

# Ordinary Meeting of Council Agenda

**to be held on Tuesday 10 September 2019 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**

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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. Delegates' reports**
- 9. General business**
- 10. Questions without notice**
- 11. Council business reports**
- 12. Notices of motion**
- 13. Urgent business**

## 1. Statement of Recognition of Wurundjeri Land

*"Welcome to the City of Yarra."*

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

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

Anticipated attendees:

### Councillors

- Cr Danae Bosler (Mayor)
- Cr Misha Coleman (Deputy Mayor)
- Cr Mi-Lin Chen Yi Mei
- Cr Stephen Jolly
- Cr Daniel Nguyen
- Cr Bridgid O'Brien
- Cr James Searle
- Cr Amanda Stone

### Council officers

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

### Leave of absence

- Cr Jackie Fristacky

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

## 4. Confidential business reports

Nil

## 5. Confirmation of minutes

### RECOMMENDATION

That the minutes of the Ordinary Council Meeting held on Tuesday 27 August 2019 be confirmed.

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

## **7. Public question time**

Yarra City Council welcomes questions from members of the community.

### Public question time procedure

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

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

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

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

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

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

## **8. Delegate's reports**

## **9. General business**

## **10. Questions without notice**

## 11. Council business reports

Item		Page	Rec. Page	Report Presenter
11.1	Yarra Volunteer Strategy 2019-2023	7	10	Aldo Malavisi – Community Partnerships Unit Manager
11.2	Yarra Planning Scheme Amendment C191 - Swan Street Activity Centre - Response to submissions	11	35	David Walmsley – Manager City Strategy
11.3	Rushall Reserve - Update Report	37	43	Bruce Phillips - Director Planning and Place Making
11.4	Size of Apartments	44	49	Bruce Phillips - Director Planning and Place Making
11.5	2018/19 Annual Financial Statements, Performance Statement, and LGPRF Reports adoption 'in principle'.	50	52	Ange Marshall – Chief Financial Officer
11.6	2018/19 Annual Plan Quarterly Progress Report - June 2019	54	59	Julie Wyndham – Manager Corporate Planning and Performance

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**

<b>Item</b>	<b>Page</b>	<b>Rec. Page</b>	<b>Report Presenter</b>
12.1 Notice of Rescission No. 1 of 2019 - Management of Plane Trees	60	61	Cr Amanda Stone
12.2 Notice of Motion No. 14 of 2019 - Management of Plane Trees	62	62	Cr Amanda Stone

## **13. Urgent business**

Nil

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## 11.1 Yarra Volunteer Strategy 2019-2023

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Trim Record Number: D19/77688

Responsible Officer: Group Manager People, Culture and Community

### Purpose

1. The purpose of this report is to seek adoption of the Yarra Volunteer Strategy 2019-2023 and Year One Action Plan.

### Background

2. The volunteer sector is increasingly becoming more valued and prioritised hence the Victorian Government is currently developing a state-wide volunteer strategy. Therefore it is important for Yarra City Council to invest in more support for the local volunteer sector and the Yarra Volunteer Strategy is a positive step towards achieving this support.
3. A whole-of-council volunteer strategy was developed using extensive consultation of both internal and external key stakeholders, research to identify best practice referring to Federal and State policy, review of existing Council strategies and a benchmarking analysis into other local government support for volunteering.
4. The draft strategy was endorsed by Council on 11 June 2019 and went out for public exhibition from the 25 June – 24 July 2019.
5. The strategy outlines Council's priorities, objectives and the Year One Action Plan to better support volunteering in the Yarra community. The key priorities are as follows:
  - (a) **Promote, Participate & Connect:**  
Promote volunteer opportunities in the Yarra community and encourage volunteering as a way for people to connect with and participate in their community.
  - (b) **Support & Strengthen:**  
Support volunteers and people who manage volunteers in the Yarra community, strengthen relationships and create linkages.
  - (c) **Recognise & Value:**  
Promote the value and benefits of volunteering. Recognise the contributions by volunteers and people who manage volunteers in the Yarra community.
6. These priority areas will guide the development of key actions over the coming four year period (2019-2023) that will promote, support, strengthen and celebrate volunteering across the Yarra municipality. An action plan with measurable tasks will be used to monitor and evaluate the progress of the strategy's initiatives over a 12 month period. This will be reviewed and reported on an annual basis.
7. The second round of consultation provided additional input to help consolidate and refine the objectives and action items of the strategy (see **Attachment 1** for a summary of feedback received during the public exhibition period).
8. Feedback was positive and reaffirmed that the strategic direction aligns with the community's expectations.

### External Consultation

9. Extensive consultation was sought from a diverse range of community members and key stakeholders towards developing the strategy where over 500 responses were received.

10. Public exhibition consultation methods included a Your Say Yarra survey promoted via the Grants eNews, Library eNews, Yarra Life and emails to Yarra volunteer involving organisations as well as focus group discussions with the Yarra Volunteer Leaders Network, the Yarra U3A group and a representative of the Disability Advisory Group.
11. The draft volunteer strategy and action plan was available to the general public but focused on volunteers and people who manage volunteers and volunteer programs in Yarra community organisations.
12. There were over 440 visits to Your Say Yarra although out of these responses it was the 17 qualitative comments from the online survey that were most constructive and in some cases required amendments to wording in the action plan.
13. Minor changes made to the strategy include:
  - (a) Refinement and consolidation of action plan items to avoid duplication, for example 'promotion of volunteering and opportunities'; and
  - (b) Removal of the word 'young people' to make more inclusive of all ages in the Action Plan section 2.2.2 *develop pathways to volunteer and employment opportunities in the Yarra community*.

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

14. Relevant internal council staff were consulted via an email survey. This includes staff that make up the internal stakeholder group with representatives from Library, Family, Children's & Youth, Recreation & Leisure, Aged & Disability, Arts & Culture, City Works, People & Culture, Community Grants, Communications and Community Partnerships.
15. Minor changes made to the strategy include:
  - (a) Inclusion of City Works, Sustainability and Recreation & Leisure Services in the Action Plan section 1.2.1 *Identify ways to encourage volunteering and community participation, across a range of cohorts in Yarra, to include innovative and flexible options and how to access them*. This is in reference to the involvement they currently have, or intend to have, with community volunteers e.g. sports clubs and the Nature Strategy and Climate Emergency Plan; and
  - (b) Inclusion of Compliance in the Action Plan section 2.1.1 *Improve support for volunteer involving organisations and groups to manage volunteers and help develop the skills of volunteer managers*. This is in reference to officer assistance provided to help make it easier for volunteer groups like sports clubs with processing permits for activities such as fundraising activities.

### **Financial Implications**

16. All the actions in Year One of the Volunteer Strategy are being resourced through the existing budget. However additional financial resources would need to be considered to implement larger scale programs to support community volunteering. Some of these will be considered through the actions in Year One and then presented to Council for determination.

### **Economic Implications**

17. The economic value of volunteering in the City of Yarra is difficult to quantify, however it is estimated at \$54.9 million (according to the last Census report in 2016). This could not be resourced in any other way. It is in Council's best interest to invest in supporting and increasing the levels of volunteering across the municipality because the loss of this would be simply unthinkable.
18. Strategies in the Action Plan focus on opportunities, capacity building and employment pathways through volunteering in the Yarra community which contribute to positive economic contributions for Yarra.

### **Sustainability Implications**

19. Many organisations concerned with sustainability utilise volunteers. Council has an opportunity to further its messages around environmental sustainability by actively supporting and encouraging these volunteers.

### **Social Implications**

20. Volunteer involvement contributes to civil society and active participation in building strong, inclusive, and resilient communities. It underlies innovation and social change, our responses to community need and community challenges, and it brings together and supports the local strengths and assets of communities.
21. Yarra was recently named the healthiest local government area in Melbourne in a study commissioned by Domain (published 18 October 2018). Volunteering is one of the key factors determining the health and liveability of an area in reference to this study.
22. Volunteering has been adopted as a metric for social connectivity and capital as a determinant of mental health. While it is acknowledged that this dataset alone does not fully represent the complexity of social connectivity and community interaction as it affects mental health outcomes, the data may be useful in providing insight into the community connectivity of each suburb. All things equal, a community that volunteers more is expected to be more highly connected socially.

### **Human Rights Implications**

23. The Volunteer Strategy considers a human rights framework and aligns with the Charter of Human Rights and Responsibilities Act 2006.

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

24. Officers have consulted with Council's Multicultural Planner about the best way to engage with CALD communities for their input towards the volunteer strategy.
25. Strategies of the Action Plan that reference CALD volunteers are as follows:
  - (a) 1.1.1 Collaborate with internal and external stakeholders to promote volunteer opportunities across all demographics in Yarra including CALD; and
  - (b) 1.2.1 Work with staff across relevant Council departments to identify and develop appropriate ways to make volunteering accessible and inclusive to all demographics including culturally diverse groups.

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

26. Multiple Council plans and strategies relevant to the volunteer strategy include the following:
  - (a) Council Plan 2017-2021;
  - (b) 0-25 Plan 2018-2022;
  - (c) Active Healthy Ageing Strategy 2018-2024;
  - (d) Access and Inclusion Strategy 2018-2024;
  - (e) Multicultural Partnerships Plan 2019-2023;
  - (f) Neighbourhood Houses Strategy and Action Plan 2018-2021;
  - (g) Yarra Libraries Strategic Plan 2017-2020;
  - (h) Arts and Cultural Strategy 2016-2020;
  - (i) Economic Development Strategy 2015-2020;
  - (j) People Strategy and Action Plan 2017-2020;
  - (k) Draft Nature Strategy 2019-2023; and
  - (l) Draft Climate Emergency Plan.

### **Legal Implications**

27. There are no legal implications.

### **Other Issues**

28. There are no other issues.

### **Options**

29. There are no options.

### **Conclusion**

30. The development of the strategy involved extensive consultation and analysis. Feedback from key stakeholders was positive and supportive of the draft strategy and action plan, which confirms that Council's goals and strategic direction align with community's expectations.
31. The volunteer strategy will formalise community partnerships and add value to existing community programs through an annual action plan for the 4 year period (2019-2023). The action plan was developed by an internal stakeholder group which will be reviewed and reported on an annual basis at the end of financial year.
32. Supporting volunteering in the Yarra community will be one of the key ways for Council to achieve its vision of building 'a vibrant, liveable and sustainable inner city that the community can be proud of' and the volunteer strategy will provide an important framework for Council on how it can best support volunteering in the Yarra community.

### **RECOMMENDATION**

1. That:
- (a) Council adopts the Yarra Volunteer Strategy 2019-2023 and Year One Action Plan.

**CONTACT OFFICER:** Elly Murrell  
**TITLE:** Projects and Administration Officer  
**TEL:** 9205 5106

### **Attachments**

- 1⇒ Public Exhibition Response Summary Yarra Volunteer Strategy 2019-2023  
2⇒ Yarra Volunteer Strategy 2019-2023

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## 11.2 Yarra Planning Scheme Amendment C191 - Swan Street Activity Centre - Response to submissions

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### Executive Summary

#### Purpose

The purpose of this report is for Council to consider:

- (a) the 30 submissions received on Amendment C191 to the Yarra Planning Scheme;
- (b) officers' responses to the 30 submissions received following the exhibition of Amendment C191;
- (c) the key recommendations for changes to the Amendment C191 documentation;
- (d) requesting the appointment of an independent planning panel to consider all submissions and Amendment C191;
- (e) the next steps for advancing the Amendment in accordance with the requirements under the Planning and Environment Act 1987; and
- (f) the recommendation that Council seek an extension of time from the Minister for Planning for the interim planning provisions on Swan Street.

#### Key Issues

Amendment C191 was publicly exhibited from 28 February to 15 April (six weeks) and 30 submissions were received. There was a largely positive response from the community regarding the strategic intent of Amendment C191. Under Section 23 of the *Planning and Environment Act 1987*, Council must either:

- (a) change the Amendment in the manner requested; or
- (b) refer the submissions to an independent Planning Panel; or
- (c) abandon the amendment or part of the Amendment.

Officers recommend (b) - all submissions be referred to a planning panel for consideration and provide recommendations to back to Council.

#### Financial Implications

There are substantial costs associated with the panel process, including panel fees, legal representation and other experts who provide evidence on behalf of Council. These costs are accounted for in Council's budget.

#### PROPOSAL

In summary, that Council:

- (a) requests the appointment of an independent planning panel to consider all of the submissions;
- (b) refers all submissions, including late submissions, to an independent planning panel;
- (c) adopts a position of support for Amendment C191 generally in accordance with the officer's response to the submissions as contained in the officer's report and attachments;
- (d) submits to the planning panel that Amendment C191 should be recommended for approval but with the changes that Council recommends should be made to the exhibited amendment; and

- (e) requests the Minister for Planning approve an amendment to the Yarra Planning Scheme, to extend the expiry date of the interim Schedule 17 to the Design and Development Overlay (DDO17) and interim heritage controls until 30 December 2020.

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## 11.2 Yarra Planning Scheme Amendment C191 - Swan Street Activity Centre - Response to submissions

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Reference: D19/130262

Authoriser: Director Planning and Place Making

### Purpose

1. The purpose of this report is for Council to consider:
  - (a) the 30 submissions received on Amendment C191 to the Yarra Planning Scheme;
  - (b) officers' responses to the 30 submissions received following the exhibition of Amendment C191;
  - (c) the key recommendations for changes to the Amendment C191 documentation;
  - (d) requesting the appointment of an independent planning panel to consider all submissions and Amendment C191; and
  - (e) the next steps for advancing the Amendment in accordance with the requirements under the *Planning and Environment Act 1987*.
2. The purpose of this report is also to recommend that Council seek an extension of time from the Minister for Planning for the current interim planning controls on Swan Street.

### Background

3. The Yarra community places great importance on planning controls to manage change and provide certainty about future development outcomes.
4. In December 2013, Council adopted the Swan Street Structure Plan (Structure Plan), prepared by David Lock and Associates. The Structure Plan provides a broad framework for managing growth and change along Swan Street and in Cremorne, as it includes a number of planning principles and directions.
5. The Swan Street Activity Centre Built Form Framework (Framework) was subsequently prepared, to enable the principles and directions in the Structure Plan to be realised in the Yarra Planning Scheme, principally through a Design and Development Overlay (DDO).
6. The Framework provided more rigorous built form testing (at a site-specific level), which is necessary to support detailed built form controls in a DDO. Preparation of the Framework included expert input and advice from GJM Heritage (heritage) and the Traffix Group (traffic and access) to achieve an integrated and robust set of planning controls for future built form along Swan Street.
7. The Framework divided the Swan Street Major Activity Centre (as designated in *Plan Melbourne 2017-2050*) into the following precincts:
  - (a) Precinct 1: Richmond Station;
  - (b) Precinct 2: Swan Street Retail Centre;
  - (c) Precinct 3: Swan Street East; and
  - (d) Precinct 4: Burnley Station.
8. While the activity centre is divided into four precincts, the following key *built form principles* are applicable to the length of Swan Street:
  - (a) Swan Street continues to be **walkable** with development providing safe, active frontages that provide visual engagement at ground floor;
  - (b) Swan Street has a **consistent street wall** that maintains and enhances the intimate, fine grain '**human scale**' of the activity centre;

- (c) **upper levels of new development are visually recessive and sufficiently setback** from the front façade to ensure that development does not detract from the valued heritage streetscape character generated by lower forms;
  - (d) **solar access** to key southern footpaths is maintained;
  - (e) **amenity impacts are limited** at the residential interface;
  - (f) **building separation** is facilitated on deep/wide lots to allow good natural light into buildings and reasonable outlook;
  - (g) **mid-rise character (5 and 12 storeys)** is reflected in the building heights within the Swan Street Activity Centre; and
  - (h) widening of laneways is provided where it is required to ensure existing and future **developments can be adequately serviced.**
9. The Swan Street Structure Plan and Built Form Framework formed the strategic basis for Amendment C191.
10. At its meeting on 17 October 2017, Council (amongst other things) resolved to:
- (a) endorse the Swan Street Activity Centre Built Form Framework (Framework) as a basis for Amendment C191;
  - (b) request the Minister for Planning for *authorisation* to prepare Amendment C191 to the Yarra Planning Scheme; and
  - (c) request that the Minister for Planning introduce planning provisions on an interim basis while permanent controls are progressed via C191.

