



Ordinary Meeting of Council Agenda

**to be held on Tuesday 18 September 2018 at 7.00pm
Richmond 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 Daniel Nguyen (Mayor)
- Cr Danae Bosler
- Cr Mi-Lin Chen Yi Mei
- Cr Jackie Fristacky
- Cr Stephen Jolly
- Cr Mike McEvoy
- 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)
- Chris Leivers (Director – City Works and Assets)
- Stewart Martin (Acting Director - Corporate, Business and Finance)
- Bruce Phillips (Director - Planning and Place Making)
- Jane Waldock (Assistant Director - Planning and Place Making)
- Mel Nikou (Governance Officer)

Leave of absence

- Cr Misha Coleman (Deputy Mayor)

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

4. Confidential business reports

Item

- 4.1 Contractual matters

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 contractual matters.
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 4 September 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; and
- 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	Trial of variable pricing for parking in Bridge Road	8	11	Stewart Martin – Acting Director Corporate Business and Finance
11.2	Proposed discontinuance of road at the rear of 359 & 361 Pigdon Street, Princes Hill	12	16	Bill Graham – Coordinator Valuations
11.3	Proposed discontinuance of road at rear of 88-90 Johnston Street, Collingwood.	17	21	Bill Graham – Coordinator Valuations
11.4	Proposed discontinuance of road abutting the rear of 27 Rushall Crescent, Fitzroy North	23	26	Bill Graham – Coordinator Valuations
11.5	Yarra Planning Scheme Amendment C225 - Panel report and adoption	27	35	David Walmsley – Manager City Strategy
11.6	Amendment C245 - Heritage Studies: Theatres, Bridge Road and Victoria Street and corrections to heritage and zone anomalies	36	42	David Walmsley – Manager City Strategy
11.7	Edinburgh Gardens Sporting Community request for WT Peterson Oval, Edinburgh Gardens	43	45	Chris Leivers – Director City Works and Assets
11.8	Procurement Policy	47	48	Ange Marshall – Chief Financial Officer

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. 12 of 2018 - Mandating Environmental Principles in Planning Legislation	50	50	Amanda Stone - Councillor
12.2	Notice of Motion No. 13 of 2018 - Proposal to Name Laneway No. 1600 as MacKillop Place.	51	52	Danae Bosler - Councillor

13. Urgent business

Nil

11.1 Trial of variable pricing for parking in Bridge Road

Trim Record Number: D18/143609

Responsible Officer: Acting Director Corporate, Business and Finance

Purpose

1. To update Council on the trial of variable pricing for parking on Bridge Road including the feedback from the Bridge Road Trader forum that was held in accordance with the 19 June 2018 Council resolution.

Background

2. At its meeting 7 June 2016 in relation to 2016/17 budget adoption Council resolved:

That Council:

- (ii) *Undertake a trial of variable parking fees, including exploration of a one-hour free parking option, in the 2016/2017 financial year.*
3. Work on the development of the Bridge Road variable parking pricing trial commenced with a number of meetings between the Council officers and the Bridge Road Trader Executive and it was agreed that the trial would be limited to the kerbside bays in Bridge Road and that the first stage of the trial would be data collection.
4. In July 2017, 294 in-ground sensors were installed in each of the parking bays between Hoddle Street and Jones Place on the north side and Hoddle Street and Stawell Street on the south side of Bridge Road to provide the evidence to support the development of a variable parking trial model.
5. Analysis of the data provided by in-ground sensors revealed the following:
 - (a) arrivals by car:
 - (i) 4,000 – 5,500 people arrive by car into Bridge Road (Hoddle Street- Hawthorn Bridge) each day. Note that the trial of variable parking is only focused on the parking bays in Bridge Road and it is recognised that more people arrive by other modes of transport and also by cars and park in side streets;
 - (ii) Bridge Road car arrivals are lowest on Sundays and highest on weekdays; and
 - (iii) Bridge Road car arrivals are highest during the control (2 hour paid) periods when around 80 – 100 people arrive every 15 minutes;
 - (b) length of stay of people who arrive by car:
 - (i) generally, people who arrive in the precinct by car and park on Bridge Road stay on average for between 15 – 30 minutes;
 - (ii) when during paid parking periods the average length of stay ranges from 14 – 21 minutes (weekdays and Sundays); and
 - (iii) in the evenings, after all controls, the average length of stay ranges from 18 – 26 minutes (weekdays and Saturdays);
 - (c) availability of empty parking bays:
 - (i) when the Clearways are in force, the supply of bays is reduced significantly – especially during the morning peak. Even when controls apply in these periods, there are a limited number of empty bays;
 - (ii) when the supply of bays increases after the AM Clearway period, the bays are underutilised (too many are empty). Utilisation then rises, and optimum utilisation is reached during the middle of the day;

- (iii) when controls apply on Saturdays and Sundays the availability of bays is in the optimum band of 70% - 85%; and
- (iv) occupancy peaks on Saturday evenings in the optimum band at 75%. The peak on Sunday evenings is lower (63%); and
- (d) frequency of visits (by car):
 - (i) the *PayStay* data shows that (of the people who pay by phone), only 22.5% park in Bridge Road more than once per month.

Variable Pricing Trial

6. Variable pricing for parking is not common in Australia and officers are not aware of any other trial in Victoria where we could learn what worked and what didn't and understand what some of the unintended consequences of varying the price may be. Officers have therefore engaged Phillip Boyle & Associates to project manage the trial and provide the analytical expertise to measure the impacts of the trial and recommend any further adjustments to the controls. Phillip Boyle & Associates have extensive parking experience both here and overseas.
7. Phillip Boyle & Associates will also use the results of the Bridge Road trial to help Council develop an evidence based methodology that can be used across our city where paid parking applies.
8. Phillip Boyle & Associates have assisted Council with the data analysis of the Bridge Road sensors and the development of the variable pricing model.
9. This model was presented to the Bridge Road Trader Group and, following a number of discussions, the model for a variable pricing parking trial has been agreed and the trial will commence in early October, for an initial period of twelve months.
10. There will be an evaluation every three months to determine if the trial is having the desired effect of increasing visitations. Changes to the fee will only be considered where there is compelling evidence and the changes may affect some sections of the street or the entire street.
11. The initial fee to park on Bridge Road for the first three months will be \$2.00 for the first half hour and then free for the next half hour – any time in excess of the first hour will be at the normal rate of \$4.00 per hour.
12. The objective of the trial is to make Bridge Road a more attractive place so that people will visit more often, stay longer and enjoy more of what the street has to offer. Parking can play a role in this however an active trader group promoting the strip will also be critical to a more viable shopping strip.
13. It needs to be noted that this variable pricing option will be available to both the users of the pay stay mobile phone application and the new parking meters.
14. The pay stay system currently has some 400,000 registered users and Council plans to use this system to advise all users of the changes to pricing in Bridge Road and to offer some promotions to encourage increased visitations to the centre.
15. The trial is expected to commence in early October, subject to the installation of the new parking meters. There will be some minor changes to the parking restrictions in some sections of the street to make them more consistent and the in ground sensors will be used for enforcement of the parking bays following the normal one week warning period.

External Consultation

16. Council officers have had regular meetings with the Bridge Road Trader Group Executive and have made all sensor data and analysis available to them for consideration. The Executive support the Bridge Road trial and have indicated that they are looking forward to working with Council on the project.

Bridge Road Trader Forum

17. At the June 19 meeting Council resolved that officers were to organise a forum within the next two months with all Bridge Road traders and Ward Councillors to discuss the trial and that Council was to receive a further report following the forum and any other discussions.
18. The Trader Forum was arranged for 22 August 2018 at the Richmond Town Hall with two sessions (10.00 am and 5.30 pm). Council's communications team designed an invitation and fact sheet which was hand delivered to some 653 properties two weeks prior to the forum.
19. Council's Economic Development team subsequently arranged, through Bridge Road marketing, for the invitations to be emailed to traders one week prior to the forum.
20. Officers received a couple of telephone calls prior to the meeting from traders stating they would be unable to attend however no other responses were received.
21. The first forum at 10.00am had one trader present and there were two traders at the 5.30 pm session. These traders were all part of the Bridge Road Executive and stated that the feedback they had received regarding the variable pricing trial had been very positive.
22. The forum was widely advertised and all traders had the opportunity to provide feedback and to find out more about the variable pricing trial so it would be reasonable to say that traders either felt indifferent to the trial or that they have no concerns regarding the trial.

Internal Consultation (One Yarra)

23. The Bridge Road Trial project team have been in regular contact with Council's Economic Development team to update on the meetings with the trader group and progress on the development of the model of the variable pricing trial.

Financial Implications

24. It is difficult to accurately estimate the impact of the variable pricing trial will have on the parking revenue as the average parking stay is currently less than 30 minutes and the trial charges for the first 30 minutes and offers the second 30 minutes for free.
25. Currently Council receives approx. \$1.1 million p.a. from parking revenue in Bridge Road and while there will likely be some reduction in this revenue resulting from the variable pricing trial this could be offset with an increase in visitations to the street.
26. The cost of the engagement of Phillip Boyle to project manage the trial will be met from existing resources.

Economic Implications

27. The objective of the trial is to make Bridge Road a more attractive place so that people will visit more often, stay longer and enjoy more of what the street has to offer. Parking can play a role in this however an active trader group promoting the strip will also be critical to a more viable shopping strip.

Sustainability Implications

28. No sustainability issues.

Social Implications

29. No social issues.

Human Rights Implications

30. No human rights issues.

Communications with CALD Communities Implications

31. Any communications will follow Council's current communications policy and practice relating to the CALD community.

Council Plan, Strategy and Policy Implications

32. The 2016/17 Annual Plan action 3.08 (New parking technology) includes a number of milestones and actions for the trial of variable pricing in Bridge Road.

Legal Implications

33. Officers are not aware of any legal implications.

Other Issues

34. No other issues are identified at this stage.

Options

35. No other options are proposed at this point.

Conclusion

36. Council officers have been working on the model for the Bridge Road variable parking pricing trial in conjunction Bridge Road Trader Group Executive and it has been agreed that the first adjustment will be a price reduction - visitors who pay \$2.00 for the first half an hour will receive the second half an hour for free. Additional time after the first hour will be at the current rate of \$4.00 per hour.
37. It is recognised that this trial will be a first for Yarra and will bring with it both challenges and opportunities. Officers will continue to work closely with community stakeholders to ensure the maximum amount of learning and information is gathered by this trial. It is anticipated that the learning from this trial will inform opportunities for more effective parking management models across Yarra.

RECOMMENDATION

1. That Council:
- (a) notes the contents of this report; and
 - (b) receives an update report at the six and twelve month marks of the project and regular briefings and updates from Officers throughout the trial.

CONTACT OFFICER: Damien Patterson
TITLE: Major Projects and Analysis Officer
TEL: 9205 5462

Attachments

There are no attachments for this report.

11.2 Proposed discontinuance of road at the rear of 359 & 361 Pigdon Street, Princes Hill

Trim Record Number: D18/138630

Responsible Officer: Acting Director Corporate, Business and Finance

Purpose

1. This report seeks Council's authority to commence statutory procedures pursuant to the *Local Government Act 1989 (Act)*, to consider discontinuing a 47.7 square metre section of road at the rear of 359 & 361 Pigdon Street, Princes Hill, shown as lots 1 and 2 on the title plan attached as Attachment 1 to this report (**Title Plan**) and shown outlined red and hatched red on the plan attached as Attachment 2 to this report (**Site Plan**), being the whole of the land contained in certificate of title volume 1618 folio 508 (**Road**).

