



Special Meeting of Council Agenda

**to be held on Tuesday 4 June 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

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

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Order of business

- 1. Statement of recognition of Wurundjeri Land**
- 2. Attendance, apologies and requests for leave of absence**
- 3. Declarations of conflict of interest (Councillors and staff)**
- 4. Confidential business reports**
- 5. Confirmation of minutes**

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 Jackie Fristacky
- 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)
- David Walmsley (Acting Director Planning and Place Making)
- Mel Nikou (Governance Officer)

Apology

- Cr Mi-Lin Chen Yi Mei

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

4. Confidential business reports

Item

- 4.1 Proposed developments

Confidential business reports

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

RECOMMENDATION

1. That the meeting be closed to members of the public, in accordance with section 89 (2) of the *Local Government Act* 1989, to allow consideration of proposed developments.
2. That all information contained within the Confidential Business Reports section of this agenda and reproduced as Council Minutes be treated as being and remaining strictly confidential in accordance with the provisions of sections 77 and 89 of the *Local Government Act* 1989 until Council resolves otherwise.

5. Confirmation of minutes

RECOMMENDATION

That the minutes of the Ordinary Council Meeting held on Tuesday 28 May 2019 be confirmed.

6. Council business reports

Item		Page	Rec. Page	Report Presenter
6.1	Draft 2019/20 Budget - Hearing of Submissions	6	8	Ange Marshall – Chief Financial Officer
6.2	Proposed discontinuance of the road between 5 and 7 Brunswick Street, Fitzroy.	9	13	Bill Graham – Valuations Coordinator

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.

6.1 Draft 2019/20 Budget - Hearing of Submissions

Trim Record Number: D19/89329

Responsible Officer: Director Corporate, Business and Finance

Purpose

1. To hear any person who wishes to speak in support of a written submission to the draft 2019/20 Budget in accordance with section 223 of the Local Government Act 1989 (the Act).

Background

2. Council is required to adopt a Budget under Section 130 of the Act and must give public notice of its decision.
3. Under Section 223 of the Act, Council is required to:
 - (a) give public notice outlining how the community can access a copy of the budget, timelines for submissions (at least 28 days) and the option to speak to their submission at a Council meeting;
 - (b) receive submissions;
 - (c) hear submissions at a Council meeting (where submitters have requested that opportunity); and
 - (d) write to each submitter noting Council's decision and the reasons for it.
4. The process of development of the draft 2019/20 Budget commenced in late 2018. This initial round of community consultation assisted Council to understand a range of community suggestions and priorities for the budget.
5. Following this consultation, Council then formulated a draft Budget around the general services Council is expected to provide and additional works, services, and programs Council determined were priorities for the coming year, based in part on requests presented by community members and groups.
6. A draft 2019/20 Budget was presented to the Ordinary Council meeting on 16 April 2019 and was adopted in principle, to be presented for the formal advertising and consultation process.

External Consultation

7. The draft 2019/20 Budget was publicised via:
 - (a) a formal public notice in The Age and Council's website on Friday 19 April 2019;
 - (b) Yarra News feature (to 55,000 addresses);
 - (c) Yarra Life (to 10,000 subscribers);
 - (d) Facebook promoted post and video (to 9,000 followers and beyond);
 - (e) Twitter video (to 5,000 followers);
 - (f) Your Say Yarra direct message (to 1,000 subscribers);
 - (g) Message to Advisory Committee representatives;
 - (h) Message to Neighbourhood Houses and other community groups;
 - (i) Updated on-hold message; and
 - (j) Yarra website – news item.
8. The draft 2019/20 Budget was available for public inspection for 30 days, from 18 April to 17 May 2019, with the community having a number of options for submitting feedback:

- (a) formal submissions received via email, online on Council's website, post, or in-person as stipulated under s223 of the Local Government Act; and
 - (b) open community information and feedback sessions were hosted by the Mayor at the following times and locations:
 - (i) 3.00pm, Monday 6 May Fitzroy Town Hall, Fitzroy; and
 - (ii) 6.00pm, Monday 6 May Fitzroy Town Hall, Fitzroy.
9. People making formal submissions to the draft 2019/20 Budget could elect to be heard on their submission at this Special Council meeting.
10. At the close of formal submissions on Friday 17 May 2019, Council had received 158 submissions. Some submitters raised multiple issues in their submission with 193 comments being received across 27 issues, aligned to the Council Plan's Strategic Objectives.
11. Of the 193 issue comments received, 158 were from Yarra residents, 25 other and 9 with no suburb identified.
12. Of the issues raised in the submissions, there are only 2 projects of significance with multiple submissions, and these are the Panther Pavilion Ivanhoe and Northcote Canoe Club (27) and the Railway House community garden (23). A summary of the issues raised in the submissions can be found at **Attachment 1**.
13. Other issues that attracted a greater number of comments was Improving Bicycle Infrastructure (21) and Improve Traffic Management (14), however, these comments were spread across a range of matters rather than a single project.