#### **Amendment C191**

11. Amendment C191 proposes to:
- (a) introduce Schedule 17 to the Design and Development Overlay (known as DDO17) to the Swan Street Major Activity Centre to manage built form outcomes;
  - (b) rezone properties within the Commercial 2 Zone to the Commercial 1 Zone;
  - (c) apply the Environmental Audit Overlay to some sites being rezoned from the Commercial 2 Zone (C22) to Commercial 1 Zone (C1Z);
  - (d) introduce a new local area policy at Clause 21.12 of the Yarra Planning Scheme; and
  - (e) correct a number of historical mapping errors.
12. In addition, the Amendment proposes to introduce the following heritage measures:
- (a) apply the Heritage Overlay to 15 places;
  - (b) remove 4 places from the Heritage Overlay;
  - (c) regrade 3 places as 'not contributory' to the broader heritage precinct; and
  - (d) remove 57 Swan Street (the Corner Hotel) as an individually significant place from the Richmond Hill Precinct (HO332) and include it as an individually significant place within the Swan Street Precinct (HO335).
13. In September 2018, the Minister for Planning *authorised* Council to prepare Amendment C191 subject to the condition that Council removes the requirements for wider laneways.
14. The letter of *authorisation* stated that the Design and Development Overlay is not the appropriate planning mechanism to acquire land. It was not the Council's intent to acquire private land for public benefit. To meet the condition for authorisation, DDO17 was amended prior to the exhibition, to include new ground floor, rear setback design requirements where needed (in Precincts 2 and 4) to provide safe access to a new development.

## External Consultation

15. Amendment C191 was publicly exhibited from 28 February to 15 April 2019 (six weeks). Notification and exhibition of the Amendment were carried out via the following measures:
- (a) emails sent on Tuesday 19 February 2019 to Richmond resident groups and societies, advising of Council's intent to exhibit Amendment C191;
  - (b) letters mailed on Monday 25 February 2019 that included notice of preparation and a brochure (refer Attachment 1), sent to over 7,000 owners and occupiers, government agencies and prescribed authorities;
  - (c) notices placed in The Age on Thursday 28 February 2019 and the Government Gazette on Thursday 28 February 2019;
  - (d) full amendment documentation on Council and Department of Environment, Land, Water and Planning websites on Thursday 28 February 2019; and
  - (e) hard copies of the Amendment documentation available to view at Richmond Town Hall and the Richmond Library during standard business hours.

### Interactive online map

16. Given the complexity of Amendment C191, Council officers created a user-friendly interactive map (made available online on Monday 25 February 2019, at [yarracity.vic.gov.au/swanst](http://yarracity.vic.gov.au/swanst)) which shows the planning provisions proposed for the Swan Street Activity Centre.
17. There were 647 visits to the interactive map with an average time of 8 minutes spent on the map page.

### Face-to-face consultation

18. Council held three, 3 hour information sessions at the Richmond Library on:
- (a) Monday 18 March, 6pm to 9pm (15 people attended);
  - (b) Wednesday 27 March, 2pm to 5pm (2 people attended); and
  - (c) Wednesday 10 April, 2pm to 5pm (2 people attended).
19. Council officers also met with 3 groups of people outside of the above information sessions to discuss the Amendment.

## Submissions to Amendment C191

20. During the exhibition period, **Council received 30 submissions** to Amendment C191.
21. There was a largely positive response from the community regarding the strategic intent of the Amendment. Submitters supported Council proactively managing anticipated growth and development. There was support for key aspects of the proposed Amendment, including rezoning land from C2Z to C1Z, protecting views to the Dimmays clock tower and maintaining sunlight to southern footpaths.
22. Of the 30 submissions:
- (a) 17 were supportive submissions (subject to changes);
  - (b) 2 were supportive submissions; and
  - (c) 11 were objections.
23. A map showing the location of the submitters is included at **Attachment 2**.
24. A summary of issues by precinct is included at **Attachment 3**.
25. Council's Heritage Advisory Committee (HAC) also provided a number of comments on the Amendment to Council via its delegate's report. Whilst Council's advisory committees do not have delegated authority to make a formal submission, the HAC comments provided have been noted and considered. Some HAC members have made individual submissions as private citizens.

Officer approach to submissions

26. In response to the submissions received during the exhibition, additional analysis and modelling has been undertaken to properly consider the issues raised in submissions, including the following:
27. 3D modelling: Officers worked with Tract Consultants to test various submissions made in relation to heights and setbacks. The modelling has informed proposed responses to the submissions, which are outlined below. The testing also included independent heritage input from GJM Consultants.
28. Yarra C220 Panel Report: Council recently received the Yarra Amendment C220 - *Johnston Street Activity Centre Panel Report*. The Report is relevant to this Amendment, as both Johnston Street and Swan Street are long east-west streets of similar width and the issues raised in the submissions are similar.
29. Key Victorian Planning Documents: Officers have also had regard to the following planning documents and notes in considering the submissions (some of which have been updated since the Amendment was exhibited):
  - (a) *The Role of Mandatory Provisions in Planning Schemes* (PPN59) which sets out criteria that can be used to decide whether mandatory provisions may be appropriate;
  - (b) *Height and Setback Controls for Activity Centres* (PPN60), which provides guidance on the preferred approach to the application of height and setback provisions and controls for activity centres;
  - (c) *The Practitioner's Guide to Victorian Planning Schemes* (Department of Environment, Land, Water, and Planning, August 2019) which is for planning professionals who are considering or preparing a new or revised provision for a planning scheme; and
  - (d) *Ministerial Direction: The Form and Content of Planning Schemes*, May 2017 (Richard Wynne, Minister for Planning).
30. Planning applications and approvals: Given the range of considerations raised in the submissions, and the length of time between Council endorsement of the Swan Street Built form Framework (September 2017) and receiving authorisation from the Minister for Planning to prepare Amendment C191 (September 2018), Council officers have undertaken a detailed analysis of recent development applications and approvals along Swan Street. This has provided another form of testing of the built form outcomes raised in submissions.
31. It is noted that Council's Statutory Planning Unit has assessed applications against the interim DDO17, which is identical to the exhibited permanent controls, since September 2018. The statutory planning team have provided detailed comments about the interim DDO to help inform responses to submissions.
32. Existing DDOs: in other planning schemes have been reviewed to understand provisions and controls that have previously been supported by Planning Panels, to inform officer recommendations in response to submissions.
33. Review grading of heritage buildings: Submissions that raised concerns about the grading of various heritage properties and are seek changes to the significance of various buildings were referred to heritage consultants, GJM Heritage for advice about whether any of the buildings should be regraded in response to submissions.
34. Council needs to consider the officer response to submissions and recommended adjustments to Amendment C191. Council must then resolve whether to refer the Amendment and submissions to a planning panel. Council is not able to make changes to the exhibited amendment at this time, however, can submit to a planning panel that it should recommend approval of Amendment C191 with changes as described in this report.
35. The following discussion summarises the key issues in the submissions, followed by an officer response to each issue. Key issues are included under:
  - (a) Design and Development Overlay issues;

- (b) Zoning issues; and
- (c) Heritage Overlay issues.

36. For a detailed officer response to each submission, refer to Attachment 4.

### **Design and Development Overlay Issues**

37. This report discusses DDO17 in terms of the 'exhibited' version unless it is specifically noted that another version is being discussed.

#### General DDO Issues

##### *Form and drafting of exhibited DDO17:*

38. Several submissions were highly critical of the form and drafting of DDO17 on the basis that it was poorly structured, vague, complex, and repetitive. One submitter also noted that the four precincts needed better guidance to realise their vision.

##### *Officer response:*

39. The structure of the exhibited version of DDO17 is in accordance with the recently introduced Ministerial *Direction: The Form and Content of Planning Schemes* (Ministerial Direction). It is based around:

- (a) general design objectives (which specify the outcomes that should be achieved through the DDO);
- (b) mandatory and discretionary (general and precinct-based); and
- (c) design requirements (which impose limitations on how land may be developed).

40. The Ministerial Direction limits the number of design objectives to five and as such, those included in DDO17 were intentionally broad to provide guidance for the length of Swan Street. Design objectives are key to the interpretation and application of the discretion created by a planning control, such as DDO17. All decisions are to be tested against them.

41. Officers acknowledge that the general design objectives in Section 1.0 of DDO17, whilst having urban design merit, are self-evident and duplicate existing policy. Importantly, they do not assist with decision-making in some instances, particularly where heritage issues are not applicable.

42. The *Practitioner's Guide to Victorian Planning Schemes* (the Guide) recommends, where schedules require multiple objectives (such as for Swan Street which has four distinct precincts), separate schedules each with clear objectives may be a better solution. As such, officers' recommend that DDO17 be "divided" into four separate DDOs. This would:

- (a) allow the Schedules to the DDO to be precinct specific reducing unnecessary text and duplication in the provisions;
- (b) provide an opportunity to better translate objectives from the Built Form Framework;
- (c) strengthen the design objectives to provide more planning certainty;
- (d) remove the precinct specific design requirements (which can be relocated elsewhere);
- (e) reduce the length and complexity of the provisions (the exhibited version of DDO17 was 22 pages long); and
- (f) other realignments and efficiencies to improve the readability of the control.

43. As DDO17 already includes four distinct 'sections' for each precinct, this would be a policy-neutral change.

##### *Wording of mandatory and discretionary provisions:*

44. A number of submitters noted that DDO17 is prescriptively worded, which has led to confusion as to what is mandatory and what is discretionary.

*Officer response:*

45. The language used in DDO17 applies the word 'must' to a number of discretionary requirements. Since DDO17 was prepared, the Guide has been updated and reinforces that the most appropriate language for a DDO17 is 'should' for discretionary (preferred) requirements and 'must' for mandatory requirements. Officers recommend that the language in the DDO be refined to avoid confusion.

*Application of mandatory controls:*

46. A large number of submitters objected to the introduction of mandatory building height and setback controls. They submitted that the proposed mandatory building height and setbacks are insufficiently justified and unwarranted. These mandatory controls, they argue, would constrain development innovation, causing uniform built form outcomes contrary to the objectives contained in the planning practice notes, *The Role of Mandatory Provisions in Planning Schemes* (PPN59) and *Height and Setback Controls for Activity Centres* (PPN60).

*Officer response:*

47. Council has been very selective in its application of mandatory controls to where it is considered 'absolutely necessary' (in accordance with PPN59). Council has applied mandatory controls to:
- (a) in locations of intact heritage streetscapes; and
  - (b) in locations with a sensitive interface with low scale residential properties
  - (c) protect southern footpath of Swan St from overshadowing.
48. Importantly, the DDO is underpinned by comprehensive strategic work that meets the requirements of PPN60. In particular this work:
- (a) is consistent with state and regional policy – the DDO proposes a preferred future character for Swan Street that aligns with the aspirations of Plan Melbourne and state policies;
  - (b) is current and takes account of recent trends and approvals, and has been subject to a program of public consultation; and
  - (c) provides capacity to accommodate growth within Swan Street consistent with the Yarra Housing Strategy and the Spatial Economic and Employment Strategy.
49. The advantage of mandatory controls (where justified and appropriate) is that they can provide more certainty to all parties. Officers recommend that the application of mandatory controls remain as exhibited.

*Heritage:*

50. Four submissions stated that DDO17 would result in the destruction of the heritage character of the centre.

*Officer response:*

51. Amendment C191, including DDO17, was informed by a heritage study – Swan Street Built Form Heritage Analysis & Review (December 2017) prepared by GJM Consultants. DDO17 includes a number of specific controls to protect the prominence of heritage places, particularly in Precinct 2, namely:
- (a) General design objectives;
  - (b) Design requirements;
  - (c) Heritage design requirements;
  - (d) Mandatory building and street wall heights; and
  - (e) Mandatory upper level setbacks.

52. However, there is an important distinction between the Heritage Overlay (HO) and a DDO. The HO (and the associated policy in the Planning Policy Framework) deals with heritage matters. The DDO deals with built form matters. A planning scheme must be read in its entirety – policy, zones, overlays, particular provisions etc. Furthermore, the DDO does not encourage the demolition of heritage buildings. It determines the form of new buildings if a planning permit application is received.
53. It is the officers' position that the introduction of the DDO would ensure that future development would be required to consider the existing and preferred neighbourhood character of the streetscape and respond to the key characteristics of the area, which are encouraged to be retained.

*Upper level setbacks:*

54. Six submitters stated that it is inappropriate for taller development to be set back from the facade only five metres from heritage façades.
55. Four submitters recommended that, for contributory places, the principal roof or at least 10m from the frontage (whichever is the greater) should be retained. Three submitters recommended that individually significant places should be retained in their entirety. One submitter recommended that a 10m development exclusion should be applied to both sides of Swan Street irrespective of the heritage grading.

*Officer response:*

56. A 5m upper level setback has generally been applied to the length of Swan Street. In heritage streetscapes and clusters of heritage streetscapes, these setbacks are proposed as mandatory to ensure upper levels do not visually dominate heritage places.
57. It is important to note that the majority of the south side in Precinct 2 has a proposed mandatory upper level set back of 10m to protect views to the Dimmeys Ball Tower.
58. In response to the submissions; further 3D testing; and the recommendations contained in the Amendment Yarra C220 Panel Report (Johnston Street Activity Centre), it is recommended that the 5m setback be increased to 6m across Swan Street to make the upper levels of new development more recessive and maintain the character of the existing heritage streetscape.
59. A 6m minimum is an improved heritage outcome ensuring a larger proportion of the principal building roof is retained. The outcome also means that the parapets/silhouettes of buildings remain prominent with the greater retention of key building elements including chimneys. The proposed new 6m setback as a mandatory minimum requirement appropriately responds to the heritage context of the Swan Street precinct.
60. The 6m setback would also enable the shallow lots on the north side of Swan Street to still be feasibly developed, in accordance with the role and function of a major activity centre.
61. Increasing the upper level setback from 5m to 6m, would result in the proposed heights on some sites on the north side of Swan Street to be lowered by one storey. For shallow sites, a 6m upper level setback combined with the proposed rear residential interface requirement would restrict development from the front and back of the site. To comply with the front and rear setbacks, and assuming a minimum apartment depth of 10m, the overall possible building height would be lowered by one storey. Table 1 lists the properties that this would affect, in precincts 2, 3 and 4.

