



# Agenda

## Council Meeting

7.00pm, Tuesday 2 March 2021

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; and
- a forum for initially raising operational matters, which should be directed to the administration in the first instance.

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

When you are invited by the 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. **Acknowledgement of Country**
2. **Attendance, apologies and requests for leave of absence**
3. **Announcements**
4. **Declarations of conflict of interest**
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 Council Meeting held on Tuesday 16 February 2021 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	Planning Scheme Amendments – a possible alternate approach	8	20	Fiona van der Hoeven - Assistant Manager City Strategy
8.2	ESD Roadmap Submission to DELWP	21	29	Bruce Phillips – Director Planning and Place Making
8.3	Outdoor Dining Program	30	43	Bruce Phillips – Director Planning and Place Making
8.4	Rating Hardship Report	46	50	Wei Chen – Chief Financial Officer
8.5	Request to Remove Significant Tree	51	52	Ivan Gilbert - Group Manager Chief Executive's Office

## 9. Notices of motion

Item		Page	Rec. Page	Report Presenter
9.1	Notice of Motion No. 3 of 2021 - Resumption of Weekly Kerbside Recycling Collections	53	53	Stephen Jolly - 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.

---

## 8.1 Planning Scheme Amendments – a possible alternate approach

---

### Executive Summary

#### Purpose

The purpose of this report is to outline a possible different approach available to Council in seeking further planning scheme provisions in a more timely approach.

#### Key Issues

Council and the Yarra's community places great importance on planning controls to better manage development pressures and change and provide as much certainty as possible for future development outcomes.

To address these issues, Council has been undertaking a program of preparing built form frameworks for its activity centres to enable the introduction of the *interim* and *permanent* **Design and Development Overlays** (DDO's) in the Yarra Planning Scheme (YPS).

A great deal of preliminary work has gone into this process to yield these outcomes. While this program is achieving successful outcomes it has been a slow and resource intensive process.

The Yarra Planning Scheme now has four interim DDOs which are due to expire this year. As such Council now needs to urgently progress amendments that translate the interim DDOs into permanent provisions before they expire. That requires a process, and via the normal route, takes considerable time.

The Minister for Planning has extended an invitation to Council to appoint an Advisory Committee to help speed up the process to introduce planning provisions into the Yarra Planning Scheme for precincts under development pressure. These precincts may relate to those subject to existing interims or other precincts.

#### Financial Implications

The invitation could afford Council the opportunity to reduce its costs as the process is streamlined (noting that often the Panel hearings are very long and hence very costly). It does, however, place greater demand on Council in terms of resources and timing in the short term (1-2 years) as officers, experts and legal Counsel manage the extensive work relating to multiple amendments.

#### PROPOSAL

That Council resolve to either:

1. request the Minister to appoint an Advisory Committee; or
2. continue to pursue amendments through the standard procedure (Planning Panels) as set out in Part 3 of the Planning and Environment Act 1987 (the Act).



---

## 8.1 Planning Scheme Amendments – a possible alternate approach

---

<b>Reference</b>	D21/15469
<b>Author</b>	Fiona van der Hoeven - Assistant Manager City Strategy
<b>Authoriser</b>	Director Planning and Place Making

---

### Purpose

1. In recent correspondence dated 29 September 2020 (**Attachment 1**) the Minister for Planning (Minister) has expressed a willingness to consider appointing an Advisory Committee to help speed up the council's ability to introduce new planning scheme provisions in order to best manage development pressures.
2. The purpose of this report is to provide a background to the work that has been undertaken to date by Council (principally within the Yarra Activity Centres), and to also outline a possible different approach potentially available to Council in seeking planning scheme provisions, following the letter from the Minister.

### Critical analysis

#### History and background

3. Council and the community place great importance on planning controls to manage change and provide some increased certainty about future development outcomes. This is considered beneficial for all parties.
4. Yarra has been successfully introducing *interim* and *permanent* built form provisions (Design and Development Overlays – DDOs) into the Yarra Planning Scheme for the Activity Centres over the past few years. A great deal of preliminary work has gone into this process to yield these outcomes.
5. The *interim* DDO provisions are applied without community consultation usually via a request for a Ministerial Amendment (under Section 20(4) of the *Planning and Environment Act 1997*) in order to provide some improved mechanisms in the planning scheme to best manage the ongoing development pressure.
6. These *interim* provisions (once approved by the Minister) form a holding position while the *permanent* provisions go through a full amendment process, including public exhibition and the ability to make submissions to an independent Planning Panel.
7. Interim provisions are usually applied for a set period of time – usually two years. Council can apply for an extension of the *interim* planning scheme provisions, but must be able to demonstrate that it has made progress on introducing permanent provisions. It is ultimately the Minister for Planning who can provide approval for Interim DDO's, and any extensions to the Interim DDO's.
8. Yarra has been successful in achieving some *mandatory* controls in its DDOs, providing for improved certainty to the community, landowners and developers. *Mandatory* maximum heights, and mandatory minimum setbacks, have been successfully applied in particular locations:
  - (a) where strategically justified;
  - (b) where there is highly intact heritage;
  - (c) that protect the amenity of adjoining low scale residential; and
  - (d) that protect southern footpaths from overshadowing.

9. The DDOs are underpinned by built form frameworks that are informed by urban design; heritage, traffic and planning expertise. This work includes rigorous built form testing through 3D modelling, which is necessary for detailed built form provisions in a DDO.
10. The Yarra Planning Scheme now has four interim DDOs which are due to expire this year (refer to Table 1).

**Table 1: Existing Interim DDOs**

Location (Activity Centre)	Interim DDO	Expiry date
Victoria Street	21	30 June 2021
Bridge Road	22	30 June 2021
Collingwood South (part of Fitzroy/Collingwood)	23	30 June 2021
Swan Street	17	15 October 2021 (This DDO is currently the subject of Amendment C191 which seeks to apply permanent provisions to the centre. It is currently with the Minister for approval and gazettal)

11. In addition, Council has been working on proposed new built form provisions for the Fitzroy / Collingwood and Heidelberg Road Activity Centres (refer to Table 2). See other report on this Agenda). Should the Minister decide to approve Council's request for the following *interim* DDOs (refer to Table 2), they too would have an expiry date.

**Table 2: Proposed Interim Controls**

Location (Activity Centre)	Interim DDO
Fitzroy / Collingwood (stage 1) Johnston, Brunswick, Smith, Gertrude Streets	29, 30, 31, 32, 33, 34, 35, 36, 37 (with the Minister for approval)
Heidelberg Road	18 (with the Minister for approval)
Fitzroy / Collingwood (stage 2), Mixed use pocket, Alexandra and Victoria Parades	3 x DDOs to be considered by Council at the 16 February Council meeting.