Internal Consultation (One Yarra)

14. The Governance branch has provided advice to ensure compliance with the legislative obligations of the Local Government Act 1989.

Financial Implications

15. The Budget process is guided by legislation and has major financial implications for Council's current and future operations and financial direction into the future.

Economic Implications

16. There are no economic impacts to be considered in this report.

Sustainability Implications

17. There are no sustainability impacts to be considered in this report.

Social Implications

18. There are no social impacts to be considered in this report.

Human Rights Implications

19. There are no human rights impacts to be considered in this report.

Communications with CALD Communities Implications

20. Select budget consultation materials (including Yarra News and promotional postcard) included translation information in key community languages.

Council Plan, Strategy and Policy Implications

21. Strategy 7.1 of the City of Yarra Council Plan 2017-2021 is "*ensure Council's assets and financial resources are managed responsibly to deliver financial sustainability.*" A comprehensive and responsible budget that is informed by Council's articulated policy objectives and informed by meaningful community consultation is essential to the achievement of this objective.

Legal Implications

22. The requirements of the Local Government Act 1989 have been applied to the proposed budget preparation process, including: giving public notice of the submission period; receiving public submissions; and hearing those submissions who specifically requested to present verbally.

Other Issues

23. There are no other issues to be considered in this report.

Options

24. There are no options to be considered in this report.

Conclusion

25. Council has received submissions and feedback on the proposed 2019/20 Budget. This report provides an opportunity for submitters who requested an opportunity to be heard in relation to their submission to be invited to do so.

RECOMMENDATION

1. That:
- (a) hear oral submissions on the Draft 2019/20 Budget in accordance with section 223 of the Local Government Act 1989; and
 - (b) note that the written submissions received through the statutory consultation phase and submissions heard tonight will be considered by Council on 25 June 2019.

CONTACT OFFICER: Julie Wyndham
TITLE: Manager Corporate Planning and Performance
TEL: 9205 5090

Attachments

- 1⇒ Draft Budget Submission Summary

6.2 Proposed discontinuance of the road between 5 and 7 Brunswick Street, Fitzroy.

Trim Record Number: D19/14957

Responsible Officer: Director Corporate, Business and Finance

Purpose

1. This report seeks Council's authority to commence statutory procedures pursuant to the *Local Government Act 1989* (**Act**) to consider discontinuing the road between 5 and 7 Brunswick Street, Fitzroy, show as lot 1 on the title plan attached as Attachment 1 to this report (**Title Plan**) and shown outlined pink on the plan attached as Attachment 2 to this report (**Site Plan**), being part of the general law land contained in Memorial Book Syd no. 801 (**Road**).

Background

2. St Vincent's Healthcare Ltd ACN 095 382 791 (**Applicant**) is the registered proprietor of the following properties, all of which adjoin the Road and are shown outlined green on the Site Plan:
3. 5 Brunswick Street, Fitzroy; 20-32 Fitzroy Street, Fitzroy, 59 Victoria Parade, Fitzroy, 63 Victoria Parade, Fitzroy, 75 Victoria Parade, Fitzroy, 77 Victoria Parade, Fitzroy, and 93 Victoria Parade, Fitzroy; together Properties associated with St Vincent's Private Hospital. (**Applicant's Properties**).
4. The Road also abuts the property known as 7 Brunswick Street, Fitzroy, being the land shown outlined blue on the Site Plan (**Adjoining Property**). The Adjoining Property is registered in the name of the Roman Catholic Trusts Corporation for the Diocese of Melbourne (**Associated Adjoining Owner**).
5. The Applicant is proposing expansion works to the Hospital, therefore the Applicant has requested that Council discontinue the Road and sell the former Road to the Applicant. (**Proposal**).
6. The Applicant has agreed to pay Council's costs and disbursements associated with the proposed discontinuance of the Road, together with the market value (plus GST) of the discontinued Road as determined by the Act.