Table 1

	Address	Exhibited height	Proposed preferred new height
Precinct 2	99-147 Swan Street	18m (approximately 5 storeys)	14m (approximately 4 storeys)
	191-235 Swan Street	21m (approximately 6 storeys)	18m (approximately 5 storeys)
Precinct 3	255-309 Swan Street	24m (approximately 7 storeys)	21m (approximately 6 storeys)
Precinct 4	487 Swan Street	18m (approximately 5 storeys)	14m (approximately 4 storeys)

62. Where the Heritage Overlay does not apply, officers also recommend that the discretionary 5m should be increased to a discretionary 6m setback to maintain a consistent 'secondary-street wall' above the lower levels along Swan Street and Burnley Street.
63. In regards to applying different setbacks on individually significant places and contributory places, recent Panel Hearings have not supported this approach as it would result in a poor urban design outcome (inconsistent setbacks). The Yarra C220 Panel in their report noted:
- "The Panel does not agree that less significant sections warrant a different treatment. Less significant areas equally deserve to exhibit the overall urban design outcome: a strong street wall with a distinct setback to the mid-level form. It is an urban design outcome as much as a heritage one."*
64. Given the above, officers do not support treating individually significant and contributory places differently. Furthermore, it is recommended that the upper level setback requirement in interface C of the DDO be amended to delete the words "individually significant" and replaced with "heritage buildings".
- Rear interface with residential:*
65. Four submitters, particularly in Stanley, Coppin and Brighton Streets, that adjoin the Activity Centre expressed concerns about the impact of taller development on their existing amenity.
- Officer response:*
66. Building heights proposed along the south side of Swan Street in Precincts 3 and 4 are greater than the north side due to the absence of heritage and sensitive interfaces. In addition, there are a number of large allotments that can accommodate more development. These sites on the south side of streets provide an excellent opportunity to accommodate growth without unreasonably affecting existing residential properties. The rail corridor (which ranges in depth from 29m-45m) provides a significant buffer between these sites and the low scale residential areas to the south. Despite this, a key consideration in determining the proposed heights was to still minimise the visual bulk of upper levels of development and protect properties from overshadowing (when measured at the equinox).
67. In Precincts 3 and 4 the proposed mandatory maximum heights on the north side of Swan Street range from 18m (5 storeys) to 27m (8 storeys), depending on the site depth. The mandatory heights are intended as an overall maximum building height 'cap' to prevent excessive development - it was not intended to indicate that every site could be built to the proposed mandatory height. It is considered that these heights allow for intensification within the activity centre whilst also managing amenity impacts at the residential interface and providing for a scale that is compatible with the adjoining one and two storeys residential context. However as discussed above, if the upper level setbacks are increased from 5m to 6m, this would result in the need for lower heights for some sites along the northern side of Swan Street. Residential areas to the north would not be affected by overshadowing, due to its location.
68. The proposed DDO already includes controls to address visual appearance such as building separation requirements and design quality requirements.

69. Officers' support recommending a new requirement under '*design quality requirements*' to protect the amenity of existing residential properties (not directly abutting the centre) from visual bulk, overlooking, overshadowing and vehicle access.

*Street wall:*

70. There was confusion from one submitter regarding the street wall height requirements in DDO17 and what the requirements are if there are no adjoining heritage buildings to infill development.

*Officer response:*

71. Generally, the street wall height along Swan Street is required to be either:
- (a) a mandatory or preferred 11m maximum, or the parapet height of the adjoining individually significant or contributory building if higher than 11m;
  - (b) a mandatory or preferred 8m minimum; or
  - (c) match the parapet height of the taller adjoining heritage building (preferred).
72. In summary, where there are no adjoining heritage buildings, the street wall should have a minimum height of 8m or a maximum height of 11m. The additional discretionary requirement (to match the parapet height of the taller adjoining heritage building) is to determine a street wall height, between 8m and 11m where there is an adjoining heritage building only, otherwise, it does not apply. Officers' recommend that the discretionary requirement be amended to include the words "*for a minimum length of 6m from the heritage building*" to provide further guidance and be consistent with similar requirements in Queens Parade DDO16.
73. GJM heritage has reviewed the above requirement and state they disagree with the extra requirement that "*the street wall should match a neighbouring heritage building that happened to be taller than 11m*". Officers' support recommending the deletion of this design requirement.

*Corner sites:*

74. One submitter noted that there is no clear guidance on which street wall height requirement prevails when differing street wall heights intersect at a corner.

*Officer response:*

75. Where there are two different discretionary provisions that intersect at a corner, Council officers acknowledge that there is limited guidance to direct decision-making. This may produce an inconsistent building street edge along Swan St. As such it is recommended DDO17 include a design requirement so that it is clear that the Swan Street wall height prevails, with the height transitioning along the side street.

*Capacity of infrastructure and service provision:*

76. Three submissions raised questions about how local service and infrastructure would be affected with such large amounts of employment and residential growth planned for the area.

*Officer response:*

77. Population growth is occurring across Melbourne. Growth puts pressure on all services and providers are aware of the greatest pressure points and are planning new services accordingly. Increase in population and demand on infrastructure is expected to increase along Swan Street. Council will monitor the need for greater capacity of infrastructure across the whole municipality commensurate with growth and continue to advocate for more frequent services as part of its ongoing discussions with Public Transport Victoria. Council frequently advocates to State Government for improvements to infrastructure such as transport in areas where increased density is anticipated. Council is also preparing a draft Open Space Strategy that will identify gaps in terms of open space provision and identify opportunities for new spaces across the city.

*Sightline test:*

78. Three submissions objected to the 1/3:2/3 ratio design requirement for new development. They noted that this discretionary requirement is unclear and arbitrary.

*Officer response:*

79. The DDO includes a requirement for the upper levels of development to occupy the upper one-third of the view from the street (the heritage façade would occupy the lower two-thirds). That is a ratio of 1/3 upper-level development to 2/3 street wall, when viewed at eye level (1.7m above ground level).
80. The inclusion of this sightline test was informed by a number of matters, in particular its use in the Swan Street Structure Plan (which formed the strategic basis for the Built Form Framework and the Built Form Heritage Review).
81. Since the preparation of the DDO, Planning Panels Victoria have considered Yarra C220 (Johnston Street Activity Centre), which also proposed a sightline test for determining the height of new upper level development. The Panel Report identified that ratio-based sight line tests were potentially inequitable and difficult to apply.
82. Given the DDO includes clear mandatory setback and height controls for heritage places, in addition to design requirements, officers' agree that the discretionary 1/3:2/3 ratio design requirement is arbitrary and should be removed from the DDO.

Other DDO corrections

83. Officers are proposing the following minor corrections be made:

*Residential Interface with an existing laneway:*

84. The DDO includes a requirement that allows for the height of the rear wall on the title boundary of a commercial development (where it abuts a laneway) to be 11.5m high. This is meant to allow for commercial uses on the first two floors (assuming 4m floor-to-floor ceiling heights) and residential uses on the remaining floors (assuming 3.2m floor-to-floor ceiling heights). Given the actual floor-to-floor ceiling height assumptions, the 11.5m should be rounded down to 11m.

*Inconsistencies between Yarra's DDOs:*

85. Queens Parade DDO (DDO16) assumes eight storeys can be accommodated within a 28m height limit, whereas the Swan Street DDO assumes eight storeys can be accommodated within a 27m height limit. As such, it is recommended that the 27m in the Swan Street DDO be amended to be 28m, in accordance with the provisions contained in DDO16.

Precinct 1 – Richmond Station DDO issues

*Precinct Hotel:*

86. One submission states that no development should detract from or compromise the Precinct Hotel's façade along Swan Street and Cremorne Street.

*Officer response:*

87. The Precinct Hotel is an individually significant place. The proposed height, as exhibited, is a 27m (approximately 8 Storeys) with an upper level setback of 5m. In response to submissions, GJM Heritage reviewed the controls and recommended a proposed height of 18m (approximately 5 storeys) to protect the visual prominence of the landmark building. GJM Heritage have also recommended a proposed upper-level setback of 10m from Swan Street and 8.5m from Cremorne Street to retain the primary roof form of the Precinct Hotel. Officers agree with this approach, given the Hotel's distinguished, corner location at the intersection of Cremorne and Swan Street. The proposed lower height and greater upper-level setbacks would help ensure the Precinct Hotel can be read as a three-dimensional form from both streets.

## Precinct 2 – Retail Centre DDO issues

### *Historic core:*

88. One submission recommended that, given Precinct 2 is the historic core of the centre, the north side and parts of the south side of Swan Street be restricted to a maximum height of 18m. They also recommended that the rear heights of the sites along the southern side of Swan Street be lowered to a maximum height of 24m.

### *Officer response:*

89. GJM Heritage have reviewed the issues raised in the submission and have noted that, in Precinct 2, the front parts of the sites along Swan Street (that have a proposed mandatory maximum height of 21m) are not likely to achieve an acceptable heritage outcome as development would likely visually dominate the heritage streetscape. It is their view that a maximum height of 18m (5 storeys) is more suitable.
90. Upon further modelling, testing, and discussions with GJM Heritage, officers agree that the 21m heights of these sites (that are not being reduced as a result of the increased setback, as discussed above) should be lowered to 18m, given the heritage significance of Precinct 2. Officers also recommend that the proposed mandatory maximum height of 27m (approximately 8 storeys) at 85 Swan Street be lowered to 24m (approximately 7 storeys), as this would produce a more consistent 'secondary street wall height' along Swan Street and produce a taller form that that is less distracting.
91. In regards to lowering the rear heights of the sites along the southern side of Swan Street, recent development (Dimmeys apartment development) demonstrate the potential for taller development of up to 10 storeys (34m) to be accommodated on the south side, away from the Swan Street frontage. Furthermore, officers recommend that the Height and Interface Plan be amended to show the taller built form, along part of the southern side of Swan Street, with a consistent setback from the lower built form fronting Swan Street. This would better reflect the actual outcomes of the design requirements.
92. Officers do not support varying the heights of Precinct 2 further outside of what has been recommended in this report and attachments.

### *Development within Precinct 2*

93. Four submissions expressed concerns that development would undermine the heritage core of the Swan Street Major Activity Centre. They note that Precinct 2 should be protected as urban intensification can be accommodated elsewhere along Swan Street (Precincts 1, 3 and 4).

### *Officer response:*

94. The Swan Street Retail Precinct provides the strongest heritage built form character in the Activity Centre. Precinct 2 is an intact example of a turn of the century 'high street' and includes two storey heritage shopfronts, with occasional higher scale heritage buildings such as the Maples Building, Dimmeys Tower and the Swan Hotel. The primary focus of the built form provisions for Precinct 2 is to retain the prominence of the intact heritage buildings along Swan Street.
95. Given the level of development potential elsewhere in Swan Street and the intact nature of the heritage in Precinct 2, officers have recommended increased setbacks and lower height for properties in Precinct 2 (as discussed above). However, some development would still occur as the provisions cannot and should not preclude development from occurring within a major activity centre.
96. The Victorian planning system seeks a balance between population growth, retention of heritage fabric and improved liveability. A key direction of Plan Melbourne 2017-2050 is to "*respect Melbourne's heritage as we build for the future*".

97. Swan Street, Richmond, as a designated Major Activity Centre, is required to play a significant role in achieving the directions of the State Government metropolitan Planning strategy, *Plan Melbourne 2017-2050*, in relation to both housing and employment.
98. Council's adopted Housing Strategy (Strategy) identifies Swan Street as an opportunity for well-located housing growth/renewal. The Strategy identifies the majority of land in the activity centre as suitable for moderate housing growth. Moderate housing growth areas are anticipated to see increased residential densities and housing diversity, however, this must respond to existing heritage character. Parts of Precinct 3 and 4 have been designated as locations suitable for 'high change', given their development potential. The Strategy recognises that heritage and other built form provisions will determine the scale and form of this growth.

*Intersection of Church and Swan Streets:*

99. One submitter recommends that the intersection of Swan Street and Church Street could be a 'secondary gateway' utilising the remaining quality heritage properties. They note that upper level development of heritage buildings on the southern side should be setback 10m from the front façade.

*Officer response:*

100. The mandatory minimum upper level setback at the intersection of Church Street and Swan Street is 5m. As discussed above, officers recommend the setback be increased to 6m.
101. The southern side of Swan Street has a proposed mandatory maximum height of 21m. As discussed above, it is recommended that the proposed heights of the properties facing Swan Street be lowered one storey to 18m (5 storeys). GJM have also recommended that the places along the south-western side of Church Street be lowered to 18m given their heritage significance. Further 3D modelling indicates that the lower heights at the intersection of Church and Swan Street would have a greater impact in reducing visual bulk impacts to the heritage streetscape than a larger (e.g. 10m) setback, given lot depths/width. Modelling also shows the 6m setback is sufficient to maintain the prominent splay on the south-west corner of Swan Street and the pitched roof form of the Swan Hotel.

*Rear setback of 57 Swan Street, Richmond (Corner Hotel):*

102. One submitter noted that the discretionary northern/rear wall height and setback requirements of 57 Swan Street, Richmond (the Corner Hotel) are unreasonable due to the site's interface to the north being Mixed Use Zone and not a residential zone.

*Officer response:*

103. The rear title boundary of the site at 57 Swan Street abuts the Mixed Use Zone. The character of this Mixed Use Zone area differs from the low scale, established residential areas (zoned General Residential and Neighbourhood Residential) further east. While the Mixed Use Zone is a residential zone, its purpose differs to other residential zones as it seeks to provide for a mix of land uses and housing at higher densities. It is recommended to apply the interface "H" to the rear interface, which removes the discretionary northern/ rear wall height and setback requirements.

*Victorian Heritage Register properties:*

104. A submitter objected to the mandatory controls proposed for the site at 214-216 (Former State Bank) Swan Street, Cremorne noting that they are too restrictive.

*Officer response:*

105. The art nouveau commercial building at 214-216 (Former State Bank) Swan Street is listed on the Victorian Heritage Register (VHR).
106. Precinct 2 also includes the following two properties listed in the VHR:
  - (a) Dimmeys (H2184), 140-160 Swan Street:
    - (i) the site has already been recently redeveloped;

(b) Former Richmond South Post Office (H0048), 90-92 Swan Street, Cremorne:

- (i) the small, triangular site adjacent to the railway overpass is highly constrained. As per its VHR citation, “*the post office was planned to cleverly fit on a tight triangular site*”; and
- (ii) the place is unlikely to be redeveloped given its pyramidal roof form (which incorporates a tower and three pavilions) is a key element of its significance.

107. Places included in the VHR have been determined to be of State significance and, as such, have the highest level of protection.

108. Heritage Victoria (not Council) manages the protection of these places under the *Heritage Act 2017* (not the *Planning and Environment Act*). A permit applicant (who is typically the landowner) must provide Heritage Victoria with a Heritage Impact Statement.

109. GJM Heritage has reviewed the three VHR sites in Precinct 2, including the Former State Bank, and have recommended that they are identifiable in the DDO and that the heights are removed (for Heritage Victoria to determine), given they are subject to a separate process of review and that two sites are unlikely to be redeveloped. They recommend that the proposed interface requirements remain to be consistent with the broader Precinct. Officers agree and support this approach.

*60 Stanley Street:*

110. One submitter noted that their property at 60 Stanley is bound by three Swan Street properties (101-103 Swan Street, 99 Swan Street, and 97 Swan Street). They submit that the proposed planning provisions would allow for development that would block views to the sky and also create excessive visual bulk.

*Officer response:*

111. The site at 60 Stanley Street (which is in the Neighbourhood Residential Zone) is the only instance where a residential dwelling shares a side and rear boundary with three commercial properties in the Commercial 1 Zone.

112. Clause 58 of the Yarra Planning Scheme applies in the Commercial 1 Zone properties abutting 60 Stanley Street. This clause does not include a setback measure, rather it only seeks to limit views into habitable room windows and private open space of new and existing dwellings. The exhibited Amendment provides more protection for adjoining residents than is provided by Clause 58 by increasing the rear setback requirement.

113. In the case of 60 Stanley Street, DDO17 would allow for development (at the rear of 101-103, 99, and 95-97 Swan Street) to be built to a height of 8 metres along the rear and side boundaries of the (two storey) residential property. The DDO would then require the development to be set back at an angle of 64° for two floors then set back at an angle of 45° for subsequent floors to reduce the unreasonable loss of amenity through visual bulk, overlooking and overshadowing to 60 Stanley Street.

114. As discussed above, officers support increasing the front upper level setback from 5m to 6m at 99–103 Stanley Street, which would result in the need to lower the proposed height of 18m (approximately five storeys) by one story to 14m (approximately four storeys). GJM Heritage have also recommended that the heritage places at 91 and 97 Swan Street be lowered from 21m (approximately six storeys) to 14m (approximately four storeys), given their level of significance (contributory and individually significant, respectively). 3D Modelling indicates that this would substantially improve the amenity outcomes of 60 Stanley Street if the sites at 91–103 Swan Street were to be developed to their full capacity.

