 2.10(1)" would be clearer.
B. The provision for service of notices includes "(c) in person to the designated person under clause PART 1 - Division 211(3)(b)." This seems to require "in person" service (i.e. actual, physical delivery) instead of using the contact details provided by the owner.
C. The code of conduct should require the designated person's contact details to be prominently displayed in the dwelling for the use of guests."*
- *"Yearly council health inspection and building code inspection and short stays should be inspected and comply with CFA regulation for the customers safety. I have seen a few bnbs where beds are place in a garage and to many beds squeezed into bedrooms."*
- *"Density limits should be something many shires should be looking at ,to many short stays unhosted. 400 is cheap but money won't fix airbnb issues very complicated"*
- *"Fee is not unreasonable, but there already exists a code of conduct under Airbnb and similar so don't reinvent the wheel, the inequity is not realistic as motel providers are handling large numbers of guests simultaneously with commensurate strain on city infrastructure, STR are hosting a family size on average, no diff to a regular tenant so no additional strain on infrastructure. I understand the fee and don't really have a problem with that - my concern is council establishing codes, laws, committees, processes and gatekeepers when there is simply no need. This is how we get overburdened and budget creep. Charge the \$400, let the platforms handle complaints as already happens - council gets a win, gets income and doesn't have to create additional unnecessary bureaucracy."*
- *"No new rates or laws, stop intervening in the free market"*
- *"Will re-distribute funds back to the local community who often don't benefit from the decrease in amenity during busy periods. Will make it more equitable with registered accommodation providers. The pool of money collected should go straight back into a relevant category (tourism, way finding, events) which would attract people to stay in Warrnambool."*
- *"Yes. Thank you - there is. \$400 is cheap - they should also be required to undergo annual checks by the council health officers & the same fire requirements as other accommodation providers. Rubbish, now that's fortnightly is huge issue over summer months, along with parking. I applaud the councils stand on this proposed Local law. One concern I have is who is going to police this. Will it be the same local laws officers who are supposed to keep the Lake Pertobe & beach areas free from dogs? Maybe they could go to a Sunday market & write a few tickets. Or the ones who are supposed to do something about the ever increasing number of parasites who decide to free camp regardless of signs which also*

costs caravan park businesses \$1000s of dollars annually? May I respectfully suggest you employ the services of Local Laws Officers on a commission based arrangement - that might change things. There's more input I could give but that will suffice for now"

A separate written submission was also received by Council against the adoption of the new local law, summarised as follows:

- *"We are owners of a property in Warrnambool that is rented out for short stay accommodation, and which would be subject to the draft Short Stay Accommodation Local Law that was considered at the Council's meeting on 5 December 2022. We do not support the implementation of this Local Law, and we submit that Councillors vote against it."*
- *"...the reform imposes requirements on short stay accommodation owners that are far more onerous than those that owners of hotels, motels, guesthouses and caravan parks are currently required to comply with. For example, under the draft Code of Conduct, owners are required to:*
 - (a) "control and be responsible for the behaviour" of their guests. This is an incredibly vague requirement of an uncertain scope, which does not apply to registered accommodation providers.*
 - (b) provide off street parking for the vehicles of all guests. This is particularly onerous and will be impossible for many property owners to comply with. For example, will the owners of a property with 4 bedrooms (and therefore potentially 8 guests) be required to maintain off-street parking for 8 vehicles? Few residential properties in Warrnambool have this capacity.*
 - (c) prevent the use of outdoor areas between 11.00 pm to 7.00 am. Given that Council is seeking equity with registered visitor accommodation providers, will Council also require motel guests to be prohibited from using their balconies, and caravan park guests to be prohibited from leaving their sites, during these hours?"*
- *"...The draft Local Law and Code of Conduct is very similar to the existing local law of Mornington Peninsula Council. However, Warrnambool City Council's Research Paper states that "Mornington have provided feedback that their SSA LL has a lot of legal gaps and will be revamped over the next year two". Accordingly, it seems that Warrnambool City Council is acknowledging various inadequacies of the draft Local Law. In these circumstances, it is astonishing that Council intends to proceed with implementing the law regardless."*
- *"...We would also add that Council has not specified a due date for public submissions in relation to the local law in accordance with Local Government Act. Council is required to invite submissions for a period of at least 28 days. The Local Law Community Impact Statement states that a statutory consultation period of 6 December 2022 to 31 December 2022 will apply. However, this is a period of only 26 days. Accordingly, the existing public notice is defective and Council should re-issue the notice with a new period of at least 28 days."*

Officer Response to submissions/comments:

There are a range of views submitted by community members on the draft Local Law, some who see the responsibilities applied to Short Stay Accommodation providers as too weak, and others who see them as too onerous. The Local Law was written to place an acceptable level of responsibility on the Short Stay Accommodation providers without being overly prescriptive.

Short Stay properties are not subject to requirements under the public health act, (such as annual inspections), nor do they have requirements to alert neighbouring properties regarding impending visits. However, Council encourages all Short Term Accommodation providers to be mindful of neighbours and the safety of guests.