Background

2. The following adjoining properties abut the Road on its northern boundary:
 - (a) 361 Pigdon Street, Princes Hill, being the land contained in certificate of title volume 6730 folio 848 and outlined green on the Site Plan; and
 - (b) 359 Pigdon Street, Princes Hill, being the land contained in certificate of title volume 4849 folio 632 and outlined yellow on the Site Plan.
3. Together, the **Applicant's Properties**.
4. The Road also abuts, or is adjacent to, the following properties (together **Adjoining Properties**), as shown outlined blue on the Site Plan:
 - (a) 357 Pigdon Street, Princes Hill, being the land contained in certificate of title volume 1562 folio 669; and
 - (b) 25-35 Garton Street, Princes Hill, being the land contained in certificate of title volume 2809 folio 669.
5. The title search for the property 357 Pigdon Street, Princes Hill shows that the owners of that property benefit from a right of carriageway easement over the Road. The title search and plan for 357 Pigdon Street, Princes Hill is attached as Attachment 3 to this Report.
6. The owner of 359 Pigdon and the owner of 361 Pigdon (together **Owners**) have requested that Council discontinue the Road and sell:
 - (a) that part of the Road shown hatched red on the Site Plan (being lot 1 on the Title Plan) (**Lot 1**) to the Owner of 361 Pigdon Street; and
 - (b) that part of the Road shown outlined red on the Site Plan (being lot 2 on the Title Plan) (**Lot 2**) to the Owner of 359 Pigdon Street.
7. The Owners have agreed to pay Council's costs and disbursements associated with the proposed discontinuance of the Road, together with the market value for the sale of the discontinued Road.

Road

8. The Road is shown on title as a 'road' and has been constructed and historically used as a right of way.
9. The Road is therefore a 'road' for the purposes of the Act which Council has the power to consider discontinuing. Upon being discontinued, the Road will vest in Council.
10. The Road is listed on Council's Register of Public Roads. It is considered that the Road is no longer reasonably required for general use pursuant to section 17(4) of the *Road Management Act 2004 (Vic)* as:

- (a) only the Applicants' Properties have direct physical access from the rear of each of their properties to the Road by way of back doors, gates and garage doors and the Road is used exclusively for this purpose;
- (b) the southern end of the Road has been gated since at least 2009 and, accordingly, the general public has not been able to access the Road since that time;
- (c) The south western boundary of the adjoining property at 357 Pigdon Street, Princess Hill (**357 Pigdon**) abuts the eastern boundary of the Road and the owners benefit from a right of carriageway easement over the Road which is shown on the title search and plan for 357 Pigdon (see Attachment 3 to this report), however the Road is not reasonably required for use by 357 Pigdon, as;
 - (i) 357 Pigdon does not have any pedestrian or vehicular access from that property directly to the Road (such as doors or gates). 357 Pigdon can only gain access to the Road via the rear alleyway outlined in orange on the Site Plan;
 - (ii) there is no evidence that 357 Pigdon has used the Road for access to its property; and
 - (iii) the owners of 357 Pigdon have confirmed in writing on 9 April 2018 that they do not have any objection to the Proposal.

Adjoining Owners

- 11. The Owners contacted the owners of the Adjoining Properties on 9 April 2018 in respect of the Proposal.
- 12. On 9 April 2018, the owners of the property at 357 Pigdon Street, Princes Hill confirmed that they do not have any objection to the Proposal.
- 13. On 16 April 2018, the owners of the property at 25-35 Garton Street, Princes Hill confirmed that they do not have any objection to the Proposal.
- 14. Copies of the responses received from the Adjoining Owners are attached as Attachment 4 to this report.

Site Inspection

- 15. A site inspection of the Road was conducted by DML Land Surveyors on 23 February 2018. The site inspection report notes that:
 - (a) the Road is not open and available for use by the public, as the Road is currently gated at the southern end to restrict access to the Road;
 - (b) the Road is currently used exclusively for access to the rear of each of the Applicants' Properties and for outdoor storage by the Owners of 359 and 361 Pigdon Street, respectively;
 - (c) a brick wall and building on the south western boundary of the adjoining property at 25-35 Garton Street, Princes Hill, encroaches onto the Road, and the encroachment is less than 0.10m wide (**Encroachment**);
 - (d) the adjoining property at 357 Pigdon Street, Princes Hill, which abuts the eastern boundary of the Road, benefits from a right of carriageway easement over the Road which is registered on the certificate of title. The eastern boundary of the Road is fenced and the adjoining property does not have direct physical access to the Road; and
 - (e) the Road is not currently used for public access.
- 16. A copy of the site inspection report is attached as Attachment 5 to this report.
- 17. The Owners are aware of the Encroachment. Any sale of the Road by Council would be subject to the Encroachment.

Public Authorities

18. The following statutory/public authorities have been advised of the proposed discontinuance of the Road and have been asked to respond to the question of whether they have any existing assets in the Road which should be saved under section 207C of the Act: City West Water, Melbourne Water, CitiPower, APA Group, Telstra, Optus and Yarra City Council.
19. Melbourne Water, CitiPower, APA Group, Telstra, Optus and Yarra City Council advised that they have no assets in or above the Road and no objection to the proposed discontinuance of the Road.
20. In a letter dated 1 November 2017, City West Water (**CWW**) advised that it did not object to the proposal, subject to the following conditions:
 - (a) A certified plan must show a 2.0m wide centrally located Sewerage Easement to be in favour of CWW pursuant to section 12(1) of the *Subdivision Act 1988* (Vic). This plan must then be referred to CWW for consideration prior to offering a withdrawal of objection;
 - (b) Any proposed fences must be located a minimum distance of 800mm clear of the centreline of existing CWW sewer mains;
 - (c) Any proposed fence lines must be located a minimum distance of 1.0m from sewer manholes and/or sewer inspection shafts; and
 - (d) Any proposal to build over a sewer asset will require CWW's written consent (i.e. Build-Over Application approval).
21. A copy of the correspondence from CWW is contained in Attachment 6 to this report.

Public Notice

22. Before proceeding with the discontinuance of the Road, Council must give public notice of the Proposal in accordance with sections 207A and 223 of the Act. The Act provides that a person may, within 28 of the date of the public notice, lodge a written submission regarding the Proposal.

External Consultation

23. All Adjoining owners will be forwarded a copy of the public notice issued in respect of this proposal.

Internal Consultation (One Yarra)

24. No internal consultation is required for this report.

Financial Implications

25. There are no financial implications arising from this report.

Economic Implications

26. The owners have agreed to acquire the Road for its market value (plus GST), as determined by the Act.
27. In addition to the market value of the Road (plus GST), the Owners have agreed to pay Council's costs and disbursements associated with the Proposal.

Sustainability Implications

28. There are no sustainability implications arising from this report.

Social Implications

29. There are no social implications arising from this report.

Human Rights Implications

30. There are no human rights implications arising from this report.

Communications with CALD Communities Implications

31. All notices and correspondence issued in respect of this proposal will contain a reference to Yarralink Interpreter Service.

Council Plan, Strategy and Policy Implications

32. There is no Council Plan, Strategy or Policy Implications.

Legal Implications

33. If the Road is discontinued and sold to the Owners, Council will require:
- (a) the Owners of 359 Pigdon and 361 Pigdon to create a sewerage easement in favour of City West Water along the length of the Road (this can be effected as part of the transfer of land);
 - (b) the Owners of 359 Pigdon and 361 Pigdon to observe the conditions imposed by City West Water in respect of the Road;
 - (c) the title to Lot 1 (being part of the Road hatched red on the Plan) to be consolidated with the title to the property 361 Pigdon Street, Princes Hill within 6 months of the date of transfer of Lot 1 to the Owners of 361, at the Owners of 361's expense; and
 - (d) the title to Lot 2 (being part of the Road outlined red on the Plan) to be consolidated with the title to the property at 359 Pigdon Street, Princes Hill within 6 months of the date of transfer of Lot 2 to the Owners of 359, at the Owners of 359's expense.

Other Issues

34. There are no other issues.

Options

35. There are no options associated with this report.

Proposal

36. It is proposed that:
- (a) Council should remove the road from Council's Register of public Roads for the reason that the Road is no longer reasonably required for general public use as;
 - (b) only the Applicant's Properties have direct physical access from the rear of each of their properties to the Road by way of back doors, gates and garage doors and the Road is currently used exclusively for this purpose;
 - (c) the southern end of the Road has been gated since at least 2009 and accordingly the general public has not been able to access the Road since that time;
 - (d) notwithstanding that 357 Pigdon benefits from a carriageway easement registered on the title to 357 Pigdon to use the Road, the owners of 357 Pigdon have agreed to the Proposal and there is no evidence that the owners of 357 Pigdon have used the Road for access to their property; and
 - (e) Council should commence the statutory procedures pursuant to clause 3 of Schedule 10 of the Act to discontinue the Road and sell the Road to the Owners.

RECOMMENDATION

1. That Council, acting under section 17(4) of the *Road Management Act 2004*, resolves that the road at the rear of 359 & 361 Pigdon Street, Prices Hill, which is shown as lot 1 and lot 2 on the plan contained in Attachment 1 to this report, being the whole of the land contained in certificate of title volume 1618 folio 508 (**Road**), be removed from Council's Register of Public Roads on the basis that the Road is no longer reasonably required for general public use:
2. That Council, acting under clause 3 of schedule 10 of the Local Government Act 1989 (**Act**):
 - (a) resolves that the required statutory procedures be commenced to discontinue the Road;
 - (b) directs that under sections 207A and 223 of the Act, public notice of the proposed discontinuance be given in the appropriate newspapers, social media and adjoining properties;
 - (c) resolves that the public notice required to be given under sections 207A and 223 of the Act should state that if the Road is discontinued Council proposes to sell Lot 1 on the Title Plan to the adjoining owner of 361 Pigdon Street, Princes Hill and Lot 2 on the Title Plan to the adjoining owner of 351 Pigdon Street, Princes Hill for market value (plus GST) as determined by the Act; and
 - (d) authorises the Valuations Coordinator Bill Graham to undertake the administrative procedures necessary to enable Council to carry out its functions under section 223 of the Act in relation to this matter.

CONTACT OFFICER: Bill Graham
TITLE: Coordinator Valuations
TEL: 9205 5270

Attachments

- 1⇒ Title Plan
- 2⇒ Site Plan
- 3⇒ Title Search
- 4⇒ Adjoining Owner Response
- 5⇒ Site Inspection report
- 6⇒ CWW Correspondence

11.3 Proposed discontinuance of road at rear of 88-90 Johnston Street, Collingwood.

Trim Record Number: D18/140713

Responsible Officer: Acting Director Corporate, Business and Finance

Purpose

1. This report seeks Council's authority to:
 - (a) remove the road at the rear of 88-90 Johnston Street, Collingwood (**Road**) from Council's Register of Public Roads pursuant to section 17(4) of the *Road Management Act 2004* (Vic) (**RMA**); and
 - (b) commence statutory procedures pursuant to the *Local Government Act 1989* (Vic) (**Act**) to consider discontinuing the Road at the rear of 88-90 Johnston Street, Collingwood.

