

Special Meeting of Council Agenda

**to be held on Tuesday 12 March 2019 at 7.00pm
Fitzroy Town Hall**

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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.

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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. Council business reports**

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 Jackie Fristacky
- Cr Stephen Jolly
- Cr Mike McEvoy
- Cr Daniel Nguyen
- Cr James Searle
- Cr Amanda Stone

Council officers

- Vijaya Vaidyanath (Chief Executive Officer)
- Ivan Gilbert (Group Manager – Chief Executive’s Office)
- Bruce Phillips (Director - Planning and Place Making)
- Rhys Thomas (Senior Governance Advisor)

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

4. Council business reports

Item		Page	Rec. Page	Report Presenter
4.1	Planning Scheme Amendment C231 - Queens Parade - summary of submissions	5	10	

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 two 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.

4.1 Planning Scheme Amendment C231 - Queens Parade - summary of submissions

Trim Record Number: D19/18175

Responsible Officer: Director Planning and Place Making

Purpose

1. To outline the key themes in the written submissions received during the exhibition of Amendment C231.
2. To hear submissions from people and groups who have made written submissions to Yarra Planning Scheme Amendment C231.

Background

3. Amendment C231 was publicly exhibited during October to November 2018. The amendment seeks to apply new built form controls and make other changes to planning controls along Queens Parade.
4. 397 submissions were received.
5. Council must now consider those submissions, as part of the process of further consideration of the amendment.
6. Council will consider the submissions in two stages:
 - (a) At this meeting (12 March 2019) - Council will hear from submitters.
 - (b) At a second meeting on 29 May 2019 - Council will formally consider a response to submissions and recommended adjustments to the proposed amendment. Council would then resolve whether to refer the amendment and submissions to a Planning Panel.

Key elements of the amendment

7. Amendment C231 was prepared in response to concerns about the scale and density of development along Queens Parade in recent years. The key purpose of the amendment is to introduce built form controls to manage change along Queens Parade and guide the scale of future buildings to provide certainty about development outcomes.
8. Amendment C231 seeks to implement the recommendations of the *Queens Parade Clifton Hill Built Form Review* prepared by Hansen Partnership and *Queens Parade Built Form Heritage Analysis and Recommendations* prepared by GJM (noting there are some differences between this background work and proposed amendment).
9. The amendment proposes to:
 - (a) apply permanent built form controls through a Design Development Overlay (DDO16);
 - (b) rezone land on the corner of Smith Street and Queens Parade from Commercial 2 Zone to Commercial 1 Zone to allow for housing (and apply an Environmental Audit Overlay to this land to identify potentially contaminated land); and
 - (c) apply a new Heritage Overlay (HO498 to the terraces at 472-484 Napier Street) and update a number of existing heritage overlays, including extending the heritage overlay on some properties, removing it from others or revising the heritage grading of some buildings.
10. The proposed DDO contains a mix of mandatory and discretionary height and setback controls, including mandatory building heights in Precinct 4 – the main shopping strip.

Amendment C231 - Exhibition of the amendment

11. Public exhibition of the amendment occurred from 1 October to 30 November 2018. A six week exhibition period was initially proposed but was extended by two weeks following requests from the community. The amendment was exhibited for a total of eight weeks.
12. Almost 2,500 letters were sent to owners and occupiers within and adjoining the precinct, inviting interested stakeholders to lodge submissions with Council.

Interim built form controls

13. Interim built form controls are in place in Queens Parade while the permanent controls are considered.
14. Two sets of interim controls apply:
 - (a) The first interim control, DDO16 introduced via Amendment C229, provides controls for the western end of Queens Parade. It was approved in March 2017 and expires on 30 March 2019.

On 4 December 2018, Council resolved to request the Minister for Planning extend the expiry date and match it with the second interim DDO (see paragraph 14(b) below). The Minister approved the extension of time via Amendment C262 on 4 March 2019 with a new expiry date of 12 January 2020. The Department of Environment, Land, Water and Planning anticipates that the amendment will be gazetted on 14 March 2019.
 - (b) The second interim control, DDO20 was introduced via Amendment C241 on 23 August 2017. DDO20 applies to the remainder of Queens Parade not covered by DDO16. This control expires on 12 January 2020.

