



# Ordinary Meeting of Council Agenda

**to be held on Tuesday 5 February 2019 at 7.00pm  
Fitzroy Town Hall**

## **Arrangements to ensure our meetings are accessible to the public**

Council meetings are held at either the Richmond Town Hall or the Fitzroy Town Hall. The following arrangements are in place to ensure they are accessible to the public:

- Entrance ramps and lifts (off Moor Street at Fitzroy, entry foyer at Richmond).
- Interpreting assistance is available by arrangement (*tel. 9205 5110*).
- Auslan interpreting is available by arrangement (*tel. 9205 5110*).
- A hearing loop is available at Richmond only and the receiver accessory is available by arrangement (*tel. 9205 5110*).
- Proposed resolutions are displayed on large screen.
- An electronic sound system amplifies Councillors' debate.
- Disability accessible toilet facilities are available at each venue.

## **Recording and Publication of Meetings**

An audio recording is made of all public Council Meetings and then published on Council's website. By participating in proceedings (including during Public Question Time or in making a submission regarding an item before Council), you agree to this publication. You should be aware that any private information volunteered by you during your participation in a meeting is subject to recording and publication.

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## **Order of business**

- 1. Statement of recognition of Wurundjeri Land**
- 2. Attendance, apologies and requests for leave of absence**
- 3. Declarations of conflict of interest (Councillors and staff)**
- 4. Confidential business reports**
- 5. Confirmation of minutes**
- 6. Petitions and joint letters**
- 7. Public question time**
- 8. General business**
- 9. Delegates' reports**
- 10. Questions without notice**
- 11. Council business reports**
- 12. Notices of motion**
- 13. Urgent business**

## 1. Statement of Recognition of Wurundjeri Land

*"Welcome to the City of Yarra."*

*"Yarra City Council acknowledges the Wurundjeri as the Traditional Owners of this country, pays tribute to all Aboriginal and Torres Strait Islander people in Yarra and gives respect to the Elders past and present."*

## 2. Attendance, apologies and requests for leave of absence

Anticipated attendees:

### Councillors

- Cr Danae Bosler (Mayor)
- Cr Mi-Lin Chen Yi Mei
- Cr Jackie Fristacky
- Cr Stephen Jolly
- Cr Mike McEvoy
- Cr Daniel Nguyen
- Cr James Searle
- Cr Amanda Stone

### Council officers

- Vijaya Vaidyanath (Chief Executive Officer)
- Ivan Gilbert (Group Manager – Chief Executive's Office)
- Lucas Gosling (Director - Community Wellbeing)
- Gracie Karabinis (Acting Group Manager – People, Culture and Community)
- Chris Leivers (Director – City Works and Assets)
- Diarmuid McAlary (Director - Corporate, Business and Finance)
- Bruce Phillips (Director - Planning and Place Making)
- Mel Nikou (Governance Officer)

### Apology

- Cr Misha Coleman (Deputy Mayor)

## 3. Declarations of conflict of interest (Councillors and staff)

## 4. Confidential business reports

### Item

- 4.1 Contractual matters
- 4.2 Matters prejudicial to Council and/or any person

## **Confidential business reports**

The following items were deemed by the Chief Executive Officer to be suitable for consideration in closed session in accordance with section 89 (2) of the *Local Government Act* 1989. In accordance with that Act, Council may resolve to consider these issues in open or closed session.

### **RECOMMENDATION**

1. That the meeting be closed to members of the public, in accordance with section 89 (2) of the *Local Government Act* 1989, to allow consideration of:
  - (a) contractual matters; and
  - (b) matters prejudicial to Council and/or any person.
2. That all information contained within the Confidential Business Reports section of this agenda and reproduced as Council Minutes be treated as being and remaining strictly confidential in accordance with the provisions of sections 77 and 89 of the *Local Government Act* 1989 until Council resolves otherwise.

## **5. Confirmation of minutes**

### **RECOMMENDATION**

That the minutes of the Ordinary Council Meeting held on Tuesday 18 December 2018 be confirmed.

## **6. Petitions and joint letters**

## **7. Public question time**

Yarra City Council welcomes questions from members of the community.

### Public question time procedure

Ideally, questions should be submitted to Council in writing by midday on the day of the meeting via the form available on our website. Submitting your question in advance helps us to provide a more comprehensive answer. Questions that have been submitted in advance will be answered first.

Public question time is an opportunity to ask questions about issues for which you have not been able to gain a satisfactory response on a matter. As such, public question time is not:

- a time to make statements or engage in debate with Councillors;
- a forum to be used in relation to planning application matters which are required to be submitted and considered as part of the formal planning submission;
- a forum for initially raising operational matters, which should be directed to the administration in the first instance;

If you wish to raise matters in relation to an item on this meeting agenda, Council will consider submissions on these items in conjunction with and prior to debate on that agenda item.

