



# Agenda

## Council Meeting

7.00pm, Tuesday 15 December 2020

MS Teams

## Council Meetings

Council Meetings are public forums where Councillors come together to meet as a Council and make decisions about important, strategic and other matters. The Mayor presides over all Council Meetings, and they are conducted in accordance with the City of Yarra Governance Rules 2020 and the Council Meetings Operations Policy.

Council meetings are decision-making forums and only Councillors have a formal role. However, Council is committed to transparent governance and to ensuring that any person whose rights will be directly affected by a decision of Council is entitled to communicate their views and have their interests considered before the decision is made.

There are two ways you can participate in the meeting.

## Public Question Time

Yarra City Council welcomes questions from members of the community.

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 Mayor to ask your question, please come forward, take a seat at the microphone, state your name clearly for the record and:

- direct your question to the Mayor;
- refrain from making statements or engaging in debate
- don't raise operational matters which have not previously been raised with the Council administration;
- not ask questions about matter listed on the agenda for the current meeting.
- refrain from repeating questions that have been previously asked; and
- if asking a question on behalf of a group, explain the nature of the group and how you are able to speak on their behalf.

Once you have asked your question, please remain silent unless called upon by the Mayor to make further comment or to clarify any aspects.

## Public submissions

Before each item is considered, the meeting chair will ask people in attendance if they wish to make submission. If you want to make a submission, simply raise your hand and the Mayor will invite you to come forward, take a seat at the microphone, state your name clearly for the record and:

- Speak for a maximum of five minutes;
- direct your submission to the Mayor;
- confine your submission to the subject under consideration;
- avoid repetition and restating previous submitters;
- refrain from asking questions or seeking comments from the Councillors or other submitters;
- if speaking on behalf of a group, explain the nature of the group and how you are able to speak on their behalf.

Once you have made your submission, please remain silent unless called upon by the Mayor to make further comment or to clarify any aspects.

Once all submissions have been received, the formal debate may commence. Once the debate has commenced, no further submissions, questions or comments from submitters can be received.

## 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.

## Order of business

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

## 1. Acknowledgment of Country

*“Yarra City Council acknowledges the Wurundjeri Woi Wurrung people as the Traditional Owners and true sovereigns of the land now known as Yarra.*

*We acknowledge their creator spirit Bunjil, their ancestors and their Elders.*

*We acknowledge the strength and resilience of the Wurundjeri Woi Wurrung, who have never ceded sovereignty and retain their strong connections to family, clan and country despite the impacts of European invasion.*

*We also acknowledge the significant contributions made by other Aboriginal and Torres Strait Islander people to life in Yarra.*

*We pay our respects to Elders from all nations here today—and to their Elders past, present and future.”*

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

### Attendance

#### Councillors

- |                          |              |
|--------------------------|--------------|
| • Cr Gabrielle de Vietri | Mayor        |
| • Cr Claudia Nguyen      | Deputy Mayor |
| • Cr Edward Crossland    | Councillor   |
| • Cr Stephen Jolly       | Councillor   |
| • Cr Herschel Landes     | Councillor   |
| • Cr Anab Mohamud        | Councillor   |
| • Cr Bridgid O'Brien     | Councillor   |
| • Cr Amanda Stone        | Councillor   |
| • Cr Sophie Wade         | Councillor   |

#### Council officers

- |                     |  |
|---------------------|--|
| • Vijaya Vaidyanath | Chief Executive Officer                  |
| • Brooke Colbert    | Group Manager Advocacy and Engagement    |
| • Ivan Gilbert      | Group Manager Chief Executive's Office   |
| • Lucas Gosling     | Director Community Wellbeing             |
| • Gracie Karabinis  | Group Manager People and Culture         |
| • Chris Leivers     | Director City Works and Assets           |
| • Diarmuid McAlary  | Director Corporate, Business and Finance |
| • Bruce Phillips    | Director Planning and Place Making       |
| • Rhys Thomas       | Senior Governance Advisor                |
| • Mel Nikou         | Governance Officer                       |

## 3. Announcements

An opportunity is provided for the Mayor to make any necessary announcements.

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

Any Councillor who has a conflict of interest in a matter being considered at this meeting is required to disclose that interest either by explaining the nature of the conflict of interest to those present or advising that they have disclosed the nature of the interest in writing to the Chief Executive Officer before the meeting commenced.

## 5. Confidential business reports

Nil

## 6. Confirmation of minutes

### **RECOMMENDATION**

That the minutes of the Ceremonial Council Meeting held on Thursday 16 November 2020 be confirmed.

## 7. Public question time

An opportunity is provided for questions from members of the public.

## 8. Council business reports

Item		Page	Rec. Page	Report Presenter
8.1	Endorsement of Yarra LGBTIQ+ Strategy 2021-2024	9	14	Andrea Travers, Manager Organisational Culture, Capability and Diversity
8.2	Emergency Management Reforms - Resolution	15	17	Gavin Dyche, Manager Risk and Safety
8.3	Yarra Planning Scheme Amendment C191yara - Swan Street Major Activity Centre	18	34	Fiona van der Hoeven, Assistant Manager City Strategy
8.4	Extension of the Licence and Funding Agreement for the Studio 1 Community Hub	35	43	Malcolm McCall, Manager Social Strategy and Community Development
8.5	Edinburgh Gardens	44	50	Diarmuid McAlary, Director Corporate Business and Finance
8.6	Finance Report - September 2020	51	52	Mark Montague, Chief Financial Officer
8.7	2020/21 Annual Plan Progress Report - September	53	56	Julie Wyndham, Manager Corporate Planning and Performance
8.8	Council Meetings Operations Policy	57	61	Rhys Thomas, Senior Governance Advisor
8.9	Council Meeting Schedule 2021	62	64	Rhys Thomas, Senior Governance Advisor
8.10	Appointment of Councillors to the Metropolitan Local Government Waste Forum	65	67	Rhys Thomas, Senior Governance Advisor

## 9. Notices of motion

Item		Page	Rec. Page	Report Presenter
9.1	Notice of Motion No. 21 of 2020 - Grey Headed Flying Foxes	68	72	Bridgid O'Brien, Councillor

## **10. Petitions and joint letters**

An opportunity exists for any Councillor to table a petition or joint letter for Council's consideration.

## **11. Questions without notice**

An opportunity is provided for Councillors to ask questions of the Mayor or Chief Executive Officer.

## **12. Delegate's reports**

An opportunity is provided for Councillors to table or present a Delegate's Report.

## **13. General business**

An opportunity is provided for Councillors to raise items of General Business for Council's consideration.

## **14. Urgent business**

An opportunity is provided for the Chief Executive Officer to introduce items of Urgent Business.



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## 8.1 Endorsement of Yarra LGBTIQ+ Strategy 2021-2024

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### **Executive Summary**

#### **Purpose**

To seek endorsement of the inaugural Yarra LGBTIQ+ Strategy 2021-2024.

#### **Key Issues**

Council is looking to take on a more active role in engaging with Yarra's LGBTIQ+ community, and fundamental to this role is the development of a LGBTIQ+ Strategy.

A cross-section of both Yarra's LGBTIQ+ community and the wider community have fed into the development of the Yarra LGBTIQ+ Strategy 2021-2024. The three key priorities – Welcoming & Celebrating Diversity, An Inclusive Yarra, and Supporting, Participating & Connecting – identified through the initial consultations, form the basis of Council's future work for the next four years.

The majority of the feedback on the draft Strategy was overwhelmingly supportive, and as such only a few changes or additions have been made.

The Strategy aims to support the LGBTIQ+ community more broadly. It does not reflect all the incredible work Yarra City Council does in this space; Yarra's whole of Council approach to LGBTIQ+ inclusion is reflected in, and intersects with a number of policies and strategies.

#### **Financial Implications**

The first year of the Strategy will be delivered within existing budgets.

#### **PROPOSAL**

That Councillors take note of, and endorse, the inaugural Yarra LGBTIQ+ Strategy 2021-2024.

## 8.1 Endorsement of Yarra LGBTIQ+ Strategy 2021-2024

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Reference: D20/130689

Authoriser: Group Manager People and Culture

### **Purpose**

1. To seek endorsement of the inaugural Yarra LGBTIQ+ Strategy 2021-2024.

### **Background**

2. Yarra City Council has a long history of promoting equal rights for its LGBTIQ+ community, and many LGBTIQ+ people choose to live, work and socialise in the City of Yarra.
3. Since 2014, Council's internal working group – QnA – has implemented a number of key initiatives, including LGBTIQ+ awareness training for staff, reviewing internal Council policies, procedures, and forms, including LGBTIQ+ content in Council's corporate induction, and participating in key events such as IDAHOBIT (International Day Against Homophobia, Biphobia, Interphobia and Transphobia) and Midsumma.
4. Council is looking to take on a more active role in engaging with Yarra's LGBTIQ+ community, and fundamental to this role is the development of a LGBTIQ+ Strategy.
5. To date, the process to develop the Yarra LGBTIQ+ Strategy 2021-2024 (the Strategy – see attachment 1 – Final Yarra LGBTIQ+ Strategy 2021-2024) has involved:
  - (a) a desktop review into other strategies and policies on LGBTIQ+ issues, and research to identify best practice approaches in Australia in relation to the LGBTIQ+ community, to inform the development of a Background & Discussion Paper;
  - (b) a review of relevant Council consultations;
  - (c) an initial consultation with the LGBTIQ+ community at Midsumma Carnival in January 2020;
  - (d) a wider consultation with key internal stakeholders including LGBTIQ+ identifying staff, and key external stakeholders from the wider LGBTIQ+ community including a number of services, organisations and advocates to develop the draft Strategy; and
  - (e) a public exhibition period where key internal and external stakeholders had the opportunity to provide feedback on the draft Strategy.
6. The aim of the Strategy is to set out clear priorities and actions which if implemented properly will contribute to the LGBTIQ+ community being welcomed, engaged and included equally.
7. In consultation with key stakeholders (see attachment 2 – Consultation Report: Yarra LGBTIQ+ Strategy 2021-2024) the following key priorities were developed. These priorities will form the basis of Council's future work:
  - (a) Key priority 1: Welcoming and Celebrating Diversity:
    - (i) Strategic goal 1.1: Recognising and celebrating Yarra's LGBTIQ+ community; and
    - (ii) Strategic goal 1.2: Raising awareness around the issues affecting LGBTIQ+ people;
  - (b) Key priority 2: An Inclusive Yarra:
    - (i) Strategic goal 2.1: An inclusive organisational culture that is reflective of Yarra's diverse communities; and
    - (ii) Strategic goal 2.2: An inclusive, appropriate and responsive Council;
  - (c) Key priority 3: Supporting, Participating and Connecting:

- (i) Strategic goal 3.1: Providing opportunities for people to join and connect with each other; and
  - (ii) Supporting and nurturing Yarra's LGBTIQ+ Spaces.
8. The majority of the feedback on the draft Strategy was overwhelmingly supportive, and as such only a few changes or additions have been made. As previously noted, Council already does a huge amount of work in this space. Many suggestions proposed by stakeholders are already being actioned in other strategies or responded to by other branches. Formal responses to these can be seen in the Response Summary (see attachment 3 – Response Summary: Yarra LGBTIQ+ Strategy 2021-2024).
9. Additions to the Strategy include:
- (a) Promoting the LGBTIQ+ Strategy and related actions;
  - (b) Celebrating Bi Visibility Day;
  - (c) Investigating Rainbow Tick accreditation and reporting back to Council on options;
  - (d) Investigating models for a suitable inclusion audit for Council facilities and services (brought forward from Year 2);
  - (e) Investigating the establishment of an LGBTIQ+ Reference Group comprising external stakeholders including businesses, organisations and community members (brought forward from Year 2) with the Reference Group to be convened in Year 2 (2022);
  - (f) Broadening the scope of exploring links and LGBTIQ+ representation with Council Advisory Groups to include the Disability Advisory Committee and Active Ageing Advisory Committee;
  - (g) Working across Council to ensure a consistent organisational response to key LGBTIQ+ issues; and
  - (h) Including convening Council's LGBTIQ+ Reference Group under 'Further Actions' for the Year 2 Action Plan.
10. Other changes include revising the order of the Strategy to bring the action plan closer to the front of the document, and updating and combining the 'Our Commitment to the LGBTIQ+ Community' and 'Our LGBTIQ+ Community' sections.
11. Finally, the appendix 'Language & Terms' has been removed. Wording and understanding in this space changes incredibly quickly, and the appendix would soon have been out of date. Instead, a link to the Victorian Public Sector's LGBTIQ+ Inclusive Language Guide has been included, which will be updated as needed.

### **External Consultation**

12. As previously mentioned, Officers held an initial consultation with the LGBTIQ+ community at Midsumma Carnival in January 2020.
13. Officers held a wider consultation with key external stakeholders from the LGBTIQ+ community including a number of services, organisations and advocates to develop the draft Strategy.
14. Following this, key external stakeholders were also approached to provide feedback on the draft Strategy during the public exhibition period.

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

15. Council's Community Partnerships, Arts & Culture, Family & Middle Years, Youth Services, Library Services, Aged & Disability Services, Leisure Services, and Diversity & Inclusion branches, Council's LGBTIQ+ Working Group, QnA, and LGBTIQ+ identifying staff were consulted in the development of the Strategy.

### **Financial Implications**

16. The first year of the Strategy will be delivered within existing budgets.

### **Economic Implications**

17. Council recognises that certain groups in the community face various and sometimes intersecting barriers, and the Yarra LGBTIQ+ Strategy will outline ways in which these barriers can be understood and ultimately addressed.
18. This provides opportunities for self-determination and community engagement, which ultimately contributes to a richer and more diverse participation in the economic life of Yarra. The municipality can only benefit with a diverse and engaged workforce.
19. In drafting the Yarra LGBTIQ+ Strategy, economic implications have been considered through the application of Yarra's Quadruple Bottom Line (QBL) assessment tool. The tool results demonstrate that considerable consideration was given to the economic pillar, in particular, creating vibrant and thriving precincts.

### **Sustainability Implications**

20. Sustainability implications have been considered through the application of Yarra's QBL assessment tool. The tool shows that standard consideration was given to the environment and adaptation pillars.

### **Climate Emergency Implications**

21. The hierarchies of social inequality and vulnerability are replicated in disasters. The impacts of climate change disproportionately affect those who are already marginalised, including LGBTIQ+ people.

### **Social Implications**

22. The Yarra LGBTIQ+ Strategy plays a key role in breaking barriers to access, participation and inclusion for the community, recognising that certain groups have intersecting and more complex barriers to overcome.
23. Social implications have been considered through the application of Yarra's QBL assessment tool. The tool shows that outstanding consideration was given to promoting access and inclusion, wellbeing, and community pride and identity.

### **Human Rights Implications**

24. Council's Social Justice Charter acknowledges that the City of Yarra is a vibrant and diverse municipality. It is the traditional lands of the Wurundjeri Woi Wurrung, and a place of special significance for the broader Aboriginal and Torres Strait Islander community. The City of Yarra is also home to diverse communities, something that Council is proud of and recognises as an asset.
25. Council has an important (and legally required) role to play in upholding and protecting its diverse population's human rights. Council will actively work to reduce barriers so that all residents can participate in community and access services and information regardless of age, gender, sex, sexuality, income, education, cultural background, language skills, religion or disability.
26. Council's strong commitment to achieving social justice is articulated by being signatories to a number of international Human Rights treaties.
27. Further, Council is bound by the Charter of Human Rights and Responsibilities Act 2006 (Vic) to act compatibly with human rights, and to consider human rights when developing policies, making laws, delivering services and making decisions.

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

28. It is recognised that language and cultural background can be a barrier to community members fully participating in community life.
29. Once the Strategy is adopted, translated copied will be available as needed.

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

30. The Yarra City Council, Council Plan 2017 – 2021 commits to:

- (a) a Healthy Yarra - Community health, safety and wellbeing are a focus in everything we do; and
- (b) an Inclusive Yarra - Inclusion, diversity and uniqueness are welcomed, respected and celebrated.

### **Legal Implications**

- 31. Some of the legislation related to this area include:
  - (a) Universal Declaration of Human Rights 1948;
  - (b) Human Rights and Equal Opportunity Commission Act 1986;
  - (c) Charter of Human Rights and Responsibilities Act 2006 (Vic); and
  - (d) Local Government Act 2020 (Vic).
- 32. The Charter of Human Rights and Responsibilities Act 2006 (Vic) requires local Councils to act compatibly with human rights and to consider human rights when developing policies, making laws, delivering services and making decisions.

### **Other Issues**

- 33. The Strategy aims to support the LGBTIQ+ community more broadly. It does not reflect all the incredible work Yarra City Council does in this space.
- 34. A number of Council services have been working with, and supporting, the LGBTIQ+ community for a long time, including Arts & Culture, Aged & Disability, Family Youth & Children's, Libraries, and Recreation & Leisure.
- 35. Their specific work is not reflected in the Strategy, but is supported more broadly through action 3.1.1 Support and promote events, groups and programs from service delivery teams such as Recreation & Leisure, Libraries, Arts & Culture, Aged & Disability and Family Youth & Children's Services to foster increased community engagement.
- 36. Additionally, Yarra's whole of Council approach to LGBTIQ+ inclusion is reflected in, and intersects with a number of policies and strategies including:
  - (a) Gender Equity Action Plan 2019-2021;
  - (b) People Strategy 2017-2020;
  - (c) Strategic Advocacy Framework 2018-2021;
  - (d) Family Violence Organisational Statement;
  - (e) 0-25 Years Plan 2018-2022;
  - (f) Library Strategic Plan 2017-2020;
  - (g) Access and Inclusion Plan 2018-2024;
  - (h) Active and Healthy Ageing Strategy 2018 – 2024, Council Plan 2017-2021; and
  - (i) Yarra Social Justice Charter.

### **Options**

- 37. There are no options.

### **Conclusion**

- 38. A cross-section of both Yarra's LGBTIQ+ community and the wider community have fed into the development of the Yarra LGBTIQ+ Strategy 2021-2024. The three key priorities – Welcoming & Celebrating Diversity, An Inclusive Yarra, and Supporting, Participating & Connecting – identified through the initial consultations, form the basis of Council's future work for the next four years.
- 39. Under these priorities sit a number of strategic goals. The Strategy also includes a Year 1 Action Plan.

40. Actions responding to the three key priority areas and strategic goals outlined in the Strategy will be revisited regularly. This will enable Council to be responsive to the changing needs of the community and to changes in the social, economic and political environment.

**RECOMMENDATION**

1. That:
- (a) Councillors note the inaugural Yarra LGBTIQ+ Strategy 2021-2024; and
  - (b) Councillors endorse the inaugural Yarra LGBTIQ+ Strategy 2021-2024.