Council will continue to advocate with our peers and industry associations for a State-based approach to tackle issues with the Short Term Accommodation industry. Registration of Short Term Accommodation properties will be required under the local law by all Short Term Accommodation providers and is not subject to “who knows who”. A single registration fee is recommended for all Short Term Accommodation properties to avoid confusion and reduce complexity.

The Local Law has been drafted consistent with noise restrictions that are outlined in the Environment Protection Regulations 2021. Eating breakfast on a balcony is not a prescribed noise item under the regulations.

Officers also note the AirBnB code of conduct may exist, but does not hold accommodation providers accountable for poor guest behaviour or contribute towards the Warrnambool Visitor Economy. Warrnambool City Council is looking to introduce this local law to start to address inequities in the free market that provide benefits to some over others.

LEGAL RISK / IMPACT

A legal certificate is to be provided confirming that the new local law is consistent with the requirements of a local law. This will include consideration of the objects of the local law and confirm that it is not addressing matters which are already covered by other laws.

The new local law is being implemented in the absence of legislation at the Commonwealth or State level. If such legislation was implemented at a higher level of government, this would trigger a review of this local law and its appropriateness in relation to any legislation introduced.

OFFICERS' DECLARATION OF INTEREST

Nothing to declare

CONCLUSION

Council's public consultation process ran from the 6th of December 2022 until the 13 January 2023. Of the submissions received, the majority were in favour of Warrnambool City Council implementing a local law in relation to short stay accommodation, and supportive of the introduction of \$400 annual fee for short stay accommodation providers.

Options available to Council are:

1. Implement the new Short Stay Accommodation fee and Local Law.

This option is recommended by officers.

The implementation of the Short Stay Accommodation fee and local law will help to bridge some of the gap between prescribed accommodation providers and Short Stay accommodation providers in the local community and place reasonable responsibilities on Short Stay Accommodation providers to address inappropriate guest behaviour. Overall, the new local law will set a minimum standard for Short Stay Accommodation and ensure sufficient neighbourhood amenity is maintained. It is also the most supported approach through the recent public consultation process.

2. Implement the new Short Stay Accommodation Local Law without the annual fee.

This option is not recommended by officers.

Although the implementation of the local law would be seen to place reasonable responsibilities to Short Stay Accommodation providers, there would be no contribution made towards promoting the local visitor economy that other accommodation providers contribute through commercial rate differentials.

3. **Do Not implement the new Short Stay Accommodation Local Law or annual fee**

This option is not recommended by officers.

In the absence of a legislative agenda regarding Short Stay Accommodation from other levels of government, Council must ensure that it responds to emerging issues in the community that impact neighbourhood amenity and equality in the community. If the local law is not introduced, Council will lack enforcement powers in relation to poor behaviours regarding Short Stay Accommodation.

ATTACHMENTS

1. Local Law Community Impact Statement draft 20 Sept 22 [7.2.1 - 6 pages]
2. Short Stay Accommodation Local Law draft 21 Nov 22 [7.2.2 - 9 pages]
3. Warrnambool City Council Code of Conduct Short Stay Accommodation [7.2.3 - 3 pages]
4. WCC Short Stay Accommodation research paper [7.2.4 - 9 pages]

7.3. CUSTOMER SERVICE CHARTER

DIRECTORATE : Corporate Strategies

PURPOSE:

This report provides information on the updated Customer Service Charter.

EXECUTIVE SUMMARY

Council's Customer Service Charter describes Warrnambool City Council's commitment to the community it serves and the standards of customer service all Council staff strive to provide.

The existing charter, adopted in 2019, has been reviewed by Councillors, staff and been through a Gender Impact Assessment – refer **Attachment 1**, as required under the Gender Equality Act (2020).

RECOMMENDATION

That Council adopt the revised Warrnambool City Council Customer Service Charter 2023-2027 as contained in Attachment 2.

BACKGROUND

The Customer Service Charter is a key guiding document which sets out the standards Council staff strive to meet in our interactions with residents of, and visitors to, Warrnambool.

It is a guide for all Council staff.

It describes service standards, response timeframes and the ways in which Council can be contacted.

It includes descriptions of how we make information available around-the-clock and the ways in which customers can pay for services.

It also outlines Council's commitment to seeking and responding to feedback that will enable improvements to customer service.

Council has typically recorded strong customer service results in the annual Local Government Community Satisfaction Surveys and the Charter is a key to ensuring high customer service standards are maintained.

The table below shows the seven core measures, which include customer service, from the Community Satisfaction Survey.

Services	Warrnambool 2022	Warrnambool 2021	Regional centres 2022	Victoria 2022
Overall performance	62	55	59	59
Overall Council direction	63	59	52	50
Customer service	73	71	69	68
Waste management	73	71	68	68
Sealed local roads	60	59	54	53
Community decisions	58	49	54	54
Consultation and engagement	56	50	54	54

The Charter has been revised after being reviewed by Councillors and key staff.

The recent Gender Equality Act required Council to undertake a Gender Impact Assessment of a draft Customer Service Charter. As a result of this assessment an acknowledgement of gender was included in the document contained in the following statement:

“We will communicate respectfully and will not discriminate on the basis of age, gender, cultural background or sexuality.”