When you are invited by the meeting chairperson to ask your question, please come forward and take a seat at the microphone and:

- state your name clearly for the record;
- direct your questions to the chairperson;
- ask a maximum of two questions;
- speak for a maximum of five minutes;
- refrain from repeating questions that have been asked previously by yourself or others; and
- remain silent following your question unless called upon by the chairperson to make further comment or to clarify any aspects.

## **8. General business**

## **9. Delegates' reports**

## **10. Questions without notice**

## 11. Council business reports

Item		Page	Rec. Page	Report Presenter
11.1	Merri Creek Primary School request to use Council land	7	10	David Walmsley – Manager City Strategy
11.2	East Timor - Baucau Community Network Exchange	12	14	Ivan Gilbert - Group Manager Chief Executive's Office
11.3	Place Naming Policy	15	<b>Error! Bookmark not defined.</b>	Rhys Thomas – Senior Governance Advisor

The public submission period is an opportunity to provide information to Council, not to ask questions or engage in debate.

### Public submissions procedure

When you are invited by the meeting chairperson to make your submission, please come forward and take a seat at the microphone and:

- state your name clearly for the record;
- direct your submission to the chairperson;
- speak for a maximum of five minutes;
- confine your remarks to the matter under consideration;
- refrain from repeating information already provided by previous submitters; and
- remain silent following your submission unless called upon by the chairperson to make further comment.

## 12. Notices of motion

Item		Page	Rec. Page	Report Presenter
12.1	Notice of Motion No. 1 of 2019 - Flying of the ICAN Flag at a Town Hall	16	16	Danae Bosler - Mayor

## 13. Urgent business

Nil

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## 11.1 Merri Creek Primary School request to use Council land

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Trim Record Number: D19/5025

Responsible Officer: Director Planning and Place Making

### Purpose

1. The purpose of the report is to consider a request from Merri Creek Primary School for exclusive use of Council-owned land known as Ottery Reserve while construction works are undertaken at the school site.

### Background

2. Merri Creek Primary School (the school) is situated on a relatively small and constrained site adjoining the Merri Creek. The school is operating at near full student capacity of 450 students.
3. Ottery Reserve is freehold land at the corner of Miller Street and St Georges Road, Fitzroy North that was formed when part of Miller Street was closed (Attachment 1).
4. The school is undergoing development with the addition of new building facilities situated in the north-west corner of the site. These facilities are part of a longer term plan to upgrade buildings and facilities at the school and cater to increasing enrolments.
5. The construction of the new buildings and outdoor courts will occupy approximately a third of the school outdoor play space available to students during construction. Therefore the school is seeking Council's agreement to their exclusive use of Ottery Reserve for the 12 month construction period.
6. In the longer term the School and Victorian School Building Authority (VSBA) are interested in a long-term arrangement to have shared use of the reserve, but this is not part of the current proposal.
7. Ottery Reserve is currently available to the local community providing a small treed space with seating and picnic table. The reserve is fully enclosed by a high chain mesh fence on the street frontages and with a low chain mesh fence along the public footpath separating it from the school grounds. It is understood that the reserve is used by the local community including by people who may use it for exercising dogs. The condition of the surface is quite disturbed in places and would need improvement to suit the school's use.

### External Consultation

8. A fact sheet prepared by the Victorian School Building Authority providing information on the proposed building works was distributed directly to the school community (Attachment 2).
9. Local residents adjoining the school received a letter and fact sheet in July 2018 (Attachment 3).
10. Neither communiqué mention the current request regarding Ottery Reserve.
11. No external consultation has been done by Council with respect to the school's request to use Ottery Reserve.

### Internal Consultation (One Yarra)

12. Internal consultation has been undertaken with Compliance, with regard to the Council Order made on 15 December 2015 under the Domestic Animals Act 1994 relating to dog controls in public places.
13. Internal consultation has been undertaken with Property Services with regard to the process to enter into a possible short term lease.
14. Advice has been obtained from Council's lawyers regarding the application of the Order and the most suitable agreement mechanism to meet the school's request.

### **Financial Implications**

15. If Council decides to enter into a lease with the school to allow exclusive use, there will be financial implications associated with the following:
  - (a) legal fees associated with the creation of the lease; and,
  - (b) minor upgrade works to the reserve, such as removal or replacement of the picnic tables, ground improvements and additional signage in and around the reserve.