Precinct 3: Swan Street East and Precinct 4: Burnley Station

*Upper level building breaks:*

115. Two submissions noted that the upper level building separation “breaks”, as per the Height and Interface plan would have major detrimental impacts on the opportunities to redevelop the southern sites given their apparent location in the middle of their sites. One submission

recommends that the upper-level building break should align with the proposed North-South vehicle access while another recommends the upper-level breaks should be shifted to the boundary of the landholding.

*Officer response:*

116. The DDO17 includes discretionary requirements for four upper-level building breaks, located on sites that have deep/wide lots along the south side of Swan Street, to create separation and visibility to the sky between developments. The proposed side setbacks are appropriately discretionary to provide sufficient flexibility to effectively deal with different development proposals.
117. Following further modelling and testing of different built form outcomes, it is recommended that the upper level building breaks (shown on the DDO Height and Interface plans) be repositioned on the plans to align with the proposed north-south vehicle access points (shown on the DDO Access and Movement plans). Where there are no proposed north-south vehicle access points, upper level building breaks should be shifted to the boundary of a landholding on the plans. These recommended changes would help facilitate practical openings and provide some relief of built form when approaching Swan Street from residential areas.

## **Zoning issues**

*Zones at the intersection of Punt Road and Swan Street:*

118. One submitter suggested rezoning the land at 377, 375, 371 Punt Road, 2-16, and 14 Swan Street (known as the land) to the Commercial 1 Zone (C1Z).

*Officer response:*

119. The Amendment, as exhibited, does not propose to rezone the land to C1Z. The following zones currently apply:
  - (a) Schedule 4 to the General Residential Zone (GRZ4) applies to 377, 375, 371 Punt Road and 2-16 Swan Street and has a maximum height limit of 11.5m (approximately 3 storeys);
  - (b) Schedule 2 to the General Residential Zone applies to 14 Swan Street and has a maximum height limit of 9m (approximately 2 storeys); and
  - (c) the C1Z and GRZ4 also both apply to land at 371 Punt Road and 14 Swan Street (dual zoned sites).
120. The DDO proposes discretionary heights in Precinct 1 ranging from 21m (6 storeys) – 27m (8 storeys). The proposed built form controls under Amendment C191 exceed the GRZ4 mandatory height.
121. Council officers support the rezoning to the C1Z (refer to Attachment 5) and consider it is the most appropriate zone for the land given:
  - (a) Amendment C191 proposes to apply preferred maximum building heights of 27m (8 Storeys) via DDO17, which exceeds the maximum height allowed under the current General Residential Zone;
  - (b) the land is included within the boundary of a major activity centre (Swan Street);
  - (c) its corner location on a major boulevard (Punt Road) that offers good access to the Monash Freeway, services, open space and public transport, including buses, trains and trams;
  - (d) the streets running along the rear of the land's southern and eastern boundaries, which provide a buffer to the sensitive residential interfaces to the south;
  - (e) the land is unencumbered by heritage controls and provides redevelopment opportunities at 2-16 and 14 Swan Street (VicRoads information centre and car park); and

- (f) the Yarra Housing Strategy identifies the area as moderate change, suitable for increased residential densities and housing diversity through mixed-use, infill and shop-top apartment development.
122. The purpose of the C1Z is to create vibrant mixed-use commercial centres for retail, office, business, entertainment and community uses. It is also to provide for residential uses at densities complementary to the role and scale of the commercial centre. If rezoned to C1Z, the site would become available for a wider range of uses in accordance with provisions of the zone and would help facilitate a revitalisation of this section of Swan Street. No specific height limit applies within the C1Z, although meeting the height requirements of the Swan Street DDO and ResCode objectives to residential boundaries would be required.
123. If Council were to rezone the above land to C1Z, Council as the Responsible Authority would assess planning applications for new development and for Section 2 uses at the site. Council would be required to consider the impact of any proposal (that requires a planning permit) on the amenity of the surrounding area, in accordance with the decision guidelines of Clause 65, the C1Z and the DDO. Notice of application requirements and third party rights would still apply.

### Heritage Overlay Issues

#### *Heritage gradings:*

124. Two submissions queried the proposed regrading of 67 Docker Street and 218 Swan Street from 'contributory' to 'not contributory' to their heritage precincts, respectively noting they should remain 'contributory'.

#### *Officer response:*

125. In regards to the single-storey Victorian cottage at 67 Docker Street, Richmond, it is currently graded 'contributory' in the context of HO332 - Richmond Hill Precinct. It forms a near-identical pair of terraced houses with 65 Docker Street (which is currently graded as 'not contributory'). Both cottages have been significantly altered in a similar manner with infilled front verandahs, porch walls and rear two storey hipped roof additions.
126. GJM Heritage was engaged to consider the submissions which called for a review of the proposed change in heritage grading and investigate whether there was new evidence presented which could justify maintaining the current grading. In summary, GJM found that there had been no new evidence presented which changed their views about the grading.
127. GJM Heritage was also engaged to consider the regrading to 218 Swan Street and whether there was new evidence presented in the submission which could justify maintaining the current grading. In summary, GJM found that there had been no new evidence presented which changed their original views about the grading, noting:

*"The level of alteration to 218 Swan Street is greater than that evident to other 'contributory' graded buildings within HO335, and the extant fabric demonstrates relatively few of the contributory elements within the precinct. The alterations have greatly altered the visual appearance of 218 Swan Street, and it is our view that the building now lacks integrity and makes little or no contribution to HO335."*

#### *Development potential:*

128. Two submissions expressed concern that an additional layer of control would result in a loss of the owners' rights to modify their buildings and would create an unwanted administrative burden.

#### *Officer response:*

129. Officers' acknowledge that the application of the HO might trigger the need for a Planning Permit to demolish or alter the places, in circumstances where a permit may not otherwise have been required by the Scheme. The application of the HO is one component of regulating land use and development via the Planning Scheme, which is a long-established and accepted practice in Victoria.

130. The HO in most circumstances does not prevent redevelopment, restoration and additions. The appropriate mechanisms to consider any future alterations and additions is through the planning permit approval process.

**Summary of changes that are recommended to the exhibited Amendment C191 for advocacy before a panel**

131. Below is a summary of the key changes officers recommend that Council should advocate be made to Amendment C191 before a panel.

The Design and Development Overlay

132. Incorporate and divide the content of Schedule 17 to the Design and Development Overlay at Clause 43.02 of the Yarra Planning Scheme into the following four preferred schedules to the Design and Development Overlay:

- (a) Schedule 25 to the Design and Development Overlay (DDO25): Swan Street Activity Centre - **Precinct 1 Richmond Station**;
- (b) Schedule 26 to the Design and Development Overlay (DDO26): Swan Street Activity Centre - **Precinct 2 Swan Street Retail Precinct**;
- (c) Schedule 27 to the Design and Development Overlay (DDO27): Swan Street Activity Centre - **Precinct 3 Swan Street East**; and
- (d) Schedule 28 to the Design and Development Overlay (DDO28): Swan Street Activity Centre - **Precinct 4 Burnley Station**.

133. Officers have prepared 'preferred' versions of DDO25, DDO26, DDO27 and DDO28 to reflect the changes that are recommended to the exhibited DDO in response to the submissions received.

134. Attachment 6 to this report includes 'track changes' versions of the DDOs, highlighting the changes officers recommend be made to the DDOs.

135. Attachment 7 contains 'clean' preferred versions of the revised DDOs without track changes.

136. These should not be regarded as changes to the Exhibited Amendment at this stage. Council cannot make these changes at this time. The preferred versions of the DDO schedules are for the purpose of illustrating the changes that are recommended and which will be part of Council's submissions to the panel.

*All schedule changes:*

137. Replace the word "must" with the word "should" where the design requirement *is preferred* (discretionary).

138. Amend section 1.0 (Design objective) to ensure they are precinct specific and translated from the Swan Street Built Form Framework.

139. Amend section 2.2 (Design requirements) to include :

- (a) a new theme "Building separation requirements";
- (b) a new theme "Design quality requirements"; and
- (c) the following discretionary requirement under the theme Street wall and setback requirements, *"On corner sites where two different street wall heights are nominated, buildings should 'turn the corner' and apply the Swan Street wall height. If the Swan Street wall is higher it should transition to the lower nominated street wall height on the side street"*.

140. Delete the section 2.3 Precinct design requirements and relocate content elsewhere.

141. In Table 1 – Street Wall Heights and Setbacks:

- (a) amend interfaces' A, B, C, D, E and F (upper level setback) to increase the upper level setback from 5m to 6m;

- (b) amend interfaces' B and C (upper level setback) to delete the following requirement that *"Any part of a building above the street wall must be designed to ensure that it occupies no more than one third of the vertical angle defined by the whole building in the view from a sight line of 1.7 metres (on the opposite side of the street)."*;
  - (c) amend interfaces' B, C and D (Street wall height) to delete the following requirement that *"or the parapet height of the adjoining individually significant or contributory building if higher than 11m"*;
  - (d) amend interface C (upper level setback) to delete the words *"individually significant"*; and
  - (e) Amend interface I to lower 11.5m to 11m.
142. Amend Plan 1: Height and Interface Plan to increase the designated height of some sites from 27m to 28m, where relevant.
143. Amend Figure 1 to lower the rear boundary wall height from 11.5m to 11m.
- Precinct specific schedule changes:*
144. Table 3 below outlines the precinct specific changes officers recommend eventually be made to the DDO and which are reflected in the preferred versions of the DDOs.

**Table 3: Summary of changes per schedule**

	Table 1 – Street Wall Heights and Setbacks	Plan 1: Height and interface Plan	Section 2.3: Design requirements (Building separation)
DDO25 - Precinct 1 Richmond Station	Insert a new interface (Interface J) at 60 Swan Street (Precinct Hotel), to increase the upper-level setback from 5m to both Swan Street and Cremorne Street to 10m from Swan Street and 8.5 from Cremorne Street.	Insert a new interface (Interface J) to the front of 60 Swan Street (Precinct Hotel) and 5 Cremorne Street.	
		Reduce the height on the following places from a preferred maximum height of 27m (approximately 8 storeys) to a preferred maximum 18m (approximately 5 storeys): <ul style="list-style-type: none"> <li>• 60 Swan Street (Precinct Hotel); and</li> <li>• 5 Cremorne Street.</li> </ul>	
DDO26 - Precinct 2 Swan Street Retail Precinct		Identify the following VHR properties and remove proposed heights: <ul style="list-style-type: none"> <li>• Dimmeys (H2184), 140-160 Swan Street;</li> <li>• State Bank (H0732), 216 Swan Street; and</li> <li>• Former Richmond South Post Office (H0048), 90-92 Swan Street Cremorne.</li> </ul>	Insert : “Development above 21 metres should provide an appropriate side setback to provide spacing between buildings in order to maintain views to the sky from Swan Street and from residential properties adjacent to the development”
		Reduce the height on the following places from a mandatory maximum of 18m (approximately 5 storeys) to a mandatory maximum 14m (approximately 4 storeys): <ul style="list-style-type: none"> <li>• 99-147 Swan Street</li> </ul>	
		Reduce the mandatory maximum of 21m to a mandatory maximum 14m (approximately 4 storeys) at <ul style="list-style-type: none"> <li>• 91 to 97 Swan Street</li> </ul>	
		Reduce the height on the following places (or part of) from a mandatory maximum of 21m (approximately 6 storeys) to a mandatory maximum 18m (approximately 5 storeys): <ul style="list-style-type: none"> <li>• 94-138 Swan Street;</li> <li>• 149 Swan Street;</li> <li>• 166-212 Swan Street;</li> <li>• 191-235 Swan Street;</li> <li>• 218-236 Swan Street;</li> <li>• 456 -468 Church Street;</li> <li>• 425 Church Street (Swan Hotel); and</li> <li>• 242-272 Swan Street.</li> </ul>	
		Reduce the height on the following place from a mandatory maximum of 27m (approximately 8 storeys) to a mandatory maximum 24m (approximately 7 storeys): <ul style="list-style-type: none"> <li>• 85 Swan Street.</li> </ul>	
		Apply rear interface “H” to the rear boundary of 57 Swan Street (Corner Hotel)	
		Show the taller built form, along the southern side of Swan Street, setback consistently from the lower built form fronting Swan Street (from 130-138 Swan Street and 168-208 Swan Street).	
DDO27 - Precinct 3 Swan Street East		Align the upper-level building breaks with the north-south vehicle access points.	.
		Reduce the height on the following places from a mandatory maximum of 24m (approximately 7 storeys) to a mandatory maximum 21m (approximately 6 storeys): <ul style="list-style-type: none"> <li>• 295-309 Swan Street.</li> </ul>	
DDO28 - Precinct 4 Burnley Station		Reduce the height on the following places from a mandatory maximum of 18m (approximately 5 storeys) to a mandatory maximum 14m (approximately 4 storeys): <ul style="list-style-type: none"> <li>• 487 Swan Street.</li> </ul>	Shift the upper-level building breaks to align with the title boundaries

### Rezoning

145. Rezone land at 377, 375, 371 Punt Road, 2-16, and 14 Swan Street from the General Residential Zone to the Commercial 1 Zone.

### **Extension of interim controls via Section 20A of the Planning and Environment Act 1987**

#### Amendment C236

146. Planning scheme amendments, such as Amendment C191, take a long time to be prepared and approved. In September 2018, the Minister for Planning applied interim controls, including Schedule 17 to the Design and Development (DDO) to the Swan Street Activity Centre and the Heritage Overlay to 15 places (via Amendment C236). The interim controls expire at the end of 2019. The interim controls protect the Centre from inappropriately intensive forms of development, while the full amendment process for Amendment C191 is being completed.

#### New Amendment C268

147. It is recommended that Council request that the Minister for Planning extend the expiry date of the interim Design and Development Overlay 17 (DDO17) and the interim Heritage Overlay that applies to 15 places (refer to Table 4), from the 30 December 2019 to 30 December 2020 (via new Amendment C268).

**Table 4**

Heritage Overlay No.	Place Name and Address	No. of Places
HO524	Swan Street West Heritage Precinct (30-42 Swan Street, Cremorne)	4
HO522	273A Swan Street, Richmond	1
HO523	323-325 Swan Street, Richmond	2
HO501	Swan Street Heritage Precinct (223-239 Swan Street, Richmond)	8

148. Within the current legislative framework, property owners would still have the right to make an application for development pursuant to the provisions of the DDO and rights of appeal to Victorian Civil and Administrative Tribunal (VCAT).

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

149. The Amendment was prepared with assistance from statutory planning, open space, economic development, urban design and Council's heritage advisor.

### **Financial Implications**

150. There are substantial costs associated with this panel process. They include planning panel costs and fees, legal representation and the engagement of urban design, heritage, planning, traffic and economic experts who provide evidence on behalf of Council.

### **Economic Implications**

151. The Amendment may provide further stimulus to the retail precinct. No other economic implications are apparent

### **Sustainability Implications**

152. Policy and provisions elsewhere in the Yarra Planning Scheme support the Amendment, including in the Environmentally Sustainable Development Local Planning Policy. Particular developments would need to meet the objectives contained in Clause 22.17 (Environmentally Sustainable Development) of the Yarra Planning Scheme.

## **Social Implications**

153. There are no significant social implications. The recommended changes being considered respond to community submissions and improve built form outcomes for the centre while providing certainty in relation to the future development potential of the centre.

## **Human Rights Implications**

154. There are no known human rights implications.

## **Communications with CALD Communities Implications**

155. Statutory notification for Amendment C191 was provided to all landowners and occupiers.
156. Information sessions were held and information about the amendment was available on Council's website.
157. Notification and consultation about the amendment included advice about the use of interpreter service by residents. This was available to help affected parties understand the proposal and associated processes. The amendment process involved the steps outlined in Council's strategy to engage and assist CALD communities.

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

158. The amendment supports the following strategy in the Council Plan:
- (a) *Manage change in Yarra's built form and activity centres through community engagement, land use planning and appropriate structure planning processes.*

## **Legal Implications**

159. The approach outlined in this report is in accordance with the requirements of the *Planning and Environment Act 1987*.