ISSUES

The Customer Service Charter is a foundation document that sits above the Customer Service Strategy.

FINANCIAL IMPACT

N/A

LEGISLATION / POLICY / COUNCIL PLAN CONTEXT

5 An effective Council

5.3 Customer-focused services: Council will continue to develop a program of Council services that are delivered to the community’s satisfaction.

TIMING

The Charter has been reviewed and is ready to be considered for adoption by Council.

COMMUNITY IMPACT / CONSULTATION

Council staff and Councillors were consulted in the review of the Customer Service Charter. At the December meeting of Council a decision was made to release the draft Customer Service Charter for public comment. No submissions were received.

CONCLUSION

The Customer Service Charter has been revised and Council is in a position to adopt the revised charter.

ATTACHMENTS

1. 3313 CUSTOMER SERVICE CHARTER - draft [7.3.1 - 6 pages]
2. Gender impact assessment Customer Service Charter 2022 [7.3.2 - 10 pages]

7.4. QUARTERLY FINANCIAL REPORT - OCTOBER TO DECEMBER 2022

DIRECTORATE : Corporate Strategies

PURPOSE:

The purpose of this report is to present to Council the financial performance for the 3 months ended 31 December 2022.

EXECUTIVE SUMMARY

- This quarterly finance report compares actual financial results to budget and forecast for the three months from 1 October 2022 to 31 December 2022 – refer **Attachment 1** Quarterly Finance Report.
- The report sets out the financial results for Council's recurrent (day-to-day) operations, projects, capital works, rates, and borrowings.
- Overall the monthly actual results indicate a favourable financial position of \$0.22m compared to forecast. The forecasted end of year position is in line with the budget overall.
- This report meets the requirements of section 97 of the Local Government Act 2020 to present a quarterly financial report to Council at a public meeting that compares actual results against budget.

RECOMMENDATION

That the Quarterly Financial Report for the period October to December 2022 be received.

LEGISLATION / POLICY / COUNCIL PLAN CONTEXT

5 An effective Council

5.5 Organisational and financial sustainability: Council will ensure organisational and financial sustainability through the effective and efficient use of Council's resources and assets.

ATTACHMENTS

1. Quarterly Finance Report Oct- Dec 2022 [7.4.1 - 12 pages]

7.5. PROPOSED AMENDMENT TO THE WARRNAMBOOL PLANNING SCHEME - RIVERVIEW TERRACE

DIRECTORATE : City Growth

PURPOSE:

This report provides information on a planning scheme amendment request received from Myers Planning Group on behalf of P & M Altmann to rezone land at Riverview Terrace (nos. 31, 32, 1/30, 2/30, 3/30/ 4/30, 5/30 and 6/30) land at Hopkins Point Road (Nos. 4, 6 and 10-12) and all of the lots within Casuarina Court, Warrnambool to the General Residential Zone 1. A combined planning application for a 2 lot subdivision at 32 Riverview Terrace is also proposed. It is recommended that Council request authorisation from the Minister for Planning to prepare an amendment to the Warrnambool Planning Scheme.

EXECUTIVE SUMMARY

- Myers Planning Group (proponent) on behalf of P & M Altmann (landowner of 32 Riverview Terrace) has requested Council prepare an amendment to the Warrnambool Planning Scheme to rezone existing Rural Living zoned land on the north side of Hopkins Point Road, Warrnambool. See map below showing extent of proposed rezoning.
- The amendment request proposes to rezone the land from the Rural Living Zone to the General Residential Zone 1.
- A combined planning application, PP2022-0060 for a 2 lot subdivision and creation of an easement at 32 Riverview Terrace is also included in the proposal.
- It should be noted that land known as 'Motang Estate' is not included in the proposed rezoning.
- It is considered the current zoning does not align with the current land use and development and is incorrect, and that the rezoning is appropriate.

RECOMMENDATION

That Council

- 1. In accordance with Section 8A of the *Planning and Environment Act 1987 (the Act)* request authorisation from the Minister for Planning to prepare a Planning Scheme Amendment to the Warrnambool Planning Scheme to rezone land at Riverview Terrace (nos. 31, 32, 1/30, 2/30, 3/30/ 4/30, 5/30 and 6/30), land at Hopkins Point Road (Nos. 4, 6 and 10-12) and Nos. 1, 2, 3 and 4 Casuarina Court, Warrnambool to the General Residential Zone 1.**
- 2. Following the authorisation of the Minister for Planning, in accordance with Section 9, 19 and 96C of the Act, prepare and exhibit a combined amendment to the Warrnambool Planning Scheme and permit application, including draft Planning Permit PP2022-0060 to subdivide the land and creation of an easement at Lot 1 PS 317314K, 32 Riverview Terrace, Warrnambool into 2 lots.**

BACKGROUND

Historically all of the land subject to the amendment request has been within the Rural Living Zone for over 20 years.

The proponent has now requested Council to prepare an amendment to the Warrnambool Planning Scheme to rezone the land to the General Residential Zone 1 (GRZ). The GRZ is consistent with the zoning of surrounding land to the west and east, and will provide the landowners with modest development opportunities.