### **Economic Implications**

16. There are no economic implications associated with this report.

### **Sustainability Implications**

17. There are no substantive sustainability implications associated with this report. The site would require restorative works post any 12 months lease period.

### **Social Implications**

18. By allowing the school to enter into a 12 month lease for exclusive use of Ottery Reserve, the school would gain access to additional open space for the school community to use while the school building works are occurring.
19. By nature of the agreement, use by the general public would then be excluded.

### **Human Rights Implications**

20. There are no significant human rights implications associated with this report; however, loss of immediate open space to the community for a short period and suitable play area for school children are matters for consideration.

### **Communications with CALD Communities Implications**

21. There has been no communications with CALD communities to date.

### **Council Plan, Strategy and Policy Implications**

22. The Yarra Open Space Strategy (2007) does not make specific reference to Ottery Reserve, however notes that for the precinct:

*“It is anticipated that moderate levels of residential growth will occur in this sub-precinct and this will generate the need to provide additional local open space to cater to the increased number of residents.”*

23. A new Open Space Strategy is currently being prepared and this document may make specific recommendations for the future use of the reserve.

### **Legal Implications**

24. Legal advice indicates that should Council support the school's request it would need to enter into a lease with the School.
25. Advice has confirmed that Council's Order (under the Domestic Animals Act 1994) would not apply to the reserve under a lease. Therefore there is no need for Council to have to change the Order to facilitate the school's request.
26. In effect, the school would have exclusive control over access to the reserve. This would mean that access would only be allowed if the school gave its permission.

### **Other Issues**

27. The broader local community (outside of the school community) have not been consulted on the school's proposal for 12 month exclusive use of Ottery Reserve during building works.
28. It is expected that parts of the community would have concerns about the exclusive use arrangement and the loss of the space for community use.
29. It is noted that Bundara Reserve on the opposite side of St Georges Road offers a readily accessible alternative open space for the community to use.



30. It is anticipated that there would be strong support for the proposal among the school community, many of whom will also be local residents.
31. It is understood that a 12 month lease does not need to be advertised, refer s191 Local Government Act 1989. Council could, however, advertise its intention to enter into the agreement to the local community and then consider any submissions it receives. That would take some months.
32. The school has requested the following changes to the site to allow its safe use for children:
  - (a) exclusive use by the school;
  - (b) increasing the height of the existing fencing including a lockable gate on the school side of the reserve;
  - (c) review of cycle movements around the reserve to ensure safe passage of children between the school site and the reserve; and
  - (d) removal or relocation of the picnic tables.
33. The school has also requested the ground surface be re-turfed to improve conditions for use. This work would be undertaken at the school's cost.
34. Any lease with the VSBA and the school would need to formalise the details of the use of the reserve including matters such as insurance, maintenance responsibilities, etc.
35. The school has advised the following timelines with respect to the commencement of construction works:
  - (a) tenders close (week commencing 1 October 2018);
  - (b) appoint construction contractor (late October 2018);
  - (c) commence construction works (mid-late November 2018); and
  - (d) an anticipated 12 month construction period, with school yards to be re-opened in January 2020.
36. A lease would need to be prepared and executed between the Department of Education, the School and Council.

## Options

### Option 1 – enter into a 12 month exclusive lease with the school during the period of school building works (February 2019 – February 2020)

#### *Officer comments*

37. Option 1a – no advertising of lease:
  - (a) This would allow the school extra outdoor spaces for the benefit of children attending the school for the period of construction works; and
  - (b) Council could enter into a lease without advertising or consulting with the community. This would enable a decision to be made promptly in February.
38. Option 1b – advertising of lease:
  - (a) Alternatively, Council could undertake some local consultation and consider community feedback before determining whether to support the school's request. This is likely to take a further eight weeks before Council could consider the school's request; and
  - (b) Considering the imminent commencement of substantive school building works the school is needing Council to consider its request urgently.

Option 2 – decline the request from the school for exclusive use of Ottery Reserve during school building works

*Officer comments*

39. In this scenario, Ottery Reserve would remain accessible to the broader community, as currently occurs.
40. The school would have to contend with a significantly reduced outdoor area for their recess and physical education while the construction works occur at the school.