## **Other Issues**

### *Local Planning Policy Framework Translation Project*

160. Three submissions recommended changes to the proposed Swan Street Local Area Policy (proposed Clause 21.12 of the Yarra Planning Scheme). It is noted that the City of Yarra is part of the first group of Councils to participate in the Local Planning Policy Framework Translation Project, which would translate the Yarra Planning Scheme into the new Planning Policy Framework. Following the outcome of this project, Council will need to review the Local Area Policy to align with the new format. No changes are recommended to the Local Area Policy at this stage in the Amendment Process.

### *Cremorne Enterprise Precinct Place Implementation Plan*

161. Two submissions noted that Cremorne (including Church Street) should be included in the scope of the Amendment. The suburb of Cremorne has been recently identified as an Enterprise Precinct by the State Government and is currently subject to a separate piece of strategic work.
162. The Cremorne Enterprise Precinct Place Implementation Plan (CPIP) is a joint initiative between the Victorian Planning Authority (VPA) and the City of Yarra, in partnership with the Department of Jobs Precincts and Department of Environment Land Water and Planning. One of the aims of the CPIP is to cement Cremorne's role as a key location for creative production, employment, and innovation in Melbourne.

## **Options**

### Section 23 of the *Planning and Environment Act 1987* – considering changes to Amendment C191

163. Where submissions have been received to an amendment, Council has three options under Section 23 of the Planning and Environment Act 1987, Council must either:
- (a) change the Amendment in the manner requested; or

- (b) refer the submissions to an independent planning panel; or
  - (c) abandon the Amendment or part of the amendment.
164. Council received a total of 30 submissions to the amendment. Because of the range of submissions received and the variety of suggested positions, Council is not able to fully resolve the Amendment and change it in the manner requested by all submitters. Therefore, Council must refer the Amendment to a panel or abandon it.
165. At the same time as referring all submissions about the Amendment to a panel, Council can resolve on the changes that it will submit that the panel should recommend be made to the exhibited Amendment in response to the various submissions.
166. Accordingly, it is recommended that Council refers all submissions received up to the date of the Council meeting to the planning panel and request that the panel recommends approval of Amendment C191 with changes to the exhibited amendment consistent with Council's position as informed by the recommendations in this report.
167. In response to the various submissions, officers have outlined the changes that Council should submit for consideration by the planning panel.

*Next steps if submissions are referred to a panel:*

168. In accordance with Ministerial Direction No. 15, Council must request the appointment of a Panel under Part 8 of the Act within 40 business days of the closing date of submission (being the 13 June 2019). Officers have sought an extension of time.
169. The following dates have been pre-set, pending Council's resolution:
- (a) Directions Hearing: week commencing 4 November 2019; and
  - (b) Panel Hearing: week commencing 2 December 2019
170. It is recommended that Council's position to the Panel be based on the response to the submissions outlined in this report and attachment 4 and 7.
171. To ensure that all potentially affected landowners and occupiers are aware of the changes that Council would recommend to the panel, Council should write to all affected landowners, occupiers and submitters to advise them of the recommended changes that Council would present to the panel for its consideration. This written notice would give four weeks for any person to make a submission and any submissions received would then be referred directly to the panel.
172. When submissions are referred to the planning panel, all submitters would be given the opportunity to outline their submission to the panel, which would then make recommendations in a report to Council. The panel considers all submissions when making recommendations to Council about whether Council should approve the Amendment (with or without changes) or abandon the Amendment.
173. An independent planning panel would consider the exhibited Amendment, all submissions that have been referred to it and the position adopted by the Council outlining recommended changes following consideration of the submissions.
174. On receipt of the Panel report for Amendment C191, a report would be brought to Council to consider the Panel's recommendations.

Section 20A of the *Planning and Environment Act 1987* – extension of interim controls

175. In relation to the interim built form and heritage controls that currently apply to Swan Street, Council has two options. Council may either:
- (a) allow the controls expire on 30 December 2019; or
  - (b) request a prescribed amendment under 20A of *Planning and Environment Act 1987* to extend the interim controls for 12 months (30 December 2020).

176. Under 20A of the *Planning and Environment Act 1987*, the Minister for Planning may prepare and approve a 'prescribed amendment'. This is a streamlined amendment process and can only be utilised when an amendment meets one or more of the 'prescribed criteria'.
177. Extending interim controls for up to 12 months (if notification has already been carried out for permanent controls) is a prescribed class of amendment. As noted above, notification has been carried out for permanent controls via Amendment C191.
178. It is recommended that Council requests the Minister for Planning approve an amendment to the Yarra Planning Scheme, under section 20A of the *Planning and Environment Act 1987*, to extend the expiry date of Schedule 17 to the Design and Development Overlay (DDO17) and the following interim heritage controls, until 30 December 2020:
  - (a) HO524: Swan Street West Heritage Precinct (30-42 Swan Street, Cremorne);
  - (b) HO522: 273A Swan Street, Richmond;
  - (c) HO523: 323-325 Swan Street, Richmond; and
  - (d) HO501: Swan Street Heritage Precinct (223-239 Swan Street, Richmond).

## **Conclusion**

179. Council exhibited Amendment C191 and received 30 submissions.
180. The submissions raise various issues including the DDO format and structure; heritage; height; amenity impacts; zoning and infrastructure.
181. While most submissions support some aspects of the Amendment, a large number of submissions seek changes to the Amendment; including changes to the form and structure of the DDO, the removal of mandatory controls, and increases to upper level setbacks to protect the heritage character of Swan Street.
182. In response to submissions, officers have analysed the changes sought, modelled various changes sought and now recommend certain changes to the exhibited Amendment. These are explained in this report and also in the form of a preferred version of the DDO schedules attached to this report (schedules 25, 26, 27 and 28).
183. The submissions received adopt a variety of alternative positions, which Council cannot fully reconcile; therefore, all submissions should be referred to the Panel. It is recommended that Council adopts as its submission to the panel the position of support for Amendment C191 with the changes set out in this report, including the preferred version of the DDO schedules in attachments 6 and 7.
184. Officers' also recommend that Council request the Minister for Planning to extend the interim planning controls that apply to Swan Street for one year.

## RECOMMENDATION

1. That Council:

- (a) receives and notes submissions received following the exhibition of Amendment C191;
- (b) notes the officer report and attachments in relation to the current interim Yarra Planning Scheme provisions and officer response to submissions on Amendment C191 and endorses for the purposes of advocacy before a panel the recommended changes to the amendment including the preferred version of the DDO schedules attached to the report as attachments 6 and 7;
- (c) adopts as its submission to the panel the position of support for Amendment C191 subject to the recommended proposed changes as identified in this report and attachments 4, 6 and 7;
- (d) requests the Minister for Planning to appoint an independent planning panel to consider all submissions referred to in relation to Amendment C191 in accordance with Section 23 of the *Planning and Environment Act 1987*;
- (e) writes to all landowners and occupiers directly affected by Amendment C191 and to all submitters to advise:
  - (i) of the Council resolution;
  - (ii) of Council's position in support of the recommended changes to Amendment C191, including the preferred version of the DDO schedules;
  - (iii) that any new or varied submission made in relation to the recommended changes to Amendment C191, including the preferred version of the DDO schedules, will be referred directly to the planning panel; and
  - (iv) that officers' will provide a further report to Council after the planning panel report is received from Planning Panels Victoria to enable further consideration of Amendment C191 by Council;
- (f) writes to all landowners and occupiers of and abutting the land at 377, 375, 371 Punt Road, 2-16, and 14 Swan Street to advise:
  - (i) of the Council resolution;
  - (ii) of the Council's position of support for the recommended rezoning of the land at 377, 375, 371 Punt Road, 2-16, and 14 Swan Street to the Commercial 1 Zone;
  - (iii) of Council's position in support of the recommended changes to Amendment C191, including the preferred version of the DDO schedules;
  - (iv) that any new or varied submission made in relation to the recommended changes to Amendment C191 will be referred directly to the planning panel; and
  - (v) that officers' will provide a further report to Council after the planning panel report is received from Planning Panels Victoria to enable further consideration of Amendment C191 by Council; and
- (g) refer all submissions, including new or modified submissions in response to the further notice as in paragraph (e) and (f) above to the panel.








2. That Council:

- (a) requests the Minister for Planning approve an amendment to the Yarra Planning Scheme, under section 20A of the *Planning and Environment Act 1987*, to extend the expiry date of Schedule 17 to the Design and Development Overlay (DDO17) and the following interim heritage controls until 30 December 2020:
  - (i) HO524: Swan Street West Heritage Precinct (30-42 Swan Street, Cremorne);

- (ii) HO522: 273A Swan Street, Richmond;
  - (iii) HO523: 323-325 Swan Street, Richmond; and
  - (iv) HO501: Swan Street Heritage Precinct (223-239 Swan Street, Richmond); and
- (b) authorises officers to prepare the relevant amendment documentation, under section 20A of the *Planning and Environment Act 1987*, for submission to the Minister for Planning, seeking an extension of the dates of the interim planning controls.

**CONTACT OFFICER:** Alayna Chapman  
**TITLE:** Senior Strategic Planner  
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#### **Attachments**

- 1**  Attachment 1 - Yarra Planning Scheme Amendment C191 Brochure
- 2**  Attachment 2 - Location of submitters to Amendment C191
- 3**  Attachment 3 - Precinct specific issues raised in submissions to Amendment C191
- 4**  Attachment 4 - Summary of Individual submissions and officer responses
- 5**  Attachment 5 - Area proposed for rezoning
- 6**  Attachment 6 - Tracked change preferred versions of DDO25 DDO26 DDO27 DDO28
- 7**  Attachment 7 - Clean preferred versions of DDO25 DDO26 DDO27 DDO28

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## 11.3 Rushall Reserve - Update Report

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Reference: D19/149704

Authoriser: Director Planning and Place Making

### Purpose

1. To provide a response to Council in relation to the resolution on Rushall reserve from March 2019.

### Background

2. At the meeting of 19 March 2019 Council received an update report on the then Rushall Reserve project. At this meeting the Council resolved, in part:
 

*'not to proceed with the current Rushall Reserve project'* and to withdraw the planning permit application.
3. As part of that resolution Council also resolved the following:–
  - (a) *That in relation to Council resolutions concerning other improvement works at the reserve, Council note:*
    - (i) *That the proposed drinking fountains, new seating and the intended landscape improvements processes along the creek should be progressed as soon as possible, consistent with previous Council resolutions: and*
    - (ii) *Officers will provide a further report to Council within the next three months regarding a process for engagement with the local community concerning other possible general and specific amenity improvement opportunities to the reserve, such report to include:*
      - *An outline of appropriate community engagement options to gather broad community opinions on desirable improvements for Council consideration;*
      - *A review of appropriate improvements to directional and interpretive signage, appropriate new plantings / revegetation and drainage aspects, and*
      - *A review of whether or not the existing asphalt path through the reserve should be removed, or rather, retained, extended or replaced with turf.*
    - (iii) *That Council directs officers to report to Council in the August 2019 meeting cycle on the viability of other off-road cycling projects on the Merri Creek trail with advice from the Bicycle Advisory Committee and being consistent with the 2016 Bicycle Refresh Strategy.*
    - (iv) *That Council, in advising VicTrack of its decision not to proceed with the shared path, refer VicTrack to concerns raised by the community regarding the use of the informal goat track on VicTrack land and requests it to deal with those through appropriate safety mechanisms including protection along the escarpment.*
4. The report provides information regarding these aspects.
5. Rushall reserve is located on the Merri Creek where the waterway and riparian zone are defining characteristics for the place. Other features are the railway easement (embankment and bridge), the natural conservation value for native flora and fauna, and heritage value relating to the significance of the site in the indigenous history of Melbourne.

6. Visually, Rushall Reserve is an informal park with views of the Merri Creek, an open grassed area with scattered native trees, some seating at the edges, and some revegetated areas along the creek banks. It is used predominantly by dog walkers as an off leash area, and sometimes by children as a 'nature play' area.

Minor Park Works undertaken since March 2019

7. Following the Council resolution, a drinking fountain (with dog bowl) and two new seats have recently been installed into Rushall Reserve. The removal of weeds along the Merri Creek River bank has been commenced and will be followed with revegetation to the riverbank with indigenous plants in autumn 2020.

Directional and interpretive signage

8. A review of the existing and proposed signage is attached (attachment 1). The strongest request from existing park users is to provide clearer direction for cyclists that the path into Rushall Reserve is a 'no through way'. Park users would also like signage to encourage cyclists to slow down on the Koonda Lat shared path.
9. It is also considered that Park name signage would be useful in notifying park users that the area is a dog off lead reserve, and providing other relevant information including Council contact details and wildlife rescue information. Park signage would be installed consistent with the "*Yarra City Council Standard Signage – Sign Types for entries, parks, open space and facilities*" document.
10. Further, the *Cultural Heritage Management Plan (2016)* for Rushall Reserve recommends the installation of interpretive signage relating to location of the Batman Treaty site registered as being on the east bank of the Merri Creek, opposite Rushall Reserve.

Existing Asphalt Path

11. In previous reports on the then proposed plan for a shared path through Rushall Reserve, the existing asphalt path was depicted as being partially removed – the north end of the path was to be retained as part of the proposed shared path, and the south end retained as vehicle access down a slope to the Melbourne Water stormwater outlet (at Melbourne Waters request). The logic behind the planned removal of the path at that time was to mitigate the impact of putting more asphalt surface into the reserve for the new shared path.
12. As the shared path is no longer being pursued by Council, and the existing path provides the only all abilities access into the reserve, it is considered there is no benefit in removing the existing asphalt path.
13. The existing path also provides a dry surface on which to stand for people walking their dogs during the winter months and provides vehicle access for vegetation maintenance along the Merri Creek river bank and for Melbourne Water to access the stormwater outlet.
14. It is noted that during the consultation with residents in 2016, residents were queried on whether they would like to see the existing asphalt path extended down to the Merri Creek. Feedback received at this time indicated a number of people in favour of extending the path. Further investigation into the feasibility and acceptability to Melbourne Water of this option has recently indicated that extending a path into this area would have a negative impact on the existing habitat zone and native fauna (attachment 2).

Merri Creek off-road cycle projects

15. The Council resolution also sought advice on other cycling options.
16. There are no Merri Creek shared path projects within the City of Yarra boundaries and management that are still needing completion in the City of Yarra Bike Strategy – 2016 Refresh (see attachment 3). There are some projects in the strategy still outstanding for the Main Yarra Trail, and for the Linear Park shared path.
17. Regarding the Merri Creek trail, other changes that would be of benefit are not within Yarra City Council responsibility and quite substantial: these are –

- (a) Improve the path north of St Georges Rd – Yarra has completed the YCC section, Moreland City Council may wish to improve their part of the path;
  - (b) Improve the underpass for cyclists – this is quite technical and would require VicTrack / Metro trains to carry out the works;
  - (c) Replace the Rushall Pedestrian bridge – this asset belongs to VicTrack; it is noted that the banks on either side are not particularly stable; and
  - (d) Widen the path under the Eastern freeway – this path is in Yarra Bend Park under the management of Parks Victoria.
18. Further, the Coulson Reserve ramp and improved path in Bundara Street Park have been installed by Yarra City Council.

### **External Consultation**

- 19. VicTrack has been notified through two formal letters of the decision by Council to not proceed with the Rushall Reserve shared path project with an outline of the risk hazards of the informal pathway near Rushall station (attachment 4), but have not provided a response.
- 20. Prior to undertaking the minor improvement works in Rushall Reserve (new seating, new drinking fountain, Merri Creek bank weed removal and revegetation) Council officers met with local park users and posted notices in the park to ensure park users were aware of the intended works.
- 21. Prior consultation feedback and informal conversations with park users suggests that, in general, they enjoy the park as it is and would not like to see significant changes to the reserve. Suggestions were made for further tree planting, and vegetation along the railway embankment, though concerns were also voiced in relation to the need for maintenance of new planting.
- 22. Darebin Council officers have been consulted in relation to signage on the Merri Creek trail, in particular, directional signage on the trail on the opposite bank to Rushall station. They have indicated that there is no plan to modify existing trail signage at this time; they have also expressed some concerns about the longevity of the existing Rushall station pedestrian bridge that forms part of the Merri Creek trail. They are supportive of working together to seek a long term solution to the Rushall station underpass.