Discussion

Road

7. The Road is shown on title as a 'right of way' and a 'road' and has been constructed and historically used as a right of way.
8. The Road is therefore a 'road' for the purposes of the Act which Council has the power to consider discontinuing. Upon being discontinued, the Road will vest in Council.
9. The Road is listed on Council's Register of Public Roads. It is considered that the Road is no longer reasonably required for general public use pursuant to section 17(4) of the *Road Management Act 2004* (Vic) as:
 - (a) the eastern end of the Road has been gated since at least 2009 and, accordingly, the Road has not been accessed by the general public since that time;
 - (b) the Road is constructed of bluestone and bitumen, and there is evidence of the Road being used for rear access to the adjoining properties and for parking purposes;
 - (c) the Road is currently used exclusively for access by the Applicant's Properties; and
 - (d) it is considered that the Road is not currently used for public access.

Adjoining Owners

10. The Adjoining Owner has given consent to the Proposal by way of written correspondence dated 27 September 2017. A copy of the correspondence is attached to the report as Attachment 3 to this report.

Site Inspection

11. A site inspection of the Road was conducted by DML Land Surveys on 29 May 2018. The site inspection report which is attached to this report as Attachment 4 notes that:
 - (a) the Road is not open and available for use by the public, as the Road is currently gated at the eastern end to restrict public access to the Road;
 - (b) the Road is constructed of bluestone and bitumen, and there is evidence of the Road being used for rear access to the adjoining properties and for parking purposes;
 - (c) the Road is currently used exclusively for access to the rear of the Applicant's Properties;
 - (d) there is no significant encroachment onto the Road; and
 - (e) it is considered that the Road is not currently used for public access.

Public/Statutory Authorities

12. The following public/statutory authorities have been advised of the proposed discontinuance of the Road and have been asked to respond to the question of whether they have any existing assets in the Road which should be saved under section 207C of the Act: City West Water, Melbourne Water, Citipower, APA Group, Telstra, Optus and Yarra City Council.
13. Melbourne Water, Citipower, APA Group, Telstra, Optus and Yarra City Council advised that they have no assets in or above the Road and no objection to the proposed discontinuance of the Road.
14. In a letter dated 1 November 2017, City West Water (**CWW**) advises that it did not object to the Proposal, subject to the following conditions:
 - (a) a title plan approved by CWW must show a 2.0m wide centrally located sewerage easement to be in favour of CWW pursuant to section 12(1) of the *Subdivision Act 1988* (Vic);
 - (b) any proposed fences must be located a minimum distance of 800mm clear of the centreline of existing CWW sewer mains;
 - (c) any proposed fence lines must be located a minimum distance of 1.0m from sewer manholes and/or sewer inspection shafts; and
 - (d) any proposal to build over a sewer asset will require CWW's written consent (i.e. build-over application approval).
15. A copy of the correspondence from CWW is contained in Attachment 5 to this report.
16. The proposed redevelopment of the site will be required to meet CWW requirements.

Public Notice

17. Before proceeding with the discontinuance of the Road, Council must give public notice of the Proposal in accordance with sections 207A and 223 of the Act. The Act provides that a person may, within 28 days of the date of the public notice, lodge a written submission regarding the Proposal.
18. Where a person has made a written submission to Council requesting that he or she be heard in support of the written submission, Council must permit that person to be heard before a meeting of Council or the Committee which has delegated authority to hear those submissions, giving reasonable notice of the day, time and place of the meeting.

19. After hearing any submissions made, Council must determine whether the Road is not reasonably required as a road for public use, in order to decide whether the Road should be discontinued.

Planning Permit

20. The Applicant has obtained a planning permit for the re-development of the Applicant's Properties. Estimated cost of works is \$60 million.
21. Planning Permit PLN16/0925 for *"development and construction of a multi storey building as an extension to the existing hospital"* was issued by order of the Victorian Civil and Administrative Tribunal (VCAT) on 1 May 2018.
22. The re-development includes the removal of the 'road' as construction of the new improvements will occur above the road. A ground floor plan of the proposed hospital expansion is attached as Attachment 6 to this report.
23. The discontinuance of the road has not been included as a condition that applies to the permit, however the road will need to be discontinued to facilitate the works to be completed.
24. A 1.2 metre setback allows for setback to be paved. Clause (a) (j) states:
"Setback the northern wall of the ground floor of the Brunswick Street entrance from the southern boundary of Edensor/Dogshun House property by 1.2 metres, with this setback paved in a manner a manner that reflects its existing function as a bluestone lane in accordance with the recommendation of an appropriate heritage consultant."
25. A copy of the amended planning permit is attached to this report as Attachment 7.
26. In addition to the planning permit process, the Applicant has made an application has been made with Heritage Victoria as a number of the sites making up the development parcel for the expansion of the hospital are included within the State Heritage Register. To date, a final decision by Heritage Victoria has not been made.