12. Yarra now needs to urgently progress substantive planning scheme amendments that translate the *interim* DDOs into permanent provisions before they expire. That requires a process, and via the normal route, takes considerable time.
13. In correspondence (**Attachment 1**) dated 29 September 2020, the Minister for Planning (responding to a Council request to extend the Bridge Road and Victoria St Interim DDO's) has expressed a willingness to consider appointing an Advisory Committee to help speed up the process to achieve the outcomes in a more timely manner.
14. The Minister further noted in that correspondence:

*"Given the length of time that interim controls will have been in place for these areas, I am unlikely to readily approve any further request to extend these controls without*

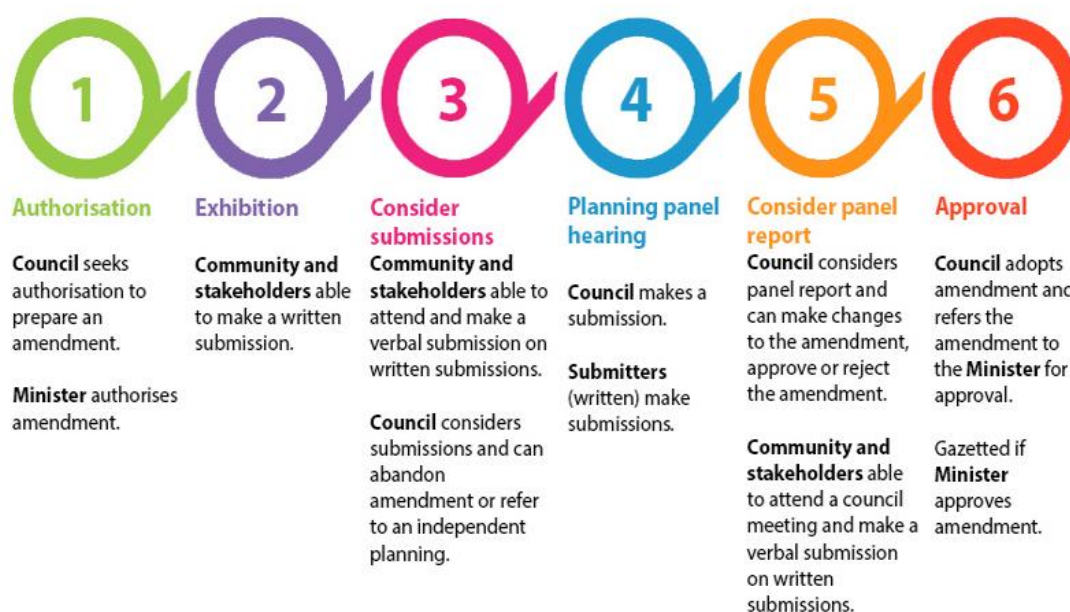
*permanent controls being prepared or the Council seeking an advisory committee process”.*

## Discussion

### Planning Scheme Amendment Process

15. The usual procedure for a planning scheme amendment is set out in Part 3 of the Act and provides for councils as the *Planning Authority* to:
  - (a) prepare amendments;
  - (b) determine the extent and timing of public notification (subject to minimum requirements set by the Act);
  - (c) receive and consider submissions in response to public notification;
  - (d) determine whether to change an amendment, or refer it to an independent Planning Panel via (*Planning Panels Victoria*) with a ‘proposed panel version’ of the amendment with recommended changes in response to submissions;
  - (e) participate in a public hearing conducted by an independent Planning Panel; and
  - (f) receive and consider a Planning Panel Report which is published; and adopt an amendment with, or without changes, before submitting it to the Minister for approval.
16. Figure 1 below sets out the steps in the amendment process.

**Figure 1 Amendment Process**



17. While there is a statutory process in the Act which must be followed, Council has a high level of control and influence over both the content and the process for considering a planning scheme amendment before it is submitted to the Minister seeking formal approval. For example, Council is able to determine:
  - (a) the extent and timing of the consultation period;
  - (b) the time and forums (Council meetings, community meetings) that the community can address Council on submissions;
  - (c) any refinements to the proposed provisions in response to submissions received and advocate that position at Panel; and
  - (d) the final form of the amendment after considering the recommendations of a Planning Panel.

18. The three recent amendments for Yarra's Activity Centres, however, demonstrate that the usual amendment procedure is very long and time and resource intensive, requiring the efforts of at least one to two staff for 2 to 4 years (refer to Table 2).

**Table 2: Recent Amendments**

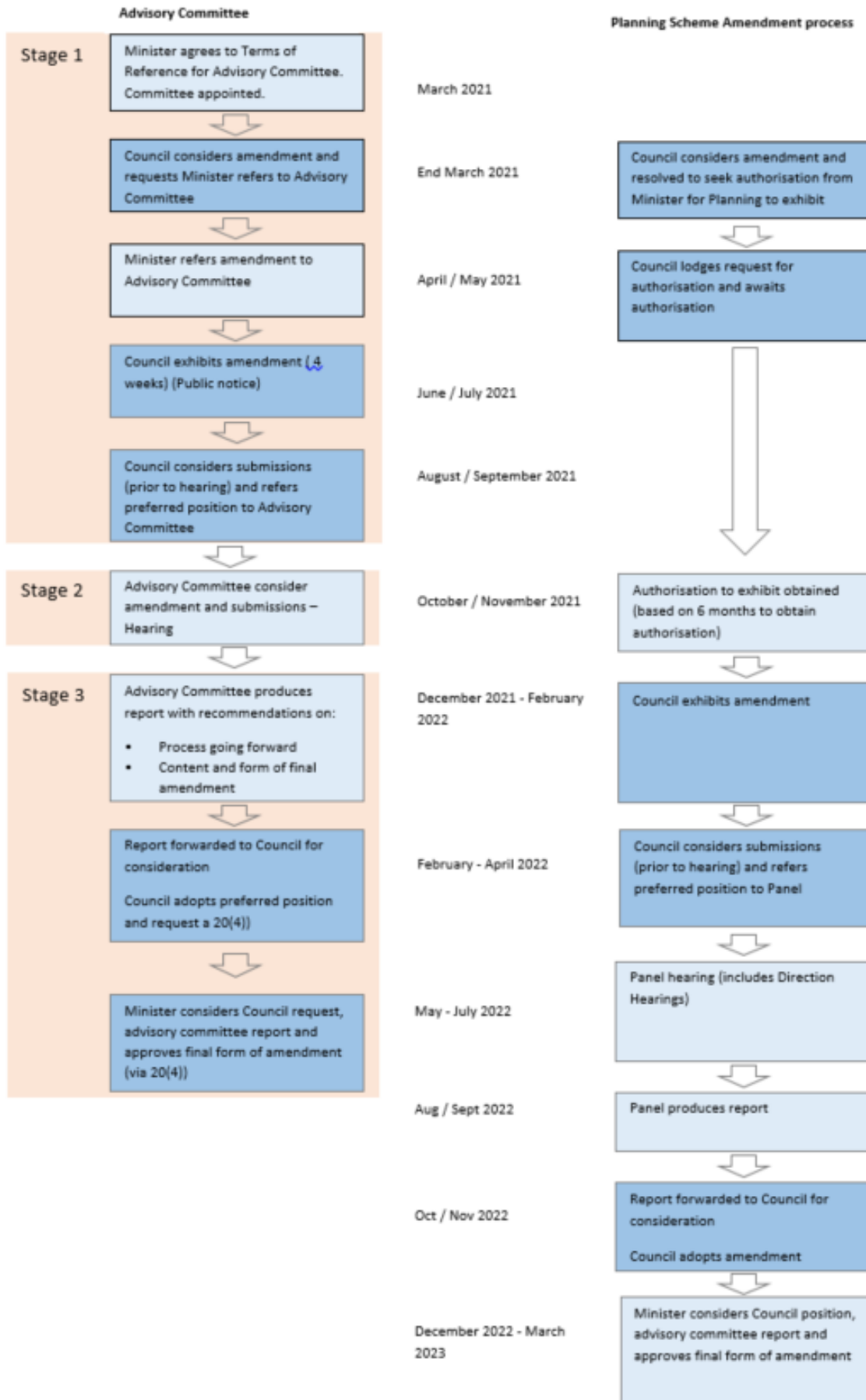
Amendment	Requested 'authorisation' to enable exhibition of the proposed Amendment	Gazetted date of the Amendment into the YPS (time from request)
C220 Johnston Street	18/05/2016	18/06/2020 (4 years)
C231 Queens Parade (parts 1 and 3)	23/01/2018	01/10/2020 (2 years 10 months)
C191 Swan Street	31/10/2017	NA – Council adopted amendment in Dec 2020. It is yet to be approved and gazetted by the Minister. (3 years)