Background

2. The Road is comprised of, the whole of the land contained in certificate of title volume 976, being lot 1 on title plan PS962046U (**Blue Road**), shown as the area outlined blue on the plan attached as Attachment 1 to this report (**Site Plan**) and part of the land contained in Memorial Book O No. 870 (**Yellow Road**), shown as the area outlined yellow on the Site Plan.
3. 88 Johnston Street Pty Ltd (**Applicant**) is the owner of the properties adjoining the Road shown outlined red on the Site Plan, Being:
 - (a) 80-88 Johnston Street, Collingwood, being the land contained in certificate of title volume 8285 folio 994 (**88 Johnston**);
 - (b) 90 Johnston Street, Collingwood, being the land contained in certificate of title volume 3231 folio 011 (**90 Johnston**); and
 - (c) 59-63 Sackville Street, Collingwood, being the land contained in certificate of title volume 8898 folio 355 (**59 Sackville**).
4. Together, the Applicant's Properties.
5. Planning Permit number PLN16/0337 for the construction of a mixed use building was approved by VCAT in December 2016. The multi-story development of the Applicant's Properties will include both the Blue and Yellow Roads.
6. The road is adjacent to the rear of the following properties, (together **Adjacent Properties**), 72, 74, 76, and 78 Johnston Street, Collingwood. The Adjacent Properties are shown outlined green on the Site Plan.
7. The Applicant has requested that Council discontinue the Roads and sell the former Roads to the Applicant (**Proposal**).
8. The Applicant has agreed to pay Council's costs and disbursements associated with the proposed discontinuance of the Roads, together with the market value for the transfer of the former Roads to the Applicant.

Road Status

9. **The Blue Road:**
 - (a) is registered in the name of the Applicant as a result of an application made by the Applicant to the Registrar of Titles to bring the land under the operation of the *Transfer of Land Act 1958* (Vic);
 - (b) is not shown as a road on title, however the Blue Road is listed on Council's Register of public Roads. Accordingly, the Blue Road is a 'public road' for the purposes of the RMA and therefore a 'road' for the purposes of the Act which Council has the power to consider discontinuing. If discontinued, the Blue Road will vest in Council;

- (c) has not been accessible to the general public for some time, as part of the building constructed on 88 Johnston and 90 Johnston has encroached over the whole of the Blue Road since at least 1975 (**Encroaching Building**);
- (d) is used solely as part of the Encroaching Building; and
- (e) does not provide access to any other Applicant's Properties adjoining the Blue Road, 59 Sackville.

10. **The Yellow Road:**

- (a) is registered in the name of Thomas Greenwood, Frederick Clews and Charles Woodward;
- (b) is constructed of bitumen;
- (c) is known to title as a 'road' and is listed on Council's Register of Public Roads. The Yellow Road is therefore a 'road' for the purposes of the Act which Council has the power to consider discontinuing. If discontinued, the Yellow Road will vest in Council;
- (d) adjoins the road at the rear of the Adjoining Properties, however the Yellow Road is not required for access to the rear of the Adjoining Properties;
- (e) is used primarily for rear access to 88 Johnston as a driveway; and
- (f) does not provide access to the other Applicants Properties at 90 Johnston and 59 Sackville.

Site Inspection

- 11. A site inspection of the Yellow Road was conducted by DML Land Surveyors on 7 February 2018. The site inspection report which is attached as Attachment 2 to this report notes that:
 - (a) the Yellow Road is constructed of bitumen;
 - (b) there is evidence of vehicular or pedestrian traffic on the Yellow Road;
 - (c) the Yellow Road primarily provides rear access to 88 Johnston Street as a driveway;
 - (d) the Yellow Road is not fenced; and
 - (e) the Yellow Road is not considered to be required for public access.
- 12. A site inspection of the Blue Road was not required due to the Encroaching Building being constructed across/on the whole of the Blue Road.

Removal of Road from Council's register of Public Roads

- 13. **Blue Road:** It is considered that the Blue Road is no longer reasonably required for general public use pursuant to section 17(4) of the RMA as the Blue Road:
 - (a) is used solely by the Applicant due to the Encroaching Building constructed on the whole of the Blue Road;
 - (b) is not required for access to the other Applicant's Properties at 59 Sackville, as that property can be accessed via Sackville Street;
 - (c) is not required for access to the Adjoining Properties; and
 - (d) has not been accessible to the general public since at least 2009 due to the Encroaching Building.
- 14. **Yellow Road:** It is considered that the Yellow Road is no longer reasonably required for general public use pursuant to section 17(4) of the RMA as the Yellow Road is:
 - (a) primarily used a rear driveway access for 88 Johnston;
 - (b) not required for access to any other Applicant's Properties at 90 Johnston and 59 Sackville, as those properties can be accessed via Johnston Street and Sackville Street respectively;
 - (c) not required for access to the Adjoining Properties; and

- (d) not required by the general public to access Wellington Street, Collingwood and Johnston Street, Collingwood.

Adjoining Owners

- 15. The Applicant contacted the owners of the Adjoining Properties (**Adjoining Owners**) by letter dated 27 June 2017 to seek their written consent to the Proposal. Copies of the letter dated 27 June 2017 from the Applicant to the Adjoining Owners are attached as Attachment 3 to this report.
- 16. As at the date of this report:
 - (a) the Applicant has not received correspondence from any of the Adjoining Owners with respect to the Proposal; and
 - (b) Council has not received any correspondence from the Adjoining Owners with respect to the Proposal.
- 17. A copy of the Public Notice will be given to each Adjoining Owner inviting them to make a submission. (Provided Council resolves to commence the process).

Public/Statutory Authorities

- 18. The following public/statutory authorities have been advised of the Proposal and have been asked to respond to the question of whether they have any existing assets in the Yellow Road which should be saved under section 207C of the Act: City West Water, Yarra Valley Water, Melbourne Water, CitiPower, United Energy, Multinet Gas, Telstra, Optus, APA Gas and Yarra City Council.
- 19. Yarra Valley Water, Melbourne Water, CitiPower, United Energy, Multinet Gas, Telstra, Optus, APA Gas and Yarra City Council have advised that they have no assets in or above the Road and no objection to the Proposal.
- 20. In a letter dated 30 October 2017, City West Water (**CWW**) advised that it did not object to the Proposal, subject to the following conditions;
 - (a) a certified title plan approved by CWW must show a 2.0m wide centrally located sewerage easement to be in favour of CWW;
 - (b) any proposed fences must be located a minimum distance of 800mm clear of the centreline of existing CWW sewer mains;
 - (c) any proposed fence lines must be located a minimum distance of 1.0m from sewer manholes and/or sewer inspection shafts; and
 - (d) any proposal to build over a sewer asset will require CWW's written consent (i.e. build-over application approval).
- 21. A copy of the correspondence from CWW is contained in Attachment 4 to this report.

Public Notice

- 22. Before considering the proposed discontinuance and sale Council must give public notice of the Proposal in accordance with sections 207A and 223 of the Act. The Act provides that a person may, within 28 days of the date of the public notice, lodge a written submission regarding the Proposal.
- 23. Where a person has made a written submission to Council requesting that he or she be heard in support of the written submission, Council must permit that person to be heard before a meeting of Council to hear those submissions, giving reasonable notice of the day, time and place of the meeting.
- 24. After hearing any submissions made, Council must determine whether or not the Road is reasonably required as a road for public use, in order to decide whether the Road should be discontinued.

External Consultation

25. All Adjoining Owners will be forwarded a copy of the public notice issued in respect of this proposal.

Internal Consultation (One Yarra)

26. No internal consultation is required for this report.

Financial Implications

27. There are no financial implications arising from this report.

Economic Implications

28. The Applicant have agreed to acquire the Road for its market value (plus GST), as determined by the Act.
29. In addition to the market value of the Road (plus GST), the Applicant has agreed to pay Council's costs and disbursements associated with the Proposal.

Sustainability Implications

30. There are no sustainability implications arising from this report.

Social Implications

31. There are no social implications arising from this report.

Human Rights Implications

32. There are no human rights implications arising from this report.

Communications with CALD Communities Implications

33. All notices and correspondence issued in respect of this proposal will contain a reference to Yarralink Interpreter Services.

Council Plan, Strategy and Policy Implications

34. There is no Council Plan, Strategy or Policy Implications.

Legal Implications

35. If the Road is discontinued and sold to the Applicant, Council will require the Applicant to:
- (a) create a sewerage easement in favour of City West Water along the length of the Road (this can be effected as part of the transfer of land);
 - (b) agree to observe the conditions imposed by City West Water in respect of the Road; and
 - (c) consolidate the title to the Road with the title to 88 Johnston within 6 months of the date of transfer of the Road to the Applicant, at the Applicant's expense.

Other Issues

36. There are no other issues.

Options

37. There are no options associated with this report.

Proposal

38. It is proposed that: Council should resolve to remove the Road from Council's Register of Public Roads as the Road is no longer reasonably required for public use for the following reasons:

The Blue Road

- (a) is subject to the Encroaching Building;
- (b) is used solely by the Applicant due to the Encroaching Building constructed on the whole of the Blue Road;
- (c) is not required for access to the other Applicant's Properties at 59 Sackville, as that property can be accessed via Sackville Street;
- (d) is not required for access to the Adjoining Properties; and
- (e) has not been accessible to the general public since at least 1975 due to the Encroaching Building;

The Yellow Road

- (f) is primarily used as rear driveway access for 88 Johnston Street;
- (g) is not required for access to any other Applicant's Properties at 90 Johnston and 59 Sackville, as those properties can be accessed via Johnston Street and Sackville Street respectively;
- (h) is not required for access to the Adjoining Properties; and
- (i) not required by the general public for access to Wellington Street and Johnston Street, Collingwood.

39. Council should commence the statutory procedures pursuant to clause 3 of Schedule 10 of the Act to discontinue the Road and transfer to the Applicant the discontinued Road.

RECOMMENDATION

1. That Council, acting under section 17(4) of the *Road Management Act 2004*, resolves that the road at the rear of 88-90 Johnston Street, Collingwood (**Road**), being:
 - (a) the whole of the land contained in certificate of title volume 11849 folio 976, being Lot 1 on title plan TP962046U (**Blue Road**) (shown as the area outlined blue on the site plan contained in Attachment 1 to this Report (**Site Plan**)); and
 - (b) part of the land contained in Memorial Book O No. 870 (shown as the area outlined yellow on the Site Plan) (**Yellow Road**);be removed from Council's Register of Public Roads on the basis that the Road is no longer required for general public use for the reasons set out in the body of the report.
2. That Council, acting under clause 3 of schedule 10 of the *Local Government Act 1989* (**Act**):
 - (a) resolves that the statutory procedures be commenced to discontinue the Road;
 - (b) directs that, under sections 207A and 223 of the Act, public notice of the proposed discontinuance be given in the appropriate newspapers, social media, to adjoining properties and attached to the site;
 - (c) resolves that the public notice required to be given under sections 207A and 223 of the Act should state that if the Road is discontinued, Council proposes to sell the Road to the adjoining owner at 88-90 Johnston Street, Collingwood, for market value; and
 - (d) authorises The Valuations Coordinator Bill Graham to undertake the administrative procedures necessary to enable Council to carry out its functions under 223 of the Act in relation to this matter.

CONTACT OFFICER: Bill Graham
TITLE: Coordinator Valuations
TEL: 9205 5270

Attachments

- 1⇒ Site Plan
- 2⇒ Site Inspection Report
- 3⇒ Adjoining Owner Letter
- 4⇒ CWW Response

11.4 Proposed discontinuance of road abutting the rear of 27 Rushall Crescent, Fitzroy North

Trim Record Number: D18/146201

Responsible Officer: Acting Director Corporate, Business and Finance

Purpose

1. For Council to consider whether the road shown as lot 1 on the title plan TP954321U, attached as Attachment 1 (**Title Plan**) to this report, being part of the land contained in certificate of title volume 2378 folio 507 (**Road**), should be discontinued pursuant to the *Local Government Act 1989 (Act)* and sold to the owners of 27 Rushall Crescent, Fitzroy North (**Proposal**).