**CONTACT OFFICER:** Sarah Jaggard  
**TITLE:** Senior Diversity and Inclusion Advisor  
**TEL:** 9205 5160

**Attachments**

- 1 Final Yarra LGBTIQ+ Strategy 2021-2024
- 2 Consultation Report Yarra LGBTIQ+ Strategy 2021-2024
- 3 Response Summary Yarra LGBTIQ+ Strategy 2021-2024

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## 8.2 Emergency Management Reforms - Resolution

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### Executive Summary

#### Purpose

Disestablishment of the existing Municipal Emergency Management Planning Committee (MEMPC) established under the *Emergency Management Act 1986*.

This authorises the Chief Executive Officer of City of Yarra ('Council') to facilitate the establishment of the MEMPC in accordance with the *Emergency Management Legislation Amendment Act 2018*.

#### Key Issues

The current MEMPC that was outlined in Emergency Management guidelines have been repealed and replaced as of the 1<sup>st</sup> of December 2020.

This resolution will enable the MEMPC to operate in line with the current legislation which is now in effect.

#### Financial Implications

Council must employ at least one full-time permanent Municipal Emergency Management Officer (MEMO) role, currently occupied by a temporary officer resource.

#### PROPOSAL

- That council authorises the disestablishment of the existing Municipal Emergency Management Planning Committee (MEMPC) established under s21 (3)-(5) of the *Emergency Management Act 1986*, in recognition that on 1 December these provisions are repealed by s82 (2) of the *Emergency Management Legislation Amendment Act 2018* and replaced by the provisions of s68 of the *Emergency Management Legislation Amendment Act 2018*.
- That council authorises the CEO to facilitate the establishment of the MEMPC in accordance with the provisions of s68 of the *Emergency Management Legislation Amendment Act 2018* (which inserts a new 'Part 6-Municipal Emergency Management Planning Committees' into the *Emergency Management Act 2013* on 1 December 2020).
- That council notes that, under the MEMPC Terms of Reference provided and the *Emergency Management Legislation Amendment Act 2018* (which inserts s59 and 59F into the *Emergency Management Act 2013* on 1 December 2020), council's role is to establish the committee. Once established, the committee exists separately to Council and is not a committee of Council.

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## 8.2 Emergency Management Reforms - Resolution

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<b>Reference</b>	D20/165010
<b>Author</b>	Gavin Dyche - Manager Risk and Safety
<b>Authoriser</b>	Group Manager People and Culture

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### Purpose

1. Disestablishment of the existing Municipal Emergency Management Planning Committee (MEMPC) established under the *Emergency Management Act 1986*.
2. This authorises the Chief Executive Officer of City of Yarra ('Council') to facilitate the establishment of the MEMPC in accordance with the *Emergency Management Legislation Amendment Act 2018*.

### Critical analysis

#### History and background

3. The MEMPC has traditionally been a council lead committee to produce the Council owned Municipal Emergency Management Plan (MEMP). While this process has always had key stakeholder input it has remained under the ownership and responsibility of Council.

#### Discussion

4. The new legislation takes the ownership from council and place it on seven key stakeholders as part of the new MEMPC, including:
  - (a) City of Yarra;
  - (b) Victoria Police;
  - (c) Ambulance Victoria;
  - (d) Department of Health and Human Services (DHHS);
  - (e) Red Cross Australia;
  - (f) Victorian State Emergency Service (SES); and
  - (g) Fire Rescue Victoria (FRV).
5. These stakeholders provide the opportunity to invite and involve other relevant parties and community representatives.
6. It will be the responsibility of the MEMPC to develop and produce a new Municipal Emergency Management Plan, in line with current requirements for the municipality of Yarra, with City of Yarra retaining input in this committee as a key stakeholder and chair of the committee.

#### Options

7. There is no alternative option available in order to comply with the Emergency Management Reform and to meet legislated obligations of Council.

### Community and stakeholder engagement

8. Community and stakeholder engagement will be sort after the first meeting of the key members of the Committee.

### Policy analysis

#### Alignment to Council Plan

9. N/A

#### Climate emergency and sustainability implications

10. N/A



### Community and social implications

11. Reform is designed to enhance community safety

### Economic development implications

12. N/A

### Human rights and gender equity implications

13. N/A

## Operational analysis

### Financial and resource impacts

14. Council must employ at least one full-time permanent Municipal Emergency Management Officer (MEMO) role, currently occupied by a temporary officer resource.

### Legal Implications

15. Legal advice informs this course of action must be taken to comply with new legislation.
16. This legal advice has been offered by Emergency Management Victoria (EMV) and the Municipal Association of Victoria (MAV) after both bodies sort independent legal advice on the implications of the legislation.

## Conclusion

17. Changes required under the reforms have followed legislative changes and, whilst not supported financially by State Government, remain a legislative requirement of Council to undertake and comply with.

## RECOMMENDATION

1. That:
  - (a) Council endorses the resolution to allow compliance with emergency management reforms and current legislation.

## Attachments

There are no attachments for this report.

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## 8.3 Yarra Planning Scheme Amendment C191yara - Swan Street Major Activity Centre

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### Executive Summary

#### Purpose

The purpose of this meeting is to consider:

- (a) the report of the independent *Planning Panel* concerning Amendment C191yara regarding Swan Street; and
- (b) the officer recommendations in respect of the Panel Report.

#### Key Issues

Council prepared Amendment C191yara to:

- (a) better manage and respond to increased development activity along the Swan Street Major Activity Centre area;
- (b) provide a higher level of clarity and certainty for Council and the community; and
- (c) facilitate an appropriate balance between accommodating population and employment growth, retaining and protecting heritage fabric, limiting amenity impacts and improving liveability.

The report from the independent *Planning Panel*, appointed to consider Amendment C191yara, has been received.

The Panel supported the Amendment but with changes largely as advocated by Council in the form of Council's preferred version of the Amendment as endorsed by Council at its meeting on 10 September 2019.

Council must now make a decision on the Amendment in accordance with the *Planning and Environment Act 1987* (Act). This is the final step for Council in the C191yara amendment process.

#### Financial Implications

Costs associated with the Panel process have been met through the City Strategy Branch budget.

#### PROPOSAL

The Act now requires Council to consider the Panel Report and then:

- (a) either abandon all or any part of the Amendment; or
- (b) adopt all or part of the Amendment with or without changes.

The officer recommendation is to pursue option (b) - to adopt the amendment with changes based on the justification outlined in this report.

## 8.3 Yarra Planning Scheme Amendment C191yara - Swan Street Major Activity Centre

Reference: D20/151542  
 Authoriser: Assistant Manager City Strategy

### Purpose

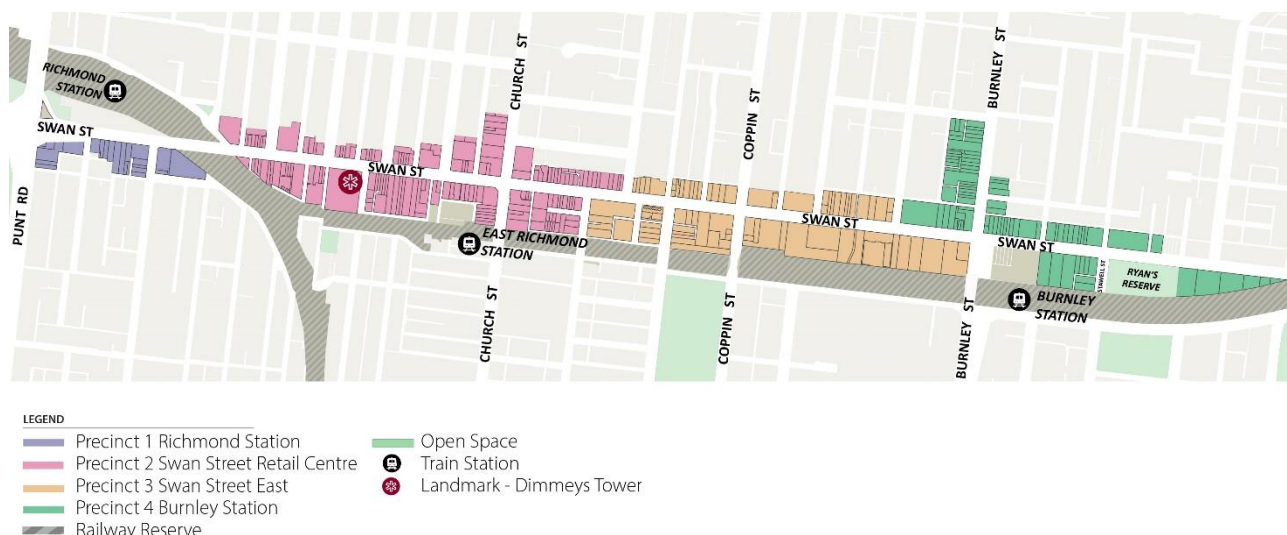
1. The purpose of this report for Council to consider:
  - (a) the report of the independent *Planning Panel* concerning Amendment C191yara regarding Swan Street; and
  - (b) the officer recommendations in respect of the Panel Report.

### Background

2. As a designated Major Activity Centre, Swan Street is required to play a significant role in achieving the directions of the State Government’s metropolitan planning strategy, *Plan Melbourne 2017-2050*, in relation to both housing and employment. Swan Street, Richmond is also a highly intact turn-of-the-century ‘high street’ of consistent scale and architectural quality.

#### Amendment C191yara

3. Council has prepared Amendment C191yara to:
  - (a) better manage and respond to increased development activity along the Swan Street Major Activity Centre area;
  - (b) provide a higher level of clarity and certainty for Council and the community; and
  - (c) facilitate an appropriate balance between accommodating population and employment growth, retaining and protecting heritage fabric, limiting amenity impacts and improving liveability.
4. The land affected by the Amendment is included in four precincts along Swan Street, between Punt Road and Park Grove, shown on the map below (Figure 1).



**Figure 1. Swan Street Major Activity Centre precincts**

5. The Amendment has taken a comprehensive approach to planning the centre, consistent with the expectations for activity centre planning across metropolitan Melbourne.
6. Amendment C191yara implements findings of the following strategic work:

- (a) principles set out in the *Swan Street Structure Plan*, (David Lock Associates 2014);
  - (b) built form principles and objectives of the *Swan Street Activity Centre Built Form Framework*, (Tract Consultants September 2017);
  - (c) built form findings of the *Swan Street Built Form Heritage Review*, (GJM Heritage September 2017);
  - (d) heritage recommendations of the *Swan Street Built Form Study Heritage Assessments & Analysis*, (GJM Heritage October 2017); and
  - (e) access and movement recommendations of the *Traffic Engineering Assessment Traffic and Access Review: Swan Street Activity Centre, Richmond*, (Traffix Group July 2017).
7. Specifically, the Amendment proposes to:
- (a) apply the Design and Development Overlay (DDO) to guide built form;
  - (b) introduce a new section on the Swan Street Activity Centre into Clause 21.12 Local Areas Policy;
  - (c) re-zone Commercial 2 zoned land to Commercial 1 to allow for a greater range of land uses, including residential land uses;
  - (d) correct mapping anomalies and update reference documents in the local policies;
  - (e) amend the Heritage Overlay (including adding 15 new places into the Heritage Overlay); and
  - (f) apply the Environmental Audit Overlay to land that is potentially subject to land contamination.
8. Amendment C191yara is intended to replace the interim built form controls, which currently apply, with permanent controls. Council's Statutory Planning Unit has assessed applications against the interim DDO17 since 22 November 2018.

The Amendment process

9. The process began when Amendment C191yara was 'authorised' by the Minister for Planning in September 2018 (NB. for a detailed chronology of key events please refer to Attachment 1). It was then publicly exhibited from 28 February to 15 April 2019 (six weeks), during which Council received 30 submissions.
10. On 10 September 2019, Council considered the 30 submissions and resolved to refer all submissions to an independent *Planning Panel*.
11. At that meeting, Council also endorsed a set of proposed changes to the Amendment to be advocated for at the Hearing, specifically:
- (a) dividing the exhibited Schedule 17 to the Design and Development Overlay - Swan Street Major Activity Centre (DDO17) which applied to the length of Swan Street into four separate 'preferred' DDOs (Council's Preferred DDO25, DDO26, DDO27 and DDO28), one for each precinct:
    - (i) preferred Schedule 25 to the Design and Development Overlay (DDO25): Swan Street Activity Centre - Precinct 1 Richmond Station;
    - (ii) preferred Schedule 26 to the Design and Development Overlay (DDO26): Swan Street Activity Centre - Precinct 2 Swan Street Retail Centre;
    - (iii) preferred Schedule 27 to the Design and Development Overlay (DDO27): Swan Street Activity Centre - Precinct 3 Swan Street East; and
    - (iv) preferred Schedule 28 to the Design and Development Overlay (DDO28): Swan Street Activity Centre - Precinct 4 Burnley Station.
  - (b) rezoning additional land at 377, 375, 371 Punt Road, 2-16 Swan Street from the General Residential Zone to the Commercial 1 Zone.

12. Given these proposed changes to the exhibited Amendment, Council gave additional notice on 12 September 2019 to all materially affected properties. Council subsequently received and referred seven additional submissions to the Panel (a map showing the location of the submitters to the Amendment in can be found at Attachment 2).

*Planning Panel Hearing*

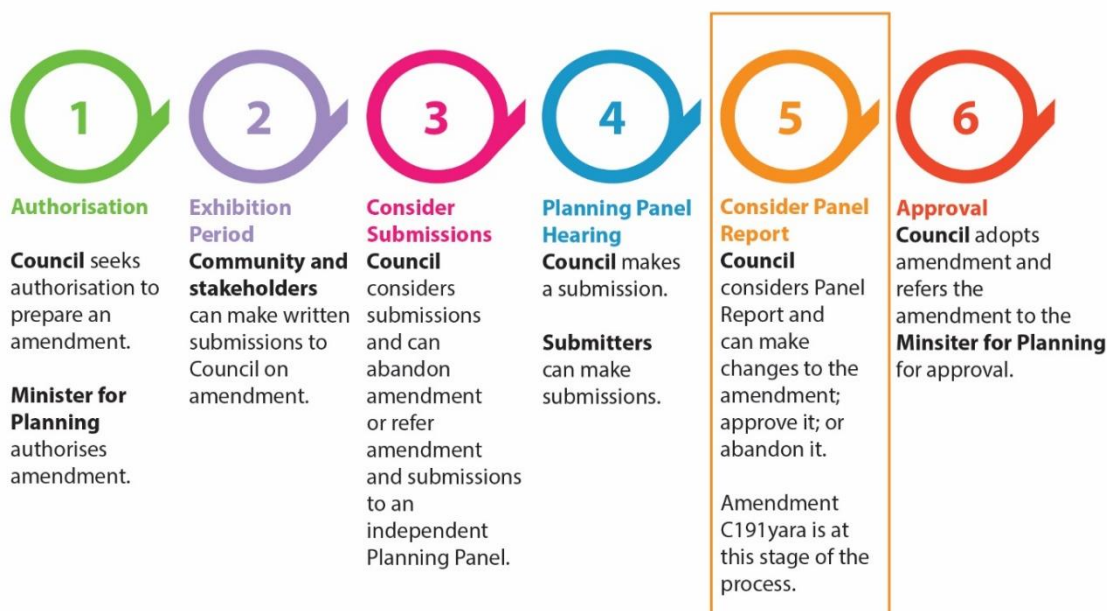
13. The Panel consisted of Mr Con Tsotsoros (Chair) and Mr John Roney (Member).
14. The Panel commenced on 2 December 2019, however, it was adjourned on 5 December 2019 for technical reasons. The adjournment enabled Council to call on further urban design evidence and circulate it in a timely manner.
15. The Hearing recommenced on 27 July 2020 and concluded on 2 September 2020.
16. Council was represented by Susan Brennan SC and Jane Sharp of Counsel, instructed by Maddocks Lawyers, with assistance from Council officers.
17. Council's submission to the Panel was based on the position endorsed at the Council meeting on 10 September 2019.
18. Together with Part A, Part B(1&2) and Part C submissions, Council provided evidence from the following expert witnesses:
  - (a) Leanne Hodyl, Hodyl & Co, (Urban Design);
  - (b) Jim Gard'ner, GJM Heritage (Heritage);
  - (c) David Helms, David Helms Heritage Planning (Heritage);
  - (d) Charmaine Dunstan, Traffix Group (Traffic);
  - (e) Andrew Spencer, SGS Economics and Planning (Capacity Analysis);
  - (f) David Barnes, Hansen Partnership (Planning); and
  - (g) Michael Eaddy, MEL Consultants (Wind).
19. Although the Panel considered the Amendment as exhibited, the Panel also had regard to Council's Preferred DDO25, DDO26, DDO27 and DDO28. At the close of the hearing, Council was directed to submit its final 'panel version' of its preferred DDOs (Part C version) to the Panel and all parties.
20. The 'Panel preferred version of the planning provisions', which are set out in Appendix D of the Panel Report are based on Council's Preferred DDO25, DDO26, DDO27 and DDO28.
21. The Amendment was rigorously reviewed, scrutinised and tested during the Panel Hearing process.

*Planning Panel Report*

22. The Panel Report was received by Council on 15 October 2020 and released publicly on 12 November 2020. A copy of the Panel Report can be viewed at Attachment 3.
23. The Panel determined that Amendment C191yara is well founded and strategically justified, supporting key aspects of the Amendment such as the majority of proposed mandatory provisions specified for building heights, street wall heights and setbacks, upper level setbacks and overshadowing. The proposed application of mandatory controls by Council was heavily challenged by other parties during the course of the Panel Hearing.
24. In its Panel Report, the Panel found that the Amendment would provide the community, Council and permit applicants with a clear planning framework to assess future planning permit applications, and the Amendment would also deliver net community benefit and sustainable development.
25. The Panel specifically commended Council for:
  - (a) effectively assessing the issues through a comprehensive program of strategic work, since the adoption of Swan Street Structure Plan in 2014;

- (b) actively listening to, and continuously responding to issues raised by submitters, as evidenced through the evolving form and content of the Amendment since it was exhibited;
- (c) proactively responding to submissions and the learnings from recent Scheme Amendments with similar issues;
- (d) notifying all submitters and affected landowners and occupiers of its preferred DDO schedules;
- (e) seeking three-dimensional modelling as further context to inform its views;
- (f) it's clearly presented submissions with useful cross references; and
- (g) its support for the Panel Hearing process, generally within short timeframes. The Panel noted that Council went beyond the usual standards to respond to the challenges associated with the COVID-19 related government restrictions.