Locality Plan

ISSUES

In this location, the Rural Living Zone has a minimum subdivision lot size of 6,000m² with an average lot size of 10,000m². The proposed subdivision application (**see Attachment 1**) is currently prohibited, therefore the rezoning must occur before the application can be considered.

Pursuant to Section 96A of the Planning and Environment Act, a planning application can be considered concurrently with a planning scheme amendment, which is what the proponent has applied for. Section 96C of the Act requires a draft planning permit to be exhibited as part of the combined process. The draft permit will be prepared once authorisation to prepare the amendment has been received.

The current zoning is inappropriate when considered against the existing pattern of development within the area, adjoining land zonings, and the purpose of the Rural Living Zone, which is, inter alia, is 'to provide for residential use in a rural environment', and 'to provide for agricultural land uses which do not adversely affect the amenity of surrounding land uses'.



Zoning Plan

The Design and Development Overlay Schedule 2 applies to the subject land. Amongst other things, the overlay limits the lot sizes for subdivision to 6,000m² minimum and 10,000m² average. It is proposed to amend the overlay to delete reference to the subdivision lot sizes for the subject area.

The Logans Beach Strategic Framework Plan (2017) recommends rezoning of the subject area to the General Residential Zone. However following an assessment of the area, together with consultation with the residents, the plan does not support the inclusion of the land to the north known as the 'Motang Estate'. Accordingly the Motang Estate land is not included in the amendment.

The Logans Beach Strategic Framework Plan also recommends rezoning of the land on the south side of Hopkins Point Road (Logans Beach area) to the Neighbourhood Residential Zone. In 2019, Council requested authorisation from the Minister for Planning to prepare an amendment to implement the recommendations of the Logans Beach Strategic Framework Plan. The Minister for Planning refused authorisation for the amendment based on concerns regarding potential impacts on the landscape values, proposed density and character of the land on the south side of Hopkins Point Road (Logans Beach area).

Discussions have been held with officers at the Department of Environment, Land, Water and Planning (DELWP) who are comfortable with Council proceeding with the rezoning of the land on the north side of Hopkins Point Road. DELWP consider the two areas quite distinct and do not consider the refusal grounds of authorisation are relevant to the north side of Hopkins Point Road. However a considerable amount of further strategic work, with a substantial budget cost, will need to be undertaken before DELWP would further consider the rezoning of land within the Logans Beach area on the south side of Hopkins Point Road.

FINANCIAL IMPACT

The costs associated with the preparation and exhibition of the amendment can be met within the 2022/23 City Strategy and Development Budget and all statutory fees will be paid by the proponent.

LEGISLATION / POLICY / COUNCIL PLAN CONTEXT

4 A connected, inclusive place

4.1 Effective planning: Council will ensure its planning acknowledges the unique character and attributes of local places and that that supports social connection, equitable access, appropriate housing and sustainable population growth.

5 An effective Council

5.1 Leadership and governance: Council will be a high-functioning team committed to respectful relationships, collaboration and ongoing engagement. It will provide strong, effective leadership, sound governance and informed decision-making

5.6 Risk mitigation: Council will mitigate and manage organisational risks through sound management systems and processes.

TIMING

In accordance with the provisions of the *Planning and Environment Act 1987*, and Minister's Directions.

COMMUNITY IMPACT / CONSULTATION

Exhibition of the planning scheme amendment and combined planning permit application, including a draft planning permit, will be undertaken in accordance with the requirements of the Planning and Environment Act, which requires submissions to be lodged within one month from the date of exhibition.

A flow chart outlining the process is attached (see **Attachment 2**).

LEGAL RISK / IMPACT

Risk is managed through implementing the provisions of the Warrnambool Planning Scheme and the *Planning and Environment Act 1987*.

OFFICERS' DECLARATION OF INTEREST

None declared

COLLABORATIVE PROCUREMENT

Not applicable

CONCLUSION

The planning scheme amendment to rezone the land from Rural Living Zone to General Residential Zone is required to facilitate the subdivision of 32 Riverview Terrace. The rezoning will also correct what is considered an existing anomalous zoning where the land has remained in the Rural Living Zone despite being appropriately serviced and located between two residential zoned areas.

The amendment is considered to have a net community benefit due to the combined positive environmental, social and economic impacts, primarily through the provision of additional residential land.

ATTACHMENTS

1. 21-434 Riverview Terrace Proposed Plan of Subdivision [7.5.1 - 1 page]
2. Planning Scheme Amendment Flowchart for Council reports [7.5.2 - 1 page]

7.6. PLANNING APPLICATION PP2022-0201 - 8 HENRY STREET WARRNAMBOOL

DIRECTORATE : City Growth

PURPOSE:

This report summarises the planning assessment that provides a recommendation for the application for the construction of two dwellings on a lot, and recommends that Council issue a Notice of Decision to grant a permit subject to conditions

EXECUTIVE SUMMARY

- Council has received an application to construct two side-by-side dwellings on an existing residential lot in the General Residential zone (following demolition of an existing single dwelling).
- The new dwellings will each have a single garage serviced by a new double crossover onto Henry Street.
- The application triggers a permit for development of two or more dwellings on a lot.
- The application was subject to public notice, which resulted in eight submissions, all in objection to the proposed development. Grounds of objection were almost entirely in relation to the intended use of the dwelling, specifically for public housing operated by the Salvation Army. The use does not require planning permission and is therefore not being assessed.
- The application has been assessed against the relevant planning controls and has found that proposed development is supported by planning policy, and meets the objectives of the scheme. If the application is supported, a Notice of Decision would be required as all objections have been sustained.