Background

2. The Road is shown as lot 1 on the Title Plan and shown hatched on the plan attached as Attachment 2 to this report (**Site Plan**). A copy of the title to the Road is contained in Attachment 3 to this report.
3. The (**Owners**) are the registered proprietors of the property known as 27 Rushall Crescent, Fitzroy North, being the land shaded orange on the Site Plan, and contained in certificate of title volume 3529 folio 751 (**Owner's Property**).
4. The Road abuts the rear of the Owner's Property and is 6 square metres in area.
5. The Road also abuts the following properties:
 - (a) 251 McKean Street, Fitzroy North, being the land contained in certificate of title volume 1660 folio 941 and shown outlined green on the site Plan; and
 - (b) 25 Rushall Crescent, Fitzroy, being the land contained in certificate of title volume 9696 folio 576 and shown outlined red on the Site Plan.
6. Together the (**Adjoining Properties**).
7. The Road is encumbered by a carriageway easement in favour of the Owner's Property and the Adjoining Properties. Accordingly, the Road is a 'road' for the purposes of the Act and Council has statutory power to consider discontinuing the Road.
8. The Road is currently fenced into the Owner's Property and has been enclosed for an extended period of time.
9. At its meeting on 17 October 2017, Council resolved to commence the statutory procedures and give notice pursuant to section 207A and 223 of the Act of its intention to discontinue and sell the Road to the Owners.

Public Notice

10. The required public notice was placed in the Weekly Review Melbourne Times, The Age, Council's Facebook and Council's website.
11. By letter, Council informed various owners and occupiers of properties in the vicinity of the Road (**Local Owners**) of the Proposal, and provided the Local Owners with a copy of the public notice, and invited them to make a submission regarding the Proposal.
12. A copy of the public notice and the letter sent to the Local Owners is attached as Attachment 4 to this report.
13. Following the publication of the public notice, 1 submission was received by Council. A copy of the submission received by Council is attached as Attachment 5 to this report.

Submission objecting to Proposal

14. The submission, objecting to the Proposal was made by the Adjoining Owner of 251 McKean Street, Fitzroy North.
15. The key themes in the submission may be summarised as follows:
 - (a) the road should be retained as a right of way to allow access for repairs to the property at 251 McKean Street, Fitzroy North; and
 - (b) the conduct of the Owners in illegally occupying a public asset should not be rewarded.

Officer comments in response to the submission

16. The following officer comments are offered in respect of the submission made in objection to the Proposal;
 - (a) the Adjoining Owner at 251 McKean Street, Fitzroy North has a right of carriageway over the Road, however, the road is fenced into the Owner's property and has not been physically accessible by the Adjoining Owner for an extended period;
 - (b) no formal complaints were previously made to Council in respect of the loss of access to the Road;
 - (c) there are no properties that would become inaccessible due to the Proposal; and
 - (d) the Road is not used for access to the rear of 251 McKean Street, Fitzroy North.

Road Status

17. It is established that the Road is a road which Council has the power to consider discontinuing pursuant to the Act. If the Road is discontinued, the Road will vest in Council.

Public/Statutory Authorities

18. The following public/statutory authorities have been advised of the Proposal and have been asked to respond to the question of whether they have any existing assets in the Road that should be saved under section 207C of the Act: City West Water, Melbourne Water, APA Group, CitiPower, Telstra, Optus and Yarra City Council.
19. APA Group, Yarra City Council and Optus have advised that they have no known assets in the Road and have no objection to the Proposal.
20. Melbourne Water and CitiPower advised that they have no objection to the Proposal.
21. City West Water advised that it has sewer assets in the Road and has requested the following:
 - (a) a 2 metre wide sewerage easement is created over the Road in favour of City West Water;
 - (b) any proposed fences must be located a minimum of 800mm clear of the centreline of the existing sewer mains;
 - (c) any proposed fences must be located a minimum of 1 metre from sewer manholes and/or sewer inspection shafts; and
 - (d) any proposal to build over City West Water assets requires City West Water's prior written consent.
22. The Title Plan showing the easement requested by City West Water was provided to City Water. City West Water advised that it has withdrawn its objection on the basis that an easement in favour of City West Water will be created over the Road.
23. A copy of the letters from City West Water is attached as Attachment 6 to this report.

External Consultation

24. No external consultation is required for this report.

Internal Consultation (One Yarra)

25. No internal consultation is required for this report.

Financial Implications

26. There are no financial implications arising from this report.

Economic Implications

27. The Owners have agreed to acquire the Road for **\$6,380** being the market value (plus GST).

28. In addition to the market value of the Road (plus GST), the Owner has agreed to pay Council's costs and disbursements associated with the Proposal.

Sustainability Implications

29. There are no sustainability implications arising from this report.

Social Implications

30. There are no social implications arising from this report.

Human Rights Implications

31. There are no human rights implications arising from this report.

Communications with CALD Communities Implications

32. All notices and correspondence issued in respect of this proposal will contain a reference to Yarralink Interpreter Service.

Council Plan, Strategy and Policy Implications

33. There is no Council Plan, Strategy or Policy Implications.

Legal Implications

34. An easement in favour of City West Water will be required to be created over the Road.

Other Issues

35. There are no other issues.

Options

36. There are no options associated with this report.

Proposal

37. Council must now determine whether the Road is reasonably required for public use in order to decide whether the Road should be discontinued and sold pursuant to clause 3 of schedule 10 of the Act.

RECOMMENDATION

1. That Council, having considered all submissions received in response to the public notice regarding Council's proposal to discontinue the road shown marked lot 1 on the title plan attached as Attachment 1 to this report (**Road**), being part of the land contained in volume 2378 folio 507 resolves:
 - (a) that Council, acting under section 17(4) of the Road Management Act 2004, removes the Road from Council's Register of Public Roads on the basis that the Road is no longer reasonably required for general public use.
2. That Council, acting under clause 3 of schedule 10 of the *Local Government Act 1989* (**Act**):
 - (a) resolves that, having followed all the required statutory procedures pursuant to sections 207A and 233 of The Act pursuant to its power under clause 3 of Schedule 10 of the Act, and being of the opinion that the Road is not reasonably required for public use, it discontinues the Road;
 - (b) directs that a notice pursuant to the provisions of clause 3(a) of Schedule 10 of the Act is to be published in the *Victoria Government Gazette*;
 - (c) directs that once discontinued, the Road be transferred to the adjoining owner at 27 Rushall Crescent, Fitzroy North, for no less than the market value (plus GST), being the amount of \$5,800 Plus (GST), total of **\$6,380**;
 - (d) directs that the CEO sign any transfer or transfers of the Road and any other document required to be signed in connection with the discontinuance of the Road and its subsequent transfer to the Owner;
 - (e) any easements, rights or interests required to be created or saved over the Road by any authority be done so and not be affected by the discontinuance and sale of the Road; and
 - (f) directs that the Owner be required to consolidate the title to the Road with the title to 27 Rushall Crescent, North Fitzroy by no later than 6 months after the date of transfer of the discontinued Road.

CONTACT OFFICER: Bill Graham
TITLE: Coordinator Valuations
TEL: 9205 5270

Attachments

- 1⇒ Title Plan
- 2⇒ Site Plan
- 3⇒ Title to Road
- 4⇒ Public Notice
- 5⇒ Submission
- 6⇒ City West Water Response

11.5 Yarra Planning Scheme Amendment C225 - Panel report and adoption

Trim Record Number: D18/152908

Responsible Officer: Manager City Strategy

Purpose

1. This report relates to 351-353 Church Street, Richmond.
2. The purpose of this report is to outline:
 - (a) the key recommendations in the Panel Report for Amendment C225;
 - (b) the officer response and recommended changes to the amendment in response to these key recommendations; and
 - (c) the officer recommendations.
3. Council must decide whether to:
 - (a) adopt the Amendment as recommended by the Panel Report and submit it to the Minister for Planning for final approval in accordance with the relevant provisions of the Planning and Environment Act 1987; or
 - (b) adopt the Amendment in the form recommended in this report, which includes minor changes to the version recommended in the Panel report, to improve clarity and reduce ambiguity in the wording of the Incorporated document, and submit it to the Minister; or
 - (c) adopt the Amendment as exhibited and submit it to the Minister; or
 - (d) abandon the Amendment and advise the Minister for Planning that Council has abandoned it.
4. In accordance with Section 27 of the *Planning and Environment Act 1987 (the Act)*, a Planning Authority (Council) must consider the Panel's recommendations before adopting an amendment and must justify any variations to the Panel's recommendations.

Background

Amendment Request

5. Council received an amendment request from Urbis Pty Ltd on behalf of Mecwacare on 3 November 2016, to allow Mecwacare to further develop their site at 351 -353 Church Street, Richmond for a residential aged care facility.
6. Mecwacare provides subsidised services for people from backgrounds of disadvantage, many have mental illness and alcohol or drug related disorders or dementia. Most residents of the proposed facility would be in transition through the palliative care phase of life.
7. Amendment C225 proposes an exemption in the Yarra Planning Scheme to allow an eighty room residential aged care facility, which includes a height of approximately 20 metres on the site. The exemption is required as the Neighbourhood Residential Zone has a 9 metre mandatory height limit. The amendment proposes changes to Clause 52.03 of the Yarra Planning Scheme and an Incorporated Document to create this exemption.
8. The Amendment would introduce a proposed Incorporated Document (the Panel recommended version is at the end of Attachment 1), which would allow a particular development as shown in the architects plans (Attachment 2 and 3) specified in the Incorporated Document.

9. As advised at previous stages, it is important to note that under this process, the Incorporated Document operates like a planning permit and no further public process or planning approvals would be required if the amendment is approved and gazetted by the Minister for Planning.
10. Council officers undertook a significant review of the original amendment request, particularly in relation to heritage, amenity, traffic, urban design impacts and community benefit.
11. The main strategic planning issue is whether the community benefit of the facility outweighs the impact of the additional height.
12. Assessment of community benefit has been discussed in VCAT decisions including an aged care facility in Clifton Hill (*Brotherhood of St Laurence v Yarra CC* [2016] VCAT 1648). That decision points to the importance of how *net community benefit* is assessed and makes a very clear distinction between conventional 'for profit' aged care facilities and services like the Brotherhood which address special issues of disadvantage and disability.

Authorisation

13. Authorisation to exhibit the Amendment proposal was granted 10 January 2018 with no significant changes to the Amendment.

Exhibition

14. Exhibition commenced on Monday, 26 February and finished Monday, 2 April 2018. Owners and occupiers of properties at 407 addresses in the adjoining area were notified by direct mail. This included all properties which would be likely to see the new structure and be impacted by the proposed development.

Submissions

15. Council received seven submissions. The submissions were from:
 - (a) residents and owners of dwellings nearby (five submissions) - objecting to the amendment;
 - (b) the YWCA which operates 345 Church Street, Richmond (known as 'Richmond House') – objecting to the amendment and specific amenity impacts on Richmond House; and
 - (c) Urbis on behalf of the proponent, Mecwacare in support of the amendment and proposing a minor change to the Incorporated Document.

Council decision to refer submissions to a Panel

16. At the Council meeting 22 May 2018 Council resolved to request the Minister for Planning to appoint an independent Panel under Part 8 of the Planning and Environment Act 1987 to consider Amendment C225 and all submissions received.

Panel report – findings and recommendations

17. The Panel hearings were held 27 and 29 June 2018. The main parties to the hearings were Council, the proponent Mecwacare and the YWCA. Written submissions by other parties were also considered by the Panel.
18. Council received the Panel report on 27 July 2018.
19. In summary, the Panel supports the Amendment subject to a range of relatively minor changes to the proposed Incorporated Document, that relate to: heritage and external appearance of the new building, the amenity of neighbours, overlooking impacts, and access from Church Street to the YWCA building at the rear of the site (Richmond House).
20. These changes are generally accepted by officers but some minor structural and stylistic changes are recommended to improve clarity and reduce some ambiguity in the wording of the document to ensure the intent of the Panel recommendations are effectively realised. The revised proposed Incorporated Document is Attachment 5.
21. The Panel's findings and recommendations are considered in more detail in this report.