26. The Panel recommended that the Amendment should be adopted subject to recommended changes including replacing DDO17 with four new schedules (DDO25, DDO26, DDO27 and DDO28) and amending Council's Preferred DDO25, DDO26, DDO27 and DDO28 as shown in Appendix D to the Panel Report.
27. The next step in the Amendment process is the final step for Council (Figure 2).



**Figure 2. Steps in the Amendment process**

28. Council must now consider the Panel Report, and decide whether or not to adopt the Amendment (with or without changes). If Council decides not to accept one or more of the Panel's recommendations, it must give its reasons for this when it submits the adopted Amendment to the Minister under section 31 of the *Planning and Environment Act 1987* (Act).

**Panel recommendations and officer response**

29. A detailed officer response to the Panel's recommendations is provided at Attachment 4. Attachment 4 outlines all the changes recommended by the Panel and provides the officer response to each recommended change.
30. Officers agree with all the recommendations made by the Panel.

31. Officers consider that the Amendment will provide a clear framework for the assessment of future planning applications in the Activity Centre and guide the Activity Centre to transform into its envisaged scale while making it a place for people to work, live and visit.

DDO25, DDO26, DDO27 and DDO28

32. Council officers have reviewed and considered the Panel's recommended changes to Council's Preferred DDO25, DDO26, DDO27 and DDO28 as set out in the Panel Report. The versions of DDO25, DDO26, DDO27 and DDO28 recommended by officers for adoption can be viewed at Attachment 5.
33. The following sections detail the key changes to Council's Preferred DDO25, DDO26, DDO27 and DDO28 as recommended by the Panel. It also highlights where the Panel supported key aspects of Council's Preferred DDO25, DDO26, DDO27 and DDO28 and suggested no/little change.

*Schedule structure*

34. The Amendment, as exhibited, proposed to apply a single schedule to the DDO (DDO17) to Swan Street. In response to several submissions that criticised the form and drafting of DDO17, Council proposed to separate DDO17 into four DDO schedules and simplify the structure of the provisions.
35. The Panel found that the Council's Preferred DDO25, DDO26, DDO27 and DDO28 schedules were a significant improvement on the exhibited DDO17, strengthening the design objectives and providing greater clarity and certainty regarding the intent of built form outcomes for each precinct. The Panel agreed with Council and recommended that DDO17 be separated into four schedules relating to each of the precincts in the Activity Centre.

*Mandatory provisions*

36. Council's Preferred DDO25, DDO26, DD27 and DDO28 propose to apply a combination of discretionary and mandatory built form provisions to the Major Activity Centre. Mandatory controls are proposed to be applied to:
- (a) locations of intact heritage streetscape;
  - (b) locations with a sensitive interface with low scale residential properties; and
  - (c) protect southern footpath of Swan Street from overshadowing.
37. The Panel supported the majority of the mandatory controls proposed by Council in Council's Preferred DDO25, DDO26, DDO27 and DDO28.
38. While discretionary provisions are the preferred tool by the State Government in the Victorian planning system, the Panel concluded that Council had made an appropriate case for introducing mandatory controls, consistent with *Planning Practice Notes 59: The Role of Mandatory Provisions in Planning Schemes (PPN59)* and *60: Height and Setback Controls for Activity Centres (PPN60)*.
39. PPN59 requires that mandatory controls must be strategically justified, suitable for the majority of proposals and whether they provide for the preferred outcome. Conversely, PPN59 also requires an assessment of the likely outcome and the administrative burden in the absence of a mandatory control. PPN60 considers whether mandatory controls are 'absolutely necessary' to achieve the preferred built form outcomes, whether they are supported by robust and comprehensive strategic work or where 'exceptional circumstances' warrant their introduction.
40. The Panel concluded that mandatory controls were applied in circumstances where they were absolutely necessary having regard to heritage fabric, streetscape amenity and residential interfaces. The Panel found the controls were based on comprehensive built form analysis and commended Council for undertaking a thorough approach to the formulation of the controls.

41. The Panel also found that the proposed controls strike an appropriate balance in achieving development growth in a major activity centre and protecting the centre's heritage context and public realm.

*Upper level setback requirements*

42. The DDO17, as exhibited, included a minimum upper level setback (where 'upper levels' means development above the height of the street wall) of 5m and included a discretionary view line requirement. This requirement was for the upper levels of development of heritage buildings to occupy the upper one-third of the view from the street and the heritage façade would occupy the lower two-thirds (1/3:2/3 rule).
43. At its meeting on 10 September 2019, Council endorsed the Preferred DDO25, DDO26, DDO27 and DDO28, which included a 6m upper level setback (rather than 5m) and removed the discretionary 1/3: 2/3 rule (as a consequence of the upper level setbacks being increased).
44. The Panel supported this approach, finding that for typical Swan Street frontages:
- (a) a minimum 5m upper level setback is insufficient;
  - (b) a *mandatory* minimum 6m upper level setback for all heritage properties is appropriate;
  - (c) a *discretionary* minimum 6m upper level setback for all non-heritage properties is appropriate; and
  - (d) replacing the '1/3:2/3 rule' with a simple 6m upper level setback would simplify the provisions and continue to result in acceptable outcomes.
45. The Panel concluded that a 6m setback would ensure that the front of a heritage building could still be read as a three-dimensional form and retain sufficient heritage features and meaning. It would also ensure a greater potential for consistency in the streetscape.

*Building separation requirements*

46. Council's Preferred DDO25, DDO26, DDO27 and DDO28 required that, where development shares a common boundary and no interface treatment is shown, setbacks should be provided at a minimum of:
- (a) 4.5m where a habitable room window or balcony is proposed; and
  - (b) 3m where a commercial or non-habitable room window is proposed.
47. At the Panel Hearing, officers advocated for an additional requirement for buildings taller than 28m based on advice from Council's expert urban designer, who observed that Council's Preferred DDO25, DDO26, DDO27 and DDO28 did not make this distinction.
48. Given building separation requirements play an important role in breaking up the visual 'wall' of buildings and also in providing appropriate amenity for occupants, the Panel supported the inclusion of the requirement that would require any portion of a building over 28m in height to be setback a minimum of 6m.

*Overshadowing provisions*

49. Council's Preferred DDO25, DDO26, DDO27 and DDO28 proposed *mandatory* overshadowing requirements to the southern side of Swan Street and the eastern, western sides of Church and Burnley Streets.
50. The Panel noted that solar access to footpaths is critical to the success of the Major Activity Centre, particularly as retail, hospitality and residential uses intensify. The absence of dedicated public open spaces in the centre means that the footpaths are particularly important.
51. The Panel concluded that it is appropriate to apply *mandatory* overshadowing provisions across the entire length of Swan Street. It noted that *mandatory* provisions would help protect the amenity of the southern footpath as overshadowing from tall development on the



north side of Swan Street could have a significant and irreversible impact on the southern footpath.

52. The Panel, however, recommended *discretionary* overshadowing requirements should apply for the western footpaths of Church and Burnley Streets Burnley Street based on the recommendations contained in the *Swan Street Activity Centre Built Form Framework, Tract 2017*. Officers support the Panel's recommendations as the Burnley Street and Church Street footpaths play a lower order pedestrian role in the Centre.
53. The Panel also did not support overshadowing being measured within 4m of the southern road reserve boundary of Swan Street. The Panel noted that although it is mentioned in the *Swan Street Activity Centre Built Form Framework, Tract 2017*, there is no technical analysis to justify the metric of 4m. On this basis, the Panel recommended that the metric for defining the area for solar access be revised for all streets and should only relate to the area between the property boundary and the existing kerb.
54. Officers support the alternate metric proposed by the Panel as it would still sufficiently protect the existing footpath (and any verge) from shadowing. It is noted that the average width of the southern side of the Swan Street footpath is just 3.1m and not 4m.

*Heritage design requirements*

55. The DDO17 as exhibited included 'Heritage design requirements' section to guide decision-making for buildings in Swan Street.
56. The Panel acknowledged the importance of the heritage fabric and the identified significant and contributory heritage places located throughout Swan Street.
57. At the Panel Hearing, Council noted that it is updating its Scheme via Amendment C269yara in line with the recently introduced integrated Planning Policy Framework structure by the State Government. This process seeks to update Clause 22.02 – Council's Heritage Policy and provide new policy for retail, commercial and industrial buildings.
58. The Panel recommended that the 'Heritage design requirements' section be deleted in DDO25, DDO26, DDO27 and DDO28. It considered that the Heritage Design Requirements duplicate existing provisions found within Clause 22.02 (Development Guidelines for Sites Subject to a Heritage Overlay) and within the Decision Guidelines of Clause 43.01-8 (Heritage Overlay). It further considered the schedules to the DDO appropriately consider the impact of heritage on development.
59. The Panel did recommend that two provisions regarding visually recessive upper level development and glazing be slightly modified and transferred to the 'Design quality requirements'.
60. Officers agree with the Panel's findings that the heritage design requirements duplicate existing provisions. It is considered that the combination of the schedules to the DDO and Heritage Overlay would provide a comprehensive set of design requirements for heritage properties. It is also appropriate to retain and transfer the two requirements as they are fundamental design principles. The subtle changes to the wording of the requirements improves the clarity of the intent of the provisions.

*Building height requirements*

61. The schedules to the DDO include a list of building height requirements that should be met for development to exceed the preferred building height specified. This was challenged by several parties who submitted that all the requirements should not have to be met by permit applicants.
62. The Panel concluded:
  - (a) it is appropriate for the DDO schedules to include requirements that specify the circumstances when it may be appropriate for a permit to be granted to construct a building or construct or carry out works that exceed the *preferred* height; and
  - (b) the proposed building height requirements are appropriate and justified.

63. The Panel recommended that the building height requirements should be revised to clearly apply to both residential and non-residential development, where relevant. Council officers support this change.

*Building heights*

64. As noted above, Council officer's submitted a 'Part C' version of DDO25, DDO26, DDO27 and DDO28 at the close of the Panel Hearing. The 'Part C' version of DDO25, DDO26, DDO27 and DDO28 proposed some variations to building heights in response to expert evidence and submissions made at the Hearing. The Panel supported the variations to the buildings heights in the 'Part C' version of DDO25, DDO26, DDO27, and DDO28, except in Precinct 1.

*DDO25: Precinct 1 specific recommendations*

65. The Panel considered the *preferred* maximum building heights in Council's Preferred DDO25 for Precinct 1 to be appropriate and justified, except for the land between Wellington Street and Cremorne Street. The Panel recommended that the *preferred* maximum building height for this land be increased from 21m to 28m.

66. Council officers support this recommendation for the following reasons:

- (a) the sites are opposite an important strategic location. Richmond Station is a key railway station in the Metropolitan network, flagged for redevelopment. Developing the land on the south side of Swan Street should be seen in this context;
- (b) the Cremorne precinct to the south is undergoing significant growth and renewal. A *preferred* maximum building height of 28 metres would be consistent with many developments to the south. Much of the land to the immediate south is currently in the Commercial 2 Zone so interfaces are less sensitive in these locations;
- (c) the land between Wellington and Cremorne Street generally has a very generous lot depth, particularly in some portions of the eastern half. The deeper sections of the block provide greater opportunities for increased height; and
- (d) any permit application to exceed the *preferred* height would be assessed against the Precinct 1 design objectives and the criteria set out in the 'Building height requirements' section (amongst other things).

67. In addition, the Panel recommended an additional provision in the 'Building height requirements' section for Precinct 1, requiring that when a proposal on land within the Heritage Overlay seeks to exceed the *preferred* maximum height, the proposal should achieve the following:

*Upper level development above the preferred building height on land within a Heritage Overlay should have increased setbacks to minimise its visibility above the heritage building and from the heritage streetscape.*

68. Officer support this additional building height requirement as it would help ensure that upper level development, above the *preferred* height, is visually recessive and the does not overwhelm the heritage buildings.
69. In regards to street interface requirements, Council's urban design expert gave evidence at the Hearing that Precinct 1 did not include specified interface provisions for Jessie Street. Having regard to the recent development of land on the south side of Jessie Street, Council's expert recommended that Interface F be applied to Jessie Street.
70. Council's urban design expert also gave evidence that there should be a requirement that development at 40 Swan Street (not built on a common boundary) should provide a minimum setback distance of 4.5 metres to that common boundary. She recommended this be a discretionary (*preferred*) rather than *mandatory* provision.
71. The Panel supported these changes as they would help ensure that the amenity of surrounding residential properties is appropriately protected. Officers also support these changes.
-

*DDO26: Precinct 2 specific recommendations*

72. The Panel found the maximum building heights in Council's Preferred DDO26 for Precinct 2 to be appropriate and justified, except land bound by Little Lesney, Wiltshire and Brighton Streets and also 189 Swan Street and 421-423 Church Street.
73. The Panel recommended that the *preferred* maximum building height of land bounded by Little Lesney, Wiltshire and Brighton Streets be increased from 21m to 28m.
74. This recommendation is consistent with the 'Part C' version of DDO26.
75. Officers support this recommendation as the land:
  - (a) is predominantly in the Mixed Use Zone and represents a viable future redevelopment opportunity;
  - (b) is located near East Richmond Station and the corner of Swan and Church Streets;
  - (c) has no sensitive interfaces, and has no valuable heritage fabric; and
  - (d) has the following approved planning permits, which enable the sites to be developed at greater heights:
    - (i) PLN18/0658 2 - 8 Brighton Street and 1 - 3 Wiltshire Street and 5 Little Lesney (approved height approximately 32m); and
    - (ii) PLN14/1000 1 Little Lesney Street and 9 Wiltshire Street Richmond (approved height approximately 33m).
76. Officers agree with the Panel, that a 28m building height is appropriate as it more realistically reflects heights approved through recent permits. An increase in height was also supported by Council's planning expert witness at the Hearing.
77. Any heights beyond this measure can be more closely scrutinised through the permit application process as it is considered that DDO26 sets an appropriate framework for assessing future permit applications.
78. The Panel also recommended the *mandatory* maximum building height of 189 Swan Street and 421-423 Church Street be decreased from 21m to 18 metres.
79. This recommendation is consistent with the evidence of Council's two heritage expert witnesses and the 'Part C' version of DDO26.
80. Council's heritage expert witnesses recommended that the height of 189 Swan Street and 421-423 Church be lowered to 18m to maintain the prominence of the Swan Hotel and reflect the rhythm of the surrounding heritage streetscape. Officers agree with this recommendation as it would enable a building height that retains the Swan Hotel and M Ball building as the dominant landmarks at the intersection of Swan and Church Street. It would also help ensure development sensitively responds to its surrounding heritage fabric.
81. In regards to 57-61 Swan Street (Corner Hotel), the Panel found that it is a unique property in Precinct 2 due to its prominent location, four street frontages and its interface with the elevated railway line to the west and the higher density mixed use land to the north. The Panel's site specific recommendations reflect the Corner Hotel's unique circumstances.
82. Specifically, the Panel recommended that the proposed 28m *mandatory* height of the Corner Hotel's rear car park (approximately 550m<sup>2</sup>) be discretionary (the Panel supported the application of a *mandatory* maximum height to the Corner Hotel building).
83. The Panel also recommended that 'Interface F' (discretionary (*preferred*) 6m upper level setback), applied to the Hotel's Botherambo Street and Wangaratta Street frontages, be replaced by new 'Interface K', which includes a reduced discretionary (*preferred*) 3m minimum upper level setback requirement. They similarly recommended that the Hotel's Stewart Street frontage be redesignated from 'Interface B' (*mandatory* 6m upper level setback) to 'Interface F' (discretionary (*preferred*) 6m upper level setback).

84. These recommendations relating to the Corner Hotel are consistent with the 'Part C' version of DDO26.
85. Given the Hotel's car park is located 30m from its Swan Street frontage, officers consider that *mandatory* height controls for the car park are not necessary to protect Swan Street's heritage streetscape or southern footpath from overshadowing. Furthermore the car park abutting the Corner Hotel's northern boundary is on a separate property title and does not contain any heritage fabric.
86. It is also considered that reduced upper level setbacks along Botherambo Street and Wangaratta Street would still create a distinct street wall, maintain the 'human scale' of the area and limit unreasonable visual bulk impacts from new development.
87. In regards to Stewart Street, it has a robust interface opposite the elevated railway line, including its concrete walls. Given 'Interface B' is intended for Swan Street's more sensitive heritage streetscape, it is more appropriate to apply 'Interface F' to Stewart Street.
88. Officers accept the Panel's recommendations relating to the Corner Hotel.

*DDO27: Precinct 3 specific recommendations*

89. The Panel found the *preferred* maximum building heights in Council's Preferred DDO27 for Precinct 3 to be generally appropriate and justified except for 370-374 Swan Street and the land to its south, which should have an increased *preferred* maximum building height of 40 metres (rather than 34m, which was proposed in exhibited DDO17).
90. This recommendation is consistent with the evidence of Council's planning expert witness and the 'Part C' version of DDO27.
91. Council's planning expert witness supported the 40m *preferred* maximum building height being extended to the west to include these sites because he considered this a relatively minor adjustment that would retain the design principle of development stepping up in height towards Burnley Station, to the east.
92. Officers support this recommendation given it is consistent with the adjoining land to the east and the approved planning permit (PLN16/0915) for the site. It is considered that the height transition from 34m to 40m is at a logical and appropriate point as it aligns with the proposed upper level building break, the proposed north south access ways and the western boundary of 370-374 Swan Street.
93. It is noted that the 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 Swan Street provide an excellent opportunity to accommodate growth without unreasonably affecting the amenity of 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.

*DDO28: Precinct 4 specific recommendations*

94. The Panel found that it is appropriate to include a provision in the design quality requirements to ensure development maintains the prominence of the heritage street wall and respects the architectural form and qualities of heritage buildings and the heritage streetscape within land affected by the Heritage Overlay (HO474). This recommendation is consistent with the 'Part C' version of DDO28. Officers accept this recommendation.

Heritage

95. The Planning Policy Framework in Victoria seeks to conserve and enhance those places which have local heritage significance. The issue at the Panel Hearing was whether the Corner Hotel (circa 1955) is intact enough and of sufficient historical and social significance to meet the threshold of local heritage significance.
96. The Panel concluded that the Corner Hotel site at 57-61 Swan Street does not achieve criteria A (historical) or criteria G (social) significance to justify its grading as an individually

significant place. The Panel also found that while it is appropriate and justified to apply the Heritage Overlay (HO335 – Swan Street Precinct) to 57-61 Swan Street (excluding land currently being used as a car park), the Corner Hotel should be regraded as a 'non-contributory' property. The Panel considered that the Corner Hotel does not contribute to Swan Street's Victorian or Edwardian era or architectural expression, sought to be captured by the updated HO335 statement of significance.