**A possible alternate approach – an Advisory Committee process**

19. The invitation by the Minister would be an alternative approach to the regular planning scheme amendment process; with an Advisory Committee process for those chosen by the Council. Essentially, this would mean that:
- (a) the proposed provisions would be considered by an Advisory Committee (instead of a Planning Panel), who would then make recommendations on whether the planning scheme amendment is strategically justified and should be submitted to the Minister for approval under section 20(4) of the Act; and
  - (b) the Minister would (if deemed appropriate), approve the amendment under 20(4) of the Act.
20. It is noted that the Minister is able to appoint an Advisory Committee under Part 7, section 151 of the Act. The conduct of an Advisory Committee would be in accordance with a Terms of Reference (ToR) which would set out matters such as the purpose, background context and method.
21. The normal Advisory Committee process (such as the process used to review proposed planning controls for Fishermans Bend), does not *usually* allow for significant Council involvement. Often in this process, Council is a submitter like other submitters and does not get to comprehensively consider submissions or have the opportunity to review the Advisory Committee Report before it is considered by the Minister.
22. Council officers, with legal advice, have been liaising with DELWP senior officers to draft a suitable Terms of Reference (ToR) for a possible alternate approach, which works towards safeguarding Council's control and influence over the process and content, whilst affording the opportunity to achieve time and cost savings. **Attachment 2** includes a draft ToR (produced by senior YCC planning staff) which *could* be the alternate process available to Council.
23. The objective for an Advisory Committee for Yarra would be to provide a simpler, transparent more timely and cost-efficient process to report on Yarra Planning Scheme provisions for activity centres, or built form and related matters that are specifically requested by Yarra City Council. It would also provide advice as to whether an amendment could be submitted to the Minister for exemption under s20 (4) of the Act and approved.

24. The scope of the matters that can be considered by the Advisory Committee is suitably flexible to afford Council the opportunity (by Council resolution requesting the Minister) to refer to the Committee a range of proposed amendments based on current strategic work completed or currently underway – such as built form and related provisions for activity centres and other key areas such as, for instance, Cremorne.
25. It is important to note that the possible use of an Advisory Committee would be an additional option to the normal Planning Panel process for Council. In this regard, it is noted that the major planning scheme Amendment (Am 269), relating to the planning policy for Yarra (recently on exhibition), would continue to be pursued via the normal Planning Panel process.
26. Figure 1 sets out the proposed steps of a possible alternate process as proposed in the ToR (the YCC version), with a comparison to the usual amendment process. It also sets out an indicative timeline.

**Figure 1: Comparison: Advisory committee process and usual amendment process**



27. Significant time efficiencies could be achieved in Stage 1:



- (a) as the amendment would be referred to the Advisory Committee (assuming 1 month) foregoing the requirement for 'authorisation' by the Minister, which has previously taken many months;
  - (b) if the public notice period is limited to 4 weeks, rather than 6-8 weeks for previous amendments (noting the Act only requires 4 weeks' notice in the usual amendment process); and
  - (c) if Council is able to consider and respond to submissions in a timely manner.
28. Significant time and cost efficiencies could be achieved in Stage 2 as the Advisory Committee can conduct hearings and undertake proceedings, as it deems appropriate and in accordance with the ToR. For example, it may conduct briefings, forum, hearings, meetings or workshops. It could also limit the time and extent of cross examination during a hearing.
29. Table 3 includes an explanation for the inclusion of particular clauses in the draft ToR to safeguard Council's control and influence over the process and content to:
- (a) ensure land owners and occupiers and the wider community would have the opportunity to make formal submissions to an independent body;
  - (b) allow Council to consider submissions and form a position on them to advocate to the Advisory Committee; and
  - (c) afford Council the opportunity to review the final report and submit a final form of the 'preferred' amendment for the Minister to make a decision.
30. Potentially, the Advisory Committee process could take around 18 months to achieve Ministerial consideration of the amendment, which is substantially less than the timing of Council's recent amendments. It may be able to be further compressed but that is not clear at this stage.

**Table 3: Draft Terms of Reference – particular clauses**

ToR	Reason for inclusion
Purpose included to make it clear that the reason for the Advisory Committee is to consider the suitability of planning scheme provisions in proposed amendments matters that are referred to it by the Minister following a specific request by Yarra City Council.	<p>This provides clarity about the intent of the Advisory Committee as well as retaining Council control in determining which proposed amendment(s) should be referred to the Committee and when – potentially forwarding different amendments in different tranches based on geographical context.</p> <p>This also allows Council to be satisfied that the process is workable and appropriate before referring a larger number of proposed amendments to the Committee.</p>
A requirement that the Advisory Committee may not proceed with considering a proposed planning scheme amendment unless it is satisfied that Yarra City Council has undertaken an appropriate level of consultation and public notification of the proposed planning provisions, or Yarra City Council has advised the Advisory Committee that no consultation is required.	This allows Council to retain control over the extent and timing of public notification.
A requirement for Council to receive and consider responses to public engagement prior to the commencement of any Advisory Committee hearing.	<p>This retains an important step in the usual amendment process.</p> <p>NB. Council has typically, in considering and responding to submissions, made changes to provisions in an amendment and advocated the 'preferred version' of the provisions at Panel.</p>

A requirement for the Advisory Committee to conduct a hearing if requested by any submitter, including the Planning Authority.	<p>This protects the opportunity for Council to present its case directly to the Committee. It also affords the same opportunity to members of the community, including affected landowners.</p> <p>The ToR would allow the Advisory Committee to limit the time of parties appearing before it and may prohibit or regulate cross-examination. This brings in time, resource and cost efficiencies.</p>
A requirement for the Advisory Committee to provide its report to Council and to the public.	<p>Advisory Committee reports are typically provided to the Minister for Planning and not released to the Public, unless made available by the Minister. The inclusion of this requirement provides transparency to Council and Yarra's community.</p>
A requirement that for each planning scheme amendment referred to the Advisory Committee would produce a written report for the Minister and Yarra City Council would make a recommendation on whether the planning scheme amendment is strategically justified and should be submitted to the Minister for approval under section 20(4) of the Act.	<p>This provides clarity about the expectations of the Committee. It also allows Council to retain influence over the final content of the proposed amendment. The anticipated risk, however, with diverging substantially from an Advisory Committee's recommendations is that the Minister could decide:</p> <ul style="list-style-type: none"> <li>(a) to not accept Council's changes; or</li> <li>(b) that the amendment cannot be exempt from notice and directs Council to pursue the usual amendment process.</li> </ul>
Include sufficient time for the Advisory Committee appointed.	<p>This is to ensure that the duration of the Advisory Committee appointment is sufficient to enable proper time for the preparation, notification, hearing and consideration by Council of the proposed planning scheme amendments referred to it.</p>

### Options

31. The question for Council to consider is the extent of *control* and *influence* Council would forego if the invitation to appoint an Advisory Committee is accepted to provide a more time and cost efficient introduction of planning scheme provisions.
32. The draft ToR (see attached) mirrors the amendment process in many ways as it allows for:
  - (a) a formal submission period and for Council to respond to submissions;
  - (b) a hearing by an independent body;
  - (c) Council to consider the recommendations of the Advisory Committee and submit a final form of the amendment to the Minister for approval; and
  - (d) the Minister approves the amendment at the end of the process.
33. Key differences in the process is that it:
  - (a) does not require the need to seek '*authorisation*' from the Minister (which has previously taken time);
  - (b) provides the Advisory Committee the flexibility to control and limit the time submissions can be heard (the legal challenges from landowners can extend the hearing times substantially); and