Community Benefit

22. The Panel found that the community benefit of the facility outweighs the impact of the additional height.

23. The Panel concludes at the end of the executive summary:

“The proposed Amendment will help to address a significant shortfall in the number of aged care beds required in Yarra to meet the Commonwealth Government’s responsible ratios for the provision of aged care places. It will provide specialised care for clients with complex needs. While it represents a substantial built form that will have heritage and amenity impacts (including on the residents of Richmond House), the Panel concludes that on balance, it will provide a net community benefit. The Amendment should be supported, subject to minor modifications to the design of the proposed development.”

Heritage and external appearance

24. The Panel heard evidence from Council’s heritage expert, GJM Consulting – Attachment 6.

25. The Panel considered expert evidence about the external appearance and design of the new building and restoration works to the two significant heritage buildings fronting Church Street. This evidence showed that the proposal generally meets relevant policy through a combination of community benefit and the large setback of the new building. While the proposed new building does not meet a key sight-line test (when viewed from Church Street) in the Planning Scheme, this is off-set by the large setback and the design of the new building. GJM Consulting advised that the heritage impacts are acceptable (**3.4 Conclusion** – page 15 Attachment 6).

26. The expert evidence included an assessment of three Material Schedule Options or external appearance options (Attachment 4) with lighter or darker materials and different types of cladding considered. The Panel report concludes that the darker finishes option is preferred because it *‘will provide greater contrast, and a more neutral and recessive backdrop, to the retained heritage fabric’* than the lighter options.

27. Details of the assessment of the external appearance options by GJM Consulting, is contained in Attachment 6 at **4. Proposed Finishes for New Development**. This considers the three options in detail. This expert evidence clearly prefers Option 1 for the following reasons (page 17 – Attachment 6):

‘The finishes illustrated in Option 1 utilises standing seam and perforated metal cladding in Colorbond™ ‘Basalt’ (mid-grey) and ‘Monument’ (dark grey). The use of a grey colour palette will provide a subtle contrast with the painted rendered finish of the heritage building. This change in colour will help distinguish the new materials from the old as required by Clause 22.02-5.7.1 and the choice of mid-grey tones will provide a neutral and recessive backdrop to the retained heritage fabric. Combined with the sloping form of the rear development, the mid-grey tones will make the fourth and fifth floors appear as a roof form for the new development when viewed from the street. The use of grey is also more likely to blend into overcast skies typical of Melbourne and is less likely to produce glare in sunny conditions.

The mix of standing seam cladding and perforated screens provides some variety in the articulation of the new element which will help break down the apparent bulk of the development and reduce its visual scale as required by the policy to within Clause 22.02-5.7.1 to ‘be visually recessive and not dominate the heritage place’.

28. The assessment of options goes on to assess the use of lighter shade / tone finishes in the other options:

‘.....the use of an off-white colour will increase the visual prominence of the new rear development.

This colour choice is also more likely to compete with the light-coloured render finish of the heritage building as shown on the visualisations within the Panel Hearing Booklet.

The white material is likely to create more glare than a mid-grey finish and will be visually more prominent against overcast skies.'

29. The Panel report recommends a range of measures or additions to the Incorporated Document consistent with the heritage evidence including:
- (a) details of the materials and finishes;
 - (b) requirement for a colour scheme for all external elements of the retained heritage fabric, based on historic paint analysis;
 - (c) conservation works to restore the heritage buildings; and
 - (d) requirement of a Construction Management Plan for the protection, temporary support, retention and/or reinstatement of the existing chimneys and roof form of the retained heritage buildings.

30. Council Officers support the additional amendments to the Incorporated Document.

Amenity of neighbours

31. The Panel considered submitter concerns about amenity impacts relating to:

- (a) Height, setback and visual bulk;
- (b) Overlooking; and
- (c) Overshadowing.

32. In particular, the Panel considered issues raised by the YWCA about impacts on residents of Richmond House. The YWCA sought significant changes to reduce the proposed building height and increased setbacks from Richmond House. The Panel report found (page 26):

The reduced heights and increased setbacks sought by YWCA would result in a substantial reduction in the number of aged care beds that could be provided. The Panel does not consider that this is justified, and considers that the proposed setbacks, including to Richmond House, are adequate.

The Panel acknowledges that the height and setback of the proposed development will reduce the amount of daylight to some windows on the western façade of Richmond House, and will obscure views of the CBD from the upper levels of Richmond House. However the Panel observed on its accompanied site inspection that some outlook toward St Ignatius will still be available. The Panel considers that on balance, greater community benefit will be achieved by delivering additional aged care beds for clients with complex needs, than reducing the size of the development in order to preserve the daylight to, and outlook from, Richmond House.

33. The Panel concluded that *'The overall built form and siting of the proposed development, including heights and setbacks, are appropriate.'*

Overshadowing

34. The Panel considered issues raised by the YWCA about the extent of overshadowing caused by the new development. The YWCA expressed particular concern about the impacts on shared open space used by Richmond House residents. The Panel concluded the built form of the proposed development should not be modified to reduce the overshadowing of the Richmond House open space. In coming to this recommendation, the Panel considered that on balance, greater community benefit will be achieved by delivering additional aged care beds for clients with complex needs, rather than by the substantial reduction in built form required to prevent overshadowing of the Richmond House open space.
35. The Panel report specifically considered the type of set-back the YWCA proposed to reduce impacts (5.1 Height, setbacks and visual bulk (i) Evidence and submissions – page 24 of the Panel report):

‘YWCA submitted that the rear setback should be increased to 4.5 metres to afford equitable development rights. It submitted that Richmond House is YWCA’s most significant landholding, and that future development is contemplated by the YWCA and should be protected. It submitted that the rear setback should be increased at least as far as grid line 5 on the architectural plans, to reduce the impacts of the proposed development on the Richmond House residents in terms of visual bulk, loss of privacy and loss of daylight. It is not clear how grid line 5 relates to the 4.5 metre setback sought by YWCA.’

36. There is also a specific assessment of overshadowing in the Panel report. It states:

5.3 Overshadowing

(i) Evidence and submissions

YWCA submitted that an increased setback is required to the eastern boundary of the subject site to prevent unacceptable overshadowing of the open space on the Richmond House site. It submitted that overshadowing is of particular concern given the residents of Richmond House are housed in small bedrooms, with no access to balconies and the majority of them have mental health issues. “The ability to access sunlight and outdoor space and to meet with other residents in an area that can encourage interaction as well as calm reflection is essential.”

YWCA submitted that the development would result in well under the five hours of direct sunlight that would be required if ResCode Standard B21 were applied, and would reduce sunlight to the windows of the bedrooms and communal dining and living spaces located on the western side of Richmond House.

.....

Mecwacare’s architects prepared a detailed overshadowing study which compared the overshadowing caused by the proposed development to the overshadowing caused by existing buildings on the subject land, and existing buildings on the Richmond House site. Mecwacare submitted that the study demonstrates that:

- while the open space at Richmond House will be affected by overshadowing from the proposed development, this will not occur until around 1pm*
- direct sunlight to the open space at Richmond House is already compromised by the existing buildings on the Richmond House site (more so than the overshadowing that would be caused by the proposed development)*
- the north west corner of the Richmond House site will receive six hours of full sun between 9am and 3pm at the equinox.*

It submitted that in a densely populated inner city environment, this is reasonable, especially considering the substantial community benefits to be delivered by the proposed development.

37. Council officers agree with the Panel report and conclude that the overshadowing impacts on the YWCA are acceptable when weighed against the community benefit from the proposed aged care facilities. If Richmond House is redeveloped or renovated, the YWCA site has good access to sunlight in the northern and north-western sections of the site.

Overlooking

38. The Panel found that:

“the particular circumstances of the Richmond House residents, including their concerns about privacy, safety and security, warrant additional consideration of overlooking impacts. In the absence of an applicable standard, overlooking impacts must be reasonable, having regard to the particular circumstances of the Richmond House residents.”

39. It recommended that:

“further assessment be undertaken of the overlooking impacts on habitable rooms and the open space areas of Richmond House. The assessment should be undertaken by a suitably qualified person, to Council’s satisfaction. If after considering the assessment, Council considers that further screening or other techniques are required to reduce overlooking impacts to a reasonable level, those techniques should be applied prior to occupation of the east facing rooms in the proposed development.”

40. The Panel recommends adding conditions to the Incorporated Document. Officers support the principle of better privacy protection however, a two stage process of an expert assessment and potential screening is not supported. A revised condition is proposed in Attachment 5, based on the requirements in Rescode. At condition 4.2.1 add

- (k) Any habitable room windows or balconies capable of overlooking habitable room windows or communal open space of Richmond House (No. 345 Church Street Richmond) to be screened to a height of 1.7m above the finished floor level, with a maximum of 25% openings.

Technical drafting issues

41. The Panel report raises two very minor issues about the wording of the proposed Incorporated Document. Firstly, the Panel expressed concern that there is no provision in the Incorporated Document for the Planning Authority (Council) to agree to changes.

42. Whilst this is a valid concern, the Panel seems to have overlooked condition 4.2.2 of the Incorporated Document which states:

‘The development shown on the endorsed plans must not be altered without the prior written consent of the responsible authority.’

43. Officers are satisfied that this provides sufficient scope for changes to be considered by Council and addresses the Panel’s concern.

44. Secondly, the Panel expressed concern that heritage conservation works (proposed by Council’s heritage expert as part of the Panel hearing process) might go beyond the scope of the Incorporated Document. Officers consider that this can be addressed by adding the words *‘and heritage conservation works’* to the second dot point of condition 4.1 of the Incorporated Document after the words *‘Partial demolition of the existing heritage building’*.

Access to Richmond House

45. The YWCA raised concerns about the shared vehicle and pedestrian access which serves both the Mecwacare site and the YWCA Richmond House. The main concerns were about potential conflicts between vehicles and pedestrians and about the slope of the access. It is noted that some of the residents at Richmond House are disabled.

46. The Panel was satisfied that these concerns have been addressed by changes in the design of the access. The changes included separation of the pedestrian access with line marking and a hand-rail, and changes to reduce the slope and improve the conditions for pedestrians.

External Consultation

47. External consultation has been undertaken to meet the legal process requirements of the Planning and Environment Act 1987, for exhibition of a Planning Scheme Amendment and also to ensure that all interested parties and the local community have an opportunity to understand what is proposed and to respond. The Panel hearings are run by Planning Panels Victoria.

Internal Consultation (One Yarra)

48. The proposed Amendment has been circulated internally with comments from different sections forming part of the assessment process leading to this report.

49. The Statutory Planning team have been involved through the process of preparing this Amendment. This includes recent comments on and changes to the Panel report version of the proposed Incorporated Document.

Financial Implications

50. There are no significant financial implications. The proponent will pay the relevant fees which will help meet the costs of the Amendment.

Economic Implications

51. The proposed residential aged care facility is part of a growing health care network in the City of Yarra. This sector provides important local employment and economic activity.

Sustainability Implications

52. Environmentally sustainable development requirements have been part of the assessment for this development. The proposed development is on a tram route and close to two activity centres.

Social Implications

53. The Amendment would allow provision of about 80 residential aged care rooms. There is a growing demand for these facilities across the State and in the inner region. Local facilities, such as these, allow people to age-in-place, reducing disruption for elderly people who need care and supported accommodation.
54. The *Residential Aged Care - A Snapshot of Homes in the City of Yarra in 2015* (report prepared by Council officers in Aged and Disability Services) noted that there is a significant shortfall in the number of residential aged care beds to cater for growing demand in the City of Yarra. It noted that the City of Yarra has 304 beds which is significantly below (166 less beds) the national planning standards.

