



**GREATER
DANDENONG**
City of Opportunity

AGENDA

TUESDAY 15 MARCH 2022

Commencing at 7:00 PM

COUNCIL MEETING

Statement - Coronavirus (COVID-19)

At the time of printing this Agenda, the Council Meeting to be held on Tuesday 15 March 2022, will be open to the public but will be subject to density quotients and vaccination mandates.

If we are unable to accommodate you indoors, you will still be able to watch the webcast live on the Urban Screen in Harmony Square.

To view the webcast and stay informed of the status of Council Meetings please visit Council's website.

COUNCIL CHAMBERS

225 Lonsdale Street, Dandenong VIC 3175

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1 MEETING OPENING

1.1 REOPENING COUNCIL MEETINGS TO THE PUBLIC

In relation to the current COVID situation, Council must ensure that we continue to provide a safe workplace for Councillors, staff and any person who enters its facilities and we continue to assess the risks associated with opening up facilities as we progress through the early part of 2022.

With the easing of most COVID restrictions I can advise that we will reopen Council Meetings to the public in March. Anyone attending the Council Meeting will need to be double dose vaccinated or be able to show they have acceptable certification that they are an excepted person.

This means that you will need to show your vaccination certification or exemption status through the Services Victoria App on your phone or alternatively bring the printed version along to gain entry into the Council Meeting. Gallery seating will also be restricted and subject to density limits but we will also still be streaming the meeting on the Big Screen in Harmony Square.

Please continue to check Council's website prior to attending any Council Meeting because it is always possible that the COVID situation may change quite quickly.

We are all very much looking forward to seeing some faces in the gallery at the Council Meeting.

1.2 ATTENDANCE

Apologies

1.3 ACKNOWLEDGEMENT OF TRADITIONAL OWNERS OF THE LAND

Council acknowledges the Traditional Owners and Custodians of this land, the Bunurong people and pay our respects to their Elders past, present and emerging while also recognising their deep and continuing connections to climate, culture and country.

We also pay our respect to all Aboriginal and Torres Strait Islander peoples and their Elders and acknowledge their journey.

1.4 OFFERING OF PRAYER

As part of Council's commitment to recognising the cultural and spiritual diversity of our community, the prayer this evening will be offered by Mrs Ursula Aruma from the Sri Sathya Sai Organisation, a member of the Greater Dandenong Interfaith Network.

1.5 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

Meeting of Council held 28 February 2022.

Recommendation

That the minutes of the Meeting of Council held 28 February 2022 be confirmed.

1.6 DISCLOSURES OF INTEREST

Any interest that a Councillor or staff member has deemed to be significant and has disclosed as either a material or general interest is now considered to be a conflict of interest. Conflict of Interest legislation is detailed in Division 2 – Conflicts of Interest: sections 126, 127, 128, 129 & 130 of the *Local Government Act 2020*. This legislation can be obtained by contacting the Greater Dandenong Governance Unit on 8571 5216 or by accessing the Victorian Legislation and Parliamentary Documents website at www.legislation.vic.gov.au.

If a Councillor discloses any interest in an item discussed at any Council Meeting (whether they attend or not) they must:

- complete a disclosure of interest form prior to the meeting.
- advise the chairperson of the interest immediately before the particular item is considered (if attending the meeting).
- leave the chamber while the item is being discussed and during any vote taken (if attending the meeting).

The Councillor will be advised to return to the chamber or meeting room immediately after the item has been considered and the vote is complete.

2 OFFICERS' REPORTS - PART ONE

2.1 DOCUMENTS FOR SEALING

2.1.1 Documents for Sealing

File Id:	A2683601
Responsible Officer:	Manager Governance

Report Summary

Under the Victorian Local Government Act, each Council is a body corporate and a legal entity in its own right. Each Council must therefore have a common seal (like any corporate entity) that is an official sanction of that Council.

Sealing a document makes it an official document of Council as a corporate body. Documents that require sealing include agreements, contracts, leases or any other contractual or legally binding document that binds Council to another party.

Recommendation Summary

This report recommends that the listed documents be signed and sealed.

2.1.1 Documents for Sealing (Cont.)

Item Summary

There is one [1] item being presented to Council's meeting of 15 March 2022 for signing and sealing as follows:

1. A letter of recognition to Judi McNeill, Community Services for 10 years of service to the Greater Dandenong City Council.

Recommendation

That the listed documents be signed and sealed.

2.2 DOCUMENTS FOR TABLING

2.2.1 Petitions and Joint Letters

File Id:	qA228025
Responsible Officer:	Manager Governance
Attachments:	Petitions and Joint Letters

Report Summary

Council receives a number of petitions and joint letters on a regular basis that deal with a variety of issues which have an impact upon the City.

Issues raised by petitions and joint letters will be investigated and reported back to Council if required.

A table containing all details relevant to current petitions and joint letters is provided in Attachment 1. It includes:

1. the full text of any petitions or joint letters received;
2. petitions or joint letters still being considered for Council response as pending a final response along with the date they were received; and
3. the final complete response to any outstanding petition or joint letter previously tabled along with the full text of the original petition or joint letter and the date it was responded to.

Note: On occasions, submissions are received that are addressed to Councillors which do not qualify as petitions or joint letters under Council's current Governance Rules. These are also tabled.

2.2.1 Petitions and Joint Letters (Cont.)

Petitions and Joint Letters Tabled

Council received no new petitions and no joint letters prior to the Council Meeting of 15 March 2022.

N.B: Where relevant, a summary of the progress of ongoing change.org petitions and any other relevant petitions/joint letters/submissions will be provided in the attachment to this report.

Recommendation

That this report and Attachment be received and noted.

2.2.1 Petitions and Joint Letters (Cont.)

DOCUMENTS FOR TABLING

PETITIONS AND JOINT LETTERS

ATTACHMENT 1

PETITIONS AND JOINT LETTERS

PAGES 5 (including cover)

If the details of the attachment are unclear please contact Governance on 8571 1000.

ORDINARY COUNCIL MEETING - AGENDA

2.2.1 Petitions and Joint Letters (Cont.)

Date Received	• Petition Text (Prayer)	No. of Petitioners	Status	Responsible Officer Response
22/02/22	<p>PETITION: CONCEPT DESIGN OF THE DANDENONG COMMUNITY HUB</p> <p>So that the Dandenong Community Hub is successful and well used, Dandenong residents request Greater Dandenong Council to revise the concept design that has been exhibited to:</p> <ul style="list-style-type: none"> a) put children's services including children's services playgrounds on the ground floor so children can experience the earth and so that it is a facility that parents want to send their children to b) expand the public playground to be at least the same size as the Keysborough South Community Hub and Springvale Community Hub playgrounds so it is a successful drawcard for visitors to the Dandenong Community Hub and Dandenong Market c) leave the cafe and community lounge on the ground floor so it interfaces with the public playground <p>and to achieve this by using more of the publicly owned land available on the site bordered by Clow St, Stuart St, King St and Sleeth Avenue.</p> <p>It should be noted that this petition was previously tabled at the 29 November 2021 Council Meeting with 238 signatures. A detailed response was sent from the relevant business unit to the head petitioner on 16 December 2021.</p>	<p>238 (as at 14/12/21)</p> <p>Further 70 (as at 22/02/22)</p>	<p>In progress</p>	<p>Tabled at CM 29/11/21</p> <p>Responsible Officer: Director Community Services</p> <p>Response sent 16/12/21</p> <p>(Re)Tabled at CM 28/02/22</p> <p>Responsible Officer: Director Community Services</p>

If the details of the attachment are unclear, please contact Governance on 8571 1000.

2.2.1 Petitions and Joint Letters (Cont.)

Date Received	• Petition Text (Prayer)	No. of Petitioners	Status	Responsible Officer Response
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2.2.1 Petitions and Joint Letters (Cont.)

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2.3 STATUTORY PLANNING APPLICATIONS

2.3.1 Town Planning Application - No. 5 Bennet Street, Dandenong (Planning Application No. PLA21/0100)

File Id:	329130
Responsible Officer:	Director City Planning Design & Amenity
Attachments:	Submitted Plans Existing Condition Plans

Application Summary

Applicant:	Matt Gorman, C/- LiquorPlan
Proposal:	Amendment to Planning Permit PLN17/0608.01 which allowed the use and development of land for Industry (Microbrewery) and Manufacturing Sales, the sale and consumption of liquor and to provide car parking spaces on another site.
Zone:	Industrial 1 Zone
Overlay:	No Overlays
Ward:	Dandenong

This application is brought before the Council as Council's Instrument of Delegation requires all liquor licence application decisions (with the exception of those associated with a food and drink premises) to be determined by Council.

The application is seeking to amend planning permit PLN17/0608.01 by:

- Amending the preamble by deleting the words 'Industry (Microbrewery)';
- Amending Condition 1.3 and Condition 2 of the permit (to permit 12 instead of 10 of the required car spaces to be provided on an adjacent site, and to enter into a S173 Agreement in that regard); and
- Amending the endorsed plans by extending the outdoor dining Red Line Area (area where liquor is sold and consumed) and to provide 12 instead of 10 of the required car spaces to be provided on an adjacent site.

The applicant has applied for an amendment to Planning Permit PLN17/0608.01 under Section 72 of the *Planning and Environment Act 1987*. Pursuant to Section 72(1) *a person who is entitled to use or develop land in accordance with a permit may apply to the responsible authority for an amendment to the permit.*

**2.3.1 Town Planning Application - No. 5 Bennet Street, Dandenong (Planning Application No. PLA21/0100)
(Cont.)**

Advertising Summary

The application was advertised to the surrounding area through the erection of a notice on-site and the mailing of notices to adjoining and surrounding owners and occupiers.

No objections were received to the application.

Assessment Summary

This amendment seeks to make changes to a Planning Permit that was previously approved at a Council meeting on 26 March 2018 for the use of the land as a Microbrewery and Manufacturing Sales, the sale and consumption of liquor and to provide car parking spaces on another site. This report is limited to the amendments sought under the 'Proposal' section of this application.

The proposed amendment is not considered to result in adverse amenity impacts on the surrounding area, subject to conditions that ensure that the licensed premises is appropriately controlled and maintained.

Recommendation Summary

As assessed, the proposal is consistent with and appropriately responds to the provisions of the Greater Dandenong Planning Scheme. This report recommends that the application be supported, and that an **Amended Permit** be granted subject to amended conditions as set out in the recommendation.

If the application was considered by VCAT, it is the officer's view that it is highly likely that VCAT would also issue an amended permit for this proposal.

**2.3.1 Town Planning Application - No. 5 Bennet Street, Dandenong (Planning Application No. PLA21/0100)
(Cont.)**

Subject Site and Surrounds

Subject Site

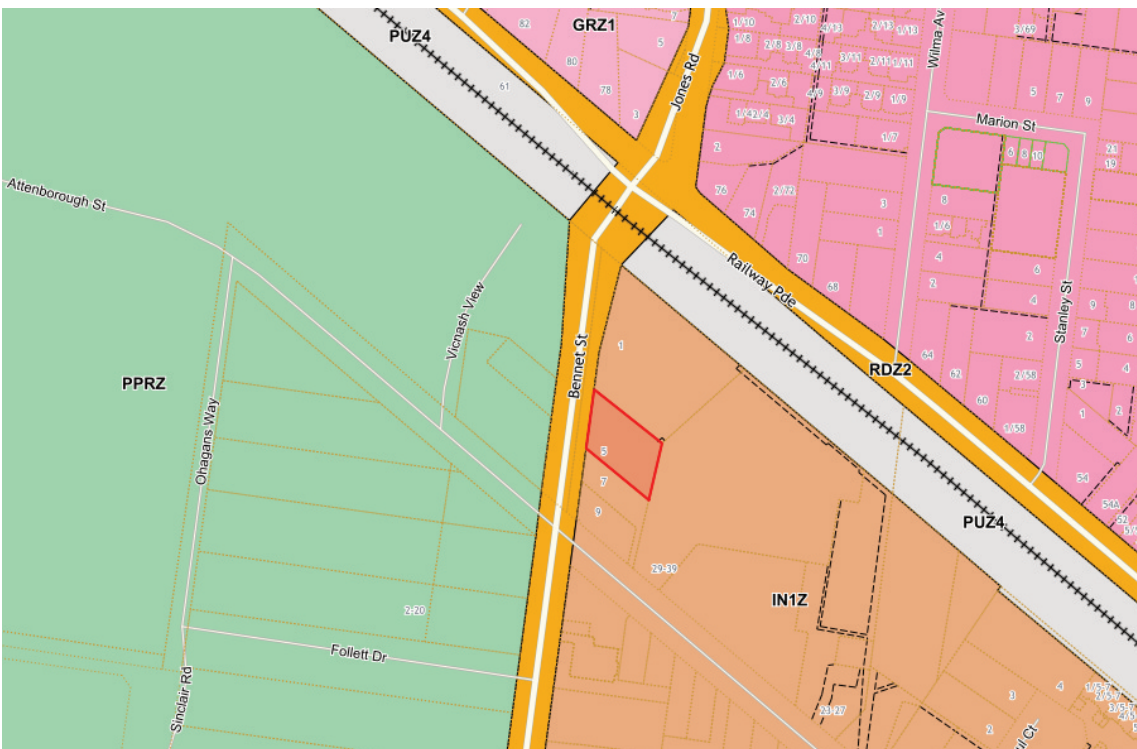
- The subject site is located on Bennet Street, Dandenong within an established industrial area. The site is irregular in shape, with an east-west orientation.
- The existing building has a total area of approximately 770sqm. The building is currently used as a microbrewery as stipulated under the permit PLN17/0608.01 granted to the site.
- The site is accessed via a 6.4m wide crossover, providing access to six (6) existing car parking spaces on the site. The site also has access to a further ten (10) car spaces available on the adjoining site at 1 Bennet Street stipulated under Planning Permit PLN17/0608.01.
- The land provides low shrubbery within the front setback area. There is no significant vegetation on the subject land.

Surrounding Area

- The adjoining land to the north at No. 1 Bennet Street is used for warehouse purposes. There are 44 car spaces on the site.
- The broader surrounding area is characterised by a mixture of residential development to the north, industrial to the west and south and public recreation to the west.
- The industrial land is of older stock, with a mixture of building sizes, mostly of standard building proportions.
- The site is located opposite the Greaves Reserve, used for public recreation.
- The site is located nearby to a number of transportation links, including bus routes along Railway Parade (100m to the north) and railway stations at Dandenong (1km to the east) and Yarraman (1km to the west).
- The nearest residential zone is located 115m to the north.

**2.3.1 Town Planning Application - No. 5 Bennet Street, Dandenong (Planning Application No. PLA21/0100)
(Cont.)**

Locality Plan



Map Subject Site Melways Map 90A7 North é

2.3.1 Town Planning Application - No. 5 Bennet Street, Dandenong (Planning Application No. PLA21/0100) (Cont.)

Background

Previous Applications

A search of Council records revealed that Council has previously considered the following planning applications for the site:

- Planning Permit No. 1996/466 was issued on 23/10/1996 for automotive dismantling and salvaging.
- Planning Application No. PLN07/0615 submitted for a take away food van was withdrawn on 12/10/2007.
- Planning Permit PLN17/0608 was issued on 28/3/2018 for the use and development of land for Industry (Microbrewery) and Manufacturing Sales, the sale and consumption of liquor and to provide car parking spaces on another site. The permit was amended on 14/6/2019 by amending Conditions 2, 10 and 11 and renumbered to PLN17/0608.01. It is noted that the permit required 10 car spaces at 1 Bennet Street (adjoining land to the north) to be used by the subject site (5 Bennet Street). It is also noted that Conditions 11 and 12 restrict the following hours of operation and number of patrons:
 11. Except with the prior written consent of the Responsible Authority, the sale of liquor may only occur between the following hours:
 1. 3:00pm to 11:00pm: Thursday
 2. 1:00pm to 11:00pm: Friday
 3. 12:00pm to 11:00pm: Saturday and Sunday
 4. 12:00pm to 6:00pm: ANZAC day
 12. Except with the prior written consent of the Responsible Authority, no more than seventy five (75) seats (internal and external seating) may be made available at any one time to patrons.