- (c) is intended to be a shorter process to having planning scheme amendments approved by the Minister.
34. Importantly, some of the risks in not requesting an Advisory Committee include:
- (a) it would take a very substantial amount of time and resources to progress the various necessary amendments through the usual process for all of the areas of the municipality that are under development pressure; and
  - (b) the Minister would not approve future interim requests, or the extension of existing interim provisions – meaning that those interim DDOs (Bridge Road and Victoria Street initially) would expire removing these additional planning scheme provisions that seek to manage development pressures and seek acceptable urban design and heritage outcomes.
35. Some of the risks with the alternate Advisory Committee process are outlined below:
- (a) the Minister is yet to sign off on attached draft ToR (it is noted that the YCC officer version attached to this report is different from an initial draft by DELWP senior staff);
  - (b) there may be potential disaffection and confusion in the community about the use of an unfamiliar process;
  - (c) ultimately the Minister would be the *Planning Authority* under 20(4) ‘preparing’, ‘adopting’ and approving the amendment rather than Council (although the suggested draft ToR has been drafted to allow Council to retain influence over the final content of the amendment; and Council has previously requested amendments under 20(4) for interim planning provisions);
  - (d) there may be a greater risk of aggrieved parties seeking judicial review in relation to *assertions* of denial of natural justice;
  - (e) it places greater demand on Council in terms of resources and timing in the short term (1-2 years) as officers, experts and legal Counsel manage multiple amendments; and
  - (f) there may be some challenges of ensuring sufficient alignment and consistency between the planning provisions for different activity centres and the demonstration of the “exceptional” circumstances of each centre to achieve some mandatory controls.
36. The draft ToR has been prepared by Council’s senior planning officers with these risks in mind. As outlined in Table 3, the recommended ToR includes a provision to make it clear that the Advisory Committee would consider the suitability of planning scheme provisions in proposed amendments requested by Council. This would allow Council to determine the program, allowing for an initial tranche of amendments to be considered using the proposed alternate process in the first instance, in order that Council could be satisfied that the process is workable and appropriate.

## Community and stakeholder engagement

37. Not applicable for the preparation of this report.
38. The notification of proposed planning scheme provisions to stakeholders would be undertaken either:
- (a) in accordance with the usual amendment process of sections 17, 18 and 19 of the Act, or
  - (b) in accordance with the ToR for an Advisory Committee.
39. Yarra’s exhibition of amendments usually exceeds the legislative requirements, particularly in relation to timing and extent of notification. This could continue if Council decides to pursue the usual amendment process for any given proposed planning scheme amendment.
40. If an Advisory Committee is appointed, some of that control could be shifted from Council to the Committee. The draft ToR attached aims to allow Council to retain determination of the extent and timing of public notification.

## Policy analysis

### Alignment to Council Plan

41. Introducing permanent planning provisions is consistent with the broad strategies and initiatives in Liveable Yarra in Yarra's current Council Plan, including the following:

*Strategy:*

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

*Initiative:*

*4.2.9 Develop planning controls for Heidelberg Road, Alphington*

### Climate emergency and sustainability implications

42. The suggested alternate process is intended to bring into effect permanent planning provisions in a timelier manner, which would provide 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 guidelines; and
  - (b) facilitate sustainable communities that are walking distances to sustainable transport options, employment and services.

### Community and social implications

43. The suggested alternate process continues to afford the community the ability to make a submission on proposed planning provisions and be heard by an independent body (in this instance the Advisory committee) consistent with the usual planning process.
44. The suggested alternate process is intended to bring into effect permanent planning provisions in a timelier manner, which would provide more certainty sooner in relation to future development in areas under development pressure.

### Economic development implications

45. The suggested alternate process is intended to bring into effect permanent planning provisions in a more time efficient manner, which may provide further stimulus to the activity centres. No other economic implications are apparent.

### Human rights and gender equity implications

46. The suggested alternate process would enable Council to provide the community the ability to make a submission on proposed planning provisions and be heard by an independent body (in this instance the Advisory committee) as per the usual planning process.

## Operational analysis

### Financial and resource impacts

47. The suggested alternate process would afford Council the opportunity to reduce its costs as the process is streamlined (noting that often the Panel hearings are very long and hence very costly).
48. The alternate process places greater demand on Council in terms of resources and timing in the short term (1-2 years) as officers, experts and legal Counsel manage multiple amendments.
49. The savings would occur in that hopefully more outcomes can be produced in a given amount of time; and hence more planning scheme provisions approved into the Yarra Planning Scheme in order to seek to best manage the significant development pressure that Yarra is continuing to experience and likely to for a number of years.

### Legal Implications

50. The approach outlined in this report would still meet the requirements of the *Planning and Environment Act 1987*.
51. The Minister is able to appoint an Advisory Committee under Part 7, section 151 of the Act.
52. Advisory Committees are appointed with a Terms of Reference (ultimately approved by the Minister) that guides the appropriate conduct of the committee.

### Conclusion

53. Yarra has been successfully introducing *interim* and *permanent* built form provisions (Design and Development Overlays – DDOs) into the Yarra Planning Scheme for Activity Centres. Amendments now need to be progressed to translate the *interim* provisions into permanent ones, and generate new additional planning scheme provisions to enable an improved means of best managing the development pressures.
54. In correspondence dated 29 September 2020, the Minister for Planning has expressed a willingness to consider appointing an Advisory Committee to help speed up the council's planning scheme amendments including the provision of a more streamlined hearing process for submissions (see letter in Attachment 1).
55. Council officers have worked with DELWP officers on a draft Terms of Reference should Council wish to accept the invitation by the Minister to request the appointment of an Advisory Committee.

Note: The attached draft Terms of Reference is a version that is different to an initial DELWP version.

56. The suggested draft Terms of Reference for an alternate approach, works towards safeguarding Council's control and influence over the process and content, whilst affording the opportunity to achieve time and cost savings.
57. It is recommended that Council supports this alternate approach to pursuing formal planning scheme amendments in order to be able to better manage ongoing development pressure in a much more timely and efficient manner.
58. That is, improved planning provisions, via Design and Development Overlays included into the Yarra Planning Scheme, is very important in order to seek to steer development outcomes to better reflect the Council desires.
59. The invitation by the Minister and DELWP needs serious consideration by Council as there are implications to Council of not considering this approach, including the expiration of some existing interim DDO provisions.

## RECOMMENDATION

1. That Council:
  - (a) notes the officer report regarding the possible alternate approach available to Council in seeking further planning scheme provisions in a more timely approach;
  - (b) notes the letter from the Minister for Planning and the draft Terms of Reference for an Advisory Committee by included in **Attachments 1 and 2**;
  - (c) notes the officer commentary regarding the opportunities and risks outlined in the report in respect to this possible alternative approach in pursuing planning scheme amendments to the Yarra Planning Scheme;
  - (d) notes that the intent of an alternative approach to pursuing planning scheme amendments is to:
    - (i) seek to have a much more timely and efficient approach to the inclusion of important planning scheme amendments into the Yarra Planning Scheme in order to best manage the significant development pressure that the Yarra municipality is experiencing, and likely to continue to experience for some time, and
    - (ii) seek to have the current interim Design and Development Overlays in the Yarra Planning Scheme processed to permanent planning scheme provisions, with or without necessary adjustments that Council seek following Council resolutions as part of that process;
  - (e) notes the various provisions in the draft Terms of Reference recommended by Yarra City Council senior planners in order to provide a process that continues to provide a significant degree of influence for Council in the planning scheme amendment process via an Advisory Committee approach; and
  - (f) notes that the alternate approach subject to this report would be a process available to the Council in addition to the normal planning scheme process involving Panel hearings, and in this regard, it would be up to the Council which process would be sought having regard to the circumstances.
2. That having regard to the officer report and the attachments, Council determine to request the Minister for Planning to set up and appoint an Advisory Committee to assist the Council formalise necessary planning scheme amendments to best manage the development pressure currently occurring, and likely to continue into the foreseeable future.
3. That Council authorises the CEO to:
  - (a) request the Minister to appoint a Standing Advisory Committee under Part 7, section 151 of the Planning and Environment Act 1987 with a Terms of Reference as included in **Attachment 2**, and
  - (b) delegates to the CEO the authority to finalise the Terms of Reference and make any administrative or other changes that are consistent with the intent set out in this report.