Submissions received to Amendment C231

15. A total of 397 submissions (including five late submissions) have been received:
 - (a) One submission supports the amendment and seeks no changes;
 - (b) Two submissions support the amendment but seek changes; and
 - (c) The remainder of submissions objected to the amendment as currently drafted. Many sought changes. Three request that the amendment be abandoned or extensively redrafted.
16. Of the submissions:
 - (a) One was from a planning consultant on behalf of a developer;
 - (b) 295 were from residents / property owners either in the DDO area or (almost all) from its immediate surrounds;
 - (c) 95 were from addresses outside the precinct and surrounding area or did not identify their interest in the area, and
 - (d) Six were from community and interest groups: the Collingwood Historical Society, National Trust, Fitzroy Residents' Association, Royal Historical Society of Victoria, 3068 Group and Protect Fitzroy North Inc.
17. The individual submissions are summarised at Attachment 1.

Key issues raised by submissions

18. Submissions expressed a strong passion for the centre; many saying that they have lived in the area for some years and use the centre often for their daily needs. They value the heritage feel of the centre with its low scale buildings, the wide, tree lined boulevard and views to key landmark buildings.
19. Many submitters supported the need for permanent built form controls to ensure appropriate future development, given the recent VCAT approvals, but considered the amendment would undermine the heritage values of Queens Parade.
20. In brief, the key issues raised in the submissions are:

- (a) the appropriateness of building heights, particularly in Precinct 4;
- (b) the adequacy of upper level building setbacks and their visibility, particularly in Precinct 4;
- (c) the significance of heritage buildings and the heritage streetscape would be lost; specifically the intact buildings and heritage skyline which are key features of Queens Parade;
- (d) more controls should be mandatory;
- (e) interfaces with adjoining residential development, and in particular, the adequacy of rear setbacks to protect the amenity of these residential properties;
- (f) laneway access is constrained and cannot accommodate the level of development proposed;
- (g) general traffic congestion; and
- (h) need for the centre to accommodate housing growth.

21. These key issues are discussed in further detail in Attachment 2.

Key issues by precinct

22. Submitters also identified precinct-specific issues and suggested changes to the built form controls.

23. Attachment 3 summarises issues by Precinct.

24. A large number of submissions relate to Precinct 4, the main shopping strip. Key issues expressed in relation to Precinct 4 included:

- (a) stronger weight should be given to the heritage outcomes and the heritage significance of Precinct 4 with less emphasis to provide capacity to accommodate growth;
- (b) appropriateness of the proposed 6 storey mandatory building height on the heritage streetscape;
- (c) visibility of upper levels of development from the opposite side of Queens Parade and the adequacy of upper level setbacks to minimise this visibility, and
- (d) rear setbacks and the interface with dwellings to the rear on McKean and Hodgkinson Streets (including amenity impacts from building bulk and overshadowing).

25. A smaller number of submissions also focussed on the other four precincts. Key issues raised included:

- (a) Precinct 1 – Submitters agreed that the proposed 9 metre height is adequate and that the controls should be mandatory across the precinct;
- (b) Precinct 2A – The drafting of requirements for this precinct in Amendment C231 is not identical to the existing interim controls. Concerns this could result in a revised application for 26-52 Queens Parade with the possibility of being able to argue for a different outcome at VCAT;
- (c) Precinct 2C – Proposed 28m height will not accommodate eight commercial storeys (noting the precinct is in the Commercial 2 Zone which allows for commercial and not residential uses). Amendment requires development to meet ResCode Standard B17 on side and rear setbacks. Notes ResCode is a tool used in a residential context of up to 4 storeys. Given the precinct is in a commercial zone, considered that B17 setbacks should be removed;
- (d) Precinct 3 – Proposed height of 18 metres is too high. May lose appreciation of belfry and spire of St John’s Church. Development needs to respond to the fine grain heritage fabric of Hodgkinson Street. Significant concern raised about potential overshadowing / overlooking of properties to the rear in Hodgkinson Street. Rear setbacks are an issue; and

- (e) Precinct 5 – Concern expressed about height and “ugliness” of recently constructed, taller development. Concern that more development will overwhelm the Victorian Heritage Register (VHR) listed Clifton Motors Garage and the UK Hotel (now McDonalds). Heights from eight to fourteen storeys suggested but should be mandatory.

Options in response to submissions

- 26. Officers are currently considering a response to the submissions and the various options suggested by submitters.
- 27. Potential options include:
 - (a) increased upper level setbacks to ensure retention of the principal heritage building and to reduce visibility of new development behind the street wall;
 - (b) reviewing visibility tests to reinforce the prominence of the heritage fabric;
 - (c) reducing maximum building heights;
 - (d) testing alternative rear interfaces; and
 - (e) applying additional mandatory controls.