97. A considerable amount of evidence regarding the Corner Hotel was presented to the Panel. Through rigorous interrogation of this information, it became apparent that the 1955 building had been significantly altered through changes in the 1990s and 2016 and that it is no longer sufficiently intact to represent its original form.
98. Officers support the Panel's recommendations, given the Corner Hotel has been found to be significantly altered and to not have identified historical and social significance to meet the threshold of local heritage significance. This is in accordance with *Planning Practice Note 01: Applying the Heritage Overlay* (PPN01) which guides planning professionals on the correct application and use of the Heritage Overlay.
99. By including the Corner Hotel building in HO335, albeit as a place that does not contribute to the broader precinct, any development to the Corner Hotel would still have to have regard to its impact on the surrounding heritage streetscape. A planning permit would also still be required to demolish, subdivide and alter the Corner Hotel building under the Heritage Overlay.
100. It is noted that while the Corner Hotel is regarded as an iconic live music venue in Victoria, the Heritage Overlay is fundamentally a built form control and cannot protect the live music use of the Corner Hotel.
101. It is also noted that on 2 October 2020, Amendment VC183 (which was prepared by the Minister for Planning) came into effect which encourages the retention of existing and the development of new live music entertainment venues.
102. Specifically, Amendment VC183 introduces a new state planning policy Clause 13.07-3S (Live Music) and makes changes to Clause 53.06 (Live Music Entertainment Venues) of the Victoria Planning Provisions by:
  - (a) introducing new state planning policy for live music to recognise the social, economic and cultural benefits of live music and encourage, create and protect opportunities for the enjoyment of live music;
  - (b) adding a purpose to Clause 53.06 to encourage the retention of existing and the development of new live music entertainment venues;
  - (c) including an application requirement that requires an assessment of the impact of a proposal on the functioning of live music venues; and
  - (d) adding new decision guidelines requiring consideration of the social and economic significance of an existing live music entertainment venue and the impact of a proposal on the functioning of live music venues.
103. These changes to the planning scheme mean that, when a site that accommodates an existing live music venue is proposed to be redeveloped, Council will need to consider the objectives and decision guidelines of the new policy and amended clause 53.06 when assessing any new proposal.

#### Changes to zoning

104. Following exhibition, one submission requested that their property at 375-377 Punt Road be rezoned from the General Residential Zone to the Commercial 1 Zone to better reflect its current conditions, use and strategic intent.
105. At its meeting on 10 September 2019, Council supported this proposed rezoning, along with the proposed rezoning of 371 Punt Road and 2-16 Swan Street to the Commercial 1 Zone, as it is the most appropriate zone for the land, given:

- (a) the Amendment proposes to apply *preferred* maximum building heights of 27m (8 Storeys) via DDO25, 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) 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, 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);
  - (f) the Yarra Housing Strategy identifies the area as a 'moderate change' area, suitable for increased residential densities and housing diversity through mixed-use, infill and shop-top apartment development; and
  - (g) rezoning all of Precinct 1 to the Commercial 1 Zone would remove several prominent mapping anomalies (dual zoned sites).
106. The Panel concluded that rezoning 371 and 375-377 Punt Road, 2-16 Swan Street to the Commercial 1 Zone is logical and strategically supported. Accordingly, the Panel recommended that 371 and 375-377 Punt Road and 2-16 Swan Street be rezoned to the Commercial 1 Zone.
107. The Panel noted that from a procedural perspective, submitters had an opportunity to express their views on these proposed rezonings. Officers support this recommendation.

Other matters

*493-497 Swan Street, Richmond*

108. In their submission (Submission 21) to Council, the owners of 497 Swan Street requested that their property be included in the proposed Design and Development Overlay boundary.
109. At its meeting on 10 September 2019, Council considered the Amendment and submissions received. Council resolved, amongst other things, to:
- Refer Submission 21 to officers for further advice as to the opportunity to include properties at 493-497 Swan St Richmond into DD017.*
110. The Panel considered Submission 21 together with additional written and verbal submissions made by the owners of 497 Swan Street during the Panel Hearing.
111. Council officers did not advocate for an extension to the boundary of Council's Preferred DDO28 to include 493-497 Swan Street at the Panel Hearing because notice had not been given to surrounding owners and occupiers who may be affected by any proposed building height and setback requirements specified for the properties.
112. Council officers did, however, ensure that the resolution was identified by advocating for an amendment to the Swan Street Framework Plan in Clause 21.12 to identify the properties at 493-497 Swan Street as 'land subject to further strategic work'.
113. Ultimately, the Panel did not support the Precinct 4 boundary being realigned to include 493-497 Swan Street through the Amendment because:
- (a) there is insufficient strategic work to support the proposal;
  - (b) the implications of applying the DDO provisions need to be clearly understood; and
  - (c) it is beyond the scope of the Amendment and should be reviewed through a separate process.
114. The Panel supported Council's proposed change to Swan Street Framework Plan in Clause 21.12 Local Areas Policy.

115. While there is no timeframe specified in the resolution above, officers will commence the work requested in the resolution as soon as workloads permit.  
*17 Dickmann and 408 Church Street, Richmond*
116. On 8 July 2020, Council received correspondence from the Department of Environment, Land, Water and Planning alerting Council to a mapping error.
117. The exhibited Yarra Planning Scheme DDO Map No. 08 incorrectly included 17 Dickmann and 408 Church Street, Richmond in the DDO boundary. These properties are in the Neighbourhood Residential Zone Schedule 1 and it was not and is not Council's intention to include these properties in the Amendment. This error was not included in maps contained in DDO17, as exhibited.
118. This mapping error is proposed to be corrected in Attachment 6 (Amendment documents for adoption), which does not show 17 Dickmann and 408 Church Street, Richmond as being within the DDO boundary.

### **Next steps in the Amendment process**

119. The process for Council's consideration of an amendment is prescribed in the Act.
120. Under Sections 27, 28 and 29 of the Act, Council must:
- (a) consider the Panel's report before deciding whether or not to adopt the Amendment; and then;
  - (b) either abandon all or part of the Amendment; or
  - (c) adopt all or part of the Amendment with or without changes.
121. Section 9 of the *Planning and Environment Regulations 2015* (the Regulations) sets out the information to be submitted to the Minister for Planning under Section 31 of the Act. Council must provide the following:
- (a) the reasons why any recommendations of a Panel were not adopted; and
  - (b) a description of and the reasons for any changes made to the Amendment before adoption.
122. Attachment 4 to this report sets out what the Panel recommended and explains why the recommendations are supported.
123. Numerous VCAT cases, including *Steller 250 Pty Ltd v Frankston CC [2019]* and *Lend Lease Apartments (Armada) Pty Ltd v Stonnington CC [2013]*, have highlighted the need to strictly adhere to the requirements of the Act as a way of avoiding a procedural review of Council's decision being lodged at the Tribunal under Section 39 of the Act.
- Amendment C191yara – Version for adoption
124. The version of Amendment C191yara recommended for adoption is included at Attachment 6. A marked up version of the amendment that highlights changes between the exhibited documents and the documents for adoption is at Attachment 7 (only documents with changes have been included in the attachment).
125. Attachment 8 and 9 describes the changes between the exhibited Amendment and the version of the Amendment for adoption and sets out the reasons for each change. This forms part of the prescribed information required to be submitted to the Minister under Section 31 of the Act.

### **External Consultation**

126. Amendment C191yara was publicly exhibited from 28 February to 15 April 2019 (six weeks). Notification and exhibition of the Amendment was 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 C191yara;

- (b) letters mailed on Monday 25 February 2019 that included notice of preparation and a brochure, 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) package of Amendment documentation placed on Council's and the Department of Environment, Land, Water and Planning's websites on Thursday 28 February 2019;
- (e) hard copies of the Amendment documentation made available to view at Richmond Town Hall and the Richmond Library during standard business hours; and
- (f) interactive online map on Council's website (there were 647 visits to the interactive map with an average time of 8 minutes spent on the webpage).

127. Council also held three, 3 hour information sessions at the Richmond Library.

128. Following the Council meeting of 10 September 2019, Council gave notice of its resolution by sending a letter to:

- (a) all submitters;
- (b) landowners and occupiers of land within the activity centre boundary; and
- (c) landowners and occupiers of and abutting the land at 377, 375, 371 Punt Road, 2-16, and 14 Swan Street.

129. The letter noted additional submissions could be made by Wednesday 16 October 2019.

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

130. There has been consultation with officers from the Statutory Planning Unit and with the Senior Advisor, City Heritage.

#### **Financial Implications**

131. The financial costs of Scheme Amendments have been included in Council's Legal Budget in 2020/2021.

#### **Economic Implications**

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

#### **Sustainability Implications**

133. There are no known sustainability implications relating to the Amendment. Specific ESD aspects of planning applications would be considered at the planning permit stage.

#### **Climate Emergency Implications**

134. The Amendment would facilitate the redevelopment of the land which would provide for an opportunity to address climate emergency objectives including:

- (a) opportunity for greater levels of sustainability through the redevelopment of land in keeping with Council's ESD policy; and
- (b) facilitate sustainable communities that are walking distances to sustainable transport options, employment and services.

#### **Social Implications**

135. There are no significant social implications. The planning provisions would provide some added certainty in relation to future development in the centre.

#### **Human Rights Implications**

136. There are no known human rights implications.



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

137. Public exhibition of the Amendment contained information for CALD communities including how to access translator services.

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

138. The Amendment supports the following strategy in the Council Plan 2017-2021:

*Actively plan for Yarra's projected growth and development and advocate for an increase in social and affordable housing.*

### **Legal Implications**

139. The approach outlined in this report accords with the requirements of the *Planning and Environment Act 1987*.

### **Other Issues**

140. Council must meet all the requirements of the *Planning and Environment Act 1987* to ensure natural justice to all parties and to maintain the integrity of the Amendment process.
141. Under section 4(6) of *Ministerial Direction No. 15: The Planning Scheme Amendment Process*, Council needs to decide whether to abandon or adopt an Amendment within 40 business days of the date the planning authority receives the Panel's report, which is 14 December 2020. Officers have sought an extension to this requirement.

### **Options**

142. Sections 27, 28 and 29 of the *Planning and Environment Act 1987* require that the Planning Authority (Council):
- (a) must consider the Panel's report; and can then either
  - (b) abandon all or part of the Amendment; or
  - (c) adopt all or part of the Amendment with or without changes.
143. Any changes to the exhibited Amendment must be justified in writing to the Minister for Planning.

### **Conclusion**

144. Council has received the Planning Panel Report in relation to Amendment C191yara. The Panel is supportive of the majority of the Amendment. The Panel found that Amendment C191yara is well founded, strategically justified and will deliver net community benefit and sustainable development, as required by clause 71.02-3 of the Scheme.
145. Based on the reasons set out in its Report, the Panel recommended that Amendment C191yara be adopted subject to recommended changes. Officers support all of the Panel's recommendations.
146. Council must now decide whether to adopt all or part of the Amendment, with or without changes; or abandon the Amendment or parts of the Amendment.
147. Officers consider that the implementation of built form, heritage and access controls through the Amendment provides added certainty and clarity for development along Swan Street. Without permanent built form controls, the Scheme does not adequately guide the extent of change envisaged for the Major Activity Centre, having regard to the balance that needs to be struck when considering competing factors such as: urban consolidation; housing diversity; protection and enhancement of the heritage significance of the street and individual buildings; the quality and consistency of the streetscape; and the amenity of adjoining residential properties.

## RECOMMENDATION

1. That Council:
  - (a) notes the officer report regarding Amendment C191yara (Amendment), officer recommendations and Attachments 3, 4, 5, 6, 7, 8 and 9;
  - (b) notes the public release of the Panel Report for the Amendment under Section 26 of the *Planning and Environment Act 1987* (Vic) (Act);
  - (c) having considered the Panel report under section 27 of the Act, adopts the Amendment in accordance with section 29(1) of the Act with the changes as set out in Attachment 7, 8 and 9 to this report;
  - (d) delegates to the CEO the authority to finalise the Amendment in accordance with Council's resolution, and to make any administrative or formatting changes to the Amendment documentation and maps required to give effect to Council's resolution;
  - (e) authorises officers to submit the adopted Amendment as set out in Attachments 5 and 6 to this report to the Minister for Planning for approval, in accordance with section 31(1) of the Act; and
  - (f) authorises officers to submit the information prescribed under section 31(1) of the Act with the adopted Amendment, including a description of and reasons for the changes made to the Amendment between exhibition and adoption as outlined in Attachment 7, 8 and 9 to this report.
2. That Council authorises officers to notify:
  - (a) all submitters to the Amendment;
  - (b) all owners and occupiers of land that Council believes may be materially affected by the Amendment;
  - (c) any other person, Minister, public authority or municipal council who previously received notice of the Amendment in accordance with section 19(1) of the Act; and
  - (d) to advise them of this Council resolution.

**CONTACT OFFICER:** Alayna Chapman  
**TITLE:** Senior Strategic Planner  
**TEL:** 9205 5332

### Attachments

- 1 C191yara Chronology of key events
- 2 C191yara Location of submitters
- 3 C191yara Panel Report
- 4 C191yara Panel recommendations and officer response
- 5 C191yara DDO25, DDO26, DDO27, DDO28 for adoption
- 6 C191yara Amendment documents for adoption
- 7 C191yara Marked up amendment documentation since exhibition
- 8 C191yara Amendment documentation comparison
- 9 C191yara Amendment map comparison

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## 8.4 Extension of the Licence and Funding Agreement for the Studio 1 Community Hub

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### Executive Summary

#### Purpose

The interim Licence and Funding Agreement for the Richmond Community Learning Centre (RCLC) to manage the Studio 1 Community Hub (Studio 1) is set to expire by January 2021. The COVID-19 pandemic meant that it was impractical and undesirable to run an expression of interest (EOI) process for the longer-term management of Studio 1 in 2020. This report seeks endorsement for a further one year extension to the operating Licence and Funding Agreement between Council and RCLC for the management of the Studio 1. A new EOI process for the management of Studio 1 needs to be completed in 2021.

#### Key Issues

The former GTV-9 television studios in Richmond have been redeveloped by Lend Lease. A total of 202 dwellings have been delivered and a vertical retirement village and aged care hub at Ardency Kennedy Place is being completed.

Part of the former GTV 9 studio building was transferred to Council for the purposes of a community centre at 15 Barnet Way Richmond. The Planning Permit was issued on 31 August 2012. Council entered into a Section 173 Agreement (s173 Agreement) with Lend Lease Apartments Pty Ltd on 4 April 2013.

Following an EOI process, in June 2014 Council selected the Richmond Community Learning Centre Inc. (RCLC) to enter into a strategic partnership for the co-management of Studio 1 from October 2015 to October 2018. After three-years of operation it became evident that there were impediments to the optimal utilisation of Studio 1, these included its inconspicuous location, close proximity to residential apartments, and the co-management model.

At its 18 December 2018 meeting, Council endorsed an extension of the strategic partnership with RCLC to operate Studio 1 for 2019, and supported strategic work by officers to consider a single management model and encumbrances to utilisation. There were delays in transitioning to the single-management model and an identified need to further engage with stakeholders. At its meeting on 3 December 2019, Council agreed to a further extension for 2020, with an EOI process scheduled for mid-2020.

By March 2020, RCLC and Council officers completed the transition to a single management model. The planned expression of interest (EOI) for the longer-term management of Studio 1 did not take place in 2020 due to the COVID-19 pandemic.

This year officers have been in dialogue with representatives of Lend Lease and RCLC concerning the future operations of Studio 1.

Conversations and correspondence with Lend Lease centred on enhancing the utilisation of Studio 1, particularly the recommencing of private functions while ensuring that local amenity is maintained. Officers have been informed by Lend Lease representatives that there are no objections to the resumption of private functions within these parameters. Lend Lease will remain an active stakeholder at this location through the vertical retirement village and aged care hub.

Officers have established that RCLC would welcome the opportunity to operate and manage Studio 1 for a further year, including the resumption of social functions, and are hoping to work with Council to broaden access to the space, improving its utilisation and delivering greater community benefit.

RCLC have worked closely with the local community to provide a range of inclusive programs, activities and events at Studio 1. These include: administering a co-working space for more than two dozen people; low cost or free IT courses (e.g. Technology Confidence Course and Tea, Tech & Talk sessions); guided meditation group; low cost Yoga Class; choir 3121; community lunches; co-worker collaborations across marketing, academia and fitness; and collaborations with Yarra Libraries, such as the community celebration Beat the 3121 Drum.

An extension of the operating Licence and Funding Agreement for Studio 1 for a further year would give RCLC the opportunity to demonstrate that they can maximise access and increase opportunities for community connection and wellbeing. An EOI process for the ongoing management of Studio 1 will be completed in 2021.

### Financial Implications

Council provides an operational grant to RCLC to manage Studio 1. The grant costs for the 2019–20 financial year was \$96,752, and \$100,142 is budgeted for 2020–21 financial year.

### PROPOSAL

That Council:

- (a) Note the impacts of the COVID-19 pandemic upon the operation of Studio 1 by the Richmond Community Learning Centre;
- (b) Note that the COVID-19 pandemic meant that it was impractical and undesirable to run an EOI process for the longer-term management of Studio 1 in 2020;
- (c) Endorse a further extension to the operating Licence and Funding Agreement with Richmond Community Learning Centre for the management of the Studio 1 for one more year, covering the period 1 January 2021 – 31 December 2021;
- (d) Support the provision of an operating grant of \$100,142 to the Richmond Community Learning Centre for the management of Studio 1 for the calendar year of 2020, pending 2019–20 budget approval;
- (e) Note the resumption of the hire of the Radio Room and the Womin Je Ka Room at Studio 1 for social functions in 2021; and,
- (f) Endorse officers undertaking the strategic work required to inform a new EOI process for the management of Studio 1 to be conducted in 2021.

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## 8.4 Extension of the Licence and Funding Agreement for the Studio 1 Community Hub

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<b>Reference</b>	D20/164255
<b>Author</b>	Malcolm McCall - Manager Social Strategy and Community Development
<b>Authoriser</b>	Director Community Wellbeing

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### Purpose

1. The interim Licence and Funding Agreement for the Richmond Community Learning Centre (RCLC) to manage the Studio 1 Community Hub (Studio 1) is set to expire by January 2021. The COVID-19 pandemic meant that it was impractical and undesirable to run an EOI process for the longer-term management of Studio 1 in 2020.
2. This report seeks endorsement for a further one year extension to the operating Licence and Funding Agreement between Council and RCLC for the management of the Studio 1 and support to undertake a new EOI process for the management of Studio 1 in 2021.