Proposal

The application is seeking to amend planning permit PLN17/0608.01 by:

- Amending the preamble by deleting the words 'Industry (Microbrewery)';
- Amending Condition 1.3 and Condition 2 of the permit (to permit 12 instead of 10 of the required car spaces to be provided on an adjacent site, and to enter into a S173 Agreement in that regard); and
- Amending the endorsed plans by extending the outdoor dining Red Line Area (area where liquor is sold and consumed).

The current hours of operation and number of patrons are not proposed to be altered.

2.3.1 Town Planning Application - No. 5 Bennet Street, Dandenong (Planning Application No. PLA21/0100) (Cont.)

The specific amendments sought are as follows:

Amendment to Preamble

The preamble is proposed to be amended by deleting the words 'Industry (brewery)'.

The preamble currently reads as follow:

- Use and development of land for Industry (Microbrewery) and Manufacturing Sales, the sale and consumption of liquor and to provide car parking spaces on another site.

The preamble is proposed to be amended to read as follows:

- Use and development of land for Manufacturing Sales, the sale and consumption of liquor and to provide car parking spaces on another site.

The reason for the request for this change is the use of 'Industry (Microbrewery)' no longer requires a planning permit in this instance.

Amendment to Conditions

Condition 1.3

Condition 1.3 is proposed to be amended by increasing the number of car spaces at 1 Bennet Street allocated to the subject site from 'ten (10)' to 'twelve (12)'.

Condition 1.3 currently reads as follow:

3. A revised car parking allocation plan (including the table descriptions) to only allow the allocation of ten (10) car parking spaces to the land at 1 Bennet Street for the approved use of land. Any reference to Manufacturing Sales (Taverns and Restaurants) must be deleted.

Condition 1.3 is proposed to be amended to read as follows:

3. A revised car parking allocation plan (including the table descriptions) to only allow the allocation of twelve (12) car parking spaces to the land at 1 Bennet Street for the approved use of land. Any reference to Manufacturing Sales (Taverns and Restaurants) must be deleted.

Condition 2

Condition 2 requires the entering into a Section 173 Agreement. The Agreement has not been finalised. The operator currently serves liquor on the site under a Producers Licence.

Condition 2 is proposed to be amended by removing the requirement for the owners of 1 Bennet Street and 5 Bennet Street to be related and the requirement that the land at 1 Bennet Street must only be utilised for a Warehouse or other such use which generate a car parking requirement equal to or less than the statutory rate of a warehouse.

2.3.1 Town Planning Application - No. 5 Bennet Street, Dandenong (Planning Application No. PLA21/0100) (Cont.)

Condition 2 currently reads as follow:

2. Within two months of the date of the amended planning permit (PLN17/0608.01), the owner must enter into an agreement under section 173 of the Planning and Environment Act 1987 with the Responsible Authority to provide for the following:
 1. The use of land at 5 Bennet Street, DANDENONG VIC 3175 (Lot 4 PS066772) may only be used for a microbrewery as detailed within PLN17/0608 so long as the following requirements are met:
 1. The registered proprietors of 1 Bennet Street, DANDENONG VIC 3175 (Lot 1 TP145027G) and 5 Bennet Street, DANDENONG VIC 3175 (Lot 4 PS066772) are Related Persons

Related Persons means a person who is related to another person in accordance with any of the following provisions:

- a. Natural persons are related persons if one of them is a relative of the other;
- b. Companies are related persons if a director of the company is also a director of the other company, or is a relative of a director of the other company;
- c. A natural person and a company are related persons if the natural person is a director of the company or a relative of the natural person is a director of the company;
- d. Persons are related persons if one of those persons is a related person of a person of whom the other of those persons is a related persons.

‘Relative’ means the spouse, de facto partner, parent or remoter lineal ancestor, child or remoter issue, or brother or sister of the person.

2. 1 Bennet Street, DANDENONG VIC 3175 (Lot 1 TP 145027G) is utilised for a warehouse or other such use which generates a car parking requirement equal to or less than the statutory rate of a warehouse as detailed within the Greater Dandenong Planning Scheme.
3. The ten (10) car parking spaces as detailed within the endorsed plans of Planning Permit PLN17/0608 remain available during the operating hours of microbrewery.
3. The agreement referred to in Condition 2 of this Planning Permit under section 173 of the Planning and Environment Act 1987 must recorded on the Certificates of Title to both 1 Bennet Street, DANDENONG VIC 3175 (Lot 1 TP145027G) and 5 Bennet Street, DANDENONG VIC 3175 (Lot 4 PS066772)

The owner must pay for all reasonable costs (including legal costs) associated with preparing, reviewing, executing and registering the agreement on the certificate of title to the land (including those incurred by the Responsible Authority).

2.3.1 Town Planning Application - No. 5 Bennet Street, Dandenong (Planning Application No. PLA21/0100) (Cont.)

Condition 2 is proposed to be amended to read as follows:

2. Within two months of the date of the amended planning permit (PLN17/0608.01), the owner must enter into an agreement under section 173 of the Planning and Environment Act 1987 with the Responsible Authority to provide for the following:

1. The registered proprietors of 1 Bennet Street, DANDENONG VIC 3175 (Lot 1 TP145027G) must provide, in the car park of 1 Bennet Street, 12 car parking spaces to be occupied by staff and / or patrons of the Manufacturing Sales use at 5 Bennet Street, DANDENONG VIC 3175 (Lot 4 PS066772) pursuant to Planning Permit PLN17/0608. The 12 car spaces (which must be as per the locations shown on the plans endorsed under Planning Permit PLN17/0608) must remain available during the operating times for the sale of liquor (part of the Manufacturing Sales use) approved by Permit PLN17/0608.

2.2 The agreement referred to in Condition 2 of this Planning Permit under section 173 of the Planning and Environment Act 1987 must be recorded on the Certificates of Title to both 1 Bennet Street, DANDENONG VIC 3175 (Lot 1 TP145027G) and 5 Bennet Street, DANDENONG VIC 3175 (Lot 4 PS066772).

The owner must pay for all reasonable costs (including legal costs) associated with preparing, reviewing, executing and registering the agreement on the certificate of title to the land (including those incurred by the Responsible Authority).

Amendment to endorsed plans

It is proposed to amend the endorsed plans by extending the outdoor dining Red Line Area (area where liquor is sold and consumed). As a consequence of this amendment, the following would be amended:

- The outdoor dining Red Line Area (area where liquor is sold and consumed) would be located over an existing accessible car space at the front of the site (5 Bennet Street).
- Two (2) existing standard car spaces converted into one accessible car space.
- The number of car spaces on the subject site would be reduced from six (6) to four (4) as a result of the above amendments.
- Provision of 2 additional car spaces at 1 Bennet Street for the use of the land at 5 Bennet Street. The permit currently requires ten (10) car spaces at 1 Bennet St to be made available for the use by 5 Bennet Street. The amendment would increase the number of car spaces available to 5 Bennet Street at 1 Bennet Street from ten (10) to twelve (12).

A copy of the submitted plans is included as Attachment 1.

A copy of the existing condition plans is included as Attachment 2.

Victorian Charter of Human Rights and Responsibilities

The Victorian Charter of Human Rights and Responsibilities has been considered in the preparation of this report but is not relevant to its contents.

2.3.1 Town Planning Application - No. 5 Bennet Street, Dandenong (Planning Application No. PLA21/0100) (Cont.)

Financial Implications

No financial resources are impacted by this report.

Planning Scheme and Policy Frameworks

Pursuant to the Greater Dandenong Planning Scheme, a planning permit is required pursuant to:

- Clause 33.01-1 (Industrial 1 Zone): A planning permit is required for the use of the land for Manufacturing Sales.
- Clause 33.01-4 (Industrial 1 Zone): A planning permit is required to construct a building or construct or carry out works.
- Clause 52.06-3 (Car Parking): A planning permit is required to provide some or all of the car parking spaces required under Clause 52.06-5 on another site.
- Clause 52.27 (Licenced Premises): A planning permit is required to use land to sell or consume liquor.

The applicant has applied for an amendment to Planning Permit PLN17/0608.01 under Section 72 of the *Planning and Environment Act 1987*. Pursuant to Section 72(1) *a person who is entitled to use or develop land in accordance with a permit may apply to the responsible authority for an amendment to the permit.*

The relevant controls and policies are as follows:

Zoning Controls

The subject site is located in an Industrial 1 Zone, as is the surrounding area.

The purpose of the Industrial 1 Zone outlined at Clause 33.01 is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To provide for manufacturing industry, the storage and distribution of goods and associated uses in a manner which does not affect the safety and amenity of local communities.*

Pursuant to Clause 33.01-1, a permit is not required to use land for Industry subject to conditions including meeting the threshold distance for a purpose listed in the table to Clause 53.10 or 30m for a purpose not listed in Clause 53.10.

Pursuant to Clause 33.01-1 and Clause 33.01-4, a permit is required for the use and development of the land for Manufacturing Sales.

Overlay Controls

No overlays affect the subject site or surrounding area.

2.3.1 Town Planning Application - No. 5 Bennet Street, Dandenong (Planning Application No. PLA21/0100) (Cont.)

Planning Policy Framework

The objectives of Planning in Victoria are outlined in Section 4 of the *Planning and Environment Act 1987* as:

- (a) To provide for the fair, orderly, economic and sustainable use, and development of land.*
- (b) To provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity.*
- (c) To secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria.*
- (d) To conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value.*
- (e) To protect public utilities and other facilities for the benefit of the community.*
- (f) To facilitate development in accordance with the objectives set out in paragraphs (a), (b), (c), (d) and (e).*
- (fa) to facilitate the provision of affordable housing in Victoria.*
- (g) To balance the present and future interests of all Victorians.*

In order to achieve those objectives, there are a number of more specific objectives contained within the Planning Policy Framework that are relevant to this application.

Clause 11 – Settlement states that planning is to anticipate and respond to the needs of existing and future communities through provision of zoned and serviced land for housing, employment, recreation and open space, commercial and community facilities and infrastructure.

Clause 11.02-1S – Supply of Urban Land contains the objective to ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses.

Economic Development is outlined at Clause 17 of the Scheme. Clause 17.02-1S – **‘Business’** has the following objective:

- *‘To encourage development which meet the communities’ needs for retail, entertainment, office and other commercial services.’*

Transport is outlined at Clause 18 of the Scheme. Clause 18.02-4S – **‘Car Parking’** has the following objective:

- *‘To ensure an adequate supply of car parking that is appropriately designed and located’.*

2.3.1 Town Planning Application - No. 5 Bennet Street, Dandenong (Planning Application No. PLA21/0100) (Cont.)

Local Planning Policy Framework

The Local Planning Policy Framework (LPPF) includes the Municipal Strategic Statement (MSS) and Local Policies. The following local planning policies are relevant to this application.

The MSS is contained within Clause 21 of the Scheme. The MSS at Clause 21.02 focuses on the Municipal Profile, within which the following is noted:

- *Greater Dandenong is a net provider of jobs, with a resident workforce of 53,000, and local businesses providing approximately 74,000 jobs. Greater Dandenong businesses provide the third highest number of jobs in metropolitan Melbourne, with the employment sector largely orientated towards manufacturing occupations. Within the metropolitan Melbourne area, Greater Dandenong is ranked – in terms of job stock – first in manufacturing, second in storage, third in road transport and fourth in wholesale trade.*

Greater Dandenong's vision is outlined at **Clause 21.03**. Amongst others, the vision is that Greater Dandenong will be:

- *a healthy community that embraces a sense of pride and belonging and works together to achieve an economically, socially and environmentally sustainable future.*
- *a well-balanced satisfied community, which has easy and equitable access to services important to people's everyday life.*

Particular Provisions

Clause 52.06 Car parking

The purpose of this provision is:

- *To ensure that car parking is provided in accordance with the Municipal Planning Strategy and the Planning Policy Framework.*
- *To ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality.*
- *To support sustainable transport alternatives to the motor car.*
- *To promote the efficient use of car parking spaces through the consolidation of car parking facilities.*
- *To ensure that car parking does not adversely affect the amenity of the locality.*
- *To ensure that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use.*

Pursuant to Clause 52.06-3, a planning permit is required to provide some or all of the car parking spaces required under Clause 52.06-5 on another site.

2.3.1 Town Planning Application - No. 5 Bennet Street, Dandenong (Planning Application No. PLA21/0100) (Cont.)

Clause 52.27 – Licensed Premises

The purposes of this provision are:

- *To ensure that licensed premises are situated in appropriate locations.*
- *To ensure that the impact of the licensed premises on the amenity of the surrounding area is considered.*

Pursuant to Clause 52.27, a planning permit is required for the sale and consumption of liquor.

Clause 53.10 – Uses with Adverse Amenity Potential

The purposes of this provision are:

- *To identify those types of uses and activities, which if not appropriately designed and located, may cause offence or unacceptable risk to the neighbourhood.*

In the Table to Clause 53.10 (Uses with Adverse Amenity Potential), Alcoholic beverage production exceeding 5000 litres per day requires a threshold distance of 500m. The site produces a maximum of 300 litres of alcoholic beverage per day, therefore, requiring a threshold distance of 30m.

General Provisions

Clause 65 – Decision Guidelines needs to be considered, as is the case with all applications. For this application the requirements of Clause 65.01 for the approval of an application or plan is of relevance. This Clause outlines the requirements that the responsible authority must consider when determining the application.

Restrictive Covenants

There are no restrictive covenants registered on title.

Council Plan 2017-2021 – Strategic Objectives, Strategies and Plans

The Council Plan describes the kind of future the Council is working for, and how Council will do this over four years. In accordance with the commitment in Council's Annual Plan, all applications are considered on their merits.

Diversity (Access & Equity)

It is not considered that the proposal raises any diversity issues affecting the planning assessment of this application.

Community Safety

It is considered that there would be no adverse community safety implications in permitting the proposal subject to strict conditions on any planning permit issued.

2.3.1 Town Planning Application - No. 5 Bennet Street, Dandenong (Planning Application No. PLA21/0100) (Cont.)

Safe Design Guidelines

Consideration of the relevant requirements of these Guidelines has been undertaken within the Assessment of this application.

Referrals

External

Notice of the proposal under Section 52 of the of the Planning and Environment Act 1987 was given to the following external authorities:

- Victoria Police – No objection, no conditions.
- Victorian Commission for Gaming and Liquor Regulation – No objection, no conditions.

Internal

The application was internally referred to Council's Transport Planning, Health Services and Community Services for their consideration. The comments provided have been considered in the assessment of the application.

- Transport Planning – No objection, no conditions.
- Health Services – No objection.
- Community Services – No objection subject to conditions.

Advertising

The application has been advertised pursuant to Section 52 of the Planning and Environment Act 1987, by:

- Sending notices to the owners and occupiers of adjoining land.
- Placing a sign on site facing Bennet Street.

The notification has been carried out correctly.

Council has received zero (0) objection to date.