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

- 23. On 17 April 2019 a Council officer attended the Bicycle Advisory Committee (BAC) meeting to provide an update on the discontinued Rushall Reserve shared path project, and advise of the recommendation from Council to seek input into possible improvements to the Merri Creek trail. No recommendations on further improvements to the existing Merri Creek trail have been received from the BAC by Council officers.

### **Financial Implications**

- 24. Council has no funding allocated to works in Rushall Reserve in the 2019/20 financial year budget.
- 25. Costs associated with the native revegetation of the Merri Creek in Rushall Reserve that is programmed will be funded out of the existing bushland maintenance budget. Matching funding will be sought from Melbourne Water via the 'Corridors of Green Grants Program' (up to \$20,000 per year).
- 26. Funding for further minor park improvements (furniture, signage, path stencils, tree planting, minor path extension) can be sourced from existing Open Space budgets for furniture and signage in parks, shared path and tree planting budgets.

### **Economic Implications**

27. Any future improvements to the reserve would need to consider the location of existing service infrastructure and ongoing access for maintenance / replacement. Rail infrastructure, water main supply, gas main supply, power main supply and stormwater drainage are all present in, or in close proximity to, the reserve.

### **Sustainability Implications**

28. Replacing non-native vegetation with indigenous plants (programmed) will help to improve the health of the creek environment, improve the amenity of the creek, foster biodiversity and create better habitat for native animals, insects and birds.
29. The planting of some further native trees in the reserve is in keeping with the Urban Forest Strategy 2017, and the intent of the draft Nature Strategy – 2019-2023 (currently under development).

### **Social Implications**

30. The extensive community consultation that has been undertaken previously in relation to the then shared path has led to some in the local community to report 'consultation fatigue'. It is officers' opinion that this needs to be considered by Council prior to conducting any further non-specific consultation for future changes to the reserve.
31. In this regard, the general feedback from park users is that they enjoy the reserve as it is. Further consultation with the broader community may lead to competing visions for the space. Given the recent consultation over the shared path, and the ensuing tension experienced by the local community, it is considered to be beneficial to allow some time before embarking on broad community consultation for any future improvements to the reserve.
32. During recent consultation participants referred to community planting in the reserve that had taken place in the past. Further interest in community planting has also been voiced, and undertaking this would support the custodianship of the reserve expressed by the local community. A community planting day would also align with the goals of the draft Nature Strategy (2019-2023) to engage with and educate the community in the importance of the Merri Creek corridor and native revegetation.
33. A 'Friends of Rushall Reserve' group (formed during the community consultation regarding the shared path) would form a key stakeholder in any future amenity improvements proposed for Rushall Reserve.
34. The main reserve and informal path to Rushall Station remain unlit with little passive surveillance. This is due to the primary nature of the space as a waterway and nature corridor. The current Open Space Lighting Policy (2014) recommends not lighting wildlife or river corridors "*except where providing an essential linkage in commuter network*" and to "*avoid provision of lighting in areas of high habitat value or environmental sensitivity*".

### **Human Rights Implications**

35. The existing asphalt path into the reserve provides all abilities access from the northern end of the reserve. Removal of this path would limit access into the reserve for those with accessibility issues.

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

36. The recent consultation signage posted on site has included the language advisory panel, as required, to allow people from diverse language backgrounds to seek further information or assistance to understand the proposals. Any further consultation materials will also include this information.

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

37. The *City of Yarra Bike Strategy – 2016 Refresh* (see attachment 3 for extract) is the guiding document for on and off road bicycle and shared path projects in Yarra. The projects listed for the Merri Creek Trail corridor have been completed, except for those that fall with the

jurisdiction of another Council or land manager (e.g. Parks Victoria). Council can, however, advocate for those modifications.

38. The draft Nature Strategy (2019-2023) will seek to strengthen and improve habitat quality particularly along the Merri Creek, Darebin Creek and Yarra River.

### **Legal Implications**

39. VicTrack have been notified of potential safety concerns in relation to the existing goat-track along the rail line between Rushall Reserve and Rushall station (attachment 4). No response was received from VicTrack. A further letter has been sent following up the May letter. As this land is not owned or managed by Council, the risk associated with ongoing use of the informal track is the responsibility of either VicTrack (landowner) or Metro Trains Melbourne (land manager), or both.
40. It is also noted that there is a requirement to not place infrastructure over the existing City West Water main that runs through the park. This includes trees, as the infrastructure is relatively shallow.
41. Melbourne Water require vehicle access to the stormwater outlet into the Merri Creek. This can be provided with the retention of the existing asphalt path. In this regard, it is considered the existing path be retained as it currently exists.
42. Ausnet also require that the levels over their existing high voltage power lines are not modified. This relates to maintaining levels of cover within Rushall Reserve, and to not modifying the levels of the path and garden bed at Rushall station. Due to this requirement widening of the existing shared path at Rushall station would not be possible without significant engineering interventions.

### **Other Issues**

43. Officers do not recommend further broad community consultation at this point due to 'consultation fatigue' in the community.
44. There are broadly two options (see below).

NB. Should Council determine to undertake further consultation an outline of community engagement options developed by the Yarra Communications and Engagement team is attached (Attachment 5) for consideration.

### **Options**

45. **Option 1** – no further broad consultation at this time, but actions to proceed:
- (a) That Council do not at this time, conduct consultation to gather 'broad community opinions on desirable improvements' to the reserve;
  - (b) That following further consultation and adoption of the Yarra Open Space Strategy Council officers review the need for any broader community consultation on improvements to Rushall Reserve;
  - (c) Council officers continue to implement minor improvements (revegetation, tree planting, community planting day) in the reserve in consultation with park users;
  - (d) The existing asphalt path in Rushall Reserve be retained to provide all abilities and maintenance access into the reserve, the path not be extended due to site constraints and the priority to protect the native habitat and fauna; and
  - (e) Council officers proceed with stencils and signage as necessary to: –
    - (i) Communicate that the path into Rushall Reserve from the northern end is a dead end;
    - (ii) Provide park naming signage, communicate that Rushall Reserve is a dog off lead park, and provide standard council information including wildlife rescue contact details; and

- (iii) Provide cultural heritage interpretation signage as per the Cultural Heritage Management Plan (2016) recommendation.

46. **Option 2** – commence broad consultation in the short term as well as actions to proceed:

- (a) That Council endorse the attached outline of community engagement options for future improvements to Rushall Reserve and;
  - (i) Direct officers to conduct broad community consultation on other possible improvements to Rushall Reserve in early 2020; and
  - (ii) Following broad community consultation, officers seek further funding from the Council budget to fund such improvements as arise from the community consultation;
- (b) The existing asphalt path in Rushall Reserve be retained to provide all abilities and maintenance access into the reserve and the path not be extended due to site constraints and the priority to protect the native habitat and fauna; and
- (c) Council officers proceed with stencils and signage as necessary to: –
  - (i) Communicate that the path into Rushall Reserve from the northern end is a dead end;
  - (ii) Provide park naming signage, communicate that Rushall Reserve is a dog off lead park, and provide standard council information including wildlife rescue contact details; and
  - (iii) Provide cultural heritage interpretation signage as per the Cultural Heritage Management Plan (2016) recommendation.

47. Option 1 is recommended.

### **Conclusion**

- 48. Minor improvements to Rushall Reserve have taken place during 2019 – this includes further seating, a drinking fountain, and commencement of the remediation of the vegetation along the Merri Creek bank.
- 49. Feedback from the park user community indicates that in general they appreciate the park the way it is, would like to keep the existing path, and would like some more tree planting. This can be accommodated within existing budgets.
- 50. Feedback from previous consultation indicated some support for extending the existing path down to the Merri Creek. This requires further assessment and permission from Melbourne Water, as the path would be in the Land Subject to Inundation zone.
- 51. Minor works including signage, stencils on paths, tree planting, and path works can all be provided within existing Council budgets and will be progressed.
- 52. Given the extensive (over several years) consultation that took place with park users in relation to the then proposed shared path, the benefit of further broad community consultation for future improvements at this time is questionable. Minor park improvements can be achieved in consultation with existing park users. Officers recommend that no further broad consultation is necessary or appropriate having regard to the modest works recommended.
- 53. Merri Creek trail improvements as listed in the City of Yarra Bike Strategy Refresh 2016 have been undertaken – no further projects for this shared path by Yarra City Council have been identified. Advocacy for other improvements by other agencies can occur.
- 54. It is recommended that minor reserve works as outlined in the report continue and that no further broad consultation occur at this point in time.

55. In this regard, officers will continue with the minor improvement works to the Reserve following specific consultation with the community (e.g. new trees). Some new signage will also be arranged including a 'no through way' stencil on the path and new park sign as per the signage guidelines and a new cultural sign as per the Cultural Heritage Management Plan.

## RECOMMENDATION

1. That Council:
  - (a) note the officer report in relation to Rushall Reserve in response to the Council resolutions in March 2019;
  - (b) direct officers to continue to undertake the following minor works to Rushall Reserve during this financial year (including specific community consultations):
    - (i) revegetation of the creek environs;
    - (ii) tree planting; and
    - (iii) holding a community planting day;
  - (c) resolve not to conduct further broad consultation in relation to Rushall Reserve due to the pending consultation of a new open space strategy later in 2019;
  - (d) resolve to retain the existing asphalt path in Rushall Reserve as is to provide all abilities and maintenance access into the reserve, and the path not be extended due to site constraints and the priority to protect the native habitat and fauna; and
  - (e) authorise Council officers to proceed with stencils and signage as necessary to:
    - (i) communicate that the path into Rushall Reserve from the northern end is a dead end;
    - (ii) provide park naming signage, communicate that Rushall Reserve is a dog off lead park, and provide standard council information including wildlife rescue contact details; and
    - (iii) provide cultural heritage interpretation signage as per the Cultural Heritage Management Plan (2016) recommendation.

**CONTACT OFFICER:** Kevin Ayrey  
**TITLE:** Landscape Architect  
**TEL:** 9205 5770

## Attachments

- 1 ➡ Rushall Reserve signage review
- 2 ➡ Rushall Reserve - Existing Path options review
- 3 ➡ Bike Strategy 2016 Refresh - Progress
- 4 ➡ Rushall Shared path - letters to VicTrack
- 5 ➡ Rushall Reserve - Community engagement options outline

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## 11.4 Size of Apartments

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Trim Record Number: D19/59355

Responsible Officer: Director Planning and Place Making

### Purpose

1. The purpose of this report is to provide a response to the Council resolution of April 2019.

### Council Resolution

2. The Council Resolution states:
  1. *That Officers present a report to Council:*
    - (a) *outlining the procedure required to incorporate into the Yarra Planning Scheme, the capacity for Council to mandate a minimum size for units/apartments in the municipality;*
    - (b) *outlining options for proactive monitoring of real estate and other property websites for breaches of planning permits;*
    - (c) *summarising enforcement and prosecution options available for planning and building regulation breaches;*
    - (d) *outlining State Government or Council measures that could ensure DELWP's Residential Efficiency Scorecard is used to ensure mandatory disclosure of energy efficiency rating when properties are sold or rented; and*
    - (e) *such report include Officer's opinions/recommendations on such processes.*

### Background

3. There has been for some time community concerns expressed about size of small apartments across Melbourne.
4. The following provides some relevant aspects to this topic.  
Yarra Housing Strategy 2018
5. The Council Yarra Housing Strategy, adopted in September 2018, recommends providing housing diversity throughout Yarra through providing various types of dwelling choices and to meet the market demand. The strategic directions in particular have been seen to be:
  - (a) Support flexible housing design that allows for adaptations to support changing housing needs over time, and
  - (b) Introduce a requirement in the Yarra Planning Scheme for housing diversity to be demonstrated in applications for residential rezoning and major residential developments (50 or more dwellings), based on available demographic information.
6. Strategic Direction 3 of the Housing Strategy is to plan for more housing choice to support Yarra's diverse community. Council's strategic planning unit are monitoring 'housing delivery trends' and significant residential development which are over 10 dwellings.
7. From this database, it shows that Council has issued 71 planning permits from 2011 to date for significant residential development projects.
8. The approved planning permits are providing a range of dwelling sizes. Of the number of approved apartments 0.13% are studios, 37.6% are one-bedroom, 51.4% two-bedroom and 10.8% are three or more bedroom apartments.

9. The directions of the Yarra Housing Strategy 2018 underpin draft local policy for the Yarra Planning Scheme currently being prepared by the Strategic planning unit for Council consideration. These policies will assist in directing housing growth to appropriate locations; plan for more housing choice; and facilitate the provision of more affordable housing.

Better Apartments Guide

10. A few years ago, the Minister for Planning set up an Advisory Committee on apartment amenity and issues expressed by the broad community.
11. The Better Apartments Guide was produced that provides a performance based approach rather than an arbitrary minimum m2 of the overall apartment.
12. The Government state that the Better Apartments Design Standards have been introduced to improve the liveability and sustainability of apartments across Victoria. The Government states the standards were developed in consultation with community members, architects, planning and design practitioners, technical experts, the development industry, councils, and state government agencies.
13. The Better Apartments project has been a joint initiative of the Department of Environment, Land, Water and Planning (DELWP) and the Office of the Victorian Government Architect (OVGA).
14. The Better Apartment Design Standards were introduced into all Victorian Planning Schemes on 13 April 2017 by the Minister for Planning. These introduced *performance based* requirements for all apartment developments. The standards cover a range of topics relating to internal amenity, external impacts, landscaping and accessibility. In regard to apartment sizes, standards were introduced stipulating minimum sizes for bedrooms and living areas. These are outlined below:

**Table D7 Bedroom dimensions**

Bedroom type	Minimum width	Minimum depth
Main bedroom	3 metres	3.4 metres
All other bedrooms	3 metres	3 metres

Living areas (excluding dining and kitchen areas) should meet the minimum internal room dimensions specified in Table D8.

**Table D8 Living area dimensions**

Dwelling type	Minimum width	Minimum area
Studio and 1 bedroom dwelling	3.3 metres	10 sqm
2 or more bedroom dwelling	3.6 metres	12 sqm

15. In August this year, the Department of Environment, Land, Water and Planning released a discussion paper on proposed revisions to a number of the apartment standards. There are no changes proposed to the standards relating to apartment sizes.
16. The standards under review are limited to the following topics:
- (a) Green space;
  - (b) High quality building facades;
  - (c) Protection from wind impacts;
  - (d) Attractive and engaging streets; and
  - (e) Better managed construction issues.

17. Council's Statutory and Strategic Planning Departments are currently reviewing the proposed changes to the above standards and will be providing a report to Council on 24 September 2019.
18. The Particular Provisions of the Planning Schemes in Victoria, at Clause 55.07 and Clause 58 (Apartment Developments), introduced requirements to improve the standard of apartment living and provide attractive living opportunities for a variety of household types in Victoria.
19. The requirements seek to improve:
  - (a) The layout of apartment developments, including setbacks, communal open space and landscaping;
  - (b) The internal amenity of apartments, including daylight access, outlook, visual and acoustic privacy and storage;
  - (c) Functionality of apartments, including minimum room size and accessibility requirements; and
  - (d) The environmental sustainability of apartment developments, including water and storm water management, waste and recycling, energy efficiency, natural ventilation and noise attenuation in noise affected locations.
20. These changes are considered to substantially respond to the internal amenity, accessibility and sustainability concerns identified by community members. More guidance on the design of communal open and internal space should, however, still be provided.