Naming of Right of Way 1600 (Subject Road)

27. Council at its meeting of 13 November 2018 considered a report regarding the naming of Right of Way 1600 (**Subject Road**). Council resolved as follows:
 1. *That in respect of naming right of way 1600, Council Note:*
 - (a) *The names suggested by the Wurundjeri Tribe ("Booboop", "Koonoong-warren", "Wadambuck", "Ngawe" and "Jorung-bik") comply with the Naming Rules for Places in Victoria and would be suitable for application as street names;*
 - (b) *The names suggested by the Fitzroy Historical Society ('MacKillop', "Mary Mackillop", "Alexander Mackillop", "Mary" and "Alexander") do not comply with the Naming Rules for Places in Victoria and would not be approved as street names;*
 - (c) *Permission to consider the name "MacKillop Place" has been refused by the Registrar for Geographic Names; and*
 - (d) *An application for the discontinuance of road 1600 has been lodged with Council and has not yet been resolved.*
 2. *That Council now determine that it proposes to name right of way 1600 as "Jorung-bik Place". And direct Council officers to inform the Wurundjeri Tribe of ongoing road discontinuance and subject to their agreement to proceed, undertake a formal consultation process and bring the outcome back to Council for a determination.*
28. Both the Wurundjeri Tribe and the Applicant (Hospital) have been advised of Council's street naming proposal. They have also been advised that the street naming will not proceed if Council decides to discontinue the Road.
29. Council's ability to discontinue a street is completely unaffected by whether or not the street/right of way/road has a name. There is no legal impediment to the discontinuance.

Internal Consultation (One Yarra)

30. No internal consultation is required for this report.

Financial Implications

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

Economic Implications

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

Sustainability Implications

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

Social Implications

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

Human Rights Implications

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

Communications with CALD Communities Implications

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

Council Plan, Strategy and Policy Implications

38. There are no Council Plan, Strategy or Policy Implications.

Legal Implications

39. If the Road is discontinued and sold to the Applicant, Council will require the Applicant to:
- (a) create a sewerage easement in favour of City West Water (CWW) along the length of the Road (this can be effected as part of the transfer of land). However, it is anticipated that the Applicant will lodge a separate application with CWW to remove the easement. Removal of the Easement will facilitate the construction of the new improvements;
 - (b) agree to observe the conditions imposed by CWW in respect of the Road; and
 - (c) consolidate the title to the Road with the title to the property at 5 Brunswick Street, Fitzroy (Hospital), within 6 months of the date of transfer of the Road to the Applicant, at the Applicant's expense.

Other Issues

40. There are no other issues.

Options

41. There are no options associated with this report.

Proposal

42. It is proposed that, Council should remove the Road from Council's Register of Public Roads for the reason that the Road is no longer reasonably required for general public use, as;
- (a) the eastern end of the Road has been gated since at least 2009 and, accordingly the general public has not been able to access the Road since that time;
 - (b) the Road provides direct access to the Applicants properties only; and
 - (c) although the Adjoining Property also has direct access to the Road, the Associated Adjoining Owner has given unconditional consent to the proposal.

43. Council should commence the statutory procedures pursuant to clause 3 of Schedule 10 of the Act to discontinue the Road and sell the Road to the Applicant.

RECOMMENDATION

1. That Council, acting under section 17(4) of the *Road Management Act 2004*, resolves that the road between 5 and 7 Brunswick Street, Fitzroy which is shown as lot1 on the plan contained in Attachment 1 to this report, being part of the general law land contained in book Syd no. 801 (**Road**), be removed from Council's Register of Public Roads on the basis that the Road is no longer reasonably required for general public use:
2. That Council, acting under clause 3 of schedule 10 of the *Local Government Act 1989* (**Act**):
 - (a) resolves that the required statutory procedures be commenced to discontinue the Road, shown as lot 1 on the title plan attached as Attachment 1 to this report;
 - (b) directs that, under sections 207A and 223 of the Act, public notice of the proposed discontinuance be given in the appropriate newspapers, social media, any adjoining properties and attached to the site;
 - (c) resolves that the public notice required to be given under sections 207A and 223 of the Act should state that if the Road is discontinued, Council proposes to sell the Road to the Applicant for market value (plus GST); and
 - (d) authorises the Valuations Coordinator Bill Graham to undertake the administrative procedures necessary to enable Council to carry out its functions under section 223 of the Act in relation to this matter.

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

Attachments

- 1 ➡ Title Plan
- 2 ➡ Site Plan
- 3 ➡ Adjacent Owner Consent
- 4 ➡ Site Inspection Report
- 5 ➡ CWW Correspondence
- 6 ➡ Ground Floor Plan
- 7 ➡ Amended Planning Permit