Assessment

The following assessment of each amendment proposed is provided below:

Amendment to Preamble

The preamble is proposed to be amended by deleting the words 'Industry (Microbrewery)'.

Since Planning Permit PLN17/0608 was issued on 28/3/2018, Planning Scheme Amendment VC175 was introduced on 26/5/2020 to Clause 53.10 (Uses with Adverse Amenity Potential).

2.3.1 Town Planning Application - No. 5 Bennet Street, Dandenong (Planning Application No. PLA21/0100) (Cont.)

In the amended Table to Clause 53.10 (Uses with Adverse Amenity Potential), Alcoholic beverage production exceeding 5000 litres per day requires a threshold distance of 500m. The site produces a maximum of 300 litres of alcoholic beverage per day, therefore, requiring a threshold distance of 30m. Where the threshold distance is met, a planning permit is no longer required for the use of land for Industry pursuant to the Table to Clause 33.01-1 (Industrial 1 Zone). The nearest residential zone is located 115m from the site. There is no other sensitive uses around the site such as hospital or school within 30m of the site. Therefore, the use of land for Industry (Microbrewery), no longer requires a permit.

The deletion of the words 'Industry (Microbrewery)' from the preamble has been requested by the applicant as it is no longer a planning permit trigger, is consistent with the current Planning Scheme, would not result in adverse detriment to anyone and is considered appropriate.

Amendment to Conditions

Condition 1.3

Condition 1.3 is proposed to be amended by increasing the number of car spaces at 1 Bennet Street allocated to the subject site from 'ten (10)' to 'twelve (12)'.

The subject site currently has six (6) car parking spaces. 1 Bennet Street currently has forty-four (44) car spaces. The existing permit required 10 car spaces at 1 Bennet Street (adjoining land to the north) to be used by the subject site (5 Bennet Street).

The proposed amendment to the plans by extending the outdoor dining Red Line Area (area where liquor is sold and consumed) and convert two (2) existing standard car spaces to an accessible car space would reduce the number of car spaces on the subject site from six (6) to four (4). The current outdoor dining area is 36 square metres. The proposed outdoor dining area is 75 square metres, an increase of 39 square metres. The total Manufacturing Sales area would be increased from 157 square metres to 196 square metres. The site's 307 square metres of Industry (Brewery) floor area would remain unaltered.

Under Clause 52.06-5 (Car Parking), Manufacturing Sales requires 4 car spaces to each 100 square metres of net floor area and Industry requires 2.9 car spaces to each 100 square metres of net floor area. The Manufacturing Sales and Industry would require the following number of car space:

- Industry: $307\text{sqm} \times 2.9 / 100 = 8.903$ (rounded down to 8); and
- Manufacturing Sales: $196\text{sqm} \times 4 / 100 = 7.84$ (rounded down to 7).

The proposal would require a total of fifteen (15) car spaces. The proposal seeks to allocate two (2) additional car spaces at 1 Bennet Street to the subject site, thereby, increasing the number of car spaces at 1 Bennet Street allocated to the subject site from ten (10) to twelve (12). In addition to the four (4) remaining car spaces on the site, there would be sixteen (16) car spaces available in total for the Manufacturing Sales and Industry (brewery) use at the subject site, exceeding the car space required under Clause 52.06 (Car Parking) of the Greater Dandenong Planning Scheme.

2.3.1 Town Planning Application - No. 5 Bennet Street, Dandenong (Planning Application No. PLA21/0100) (Cont.)

Whilst the proposal would result in the loss of two (2) additional car spaces at 1 Bennet Street, the arrangement is considered acceptable given that the business hours for the Manufacturing Sales at the subject site are generally outside the business hours of the warehouse at 1 Bennet Street and that the twelve (12) car spaces at 1 Bennet Street would only be required to be allocated to the subject site during the business hours of the Manufacturing Sales.

1 Bennet Street is being utilised as a warehouse and operates on Monday to Friday 7:30am to 5pm and closed on Saturday and Sunday. The approved business hours for the Manufacturing Sales at the subject site (5 Bennet Street) are:

- 3:00pm to 11:00pm: Thursday
- 1:00pm to 11:00pm: Friday
- 12:00pm to 11:00pm: Saturday and Sunday
- 12:00pm to 6:00pm: ANZAC day

Whilst there are some overlapping hours of operation in the afternoon between the subject site and 1 Bennet Street, the majority of the hours of operation for the sale and consumption of liquor for the subject site are outside of the hours of operation at 1 Bennet Street.

There is available public transport around the site with three (3) bus lines running along Railway Parade and within walking distance of the subject site. The Dandenong Train Station is located 1km to the southeast and the Yarraman Train Station is located 1km to the northwest. The three (3) bus lines along Railway Parade run between the Dandenong and Yarraman Train Stations.

It is also considered that the remaining available 32 car parking spaces for use by the warehouse at 1 Bennet Street is sufficient for this use. This has been demonstrated over the last four years while the current permit has been in place for 5 Bennet Street, with both uses operating without unacceptably impacting on car parking arrangements in the wider area.

This is further demonstrated by the fact that since Planning Permit PLN17/0608 was issued on 28/3/2018 for the site, there has been no Planning Compliance issues at either of 1 Bennet Street and 5 Bennet Street.

Council's Transport Planning team have reviewed the application and have no objection to the car parking arrangement provided.

Given the above, it is considered that the provision of two (2) additional car spaces at 1 Bennet Street for the use of 5 Bennet Street during its hours of operation for the sale and consumption of liquor would not result in adverse car parking detriment to the surrounding street network and should be supported.

Condition 2

Condition 2 is proposed to be amended by removing the requirement for the owners of 1 Bennet Street and 5 Bennet Street to be related and the requirement that the land at 1 Bennet Street must be utilised for a Warehouse or other such use which generates a car parking requirement equal to or less than the statutory rate of a warehouse.

2.3.1 Town Planning Application - No. 5 Bennet Street, Dandenong (Planning Application No. PLA21/0100) (Cont.)

The applicant submitted that the amended wording of Condition 2 will simply require the owners of 1 Bennet Street to provide the 12 car parking spaces for the benefit of 5 Bennet Street during the operating times of the sales and consumption of liquor, without requiring the owners to be related. It will function like any other agreement (or covenant or easement) where one site is benefited by something provided by another site irrespective of whether the two (2) owners are related.

It is considered that requiring the two (2) owners to be related is unnecessary and the removal of this restriction would not result in adverse detriment to anyone. The legal agreement in place will be enforceable whether the owners of the two sites are related or not.

As such, it is considered that the proposed amendment to remove the requirement for the owners of 1 Bennet Street and 5 Bennet Street to be related is appropriate and should be supported.

However, it is considered that the removal of the requirement for the land at 1 Bennet Street to be utilised for a Warehouse or other such use which generates a car parking requirement equal to or less than the statutory rate of a warehouse, is unjustified. Other potential future uses which have a higher car parking rate or have different hours of operation may result in car parking conflict between the two (2) sites and therefore cause detriment to the wider area.

To ensure that any potential future uses at 1 Bennet Street would not result in car parking conflict with the subject site during its hours of operation for the sale and consumption of liquor, it is recommended that the words, 'Unless with the further written consent (or issue of a planning permit) of the Responsible Authority' be included to Condition 2. This would allow Council to consider whether the suitability of any potential future uses at 1 Bennet Street prior to its occupation.

It is recommended that Condition 2 should be amended to read as follows:

2. Prior to the commencement of the operation of amended planning permit PLA21/0100, the owner must enter into an agreement under section 173 of the Planning and Environment Act 1987 with the Responsible Authority to provide for the following:
 1. The registered proprietors of 1 Bennet Street, DANDENONG VIC 3175 (Lot 1 TP145027G) must provide twelve (12) car parking spaces at the locations shown on the plans endorsed under Planning Permit PLN17/0608 (or subsequent amended permit), to be occupied by staff and / or patrons of 5 Bennet Street, DANDENONG VIC 3175 (Lot 4 PS066772) during the operating times for the sale and consumption of liquor permitted by Condition 11 Planning Permit PLN17/0608 (or any subsequent amended permit).
3. 2. Unless with the further written consent (or issue of a planning permit) of the Responsible Authority, 1 Bennet Street, DANDENONG VIC 3175 (Lot 1 TP 145027G) must only be utilised for a warehouse or other such use which generates a car parking requirement equal to or less than the statutory rate of a warehouse as detailed within the Greater Dandenong Planning Scheme.

2.3.1 Town Planning Application - No. 5 Bennet Street, Dandenong (Planning Application No. PLA21/0100) (Cont.)

2.3 The agreement referred to in Condition 2 of this Planning Permit under section 173 of the Planning and Environment Act 1987 must be recorded on the Certificates of Title to both 1 Bennet Street, DANDENONG VIC 3175 (Lot 1 TP145027G) and 5 Bennet Street, DANDENONG VIC 3175 (Lot 4 PS066772).

The owner must pay for all reasonable costs (including legal costs) associated with preparing, reviewing, executing and registering the agreement on the certificate of title to the land (including those incurred by the Responsible Authority).

Amendment to endorsed plans

It is proposed to amend the endorsed plans by extending the outdoor dining Red Line Area (area where liquor is sold and consumed). As a consequence of this amendment, the following would be amended:

- The outdoor dining Red Line Area (area where liquor is sold and consumed) would be located over an existing accessible car space at the front of the site (5 Bennet Street).
- Modify two (2) existing standard car spaces into an accessible car space.
- The number of car spaces on the site would be reduced from six (6) to four (4) as a result of the above amendments.
- Provision of 2 additional car spaces at 1 Bennet Street for the use of the land at 5 Bennet Street. The permit currently requires ten (10) car spaces at 1 Bennet St to be made available for the use by 5 Bennet Street. The amendment would increase the number of car spaces available to 5 Bennet Street at 1 Bennet Street from ten (10) to twelve (12).

The proposed amendments would increase the outdoor dining Red Line Area (area where liquor is sold and consumed) by 39 square metres. As the number of patrons and hours of operation permitted by the current permit are not to be altered, it is considered that the proposed amendment would not result in additional adverse detriment to the surrounding uses. The conditions of the current permit which are not proposed to be amended would continue to apply to the permit.

The car parking arrangement is considered acceptable given that the business hours for the Manufacturing Sales at the subject site are generally outside the business hours of the warehouse at 1 Bennet Street.

The Alcohol Management Plan (AMP) that details the house policy for the responsible service of alcohol as endorsed to the current permit for the site, will also continue to apply to the site.

It is considered that the proposal would improve services on the site by increasing the outdoor dining area for the site.

In accordance with DPCP Practice Note 61 "Licensed Premises: Assessing Cumulative Impact", a cumulative impact assessment is required if both the clustering and hours of operation tests are met, specifically, if the premises trades *after* 11.00pm; and in an area where there is a 'cluster' of licensed premises. The site is not within an area which forms a cluster of licensed premises, and the current hours of operation do not exceed 11.00pm. As no amendment is proposed to the current hours of operation, there is no trigger for the provisions of a cumulative impact assessment.

2.3.1 Town Planning Application - No. 5 Bennet Street, Dandenong (Planning Application No. PLA21/0100) (Cont.)

The consequential car parking impact as a result of the extension to the outdoor dining area has been discussed in the assessment of the proposed amendment to Condition 1.3 above.

Based on the above, it is considered that the proposed amendment is appropriate for the site subject to the conditions stipulated above.

Other matters

Council's Community Services team have reviewed the application and has no objection to the proposal subject conditions requiring House Rules Policy signage at appropriate locations. This could be included as Condition 36 of the permit with the current Condition 36 (expiry date of the permit) renumbered to Condition 37.

Conclusion

The application has been assessed against the relevant sections of the Greater Dandenong Planning Scheme, including the Planning Policy Framework and Local Planning Policy Framework, Municipal Strategic Statement, zones and Clause 65.

Overall it is considered that the proposed amendment to the permit is appropriate having regard to the site's location within an established facility within an Industrial 1 Zone considering the context of the site.

It is recommended that the following amendments to the permit be made:

Permit detail	Recommendation
Permit preamble	Amend the preamble by deleting the words 'Industry (Microbrewery)'.
Amend condition 1 and 5	Amend Condition 1.3, 2, 36 and 37 of the permit to read as follows: <ol style="list-style-type: none">3. A revised car parking allocation plan (including the table descriptions) to only allow the allocation of twelve (12) car parking spaces to the land at 1 Bennet Street for the approved use of land. Any reference to Manufacturing Sales (Taverns and Restaurants) must be deleted.2. Prior to the operation of amended planning permit PLA21/0100, the owner must enter into an agreement under section 173 of the Planning and Environment Act 1987 with the Responsible Authority to provide for the following: <ol style="list-style-type: none">2.1 The registered proprietors of 1 Bennet Street, DANDENONG VIC 3175 (Lot 1 TP145027G) must provide twelve (12) car parking spaces at the locations shown on the plans endorsed under Planning Permit PLN17/0608 (or subsequent amended permit), to be occupied by staff and / or patrons of

2.3.1 Town Planning Application - No. 5 Bennet Street, Dandenong (Planning Application No. PLA21/0100) (Cont.)

	<p>5 Bennet Street, DANDENONG VIC 3175 (Lot 4 PS066772) during the operating times for the sale and consumption of liquor permitted by Condition 11 Planning Permit PLN17/0608 (or subsequent amended permit).</p> <p>2. Unless with the further written consent (or issue of a planning permit) of the Responsible Authority, 1 Bennet Street, DANDENONG VIC 3175 (Lot 1 TP 145027G) must only be utilised for a warehouse or other such use which generates a car parking requirement equal to or less than the statutory rate of a warehouse as detailed within the Greater Dandenong Planning Scheme.</p> <p>2.3 The agreement referred to in Condition 2 of this Planning Permit under section 173 of the Planning and Environment Act 1987 must recorded on the Certificates of Title to both 1 Bennet Street, DANDENONG VIC 3175 (Lot 1 TP145027G) and 5 Bennet Street, DANDENONG VIC 3175 (Lot 4 PS066772).</p> <p>The owner must pay for all reasonable costs (including legal costs) associated with preparing, reviewing, executing and registering the agreement on the certificate of title to the land (including those incurred by the Responsible Authority).</p> <p>36. House Rules Policy signage at the entry/exit point and in public bathroom facilities, stating:</p> <p>1. Alcohol is not to be consumed in any public places in the municipality such as in the car park and connected areas, and that up to a \$1,000 Local Laws fine applies.</p> <p>2. The safety and amenity of, pedestrians, businesses, and property in surrounding areas is to be respected upon leaving the premises.</p> <p>37. This permit will expire if one of the following circumstances applies:-</p> <p>1. the development or any stage of it does not start within two (2) years of the date of this permit, or</p> <p>2. the development or any stage of it is not completed within four (4) years of the date of this permit, or</p> <p>3. the use does not start within one (1) year of the completion of the development, or</p> <p>4. The use is discontinued for a period of two (2) years.</p>
<p>Endorsed plans</p>	<p>Endorsed the amended plans to form part of the amended permit.</p>
<p>Permit notes</p>	<p>No changes</p>

2.3.1 Town Planning Application - No. 5 Bennet Street, Dandenong (Planning Application No. PLA21/0100) (Cont.)

The table below is to be inserted in the amended permit:

Date amended:	Brief description of amendments
	<p>Amendments to Permit pursuant to Section 72 of the <i>Act</i> as follow:</p> <ul style="list-style-type: none">• Amend the preamble by deleting the words 'Industry (Microbrewery)';• Amend Condition 1.3 and Condition 2 of the permit; and• Endorsed the amended plans to form part of the amended permit.