#### Officer Comments

21. YCC resolved (Sept 2016) on the Better Apartments Guide and also sought changes for an absolute minimum size for 1, 2 and 3 bedroom apartment sizes and Electric Vehicle charging points in the developments.
22. It is noted that any proposed amendment to the Yarra Planning Scheme would first require an 'authorisation' by the Minister for Planning; which in the context of the States review is most likely not to be given.
23. Further, it is noted that Moreland CC did a great deal of work for a number of years when the broad community concerns were agitating around Melbourne.
24. It is noted that Moreland CC were granted some changes in the planning scheme on setbacks and separation of buildings and light wells – in recognition of their work over an extensive period.
25. The housing supply in Yarra caters for a variety of different households and that is also displayed in the housing stock that is provided in the market, i.e. preference for 2 and 3 bedroom apartments (see paragraph 8).

#### Procedure to incorporate minimum apartment sizes in the Yarra Planning Scheme

26. The inclusion of apartment size controls into the Yarra Planning Scheme would require an amendment to the Planning Scheme. Minister's Direction No. 11 Strategic Assessment of Amendments requires a planning authority to evaluate and discuss how an amendment addresses several strategic considerations. An amendment requires evidence-based justification as well as draft control (local policy) that are consistent with the State policy.
27. As said above, Council is unable to proceed to exhibition of an amendment to the Planning Scheme without *authorisation* from the Minister for Planning. If the strategic justification is lacking, or there is an inconsistency with the Victorian Planning Provisions, the Minister is unlikely to authorise the amendment. This was the case with Amendment C142 to the Moreland Planning Scheme.

#### Moreland City Council (MCC) – Amendment C142

28. For context, the following narration of the Moreland CC experience is outlined:

- (a) In 2013, the Moreland City Council proposed to introduce minimum apartment size through the introduction of the 'Moreland Apartment Design Code' into Moreland Planning Scheme through Amendment C142;
- (b) C142 was put on hold by the Minister for Planning, following exhibition and Panel hearings, because the Minister was introducing 'Better Apartment Design Guidelines' at that time. The 'Better Apartment Design Guidelines' was applicable State-wide; and
- (c) Although the 'Better Apartment Design Guidelines' was heavily informed by the 'Moreland Apartment Design Code' some components of the Moreland Design Code were not included in the Better Apartment Design Guidelines. In particular to this discussion, the Moreland Design Code had minimum apartment size requirement for each category e.g. studio, one-bedroom etc. This was not included in the current *Clause 58 Apartments Development* of the Planning Scheme. Instead the Better Apartments Design Standards included in Clause 58, have size requirement for rooms and common area spaces (see paragraph 14 above).

- 29. It is evident from the Moreland experience that omission of minimum apartment sizes in Planning Schemes is a State policy position. The experience of Moreland City Council was that the effort to include apartment code was very time consuming and expensive (evident from the time frame of the amendment from exhibition in 2013 to gazettal in December 2017).
- 30. With clear State derived planning controls on apartment design, now included in Planning Schemes it would be more difficult to justify an Amendment. Any proposed amendment as such would be a resource and financial risk to Council and not recommended.

Options for proactive monitoring of real estate and other property websites for breaches of planning permits

- 31. There are significant turnover of properties in Yarra municipality.
- 32. Council has for small development sites only a reactive planning enforcement program with the resources allocated. A proactive inspection/enforcement program exists for significant sites where a construction management plan is a requirement in planning permits. These sites are actively monitored and enforcement action, as necessary occurs.
- 33. Continual monitoring of real estate and other property websites for possible breaches of planning permits would be a very labour intensive task and would require major officer time to monitor the various media and real estate sites.
- 34. This is not feasible with current staffing levels and levels of work load.

Enforcement and prosecution options available for planning and building regulation breaches

- 35. Known planning breaches are enforced through the Council program. This occurs in smaller developments through an 'ask, tell and then enforce' approach.
- 36. Proactive planning inspections are followed on significant developments and enforcement occurs where breaches are noticed.
- 37. Building permits in YCC are principally issued by private building surveyors; in this context, the responsibility for regulating the issued building permit lies with the private building surveyor and not with Council.
- 38. Council does not have the authority to enforce building permits unless there is a matter of public safety. That is, Council's role (through the Municipal Building Surveyor) is to ensure public safety and can only intervene when there are safety concerns to the public from a building site.

State Government or Council measures to enforce use of the Residential Efficiency Scorecard in disclosure statements

- 39. Sustainability in developments is an important matter.

- 40. However, the State Government have only allowed limited sustainability provisions in the Planning Schemes in Victoria. Yarra Council, with a number of other Councils, continue to advocate for increased sustainability provisions to be introduced.
- 41. Council officers continue to encourage sustainability in proposals in pre-application discussions and provide material supporting these features.
- 42. It is noted that the Better Apartments Design Standards is a framework that is used in the planning system to encourage sustainable design in all buildings.
- 43. There is no provision to enforce the use of the Energy Efficiency Scorecard in the Planning Scheme; however Council can adopt an advocacy role to make the community aware of the scorecard. A link of the EES will be included on Council's website as additional resource for the community.

#### **External Consultation**

- 44. Consultation with State Government and some other local Councils that have done work on the size of apartment's topic (e.g. Moreland CC).

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

- 45. Statutory Planning and Strategic Planning.

#### **Financial Implications**

- 46. There are no financial implications at this stage. Seeking a Planning Scheme Amendment to seek new controls on apartment sizes would create a resource and financial risk to Council for the reasons outlined in the report.

#### **Economic Implications**

- 47. This report has no economic implications for the City of Yarra.

#### **Sustainability Implications**

- 48. Sustainability aspects are important. Council continues to advocate for improved sustainability provisions in all Planning Schemes.

#### **Social Implications**

- 49. There are no social implications arising from this update report.

#### **Human Rights Implications**

- 50. There are no specific human rights implications of this update report. Dwelling sizes is a matter that is being addressed in part by the State Government through performance based provisions (e.g. dimensions of bedrooms). It is debatable whether these provisions are sufficient.

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

- 51. None

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

- 52. Yarra Planning Scheme rewrite is a relevant matter.

#### **Legal Implications**

- 53. None

#### **Other Issues**

- 54. The Better Apartments Design Standards review by the State is currently underway.

#### **Options**

- 55. Council should note this update report and further consider the matter as part of the scheduled officer report to 24 September 2019.

## **Conclusion**

56. This report provides some background to the matter of size of apartments and other aspects requested.
57. The State is currently further reviewing the Better Apartments Design Standards and a report will be presented to Council for consideration on 24 September 2019.
58. It is recommended that Council consider this matter further in the context of the report to Council on 24 September 2019.

## **RECOMMENDATION**

1. That Council:
  - (a) note the report of officers responding to the Council resolution from April 2019, regarding size of apartments and other aspects;
  - (b) note the current review of the Better Apartments Design Standards by the State Government and note that a report will be presented to Council on 24 September, 2019 seeking a Council position for submission; and
  - (c) consider the size of apartments matter further at the 24 September Council meeting.

**CONTACT OFFICER:** Bruce Phillips  
**TITLE:** Director Planning and Place Making  
**TEL:** 9205 5300

## **Attachments**

- 1  The Victorian Residential Efficiency Scorecard

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## **11.5 2018/19 Annual Financial Statements, Performance Statement, and LGPRF Reports adoption 'in principle'.**

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Trim Record Number: D19/135112

Responsible Officer: Director Corporate, Business and Finance

### **Purpose**

1. To adopt the 2018/19 Annual Financial Statements and Local Government Performance Reporting Framework (LGPRF) Reports (including the Performance Statement) 'in principle', receive the recommendations of Council's Audit Committee, and nominate two Councillors to certify the statements in their final form.

### **Background**

2. The 2018/19 draft Annual Financial Statements and LGPRF Reports (including the Performance Statement) accompanying this report reflect the financial results and Council Plan outcomes for the 2018/19 financial year.
3. Council's Audit Committee considered the 2018/19 draft Annual Financial Statements and the LGPRF Reports at its meeting on 20 August 2019.
4. Comment and explanation on the draft Annual Financial Statements and Performance Statement was provided by Council officers in relation to a range of presentation and disclosure items raised by the Committee.
5. Following the Audit Committee's detailed consideration of the 2018/19 draft Annual Financial Statements, Performance Statement and related Auditor's reports, the Audit Committee resolved as follows:
  - (a) note and accept the 2018/19 Annual Financial Statements and Performance Statement;
  - (b) note and accept VAGO's draft Closing Report & Management Letter; and
  - (c) recommend the 2018/19 Annual Financial Statements and Performance Statement be presented to Council for adoption in principle, subject to any minor administrative changes required by the Committee, RSD Audit, and/or VAGO.
6. There have been no material adjustments.
7. There are no high risk issues and Council is likely to receive an unqualified audit opinion, (subject to VAGO review), which is a positive result.

### **External Consultation**

8. The 2018/19 draft Annual Financial Statements and Performance Statement have been prepared in accordance with Australian Accounting Standards, the *Local Government Act* 1989, and the Local Government (Planning and Reporting) Regulations 2014.
9. Advice has been provided by representatives of RSD Audit - External Auditors, as appointed by the Victorian Auditor-General's Office, during the course of the year-end audit cycle in relation to the presentation of the Annual Financial Statements and Performance Statement.
10. The Audit Committee has also provided feedback in relation to disclosure of information presented in the Annual Financial Statements and Performance Statement.

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

11. No internal consultation has been required.

## Financial Implications

12. The 2018/19 draft Annual Financial Statements reflects an operating surplus of \$25.9 million. This result represents a favourable variance of \$15.77 million to the adopted budgeted result of a \$10.15 million surplus. This is the accrual accounting result, prepared in accordance with the Australian Accounting Standards, it is not a surplus cash result.
13. Operating revenue of \$207.35 million was \$19.82 million favourable compared to the budget of \$187.53 million. The major favourable components were capital grants, user fees, statutory fees and fines, and contributions.
14. Operating expenditure of \$181.43 million was \$4.05 million unfavourable to the budget of \$177.37 million. This was mainly due to bad and doubtful debts expense which was higher than budget due to additional provision required for parking infringement debtors, a legal settlement, and higher than budgeted employee costs due to long service leave entitlements, parental leave costs, and staff exit costs. These unfavourable items were offset somewhat by savings on materials and services.
15. Council's equity increased by \$109 million which is the surplus result of \$25.9 million plus a movement of \$83 million in Council's reserves relating in most part to increments from the infrastructure asset revaluation that was undertaken during the year.
16. Current assets increased by \$35 million mainly due to higher revenue receipts, most of which is committed for future use such as the funding for the relocation of the North Fitzroy Depot, and open space reserve contributions. Non-current assets increased by \$77 million due to revaluation increments from the infrastructure revaluation undertaken by Council during the year. Additions of \$99 million are offset in most part by depreciation expense of \$22 million. Current liabilities increased slightly due to higher trust funds and deposits than last year. Non-current liabilities increased slightly due to recognition of a legal settlement agreement, offset by repayment of borrowings principal.
17. Council's cash flow result reflects a positive cash movement of \$36.56 million. Council's closing cash balance was \$87.65 million. This balance will be utilised to fund carried forward capital projects and unspent grant funds received in 2018/19, as well as covering Council's current liabilities due for payment during the 2019/20 financial year.
18. Council's capital program was favourable to budget by \$2.16 million primarily due to projects being deferred or carried over.

## Performance Statement

19. LGPRF Statements have been prepared in accordance with the Department of Environment Land Water & Planning (DELWP) guidance. This includes the Performance Statement (Attachment 2), Report of Operations (Attachment 3) and Governance and Management Checklist (Attachment 4).
20. Service Managers and relevant officers were engaged in the provision of all service indicator results and commentary.
21. Analysis was undertaken comparing the 2018/19 reported result with the historic trend. Any significant variances were referred back to the service area to verify and explain the result.
22. Draft results have been reported and discussed at Executive.
23. DELWP have reviewed the draft results and advised that they are very happy with Yarra's submission and commended Council on the quality of the commentary.
24. The official release date of the results is scheduled for November. Council will receive embargoed access to all Councils' results shortly before the public release.

## Economic Implications

25. There are no economic implications.

## Sustainability Implications

26. There are no sustainability implications.

### **Social Implications**

27. There are no social implications.

### **Human Rights Implications**

28. There are no human rights implications.

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

29. There are no CALD community implications and therefore no communication is required.

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

30. The 2018/19 Performance Statement records Council's performance over a range of performance indicators as required by the *Local Government Act* 1989 and the Local Government (Planning and Reporting) Regulations 2014 as part of the Local Government Performance Reporting Framework. Council Plan targets were determined in the 2018/19 Adopted Budget.

### **Legal Implications**

31. Council is required to certify the draft Annual Financial Statements and Performance Statement 'in principle' each year in order to lodge the statements so they can be formally certified by the Victorian Auditor-General's Office (VAGO). Certified annual accounts are also required to be lodged with the Minister by 30 September 2019.

### **Other Issues**

32. The draft Annual Financial Statements and LGPRF Reports are subject to final audit certification and some changes may be required in consultation with VAGO. It is not anticipated, however, that there will be any material change to the accompanying draft statements.

### **Options**

33. There are no further options.

### **Conclusion**

34. Council is required to adopt 'in principle' the financial statements, and the LGPRF Reports each year, which will be lodged with the Minister after full audit clearance from the Victorian Auditor-General.

## **RECOMMENDATION**

1. That Council:
  - (a) notes the accompanying 2018/19 Annual Financial Statements and LGPRF Reports (including the Performance Statement), and receives the endorsement of Council's Audit Committee;
  - (b) adopts the 2018/19 Annual Financial Statements and Local Government Performance Reporting Framework Reports (including the Performance Statement), 'in principle' prior to them being provided to the Victorian Auditor-General's Office for final audit sign off;
  - (c) nominates the Mayor and Audit Committee member Councillor Danae Bosler, and Audit Committee member Councillor James Searle, as the two Councillors to certify the Annual Financial Statements and Performance Statement;
  - (d) authorises the nominated Councillors to accept any further recommended changes by the Victorian Auditor-General's Office; and
  - (e) designates Angelica Marshall, Chief Financial Officer, as Principal Accounting Officer to certify the Annual Financial Statements and Performance Statement, as required by the Local Government Act 1989 and Local Government (Planning and Reporting) Regulations 2014.

**CONTACT OFFICER:** Ange Marshall  
**TITLE:** Chief Financial Officer  
**TEL:** 9205 5544

**Attachments**

- 1 [⇒](#) City of Yarra Annual Financial Statements - Adoption in Principle
- 2 [⇒](#) LGPRF Draft Performance Statement 2018-19 Annual Report Version
- 3 [⇒](#) LGPRF Draft Report of Operations 2018-19 Annual Report Data
- 4 [⇒](#) LGPRF Draft Governance and Management Checklist 2018-19 Annual Report version

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**11.6      2018/19 Annual Plan Quarterly Progress Report - June 2019**

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## **Executive Summary**

### **Purpose**

To present the 2018/19 Annual Plan Quarterly Progress Report June 2019 to Councillors for noting.

To present the 2018/19 Capital Works Adjustments and Capital Works Carried Forward Reports June 2019 to Councillors for noting.

### **Key Issues**

The 2018/19 Annual Plan has 47 actions.

Annual targets set a requirement for 75% of Annual Plan actions to be Complete or On Track (>90%) by 30 June each year.

At the end of June Council achieved a result of 82.97% or 39 of 47 actions are On Track or Complete.

### **Financial Implications**

There are no financial implications.

### **PROPOSAL**

That Council note the 2018/19 Annual Plan Quarterly Progress Report June 2019.

That Council note the 2018/19 Capital Works Adjustments Reports June 2019 to Councillors for noting.