### Critical analysis

#### History and background

3. From 1957 to early 2011, GTV-9 operated its television studios out of a converted factory in Bendigo Street Richmond. In early 2010, Vivas Lend Lease purchased the site for redevelopment. This site was rezoned from Industrial Zone 1 to mixed-use. In phase one, a total of 202 residences, including townhouses and apartments, were delivered. Lend Lease, with their partners Catholic Healthcare, are now completing phase two which entails a vertical retirement village and aged care hub at Ardency Kennedy Place.
4. Part of the former GTV 9 studio building was transferred to Council for the purposes of a community centre at 15 Barnet Way Richmond. The Planning Permit was issued on 31 August 2012 (**see Attachment A**). Council entered into a Section 173 Agreement (s173 Agreement) with Lend Lease Apartments Pty Ltd on 4 April 2013.
5. The Planning Permit records that the community centre (Studio 1) may only operate between the hours of 7am and 8pm Monday to Saturday and 7am to 6pm Sunday, unless prior consent is given by the Owners Corporation and the Responsible Authority.
6. The s173 agreement records that Council 'must not use the Community Centre Land for any purpose other than the Community Centre unless with the prior written consent of the Owners Corporation', and that the uses permitted within the Community Centre must be in accordance with the following set of activities and functions:
  - (a) Services which support delivery of education, training, advice and information referral; borrowing of library materials; community meetings and events; indoor recreation such as fitness classes and hobby groups; child care and maternal child health; adult allied health services; and community business support; and
  - (b) All services operated through the facility will be of nature and scale appropriate within a residential environment and will not cause undue disturbance to local residents or loss of amenity. The Community Centre must not provide for any facility for the injection, consumption or intake of illicit drugs, whether medically supervised or not.

7. Council engaged the architectural firm 'six degrees' to design a 600m<sup>2</sup>, two-level community facility. Studio 1 includes the Green Room (co-worker space) and the Helen Porter Mitchell Room (a consultant area) on level one, and on the ground floor, the Womin Je ka Room (the largest space), Kitchen and Reception/Ticket Booth, Hugo Wertheim Room and the Radio Room.
8. From Studio 1's inception, it was determined that it would not be a simple venue for hire but a place that would build community and meet a range of local needs. In April 2014, Council invited expressions of interest (EOIs) to select a partner organisation to activate Studio 1 and provide 'caretaker' services in lieu of the rental and overhead costs.
9. The EOI stated that the selected lead tenant would:
  - (a) undertake activities/programs that:
    - (i) are compatible with the location;
    - (ii) bring vibrancy to the precinct;
    - (iii) have the potential to deliver creative and engaging programming within the facility;
    - (iv) provide significant community benefit;
    - (v) respond to identified community need; and
    - (vi) bring experience in community development and engagement which will assist in activation of the facility; and
  - (b) provide 'caretaker' services for the facility to ensure the building is open for core hours (30 hours per week);
  - (c) bring experience in facility management and technical skills in centre management; and,
  - (d) understand and reflect Council's vision that community activation of the space is an absolute priority.
10. In June 2014 Council selected the Richmond Community Learning Centre Inc. (RCLC) to enter into a strategic partnership for the co-management of Studio 1 from October 2015 to October 2018. One of the key terms of the licence was the management of spaces, specifically:
  - (a) RCLC has exclusive sole management of approximately 16 percent of the total space, namely the ground floor office, Green Room and Helen Porter Mitchell Room; and,
  - (b) Council manages the remaining spaces, which included Womin Je ka Room, Kitchen and Reception/Ticket Booth on the ground floor and the Hugo Wertheim Room and the Radio Room on level 1.
11. Studio 1 was opened in October 2015. A report was presented to Council at its meeting on 18 December 2018 concerning impediments to the optimal utilisation of Studio 1 and measures to address some of these issues.
12. Impediments to the optimal utilisation of Studio 1 reported included:
  - (a) Studio 1 is not located on a main road or thoroughfare, nor is it proximate to other destination facilities (e.g. transport hubs, retail, etc.). This lack of visibility means it is less likely that community members will simply drop-in and enquire about its programs and facilities;
  - (b) Noise and amenity issues must be tightly managed due to the close proximity of Studio 1 to residential apartments;
  - (c) The hours of operation prescribed in the planning permit prevent the programming of activities or venue hire in the evenings (i.e. after 8pm Monday to Saturday and beyond 6pm on Sunday);

- (d) Studio 1 was being hired out for private functions such as birthdays, christening parties, etc. Complaints were received from local residents about amenity impacts resulting from private functions, specifically noise and encroachment by some guests onto the common property. From 2016, Studio 1 was no longer available for hire for private functions; and
  - (e) The co-management model – where Council managed its spaces and RCLC its own – added a level of complexity to the running of Studio 1, especially around bookings and facility services. Customers, particularly walk-ins, enquiring about hiring a space within Studio 1 expected RCLC to help them with their enquiries. Venue bookings were managed by Council and RCLC were unable to enter bookings directly.
13. At the 18 December 2018 meeting, Council endorsed extending the strategic partnership for RCLC to operate Studio 1 for the calendar year of 2019, with an operating grant of \$95,783. To promote broader community sector interest in applying to any future EOI processes to operate Studio 1 (mooted for 2019), Council also supported strategic work by officers to consider a single management model and encumbrances to utilisation. An interim licence and funding agreement was reached between Council and RCLC.
  14. There were delays in the transition to the single management model and an identified need to further engage with the varied stakeholders on the means to optimise the facility utilisation. At the Council meeting on 3 December 2019, Council agreed to a further extension of the arrangement whereby RCLC manages and operates Studio 1 for the calendar year of 2020, with the EOI process scheduled for around mid-2020.
  15. By March 2020, RCLC and Council officers completed the transition to a single management model, which entailed the reconciliation of fees and charges, transferring responsibility for bookings as well as relevant facility management operations.
  16. From 16 March to 31 May 2020, and from 19 July to 27 October 2020, significant restrictions were imposed by the Victorian Government so as to stop the spread of COVID-19 in Greater Melbourne and regional Victoria. During this time human movement and face-to-face social interactions were severely limited. During these periods, the Neighbourhood Houses, including RCLC, had to cease all in-person programming and events and reorientate their efforts to address emerging community needs, engage communities and undertake programs by alternate means (e.g. online, by phone, etc.).

#### Discussion

17. The inconspicuous location of Studio 1 could impact its utilisation by the broader community. However, it is surrounded by two hundred households, and in the coming years there will be hundreds more people moving into the precinct in the new vertical retirement village and aged care hub. More research is needed into who is and who could be accessing Studio 1, including the residents of the GTV-9 redevelopment.
18. The hours of operation prescribed in the planning permit prevent Studio 1 from operating beyond 8pm six days a week and 6pm on Sundays. Council has historically pursued strategies to activate community facilities like libraries and neighbourhood houses into the evening so as to help diversify the night time economy (i.e. beyond patronising licensed premises), making it more accessible for people of all ages and interests. A number of neighbourhood houses have successfully provided night-time activities within the City of Yarra and beyond. However, it is important to acknowledge Studio 1 is immediately co-located with residential apartments which logically limits evening activity.
19. Access to community facilities for social functions by community members occurs at other neighbourhood houses within the City of Yarra. For neighbourhood houses like RCLC, the hiring of their facilities for private functions such as birthdays, christenings and anniversaries, etc. are both a service they provide to the local community and a source of income.
20. As previously stated, there are two spaces available for hire at Studio 1. The inability to hire out Studio 1 for private functions has compromised the ability to provide a valuable community function as well as generate revenue from this facility – income which cross

subsidises other community activities and programs – for the current licence holder and for any future manager of this community facility. In late 2018, the occupation rate for the Womin Je Ka Room was reported at 25 percent and close to 10 percent for the Radio Room.

21. Pandemic conditions have meant that it has been both impractical and undesirable to run an EOI process for the management of Studio 1 in 2020. RCLC could not be reasonably expected to demonstrate its capability as sole operations and facility manager of Studio 1 during the pandemic. At the same time, other potential operators (e.g. neighbourhood houses or other not-for-profit organisations) would be much less likely to have the capacity, or inclination, to prepare expressions of interest during pandemic conditions.

#### Options

22. There are no options provided.

#### **Community and stakeholder engagement**

23. Officers have been in dialogue with Lend Lease and RCLC concerning the future operations of Studio 1.
24. The conversation with representatives from Lend Lease centred on enhancing the utilisation of Studio 1, particularly the recommencing of private functions in the Radio Room and the Womin Je Ka Room, while ensuring that local amenity is maintained. Officers discussed how access to community facilities for social functions by community members is reasonably expected and occurs at other community centres within and beyond the City of Yarra.
25. Officers also noted that any recommencing of private functions would exclude the utilisation of the exterior common areas proximate to Studio 1. Officers wrote to Lend Lease in early November to seek feedback and have been informed that there are no objections to the resumption of private functions within these terms.
26. Lend Lease will remain an active stakeholder at this location through the vertical retirement village and aged care hub at Ardency Kennedy Place.
27. Officers spoke with representatives of RCLC in regards to the resumption of private function hire at Studio 1 and the possible extension of the interim agreement to operate and manage Studio 1 for another twelve month period (i.e. until December 2021) while officers investigate and consult on how to maximise the community benefits realised from Studio 1, and instigate an open expression of interest process in Quarter 1 of the financial year 2021–22.
28. Representatives of RCLC would welcome the opportunity to operate and manage Studio 1 for another year, including the resumption of social functions, and are hoping to work with Council to demonstrate that they can maximise access, improve its utilisation and deliver greater community benefit.

#### **Policy analysis**

##### Alignment to Council Plan

29. Studio 1 Community Hub is well supported by the Council Plan 2017 – 2021. The strategic objectives that directly support it are:
30. A healthy Yarra: Community health, safety and well-being are a focus in everything we do;
  - (a) 1.2 – promote a community that is inclusive, resilient, connected and enjoys strong mental and physical health and wellbeing;
  - (b) 1.3 – provide health promoting environments that encourage healthy eating and active living;
  - (c) 1.6 – promote a gender equitable, safe and respectful community; and
  - (d) 1.8 – provide opportunities for people to be involved in and connect with their community.



31. An inclusive Yarra: Inclusion, diversity and uniqueness are welcomed respected and celebrated;
  - (a) 2.1 – build resilience by providing opportunities and places for people to meet, be involved in and connect with their community;
  - (b) 2.2 – remain a highly inclusive municipality, proactive in advancing and advocating for the rights and interests of specific groups in the community and community issues;
  - (c) 2.4 - acknowledge and celebrate our diversity and people from all cultural backgrounds; and
  - (d) 2.5 – support community initiatives that promote diversity and inclusion.
32. A sustainable Yarra: Council leads on sustainability and protects and enhances its natural environment.
33. A prosperous Yarra: Local businesses prosper and creative and knowledge industries thrive;
  - (a) 5.3 – create local employment opportunities by providing targeted and relevant assistance to facilitate business growth, especially for small and medium size enterprises and entrepreneurs through the attraction and retention of businesses;
  - (b) 5.6 – attract and retain creative and knowledge industries in Yarra; and
  - (c) 5.7 – ensure libraries and neighbourhood houses, support lifelong learning, wellbeing and social inclusion.
34. A leading Yarra: Transparency, performance and community participation drive the way we operate.

#### [Climate emergency and sustainability implications](#)

35. The Yarra City Council and Neighbourhood Houses Partnership Strategy and Action Plan 2018–2021 (the Action Plan) identifies an important role in continuing a robust relationship between the Houses and Council's Open Space Planning and Design, Waste Minimisation and Urban Agriculture and Sustainability Units in educating and supporting Houses in their sustainability initiatives to inform and educate the local community.
36. All Neighbourhood Houses have contributed to the development of Council's Climate Emergency Action Plan and have engaged with Council's Climate Emergency Officer to participate in activities that inform and educate local communities on the urgency of climate change.
37. Sustainability programs and climate emergency activities were suspended due to the COVID-19 pandemic. With reduced staff and volunteers, Neighbourhood houses directed available resources to supporting the provision of food relief and engaging with socially isolated individuals. The easing of COVID-19 restrictions will enable these activities to recommence.

#### [Community and social implications](#)

38. The need for people to socially interact is a prerequisite for health and wellbeing and Studio 1 features high quality spaces in which people can engage and connect. The objective of the strategic partnership between Council and the RCLC at Studio 1 has been to decrease social isolation and build community.
39. RCLC have worked closely with the local community to provide a range of inclusive programs activities and events at Studio 1. RCLC have administered a co-working space for over two dozen people and provided a range of programmed activities.

### Economic development implications

40. Studio 1 Community Hub provides a co-working space that can cater for a maximum of 14 people on any one day. The co-working space has only been operating since 2016 and was developed in response to an identified community need. The space is a shared working space which targets self-employed or small businesses and aims to connect people by offering affordable space away from the isolation of a home or small office. Pre-COVID-19, RCLC had a cohort of 26 people with either an ongoing membership or visit the centre regularly on a short-term or casual basis.
41. RCLC provides a variety of opportunities for paid employment through Studio 1 for teachers, project workers, community development workers, arts practitioners, financial and IT staff that are important sources of local employment. Studio 1 also provides volunteer opportunities that contribute to the local economy.
42. The Hugo Wertheim Room is still managed by Council and is being used to provide space to local artists under the City of Yarra's Room to Create Artist Residency program.

### Human rights and gender equity implications

43. No significant human rights and gender equity implications have been identified.

## Operational analysis

### Financial and resource impacts

44. Council provides an operational grant to RCLC to manage Studio 1. The grant costs for the 2019–20 financial year was \$96,752, and \$100,142 is budgeted for 2020–21 financial year.

### Legal Implications

45. The Planning Permit records that the community centre (Studio 1) may only operate between the hours of 7am and 8pm Monday to Saturday and 7am to 6pm Sunday, unless with prior consent of the Owners Corporation and the Responsible Authority.
46. The 2013 s173 agreement records that Council agrees to operate the community centre in accordance with the Owners Corporation Rules. It defines this community centre as a meeting place which is used by members of the community for social, cultural or recreation purposes, and excludes a drop-in centre, needle exchange centre and any use which would adversely impact on the amenity of the occupiers of the Land. This agreement includes, but does not limit, the kind of civic and community services functions that can be operated out of Studio 1.
47. The s173 agreement ends 3 April 2023 or at an earlier date by consent with Lend Lease, after which time Council would no longer be required to revert ownership of the Community Centre Land to Lend Lease for its purchase price of \$1.00, and Council's use of the site would be governed by solely by the planning permit.

## Conclusion

48. The impact of the COVID-19 restrictions upon the operations of neighbourhood houses is significant and while the RCLC has worked hard towards a smooth transition to the single management model, it has not been able demonstrate its capability during this time of pandemic.
49. The resumption of the hire of the Radio Room and the Womin Je Ka Room at Studio 1 for social functions – while adhering to hours of operation, ensuring noise is minimised and preventing the utilisation of the proximate exterior common areas – will mean that a valuable community service is again available and that income can be generated which can help cross subsidise other community development activities and programs for RCLC and any future operator.

50. RCLC has a high level of knowledge and expertise in community development. RCLC is well placed to drive Council's vision for Studio 1 and develop it into a vibrant community asset that meets current and future needs of the local community. An extension of the operating Licence and Funding Agreement for Studio 1 for a further year would give RCLC the opportunity to maximise access and increase opportunities for community connection and wellbeing. An EOI process for the management of Studio 1 will be completed in 2021.

## RECOMMENDATION

1. That Council:
  - (a) Note the impacts of the COVID-19 pandemic upon the operation of Studio 1 by the Richmond Community Learning Centre;
  - (b) Note that the COVID-19 pandemic meant that it was impractical and undesirable to run an EOI process for the longer-term management of Studio 1 in 2020;
  - (c) Endorse a further extension to the operating Licence and Funding Agreement with Richmond Community Learning Centre for the management of the Studio 1 for one more year, from 1 January 2021 – 31 December 2021;
  - (d) Support the provision of an operating grant of \$100,142 to the Richmond Community Learning Centre for the management of the Studio 1 for the calendar year of 2020, pending 2019–20 budget approval;
  - (e) Note that the resumption of the hire of the Radio Room and the Womin Je Ka Room at Studio 1 for social functions in 2021; and,
  - (f) Endorse officers undertaking the strategic work required to inform a new EOI process for the management of Studio 1 to be conducted in 2021.

## Attachments

- 1 Planning Permit - 31August 2012 - PLN12\_0407

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## 8.5 Edinburgh Gardens

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### Executive Summary

#### Purpose

The purpose of the report is to provide Councillors with an update and potential options in relation to addressing community concerns regarding the anti-social behaviour associated with increased patronage of Edinburgh Gardens.

#### Key Issues

The issue involves anti-social behaviour being exhibited by some attendees at Edinburgh Gardens; with public urination, illegal drug use, and excessive consumption of alcohol.

Some of the actions by these attendees are creating amenity and safety issues for nearby residents and considerable additional costs to Council.

The majority of these offences are police matters and require ongoing attention and enforcement by the police to rectify.

#### Financial Implications

There have been significant costs incurred and will continue to be incurred by increased staffing levels, infrastructure provisions, such as additional temporary toilet facilities along with associated costs of cleansing and the removal and disposal of rubbish and graffiti cleaning.

The toilet facilities provided for the summer period within Edinburgh Gardens have more than doubled at a cost of \$100,000.

Additional cleaning, rubbish removal etc. is costing approximately \$8,000 per week.

Staffing levels have also increased significantly with additional Compliance patrols and the use of Park Ambassadors; primarily out of normal business hours.

Variable message signage has cost an additional \$6,000.

It should be noted that the implementation of an alcohol ban may not impact these ongoing costs.

#### PROPOSAL

Council has the option of noting the continuation of the additional costs and efforts by Council to ameliorate the issues being experienced at Edinburgh Gardens; or it may consider the implementation of an alcohol ban for a temporary period of time.

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## 8.5 Edinburgh Gardens

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<b>Reference</b>	D20/164885
<b>Author</b>	Stewart Martin - Manager Compliance and Parking Services
<b>Authoriser</b>	Director Corporate, Business and Finance

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### Purpose

1. The purpose of the report is to provide Council with an update and potential options in relation to addressing community concerns regarding anti-social behaviour associated with increased patronage of Edinburgh Gardens.