Next Steps

55. This report recommends that Council adopt the Amendment with a range of minor changes, generally as recommended by the Panel but with some minor variations.
56. If Council decides to adopt the Amendment and the Minister for Planning approves it, the proponent would submit revised plans to meet the requirements of the Incorporated Document. This would operate like a planning permit. No further public process or planning approvals would be required.

Human Rights Implications

57. There are no known human rights implications. The housing of aged and disabled residents is a positive aspect.

Communications with CALD Communities Implications

58. This was part of the normal Planning Scheme Amendment consultation process.

Council Plan, Strategy and Policy Implications

59. The proposal is consistent with the Council Plan which addresses aged care at:
- | | |
|------------------|--|
| Strategy 1.2 | Promote a community that is inclusive, resilient, connected and enjoys strong mental and physical health and wellbeing. |
| Initiative 1.2.3 | Continue to implement the National Aged and Disability Care reforms and develop new strategic directions for support of older people and people with disability. |
60. The Amendment is also consistent with '*Objective 4 – A liveable Yarra – Development and growth are managed to maintain and enhance the character and heritage of the city*'. The Amendment would help respond to the pressures of population growth and demographic change which has resulted in changes in the demand for and supply of residential aged care facilities.

Legal Implications

61. As Planning Authority under the Planning and Environment Act 1987 (the Act) Council must follow the legal processes for a Planning Scheme amendment.
62. Under Section 27 (1) of the Act, *'The planning authority must consider the panel's report before deciding whether or not to adopt the amendment.'*
63. Under Section 29 Council may adopt the Amendment and under Section 31 *'A planning authority other than the Minister must submit an adopted amendment to the Minister together with the prescribed information.'*

Other Issues

64. The DELWP are currently investigating possible changes to the residential zones as they relate to residential aged care facilities.
65. This investigation may mean mandatory height limits will not apply to residential aged care facilities. If the Minister for Planning approves changes, they could come into effect by late September 2018.
66. If the Minister approves the proposed changes to the residential zones, Amendment C225 may become redundant or require modifications.

Options

67. Under Sections 28 and 29 of the Planning and Environment Act Council has two options:
 - (a) adopt the Amendment (with or without changes); or
 - (b) abandon the Amendment.
68. Officers recommend that Council adopt the Amendment as recommended by the Panel but with minor changes to the proposed Incorporated Document. The recommended final version of the Incorporated Document is Attachment 5. The Panel report supports the Amendment and concluded that the community benefit of additional aged care services and accommodation justified any local impacts on amenity and heritage significance.

Conclusion

69. Amendment C225 was considered by a Planning Panel and a report outlining its recommendations have been received.
70. The Panel report supports the Amendment based on the community benefit of 80 new aged care facility rooms. It recommends a range of relatively minor changes which further address local amenity, access arrangements and heritage matters. Officers support these changes and propose some further minor variations to the Panel version of the Incorporated Plan. These variations are consistent with the intent of the Panel recommendations.
71. Given the support for the amendment in the Panel Report, officers recommend that Council adopt the amendment with minor changes and seek approval from the Minister for Planning.
72. If Council decides to adopt the Amendment and the Minister for Planning approves it, the next steps will be for the proponent to submit revised plans to meet the requirements of the Incorporated Document. This would operate like a planning permit. No further public process or planning scheme approvals would be required.

RECOMMENDATION

1. That Council notes:
 - (a) the report of officers in relation to the Panel's findings in relation to Amendment C225 relating to 351-353 Church Street Richmond; and
 - (b) the findings and recommendations of the Panel regarding Amendment C225.
2. That Council:
 - (a) having considered the report of the Planning Panel, adopts Amendment C225 generally as recommended by the Panel report but with changes to the Incorporated Document as shown in the revised version **351-353 Church Street, Richmond, Incorporated Document, September 2018** (which is Attachment 6 to the Council report) and as outlined in this report;
 - (b) submits the adopted amendment to the Minister for Planning for approval, in accordance with Section 31 of the Act; and
 - (c) officers notify submitters to Amendment C225 of Council's decision.

CONTACT OFFICER: Peter Mollison
TITLE: Senior Strategic Planner
TEL: 9205 5023

Attachments

- 1 [↔](#) Panel report - C225
- 2 [↔](#) Architects Plans Part A
- 3 [↔](#) Architects Plans Part B
- 4 [↔](#) Material Schedule Options
- 5 [↔](#) Revised Incorporated Document September 2018
- 6 [↔](#) GJM Heritage evidence

11.6 Amendment C245 - Heritage Studies: Theatres, Bridge Road and Victoria Street and corrections to heritage and zone anomalies

Executive Summary

Purpose

The purpose of this report is for:

- (a) Council to decide whether to prepare Amendment C245, in order to:
 - (i) correct heritage and zone anomalies;
 - (ii) amend interim heritage controls;
 - (iii) implement the recommendations of two heritage studies;
 - (iv) include reference to these heritage studies at Clause 21.11 (Reference Documents) and 22.02 (Development Guidelines for Sites Subject to the Heritage Overlay) of the Yarra Planning Scheme;
 - (v) update Clause 72.04 (Documents Incorporated in this Planning Scheme) to refer to new or amended incorporated documents; and
- (b) Outline the reasons for the amendment and the supporting documents which justify the changes.

Key Issues

Amendment C245 proposes to correct identified heritage overlay errors and zone anomalies within the Yarra Planning Scheme and implement the recommendations and findings of the *Thematic Study of Theatres in the City of Yarra, Context Pty Ltd (2017)*, *Victoria Street and Bridge Road Built Form Review: Heritage Assessment, GJM Heritage (2018)* and *Heritage Studies: Theatres, Bridge Road, Victoria Street and corrections to heritage and zone anomalies*.

There are three options:

- (a) Option 1 – seek *authorisation* from the Minister for Planning to prepare an amendment;
- (b) Option 2 – Make changes to the amendment and seek *authorisation*; or
- (c) Option 3 – Not proceed with an amendment.

Financial Implications

There are no direct financial implications of this amendment for Council to consider.

PROPOSAL

Officers recommend that Council seek *authorisation* from the Minister for Planning to prepare Amendment C245 to the Yarra Planning Scheme and formally exhibit the amendment for one calendar month to enable submissions to be received.

11.6 Amendment C245 - Heritage Studies: Theatres, Bridge Road and Victoria Street and corrections to heritage and zone anomalies

Trim Record Number: D18/154355

Responsible Officer: Director Planning and Place Making

Purpose

1. The purpose of this report is for:
 - (a) Council to decide whether to prepare Amendment C245, in order to:
 - (i) correct heritage and zone anomalies;
 - (ii) amend interim heritage controls;
 - (iii) implement the recommendations of two heritage studies
 - (iv) include reference to these heritage studies at Clause 21.11 (Reference Documents) and 22.02 (Development Guidelines for Sites Subject to the Heritage Overlay) of the Yarra Planning Scheme;
 - (v) update Clause 72.04 (Documents Incorporated in this Planning Scheme) to refer to new or amended incorporated documents; and
 - (b) Outline the reasons for the amendment and the supporting documents which justify the changes.

Background

2. This amendment is derived from a number of separate projects:
 - (a) Thematic Study of Theatres in the City of Yarra, Context Pty Ltd (2017);
 - (b) Victoria Street and Bridge Road Built Form Review: Heritage Assessment, GJM Heritage (2018); and
 - (c) Corrections to zone and heritage overlay anomalies.

Thematic Study of Theatres in the City of Yarra, Context Pty Ltd (2017)

3. Amendment C245 forms part of the ongoing work over recent years to fill gaps in the heritage assessment for the municipality. The proposed amendment is further to six previous heritage amendments adopted by Council (C149, C157, C163, C173, C183, and C198).
4. In 2015, Council identified that there were gaps in protection for a number of significant heritage theatres in the City of Yarra, after community concern with a proposed development to the significant Lyric Theatre (Johnston Street, Fitzroy).
5. As a result, Context Pty Ltd was engaged in June 2015 to conduct the *Thematic Study of Theatres in the City of Yarra* to assess the existing properties and recommend potential controls. This document is included in this report as **Attachment 1**.
6. The theatres study and review involved two stages. Stage One involved:
 - (a) Outlining key themes to different type of theatre places;
 - (b) Identifying 38 known theatre places within the City of Yarra; and
 - (c) Assessing the significance and histories of identified theatres.
7. Stage Two was informed by Stage One, and prepared a reference document for the amendment, which includes final recommendations for the sites proposed for heritage controls.
8. Context Consultants found 38 places, which warranted investigation. Of these 38 places:

- (a) 17 had been demolished;
- (b) 15 did not require further protection (controls were sufficient);
- (c) 3 could no longer be located; and
- (d) 3 theatres had inadequate protection and insufficient controls for the level of significance:
 - (i) 200-202 Johnston Street, Fitzroy - Austral Theatre (former);
 - (ii) 365 Swan Street, Richmond - Burnley Theatre (former); and
 - (iii) 311-317 Bridge Road, Richmond - Richmond Cinema.

9. The amendment to the Yarra Planning Scheme proposes to:

- (a) apply the Heritage Overlay (HO) to (i) and (ii), which includes internal controls; and
- (b) add internal controls for the existing heritage overlay for (iii).

Victoria Street and Bridge Road Built Form Review: Heritage Assessment, GJM Heritage (2018)

10. In June 2018, Council sought interim heritage planning controls for a number of places in the Victoria Street and Bridge Road activity centres.

11. These initiatives are part of the work occurring across all the major activity centres in Yarra. This is in response to community concerns about the extent of development and the need for better planning provisions and heritage protection.

12. GJM Heritage consultants were engaged by Council to prepare the *Victoria Street and Bridge Road Built Form Review: Heritage Assessment*. This document is included in this report as **Attachment 2**.

13. This document proposes further protections and includes recommendations for 12 places:

- (a) 2 places have recommended grading changes from 'individually significant' to 'not contributory', because they have been redeveloped;
- (b) 1 place is recommended to be removed from HO mapping to correct an error;
- (c) 1 mapping correction is to extend the HO over an entire significant place;
- (d) 6 places are recommended to be transferred from a precinct HO to an individual Heritage Overlay control; and
- (e) 2 places, 32 & 34 Thomas Street, Richmond and 202-206 Church Street, Richmond, are proposed for the introduction of new Heritage Overlays. These were requested on an interim basis through Amendment C251.

14. The recommendations also included amending the incorporated document, *Appendix 8 - City of Yarra Review of Heritage Overlay Areas, Graeme Butler and Associates (2007)* (which is to be renamed *City of Yarra Database of Heritage Significant Areas, September 2018*) to include the above changes.

Corrections to zone and heritage overlay anomalies

15. Council maintains a list of heritage and zone anomalies, which arise from public queries or requests for corrections. From time to time, Council progresses an amendment to the Yarra Planning Scheme, in order to ensure that there are no discrepancies between how places are identified in zones, Heritage Overlay schedule, and subsequent maps.

16. The proposed changes align the property boundaries and the zone boundaries to correct situations where individual properties are within two zones. Proposed Amendment C245 will incorporate corrections of these anomalies to improve the effectiveness of Yarra Planning Scheme.

17. A majority of errors and anomalies included in this amendment are in the Heritage Overlay. These changes are in accordance with *Practice Note: 01 Applying the Heritage Overlay*.