## Attachments

- 1 Attachment 1 Letter from the Minister
- 2 D21 6089 Attachment 2 DRAFT Terms of Reference - 25 January 2021



---

## 8.2 ESD Roadmap Submission to DELWP

---

### Executive Summary

#### Purpose

To provide a summary of the Government's recently released agenda supporting environmentally sustainable development (ESD) in Victoria's planning system, outlined in the *Environmentally sustainable development of buildings and subdivisions: A roadmap for Victoria's planning system* (the Roadmap).

To outline the contents of a proposed submission to the Department of Environment, Land, Water and Planning (DELWP) in response to the Roadmap.

#### Key Issues

The Victorian State Government has recently released a document titled *Environmentally sustainable development of buildings and subdivisions: A roadmap for Victoria's planning system* (the Roadmap).

The Roadmap sets out the State Government's work program for 2020-2021 to fulfil a commitment in Plan Melbourne to 'review the Victorian planning and building systems to support environmentally sustainable development outcomes for new buildings'.

The Roadmap paper describes a two-stage approach they are following to deliver these outcomes.

Given Council's significant contribution to the sustainable development of the built environment in Victoria and related expertise, Council officers have prepared a draft submission to DELWP in response to the Roadmap for Council consideration.

Officers strongly support the proposal to embed ESD more comprehensively in the Planning Policy Framework (PPF) and the insertion of ESD principles into the purpose of all planning schemes.

The development of specific planning objectives and standards that work to achieve ESD policy goals is welcomed.

Whilst the proposed approach and content outlined in the ESD Roadmap is generally supported, some areas of concern have been identified which require further information and development in collaboration with DELWP.

Officers are mindful of ensuring Yarra's ESD strategic priorities are reflected as well as the ability to 'raise the bar' with future local provisions.

Council officers have prepared a draft submission (at Attachment 1) to DELWP which responds to the ESD Roadmap and outlines a proposed Council position regarding the proposed changes to Victoria's planning system.

Officers view the release of the Roadmap as an opportunity to work in collaboration with the State Government, the *Council Alliance for a Sustainable Built Environment* (CASBE) and other interested Councils to further develop and embed ESD across Victoria.

#### Financial Implications

There are no financial implications in receiving this report.

## PROPOSAL

That Council resolve to:

- (a) note the officer report outlining the Roadmap, environmentally sustainable development in Yarra and officers' proposed submission; and
- (b) endorse the submission (Attachment 1) to be submitted to DELWP in response to the release of the ESD roadmap.

---

## 8.2 ESD Roadmap Submission to DELWP

---

<b>Reference</b>	D21/15248
<b>Author</b>	Kate Johnson - Strategic Planner
<b>Authoriser</b>	Director Planning and Place Making

---

### Purpose

1. To provide a summary of the Government's recently released agenda supporting environmentally sustainable development (ESD) in Victoria's planning system, outlined in the *Environmentally sustainable development of buildings and subdivisions: A roadmap for Victoria's planning system* (the Roadmap).
2. To outline the contents of a proposed submission to the Department of Environment, Land, Water and Planning (DELWP) in response to the Roadmap.

### Critical analysis

#### History and background

3. The Victorian State Government has recently released its ESD roadmap which sets out its proposed approach to updating the Victorian planning system to help ensure that new residential, commercial and industrial developments incorporate ESD features to support current and future needs.
4. The State Government's preparation and release of the ESD Roadmap is welcomed.
5. The integration of ESD into the planning system is key to maintaining and enhancing the sustainability and liveability of Victoria.
6. While the Victorian planning system addresses elements such as energy, there are substantial gaps in the planning system such as climate change, energy efficiency and renewable energy. (Noting that ESD in the Yarra Planning Scheme is bolstered through local ESD and stormwater planning policies)
7. The proposed ESD reforms are a response of *Plan Melbourne* which outlines the Government's strategy to guide Melbourne over the course of the next 35 years. Action 80 of the *Plan Melbourne* requires 'a review of planning and building systems to support environmentally sustainable development outcomes' which is the key driver for the proposed planning system ESD reforms.
8. The *Climate Change Act 2017* (the Act) is also driving timely environmental and sustainability responses across government, with significant implications for future development across Victoria. The Act establishes a long-term target of net zero greenhouse gas emissions by 2050 and requires development of five yearly sector pledges which describe the actions government will take to reduce Victoria's emissions.
9. The implementation of increased ESD development standards within Victoria's planning system will help support the achievements of these targets.
10. The ESD Roadmap sets out the State Government's work program for 2020-2021 to fulfil its commitment in *Plan Melbourne* and to assist with emissions reduction from the development industry in line with the established emission reduction targets.
11. The Roadmap describes a two-stage stage process to develop an integrated planning system approach to ESD.
12. Submission closed on 26 February 2021, however, officers sought and obtained an extension to enable Council to formally consider a draft submission. Officers have prepared a draft submission for Council's consideration at Attachment 1.

### Environmentally Sustainable Development

13. To better manage increasing pressures on natural resources, higher levels of population growth, and the effects of climate change, there is a need to improve how environmental sustainability is incorporated into how the built environment is designed and planned.
14. Improving the energy and water efficiency of new buildings supports affordable living, contributes to reduced greenhouse gas emissions and reduces stormwater pollution of rivers and bays. Quality of life is enhanced by building design features that make it easier to recycle, support more sustainable transport options and minimise the intrusion of air pollution and noise.
15. There is a strong economic case for increased ESD standards in development particularly in the face of the COVID-19 economic recovery. Specifically, the transition towards a zero carbon economy in planning will strengthen economic competitiveness across government.
16. The opportunity to create a stronger link between planning and the emission reduction targets set out in the *Climate Change Act 2017* will strengthen the commitment to ESD and its role within planning across the state.

### Environmentally Sustainable Development in Yarra

17. Yarra has a long history as a leading Council in ESD as one of the original six Councils who worked collaboratively to develop and implement the first local ESD policy into the Planning Scheme. The planning policy was gazetted on 19 November 2015 and has been subsequently approved in the Planning Schemes of another 19 Councils.
18. Council is an active participant in strategic alliances and partnerships that operate within the sustainability and built environment sectors. These include the *Council Alliance for Sustainable Built Environment* (CASBE), the *Yarra Energy Foundation* (YEF) and the *Northern Alliance for Greenhouse Action* (NAGA).
19. CASBE and its member councils are currently undertaking work to deliver enhanced ESD outcomes to work towards the implementation of zero carbon planning policy.
20. Council officers sit on *Built Environment Sustainability Scorecard* (BESS) Governance Board within CASBE which has developed the 'Front Runner' scoring program over the last two years. The program works to build an evidence base to increase ESD standards supported by the existing ESD local policy. The program analyses BESS data and use standards achieved by market leaders to upgrade the minimum standard accepted as 'best practice'.
21. Council is also currently undertaking work with the Cities of Melbourne and Moreland, CASBE and other interested Councils to draft zero carbon development standards into local planning schemes. Yarra is leading this project to undertake a zero carbon planning scheme amendment as per Council's resolution on 17 March 2020 (Item 11.3).