### Critical analysis

#### History and background

2. Edinburgh Gardens is an exceptionally popular park within the municipality that provides many facilities to the community such as sporting ovals, bike paths, and a skate park as well as a meeting place for members of the community.
3. Adjacent to the park on St Georges Rd is the Fitzroy Bowls Club which the land is leased from Council. The Bowls Club also holds functions which include the playing of music and the consumption of alcohol.
4. The park is utilised for many public and private events such as birthday parties and weddings.
5. The pathway out of lockdown under the Stage 4 COVID-19 restrictions advised the community that they could only meet with extended family and persons from other households in open public space. Therefore, the popularity of the park has increased significantly with crowds when the weather is good in the vicinity of 3,000 - 4,000 at certain times of the day.
6. In recent weeks, we have also seen an increased patronage at a number of parks within the municipality such as Barkly Gardens and Darling Gardens.
7. The current Consumption of Liquor in a Public Place Local Law allows for the consumption of liquor within a prescribed place between 9:00am and 9:00pm. Edinburgh Gardens is listed as a prescribed place that allows public drinking of alcohol under the above conditions.
8. There is currently a Council resolution that prohibits the consumption of alcohol within the entire municipality on New Year's Eve from 9:00am on 31 December until 9:00am 1 January.
9. This resolution was proposed after a large rave party on New Year's Eve 2014 within Edinburgh Gardens, where more than 20,000 people were in the park and there were numerous assaults reported, anti-social behaviour and many other dangerous situations allegedly fuelled by recreational drug use and alcohol consumption. There was also a considerable clean-up cost, damage to Council assets and the removal of rubbish.
10. Since this event, Council officers have implemented considerable planning around summer public holidays and other days of significance, such as New Year's Eve, 26 January and the Hottest 100. These days often draw significant crowds to the gardens and Council has provided additional toilets, cleaning, security and entertainment to promote a safer and family friendly environment.
11. However, this year, many of the behaviours these planned responses aim to mitigate have been presenting every weekend, especially when the weather is warm.
12. There have over the years been continual concerns raised by nearby residents in relation to noise generated by some park users playing amplified music and the use of drums. However, in recent years these complaints lessened considerably.

13. Of more recent times with the increase in patronage of the park there have been issues raised in relation to the lack of toilet facilities and public urination and defecation, specifically in nearby public laneways and within the park itself.
14. Despite the easing of COVID-19 restrictions in recent weeks, the park continues to remain a popular destination for many residents and visitors.
15. In recent weeks there have been issues raised in relation to the consumption of illegal drugs and excessive alcohol consumption within the parks.
16. People using the park are a combination of Yarra residents and visitors to the municipality and the park is a drawcard due to its location, amenity, and the ability to consume alcohol until 9:00pm. The park appears to be seen by some users as a party location and appears to be marketed as such on certain social media platforms and pages.
17. Approximately 12 used syringes have been found and removed within the precinct vicinity over the past four weeks. This is not a particularly high number relative to other locations. These numbers do not account for any syringes collected by community members or others that have not been recorded. Two used syringes have been found on the grounds of North Fitzroy Primary School.
18. Anecdotal feedback suggests that drug use in Edinburgh Gardens may be predominantly “party drugs” in nature; with syringes not necessarily the method of ingesting the drugs.
19. In response to concerns raised by some residents there have been a number of meetings convened between residents, Council officers and Councillors.
20. Victoria Police have conducted a number of operations specifically on weekends within the parks including the deployment of additional officers, bicycle patrols and the mounted branch. Each week, the local police meet with Council officers to discuss the issues identified at the park and plan for any eventualities.
21. The police have had a highly visible and active presence within Edinburgh Gardens and nearby streets over the past two months and this has increased in response to the increases in crowds and anti-social behaviour.
22. Some residents have asked for an alcohol ban within the park and the closure of laneways abutting the park.
23. Council has more than doubled the normal summer period number of toilets within the park, as well as placing additional portable toilets close to where there have been reports of public urination in laneways to discourage this behaviour.
24. Edinburgh Gardens has 10 permanent toilets, with eight unisex cubicles on the south side and two unisex cubicles on the north side.
25. In the past two months a urinal trough (catering for up to 20 men) has been added at the north side, a temporary toilet block (four female cubicles, two male cubicles and a urinal trough) at the south side and 10 additional cubicles and a urinal trough near the Alfred Crescent entrance. Two cubicles have also been opened within the Emely Baker Centre on weekends.
26. Council has also increased the frequency of cleaning of the toilet facilities and laneways to later in the evening and have rostered staff on site across the weekends to maintain the areas. Cleaners are onsite permanently across the weekends from 8:00am until 9:00pm. This includes toilet cleaning, park cleaning and disinfecting of laneways.
27. There has been a significant increase in the provision of bins and the collections of rubbish in recent weeks. Additional staff are emptying rubbish bins on Saturdays and Sundays.
28. Park ambassadors on both Saturdays and Sundays have been introduced to patrol the park monitoring the cleanliness of facilities and park numbers as well as reporting potential breaches of the Local Law and other laws.

29. Local Laws officers have also been patrolling the park on both Saturdays and Sundays as well as providing the after-hours service to respond to any issues or engage with police as required.
30. After-hours officers need to engage and utilise police to assist them for occupational health and safety reasons in dealing with some situations, especially after dark.
31. The additional weekly patrols of Edinburgh Gardens of Local Laws officers, cleaning and waste staff, park ambassadors and management staff have placed an extra burden on resources.
32. Proactive patrols of parking officers have also been instituted to address issues of illegal parking as well as providing residents with relevant information if they wish to change the restrictions within their streets.
33. Numerous signs and variable message signage boards have been installed and utilised to deliver messaging around the local laws and amenity issues. These have included toilet way finding signage and reminders regarding local laws and behaviour.
34. Council has regular (multiple per week) social media posts to deliver important messages regarding the local laws, extra toilets facilities etc.
35. Weekly meetings are being held with police regarding the ongoing operations within the park and enforcement requirements.

#### Discussion

36. Anti-social behaviour and criminal offences fall under the jurisdiction of the police as well as the enforcement of the Consumption of Liquor in a Public Place Local Law.
37. All Victorian police officers are authorised to enforce the Consumption of Liquor in a Public Place Local Law.
38. The closure of laneways to prevent public urination may not resolve the situation and may cause some people to urinate on the street or in resident's properties.
39. The closure of public laneways due to anti-social behaviour may set a precedent throughout the municipality where there is a perceived threat by members of the community.
40. There is a Council policy that governs the closure of laneways and any consideration to close a laneway should follow this policy.
41. The banning of alcohol may not resolve a number of issues that are occurring and will require an ongoing commitment by the police to enforce.
42. The staffing requirements and efforts of Council and Victoria Police in relation to Edinburgh Gardens will potentially not be lessened by an alcohol ban.
43. The increased patronage of Edinburgh Gardens may lessen as the current COVID-19 restrictions reduce and licenced venues can have increased numbers as well as people having more freedom to socialise in their homes.
44. There have been in recent months an increased number of people in all our parks throughout the municipality, not just Edinburgh Gardens. This has also been the case throughout metropolitan Melbourne.
45. The main difficulty in relation to enforcement is at dusk (9:00pm) when the alcohol ban comes into place and getting people to stop drinking who may already be under the influence of alcohol. Potentially moving the times may not resolve this issue either.
46. The addition or removal of a park from the prescribed places under the Consumption of Liquor in a Public Place Local Laws must be done by resolution of Council.

#### Options

47. Two options are presented in relation to the application of the Consumption of Liquor in a Public Place Local Law for Councils consideration at this time.

48. The first option is for Council to maintain the current service level and facilities as well as continue to work with police to manage the issues at Edinburgh Gardens, but make no changes to the current prohibition on the consumption of alcohol in Edinburgh Gardens between the hours of 9.00pm and 9.00am.
49. This option would be achieved by replacing clause 2 of the officer recommendation with:
2. *That Council:*
- (a) *continue to monitor the situation at Edinburgh Gardens in line with current service levels and to respond to issues as they arise; and*
- (b) *determine to make no changes to the Consumption of Liquor in a Public Place Local Law at this time.*
50. The second option is to remove Edinburgh Gardens from among the prescribed places under the local law, banning the consumption of alcohol within the park at all times. The wording below is presented to make this change until 1 February 2021.
51. This option would be achieved by replacing clause 2 of the officer recommendation with:
2. *That Council:*
- (a) *pursuant to Part 4, clause 16 of the Consumption of Liquor in Public Places Local Law and effective from 16 December 2020, declare the Prescribed Areas for the purposes of that Part 4 as declared on 8 October 2020 be amended by removing those areas described in that declaration as:*
- (i) *Edinburgh Gardens Oval (Alfred Crescent Oval), Alfred Cres Fitzroy 3065 (Melway 2C D1);*
- (ii) *Edinburgh Gardens, cnr St Georges Rd / Brunswick St Fitzroy North 3068 (Melway 2C D1); and*
- (iii) *W T Peterson Community Oval, Brunswick St Fitzroy North 3068 (Melway 2C C2)*
- with this declaration to continue to apply from 9.00 am to 8.59 pm; and*
- (b) *pursuant to Part 4, clause 16 of the Consumption of Liquor in Public Places Local Law and effective from 1 February 2021, declare the Prescribed Areas for the purposes of that Part 4 as declared on 15 December 2020 be amended by adding those areas described in that declaration as:*
- (i) *Edinburgh Gardens Oval (Alfred Crescent Oval), Alfred Cres Fitzroy 3065 (Melway 2C D1);*
- (ii) *Edinburgh Gardens, cnr St Georges Rd / Brunswick St Fitzroy North 3068 (Melway 2C D1); and*
- (iii) *W T Peterson Community Oval, Brunswick St Fitzroy North 3068 (Melway 2C C2)*
- with this declaration to continue to apply from 9.00 am to 8.59 pm.*

## Community and stakeholder engagement

52. There have been a number of meetings with residents who live near Edinburgh Gardens who have raised concerns regarding the consumption of alcohol, anti-social behaviour and illegal drug use. Residents have had particular concerns due to public urination and defecation in nearby laneways.
53. There have been a number of conversations and meetings with the police in relation to their attendance and actions in addressing anti-social behaviour, ensuring public order and the illegal consumption of alcohol.



## Policy analysis

### Alignment to Council Plan

54. This report does not directly relate to matters regarding the alignment to Council Plan.

### Climate emergency and sustainability implications

55. There are no climate emergency and sustainability implications.

### Community and social implications

56. The park is a meeting place for members of the community to enjoy the fresh air and socially interact. The consumption of alcohol, when conducted appropriately, is a significant part of the enjoyment and one of the reasons why it is a popular location for weddings and parties.

57. The park provides an excellent public place for social interaction after months of lockdown and allows for families and friends to meet up and enjoy each other's company.

58. The excessive consumption of alcohol is however a negative for the community and individuals as there are no controls in the amount of liquor consumed. Within licensed venues there are controls such as the responsible service of alcohol.

59. Public safety issues including excessive alcohol consumption and illegal drug use are a concern for many members of the public.

60. An alcohol ban will impact all park users including those who choose to drink responsibly, along with the use of the park for parties and weddings.

61. The effectiveness of any alcohol ban is also predicated on effective enforcement from Local laws officers and Police.

62. A ban on alcohol within Edinburgh Gardens may potentially result in the concerning behaviour shifting to other parks and gardens within Yarra.

### Economic development implications

63. There are no economic development implications.

### Human rights and gender equity implications

64. At the time of making of the Consumption of Liquor in Public Places Local Law, Council considered a Statement of Compatibility with the Human Rights and Responsibilities Charter. That statement found that the local law engaged the following human rights:

- (a) The right to freedom of movement;
- (b) The right of persons not to be deprived of his or her property other than in accordance with law; and
- (c) The right for a person charged with a criminal offence to have the charge or proceeding decided by a competent, independent and impartial court or tribunal after a fair and public hearing.

65. For each of these human rights, an assessment was conducted on the nature of the local law's impacts of limitations on the right, the balance of interests to be considered and the reasonability of the limitation and solutions or measures to reduce the limitation. In all cases, the restriction imposed by the making of the local law were found to be compatible with the Human Rights and Responsibilities Charter.

66. There are no gender equity implications examined in this report.

## Operational analysis

### Financial and resource impacts

67. There are considerable ongoing costs with the management of Edinburgh Gardens such as staffing, provision of toilets, cleansing etc.

68. It is uncertain what effect an alcohol ban would have in relation to the ongoing costs of maintain the park. However, it would be expected that majority of the existing costs would remain.

#### Legal Implications

69. Any changes to the prescribed places attached to the Consumption to Liquor in a Public Place Local Law may only be affected by resolution of Council.
70. Changes to the Local Law itself would a formal process that will require consultation.
71. The enforcement of alcohol consumption and anti-social behaviour including public urination and illegal drug taking is a police responsibility. Therefore, a commitment from the police is required for enforcement; otherwise any changes to the Local Laws may be ineffective.

#### Conclusion

72. There will be a continuing need for ongoing enforcement and commitment from the police in relation to the issues at Edinburgh Gardens.
73. A potential ban on alcohol will need to be continually enforced, similar to bans imposed by the City of Port Phillip at beaches and beachside parks.
74. A ban on alcohol consumption will impact any person who wants to attend the park and enjoy an alcoholic drink.
75. Council may resolve to ban alcohol from Edinburgh Gardens if it wishes to do so.
76. Such a ban would be affected by a resolution that removes Edinburgh Gardens from the list of prescribed places listed under the Local Law.
77. Such a resolution may be date specific and allow for the reinstatement of Edinburgh Gardens to the list of prescribed places from a certain future date.

#### RECOMMENDATION

1. That Council:
  - (a) notes the concerns raised by some residents on the current level of usage and behaviour in and around Edinburgh Gardens; and
  - (b) notes the significant response provided by Council officers and the resources already dedicated to managing the issues.
2. That Council determine the appropriate course of action based on the options set out in this report.

#### Attachments

There are no attachments for this report.

## 8.6 Finance Report - September 2020

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<b>Reference</b>	D20/165763
<b>Author</b>	Mark Montague - Chief Financial Officer
<b>Authoriser</b>	Director Corporate, Business and Finance

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### Purpose

1. To provide Councillors with the September 2020 Finance Report.

### Critical analysis

#### History and background

2. Under the Local Government Act, Council is required to report on its financial results on a quarterly basis.
3. The September 2020 Finance report is provided at **Attachment 1** for noting and discussion.
4. The September 2020 Capital Adjustments Running Table is provided at **Attachment 2** for noting.

#### Discussion

#### **Financial Implications**

##### Finance Report – September 2020 (Attachment 1)

5. As at 30 September 2020 Council is favourable to YTD Budget by \$1.3m. This result is attributable in most part to the following:
  - (a) Higher YTD grants received of \$0.7m, mostly attributable to unbudgeted operating grants of \$0.6m which have been received;
  - (b) Higher YTD other income mostly attributable to unbudgeted income for road discontinuances, \$2.5m;
  - (c) Lower YTD materials and services expenditure, mainly due to the impact of COVID-19 restrictions on Council services and timing of associated contract payments, \$3.3m; and
  - (d) Lower YTD bad and doubtful debts resulting from the number of parking infringements issued being well below budget, \$0.8m.
6. These favourable outcomes are offset by unfavourable variances of:
  - (a) Lower YTD parking and infringement income due to lower than budgeted parking infringements issued and a reduction in traffic flow through the municipality as a result of COVID-19 restrictions, \$4.7m; and
  - (b) Lower YTD user fee income due in most part to the closure of recreation and leisure facilities due to COVID-19 restrictions, \$1.7m.

*It is important to note that not all of these favourable results translate to additional cash as most are restricted for future use.*

*It should also be noted that Council's October financial result is expected to show that the small positive variance to budget at end September, will have become a (\$4.3m) negative variance to budget by end October.*

### Options

7. This report does not include any options.

### Community and stakeholder engagement

8. This report was circulated to the Executive team on Wednesday 21 October 2020. No external consultation or engagement was required.

### Policy analysis

#### Alignment to Council Plan

9. There are no Council Plan, Strategy and Policy implications.

#### Climate emergency and sustainability implications

10. There are no climate emergency and sustainability implications.

#### Community and social implications

11. There are no community and social implications.

#### Economic development implications

12. There are no economic development implications.

#### Human rights and gender equity implications

13. There are no human rights and gender equity implications.

### Operational analysis

#### Financial and resource impacts

14. The financial impacts of the report are discussed under the financial implications heading.

#### Legal Implications

15. There are no legal implications.

### Conclusion

16. At the end of September 2020 Council's operating result was \$1.3m favourable to the YTD budget. By the end of October 2020, this result had substantially changed and Council was (\$4.3m) unfavourable to YTD budget. This change was largely the result of the ongoing impacts of the COVID-19 pandemic on Council income streams, coupled with increasing operating spend as lockdown restrictions began to be ease across Melbourne.

### RECOMMENDATION

1. That Council:
  - (a) note the September 2020 Finance Report.

### Attachments

- 1 Finance Report - September 20 (Council)
- 2 Capital Works Program Adjustments - September 2020 Q1

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## 8.7 2020/21 Annual Plan Progress Report - September

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### Executive Summary

#### Purpose

To present the 2020/21 Annual Plan Quarterly Progress Report September 2020 to Councillors for noting.

To propose two changes to the 2020/21 Annual Plan for consideration and endorsement.

#### Key Issues

The 2020/21 Annual Plan contains 48 actions. As at 30 September 46 Actions were scheduled to have commenced. Of the 46 Actions commenced 78% are On-track or Complete.

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

The report proposes two changes to the 2020/21 Annual Plan for Council to consider and endorse.

#### Financial Implications

There are no financial implications.

#### PROPOSAL

That Council note the 2020/21 Annual Plan Quarterly Progress Report for September.

That Council consider and endorse proposed changes to the 2020/21 Annual Plan.

## 8.7 2020/21 Annual Plan Progress Report - September

<b>Reference</b>	D20/164817
<b>Author</b>	Shane Looney - Corporate Planner
<b>Authoriser</b>	Manager Corporate Planning and Performance

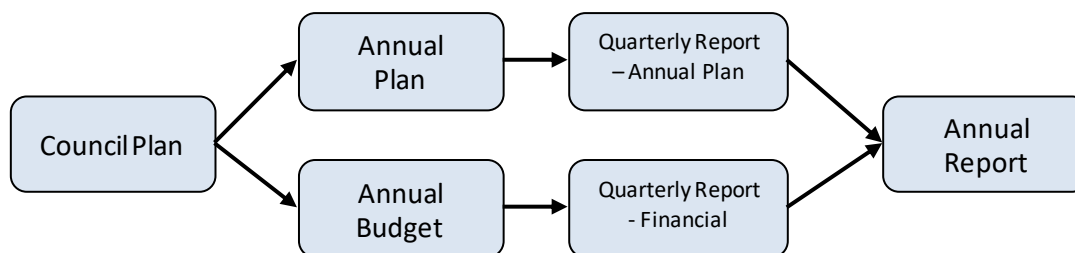
### Purpose

1. To present the 2019/20 Annual Plan Quarterly Progress Report - September 2020 to Councillors for noting.
2. To propose two changes to the 2020/21 Annual Plan for consideration and endorsement.