**Conclusion**

41. The reduction in school play space due to the school construction works will clearly have an impact on the availability of play space for the children attending the school. Access to Ottery Reserve would provide a convenient and easily accessible additional play space for the school to use children to use and alleviates the pressure on the existing school grounds and managing recess and lunchtime play periods.
42. The exclusive use of the Council-owned reserve by the school is likely to generate a reaction from the local community, both for and against the proposal.
43. Ottery Reserve functions as a very local park with minimal facilities (for instance there is no play equipment provided). An alternative and larger open space is available in Bundara Reserve that could be used by the local community during the 12 month period.
44. Given the imminent commencement of substantive building works the school is seeking Council's urgent consideration of their request and its support for an exclusive 12 month lease.
45. A lease does not require formal advertising or exhibition. A lease would need to be prepared and executed between the school and Council following any favourable decision by Council.
46. In these circumstances, officers support the request for a 12 month exclusive lease by the Merri Creek Primary School of Ottery Reserve without advertising (that is, Option 1a).

**RECOMMENDATION**

1. That Council:
  - (a) note the officer report following representations by the Merri Creek Primary School and the circumstances of the school's request and its need for additional safe play space during the 12 month period of building construction;
  - (b) note the alternative open space in Bundara Reserve available in close proximity to the local community;
  - (c) having considered the circumstances, agree to the request by the Merri Creek Primary School for a lease of Ottery Reserve from February 2019 to end February 2020, including allocating responsibility to the school for any works necessary to support its use of and for the management of the reserve at its sole cost;
  - (d) authorise the Chief Executive Officer to prepare and execute a lease with the Merri Creek Primary School and the Department of Education and Training for a term of 12 months commencing in February 2019 and expiring end February 2020; and
  - (e) determine the lease for this period be at a rent of \$416 (plus GST) per annum, including any other terms and conditions as may be required by Council, providing for Merri Creek Primary School and the Department of Education and Training becoming sole responsibility for all works to Ottery Reserve to enable it to be used by the Merri Creek Primary School as open space for its purposes and to reinstate Ottery Reserve to a public park to Council's requirements at the end of the term of the lease, solely at the school's cost.

**CONTACT OFFICER:** David Walmsley  
**TITLE:** Manager City Strategy  
**TEL:** 9205 5350

**Attachments**

- 1 [↔](#) Merri Creek Primary School Aerial View
- 2 [↔](#) Attachment 2 - Merri Creek PS - fact sheet
- 3 [↔](#) Attachment 3 - Construction on Merri Creek Primary School - Resident Letter

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## 11.2 East Timor - Baucau Community Network Exchange

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Trim Record Number: D19/7287

Responsible Officer: Group Manager Chief Executive's Office

### Purpose

1. To note and authorise participation in a joint visit by Darebin/Yarra Community Centres Network to Baucau, East Timor.

### Background

2. Yarra Council has for many years jointly with Darebin City Council participated in a community support network with the District of Baucau in East Timor. This arrangement has included regular visits by community representatives to Baucau to exchange information and support community development programs, especially as the system of local government is gradually established and the processes of central Government decentralising services back to a local level are progressed.
3. Council in 2014 resolved to sign a Municipal Agreement between Yarra City Council and the Timor Leste, District of Baucau. Similar Agreements were signed by a number of Victorian Councils at the time concerning their respective "sister" Districts. The Agreement program was developed following negotiations between the Victorian Government (Local Government Victoria) and the Timor-Leste Government as part of a program to further develop its governmental structures and programs as part of the decentralisation of powers to the Districts and Municipalities (**Refer Copy Municipal / District Co-operation Agreement – Attachment 1**).
4. The program is also supported by a network of community groups across Victoria, one of which is the Friends of Baucau being a Yarra/Darebin based organisation, which each provide ongoing support to a range of community organisations in Timor-Leste.
5. In addition to the above, from time to time Yarra in conjunction with Local Government Victoria and the Friends of Baucau Group, hosts representatives from each of the District of Baucau and the Timor – Leste Government for short periods (1 to 2 weeks) to offer training, advice and practical experiences in each of the structuring and the delivery of local government and community services (e.g. planning, waste management, governance and community services).
6. As part of the ongoing support program, Friends of Baucau are taking a delegation from Darebin and Yarra to Baucau for a 10 day visit in April / May 2019 with a particular emphasis on meeting with and identifying appropriate support mechanisms especially for Women's Networks in Baucau and establishing connections with Neighbourhood Houses in Darebin and Yarra.
7. The party will include representatives from:- Friends of Baucau Group, Neighbourhood House Committees in each of Yarra and Darebin and a Darebin City Councillor.
8. The Office of Local Government Victoria is assisting in the organisation of the visit and establishing appropriate connections.
9. In accord with the principles outlined in the Co-operation Agreement, there is an excellent opportunity for Council to participate in this visit and assist in both, offering experienced advice and gathering information, on those areas where future community / local government service assistance will be most desired and best focussed. The participating parties would also like to have a Yarra Council representative join the Group in order to meet with local District representatives and inquire / learn about the particular areas of assistance most required by the local authority.