Recommendation

That Council resolves to Grant an amended planning permit in respect of the land known and described as 5 Bennet Street, DANDENONG VIC 3175, for the use and development of land for Manufacturing Sales, the sale and consumption of liquor and to provide car parking spaces on another site in accordance with the plans submitted with the application subject to the following conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The amended plans must be drawn to scale with dimensions and 3 copies must be provided. The amended plans must be generally in accordance with the plans submitted and assessed with the application but modified to show:
 - 1.1. A revised red line area to exclude all toilet areas.
 - 1.2. The point-of-sale location/s for off-premises alcohol sale within the red line area.
 - 1.3. A revised car parking allocation plan (including the table descriptions) to only allow the allocation of twelve (12) car parking spaces to the land at 1 Bennet Street for the approved use of land. Any reference to Manufacturing Sales (Taverns and Restaurants) must be deleted.
2. Prior to the operation of amended planning permit PLA21/0100, the owner must enter into an agreement under section 173 of the Planning and Environment Act 1987 with the Responsible Authority to provide for the following:
 - 2.1. The registered proprietors of 1 Bennet Street, DANDENONG VIC 3175 (Lot 1 TP145027G) must provide twelve (12) car parking spaces at the locations shown on the plans endorsed under Planning Permit PLN17/0608 (or subsequent amended permit), to be occupied by staff and / or patrons of 5 Bennet Street, DANDENONG VIC 3175 (Lot 4 PS066772) during the operating times for the sale and consumption of liquor permitted by Condition 11 Planning Permit PLN17/0608 (or subsequent amended permit).

2.3.1 Town Planning Application - No. 5 Bennet Street, Dandenong (Planning Application No. PLA21/0100) (Cont.)

- 2.2** Unless with the further written consent (or issue of a planning permit) of the Responsible Authority, 1 Bennet Street, DANDENONG VIC 3175 (Lot 1 TP 145027G) must only be utilised for a warehouse or other such use which generates a car parking requirement equal to or less than the statutory rate of a warehouse as detailed within the Greater Dandenong Planning Scheme.
- 2.3** The agreement referred to in Condition 2 of this Planning Permit under section 173 of the Planning and Environment Act 1987 must be recorded on the Certificates of Title to both 1 Bennet Street, DANDENONG VIC 3175 (Lot 1 TP145027G) and 5 Bennet Street, DANDENONG VIC 3175 (Lot 4 PS066772).

The owner must pay for all reasonable costs (including legal costs) associated with preparing, reviewing, executing and registering the agreement on the certificate of title to the land (including those incurred by the Responsible Authority).

- 3.** Before the approved development is occupied, a Waste Management Plan (WMP) to the satisfaction of the Responsible Authority must be submitted to an approved by the Responsible Authority. The WMP must include details of the collection and disposal of waste and recyclables associated with the land to the satisfaction of the Responsible Authority. The WMP must provide for the following:
- 3.1.** The collection of waste associated with the uses on the land, including the provision of bulk waste collection bins or approved alternative, recycling bins, the storage of other refuse and solid wastes in bins or receptacles within suitable screened and accessible areas to the satisfaction of the Responsible Authority.
- 3.2.** Commercial waste bins being placed or allowed to remain not in view of the public, and receptacles not emitting any adverse odours.
- 3.3.** Designation of methods of collection including the need to provide for private services or utilisation of council services.
- 3.4.** Appropriate areas of bin storage on site and areas of waste bin storage on collection days;
- 3.5.** Details for best practice waste management once operating.

When approved, the WMP will be endorsed and will form part of this permit. The provisions, requirements and recommendations of the endorsed WMP must be implemented and complied with to the satisfaction of the Responsible Authority.

- 4.** Except with the prior written consent of the Responsible Authority, the layout of the use, buildings and works permitted must always accord with the endorsed plan and must not be altered or modified.

2.3.1 Town Planning Application - No. 5 Bennet Street, Dandenong (Planning Application No. PLA21/0100) (Cont.)

- 5. Once the approved development has started, it must be continued and completed in accordance with the endorsed plan/s, to the satisfaction of the Responsible Authority.**
- 6. Except with the prior written consent of the Responsible Authority, the approved use must not commence and the land must not be occupied until all buildings and works and conditions of this permit have been complied with.**
- 7. Malt must not be manufactured on site at any time to the satisfaction of the Responsible Authority.**
- 8. The outdoor seating area must be located internally at all times during Industry hours of operation.**
- 9. Operation of the outdoor seating area must comply with all Council by-laws.**
- 10. The predominant activity carried out on the premises must be the manufacturing and retailing of liquor (beer). Food (including without liquor) may be served to patrons for consumption on the land but must not be the primary activity carried out on the premises, to the satisfaction of the Responsible Authority.**
- 11. Except with the prior written consent of the Responsible Authority, the sale of liquor may only occur between the following hours:**
 - 11.1. 3:00pm to 11:00pm: Thursday**
 - 11.2. 1:00pm to 11:00pm: Friday**
 - 11.3. 12:00pm to 11:00pm: Saturday and Sunday**
 - 11.4. 12:00pm to 6:00pm: ANZAC day**
- 12. Except with the prior written consent of the Responsible Authority, no more than seventy five (75) seats (internal and external seating) may be made available at any one time to patrons.**
- 13. The use must comply with the endorsed Alcohol Management Plan at all times.**
- 14. The operator or security staff of the premises must take reasonable steps to ensure that patrons leaving the premises act in an orderly manner and to the extent reasonably practicable must discourage patrons from loitering within the vicinity of surrounding residences.**
- 15. External sound amplification equipment and loud speakers must not be used for the purpose of announcement, broadcast, playing of music or similar purpose.**
- 16. All rubbish from the premises must be immediately collected and disposed of in an appropriate receptacle to the satisfaction of the Responsible Authority.**

**2.3.1 Town Planning Application - No. 5 Bennet Street, Dandenong (Planning Application No. PLA21/0100)
(Cont.)**

- 17. The amenity of the area must not be detrimentally affected by the use of land , including through the:**
 - 17.1. Transportation of materials, goods or commodities to or from the land**
 - 17.2. Appearance of any building, works or materials**
 - 17.3. Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, girt or oil**
 - 17.4. Presence of vermin**
 - 17.5. Adverse behaviour of patrons to or from the land; or**
 - 17.6. In any other way.**
- 18. The site shall be kept in a neat and tidy condition at all times, all to the satisfaction of the Responsible Authority.**
- 19. Except with the prior written consent of the Responsible Authority, gaming machines, amusement machines, or similar must not be installed or used on the premises.**
- 20. The licensed area shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority and VCGLR (Victorian Commission for Gambling and Liquor Regulation).**
- 21. The provisions, requirements and recommendations of the endorsed Alcohol Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.**
- 22. Provision must be made for the drainage for proposed development including landscaped and paved areas, all to the satisfaction of the Responsible Authority.**
- 23. The connection of the internal drainage infrastructure to the Legal Point of Discharge must be to the satisfaction of the Responsible Authority.**
- 24. A directional sign to the satisfaction of the Responsible Authority must be provided directing drivers to the areas set aside for car parking. The sign must be clearly visible and at all times maintained to the satisfaction of the Responsible Authority.**
- 25. The loading and unloading of goods from vehicles must only be carried out on the land within the designated loading bay(s) and must not disrupt the circulation and parking of vehicles on the land.**
- 26. The site operator must endeavour to prevent site bound commercial vehicles queuing on arrival along the public access road. Accordingly, access driveways/roadways/aisles providing access to loading areas on-site must not be**

2.3.1 Town Planning Application - No. 5 Bennet Street, Dandenong (Planning Application No. PLA21/0100) (Cont.)

gated during operating hours or feature control points (i.e. boom gates, guardhouse or similar) without suitable queuing space on site, all to the satisfaction of the Responsible Authority.

27. Loading and unloading on the site must be in accordance with the endorsed Traffic and Parking Management Plan.
28. At all times, the landscaping must be maintained to the satisfaction of the Responsible Authority.
29. The car parking area must be lit if in use during hours of darkness. All lights must be designed, fitted with suitable baffles and located to prevent any adverse effect outside the boundaries of the land to the satisfaction of the Responsible Authority.

EPA Conditions 30-35

30. Effective noise levels from the use of the premises must comply with the requirements of the *State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1* and the requirements of the *State Environment Protection Policies (Control of Music Noise from Public Premises) No. N-2*.
31. Offensive odour must not be discharged beyond the boundaries of the premises.
32. Stormwater contaminated with liquor or solid waste, must not be discharged beyond the boundary of the premises.
33. Wastewater generated at the premises must be connected to a reticulated sewer under a Trade Waste Agreement.
34. No litter is to be deposited beyond the boundary of the premises.
35. A secondary containment system must be provided for liquids which if spilt are likely to cause pollution or pose an environmental hazard, in accordance with the *EPA Publication 347.1 Bunding Guidelines 2015* or as amended.

EPA Conditions End

36. House Rules Policy signage at the entry/exit point and in public bathroom facilities, stating:
 - 36.1 Alcohol is not to be consumed in any public places in the municipality such as in the car park and connected areas, and that up to a \$1,000 Local Laws fine applies.

The safety and amenity of, pedestrians, businesses, and property in surrounding areas is to be respected upon leaving the premises.
37. This permit will expire if one of the following circumstances applies:-

**2.3.1 Town Planning Application - No. 5 Bennet Street, Dandenong (Planning Application No. PLA21/0100)
(Cont.)**

- 37.1. the development or any stage of it does not start within two (2) years of the date of this permit, or**
- 37.2. the development or any stage of it is not completed within four (4) years of the date of this permit, or**
- 37.3. the use does not start within one (1) year of the completion of the development, or**
- 37.4. the use is discontinued for a period of two (2) years.**

THIS PERMIT HAS BEEN AMENDED AS FOLLOWS:

Date of amendment	Brief description of amendment	Name of the responsible authority that approved the amendment
<u>14 June 2019</u>	<ul style="list-style-type: none">■ Condition 2 has been amended to allow registration of Section 173 Agreement and correct the legal description of the site■ Condition 10 has been amended to allow separate consumption of food and alcohol■ Condition 11 has been amended to allow extended hours of operation	Greater Dandenong City Council

**2.3.1 Town Planning Application - No. 5 Bennet Street, Dandenong (Planning Application No. PLA21/0100)
(Cont.)**

STATUTORY PLANNING APPLICATIONS

**TOWN PLANNING APPLICATION - NO. 5 BENNET STREET, DANDENONG
(PLANNING APPLICATION NO. PLA21/0100)**

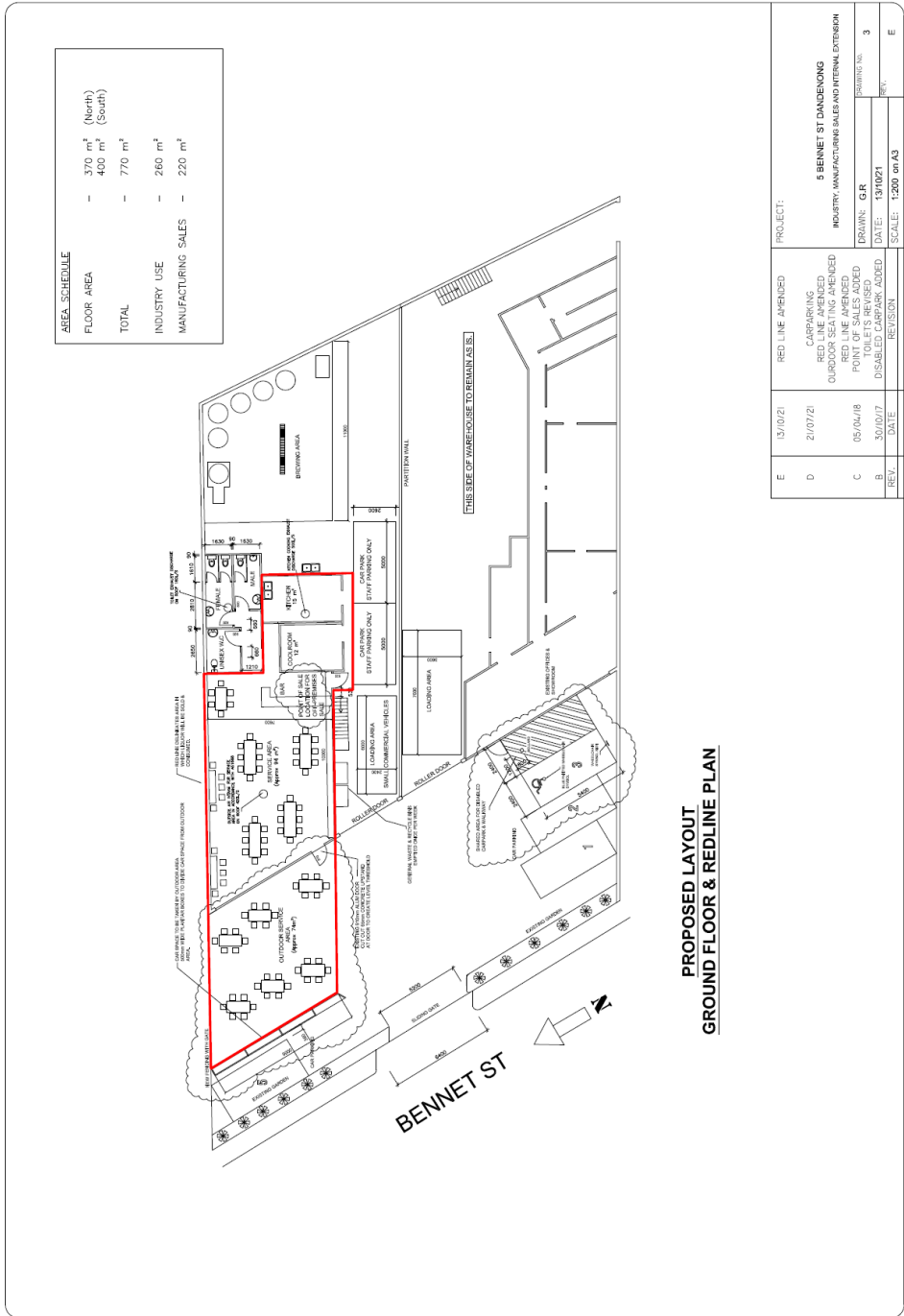
ATTACHMENT 1

SUBMITTED PLANS

PAGES 4 (including cover)

If the details of the attachment are unclear please contact Governance on 8571 5235.