RECOMMENDATION

That Council, having caused notice of Planning Application No. PP2022-0201 to be given under Section 52 of the Planning and Environment Act 1987 and or the planning scheme, and having considered all the matters required under Section 60 of the Planning and Environment Act 1987 issue a Notice of Decision declaring an intent to grant a permit under the provisions of the Warrnambool Planning Scheme in respect of the land known and described as Lot 2 PS 329667G PSH WAN TSH WARR, 8 Henry St WARRNAMBOOL VIC 3280, for the Construction of two (2) dwellings in accordance with the endorsed plans, subject to the following conditions:

1. Amended Plans Required

Before the development starts, amended plans to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and must be generally in accordance with the amended plans submitted on 21 October 2022 but modified to show:

- a) The internal dimensions of each garage having a minimum length of six (6) metres and a minimum width of 3.5 metres.**
- b) Confirmation via either a note on plans or an elevation including height and construction materials showing intended fencing between the two proposed dwellings**

2. Layout Not Altered

The layout of the site and size, design and location of the buildings and works as shown on the endorsed plans must not be altered without the prior written consent of the responsible authority.

3. Landscaping Completion

All landscaping must be completed within twelve (12) months of occupation of the dwellings, to the satisfaction of the responsible authority.

4. Landscaping Maintenance

The landscaping shown on the endorsed plans must be maintained to the satisfaction of the responsible authority.

5. Construction Amenity

To safeguard the local amenity, reduce noise nuisance and to prevent environmental pollution during the construction period:

- a) Stockpiles of topsoil, sand, aggregate, spoil or other material must be stored clear of any drainage path or easement, natural watercourse, footpath, kerb or road surface and must have measures in place to prevent the movement of such material off site;**
- b) Building operations such as brick cutting, washing tools, concreting and bricklaying must be undertaken on the building block. The pollutants from these building operations must be contained on site;**
- c) Builders waste must not be burnt or buried on site. All waste must be contained and removed to a Waste Disposal Depot; and**
- d) All works on the land must be undertaken in accordance with the endorsed Construction Management Plan to the satisfaction of the responsible authority.**

6. Stormwater Management Plan

Before the commencement of construction a detailed Stormwater Management Plan is to be submitted to and endorsed by the responsible authority. The stormwater works must be designed in accordance with the current responsible authority's Design Guidelines, the endorsed application plans and must include:

- a) Identification of any existing drainage on the site;**
- b) Details of how the works on the land are to be drained and/or retarded;**
- c) Computations in support of the proposed drainage;**
- d) A proposed Legal Point of Discharge for each dwelling;**
- e) An underground drainage system to convey minor flows (as defined by the IDM) to the drainage outfall for the development;**
- f) Details of how the stormwater discharge from the development will be limited such that post development flows for the 20% and the 1% AEP do not exceed pre-development flows;**
- g) Details and measures to enhance stormwater discharge quality from the site and protect downstream waterways and groundwater in accordance with Clause 56.07-4 of the Planning Scheme;**
- h) Where residential tank systems are included in the stormwater treatment drain for the development, agreements to the satisfaction of Council for the provision and maintenance of these systems;**
- i) Evidence that stormwater runoff resulting from a 1% AEP storm event is able to pass through the development via reserves and/or easements, or be retained within lots without causing damage or nuisance to adjoining lots;and**
- j) Where drainage is required to be conveyed across privately owned land, easements to be created or demonstration that the consent of the landholder has been provided.**

7. Stormwater Works

The endorsed Stormwater Management Plan is to be implemented to the satisfaction of the responsible authority prior to use or occupation of any new dwelling.

8. Vehicle Access

Before the use or occupation of the development, the applicant must provide vehicle access to the satisfaction of the responsible authority. This includes the removal of existing redundant vehicle crossings and reinstatement of affected kerb, nature strip and footpath. Satisfactory clearance is to be provided to any stormwater pit, power or telecommunications pole, manhole cover, marker, or street tree. Any relocation, alteration or replacement required shall be at the applicant's expense.

NOTES

Road Reserve Works Permit

Before the commencement of any works within the road reserve, a Road Reserve Works Permit must be obtained from Council. All conditions on the Permit must be complied with.

Asset Protection Permit

Before the commencement of any physical works to the site, an Asset Protection Permit must be obtained from Council. This purpose of this permit is to protect Council assets from damage which can result from the works and from the movement of heavy equipment and materials on and off the site. All conditions on the Permit must be complied with.

Discharge of Polluted Water

Polluted drainage must be treated and/or absorbed on the lot from which it emanates to the satisfaction of the Responsible Authority.