### Council update to Planning Policy Framework through Amendment C269

22. Council has recently exhibited Amendment C269 which proposes to update the local policies in the Yarra Planning Scheme by replacing the Municipal Strategic Statement (MSS) at Clause 21, and Local Planning Policies at Clause 22, of the Yarra Planning Scheme with a Municipal Planning Strategy and local policies within the Planning Policy Framework (PPF), consistent with the structure introduced by Amendment VC148.
23. The proposed new local policies have a strong focus on the environment. They aim to make Yarra's built and natural environments more resistant to the impacts of climate change and promote more sustainable development.
24. Amendment C269 also translates and updates the existing local ESD policy (currently in Clause 22.17). The policy aims to achieve best practice in environmentally sustainable development from the design stage through to construction and operation. The strategies encourage best practice through a combination of methods, processes and locally available technology that demonstrably minimise environmental impacts. It includes strategies relating

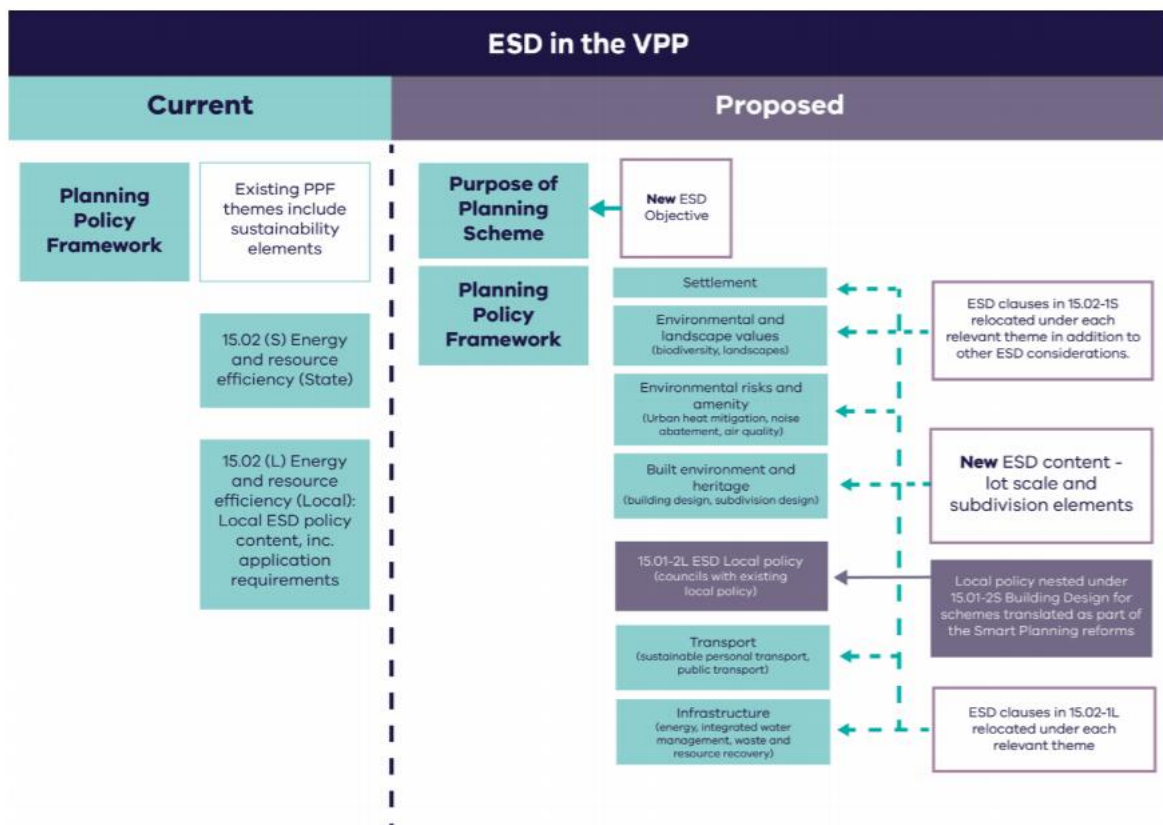
to energy performance, integrated water management, indoor environment quality, transport, waste management and urban ecology.

25. Changes proposed to the State Policy in the Roadmap strongly align with Council's proposed update to the PPF.
26. It is anticipated Council will consider submissions to Amendment C269 in May and whether to appoint a Panel. A Panel hearing is currently proposed for August 2021. Several of the submissions received for C269 raised ESD matters.

#### The ESD Roadmap

27. The ESD Roadmap sets out the State Government's work program for 2020-2021 to fulfil its commitment in *Plan Melbourne* to 'review the Victorian planning and building systems to support environmentally sustainable development outcomes for new buildings'.
28. The Roadmap's two-stage stage process is described below.
29. Stage One involves updates to the Planning Policy Framework (PPF) to more comprehensively incorporate current State Government policy objectives relevant to ESD.
30. The PPF consists of State, regional and local policy.
31. The proposed changes would insert ESD into the purpose of all planning schemes across Victoria and embed ESD more comprehensively in the State section of the PPF.
32. Figure 1 identifies the sections of the PPF where changes are proposed. The Roadmap document includes proposed changes to the PPF text.

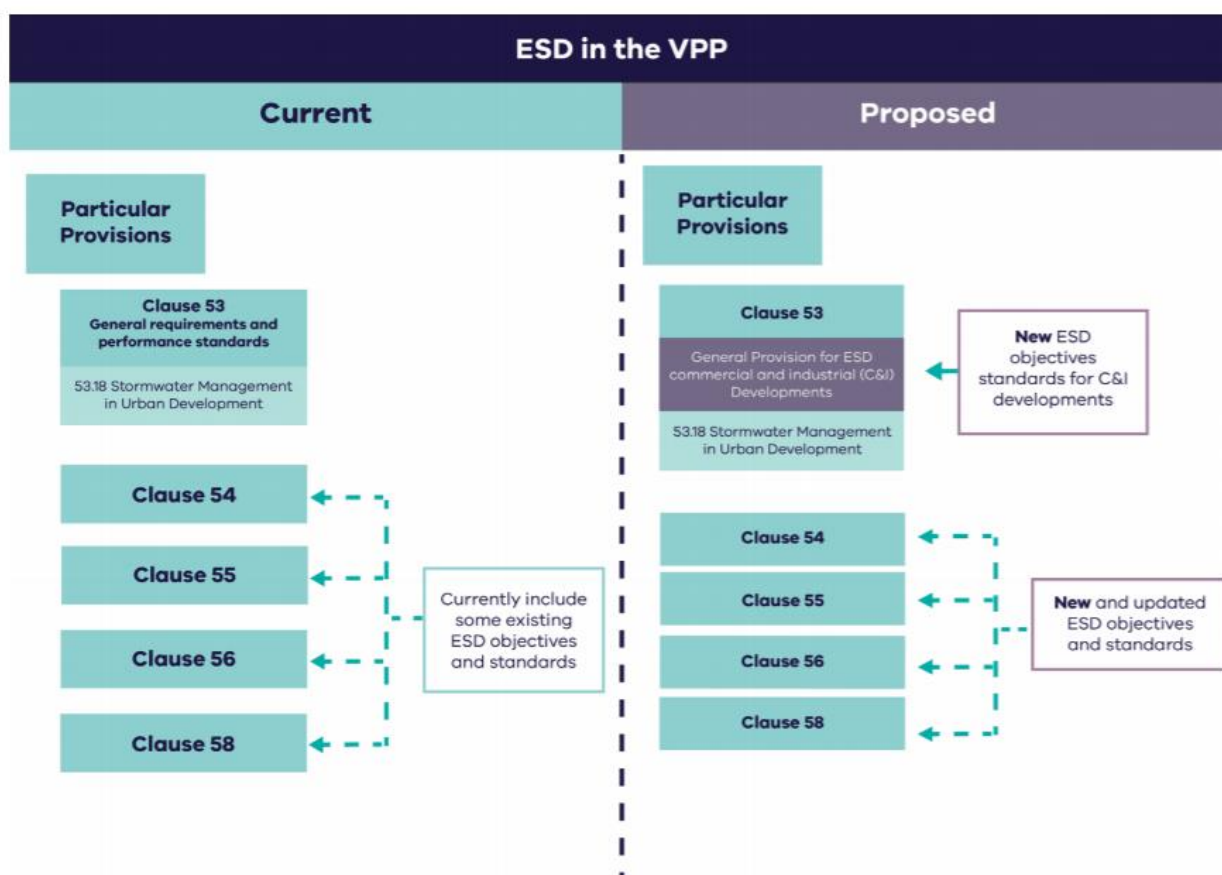
Figure 1: **Stage One** – Update the Planning Policy Framework



33. Stage Two of the Roadmap will focus on the development of new, specific planning objectives and standards that help achieve ESD policy goals to give effect to the strategies set out in planning policy.