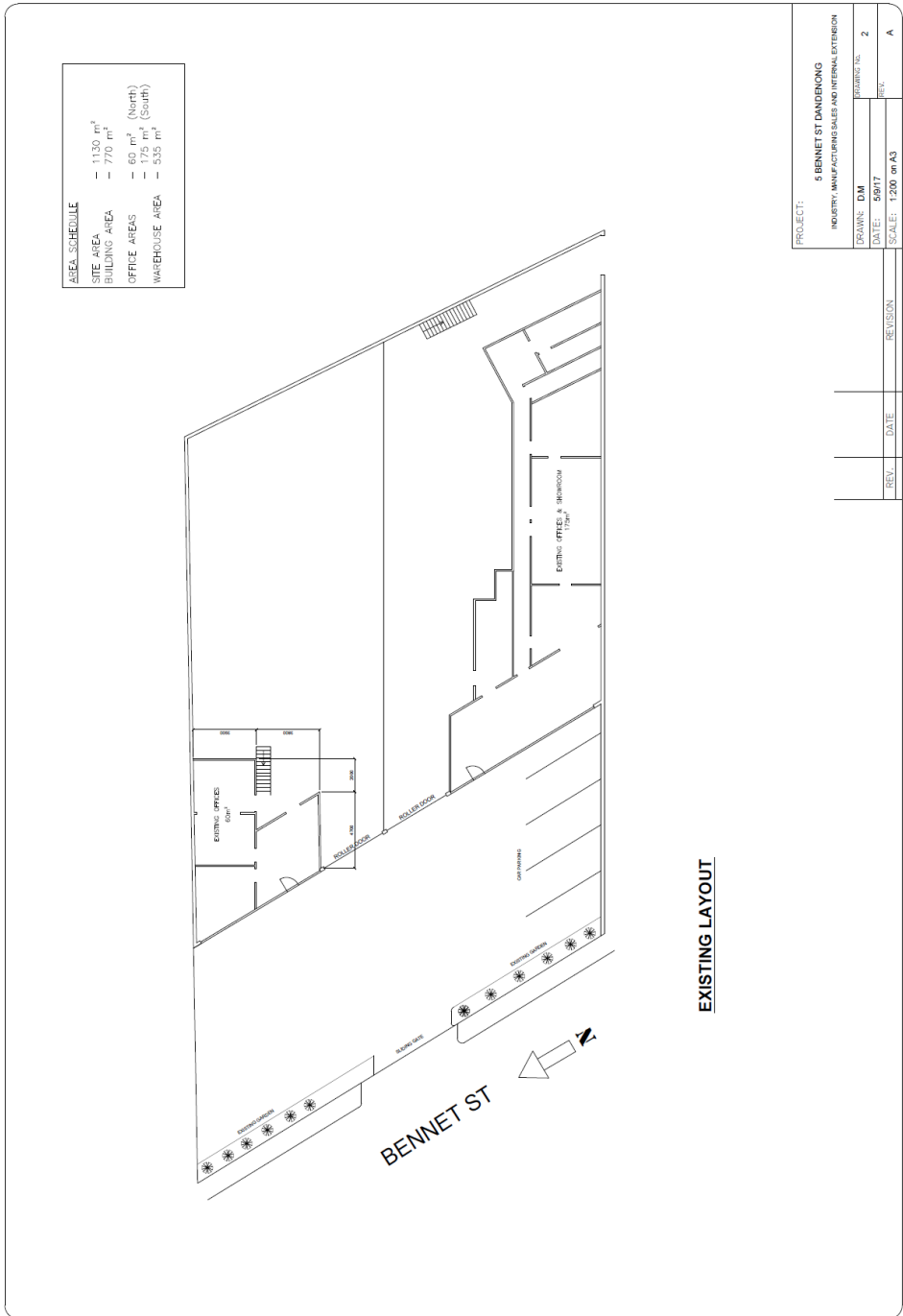
2.3.1 Town Planning Application - No. 5 Bennet Street, Dandenong (Planning Application No. PLA21/0100) (Cont.)



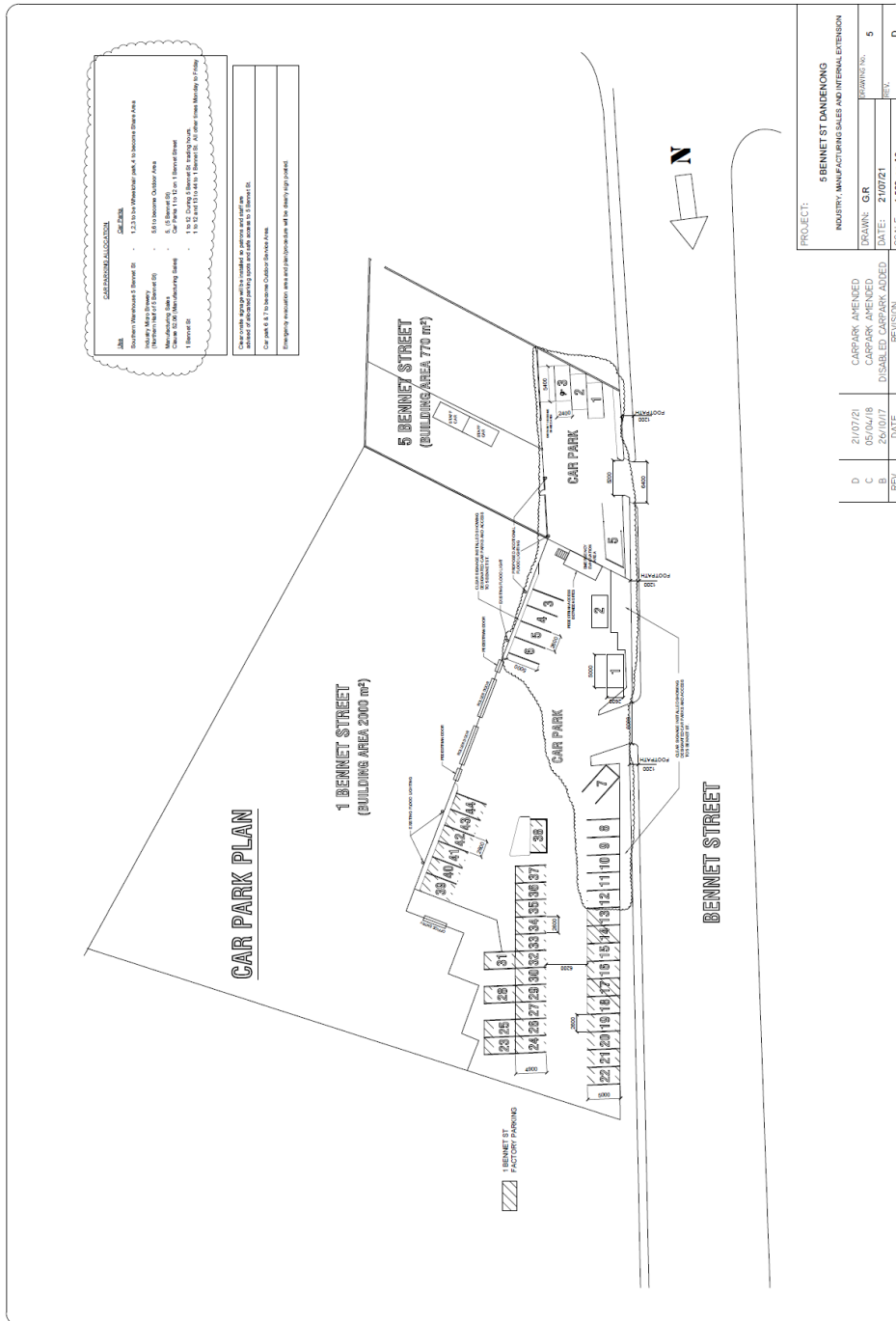
REV.	DATE	REVISION	SCALE
E	13/10/21	RED LINE AMENDED	1:200 or A3
D	2/10/21	CARPARKING RED LINE AMENDED OUTDOOR SEATING AMENDED	
C	05/04/18	POINT OF SALES ADDED USE OF EXISTING CARPARKING	
B	30/10/17	DISABLED CARPARK ADDED	
REV.	DATE	REVISION	SCALE

PROJECT:	5 BENNET ST DANDENONG
INDUSTRY:	INDUSTRY, MANUFACTURING SALES AND INTERNAL EXTENSION
DRAWING NO.:	GR
DATE:	13/10/21
REV.:	3
SCALE:	1:200 or A3
REV.:	E

2.3.1 Town Planning Application - No. 5 Bennet Street, Dandenong (Planning Application No. PLA21/0100) (Cont.)



2.3.1 Town Planning Application - No. 5 Bennet Street, Dandenong (Planning Application No. PLA21/0100)
 (Cont.)



**2.3.1 Town Planning Application - No. 5 Bennet Street, Dandenong (Planning Application No. PLA21/0100)
(Cont.)**

STATUTORY PLANNING APPLICATIONS

**TOWN PLANNING APPLICATION - NO. 5 BENNET STREET, DANDENONG
(PLANNING APPLICATION NO. PLA21/0100)**

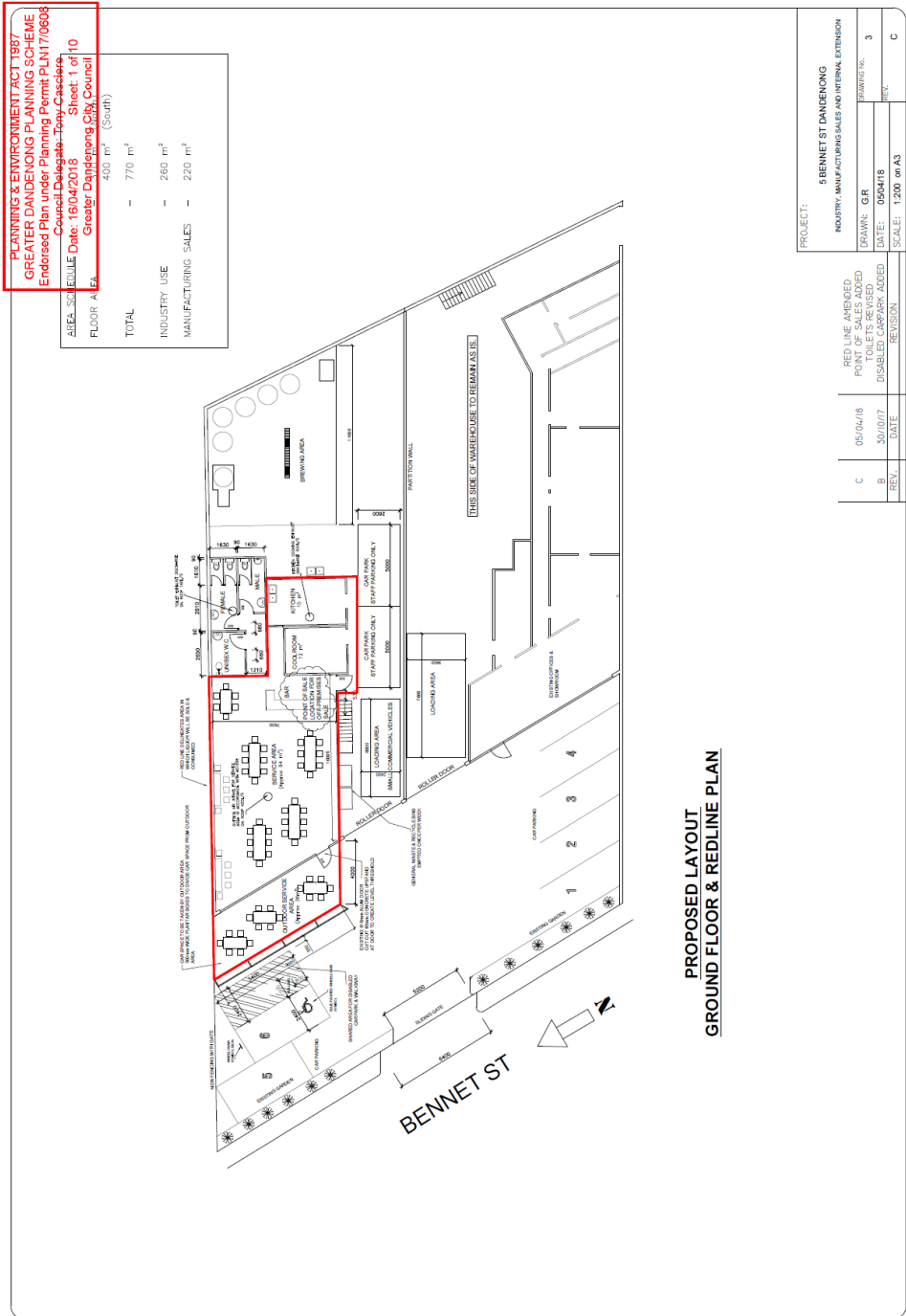
ATTACHMENT 2

EXISTING CONDITION PLANS

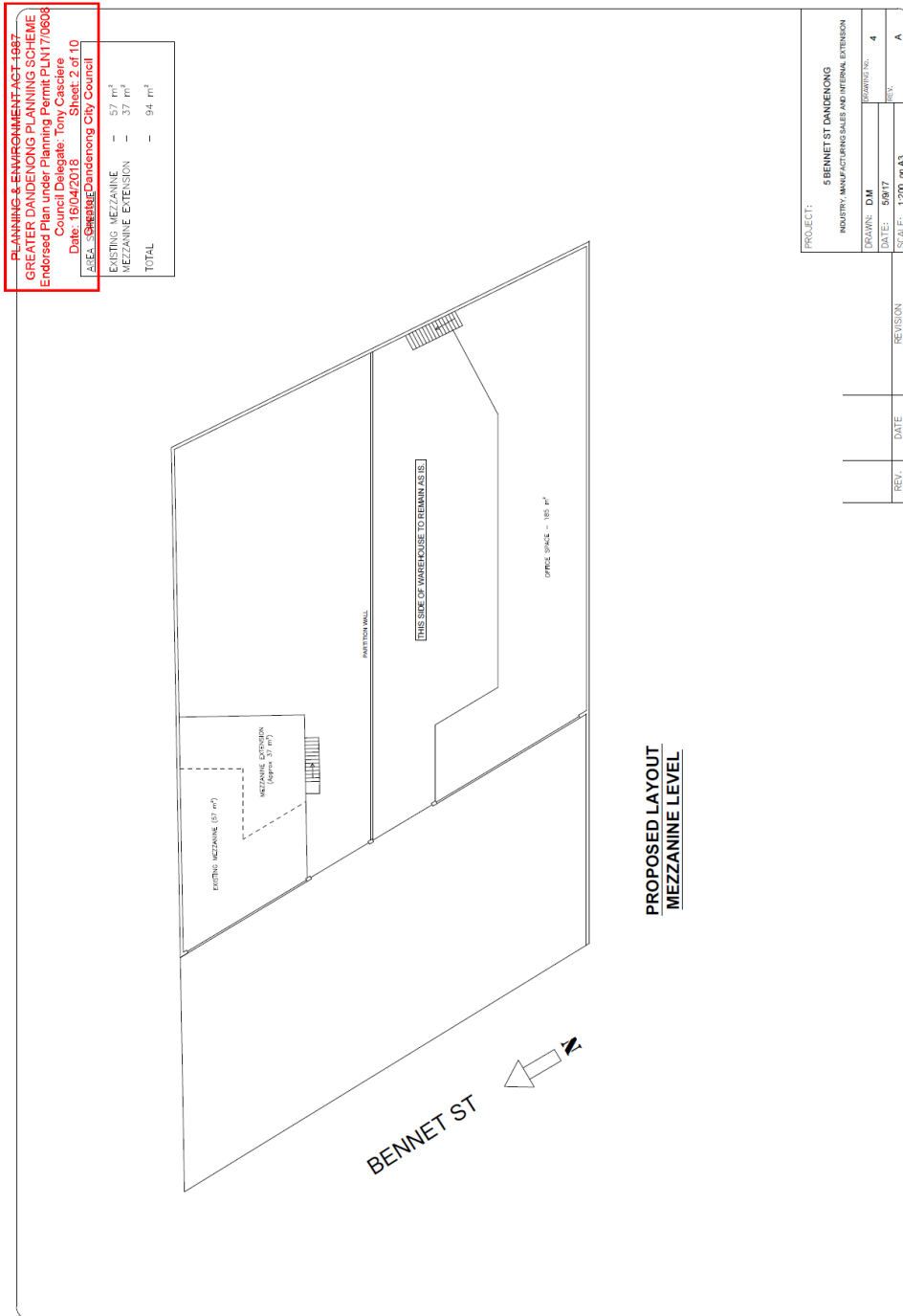
PAGES 4 (including cover)

If the details of the attachment are unclear please contact Governance on 8571 5235.