Polluted drainage must not be discharged beyond the boundaries of the lot from which it emanates or into a watercourse or easement drain.

Refer to Environment Protection Authority Victoria (EPA) guidelines.

BACKGROUND

The subject site is approximately 510m² in a rectangular shape midway along the north side of Henry Street between Wellington Street and Alexandra Crescent, located in an established residential neighbourhood. All lots in the area have been developed, and the prevailing character is single dwellings on smaller lots, where many dwellings are traditionally designed with either hipped or peaked roofs, brick veneer or weatherboard cladding, with consistent setbacks and siting. There are some examples (e.g. 1, 6, and 14 Henry Street) of infill development, either via subdivision or multiple dwellings in various configurations. An existing single dwelling with associated outbuildings is centrally located on the site, accessed via a single crossover on the western side. No significant vegetation is observed.

The site itself could be characterised as relatively flat, however Henry Street as it travels west begins to rise quite steeply. Dwellings on the southern side of the street back onto the Urban Flood zone, and the low-lying areas along the banks of the Merri River. The streetscape along Henry Street could be characterised as reasonably informal, where street trees are limited, and parking would appear to include both formal accessways, and some evidence of parking along the nature strip.

The proposal seeks to permit the construction of two dwellings on the subject lot, following the demolition of the existing single dwelling. The proposed dwellings would be sited in a 'side by side' arrangement using a parti wall extending across the front half, followed by a courtyard separating two mirrored layouts. Private open space would be located to the rear (north), with two small storage sheds along the back boundary.

The proposed built form involves two single-storey structures with hipped roof profiles, clad primarily in face brickwork and metal colourbond roofing. Each dwelling includes a single garage, two bedrooms, one bathroom, and an open-space area for kitchen and living. Both garages would be accessed via a double crossover.

ISSUES

Objections came exclusively from local residents, where submissions were received from eight parties, all local owners or occupiers in close proximity to the subject site. Grounds of objection were focussed on the perceived impact of the intended use, namely that the dwellings would be used for public housing. Two objectors also brought up potential impacts from the built form, and most objectors also pointed to the perceived impact on traffic and parking. While planning case law firmly indicates that Council's role is limited to specific planning concerns, the relevant grounds of objection were individually assessed, and the recommendation is shown to be appropriate.

FINANCIAL IMPACT

The costs associated with the assessment of the application and any subsequent reviews have been allowed for in the City Strategy and Development budget.

LEGISLATION / POLICY / COUNCIL PLAN CONTEXT

4 A connected, inclusive place

4.1 Effective planning: Council will ensure its planning acknowledges the unique character and attributes of local places and that that supports social connection, equitable access, appropriate housing and sustainable population growth.

5 An effective Council

5.1 Leadership and governance: Council will be a high-functioning team committed to respectful relationships, collaboration and ongoing engagement. It will provide strong, effective leadership, sound governance and informed decision-making

5.6 Risk mitigation: Council will mitigate and manage organisational risks through sound management systems and processes.

TIMING

A decision on the application has already exceeded statutory requirements.

COMMUNITY IMPACT / CONSULTATION

In line with Council's instrument of delegation, as a result of having more than five objections a consultation meeting was held with a quorum of Councillors on 15 November 2022. Two parties plus the applicant were in attendance.

The application was also internally referred to Council's infrastructure department, where comments provided have been included in the assessment. No external referrals were undertaken or required.

LEGAL RISK / IMPACT

The proposal has been assessed against all relevant requirements of the Warrnambool Planning Scheme and the Planning and Environment Act 1987.

OFFICERS' DECLARATION OF INTEREST

No conflict declared.

COLLABORATIVE PROCUREMENT

Not applicable.

CONCLUSION

The development of the site with two dwellings represents an appropriate scale design response in context with the surrounding residential area. The development also achieves an increase in residential density in an area which is ideally located in close proximity to Warrnambool's Central Business District and on a site that is capable of accommodating change. Appropriate infrastructure will be required to be provided in association with the development as conditions of the planning permit. The proposed development will foster both increased housing diversity and housing affordability within an existing residential area of Warrnambool which are key objectives of planning policy.

The proposed development will result in residential urban consolidation consistent with the purpose of the zone, which aims to encourage a diversity of housing types, focus on housing affordability and housing growth particularly in locations offering good access to services and transport and encourage development that respects the neighbourhood character of the area. An assessment against Clause 55 (ResCode) has been completed where standards and objectives have been met.

In relation to specific grounds of objection, the parking requirement for a two bedroom dwelling is one space, where two spaces are provided for each dwelling. Accordingly, there is no underlying assumption that on-street parking will be affected in any way. The nature of stated use of the dwellings does not require planning permission. The Planning Scheme does not provide a specific land use for social or public housing, and the use of a 'dwelling' is as-of-right under the zone. In other words, a dwelling can be used on the site without planning permission, and the planning trigger in question is appropriate development. The building height of less than 5m is well under the maximum allowable under the zone, and overshadowing diagrams have shown that the development complies with the standard, and the existence of paling fencing at all boundaries would result in negligible impact.