## 11.6 2018/19 Annual Plan Quarterly Progress Report - June 2019

Trim Record Number: D19/153879

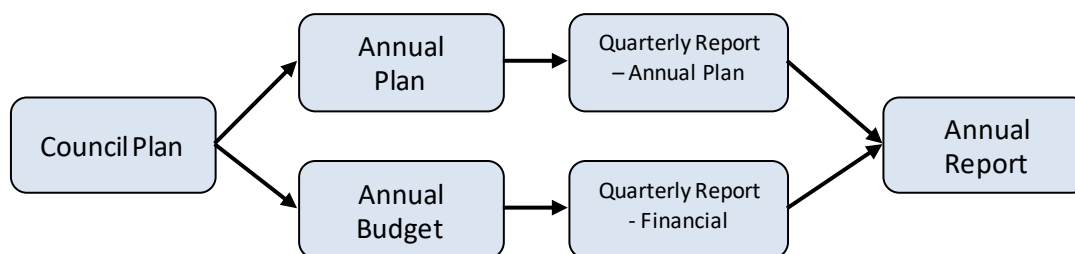
Responsible Officer: Manager Corporate Planning and Performance

### Purpose

1. To present the 2018/19 Annual Plan Quarterly Progress Report - June 2019 to Councillors for noting.
2. To present the 2018/19 Capital Works Adjustments and Capital Works Carried Forward Reports – June 2019 to Councillors for noting.

### Background

3. This year, 2018/19, represents the second year of the 4-year *Council Plan 2017-21*, adopted by Council on 1 August 2017.
4. The Annual Plan and Annual Plan Quarterly Progress Reports are two of Council's key accountability documents to the community.



5. The 2018/19 Annual Plan was endorsed by Council on 7 August 2018 and details the organisation's annual response to Initiatives contained in the 4-year Council Plan.
6. Council Plan Initiatives are significant projects and activities that are proposed to be worked on over the term of the Council Plan.
7. The Annual Plan Quarterly Progress Report notes the year-to-date progress of the Annual Plan Actions and Milestones providing a performance rating and supporting commentary.
8. The 2018/19 Annual Plan contains 47 actions spread across the Council Plan's Strategic Objectives. It is achievable, delivers on Council's priorities and reflects the organisation's focus on delivering the Council Plan's Initiatives in 2018/19.

Strategic Objective	Number of Actions
	2018/19 Annual Plan
A healthy Yarra: a place where Community health, safety and wellbeing are a focus in everything we do	7
An inclusive Yarra: a place where Inclusion, diversity and uniqueness are welcomed, respected and celebrated	4
A sustainable Yarra: a place where Council leads on sustainability and protects and enhances its natural environment	8
A liveable Yarra: a place where Development and growth are managed to maintain and enhance the character and heritage of the city	13
A prosperous Yarra: a place where Local businesses prosper and creative and knowledge industries thrive	5

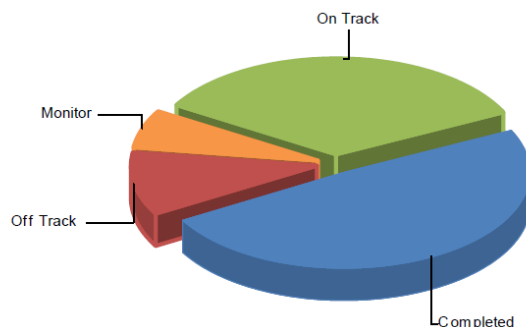
Strategic Objective	Number of Actions
	2018/19 Annual Plan
A connected Yarra: a place where Connectivity and travel options are environmentally sustainable, integrated and well-designed	6
A leading Yarra: a place where Transparency, performance and community participation drive the way we operate	4
<b>Total</b>	<b>47</b>

9. There are 49 Strategies in the *Council Plan 2017-21*, with 99 associated Initiatives. Not all of these have a corresponding action in the 2018/19 Annual Plan. The Council Plan is a four-year document and Initiatives will commence across a range of years. A number of Initiatives are predominantly operational in nature and will be reported on through the 'Other Council Plan Initiatives' section of the Annual Plan Quarterly Progress Report six monthly in the December and June reports. End of year progress on Other Council Plan Initiatives is included at the end of Attachment 1.
10. To ensure the integrity and transparency of the Annual Plan, which is endorsed by Council, actions including their descriptions and milestones can only be changed by resolution of Council.
11. Officers or Councillors may propose changes to the Annual Plan.
12. Council endorsed changes to three actions in the 2018/19 Annual Plan as part of December Briefings and the December Mid-Year Report. These actions were 3.03: Re-use, Reduce, Recycle, Recover, 3.04: Trial Food and Green Organics Waste service and 3.08: Integrate climate adaptation principles and environmental and sustainability policies and strategies.

#### **2018/19 Quarterly Performance (Report) Attachment 1**

13. The progress of an action is measured by the status of its individual milestones which are weighted to represent the relative time and effort they contribute to achievement of the overall action.
14. The following thresholds are used to determine the status of an action:
  - (a) On track     ≥ 90%
  - (b) Monitor     75-89%
  - (c) Off track    < 75%

## 15. Annual Plan Action progress summary as at 30 June 2019:



Strategic Objective	No. of Actions Reported	Complete	On track (>=90%)	Monitor (75-90%)	Off track (<75%)	Not Started
A healthy Yarra	7	4	2	0	1	0
An inclusive Yarra	4	1	3	0	0	0
A sustainable Yarra	8	5	2	1	0	0
A liveable Yarra	13	5	3	2	3	0
A prosperous Yarra	5	3	1	0	1	0
A connected Yarra	6	2	4	0	0	0
A leading Yarra	4	3	1	0	0	0
	47 (100%)	23 (48.94%)	16 (34.04%)	3 (6.38%)	5 (10.64%)	0 (0.00%)

16. The 2018/19 Annual Plan had 47 actions scheduled to be completed this year.
17. Annual targets set a requirement for 75% of Annual Plan actions to be Complete or On Track (>90%) by 30 June each year.
18. At the end of June Council has achieved a result of 82.97% or 39 of 47 actions are On Track or Complete.
19. The following actions are recorded as Monitor or Off Track or at the end of June. These actions have experienced delays to one or more of their milestones. More detail is contained in the attached report.

Monitor

3.01 Develop Biodiversity Strategy

4.03 Review and Develop new Heritage Strategy

4.07 Heidelberg Road, Nicholson Street Bus Depot, Wellington Street built form analysis

Off track

1.03 Develop new Open Space Strategy

4.08 Major Activity Centre Built Form Analysis

4.09 Major Activity Centre Structure Planning

4.10 Strategies for the hospital and education precincts

5.02 Develop Shopping Strip Master Plans

20. The following 2018/19 Monitor and Off Track actions have been superseded by actions in the endorsed 2019/20 Annual Plan:
- (a) New Open Space Strategy;
  - (b) Nicholson Village Bus Depot;
  - (c) Built form analysis for Heidelberg Road;
  - (d) Built form analysis for major activity centres;
  - (e) Structure Planning for major activity centres;
  - (f) Strategies for hospital and education precincts; and
  - (g) Brunswick Street Streetscape Master Plan.
21. The Biodiversity Strategy and Heritage Strategy are due to be completed in the first quarter of 2019/20. Council will be provided with an update via the September quarterly report.

## **2018/19 Capital Works Program Adjustments Reports – June (Attachments 2 and 3)**

22. The 2018/19 Capital Works Program is subject to regular adjustments in response to variations to current projects and substitution in response to changing priorities and urgent new works being identified. Attachment 2 (Capital Adjustments Running Table – June 2019) identifies capital works budget adjustments which have been made during this budget year up to and including the final June quarter.
23. Further details on all capital works carried forward from the 2018/19 budget year to the 2019/20 budget year including the reason for the carry forward are provided in Attachment 3 (2019-19 Capital Works carried forward to 2019-20).

### **External Consultation**

24. Significant community engagement and consultation was undertaken during the development of the *Council Plan 2017-21*. The 2018/19 Annual Plan reflects the community priorities identified during this process, included in the *Council Plan 2017-21* initiatives.
25. Members of the community will have the opportunity to comment on the progress report when it is presented to Council on 10 September 2019.
26. Projects contained in the 2018/19 Annual Plan are subject to external consultation and engagement on a case-by-case basis.

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

27. Managers and Directors were consulted during development of the 2018/19 Annual Plan Actions, and are responsible for providing quarterly updates on their progress against delivery of these actions.

### **Financial Implications**

28. Actions in the 2018/19 Annual Plan were resourced within the 2018/19 Budget.

### **Economic Implications**

29. The *Council Plan 2017-21* includes the Strategic Objective *A prosperous Yarra: a place where Local businesses prosper and creative and knowledge industries thrive*. The 2018/19 Annual Plan includes 5 actions that respond to initiatives under this Strategic Objective.

### **Sustainability Implications**

30. The *Council Plan 2017-21* includes the Strategic Objective *A sustainable Yarra: a place where Council leads on sustainability and protects and enhances its natural environment*. The 2018/19 Annual Plan includes 8 actions that respond to initiatives under this Strategic Objective.

### **Social Implications**

31. The *Council Plan 2017-21* includes the Strategic Objective *A healthy Yarra: a place where Community health, safety and wellbeing are a focus in everything we do*. The 2018/19 Annual Plan includes 7 actions that respond to initiatives under this Strategic Objective.

### **Human Rights Implications**

32. The *Council Plan 2017-21* includes the Strategic Objective *An inclusive Yarra: a place where inclusion, diversity and uniqueness are welcomed, respected and celebrated*. The 2018/19 Annual Plan includes 4 actions that respond to initiatives under this Strategic Objective.

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

33. CALD groups were specifically targeted as part of the engagement plan for the *Council Plan 2017-21* and were represented in a group workshop which included Council's advisory groups.
34. Translation service assistance is available via Council's website for members of the CALD community and this service extended to the Council Plan engagement process.

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

35. The 2018/19 Annual Plan represents Year 2 of the *Council Plan 2017-21* adopted on 1 August 2017.

### **Legal Implications**

36. There are no legal implications.

### **Other Issues**

37. There are no other issues.

### **Options**

38. The report does not include any options.

### **Conclusion**

39. The 2018/19 Annual Plan Quarterly Progress Report June 2019 is presented to Council for noting.
40. The 2018/19 Capital Works Adjustments Reports June 2019 are presented to Council for noting.

### **RECOMMENDATION**

1. That Council note the end-of-year result as reported in the 2018/19 Annual Plan Quarterly Progress Report - June 2019.
2. That Council note the end-of-year result as reported in the 2018/19 Capital Adjustments and Capital Works Carried Forward reports.

**CONTACT OFFICER:** Shane Looney  
**TITLE:** Corporate Planner  
**TEL:** 9205 5397

### **Attachments**

- 1 [⇒](#) Attachment 1 2018-19 Annual Plan Quarterly Progress Report - June
- 2 [⇒](#) Attachment 2 Capital Adjustments Running Table- June 2019
- 3 [⇒](#) Attachment 3 2018-19 Capital Works carried forward to 2019-20

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**12.1 Notice of Rescission No. 1 of 2019 - Management of Plane Trees**

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Reference: D19/151249

Authoriser: Group Manager Chief Executive's Office

I, Cr 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 10 September 2019:

1. That Council's resolution of 27 August 2019, being:
  1. *That Council:*
    - (a) *Note that this report was requested for the March/April 2019 meeting cycle;*
    - (b) *Utilise the report commissioned by the City of Yarra, entitled "Plane Tree Review: an arboricultural assessment and report" (Tree Logic 2019), to inform and guide the City of Yarra's management of plane trees, effective immediately;*
    - (c) *Update the City of Yarra Street Tree Policy (last reviewed in November 2014) before the end of 2019, utilising the above-mentioned report, and ensuring complementarity between the new Street Tree Policy and the current Urban Forest Strategy;*
    - (d) *Introduce a new requirement into both the Urban Forest Strategy and the reviewed Street Tree Policy, to enshrine that the percentage of plane trees (as a proportion of our total street tree stock) not exceed a maximum percentage of 10%;*
    - (e) *Halt new planting of all plane trees species until such time as the City of Yarra reduces its total plane tree stock to beneath 10%; and*
    - (f) *A Council report in a year's time to assess the impact of this halt to plane tree planting.*
  2. *That the CEO ensure that this resolution is circulated and explained to all staff involved in Yarra's tree planting, including any contractors and sub-contractors.*

be rescinded.

Further, I foreshadow that should this motion be successful, I will subsequently move Notice of Motion No. 14 of 2019 that follows on this agenda.

## RECOMMENDATION

1. That Council's resolution of 27 August 2019, being:

1. *That Council:*

- (a) *Note that this report was requested for the March/April 2019 meeting cycle;*
- (b) *Utilise the report commissioned by the City of Yarra, entitled "Plane Tree Review: an arboricultural assessment and report" (Tree Logic 2019), to inform and guide the City of Yarra's management of plane trees, effective immediately;*
- (c) *Update the City of Yarra Street Tree Policy (last reviewed in November 2014) before the end of 2019, utilising the above-mentioned report, and ensuring complementarity between the new Street Tree Policy and the current Urban Forest Strategy;*
- (d) *Introduce a new requirement into both the Urban Forest Strategy and the reviewed Street Tree Policy, to enshrine that the percentage of plane trees (as a proportion of our total street tree stock) not exceed a maximum percentage of 10%;*
- (e) *Halt new planting of all plane trees species until such time as the City of Yarra reduces its total plane tree stock to beneath 10%; and*
- (f) *A Council report in a year's time to assess the impact of this halt to plane tree planting.*

2. *That the CEO ensure that this resolution is circulated and explained to all staff involved in Yarra's tree planting, including any contractors and sub-contractors.*

be rescinded.

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## 12.2 Notice of Motion No. 14 of 2019 - Management of Plane Trees

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Reference: D19/151257

Authoriser: Group Manager Chief Executive's Office

I, Councillor Amanda Stone, hereby give notice that should Notice of Rescission No. 1 of 2019 be successful, it is my intention to move the following motion at the Ordinary Meeting of Council to be held on 10 September 2019:

1. *That Council:*

- (a) *note the Officer report and the Tree Logic attachment regarding Plane trees;*
- (b) *note that the target percentage in the Urban Forest Strategy of no species being more than 5-10% of total tree stock is largely for ecological reasons in case of the incursion of any disease;*
- (c) *note that Plane trees in the municipality do provide a very significant positive impact to canopy cover but that the Plane tree species does at times cause property damage and does cause some health issues to some persons in the months of August to October;*
- (d) *notes that the target of 10% Plane tree population in Yarra is likely to be achieved by 2024/25 through the increase in tree plantings largely with other species;*
- (e) *notes that new plantings of Plane trees will only occur in key locations, with a net reduction in Plane tree numbers each year due to a greater number of removals than new plantings; and*
- (f) *notes the alternate tree species to Plane trees for street planting, but not limited to those listed in the Tree Replacement Palette, will be planted throughout the streets of Yarra in new locations and also where existing Plane trees have been removed and it is not considered desirable to be replaced with a Plane tree.*

### RECOMMENDATION

1. *That Council:*

- (a) note the Officer report and the Tree Logic attachment regarding Plane trees;
- (b) note that the target percentage in the Urban Forest Strategy of no species being more than 5-10% of total tree stock is largely for ecological reasons in case of the incursion of any disease;
- (c) note that Plane trees in the municipality do provide a very significant positive impact to canopy cover but that the Plane tree species does at times cause property damage and does cause some health issues to some persons in the months of August to October;
- (d) notes that the target of 10% Plane tree population in Yarra is likely to be achieved by 2024/25 through the increase in tree plantings largely with other species;
- (e) notes that new plantings of Plane trees will only occur in key locations, with a net reduction in Plane tree numbers each year due to a greater number of removals than new plantings; and
- (f) notes the alternate tree species to Plane trees for street planting, but not limited to those listed in the Tree Replacement Palette, will be planted throughout the streets of Yarra in new locations and also where existing Plane trees have been removed and it is not considered desirable to be replaced with a Plane tree.

**Attachments**

There are no attachments for this report.