2.3.1 Town Planning Application - No. 5 Bennet Street, Dandenong (Planning Application No. PLA21/0100)
 (Cont.)



2.3.1 Town Planning Application - No. 5 Bennet Street, Dandenong (Planning Application No. PLA21/0100) (Cont.)



3 QUESTION TIME - PUBLIC

Question Time at Council meetings provides an opportunity for members of the public in the gallery to address questions to the Councillors, Delegates and/or officers of the Greater Dandenong City Council. Questions must comply with s. 4.5.8 of Council's Governance Rules.

QUESTIONS FROM THE GALLERY

Questions are limited to a maximum of three (3) questions per individual. Where time constraints deem it likely that not all questions can be answered within the time allowed for Question Time, the Mayor at his/her discretion may determine only the first question may be presented verbally with others deferred to be managed in the same manner as public questions not verbally presented. Priority will be given to questions that relate to items on the Council Agenda for that meeting. Questions including any preamble should not exceed 300 words.

b) All such questions must be received in writing on the prescribed form or as provided for on Council's website and at Ordinary meetings of Council. Where there are more than three (3) questions received from any one individual person, the Chief Executive Officer will determine the three (3) questions to be considered at the meeting.

c) All such questions must clearly note a request to verbally present the question and must be received by the Chief Executive Officer or other person authorised for this purpose by the Chief Executive Officer no later than:

- i) the commencement time (7.00pm) of the Ordinary meeting if questions are submitted in person; or
- ii) noon on the day of the Ordinary meeting if questions are submitted by electronic medium.

d) A question can only be presented to the meeting if the Chairperson and/or Chief Executive Officer has determined that the question:

- i) does not relate to a matter of the type described in section 3(1) of the *Local Government Act 2020* (confidential information);
- ii) does not relate to a matter in respect of which Council or a Delegated Committee has no power to act;
- iii) is not defamatory, indecent, abusive or objectionable in language or substance, and is not asked to embarrass a Councillor, Delegated Member or Council officer; and
- iv) is not repetitive of a question already asked or answered (whether at the same or an earlier meeting).

e) If the Chairperson and/or Chief Executive Officer has determined that the question may not be presented to the Council Meeting or Delegated Committee, then the Chairperson and/or Chief Executive Officer:

- i) must advise the Meeting accordingly; and
- ii) will make the question available to Councillors or Members upon request.

3 QUESTION TIME - PUBLIC (Cont.)

- f) The Chairperson shall call on members of the gallery who have submitted an accepted question to ask their question verbally if they wish.
- g) The Chairperson, Chief Executive Officer or delegate may then direct that question to be answered by a nominated Councillor or member of Council staff.
- h) No debate on, or discussion of, a question or an answer will be permitted other than for the purposes of clarification.
- i) A Councillor, Delegated Committee Member or member of Council staff nominated to answer a question may:
- i) seek clarification of the question from the person who submitted it;
 - ii) seek the assistance of another person in answering the question; and
 - iii) defer answering the question, so that the answer may be researched and a written response be provided within ten (10) working days following the Meeting (the question thereby being taken on notice).
- j) Question time for verbal presentations is limited in duration to not more than twenty (20) minutes. If it appears likely that this time is to be exceeded then a resolution from Council will be required to extend that time if it is deemed appropriate to complete this item.
- k) The text of each question asked and the response will be recorded in the minutes of the Meeting.

4 OFFICERS' REPORTS - PART TWO

4.1 OTHER

4.1.1 Improving the operation of ResCode - Council officers' submission

File Id:	A8490088
Responsible Officer:	Director City Planning Design & Amenity
Attachments:	DELWP Executive Summary Officer Submission

1. Report Summary

The Department of Environment, Land, Water and Planning (DELWP) has recently commenced a review of the ResCode provisions within the Victorian Planning Provisions. The intent of the review is to create a system that will deliver a consistent, streamlined and digital ready ResCode, which will improve clarity for all users.

In late 2021, DELWP sought Council officers' feedback on the proposed changes to ResCode. In January 2022, officers provided initial feedback in response to the proposed changes (see Attachment 2). While there are some positives to the changes, the key concern for CGD officers is the significant 'watering down' of the neighbourhood character and local policy within the Greater Dandenong Planning Scheme, used when assessing local residential developments against ResCode.

This report outlines the changes proposed by DELWP, the initial officers' feedback, and recommends that Council adopts this officers' submission. It also notes that Council will continue to seek to be actively involved any further consultation regarding potential changes to ResCode.

2. Recommendation Summary

This report recommends that Council resolves to:

- note the proposed changes to ResCode;
- adopt the Council officer submission; and
- continue to participate in any further consultation regarding potential changes to ResCode.

4.1.1 Improving the operation of ResCode - Council officers' submission (Cont.)

3. Background

Clause 55 of the Victoria Planning Provisions (also known as ResCode) sits within all Planning Schemes across Victoria and is a key consideration when assessing planning permit applications for multi dwelling developments. ResCode in its current form contains Objectives and Standards which set out key criteria. Multi dwelling residential development should meet the Standards and must meet the Objectives to be considered acceptable. The criteria it contains includes front and side setbacks, private open space areas and dimensions, neighbourhood character provisions, permeability, building height, and energy efficiency requirements, among others.

ResCode has been in the Victorian Planning Provisions for more than two decades, and concern has been increasing that as the expectations of the planning system continue to grow, ResCode has become inconsistently applied across different Council's who are seeking achieve different outcomes, resulting in on-going challenges for development being able to occur in an efficient and timely manner.

As such, DELWP have now drafted an amended ResCode structure that seeks to create streamlined and consistent outcomes across Council's. In recent months, DELWP sought feedback from Council officers.

This report outlines the key changes proposed by the DELWP review and the initial Council officers' response to this.

4. Discussion

The proposed ResCode amendments contain a number of changes, with the main changes summarised as follows:

Performance Assessment Model (PAM)

ResCode in its current form is made up of Objectives and Standards. Objectives describe the qualitative outcome sought, and Standards then contain the quantitative requirements that indicate if the Objective has been met. For example, the Objective for Daylight to New Windows states '*to allow adequate daylight into new habitable room windows*'. The Standard then sets out the quantitative requirement to meet the Objective, which is '*a window in a habitable room should be located to face an outdoor space clear to the sky or a light court with a minimum area of 3 square metres and a minimum dimension of 1 metre clear to the sky, not including land on an abutting lot*'.

A development must meet the Objective and should meet the Standard.

The proposed amended ResCode replaces Objectives and Standards with a Performance Assessment Model (PAM). The PAM consists of four components:

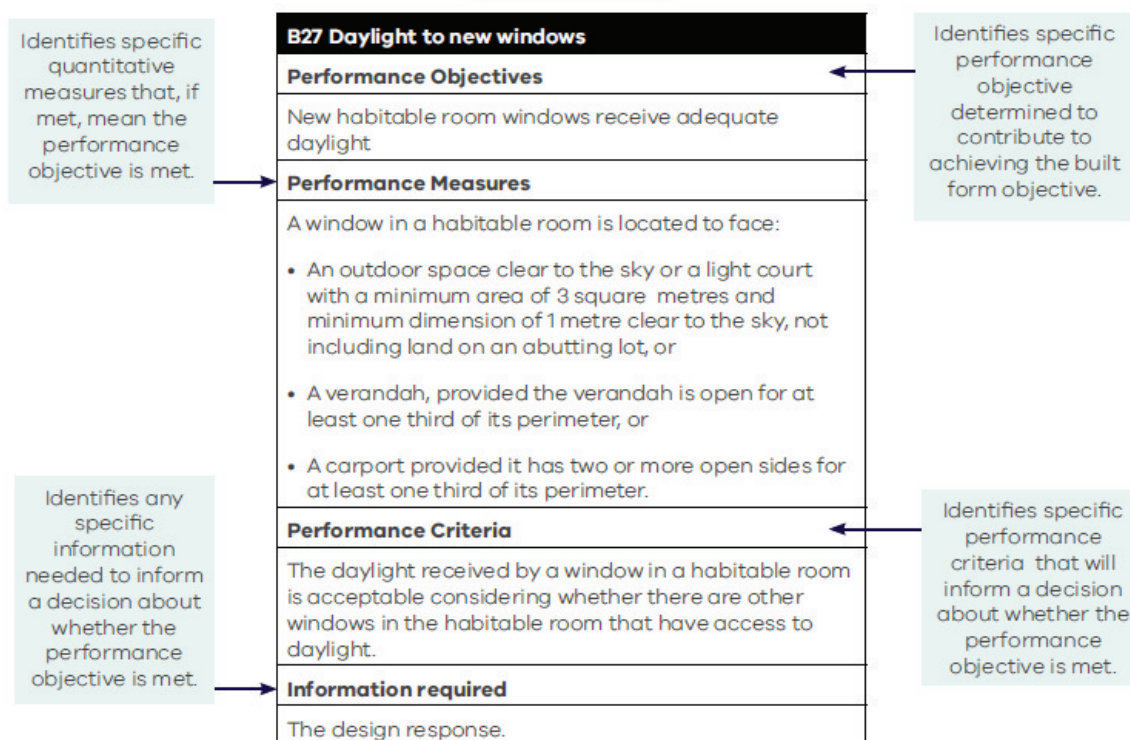
- Performance Objective – Describes the acceptable design outcome (similar to the current 'Objective')
- Performance Measure – Specifies quantitative measures (similar to the current 'Standard'). Where the measure is met, the Performance Objective is deemed to be met. Council cannot then further assess this item.

4.1.1 Improving the operation of ResCode - Council officers' submission (Cont.)

- Performance Criteria – Where a Performance Measure is not met, the Performance Criteria will specify qualitative standards to determine if the proposal meets the Performance Objective
- Information Required – Identifies specific information required to inform a decision on whether the Performance Objective is met.

In summary, if the quantitative Performance Measure is met, the Performance Objective is deemed to be met, and Council cannot further consider or use any discretion for that element of the proposal. If the Performance Measure is not met, Council needs to assess that element against the Performance Criteria to determine if the Objective is met.

Below provides an example:



Neighbourhood Character & Local Policy

The proposed amendment to ResCode makes substantial changes to considerations of neighbourhood character and local policy that sit within planning schemes.

When assessing neighbourhood character, the current form of ResCode provides for consideration of the existing and preferred neighbourhood character, including any relevant neighbourhood character objective, policy or statement set out in the planning scheme.

4.1.1 Improving the operation of ResCode - Council officers' submission (Cont.)

The proposed amended ResCode states that neighbourhood character is simply met if the proposal complies with the street setback, building height, site coverage, side and rear setbacks, walls on boundaries, and front fence provisions of ResCode. If all of these provisions are met, Council must deem the proposal has meet neighbourhood character requirements.

If all of these provisions are met, Council's can no longer consider local policy, such as Clause 22.09 – Residential Development and Neighbourhood Character Policy of the Greater Dandenong Planning Scheme. However, DELWP are advising that it may be possible for Council's to amend the schedules to zones to vary some of the ResCode provisions to suit local needs.

Other matters

The proposed amendment to ResCode does not make any changes to the quantitative standards (i.e. the Standards (setback distances, private open space sizes etc.) in the existing version are directly translated into the new Performance Measures). In addition, public notification and appeal rights remain in place, and are not altered in any way.

5. Proposal

Council officers have fully reviewed the proposed amendments and have provided an initial written response (see Attachment 2).

The following is a summary of the officers' response:

- A review of ResCode is supported given it is now more than 20 years old, as is improving the efficiency and operation of the planning system. However, achieving high quality outcomes that support the places our communities live, work and play should not be detrimentally impacted as a result. Concern is raised that the changes as proposed will not ensure high quality outcomes. Principal amongst these is the effective neutralisation of the Neighbourhood Character Policy at clause 22.09 in the Greater Dandenong Planning Scheme.
- The key concern of officers is the significant watering down, almost to the point of redundancy, of well-established local policies in many planning schemes, and genuine consideration of local neighbourhood character as part of the assessment process.
- Neighbourhood character is so much more than the blunt compliance tool now proposed, which only requires meeting certain setbacks, heights and site coverage (as detailed in the Discussion above). For DELWP to state otherwise totally fails to understand the unique existing and future character of many areas throughout Victoria, including in Greater Dandenong.
- It is anticipated that designers will now simply 'tick the box' by meeting these compliance tools, which will then no longer permit Council to consider Clause 22.09 – Residential Development and Neighbourhood Character. This will result in Council not being able to ensure important elements of this policy are considered, including landscaping, number of storey's, reverse living, double storey to the rear etc.

4.1.1 Improving the operation of ResCode - Council officers' submission (Cont.)

- The outcome of the above is high likely to be cookie cutter dwellings that provide limited visual interest, have no architectural flare and do not provide for a suitable level of liveability for occupants and surrounding residents.
- It is noted that there is a potential for Council's to vary the schedules to their residential zones to amend certain setbacks, heights etc., however there is no guarantee that these will ultimately be approved and gazetted into the planning scheme. In addition, there is likely to be long lead times for this to occur, and should the ResCode changes be implemented prior to Council's being able to have amended schedules implemented, it could lead to some very poor outcomes.

Finally, the variations to schedules available for consideration do not address many of the essential future character provisions of Clause 22.09, such as landscaping, number of storey's, reverse living, separated upper levels, and double storey to the rear.

This Council invested heavily in time, money and community participation in the development of clause 22.09- Residential Development and Neighbourhood Character and followed a rigorous statutory process in having it reviewed and tested, including by Planning Panels Victoria in getting it included in the Greater Dandenong planning Scheme. The proposed changes to ResCode effectively write it out of the Scheme.

- There will likely be financial and resource implications for Council's as a result of the proposed changes, which must be considered and addressed prior to any implementation. These implications include potential significant work in translating the existing planning scheme to address the ResCode changes, training for staff, embedding the new terminology (PAM), and educating the community on the consequences of the changes.
- It is pleasing to see that public notification requirements and third party rights have not been altered, and the community will continue to have involvement in the process.

6. Financial Implications

There are no financial implications associated with this report at this time. However, as described in penultimate paragraph in the section above, there will likely be financial and resource implications should these changes be implemented by DELWP. Further consideration of this will be required at that time.

7. Consultation

This is a DELWP lead project and the consultation process is undertaken by DELWP.

To date, a consultation has been undertaken with Council officers in late 2021, with feedback from officers sought through that process. Greater Dandenong officers provided a submission (Attachment 2).

Details of further consultation by DELWP is not yet available.

4.1.1 Improving the operation of ResCode - Council officers' submission (Cont.)

8. Community Vision 2040 and Council Plan 2021-25 – Strategic Objectives, Strategies and Plans

After consultation with the Greater Dandenong community on what kind of future they wanted for themselves and our city, the Greater Dandenong People's Panel developed a new Community Vision for 2040:

*The City of Greater Dandenong is a home to all.
It's a city where you can enjoy and embrace life through celebration and equal opportunity.
We harmonise the community by valuing multiculturalism and the individual.
Our community is healthy, vibrant, innovative and creative.
Our growing city is committed to environmental sustainability.
Welcome to our exciting and peaceful community.*

8.1 Community Vision 2040

This report is consistent with the Community Vision 2040 and its accompanying principles:

- Safe and peaceful community.
- Sustainable environment.
- Embrace diversity and multiculturalism.