Discussion

18. A summary of places affected is **Attachment 3** and a report, *Heritage Studies: Theatres, Bridge Road, Victoria Street and corrections to heritage and zone anomalies*, addressing each place with an analysis and justification for the proposed changes, is included in **Attachment 4**.
19. Additionally, the Explanatory Report, **Attachment 5**, contains further information on the proposed changes of this amendment.
20. In summary, the amendment proposes to make the following changes to the Yarra Planning Scheme:
- (a) introduce 10 new heritage overlays (HO499, HO504, and HO525 to HO532) to the Schedule to Clause 43.01 – Heritage Overlay, to protect previously unprotected heritage significant buildings and to correct drafting errors;
 - (b) rename existing incorporated document *Appendix 8 - City of Yarra Review of Heritage Overlay Areas, Graeme Butler and Associates (2007), revised February 2018*, to *City of Yarra Database of Heritage Significant Areas, September 2018*. The revised and renamed incorporated document is included in this report at **Attachment 6**;
 - (c) correct the mapping of the Heritage Overlay of a number of properties located in Abbotsford, Alphington, Collingwood, Cremorne, Fitzroy, Fitzroy North, and Richmond. Mapping changes proposed in this amendment are included in this report as **Attachments 7**;
 - (d) insert a new Schedule to Clause 72.04 - Documents Incorporated in this Planning Scheme to include the reference to the renamed incorporated document, *City of Yarra Database of Heritage Significant Areas, September 2018*;
 - (e) update the incorporated document, *City of Yarra Database of Heritage Significant Areas, September 2018* to:
 - (i) include new addresses and grading;
 - (ii) correct historic grading errors; and
 - (iii) remove incorrect listings and grading;
 - (f) insert a new Schedule to Clause 21.11 - Reference Documents and 22.02 - Development Guidelines for Sites Subject to the Heritage Overlay to include the relevant studies for this amendment - *Thematic Study of Theatres in the City of Yarra, Context Pty Ltd (2017)* and *Victoria Street and Bridge Road Built Form Review: Heritage Assessment, GJM Heritage (2018)*;
 - (g) the new Schedule to Clause 22.02 – Development Guidelines for Sites Subject to the Heritage Overlay includes changing reference from *Appendix 8 - City of Yarra review of Heritage Overlay Areas, Graeme Butler and Associates (2007), revised February 2018*, to *City of Yarra Database of Heritage Significant Areas - September 2018*;
 - (h) correct the zones boundaries of properties, located in more than one zone, in Fitzroy North and Richmond;
 - (i) delete expired interim heritage controls;
 - (j) apply permanent controls to replace expired interim controls on properties; and
 - (k) amend errors of incorrect grading on a number of properties within heritage overlays.

External Consultation

21. If Council resolves to prepare this amendment the following external consultation will occur (following the required *authorisation*) by the Minister for Planning:

- (a) the amendment documentation would be exhibited for a period of one calendar month, in accordance with the requirements of the *Planning and Environment Act 1987*;
 - (b) notice of the proposal would be given to all owners and occupiers of land within the affected areas;
 - (c) formal notice will be published in the Age newspaper; and
 - (d) information will be provided on the Council website.
22. Consultation will provide the community and stakeholders with the opportunity make a submission about the proposed changes.
23. Issues raised through submissions must be considered by Council.
24. Council officers have had preliminary discussions about the amendment with the Department of Environment, Land, Water and Planning (DELWP). The amendment is unlikely to impact other agencies because it primarily affects private land.

Internal Consultation (One Yarra)

25. The proposed amendment has been circulated internally with comments from different team members from the Strategic Planning unit and the Statutory Planning team of Council.
26. These comments form part of the assessment process leading to this report.

Financial Implications

27. The costs associated with the amendment are covered by the Strategic Planning operational budget.

Economic Implications

28. There are no significant economic implications from the amendment identified.

Sustainability Implications

29. The retention of heritage places reduces building waste and conserves embodied energy in existing buildings. However, older buildings are potentially less energy efficient than new buildings and the amendment may limit opportunities for future development of sustainable buildings.

Social Implications

30. There are no significant social implications from the amendment identified.

Human Rights Implications

31. There are no human rights implications from the amendment identified.
32. The amendment complies with the Victorian Charter of Human Rights and Responsibilities Act 2006.

Communications with CALD Communities Implications

33. Any consultation for the amendment would be in accordance with the Planning and Environment Act 1987 and Council's consultation policies.

Council Plan, Strategy and Policy Implications

34. The value of creating a liveable Yarra to Council and the community is acknowledged in the Council Plan 2017-2021.
35. A liveable Yarra is identified as where development and growth are managed to maintain and enhance the character and heritage of the city.
36. The amendment seeks to promote and conserve areas of significance by:
- (a) applying new Heritage Overlay provisions; and
 - (b) correcting errors and anomalies.

Legal Implications

37. There are no legal implications of this amendment identified.

Other Issues

38. There are no other issues from this amendment identified.

Options

39. Council can either decide:

- (a) to prepare an amendment and seek *authorisation* (without changes);
- (b) to prepare an amendment and seek *authorisation* (with changes); or
- (c) to not prepare the amendment.

Conclusion

- 40. Amendment C245 would include the recommendations for further heritage protections from – *Thematic Study of Theatres in the City of Yarra, Context Pty Ltd (2017)* and *Victoria Street and Bridge Road Built Form Review: Heritage Assessment, GJM Heritage (2018)* in the Yarra Planning Schemes.
- 41. Additionally, the amendment seeks to correct errors and anomalies in heritage overlays and zoning in the Yarra Planning Scheme. The amendment is part of ongoing work to correct gaps in protection and assist in conserving the heritage of the City of Yarra.
- 42. Implementing these recommended changes and correcting errors will improve clarity of the Yarra Planning Scheme.

RECOMMENDATION

1. That Council:
 - (a) note the officer report on the proposed changes to the Heritage Overlay and Zones in the Yarra Planning Scheme;
 - (b) note the supporting documents including, **Attachment 1**, the *Thematic Study of Theatres in the City of Yarra*, Context Pty Ltd (2017), **Attachment 2**, the *Victoria Street and Bridge Road Built Form Review: Heritage Assessment*, GJM Heritage (2018) and the report, **Attachment 4**, *Heritage Studies: Theatres, Bridge Road, Victoria Street and corrections to heritage and zone anomalies*, as the basis for Amendment C245; and
 - (c) seek authorisation from the Minister of Planning to prepare Amendment C245 to the Yarra Planning Scheme in accordance with section 8A of the *Planning and Environment Act 1987*.
2. If authorisation is granted by the Minister of Planning, Council exhibit Amendment C245 in accordance with the requirements of section 19 of the *Planning and Environment Act 1987*.

CONTACT OFFICER: Fiona van der Hoeven
TITLE: Senior Coordinator Strategic Planning
TEL: 9205 5156

Attachments

- 1 Thematic Study of Theatres in the City of Yarra (Context Pty Ltd)
- 2 Victoria St and Bridge Rd Built Form Review - Heritage Assessments
- 3 Summary of Places - Yarra Amendment C245
- 4 Heritage Studies: Theatres, Bridge Road, Victoria Street and corrections to heritage and zone anomalies
- 5 Explanatory Report - Yarra Amendment C245
- 6⇒ Database of significant heritage areas
- 7⇒ Mapping Changes - Yarra Amendment C245

11.7 Edinburgh Gardens Sporting Community request for WT Peterson Oval, Edinburgh Gardens

Trim Record Number: D18/157437

Responsible Officer: Director City Works and Assets

Purpose

1. To provide advice to Council in relation to a request from the Edinburgh Gardens Sporting Community for a report to be presented to Council to reallocate \$50,000 that was included in Councils 2018/19 Capital Works Program for design of the Fitzroy Tennis Club, to a strategic planning (feasibility) process for the group's proposal to redevelop the facilities at WT Peterson Oval (Brunswick Street Oval); and to advise of the groups requests to seek matching funds from the State Government towards this project.

Background

2. In July 2018, Council received correspondence from representatives of the Edinburgh Cricket Club, Fitzroy Football Club, Fitzroy Junior Football Club and Fitzroy Tennis Club, advising the clubs had formed an alliance under the name 'Edinburgh Gardens Sporting Community'. They outlined the growth in memberships and participation (and particularly female participation) in their respective sports, and identified a desire to having new club room facilities built at Brunswick Street Oval.
3. Club representatives sought a meeting with the Mayor and Ward Councillors in August 2018, to outline the clubs vision. At this meeting, club representatives outlined their desire for a redevelopment of the sporting/community facilities servicing Brunswick Oval, and the Fitzroy Tennis Club.
4. The group subsequently wrote to Council on 29 August 2018, to formally request Council consider reallocating the funding allocated to design for the Fitzroy Tennis Club in 2018/19 (\$50k), towards further planning for a larger scale redevelopment of the facilities in this precinct; for Council to request matching funds from State Government; and for members of the group to be included on a Project Control Group for the project. This letter can be found at Attachment 1 of this report.
5. This letter also refers to a meeting of club representatives with The Hon Richard Wynne MP, Member for Richmond (and Minister for Planning), in late August 2018 and the clubs request for State Government funding (\$50k to match the proposed amount to be reallocated within Councils CAPEX Budget) to support this proposal. Club representatives advise the 'The Minister indicated general support and requested Council formally request the funding'.
6. On the basis of the advice above, if Council is amenable to the request to reallocate the funding in the 2018/19 CAPEX program for this purpose, Council might also authorise the Mayor to write a letter to the Local Member, seeking State Government provide \$50k to match the amount provided by Council for this purpose.

External Consultation

7. At this stage, the clubs representatives have engaged with Officers, some Councillors and the Member for Richmond. Broader consultation is proposed if funding is secured to enable further planning of this sports/community precinct.

Internal Consultation (One Yarra)

8. At this stage, Officers from the Recreation and Leisure Branch, and from the Buildings and Asset Management Branch have been engaged. Other parts of the organisation, including but not limited to Heritage and Open Space representatives, will be engaged if Council supports the proposal to reallocate funding to consider a broader redevelopment of this sports/community precinct.

Financial Implications

9. The request from the Edinburgh Gardens Sporting Community group is to reallocate funding (\$50k), which has already been allocated to design of the Fitzroy Tennis Club facilities in 2018/19, to another purpose within the precinct. There is no net impact on Councils budget as a result of approving this request.

Economic Implications

10. There are no economic implications as a result of this report or its recommendations.

Sustainability Implications

11. There are no sustainability implications as a result of this report or its recommendations at this stage. Any development of facilities in this precinct would need to have consideration of sustainability implications.

Social Implications

12. The proposal being put forward on behalf of the clubs seeks to improve the function and amenity of the facilities, including to provide better facilities to encourage and support female participation, and to improve the social facilities, which could better support community use of these facilities.

Human Rights Implications

13. There is no detrimental impact on Human Rights as a result of this report or its recommendations.

Communications with CALD Communities Implications

14. There has been no external consultation undertaken in relation to this report at this stage. Subject to Councils decision, consultation on any future development of the site would necessarily involve a broad range of community members.

Council Plan, Strategy and Policy Implications

15. The provision of modern facilities to support participation and community interaction are supported by a number of objectives within the Council Plan;
A healthy Yarra: Community health, safety and wellbeing are a focus in everything we do.
An inclusive Yarra: Inclusion, diversity and uniqueness are welcomed, respected and celebrated.
A liveable Yarra: Development and growth are managed to maintain and enhance the character and heritage of the city.