Next steps

- 28. It is proposed to present the officer’s formal response to submissions and recommendations to Council in May 2019.
- 29. At that meeting Council would need to formally consider the submissions and progress the amendment in accordance with the *Planning and Environment Act 1987*. It must also then decide whether to refer the amendment and submissions to an independent Planning Panel.
- 30. At that meeting Council would also be able to propose changes to the amendment in response to submissions and provide an adjusted version of the amendment to the independent Planning Panel for its consideration.
- 31. If Council decides to refer the amendment to the panel, the expected Panel hearing dates are:
 - (a) Directions hearing (to make arrangements for the running of the hearing, fix hearing dates and exchange of information eg expert evidence) - Week commencing 15 July 2019
 - (b) Panel hearing - Week commencing 12 August 2019. Up to three weeks have been set aside for the hearing.

(Noting these dates have been updated since the exhibition of the amendment and may be subject to further change.)

External Consultation

- 32. The statutory provisions in the *Planning and Environment Act 1987* provide for extensive external consultation:
 - (a) the amendment was exhibited for 8 weeks (noting a minimum period of one month is required by the *Planning and Environment Act 1987*);
 - (b) Council wrote to all affected parties to seek comments on the amendment. A fact sheet summarising the key information was sent to affected parties;
 - (c) amendment documentation, fact sheets and other information was placed on Council’s website, at the Collingwood Town Hall and the North Fitzroy Library; and
 - (d) two information sessions were held where residents and other interested people could meet with officers.
- 33. All submissions have been available in the Councillors Resource Room.

34. Submitters will also have the opportunity to present their submissions to the independent planning panel.

Internal Consultation (One Yarra)

35. The amendment was prepared with significant input from the statutory planning branch.

Financial Implications

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

Economic Implications

37. There are no known economic implications of considering the submissions.

Sustainability Implications

38. There are no known sustainability implications of considering the submissions.

Social Implications

39. There are no social implications of considering the submissions.

Human Rights Implications

40. There are no known human rights implications.

Communications with CALD Communities Implications

41. 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

42. 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

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

Other Issues

44. There are no other issues associated with this Council receiving submissions.

Process from here

45. Where submissions have been received to an amendment, Council has three options under Section 23 of the *Planning and Environment Act 1987*:

- (a) Change the amendment in the manner requested; or
- (b) Refer the submissions to an independent Planning Panel to consider the submissions and to provide recommendations to Council; or
- (c) Abandon the amendment or part of the amendment.

46. Given the submissions present a range of different views, Council will not be able to fully resolve the amendment and change it in the manner requested by all submitters. Council must refer the amendment to a panel or abandon it.

47. Before referring the amendment to Panel, Council can recommend changes to the amendment in response to submissions for the consideration of the Panel.

48. If the amendment is referred to the Planning Panel, all submitters would be given the opportunity to outline their submission to the Planning Panel who would make recommendations in a report to Council. The panel considers all submissions when making recommendations to Council about whether Council should approve (with or without changes) or abandon the amendment.
49. An independent Planning Panel would consider the exhibited amendment, submissions received and any changes Council recommends to address the submissions.
50. The Panel's recommendations would then be provided to Council with an officer report for its consideration. Council would then have three options under the *Planning and Environment Act 1987*:
 - (a) adopt the amendment as exhibited;
 - (b) adopt the amendment with changes; or
 - (c) abandon the amendment or part of the amendment.
51. Council can choose to accept or reject the Panel's recommendations. Where it chooses not to accept the Panel's recommendation, it must provide justification.
52. If Council chooses to adopt the amendment (with or without changes), it would then be sent to the Minister for Planning for approval.

Conclusion





53. Council exhibited Amendment C231 and received 397 submissions.
54. Submitters, almost universally are seeking changes to the amendment; may request a reduction in the height of future buildings and increase upper level setbacks to protect the heritage character of Queens Parade.
55. A large number of submissions also expressed concerns about the scale of development and the impact of new dwellings on amenity.
56. The submissions are seeking a range of different changes to the amendment, particularly in terms of overall building heights.
57. At a future meeting of Council on 28 May 2019, Council will formally consider the submissions and progress the amendment in accordance with the *Planning and Environment Act 1987*.

RECOMMENDATION

1. That Council:
 - (a) receives all written and verbal submissions to Amendment C231.
 - (b) extends its appreciation to all submitters and to those people presenting at this meeting.
 - (c) notes that a further report will be presented to an Ordinary Council meeting on 28 May 2019, that will:
 - (i) provide an officer report and a recommended response to the specific issues raised in submissions for Council consideration, and
 - (ii) enable Council to determine whether to refer Amendment C231 and all submissions to an independent Planning Panel to be appointed by the Minister for Planning.

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Attachments

- 1  Attachment 1 - Summary of individual submissions
- 2  Attachment 2 - Map of submissions
- 3  Attachment 3 - Key and precinct-wide issues
- 4  Attachment 4 - Precinct specific summary