8.2 Council Plan 2021-25

The Council Plan describes the kind of future the Council is working for, and how Council will do this over four years. This report is consistent with the following strategic objectives:

- A socially connected, safe and healthy city.
- A city of accessible, vibrant centres and neighbourhoods.
- A green city committed to a sustainable future.
- A Council that demonstrates leadership and a commitment to investing in the community.

9. The Overarching Governance Principles of the *Local Government Act 2020*

Section 9 of the *Local Government Act 2020* states that a Council must in the performance of its role give effect to the overarching governance principles.

The overarching governance principles of the *Local Government Act 2020* have been considered in the preparation of this report in the following regard:

- The report and officer submission seeks to ensure local communities have access to mix of high-quality housing and supporting infrastructure;
- The report and officer submission support the Council's Community Vision and Council Plan;
- The report provides details on the engagement undertaken by DELWP to date.

4.1.1 Improving the operation of ResCode - Council officers' submission (Cont.)

10. Victorian Charter of Human Rights and Responsibilities

Council, Councillors and members of Council staff are a public authority under the *Charter of Human Rights and Responsibilities Act 2006* and, as such, are all responsible to act in accordance with the *Victorian Charter of Human Rights and Responsibilities 2006* (the Charter).

All matters relevant to the Victorian Human Rights Charter have been considered in the preparation of this report and are consistent with the standards set by the Charter, in particular:

- Section 15 – Right to freedom of expression;
- Section 16 – Right to peaceful assembly and freedom of association;
- Section 18 – Right to have the opportunity to take part in public life and to vote;
- Section 24 - Right to a fair hearing;

11. The Gender Equality Act 2020

The *Gender Equality Act 2020* came into operation on 31 March 2021 and requires councils to take positive action towards achieving workplace gender equality and to promote gender equality in their policies, programs and services.

Council's Diversity, Access and Equity Policy and the *Gender Equality Act 2020* have been considered in the preparation of this report but are not relevant to its contents, as the content/topic/issue (of this report) is purely administrative in nature and does not benefit any one gender group over any other.

12. Consideration of Climate Change and Sustainability

One of the overarching governance principles of the *Local Government Act 2020* is that the economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted.

In January 2020, this Council joined a growing number of cities around Australia and declared a "Climate and Ecological Emergency" and committed this Council to emergency action on climate change. Council has developed a Climate Change Emergency Strategy and Action Plan 2020-30 to help the City of Greater Dandenong become a resilient, net zero carbon emission city with an active community prepared for the challenges of changing climate.

This report supports Council's commitment to climate change and sustainability by seeking to ensure that future housing developments are of a high quality outcome from a design, liveability and sustainability perspective.

13. Related Council Policies, Strategies or Frameworks

Greater Dandenong Planning Scheme.

4.1.1 Improving the operation of ResCode - Council officers' submission (Cont.)

14. Conclusion

DELWP has commenced a review of the current ResCode provisions and have sought initial feedback from Council officers. In November of 2021 an officers' response was provided to DELWP, which outlines a number of concerns with the proposed changes and in particular with the significant changes to considerations of this Council's neighbourhood character and local policy within the Greater Dandenong Planning Scheme. Unfortunately, the current version of DELWP's proposed amendments to ResCode have taken no account of those concerns. The officers' assessment and comments provided in the body of this report are intended to be a further submission and form the basis of ongoing engagements with DELWP in its review of ResCode.

15. Recommendation

That Council resolves to:

- 1. note the proposed changes to ResCode;**
- 2. adopt the Council officer's submission; and**
- 3. continue to participate in any further consultation regarding potential changes to ResCode.**

4.1.1 Improving the operation of ResCode - Council officers' submission (Cont.)

OTHER

**IMPROVING THE OPERATION OF RESCODE-COUNCIL OFFICERS'
SUBMISSION**

ATTACHMENT 1

**IMPROVING THE OPERATION OF RESCODE
– DELWP EXECUTIVE SUMMARY**

PAGES 9 (including cover)

If the details of the attachment are unclear please contact Governance on 8571 5235.

4.1.1 Improving the operation of ResCode - Council officers' submission (Cont.)



Executive summary

The Victoria Planning Provisions (VPP) and ResCode have served Victorians well for more than two decades.

They have delivered simpler, more consistent and usable planning schemes based on state standard provisions. However, as expectations on the planning system have grown, the complexity of issues and how some scheme provisions have responded has created uncertainty, hindered usability and created an obstacle to delivering digital ready planning schemes.

This report sets out how the operation of assessment provisions in planning schemes can be improved through the introduction of a new Performance Assessment Model (the model) that will deliver consistent, digital ready assessment provisions that support streamlined decision making. The model will standardise how assessment provisions work, improving clarity for all users.

This report focuses on improving how planning schemes describe the desired planning objectives for residential development in ResCode and how proposals are assessed against those objectives, however the model can be applied to all discretionary provisions across the VPP and local provisions.

The model is made up of a new Performance Assessment Module (PAM) and new rules about how a design response is assessed against the PAM. The PAM will set out more precisely the performance objectives for a design matter and the considerations and information that are needed to make an assessment of that matter. The new rules will make it clear when a design response is deemed to achieve the performance objective.

The performance assessment model



Both these new provisions will significantly reduce uncertainty about what is expected for each design matter and whether a design response meets those expectations.

4.1.1 Improving the operation of ResCode - Council officers' submission (Cont.)

Department of Environment, Land, Water and Planning



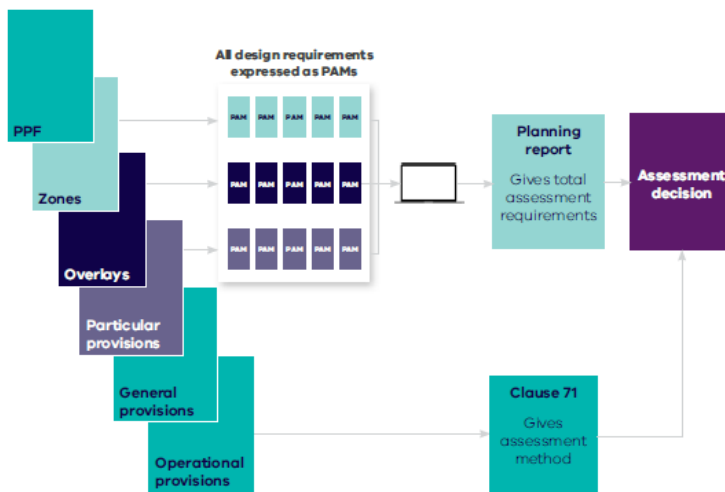
Converting assessment provisions to the proposed model will have the following benefits:

- A clear, consistent, more modular structure for the preparation of provisions that guide the exercise of discretion across the VPP.
- A more consistent operational framework that promotes the use of objective Performance Measures to clearly signal and facilitate outcomes that are deemed to be acceptable.
- A consistent structure and format for discretionary provisions that will support the long-term development and delivery of fully digital planning schemes.

Translating all development assessment provisions in planning schemes to the consistent use of PAM provisions will mean that, in the longer term, digital platforms will be able to 'collect' all the relevant PAMs for a matter and present them in a consistent, integrated form that will enable:

- an applicant to clearly see what performance objectives are required to be achieved, how they might be achieved and exactly what information is required to be presented with the application.
- the responsible authority to get a quick and complete checklist of all the matters that need to be assessed in a form suitable for direct inclusion in their planning report.
- the community to readily see which aspects of a proposal achieve expectations and the basis on which aspects that may not will be assessed.

Overview of how the proposed model will work



4.1.1 Improving the operation of ResCode - Council officers' submission (Cont.)

Department of Environment, Land, Water and Planning

Why start with ResCode?

Residential development proposals make a significant contribution to the number of planning applications made each year. Of the 40,000 new permit applications received in 2019/20, about 30% included a residential element that was assessed against the residential development standards in ResCode.

This report shows how the operation of ResCode can be improved by using the model to update the format of the ResCode standards to be clearer about their expectations and to be better aligned with the principles of the VPP. This will lead to more certain and more efficient development assessment and decision making.

The proposed model builds and improves upon the operational model that currently underpins ResCode.

Translating the ResCode standards to PAMs will not change the content of established standards or affect the procedural settings that currently apply to the assessment of proposals, including third party notice or appeal rights.

What is ResCode?

Clauses 54 and 55 are commonly referred to as ResCode and were introduced in August 2001, shortly after the rollout of the VPP and new format planning schemes. These two initiatives marked the beginning of a new era in preparing and administering local planning schemes based on user friendly provisions that are consistent statewide.

In the two decades since the introduction of the VPP and ResCode, Victoria has undergone significant change. The Victorian population has increased by 1.9 million people to 6.6 million people. It is estimated that by 2051 Melbourne's population will increase by another 4 million people. Plan Melbourne (Direction 2.4) has highlighted the critical role the planning system plays in ensuring an adequate supply of well located, affordable housing, while maintaining Victoria's liveability. Plan Melbourne has identified the need to better streamline approvals for housing proposals that do not raise strategic policy issues through more code-based approaches to assessment.

Advances in technology over the last 20 years have also brought profound change in the way citizens interact with public services and the law. The ability to 'design out' complexity and improve access to the law using digital platforms offers significant efficiency and effectiveness benefits for the way that the planning system delivers desired housing outcomes. To realise this potential, clearer and more consistent approaches to the operation and drafting of planning provisions is needed to make them 'digital ready'.

The role of planning reform is to ensure that the planning system is calibrated to meet the current and future needs and expectations of the Victorian community, specifically so that:

- Provisions clearly describe desired planning outcomes that are consistent with those needs and expectations.
- Provisions and processes are consistently applied in a manner that is proportionate to risk and to efficiently deliver the desired outcomes.
- Provisions and processes, and any supporting initiatives, are designed to meet the needs of the system's users.

Since its introduction, there have been a number of reforms to the VPP affecting residential development, including the introduction of reformed residential zones, and a new assessment pathway (VicSmart), and new standards for apartment developments.

Against this background local councils have accumulated and refined a substantial body of strategic work on housing and neighbourhood character. This work has, to varying extents, been implemented in local planning schemes or supporting guidance documents, through neighbourhood character policies and associated variations to ResCode standards.

The ResCode standards are now well accepted and understood and have served Victorians well. ResCode's long use and the familiarity users have with its application to local neighbourhoods are significant assets. They provide a strong basis on which to recalibrate and improve its statutory operation in line with the VPP principles (including *User Focussed, Proportional and Digital First*).

4.1.1 Improving the operation of ResCode - Council officers' submission (Cont.)



What is a PAM?

The PAM is built on four components:

- **Performance Objectives** – that clearly describe acceptable design outcomes.
- **Performance Measures** – that specify quantitative measures, or objectively ascertainable conditions. Compliance with performance measures will be deemed to achieve the relevant Performance Objective.
- **Performance Criteria** – where a Performance Measure cannot be specified or is not complied with, the Performance Criteria will specify qualitative standards for determining whether the proposal achieves the Performance Objective.
- **Information required** – that identifies any specific information needed to inform a decision about whether a Performance Objective is met.

Where the model is applied, a PAM must include one or more:

- Performance Objective
- Performance Criteria

The PAM may include one or more:

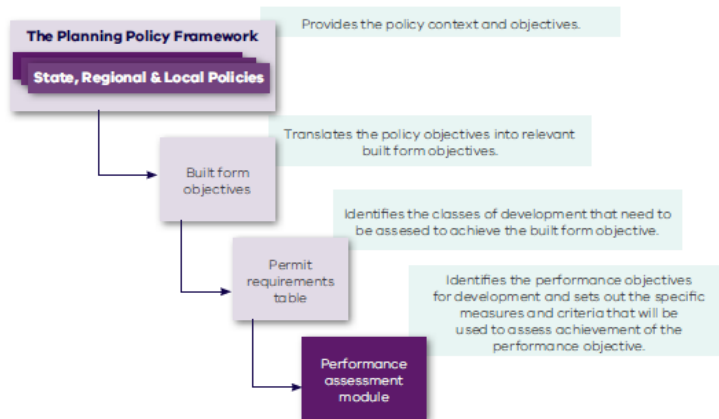
- Performance Measure
- Information Requirements

How a PAM is created is shown below. In drafting a PAM, it will be essential that the Performance Objective being sought is well thought out and can be clearly expressed. The PAM also ensures that the planning authority can express the measures that, if achieved, show that the Performance Objective is achieved. This will remove doubt and debate about whether certain design responses are acceptable or not.

4.1.1 Improving the operation of ResCode - Council officers' submission (Cont.)

Department of Environment, Land, Water and Planning

Building a PAM



Identifies specific quantitative measures that, if met, mean the performance objective is met.	B27 Daylight to new windows	Identifies specific performance objective determined to contribute to achieving the built form objective.
	<p>Performance Objectives</p> <p>New habitable room windows receive a adequate daylight</p>	
Identifies any specific information needed to inform a decision about whether the performance objective is met.	<p>Performance Measures</p> <p>A window in a habitable room is located to face:</p> <ul style="list-style-type: none"> • An outdoor space clear to the sky or a light court with a minimum area of 3 square metres and minimum dimension of 1 metre clear to the sky, not including land on an abutting lot, or • A verandah, provided the verandah is open for at least one third of its perimeter, or • A carport provided it has two or more open sides for at least one third of its perimeter. 	Identifies specific performance criteria that will inform a decision about whether the performance objective is met.
	<p>Performance Criteria</p> <p>The daylight received by a window in a habitable room is acceptable considering whether there are other windows in the habitable room that have access to daylight.</p>	
	<p>Information required</p> <p>The design response.</p>	

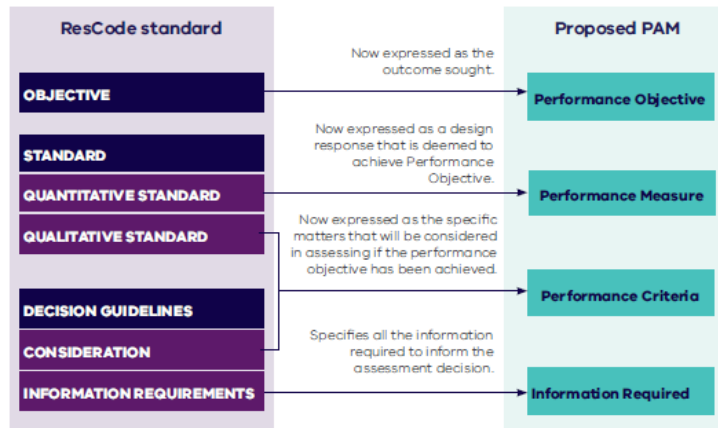
This report has found that all current ResCode standards can be expressed as a PAM (see APPENDICES 4, 5 and 6).

4.1.1 Improving the operation of ResCode - Council officers' submission (Cont.)

Department of Environment, Land, Water and Planning

Translating a ResCode standard to PAM

The difference between a ResCode standard and a PAM



10 Improving the operation of ResCode Discussion Paper

4.1.1 Improving the operation of ResCode - Council officers' submission (Cont.)

Department of Environment, Land, Water and Planning

Changes to apply the model

The proposed changes needed to introduce the model are summarised in the tables and diagrams below. How the model can be applied to ResCode is described in section 4.