As the grounds of objection should not lead to refusal, and having considered relevant decision guidelines, the proposed construction of two dwellings at 8 Henry Street Warrnambool is an appropriate planning outcome.

ATTACHMENTS

1. PP2022 0201 Delegate Report 8 Henry Street [7.6.1 - 14 pages]
2. Planning Clause 55 Report Two or More Dwellings [7.6.2 - 21 pages]
3. 8 Henry St - Planning Report - Gray Kinnane [7.6.3 - 24 pages]
4. 8 Henry St - Plans - Gray Kinnane [7.6.4 - 12 pages]

7.7. TENDER AWARD 2022050 - KINDERGARTEN CLEANING SERVICES 2022

DIRECTORATE : Community Development

PURPOSE:

This report provides information on award of Contract 2022050 – Kindergarten Cleaning Services 2022.

EXECUTIVE SUMMARY

- A public tender was advertised on Saturday 20th August & 3rd, 10th September 2022 inviting tender submissions from suitably qualified and experienced contractors for the provision of daily, weekly, biennial and annual cleaning of 8 early years services in Warrnambool City Council.
- Close of tenders was advertised for 2:00pm Friday 16th September 2022, no late tenders were received, and submissions have been assessed by the tender assessment panel.
- The recommendation is to proceed with the contract tender provided by JENCLEAN Whistle a Cleaner for the Contract Term is for two (2) \$203,542.90 with two (2) one-year options, each additional year (1) is \$119,181 if fully exercised, the maximum value of the contract will be \$441,904.90 Inc GST (the contractor reserves the right to notify council within 14 days if wanting to apply a CPI increase for any additional years) this cost does not include any ad hoc or additional cleaning.
- Additional cleaning costs to be charged at an hourly rate.

RECOMMENDATION

That Council

- 1. Award Contract 2022050 – Kindergarten Cleaning Services to JENCLEAN Whistle a Cleaner for the tendered lump sum amount of \$441,904.90 Inc GST p.a, for an initial term of two (2) years with two (2) one-year options.**
 - 2. That the schedule of rates offered is accepted for the life of the contract.**
 - 3. Authorise the CEO to sign, seal and vary the contract as required.**
-

BACKGROUND

The purpose of entering into this contract is to appoint a suitable contractor to deliver the scope of works. Kindergartens are to be cleaned at the end of each Kindergarten session. Duties will also require weekly, end of term and annual cleaning responsibilities.

The current kindergarten cleaning contract has ended after applying the full number of extensions under the contract. This tender enables Council to test the market and ensure that it is receiving the best value for money in a fair and transparent way, in line with the Council's Procurement Policy.

The tender covers 8 Kindergartens – Allansford, Beamish Street, Central, Dennington, Lions Hopkins, Warrnambool East & Warrnambool South Kindergartens and Matron Swinton Early Learning Centre. Other facilities are under the main council cleaning contract with the exceptions of Mahogany Kindergarten and Sherwood Park where the cleaning is included in the leasing agreements.

ISSUES

The period in which to roll out the contract has expired and is currently non-compliant due to the ongoing need to clarify costs associated with the tender. Documentation is completed and given the contract tender exceeds \$400,000 (CEO delegation) the contract will need to be approved by Council.

Council remains in contract under the current terms and conditions of the existing contract agreement. There is no risk of liability to Council on delivery of services.

FINANCIAL IMPACT

Additional costs may be incurred during the term of the agreement with the increase of kindergarten groups with the roll out of 3 yr old kindergarten to continue with increasing the number and groups being offered across council facilities, in line with the state government reform.

The cleaning budget allocation in the 2022-23 budget for the first year was \$95,000 which does indicate that the budget has a short fall for the first year of \$11,087.10. The budget for the following year will be rectified through the budget process, this cost will be absorbed through the free kindergarten funding that will commence in the 2023 calendar year.

The budgets for kindergartens are to be revised shortly to accommodate the changes to funding for kindergarten and the budget for the cleaning will be amended to reflect the costs of this tender.

The tender will be back dated to the 4th October and adjusted for back payments to occur at the new rate on signing of the contract after endorsement from Council.

LEGISLATION / POLICY / COUNCIL PLAN CONTEXT

1 A healthy community

1.3 Health and wellbeing: Council will take action to improve health, wellbeing and safety outcomes for Warrnambool's community.

5 An effective Council

5.3 Customer-focused services: Council will continue to develop a program of Council services that are delivered to the community's satisfaction.

5.5 Organisational and financial sustainability: Council will ensure organisational and financial sustainability through the effective and efficient use of Council's resources and assets.

5.6 Risk mitigation: Council will mitigate and manage organisational risks through sound management systems and processes.

COMMUNITY IMPACT / CONSULTATION

Community and employee feedback, with regards to levels of service, have been accounted for in the specifications document.

LEGAL RISK / IMPACT

Procurement processes are occurring in line with the approved contract specific procurement plan.

OFFICERS' DECLARATION OF INTEREST

No officer involved in the preparation of this report has declared a conflict of interest.

CONCLUSION

Acceptance of the recommended tender represents best value for Council.