34. Stage Two would include the development of expanded and new standards that would be incorporated into planning schemes to create performance standards that are consistently applied across the state.
35. DELWP are proposing that the new ESD provisions are included in Clause 50 *Particular Provisions* of the planning scheme. Figure 2 outlines the proposed changes to the *Particular Provisions* under Stage Two of the Roadmap.
36. *Particular Provisions* are the section of the planning scheme (common to all planning schemes) which address specific issues such as dwellings and apartments, residential aged care facilities, stormwater management and live music entertainment venues.
37. In particular, the Roadmap is proposing to develop ESD provisions apply to industrial and commercial development (addressing a current gap in the *Particular Provisions*). The Roadmap identifies seven key areas which will be addressed. These are addressed below in *Discussion*.
38. Broad public and stakeholder consultation on these detailed provisions will commence by mid-2021.

Figure 2: **Stage 2** – Update *Particular Provisions*



39. A review of Yarra's ESD and stormwater local planning policies (and those of other Councils) will be undertaken as part of Stage Two to minimise any duplication with state policy. Further work will be undertaken to explore how State provisions and local ESD policies can best operate to support policy implementation and the permit assessment process.

#### Discussion

40. Whilst officers are generally supportive of DELWP's approach to the implementation of ESD in Victoria's planning system, there are some key concerns which are discussed within the submission. An overview is provided below:



Maintaining ESD policies in the Yarra Planning Scheme

41. It is of upmost importance that the current ESD policies and standards in the Yarra Planning Scheme are not diluted. Officers consider the ESD local policy must be retained while the *Particular Provisions* and other planning mechanisms are explored. Officers would like to work with DELWP and its CASBE partners to review the contents of the ESD local policy in relation to any proposed new provisions.
42. This is particularly important given Yarra is working collaboratively with the Cities of Melbourne, Moreland and the *Council Alliance for a Sustainable Built Environment* (CASBE) on a proposed Zero Carbon planning scheme amendment for new development.
43. Developers generally operate in Yarra with the understanding of the ESD standard expected by the City of Yarra, supported largely by our local planning policies (Clause 22.16 and Clause 22.17) and accept these requirements into their development feasibilities. It is paramount that these requirements are not lessened in any new state policies or planning controls that are prepared.

Raising ESD standards and allowing for local content

44. It is strongly recommended that the State Government utilise this opportunity to raise the standards of ESD across the whole State of Victoria. However, it is acknowledged that different regions and Councils are at different stages of incorporating ESD into their local planning schemes.
45. Leading ESD Councils, such as the City of Yarra, are seeking the ability to localise their requirements in line with their Council's endorsed positions.
46. As noted by the Planning Panel considering Planning Scheme Amendment C133, which introduced Yarra's Environmentally Sustainable Development (ESD) Local Policy into the Planning Scheme:

*“... even if a State-wide policy is introduced, local policies, may still be appropriate where municipalities seek to ‘raise the bar higher’ either in specific locations, or where the community has higher sustainability expectations.” (pg. 50)*

47. It is strongly urged that State Government provide the ability to tailor controls to local circumstances through local schedules to the new *Victorian Particular Provisions*.
48. Officers have also provided detailed recommendations including general feedback and comments in relation to the key reform areas. The key reform areas included within the ESD Roadmap are as follows:
  - (a) Energy;
  - (b) Water;
  - (c) Waste and recycling;
  - (d) Transport;
  - (e) Landscaping and biodiversity;
  - (f) Urban heat, and
  - (g) Air and noise pollution.
49. Officers have analysed the key reform areas and identified gaps, inconsistencies and opportunities to incorporate greater ESD outcomes.
50. The reform areas have been assessed in relation to Council's work towards a zero carbon planning scheme amendment and work with CASBE and member Councils on the *Elevating Targets* ESD project.
51. This section of the submission provides detailed feedback and extensive comments in order to achieve the best possible ESD outcome for planning within Victoria.

### Options

52. There are two options in relation to this matter:

#### Option 1

53. Provide DELWP with Council's submission to the ESD Roadmap and work collaboratively with the Department, CASBE and other Councils to inform the development of updated ESD policy, objectives and standards across the State of Victoria.
54. **This is the recommended option.** The implementation of ESD into the Victorian planning system and all planning schemes is critical to reach Victoria's emission reduction targets set out in the *Climate Change Act 2017* and to create a more sustainable and resilient built environment for current and future generations. This is also in line with Council's recently adopted *Climate Emergency Plan*.

#### Option 2

55. Do not proceed with providing feedback to DELWP on the ESD Roadmap.
56. A 'do nothing' approach is not recommended.
57. A move towards increased ESD standards is consistent with Council's *Climate Emergency Plan*.
58. The *Climate Emergency Plan* identifies the acceleration of renewable energy, zero carbon buildings, circular economy/waste, active transport and integrated water management as strategic priorities into the future.

### Community and stakeholder engagement

59. No external consultation was undertaken in the preparation of this report.
60. The report and attached submission were prepared in collaboration with the Strategic Planning, Statutory Planning, ESD staff and Strategic Transport units of Council.

### Policy analysis

#### Alignment to Council Plan

61. This report supports the following strategies in the Council Plan:
- (a) Investigate strategies and initiatives to better manage the long term effects of climate change;
  - (b) Lead in sustainable energy policy and deliver programs to promote carbon neutral initiatives for the municipality and maintain Council as a carbon neutral organisation;
  - (c) Reduce the amount of waste-to-landfill with a focus on improved recycling and organic waste disposal;
  - (d) Promote responsible water usage and practices; and
  - (e) Develop and promote pedestrian and bicycle infrastructure that encourages alternate modes of transport, improves safety and connectedness.

#### Climate emergency and sustainability implications

62. The report supports Strategic Priorities Two, Four and Five in the draft Climate Emergency Plan:
- (a) Accelerate renewable energy, zero carbon buildings and efficient operations;
  - (b) Transition to zero emissions transport, and
  - (c) Move towards zero waste and conscious consumption.
63. This report has assessed the pathway to implement ESD standards throughout the Victorian Planning System.

64. If actions are pursued this would significantly increase sustainability outcomes through the planning process and increase environmentally sustainable development throughout Yarra and the State.

#### Community and social implications

65. There is community sentiment to increase the environmental performance of new buildings.

#### Economic development implications

66. There are no particular economic implications.

#### Human rights and gender equality implications

67. There are no human rights and gender equality implications.

### Operational analysis

#### Financial and resource impacts

68. There are no financial implications in receiving this report – it has been only officer time in preparing the submission and maintaining communication and involvement with DELWP throughout the process.

#### Legal Implications

69. There are no anticipated legal implications.

### Conclusion

70. Council officers have thoroughly reviewed the State Government's ESD Roadmap in relation to Yarra's ESD work program and associated strategic priorities.
71. Officers note the importance of embedding ESD more comprehensively across the Victorian planning system and generally support the two-stage proposal outlined in the Roadmap.
72. A collaborative approach to the further development of ESD standards and requirements is welcomed.
73. Officers have prepared a submission (Attachment 1) to the Roadmap which provides a proposed response and continues to advocate for a high standard of ESD embedded within the planning system.