1. A NEW PAM FOR DISCRETIONARY PROVISIONS IN THE VPP	
Proposal	Implement a new PAM in the operational provisions of the VPP. The new model creates a PAM built on four components: Performance Objectives – that clearly describe acceptable residential development outcomes. Performance Measures – that specify quantitative measures or objectively ascertainable conditions. Compliance with the Performances Measures is deemed to achieve the relevant Performance Objective. Performance Criteria – where Performance Measures cannot be specified or are not complied with, Performance Criteria will specify qualitative standards for determining whether a proposal achieves the Performance Objective. Information Required – that identifies any specific information needed to inform a decision about whether a Performance Objective is met.
Current Issues	Discretionary provisions are inconsistently articulated across the VPP and planning schemes, creating uncertainty regarding their intended outcomes and operation. The need to promote streamlined, code-based assessment for low risk applications where standards are well understood and accepted. A more consistent structure and operation of discretionary provisions can promote code-based assessment and digital ready provisions.
Proposed changes	A new operational provision (clause 71.XX – Performance Assessment (see APPENDIX 3)) to provide for: <ul style="list-style-type: none"> • The use of the new PAM across the VPP and planning schemes. • Specification of a standard operation and decision-making framework where a PAM is applied.

4.1.1 Improving the operation of ResCode - Council officers' submission (Cont.)

Department of Environment, Land, Water and Planning

2. TRANSLATE EXISTING RESCODE PROVISIONS TO THE NEW PAM	
Proposal	Translate the existing ResCode objectives and standards into PAMs. This translation will not change the existing ResCode quantitative standards and procedural settings, including third party notice and review rights.
Current issues	Existing quantitative ResCode standards and local variations are well understood and accepted. A divergence of views has created some uncertainty regarding the operation of some aspects of ResCode. The current expression of standards does not sufficiently facilitate approval for residential development that complies with an accepted standard or local variation.
Proposed changes	Translate clauses 54, 55 and 58 into the proposed new PAM format. APPENDICES 4, 5 and 6 set out drafts of how these would look.

3. INTRODUCE A NEW OPPORTUNITY TO SPECIFY NEIGHBOURHOOD CHARACTER PERFORMANCE MEASURES	
Proposal	Provide a new opportunity for councils to more precisely specify performance measures for Neighbourhood Character (A1 & B1) and Detailed Design (A19 & B31), within the planning scheme in the schedules to residential zones.
Current issues	Councils have accumulated substantial bodies of work that identify important features of neighbourhood character for local areas. Neighbourhood character study documents largely exist outside planning schemes or are imprecisely expressed in local policies. Opportunity to elevate important neighbourhood character elements to Performance Measures and facilitate appropriate residential development.
Proposed changes	Amendments to residential zones (clauses 32.04, Mixed Use Zone, 32.05 – Township Zone, 32.07 – Residential Growth Zone, 32.08 – General Residential Zone, 32.09 – Neighbourhood Residential Zone) to provide head of power for schedules to specify performance measures for Neighbourhood Character (A1 & B1) and Detailed Design (A19 & B31). Updates to Neighbourhood Character (A1 & B1) (clauses 54 and 55) to refer to Performance Measures specified in zone schedules. Amendment to Ministerial Direction (form and content of planning schemes) to vary schedule format for residential zones (clauses 32.04, Mixed Use Zone, 32.05 – Township Zone, 32.07 – Residential Growth Zone, 32.08 – General Residential Zone, 32.09 – Neighbourhood Residential Zone) to allow schedules to specify Performance Measures for Neighbourhood Character (A1 & B1) and Detailed Design (A19 & B31).

It is important to note that the proposals in this report have only been developed to a 'proof of concept' stage. It will be necessary to ensure that any final package of statutory and operational provisions is developed and introduced in a coordinated way with all stakeholders and practitioners. As well, some of the proposed statutory drafting and decision-making changes are subtle. A substantial communication and training program will be essential for successful implementation.

4.1.1 Improving the operation of ResCode - Council officers' submission (Cont.)

OTHER

**IMPROVING THE OPERATION OF RESCODE-COUNCIL OFFICERS'
SUBMISSION**

ATTACHMENT 2

OFFICERS' SUBMISSION

PAGES 5 (including cover)

If the details of the attachment are unclear please contact Governance on 8571 5235.

4.1.1 Improving the operation of ResCode - Council officers' submission (Cont.)

Improving the operation of RESCODE Discussion Paper

City of Greater Dandenong submission

This submission has been prepared by Council officers and forms the initial view of officers only. It has not been presented to Councillors at this time and does not form a formal Council position. Council reserves its right to lodge a further formal submission in future.

The City of Greater Dandenong appreciates the opportunity to provide an initial submission to the *Improving the Operation of ResCode Discussion Paper*.

The review and clarification on qualitative and quantitative sections of ResCode is welcomed, however the push to facilitate a more streamlined assessment by promoting the use of quantitative standards for assessing residential development proposals creates a significant risk of diminishing the assessment process. Furthermore, it does not allow for meaningful consideration of existing local policy within individual Planning Schemes and the unique neighbourhood character of many areas across Victoria.

Planning is more than a binary tick box exercise. While initiatives to speed up the planning process are welcomed, this must not occur to the detriment of the places our communities live, work and play. These places impact on people's mental health, access to open space, and overall quality of life. This must not be negatively impacted to 'speed up' the planning process.

Development in outer suburbs such as those in Greater Dandenong are developer led. Removing the ability of Councils to influence better design and achieve a preferred future character will result in poorly designed cookie-cutter concrete boxes.

Specific officer feedback on particular elements of the Discussion Paper is provided below:

Neighbourhood Character - Local Policy

The Discussion Paper fails to recognise the importance of existing local policy that is well established in many Planning Schemes across Victoria, including Greater Dandenong, and the unique neighbourhood character of many areas across Victoria. Rather, it seeks to create a 'one size fits all' approach to neighbourhood character, and in doing so only considers existing character, not future preferred character that is identified in many local policies. This will have a negative impact on a considerable number of areas in Victoria.

Greater Dandenong has a well-established local policy for residential development, being Clause 22.09 – Residential Development and Neighbourhood Character Policy, which sets out the future preferred neighbourhood character. This policy was developed through very extensive strategic planning work to identify and establish the existing and preferred neighbourhood character for the residential areas of Greater Dandenong.

This policy has previously been considered by DELWP officers, Planning Panels Victoria, and the Minister for Planning on two occasions in the last five years, and on both occasions has been

4.1.1 Improving the operation of ResCode - Council officers' submission (Cont.)

approved and gazetted into the Planning Scheme. The changes now proposed will result in this policy becoming almost redundant, which is of extreme concern to Council officers.

The Discussion Paper suggests that neighbourhood character can be determined to be met if a development complies with the Performance Measure provisions of B6, B7, B8, B17, B18 and B32 (and the Clause 54 equivalents). Neighbourhood character is significantly more than this, and utilising such a blunt instrument to determine this totally fails to consider the unique existing and future character of many areas throughout Victoria.

It is noted that Councils can seek to introduce variations to the above provisions in schedules to the zone, however there is no guarantee that this will be supported, and gazetted. Furthermore, there is likely to long lead times for this to occur, and if the changes are implemented prior to Councils being able to have amended schedules gazetted, this could lead to some very poor outcomes.

In addition, the variations able to be sought in schedules do not address many of the future character provisions set out in Council's Clause 22.09, such as the provision of landscaping, number of storey's, reverse living, attached/ separated upper levels, double storey to the rear etc.

Council officers seek clarity as to how all of these provisions could be included in a variation to the ResCode provisions within a zone schedule. If they cannot be accommodated, Council officers strongly object to the proposed Neighbourhood Character provisions.

Schedules to Residential Zones

Greater Dandenong has been actively considering its residential zoning regime in one form or another since 2013. In that time, State Planning Policy has constantly evolved and changed. The proposed Performance Assessment Model (PAM) is yet another shift that will create significant work to ensure the existing valued policy elements are translated across appropriately.

Greater Dandenong schedules to the residential zones will need clear and carefully drafted neighbourhood character objectives and performance measures to achieve desired design/amenity outcomes that are of the utmost importance to our community.

It is important that the translation identifies and carries forward all valued parts of the existing Local Planning Policy Framework (LPPF) so that Council can continue to facilitate good and proper planning decisions and outcomes. It is also vitally important that this occurs prior to the introduction of the proposed ResCode changes.

Given the already unacceptably long and challenging Greater Dandenong PPF translation process, officers are very concerned about these two projects running concurrently.

Design excellence

The Discussion Paper states that *"The model is also flexible and will allow for more complex, merit-based assessments, where competing policy considerations might need to be weighed and integrated into a single planning permit."* It is unclear how Council can incorporate policy considerations in its decisions with the removal of the decision guideline about relevant policies. PAM essentially introduces three ways to assess compliance, removing all levels of negotiation to better the quality of 'built form'. Architectural flare will be set aside, and standardised housing with no valued amenity will become the norm.

Council officers are also concerned with the use of language such as the following in the Discussion Paper:

4.1.1 Improving the operation of ResCode - Council officers' submission (Cont.)

"However, if the Performance Measures are met, either as set out in the assessment provisions or a schedule to the zone, it will not be open to councils to seek additional 'beyond compliance outcomes' in the name of intangible ideas of neighbourhood character."

This appears to directly conflict with the original statement under this sub-heading, and infers that Council's efforts to protect existing and future neighbourhood character and to ensure appropriate design outcomes are excessive and unwarranted. This language, and view from DELWP is incredibly disappointing, particularly when these 'ideas' are based on significant strategic planning work, and are incorporated into Planning Schemes.

More information and examples are required to demonstrate this flexibility of how policy considerations and discretion can be incorporated into decision making.

Public Notification

It is important that the proposed changes do not result in the removal of the public notification process for residential developments. Community involvement is a critical component of the planning process, and this should not be lost or minimised as a result of the proposed changes to ResCode.

Terminology

The proposed terms 'performance measure' and 'performance criteria' are confusing and seem like an unnecessary change. The current guidelines which use objectives and standards are consistent and known throughout the industry. The PAM merely adds another layer for the development community to now grapple with and with the generic requirements. Keeping the terms the same where possible will enable a smoother transition.

Digitised system

It makes sense to have a standardised set of criteria so that future computer-based systems identify the relevant provisions for a particular proposal and give a total summary of all relevant assessment requirements (similar to South Australia's new system). However, a 'standard digital assessment proforma' is already informally used for CI 54 & 55 applications.

The focus on implementing the "Digital first" principle should not override the ability of Council's to guide decisions based on extensive strategic planning and policy making for local areas. Rather the digital system should accommodate the existing well-founded system and avoid evolving into a 'tick-box' approach.

Concerns with proposed translation of specific Standards

Why is there no 'information required' for B41 Accessibility? This is often the most confusing standard. Applicants almost always get this wrong. There should be explicit 'information required' set out for this standard.

Additional costs for Councils

All LGAs with residential development and neighbourhood character policies will require their Strategic planning departments to, yet again, undertake another translation. Should the PAM not allow for a policy neutral translation, such as the nuanced neighbourhood character requirements, this could result in prolonged and costly planning scheme amendments.

The new model will result in new and additional costs for users who will ultimately have to retest the process at VCAT and through Council and add another layer of complexity to the process.

4.1.1 Improving the operation of ResCode - Council officers' submission (Cont.)

In addition, Local Governments will inevitably need to upgrade systems to effectively speak to a planning scheme overhaul.

Training

Council officers are pleased to see commitment to comprehensive training for industry professionals (council's, architects, planners and consultants) and the general public with the knowledge of how to apply the PAMs.

Further information

- How will PAM relate to other sections of the Planning Scheme?
- How will VicSmart be impacted by the proposed changes?
- What is the future intention for local policies? Are they to be removed all together? Will the weight of Policy change?
- How will the reshuffling of what is currently in the Scheme streamline the decision-making process?

Council officers look forward to receiving a response to the above submission, and being able to provide further feedback as the process evolves. If you have any queries regarding the above, please contact Brett Jackson – Manager Planning & Design (brett.jackson@cgd.vic.gov.au or 8571 5334).

Yours Sincerely,



Jody Bosman
Director, City Planning, Design & Amenity

4.1.2 List of Registered Correspondence to Mayor and Councillors

File Id:	qA283304
Responsible Officer:	Manager Governance
Attachments:	Correspondence Received 21 February – 4 March 2022

Report Summary

Subsequent to resolutions made by Council on 11 November 2013 and 25 February 2014 in relation to a listing of incoming correspondence addressed to the Mayor and Councillors, Attachment 1 provides a list of this correspondence for the period 21 February – 4 March 2022.

Recommendation

That the listed items provided in Attachment 1 for the period 21 February – 4 March 2022 be received and noted.

4.1.2 List of Registered Correspondence to Mayor and Councillors (Cont.)

OTHER

**LIST OF REGISTERED CORRESPONDENCE TO
MAYOR AND COUNCILLORS**

ATTACHMENT 1

**CORRESPONDENCE RECEIVED
21 FEBRUARY – 4 MARCH 2022**

PAGES 3 (including cover)

If the details of the attachment are unclear please contact Governance on 8571 5235.

4.1.2 List of Registered Correspondence to Mayor and Councillors (Cont.)



Correspondences addressed to the Mayor and Councillors received between 21/02/22 & 04/03/22 - for officer action - total = 0

Correspondence Name	Correspondence Dated	Date Record Created	Objective ID	User Assigned
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NB: Users assigned may have changed by the time of the Council Meeting. Correct at time of report production only.

4.1.2 List of Registered Correspondence to Mayor and Councillors (Cont.)



Correspondences addressed to the Mayor and Councillors received between 21/02/22 & 04/03/22 - for information only - total = 2

Correspondence Name	Correspondence Dated	Date Record Created	Objective ID	User Assigned
An invitation from the President of the ALGA for Councillors to attend a Pre-Federal Election Briefing with the Shadow Minister for Local Government the Hon Jason Clare MP.	22-Mar-22	23-Feb-22	A8524703	Mayor and Councillors EA
A further complaint from a Keysborough resident regarding trees planted by Council and advice and action taken by Council in relation to the complaint.	02-Mar-22	03-Mar-22	A8552062	Mayor and Councillors EA

NB: Users assigned may have changed by the time of the Council Meeting. Correct at time of report production only.

5 NOTICES OF MOTION

A notice of motion is a notice setting out the text of a motion proposed to be moved at the next relevant meeting. It must be in writing, signed by a Councillor, and be lodged with the Chief Executive Officer in sufficient time for him or her to give each Councillor at least 72 hours notice of such notice.

The guidelines for submitting a notice of motion to a Council meeting are included in the current Governance Rules.

6 REPORTS FROM COUNCILLORS/DELEGATED MEMBERS AND COUNCILLORS' QUESTIONS

The principle purpose of this item in the Council Meeting Agenda is for Councillors to report on their attendance, observations or important matters arising from their liaison or representation with groups for which the Councillor has been formally appointed by Council. In accordance with the documented 'protocol' that applies to either liaisons or representatives, Councillors should raise matters of importance during this item. Other matters may also be reported.

If a Councillor chooses to speak, the name of the conference/event and the Councillor will be noted in the Minutes for that meeting. If a Councillor requires additional information on the conference/event to be listed in the Minutes, they must submit it in writing to a Governance staff member by 12.00pm the day following this Council Meeting.

Question time is provided to enable Councillors to address questions to members of Council staff. The guidelines for asking questions at a Council meeting are included in the current Governance Rules.

Councillors have a total of 15 minutes each to report on their attendances at meetings, conferences or events and to ask questions of Council staff.

7 URGENT BUSINESS

No business may be admitted as urgent business unless it:

- a. Relates to or arises out of a matter which has arisen since distribution of the Agenda.
- b. Cannot safely or conveniently be deferred until the next ordinary meeting and unless agreed to by a majority of those Councillors present at the meeting.