### Critical analysis

#### History and background

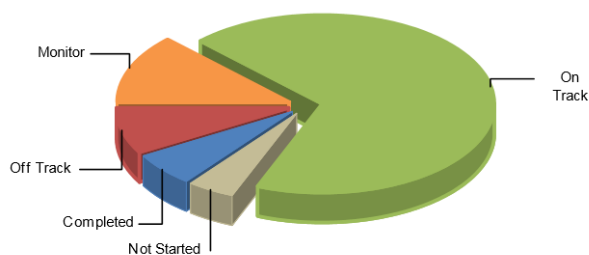
3. The Annual Plan is the organisation's annual response to Initiatives contained in the 4-year Council Plan. Council Plan Initiatives are significant projects and activities that are proposed to be worked on over the term of the Council Plan.
4. The Annual Plan and Annual Plan Quarterly Progress Reports are two of Council's key accountability documents to the community.



5. This year, 2020/21 represents the fourth and final year of the 4-year Council Plan 2017-21 (incorporating the Municipal Public Health and Wellbeing Plan), adopted by Council on 1 August 2017.
6. The 2020/21 Annual Plan was endorsed by Council on 4 August 2020 and is fully resourced and funded within the 2020/21 Budget
7. Progress of Annual Plan actions are monitored and reported to Council quarterly in the Annual Plan Progress Report. Quarterly progress will be measured against a target of 75% of action targets achieved.

### Discussion

8. The 2020/21 Annual Plan contains 48 actions spread across the Council Plan's seven Strategic Objectives.
9. 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.
10. The following thresholds are used to determine the status of an action:
  - (a) On track  $\geq 90\%$
  - (b) Monitor 75-89%
  - (c) Off track  $< 75\%$ .
11. Annual Plan Action progress summary as at 30 September 2020.



Strategic Objective	No. of Actions Reported	Complete	On track (>=90%)	Monitor (75-90%)	Off track (<75%)	Not Started
A healthy Yarra	19	0	14	4	1	0
An inclusive Yarra	6	0	6	0	0	0
A sustainable Yarra	5	1	4	0	0	0
A liveable Yarra	5	0	2	2	1	0
A prosperous Yarra	2	0	2	0	0	0
A connected Yarra	3	0	3	0	0	0
A leading Yarra	8	2	2	0	2	2
	48 (100%)	3 (6.25%)	33 (68.75%)	6 (12.50%)	4 (8.33%)	2 (4.17%)

12. The Annual Plan has 48 Actions, 36 Actions achieved a result of On Track or Complete (75.00%). Two actions were not scheduled to commence in the first quarter. Of the 46 actions that have commenced, 36 On Track or Complete, which is a result of 78%. (Attachment 1).
13. To ensure the integrity and transparency of the Annual Plan, once endorsed by Council, actions including their descriptions and milestones can only be changed by resolution of Council. Officers and Councillors can propose changes to the Annual Plan over the course of the year as priorities change.

### Options

14. Officers are proposing the following changes to the 2020/21 Annual Plan for Council to consider and endorse.
  - (a) Action 1.16 Panther Pavilion – clubhouse facility design and boat storage, Council received advice that Heritage Victoria have accepted the heritage nomination for the Panther Pavilion structure. They will now be making further assessment of this nomination to make a recommendation to the Heritage Council of Victoria to include it or not in the Victorian Heritage Register. This is a lengthy process and will prevent both the Boat storage from being constructed and the Panther Pavilion design from being completed in 2020/21.  
As such officers recommend the project be deferred from the 2020/21 Council Annual Plan; and
  - (b) Action 7.07 Your Say Yarra Youth forums. Milestone - Host opportunities for young people to meet with Councillors. Covid-19 has seriously disrupted school programs and student activities through school closures and remote learning.  
As such officers recommend the milestone be deferred from the 2020/21 Annual Plan.
15. If endorsed, these changes will be reflected in the December quarterly progress report.

### Community and stakeholder engagement

16. Significant community engagement and consultation was undertaken during the development of the 2020/21 Budget and Council Plan 2017-21. The Plan reflects the community priorities identified during these processes.
17. Projects contained in the 2020/21 Annual Plan are subject to external consultation and engagement on a case-by-case basis.

## Policy analysis

### Alignment to Council Plan

18. The 2020/21 Annual Plan represents Year 4 of the Council Plan 2017-21 adopted on 1 August 2017.

### Climate emergency and sustainability implications

19. 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. Action 3.01 in the 2020/21 Annual Plan specifically relates to Climate Emergency.

### Community and social implications

20. 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 2020/21 Annual Plan includes 19 actions that respond to initiatives under this Strategic Objective.

### Economic development implications

21. 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 2020/21 Annual Plan includes 2 actions that respond to initiatives under this Strategic Objective.

### Human rights and gender equity implications

22. 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 2020/21 Annual Plan includes 6 actions that respond to initiatives under this Strategic Objective.

## Operational analysis

### Financial and resource impacts

23. Actions in the 2020/21 Annual Plan were resourced within the 2020/21 Budget.

### Legal Implications

24. There are no legal implications.

## Conclusion

25. The 2020/21 Annual Plan Quarterly Progress Report - September is presented to Council for noting.
26. Officers recommend two changes to the 2020/21 Annual Plan for Council consideration.

## RECOMMENDATION

1. That:
  - (a) Council note the 2020/21 Annual Plan Progress Report for September.
  - (b) Council endorse the officer recommendations to:
    - (i) Defer Action 1.16 Panther Pavilion, and
    - (ii) Defer Milestone 'Host opportunities for young people to meet with Councillors' from Action 7.07 - Your Say Yarra Youth forums.

## Attachments

- 1 2020-21 Annual Plan Progress Report - September



## 8.8 Council Meetings Operations Policy

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<b>Reference</b>	D20/158726
<b>Author</b>	Rhys Thomas - Senior Governance Advisor
<b>Authoriser</b>	Group Manager Chief Executive's Office

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### Purpose

1. To establish an effective meeting procedure and respond to the enactment of the Local Government Act 2020 ("2020 Act") and the repeal of sections of the Local Government Act 1989 ("1989 Act") by updating and adopting the Council Meetings Operations Policy to support the implementation of the Governance Rules.

### Critical analysis

#### History and background

2. On 24 March 2020, the *Local Government Act 2020* received Royal Assent, marking the end of a reform process that has taken place over the past three years.
3. One feature of the Act is that implementation will take place progressively, with a number of milestones triggering specific provisions of the 2020 Act, while simultaneously rescinding the equivalent provisions of the 1989 Act.
4. On 1 May 2020, Stage 2 took effect, and required, among other things, the adoption of a Council's Governance Rules on or before 1 September 2020. Council adopted its Governance Rules 2020 on 18 August 2020.
5. At the time of adopting the Governance Rules, Council determined to defer consideration of the supporting Council Meetings Operations Policy.

#### Discussion

6. The draft Council Meetings Operations Policy at **Attachment One** has been developed following a review of the existing policy adopted by Council in September 2019 which set out, for the first time, the processes for public question time, public submissions, live streaming and publication of certain matters on Council's website. The specific changes proposed may be identified in the marked up version at **Attachment Two**.
7. The review initially focussed on the making of those changes necessary to ensure compliance with the Local Government Act 2020 and the City of Yarra Governance Rules 2020. Following the receipt of feedback from Councillors, a number of further changes have been suggested.
8. Firstly, at section 2.1.1, it is proposed to change the way Public Question Time operates, in a number of ways.
  - (a) Establishing a process so that after 20 minutes of questions, the remainder of questions can be taken at the end of the meeting. This decision would be made by resolution of Council and ensures that if a large number of members of the public are waiting to make a submission in relation to a specific item later on the agenda, they are not kept waiting longer than necessary;
  - (b) Providing a mechanism that if a member of the public is in attendance, but needs to leave before the opportunity to ask their question arises, they are able to leave their question in writing with Council staff and will receive a guaranteed response within 24 hours;

- (c) Establishing a time limit of three minutes to ask a question (rather than the existing five minutes). This ensures more time is available to provide a response to questions, and more questions can be answered in the time allowed. This time has been chosen as it the same time allocation provided to Councillors to ask a question without notice. Experience shows that at an average speaking pace, three minutes is sufficient to read approximately 500 words – or a full A4 typed page with 12 point font and single spaced lines; and
  - (d) Formalising the requirement include details of public questions (and public submitters) in the minutes of each meeting. This has been occurring, but has not been Council's formal policy.
9. Secondly, at section 2.3.1 and 2.3.2, it proposed to bring forward the publication of the agenda papers to ensure that more time is available to the community to read the papers before the meeting as follows:
- (a) Council meeting papers will be published six days before meetings (for Tuesday meetings, this is the previous Wednesday); and
  - (b) Planning Decisions Committee papers will be published seven days before meetings (for Wednesday meetings, this is the previous Wednesday).
10. Thirdly, at section 2.6, it proposed to make changes to provisions relating to urgent business as follows:
- (a) reflect the fact that sections 18(1)(h), 28(3) and 46(2)(d) of the 2020 Act, when read together require that items of urgent business can only be presented for inclusion on the agenda by the CEO after consulting with the Mayor;
  - (b) removal of the requirement to provide written notice by 5.00pm, to enable greater flexibility and in recognition of the legislative requirement that the Mayor be consulted in any case; and
  - (c) removal of the requirement that only motions requiring an urgent resolution may be determined (which had been in place in recognition of the fact that Councillors had previously been able to present items for consideration as items of urgent business without seeking officer advice).
11. Fourthly, at section 2.7, it proposed to include provisions relating the matters that may be considered as items of general business, in recognition that the previous restrictions were not carried over to the Governance Rules. It proposed that the provisions be expanded, and provide that in addition to calling for officer reports (the previous limitation), general business may also be used to:
- (a) advance issues raised by Council's Advisory Committees;
  - (b) further advocacy regarding established Council policy; and
  - (c) consider matters that are symbolic or ceremonial in nature,
- subject to limitations to ensure that Council finds are not committed, policy is not determined, motions outside of Council's powers and motions contrary to Council's interests are not made in the absence of officer advice.
12. Finally, there are a number of administrative policy changes proposed including:
- (a) At section 2.13, clarity that it is formal parties to applications (applicants and submitters) that have a right to address the committee;
  - (b) the removal of section 2.1.4, which provided for the receipt of 'formal submissions', in recognition of the now limited application of section 223 of the Local Government Act 1989 and the establishment of Council's Community Engagement Policy;

- (c) at section 2.2, incorporating processes for the receipt of petitions in the policy, rather than a standalone procedure, clarity around the acceptance of electronic petitions and a requirement that information about the petition process be published on Council's website;
- (d) at 2.3.1, removal of the requirement to print hard copies of some Council reports, as experience has shown that they are rarely picked up and relied upon by attendees at meetings and are typically disposed of immediately following each meeting;
- (e) the removal of the former section 2.7, which provided for the conclusion of meetings at 11.00pm which is now included in the Governance Rules;
- (f) changing references to the former Internal Development Approvals Committee to the Planning Decisions Committee throughout the policy;
- (g) removing references to "Special Meetings" (which are a type of meeting that no longer exists in the 2020 Act); and
- (h) updating references to the 1989 Act to the equivalent provisions in the 2020 Act throughout the policy.

### Options

- 13. In addition to the officer's recommendation, Council has a number of options available, including altering the draft policy or further deferring the matter.
- 14. To alter the draft policy, the appropriate form of words would be to resolve:
  - 1. *That Council adopt the Council Meetings Operations Policy at Attachment One, subject to the following changes:*
    - (a) ...
    - (b) ...
- 15. Deferral of the proposed policy adoption would be achieved by resolving:
  - 1. *That Council defer consideration of the Council Meetings Operations Policy to enable further Councillor feedback to be considered.*

### Community and stakeholder engagement

- 16. Following Council's endorsement of the proposed Governance Rules on 21 July 2020, they were placed on exhibition via the YourSayYarra page from 22 July to 9 August 2020, together with a copy of the draft Council Meetings Operations Policy. During the exhibition period, the community were alerted to the opportunity to provide feedback via Council's website, the YourSayYarra portal and Council's social media channels.
- 17. During the period of public exhibition, there were 226 visits to the YourSayYarra page. No submissions were received when the page closed on Monday 10 August 2020.
- 18. Further refinements to the draft policy since Council's deferral of the matter in August 2020 have not been subject to community consultation. These primarily relate to changes to the process for Public Question Time.

### Policy analysis

#### Alignment to Council Plan

- 19. As part of Objective 7: A leading Yarra, the City of Yarra Council Plan 2017-2021 contains the strategy "*Maintain a culture of transparency, governance, ethical practice and management of risks that instils a high level of community respect and confidence in Council decision-making*". The review of the Council Meetings Operations Policy has given effect to this strategy by seeking to enliven the governance principles (and in particular the public transparency principles) set out in the 2020 Act.

### Climate emergency and sustainability implications

20. The provisions of the existing policy relating to the provision of Council meeting papers electronically, rather than in hard copy, has been carried over into the attached draft. This has resulted in a significant reduction in paper waste over previous years (where hard copies were made available to the public gallery). The provision enabling hard copies to be provided to persons on request (who for whatever reason are unable to access the electronic version) has also been retained.
21. There are no other climate emergency or sustainability implications arising from this report.

### Community and social implications

22. Council is committed to meaningful engagement with the community in decision-making, and in adopting the Governance Rules 2020 enshrined the right of members of the community to make submissions at Council meetings for the first time. This significant step in community involvement is underpinned by the proposed policy, which sets out the rights and responsibilities of all community members seeking to participate in Council meetings.
23. There are no other community or social implications arising from this report.

### Economic development implications

24. There are no economic development implications arising from this report.

### Human rights and gender equity implications

25. The Governance Rules 2020 contain a specific provision at Chapter 1, Clause 6 which encapsulates the principles of procedural fairness in decision-making. This provision has been the basis for the development of the Council meetings Operations Policy.
26. In the development of the Council Meetings Operations Policy, care has been taken to ensure the rights of persons (including Councillors) to participate in civic life are not infringed. Particular care has been taken in those areas where some limitations are proposed, vis:
  - (a) Public Question Time:
    - (i) Limitation on the number of questions that may be asked;
    - (ii) Limitations on time available to ask a question;
    - (iii) Prohibition on making statements or engaging in debate; and
    - (iv) Restrictions of what matters may be raised;
  - (b) Public Submissions (Council and Planning Decisions Committee):
    - (i) Limitations on time available to speak;
    - (ii) Restrictions of what matters may be raised; and
    - (iii) Prohibition on asking questions or seeking comments.
27. In all cases, these limitations have been assessed as necessary and proportionate and on this basis it has been determined that the proposed Council Meetings Operations Policy Rules does not unreasonably interfere with a person's human rights.
28. No gender equality implications have been identified in the development of this policy.

## Operational analysis

### Financial and resource impacts

29. There are no financial or resource impacts arising from the consideration of the Council Meetings Operations Policy.

### Legal Implications

30. With the changes from the 1989 Act to the 2020 Act, it is necessary for Council to comply with a number of new legislative requirements.

31. The adoption of the Council Meetings Operations Policy brings Council up to date with its legislative obligations.

### Conclusion

32. No further changes are recommended, and the policy is now presented for adoption.
33. It is recommended that Council adopt the Council Meetings Operations Policy presented as **Attachment One** to this report.

### RECOMMENDATION

1. That Council adopt the Council Meetings Operations Policy at **Attachment One**.

### Attachments

- 1 Draft Council Meetings Operations Policy
- 2 Draft Council Meetings Operations Policy (marked up changes)

## 8.9 Council Meeting Schedule 2021

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<b>Reference</b>	D20/166003
<b>Author</b>	Rhys Thomas - Senior Governance Advisor
<b>Authoriser</b>	Group Manager Chief Executive's Office

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### Purpose

1. To formally adopt the meeting schedule for the 2021 calendar year.

### Critical analysis

#### History and background

2. In 2020 and for many years prior, Council Meetings and meetings of the Planning Decisions Committee (and the former Internal Development Approvals Committee) have been held fortnightly, with Council meetings on Tuesday evenings and planning committee meetings on Wednesday evenings.
3. Due to the declaration of the State of Emergency in Victoria during 2020 and limitations on public gatherings, meetings were held virtually from May 2020. Prior to this change, it had been determined to hold Council meetings at both Richmond and Fitzroy Town Halls and meetings of the Planning Decisions Committee at Richmond Town Hall. The move from Richmond to Fitzroy was aligned with the Ceremonial Meeting at the end of November, and the move from Fitzroy to Richmond occurred at the end of April.

#### Discussion

4. This report proposes that the meeting cycle generally follow the same pattern as has been used in recent years with:
  - (a) Council Meetings on Tuesday evenings approximately every two weeks from the start of February; and
  - (b) Planning Decisions Committee Meetings on Wednesday evenings approximately every two weeks from mid-January.with the exception of some weeks in proximity to public holidays, where gaps in the schedule will enable Councillors to balance their Council workload with their other commitments.
5. This report proposes that meeting times continue to be scheduled in the evenings, with:
  - (a) Council Meetings to commence at 7.00 pm (for public sessions, with an earlier 6.30pm start where confidential items are to be considered); and
  - (b) Planning Decisions Committee Meetings to commence at 6.30pm.
6. In order to ensure that meetings can be open to the public as soon as it is safe to do so, it is expected that a staged return to physical meetings will be required. It is envisaged that at least the following different formats will be required, depending on the advice from the Chief Health Officer:
  - (a) Fully virtual meetings, with Councillors and registered members of the public participating online, with the meeting live streamed to Council's website;
  - (b) Physical meetings that, apart from registered submitters, are closed to the public. Councillors and registered members of the public asking questions or making submissions would be present in person (while a specific matter is being considered), but no members of the public gallery would be present. The meeting would be live streamed to Council's website; and

- (c) Physical meetings that are open to the public, with a COVID Safe plan in place. Councillors and registered members of the public making submissions would be present in person, as well as members of the public gallery, subject to capacity limitations. The meeting would be live streamed to Council's website.
7. This report proposes that the formal decision regarding:
- (a) the location of meetings;
  - (b) the format of meetings; and
  - (c) whether a meeting should be closed to the public under section 66(2)(b) or 66(2)(c) of the Local Government Act 2020 for security reasons or to enable it to proceed in an orderly manner shall be made by the Chief Executive Officer under delegation after consulting with Councillors. This delegation is required in order to retain flexibility to respond to the ongoing State of Emergency in Victoria.
8. Additional Council Meetings may also be called during 2021 as the need arises, with notice provided in accordance with the Governance Rules 2020.