### **External Consultation**

10. Ongoing communication is occurring with both - Officers of Local Government Victoria and representatives of the Community organisation Friends of Baucau.

### **Internal Consultation (One Yarra)**

11. Discussion has occurred with relevant Officers of Council and a proposal developed for a Manager level Officer to participate in the upcoming exchange visit. In this regard it is proposed that Mr Aldo Malavisi, Community Partnership Unit Manager, who has both extensive experience and a very comprehensive appreciation of the effective and efficient operation of community organisations and service delivery, as a most appropriate Officer to participate in the trip.
12. Mr Malavisi would in addition to being involved in the community network services, also be intended to liaise with District of Baucau representatives and identify the range of areas where assistance, training and exchange of information re Council service planning and delivery, would be most appropriately directed into the future.

### **Financial Implications**

13. Council has provision within the current budget to support the ongoing arrangements under the Municipal Co-operation Agreement and it is proposed that funding for the airfare and other costs be met from this allocation. The estimated costs total \$3,500, comprising:- air travel \$1,300, accommodation \$1,700 and incidentals \$500.

### **Economic Implications**

14. Not relevant to this report.

### **Sustainability Implications**

15. Not relevant to this report.

### **Social Implications**

16. The Co-operation program also offers assistance and support to our local community groups in terms of focussed guidance as to the areas which they are best able to provide assistance to their Timor – Leste counterpart groups.

### **Human Rights Implications**

17. Council is a strong supporter of human rights and equal opportunity. A key theme underpinning the exchange program is to assist in establishing services at a local level which support that community and are equitably structured.

### **Communications with CALD Communities Implications**

18. Not relevant to this report.

### **Council Plan, Strategy and Policy Implications**

19. Not relevant to this report.

### **Legal Implications**

20. There are no legal implications to this report.

### **Other Issues**

21. None applicable.

### **Options**

22. To participate or not participate the program.

### **Conclusion**

23. That Council:
  - (a) note the report;

- (b) approve the participation by Mr Malavisi in the visit to Timor-Leste as arranged by Local Government Victoria; and
- (c) request a report back to Council on the outcome of the visit.

## **RECOMMENDATION**

1. That Council:
  - (a) note the report;
  - (b) approve the participation by Mr Malavisi in the visit to Timor-Leste as arranged by Local Government Victoria; and
  - (c) request a report back to Council on the outcome of the visit.

**CONTACT OFFICER:** Ivan Gilbert  
**TITLE:** Group Manager Chief Executive's Office  
**TEL:** 9205 5110

## **Attachments**

- 1 [⇒](#) Municipal / District Co-operation Agreement

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**11.3 Place Naming Policy**

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Trim Record Number: D19/13003

Responsible Officer: Group Manager Chief Executive's Office

THIS ITEM HAS BEEN WITHDRAWN FROM THE AGENDA

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## 12.1 Notice of Motion No. 1 of 2019 - Flying of the ICAN Flag at a Town Hall

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Trim Record Number: D19/12700

Responsible Officer: Group Manager Chief Executive's Office

I, Councillor Danae Bosler, hereby give notice that it is my intention to move the following motion at the Ordinary Meeting of Council to be held on 5 February 2019:

*“That Council:*

- (a) note a request from the International Campaign to Abolish Nuclear Weapons (ICAN) seeking Council’s support to flying of the **ICAN Flag** on August 6<sup>th</sup> each year being the anniversary of the Hiroshima bombing in 1945;*
- (b) also note its resolution of 18 December 2018, congratulating ICAN on its contribution toward global nuclear disarmament and endorsing the ICAN Cities Appeal;*
- (c) approve the request to fly the ICAN Flag; and accordingly; and*
- (d) amend the Community Flag Schedule in the Civic Flag Policy to include the flying of the ICAN flag at a Town Hall on 6 August each year.”*

### RECOMMENDATION

1. That Council:

- (a) note a request from the International Campaign to Abolish Nuclear Weapons (ICAN) seeking Council’s support to flying of the **ICAN Flag** on August 6<sup>th</sup> each year being the anniversary of the Hiroshima bombing in 1945;
- (b) also note its resolution of 18 December 2018, congratulating ICAN on its contribution toward global nuclear disarmament and endorsing the ICAN Cities Appeal;
- (c) approve the request to fly the ICAN Flag; and accordingly; and
- (d) amend the Community Flag Schedule in the Civic Flag Policy to include the flying of the ICAN flag at a Town Hall on 6 August each year.

### Attachments

There are no attachments for this report.