Legal Implications

16. There are no relevant legal implications as a result of this report or its recommendations.

Other Issues

17. As the funding in Council's 2018/19 CAPEX program was allocated specifically for design to inform potential future refurbishment of the Fitzroy Tennis Club facilities, Officers have confirmed with the Fitzroy Tennis Club, that the reallocation of these funds would mean that no design would be progressed on this facility, and that any future allocation for this purpose would be subject to a new allocation by Council. See Attachment 2 – Letter from Fitzroy Tennis Club.
18. The Fitzroy Tennis Club has acknowledged that reallocating the funds would have this effect, and has advised Officers that it is the clubs preference to reallocate the funds as requested in the letter from the Edinburgh Gardens Sporting Community group.
19. Officers have not formed a view on the merits of a proposed redevelopment of these facilities, but acknowledge the function and amenity of these facilities could be improved to facilitate improved participation and enable additional community use.

20. Officers also recognise that any redevelopment of these facilities would need to be cognisant of heritage implications, and the Edinburgh Gardens Master Plan, amongst other things.
21. Officers view is that it is not advisable to continue with the proposed design work for Fitzroy Tennis Club in 2018/19, in the context of the clubs desire to work with the other sporting clubs in the precinct to explore a more significant redevelopment of the sports and community facilities.
22. The letter from the Edinburgh Gardens Sporting Community group requests that members of the group are included on a Project Control Group (PCG) for the project. At this stage, officers have not determined the approach to progressing consideration of a redevelopment of these facilities (including the establishment of a PCG), or indeed the role of the club representatives versus Council officers, however any redevelopment of Council facilities in this precinct would necessarily involve both Council officers and club representatives.

Options

23. Council could determine to accept the proposal by the Edinburgh Gardens Sporting Community to reallocate the \$50k in Council's 2018/19 CAPEX program to enable further planning for the sports facilities within this precinct.
24. If Council accepts this proposal and determine to reallocate this funding, it might also write to The Honourable Richard Wynne, Member for Richmond, seeking a matching contribution from State Government of \$50k toward the planning for facilities in this precinct.
25. Council could determine not to support this request, and to direct officers to proceed with design work for the Fitzroy Tennis Club, as proposed at the time of budget adoption.

Conclusion



26. Edinburgh Gardens Sporting Community group, comprising Edinburgh Cricket Club, Fitzroy Football Club, Fitzroy Junior Football Club and Fitzroy Tennis Club has indicated that growth in membership and participation in the respective sports has led to the need to consider works to provide improved sporting and community facilities in this precinct.
27. The clubs have indicated a desire to reallocate funding currently allocated for design of the Fitzroy Tennis Club, to explore redevelopment of sporting and community facilities within this precinct; and to seek State Government funding to match Councils allocation, in order to support this process.
28. If Council approves the reallocation of Council funding, Officers would seek to work with the club representatives to develop a process to consider options for a redevelopment of these facilities.

RECOMMENDATION

1. That:
 - (a) Council endorse the proposal from Edinburgh Gardens Sporting Community group to reallocate \$50,000 in the 2018/19 CAPEX program allocated for design of the Fitzroy Tennis Club, to a project to explore redevelopment of the sports and community facilities at WT Peterson Oval (Brunswick Oval);
 - (b) Council write to The Hon. Richard Wynne, Member for Richmond, seeking matching funding of \$50,000 to assist with the project to explore redevelopment of the sports and community facilities at WT Peterson Oval (Brunswick Oval);
 - (c) Council support Officers to work with the Edinburgh Gardens Sporting Community group to develop an approach to consider options for a redevelopment of these facilities, including community consultation as part of this project; and
 - (d) The Edinburgh Gardens Sporting Community group and the respective sporting clubs be advised of this resolution.

CONTACT OFFICER: Chris Leivers
TITLE: Director City Works and Assets
TEL: 9205 5100

Attachments

- 1  Edinburgh Gardens Sporting Community request for support
- 2  Letter from Fitzroy Tennis Club

11.8 Procurement Policy

Trim Record Number: D18/158391

Responsible Officer: Acting Director Corporate, Business and Finance

Purpose

1. To present for endorsement Council's Procurement Policy in accordance with Section 186A (7) of the *Local Government Act 1989 (the Act)* which requires that the Policy is reviewed annually and is available for public inspection via Council's offices and website.

Background

2. The 2018 review includes external and internal consultation which is addressed in paragraphs (3 and 4). The following outlines the specific changes to the 2018 update of the Policy:
 - (a) Diversity - Expansion of wording to strengthen the recognition of entities within the municipality where inequality may be evident and to adjust procurement practices to reduce any recognised barriers;
 - (b) Quotations – Inclusion of details in this section to provide more detailed information to the organisation regarding the manner in which quotations are to be used for providing goods, services and works;
 - (c) Social Enterprise – Inclusion of details relating to Council developing and enhancing its' commitment to engage with Social Enterprises to assist in the creation of greater opportunities for employment for disadvantaged people and businesses through certified Social Enterprises;
 - (d) Buy Australian – Inclusion of details relating to Council staff acquisition of Australian Brand products, materials or goods or other alternative Brands; and
 - (e) Textiles, Clothing & Footwear – Reference to the Fair Work Amendment (Textiles, Clothing and Footwear Industry) Act 2012.

External Consultation

3. Council officers met with representatives from Social Traders Ltd, an organisation that is partnering with Arcblue and the Municipal Association Victoria (MAV) and has extensive experience and expertise in social enterprises. Its mission is to provide support to Local Governments to undertake social procurement and/or increase Council's work in the area of social procurement and to buy effectively from social enterprises and indigenous businesses.

Internal Consultation (One Yarra)

4. A proposal provided by Social Traders Ltd was presented to Executive for discussion and consideration by the Director Corporate Business and Finance.
5. It was determined that Council would benefit greatly from accepting the proposal and participating in the program.

Financial Implications

6. By endorsing and then enacting this Policy, Council will be endorsing a transparent process for procurement and a consistent approach to achieving best value for money, including optimal financial and social outcomes for the community when procuring goods/services and works.

Economic Implications

7. There are no economic implications.

Sustainability Implications

8. Council has further strengthened its commitment to procuring goods/services/works in alignment with its values of environmental, social, economic, cultural and ethical sustainability.

Social Implications

9. The implications are that Council will further strengthen its commitment to engage social enterprises and indigenous groups more effectively.

Human Rights Implications

10. This policy contains new initiatives aimed at ensuring Council continues to commit to an increase range of human rights in its procurement practices and is in line with Council's human rights obligations.

Communications with CALD Communities Implications

11. The Procurement Policy will be displayed on Council's website and will be presented in languages that are relevant to Yarra's culturally and linguistically diverse community.

Council Plan, Strategy and Policy Implications

12. The implications are consistent with Council's Plan and strategic direction 2017-2021 under Section 7 "*Transparency, performance and community participation drive the way we operate.*

Legal Implications

13. This policy fulfils Council's legal obligations in accordance with Section 186(A) of the *Local Government Act 1989 (the Act)*.

Other Issues

14. There are no other issues.

Options

15. There are no other options.

Conclusion

16. Council has met its obligations under the *Local Government Act 1989 (the Act)* and completed its annual review of Council's Procurement Policy.
17. Yarra City Council consistently strives to be a leader in sustainability in local government. The inclusion of the Social Enterprise actions as part of the Procurement Policy will further enhance Yarra's reputation and credibility as a leader in social procurement practices.
18. The annual review of the Procurement Policy also ensures that where necessary, some minor additions and changes to wording has occurred for enhanced clarity and presentation.

RECOMMENDATION

1. That Council:
 - (a) notes the annual review of the Procurement Policy in accordance with Section 186A7) of the Local Government Act 1989 (**the Act**);
 - (b) notes the inclusions to the Procurement Policy as outlined in the Report at paragraph 2; and
 - (c) adopts the 2018 Procurement Policy and make it available for public inspection via Council's offices and website.

CONTACT OFFICER: Graham Wilsdon
TITLE: Coordinator Strategic Procurement
TEL: 9205 5236

Attachments

1 [⇒](#) Procurement Policy

12.1 Notice of Motion No. 12 of 2018 - Mandating Environmental Principles in Planning Legislation

Trim Record Number: D18/149223

Responsible Officer: Group Manager Chief Executive's Office

I, Councillor Amanda Stone, hereby give notice that it is my intention to move the following motion at the Ordinary Meeting of Council to be held on 18 September 2018:

“That in the matter of mandating of environmental principles into Planning schemes, Council:

- (a) give in principle support to the implementation of such measures and communicate this support to Moreland City Council; and
- (b) ask officers to report back on how these measures might be included in Yarra’s new Planning Scheme currently under review.”

Background

That Council note that the City of Moreland has recently started work on a planning scheme amendment that looks to mandate that all new commercial and residential buildings:

- (a) allocate 15% of roof space to either solar pv or green roofs;
- (b) allocate sufficient waste chutes or storage space for organic waste bins within a development; and
- (c) install specific electrical infrastructure in all new developments, such that it enables the installation, at a later stage, of recharging points for electric vehicles.

That Council also note Yarra’s current work on developing an organic waste system, and current practice of proposing electrical charge points in new multi-unit developments.

RECOMMENDATION

1. That in the matter of mandating environmental principles into Planning Schemes, Council:
 - (a) give in principle support to the implementation of such measures and communicate this support to Moreland City Council; and
 - (b) ask officers to report back on how these measures might be included in Yarra’s new Planning Scheme currently under review.

Attachments

There are no attachments for this report.

12.2 Notice of Motion No. 13 of 2018 - Proposal to Name Laneway No. 1600 as MacKillop Place.

Trim Record Number: D18/159919

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 18 September 2018:

“That Council request Officers to immediately initiate the process in its “Governance – Naming of Roads, Features and Localities Policy”, to propose the naming of laneway listed as No.1600 on its Road Register as, “MacKillop Place.”

Background

1. The subject laneway is listed in Council’s Road Register as Right of Way (ROW) No. 1600.
2. Of special note is that this ‘reserved laneway’ was the first to be surveyed north of Victoria Parade after the 1839 auction of rural land beyond Melbourne’s then town boundaries, and its historical importance and significant cultural and religious associations, should be recognised by choosing an appropriate name, not just an administrative number.
3. ROW No.1600 dates from when Crown Allotment 49 was divided by Brunswick and Gertrude Streets into four quarters, creating the *first* suburban blocks in Melbourne’s *first* suburb. The next subdivision created this ‘reserved laneway’ to provide rear access to the properties fronting Victoria Parade and the separate allotment on its north at the time. The land was acquired in June 1840 by Jane Minton, a developer who built the wooden cottage where Alexander MacKillop became her tenant.
4. The most appropriate name for Fitzroy’s (and Yarra’s) first ROW is therefore that of Alexander MacKillop, the first occupant of the first dwelling which he later purchased from Jane Minton on 1 October 1840 and named it Marino Cottage.
5. This dwelling at the western end of the ROW was where Mackillop’s daughter Mary was born in January 1842. A plaque in the Brunswick Street footpath close to the ROW commemorates the birthplace of the remarkable woman later who became the first and only Australian recognised by the Catholic Church as a saint, when she was canonised as Saint Mary of the Cross MacKillop on 17 October 2010.
6. The name MacKillop Place will therefore not only commemorate the first pioneering landowner who made his home in the bush beside the *first* ‘reserved laneway’ in Melbourne’s *first* suburb, but also honour the exceptional life and achievements of the *first* person born there and the spiritual significance of the site as a place of pilgrimage.
7. As a point of interest, the following sketch shows a very early view looking north along Brunswick Street.



This sketch which must date from late 1840 or early 1841 shows the bush along Brunswick Street, with no houses on the western side where Marino Cottage was concealed by trees and scrub.

RECOMMENDATION

That Council request Officers to immediately initiate the process in its 'Governance – Naming of Roads, Features and Localities Policy', to propose the naming of laneway listed as No. 1600 on its Road Register as "MacKillop Place".

Attachments

There are no attachments for this report.