ATTACHMENTS

Nil

7.8. ADVISORY COMMITTEE REPORTS

PURPOSE

This report contains the record of 2 Advisory Committee meetings and 1 Reference Group Meeting.

REPORT

ATTACHMENTS

1. Warrnambool Regional Airport Reference Group – 21 November 2022 – refer **Attachment 1**.
 2. Community & International Relations Advisory Committee – 6 December 2022 – refer **Attachment 2**.
 3. Economic Development & Tourism Advisory Committee – 9 December 2022 – refer **Attachment 3**.
-

RECOMMENDATION

That the records of the Warrnambool Regional Airport Reference Group meeting held on 21 November 2022, the Community & International Relations Advisory Committee meeting held on 6 December 2022 and the Economic Development & Tourism Advisory Committee meeting held on 9 December 2022 be received.

ATTACHMENTS

1. Warrnambool Regional Airport Reference Group Minutes - 21 November 2022 [7.8.1 - 8 pages]
2. Community & International Relations Advisory Committee Minutes - 6 Dec 2022 [7.8.2 - 2 pages]
3. Economic Development & Tourism Advisory Committee Minutes - 9 Dec 2022 [7.8.3 - 4 pages]

7.9. INFORMAL MEETINGS OF COUNCIL REPORTS

PURPOSE

The purpose of this report is to provide Council with copies of Informal Meetings of Council (previously known as “Assembly of Councillor Records”) as previously required under section 80A(2) of the Local Government Act 1989.

BACKGROUND INFORMATION

Section 80A(2) of the Local Government Act 1989 required the record of an Assembly of Councillors to be reported at an ordinary Council meeting.

Assembly of Councillor Records are no longer a requirement in the Local Government Act 2020 as of 24 October 2020. However, under Council’s Governance Rules, a summary of the matters discussed at the meeting are required to be tabled at the next convenient Council meeting and recorded in the minutes of that Council meeting.

REPORT

The record of the following Informal Meetings of Council are enclosed:-

1. Informal Meeting of Council – 12 December 2022 – refer **Attachment 1**.
2. Informal Meeting of Council – 19 December 2022 – refer **Attachment 2**.
3. Informal Meeting of Council – 23 January 2023 – refer **Attachment 3**.
4. Informal Meeting of Council – 30 January 2023 – refer **Attachment 4**.

ATTACHMENTS

1. Assembly of Councillors Record 12 December 2022 [7.9.1 - 2 pages]
2. Assembly of Councillors Record 19 December 2022 [7.9.2 - 1 page]
3. Assembly of Councillors Record 23 January 2023 [7.9.3 - 2 pages]
4. Assembly of Councillors Record 30 January 2023 [7.9.4 - 2 pages]

RECOMMENDATION

That the records of the Informal Meetings of Council held on 12 and 19 December 2022, 23 and 30 January 2023 be received.

7.10. MAYORAL & CHIEF EXECUTIVE OFFICER COUNCIL ACTIVITIES - SUMMARY REPORT

PURPOSE

This report summarises Mayoral and Chief Executive Officer Council activities since the last Ordinary Meeting which particularly relate to key social, economic and environmental issues of direct relevance to the Warrnambool community.

REPORT

Date	Location	Function
3 December 2022	Warrnambool	Mayor – Opening of Warrnambool Gift and Men’s and Women’s Gift Finals.
7 December 2022	Warrnambool	Mayor – End of Year Business Briefing function.
8 December 2022	Warrnambool	Mayor – Lighthouse Theatre 2023 Season Launch.
9 December 2022	Warrnambool	Mayor & Chief Executive Officer – South West Victoria Alliance Annual General Meeting and Board Meeting.
	Warrnambool	Mayor & Chief Executive Officer – Edwards Bridge opening.
	Warrnambool	Mayor & Chief Executive Officer – Lake Pertobe Playspace opening.
12 December 2022	Warrnambool	Mayor – Emmanuel College 2022 Student Awards.
14 December 2022	Warrnambool	Mayor – Campaign launch for Drink Responsibly.
	Warrnambool	Mayor – Warrnambool West Primary School Year Six Graduation Ceremony.
	Warrnambool	Deputy Mayor – Brauer College Senior Assembly.
15 December 2022	Virtual	Mayor & Chief Executive Officer – Regional Cities Victoria meeting.
	Virtual	Mayor – Regional Cities Victoria Mayor’s meeting.
	Warrnambool	Mayor – Volunteers thank you.
20 December 2022	Allansford	Deputy Mayor – Allansford Hall Annual General Meeting.
25 January 2023	Warrnambool	Mayor & Acting Chief Executive Officer – Citizen of the Year Awards.
26 January 2023	Warrnambool	Mayor & Acting Chief Executive Officer – Australian Citizenship Ceremony with 20 people becoming Australian Citizens.

RECOMMENDATION

That the Mayoral & Chief Executive Officer Council Activities – Summary Report be received.

8. NOTICE OF MOTION

No Notices of Motion have been received.

9. GENERAL BUSINESS

10. URGENT BUSINESS

11. CLOSE OF MEETING