#### Options

9. Council has the option of altering the proposed meeting arrangements by alternate resolution, or by a resolution at a subsequent meeting throughout the year.

### Community and stakeholder engagement

10. No community engagement has been undertaken in the development of this report.

#### Policy analysis

##### Alignment to Council Plan

11. The City of Yarra Council Plan 2017-2021 commits Council to *“Enable greater transparency and access to the conduct of Council Meetings”*.
12. The establishment of a regular program of Council and Committee meetings underpins this strategy and enables members of the public to attend and participate in the meetings in accordance with Council's meeting procedures.

##### Climate emergency and sustainability implications

13. No climate emergency implications are presented in this report.

##### Community and social implications

14. No community or social implications are presented in this report.

##### Economic development implications

15. No economic development implications are presented in this report.

##### Human rights and gender equity implications

16. No human rights or gender equity implications are presented in this report.

### Operational analysis

##### Financial and resource impacts

17. Council's Budget 2020-2021 contains a necessary provision for the conduct of the Council and committee meeting program as set out in this report. Altering the meeting frequency or schedule will not have a material impact on Council's budget.

##### Legal Implications

18. Chapter 2, Clause 6 of the City of Yarra Governance Rules 2020 provides that Council must fix the date, time and place of all Council meetings. Further, the rules provide that Council must provide reasonable notice of each meeting to the public by publishing the meeting details on its website.

## Conclusion

19. It is recommended that Council generally continue the existing practice of fortnightly meetings for both Council and the Planning Decisions Committee throughout 2021.

## RECOMMENDATION

1. That Council adopt the following Meeting Schedule for 2021:
  - (a) Ordinary Council Meetings to commence at 7.00pm for public sessions, and 6.30pm for closed sessions where required on 2 February, 16 February, 2 March, 16 March, 30 March, 20 April, 4 May, 18 May, 1 June, 22 June, 20 July, 3 August, 17 August, 7 September, 5 October, 19 October, 9 November, 23 November, 7 December and 21 December 2021; and
  - (b) Planning Decisions Committee meetings to commence at 6.30pm on 20 January, 10 February, 24 February, 10 March, 24 March, 28 April, 12 May, 26 May, 9 June, 14 July, 28 July, 11 August, 25 August, 15 September, 13 October, 27 October, 17 November, 1 December and 15 December 2021.
2. That Council authorise the Chief Executive Officer to determine or alter the location of Council Meetings and meetings of the Planning Decisions Committee under Chapter 2, Clause 6 of the City of Yarra Governance Rules 2020, subject to necessary public notification.

## Attachments

There are no attachments for this report.



## 8.10 Appointment of Councillors to the Metropolitan Local Government Waste Forum

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<b>Reference</b>	D20/166127
<b>Author</b>	Rhys Thomas - Senior Governance Advisor
<b>Authoriser</b>	Group Manager Chief Executive's Office

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### Purpose

1. To recommend that Council appoints a representative and a proxy representative to the Metropolitan Local Government Waste Forum for the 2021 calendar year.

### Critical analysis

#### History and background

2. The Metropolitan Waste and Resource Recovery Group (MWRRG) is a Victorian Government statutory body responsible for coordinating and facilitating the delivery of waste management and resource recovery across metropolitan Melbourne.
3. MWRRG was established on 1 August 2014 by s49C (1) of the Environment Protection Act 1970 (EP Act), and succeeds the Metropolitan Waste Management Group.
4. The objectives of MWRRG are specified in Section 49G of the EP Act, and section 49H provides for the functions of MWRRG. MWRRG work with Melbourne's 31 metropolitan councils to:
  - (a) plan for waste management and resource recovery facilities and services across metropolitan Melbourne;
  - (b) facilitate joint procurement of facilities and services to provide better economic, environmental and waste management outcomes for councils; and
  - (c) help build the capacity and knowledge of councils and their communities of world best practice waste minimisation and the opportunities and options available for improved services and infrastructure.
5. The Metropolitan Local Government Waste Forum (Forum) has been set up to support the effective operation of the MWRRG. The Forum consists of a councillor (voting member) and a council officer (as an advisory, non-voting member) from each of the 31 council areas that make up the MWRRG region. City of Yarra have been an active member of the forum since inception in 2014.
6. Under the Act, the functions of the Forum are to:
  - (a) Share knowledge and develop local governments' capacity to deliver effective, efficient and sustainable resource recovery and municipal waste planning and management across the MWRRG region;
  - (b) engage with industry, government and community stakeholders to improve municipal waste management, resource recovery and planning;
  - (c) advise and assist the MWRRG Board of Directors on matters and issues affecting the role of councils in waste management and resource recovery;
  - (d) act as a conduit for consultation between the MWRRG and the councils in the region;
  - (e) nominate the four people who are to be the council representatives on the Metropolitan Waste and Resource Recovery Group (MWRRG) Board of Directors; and
  - (f) nominate a council representative to the MWRRG Board of Directors should there be a vacancy.

7. The Chair convenes Forum meetings and sets the agenda in consultation with the Strategies and Policy Advisory Group.
8. Elections for the Forum Chair and Deputy Chair are held at the first Forum meeting (usually February) each year. A detailed Election Pack that includes procedural details and nomination forms is distributed to all members prior to the meeting. All current councillor representatives of the Forum are eligible to nominate for either role.
9. For 2020 Cr Lina Messina (Darebin) is Chair and Cr Dot Haynes (Manningham) is Deputy Chair. MWRRG staff provide the secretariat for the Forum.
10. There are four councillors elected by the Forum to represent the 31 councils on the MWRRG Board. These councillors are nominated to the Minister for Energy, Environment and Climate Change for appointment to the Board. After consideration the Minister makes a recommendation to the Governor in Council on the representatives to be appointed as Directors on the Board.
11. The Forum has two Working Groups which support the board and MWRRG. The Strategies and Policy Advocacy Group (SPAG) and the Technical Advisory Reference Group (TARG) are the Forum's two working groups. Members of TARG are waste officers while members of SPAG are councillors who are representatives on the Forum. Both groups assist the Forum Chair set the agendas for meetings. MWRRG provides the secretariat for the Forum and its working groups.
12. The Strategies and Policy Advocacy Group (SPAG) assists the Forum to consider policies and strategies affecting the role of councils in waste management and resource recovery and to formulate a coordinated position on issues that are communicated to the MWRRG Board and other relevant stakeholders. It also acts as a conduit between MWRRG and the 31 member councils of the Forum.
13. The Technical Advisory Reference Group (TARG) investigates and makes recommendations to the Forum about the delivery of member council waste management services, including expert technical advice. City of Yarra's, Senior Waste Minimisation Advisor, is the chair of TARG.
14. A schedule of all 2021 Forum meetings will be provided to delegates once the nomination forms have the first Forum meeting next year is likely to be an online meeting via Zoom scheduled for Thursday 11 February 2021.

#### Discussion

15. At the Council Meeting on 16 November 2020, Council deferred appointment of a representative to the Metropolitan Local Government Waste Forum. In order to participate in the activities of the group in 2021, and appointment is now required.

#### Options

16. Regardless of whether or not it appoints a representative, Council is, but virtue of the Act, a member of the Metropolitan Local Government Waste Forum. While Council is not legislatively required to appoint a representative to the Forum, a decision not to do so would be most unusual, and would signal Council's intention to withdraw from all activities of the Forum. Should Council determine to consider this course of action, it is recommended that this decision be deferred so that the implications of withdrawal could be more fully explored in further advice.
17. Council does have the option of determining not to appoint a proxy representative. This would be achieved by omitting clause 1(b) of the recommendation.

#### Community and stakeholder engagement

18. This report has been prepared based on information provided by the MWRRG and Council officer experience.

## Policy analysis

### Alignment to Council Plan

19. Participating in the Forum aligns with the delivery of the Yarra's Waste Minimisation and Resource Recovery Strategy.
20. The Forum is a one of the ways in which the Climate Emergency Plan Action 5.5 – “*Advocate to state and federal government on waste and recycling issues*” - can be delivered.

### Climate emergency and sustainability implications

21. Councillor representatives can use the Forum to advocate for a more sustainable, collaborative approach to waste management that is consistent with Council's declaration of a climate emergency.

### Community and social implications

22. There are no community or social implications arising from this report.

### Economic development implications

23. There are no economic development implications arising from this report.

### Human rights and gender equality implications

24. There are no human rights or gender equality implications arising from this report.

## Operational analysis

### Financial and resource impacts

25. There are no financial or resource impacts arising from this report.

### Legal Implications

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

## Conclusion

27. Waste management is one of the largest responsibility and cost to Local Government. To represent Yarra at this Forum means access to all of the above benefits and ability to influence and advocate for a more sustainable, collaborative approach to the waste sector.

## RECOMMENDATION

1. That Council appoint the following representatives to the Metropolitan Local Government Waste Forum for the 2021 calendar year:
  - (a) Cr \_\_\_\_\_ (representative); and
  - (b) Cr \_\_\_\_\_ (proxy).

## Attachments

There are no attachments for this report.

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## 9.1 Notice of Motion No. 21 of 2020 - Grey Headed Flying Foxes

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<b>Reference</b>	D20/166632
<b>Author</b>	Mel Nikou - Administration Officer - Governance Support
<b>Authoriser</b>	Group Manager Chief Executive's Office

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I, Councillor Bridgid O'Brien, hereby give notice that it is my intention to move the following motion at the Ordinary Meeting of Council to be held on 15 December 2020:

*That Council:*

- (a) *Requests a brief report on strategies to mitigate the impact of any extreme heat events in the coming months to the Yarra Bend Grey headed flying fox colony, such report to further outline:*
  - (i) *what action the City of Yarra could take to prevent the large number of fatalities seen last December (2019); and*
  - (ii) *any associated costs;*
- (b) *Request the Report include the-specific proposed planting program of appropriate species in streets, reserves and parks that will provide Winter/Spring foraging opportunities for the Yarra Bend Grey Headed Flying Fox colony;*
- (c) *Conduct an audit of triple strand barbed wire on Council property, and:*
  - (i) *remove it;*
  - (ii) *where it cannot be removed treating the barbed wire with anti-strike devices (either yellow tape or pegs) to prevent injury to wildlife; and*
  - (iii) *informing Council of the actions associated with this audit; and*
- (d) *Requests an immediate community awareness campaign about the importance of wildlife safe fruit tree netting as per the attached document prepared in conjunction with wildlife rescue organisations.*

### **Background:**

The City of Yarra is home to Melbourne's largest Grey Headed Flying Fox colony at the Yarra Bend Park.

The Grey-headed flying fox is an endangered species, listed as:

- **Threatened** under Victoria's *Flora & Fauna Guarantee Act 1988*;
- a **Critical Priority** under the Federal Department of Environment and Heritage Protection's "*Back on Track*" *Species Prioritisation Framework*,
- **Vulnerable (to extinction)** under the *Environment Protection and Biodiversity Conservation Act 1999*; and
- **Vulnerable** under the Action Plan for Australian Mammals (2012).

The Grey headed flying fox is a nomadic species and although little research has been conducted on their migratory strategies between colonies, the Yarra Bend colony can swell to over 40,000 individuals in summer from less than 4,000 in winter. Other significant colonies in Victoria include Colac, Doveton, Geelong, Bendigo, Warrnambool, Bairnsdale and Mallacoota.

The Grey headed flying fox plays an important ecological role as a primary long distance pollinator of native plant species, travelling greater distances than birds or bees. A single flying fox can disperse 60,000 seeds in one night. The Grey headed flying fox is playing an important role in regenerating our native forests after the devastation of the bushfires last summer.

Sadly, Parks Victoria estimated the Yarra Bend Park colony saw an unprecedented 4,000 flying foxes perish in December 2019 due to heat events. Over 250 orphaned pups were taken in for care. Conservative estimates suggested we lost fifty percent of juvenile and infant pups across the range and approximately 15 – 20 % of the entire species due to heat events and starvation, in the latter part of 2019 alone.

Aside from extreme heat events other pressures on Yarra's Grey headed flying fox colony are the loss of individuals through fruit tree netting and barbed wire entanglements.

The changes to the Prevention of Cruelty to Animals Act Regulations 2019 will make wildlife unsafe fruit tree netting illegal. In Melbourne alone, between 350 and 500 flying foxes are rescued from netting every year (with unknown unreported deaths) along with other native species. When a Grey headed flying fox is rescued from netting, they require 21 days of care to ensure they have no wing die off. They will often be a mum foraging for fruit to produce milk for a pup who cannot survive more than two days alone. Further to this, if a Grey headed flying fox is able to successfully reproduce, they will only produce a single pup in any given year. Hence the impact of unsafe netting is far greater than it initially appears. Unfortunately, unsafe fruit tree netting laws will not come into effect until September 2021.

Further Triple strand barbed wire on high fencing is the second biggest killer of flying foxes in urban Australia next to fruit tree netting. Barbed wire also kills many native night birds such as owls and tawny frogmouths.

The State's only soft release facility for injured or orphaned flying foxes is located within the Yarra Bend Grey headed flying fox colony. As such, all flying fox rescues involving pups in Victoria come through Yarra.

### **Help Protect Yarra's Wildlife - Don't use wildlife unsafe fruit tree netting.**

The devastating bushfires of last summer killed millions of native animals and wiped out numerous entire species. Help preserve Australia's unique and precious native wildlife for future generations, by doing your bit in Yarra.

The Victorian State Government has moved to ban fruit tree netting that can kill or harm wildlife, under the Prevention of Cruelty to Animals Act. Wildlife unsafe fruit tree netting will become illegal in September 2021. Thousands of native birds and animals are injured or killed in fruit tree nets each year.

Rather than netting a whole tree, use net bags or fruit socks to protect bunches of fruit or individual branches. Leave what you don't need to share with wildlife. Remove old netting that is not protecting fruit and check netted trees every day to ensure the nets are not loose and that no animals are trapped.

### **Quick tips:**

- Mesh aperture (hole size) greater than 5mm X 5mm when fully stretched is UNSAFE. If you can poke your little finger through the net it can trap and injure wildlife.
- Netting with individual strand diameter of 500 microns or more (0.5mm) is UNSAFE.
- Wildlife can NOT easily see black, dark green or grey netting, use bright or white coloured netting.
- Dispose of old netting responsibly.

If you see someone using netting that is not safe for wildlife, you can print off the letter from [Wildlife Victoria](#) and put it in your neighbour's letterbox.

[www.wildlifevictoria.org.au/images/fact-sheets/Safe\\_nets\\_letter\\_to\\_residents.pdf](http://www.wildlifevictoria.org.au/images/fact-sheets/Safe_nets_letter_to_residents.pdf)

If you see any wildlife trapped in netting, CALL Wildlife Victoria on 8400 7300 for rescue, or report it on the website: [www.wildlifevictoria.org.au/wildlife-information/report-a-wildlife-emergency](http://www.wildlifevictoria.org.au/wildlife-information/report-a-wildlife-emergency)

### **Yarra's Grey headed flying fox colony**

The City of Yarra is home to Melbourne's largest Grey headed flying fox colony at Yarra Bend Park. The colony can swell to over 40,000 individuals in summer from less than 4,000 in winter. The Grey headed flying fox is a primary long-distance pollinator of native plant species, travelling far greater distances than birds and bees. A single flying fox can disperse 60,000 seeds in one night. So, our Grey headed flying foxes will play an important ecological role in regenerating native forests across Victoria, after the devastation of the bushfires.

See: [www.yarracity.vic.gov.au/news/2019/08/26/grey-headed-flying-foxes?fbclid=IwAR3an6hTG-y8sDmNcjCrRuEvyMV5QA2TKEijz-GIFeqNz-iDHLERVVdWaE](http://www.yarracity.vic.gov.au/news/2019/08/26/grey-headed-flying-foxes?fbclid=IwAR3an6hTG-y8sDmNcjCrRuEvyMV5QA2TKEijz-GIFeqNz-iDHLERVVdWaE)

In Melbourne alone, between 350 and 500 Grey headed flying foxes are rescued from netting every year. Many of these do not survive and many more are found already dead. When a Grey headed flying fox is rescued from netting, it requires 21 days of care to ensure they have no wing die off. If a female is caught in a net, she may be foraging for fruit to produce milk for a pup. The pups cannot survive more than two days alone and Grey headed flying foxes only produce a single pup in any given year.

This species is already threatened, so help protect them and other native animals - **DON'T** use wildlife unsafe netting on fruit trees - even before the new laws come into place.



Female Grey headed flying fox rescued from wildlife unsafe fruit tree netting.

Note: photo of our bats in December 2019 just published in National Geographic. Via following link.

[https://www.nationalgeographic.com/animals/2020/12/these-are-our-best-animal-photos-of-2020/?cmpid=org=ngp::mc=crm-email::src=ngp::cmp=editorial::add=Animals\\_20201203&rid=4879D6269B29D159C4D3A7D6453C815F#/australia-flying-foxes-heat-13.jpg](https://www.nationalgeographic.com/animals/2020/12/these-are-our-best-animal-photos-of-2020/?cmpid=org=ngp::mc=crm-email::src=ngp::cmp=editorial::add=Animals_20201203&rid=4879D6269B29D159C4D3A7D6453C815F#/australia-flying-foxes-heat-13.jpg)

## RECOMMENDATION

1. That Council:
  - (a) Requests a brief report on strategies to mitigate the impact of any extreme heat events in the coming months to the Yarra Bend Grey headed flying fox colony, such report to further outline:
    - (i) what action the City of Yarra could take to prevent the large number of fatalities seen last December (2019); and
    - (ii) any associated costs;
  - (b) Request the Report include the-specific proposed planting program of appropriate species in streets, reserves and parks that will provide Winter/Spring foraging opportunities for the Yarra Bend Grey Headed Flying Fox colony;
  - (c) Conduct an audit of triple strand barbed wire on Council property, and:
    - (i) remove it;
    - (ii) where it cannot be removed treating the barbed wire with anti-strike devices (either yellow tape or pegs) to prevent injury to wildlife; and
    - (iii) informing Council of the actions associated with this audit; and
  - (d) Requests an immediate community awareness campaign about the importance of wildlife safe fruit tree netting as per the attached document prepared in conjunction with wildlife rescue organisations.

## Attachments

There are no attachments for this report.