### RECOMMENDATION

1. That Council:
- (a) note the officer report outlining *Environmentally sustainable development of buildings and subdivisions: A roadmap for Victoria's planning system*, ESD in Yarra and officers proposed response to the Roadmap; and
  - (b) endorse the submission (at Attachment 1) to *Environmentally sustainable development of buildings and subdivisions: A roadmap for Victoria's planning system* to be submitted to DELWP in response to the release of the Roadmap.

### Attachments

- 1 City of Yarra Submission to DEWLP ESD Roadmap

---

## 8.3 Outdoor Dining Program

---

<b>Reference</b>	D21/15171
<b>Author</b>	Simon Osborne - Senior Project Officer - Retail, Tourism and Marketing
<b>Authoriser</b>	Director Planning and Place Making

---

### Purpose

1. This report responds to the Council resolution of 2 February seeking an evaluation of the *temporary* outdoor dining program over the summer period, which has been running since October 2020 in response to COVID-19, and scheduled to cease at the end of March 2021.
2. The report provides important backgrounding information and outlines various elements that need consideration on whether or not the existing *temporary* program should be extended from 31 March 2021 for a period of time, such as to the end of June 2021.
3. Council officers are considering longer term seasonal options for the future of outdoor dining. This includes working with other local governments including some external research; this will be subject of other briefings and reports to Council.

### Critical analysis

#### History and background

4. In response to COVID19, in early 2020, Council supported businesses (traders) by providing fee waivers and reimbursements, grants, as well as several training and support programs. These waivers related to both *Footpath Trading* fees, and also *Food and Health Registration* fees which are two different matters.  
*Note: It is important to note that this report does not relate to Food and Health Registrations, but only outdoor dining being Footpath Trading and also the temporary areas of parklets in the side of roadways.*
5. Council, in mid-2020 adopted a new *Economic Development Strategy* – this recognised the major impact COVID19 has, and continues to have, and the changed circumstances in both the local and broader economy. The strategy contains a number of actions to assist traders over a number of years.
6. One of the long-standing actions within both the *Economic Development Strategy* and the *Council Plan* is having successful activity areas within the municipality. This brings vitality to the streets and also visitation for traders.
7. Yarra is home to some 1,100 hospitality businesses; so any program put forward needs to seek to assist as many of businesses as possible across the municipality.
8. Yarra's temporary outdoor program was implemented in large part, due to State Government enforced restrictions that stipulated that indoor dining was to be significantly restricted as Victoria eased out of Stage 4 restrictions.
9. These restrictions made allowances for hospitality businesses to have a greater density of customers seated outside, so long as the space permitted complied with the health requirements set by the State Government.
10. The Yarra Outdoor Dining Program was created to run on a temporary basis from 1 October, 2020 and conclude on 31 March, 2021.
11. Since inception, the program has delivered additional outdoor trading space to almost 500 hospitality traders within Yarra.
12. This has come in the form of businesses either:

- (a) taking out footpath trading for the first time (150);
  - (b) extending existing footpath trading (200);
  - (c) expanding dining into the roadway forming *parklets* (130), or
  - (d) using portions of laneways or roads (8).
13. For those businesses who were approved *parklets*, many traders constructed ‘structures’ such as platforms and fencing. While most have been acceptable, some have needed modification to even be able to extend to the end of March mainly related to safety aspects and / or drainage concerns.
14. From an early point, Yarra identified that from a risk management perspective, there needed to be some manner of protection to the users of the *parklet* areas. This led to the leasing of concrete bollards for the roadside edges of the *parklets* – this has cost a great deal at Councils expense.
15. It is noted that emergency services have understood the imperative for assisting traders, but have expressed some concerns with the arrangement from a public safety perspective.
16. None of the *parklets* are on VicRoads roads – and exist only on Council managed roads. The Department of Transport has provided approval through to 31 March for *parklets* and road closures that abut state managed roads.
17. Although some funding has been provided by the State Government to support the program, the pandemic has caused very major impacts on Council finances; in part, due to significant support packages provided by Council as well as significant losses in revenue streams (see financial implications below).
18. It needs to be noted that the current program was rolled out in limited time in order to quickly assist local traders at a critical time for recovery of trade. A number of topics exist that require more consideration for any future activities. In this regard, outdoor dining as a possible future feature in Yarra requires further analysis and further Council considerations. This will be subject of other reports in coming months so that Council will be able to provide careful consideration to the many aspects that arise in this subject matter.

February 2021 Council resolution

19. At the Council meeting on 2 February 2021, Council resolved to receive a report on the outdoor dining program. The resolution states:
1. *That Council:*
- (a) *notes the success of many of the pop-up outdoor dining parklets in Yarra in our recovery from the pandemic;*
  - (b) *notes that the benefit has been felt not only in the economic recovery of our small, local businesses and sole traders, but has aided our social recovery and wellbeing by encouraging our communities to occupy public space in a way that brings life to our streets and encourages safe socialising in the time of COVID-19;*
  - (c) *notes that these benefits would be felt regardless of the public health situation;*
  - (d) *notes that there has been both positive and negative feedback from members of the community on various outdoor dining parklets;*
  - (e) *undertake a review of the program to date, involving traders, residential neighbours, community members and experts to explore the appetite for and feasibility of extending the temporary permits and/or making them permanent or recurring.*
- Consultation with the community to include such methods as:*
- (i) *letter drop to neighbours in the immediate vicinity of each parklet; and*
  - (ii) *an online survey where participants can give feedback on specific sites or the overall program; and*

- (f) *provide Councillors with a report on the review by March 2021 to enable a decision on the future of the program before the current expiry of the outdoor dining permits, including, but not limited to:*
  - (i) *an overview of the information collected above;*
  - (ii) *financial data or estimates about the forgone revenue from any parking spaces and permit waivers used in the program and costs associated with the program; and*
  - (iii) *financial data or estimates (where available) of revenue made by the participants in the outdoor dining program, from their outdoor tables/spaces.*

### Discussion

- 20. As said above, Yarra's outdoor dining program was implemented following the State Governments request to allow hospitality venues to increase their outdoor tradable space, as health advice from DHHS advised outdoor dining reduced the likelihood of COVID19 transmission.
- 21. A grant of \$500,000 was provided to Council from the State to help facilitate this program.
- 22. Further, grants of \$5,000 were made available by the State to all hospitality businesses to assist with the hiring or purchasing of furniture or materials for the outdoor dining areas.
- 23. A memo was provided to Councillors on 29 January, 2021 which outlined the many and various aspects of outdoor dining that need consideration.
- 24. It is noted that some other inner city Councils are also currently considering positions regarding any temporary extensions to their outdoor dining programs.

### Yarra's Approach to the temporary outdoor dining program

- 25. Yarra introduced a four-tiered program which temporarily allowed hospitality businesses to apply for the following:
  - (a) tier 1 - an extension to existing footpath trading, incorporating their neighbour's footpath space;
  - (b) tier 2 - where possible, extend trade into on street carparks, better known as *parklets*;
  - (c) tier 3 - full or partial road and lane closures; and
  - (d) tier 4 – allow trade within public spaces, such as parks, gardens and reserves.
- 26. All tier 2, 3 and 4 applications were approved via an internal *rapid response team* made up of members from economic development, engineering, traffic, parking, open space and compliance units.
- 27. Permits for all tiers have the expiry date of 31 March, 2021.
- 28. The strategic nature of where *parklets* were approved was primarily dictated by two things:
  - (a) is the business requesting a parklet on a non-arterial (local) road, and
  - (b) is the parking bay being requested appropriate for the parklet.
- 29. It is important to note that due to the limited time period of the program, the number of existing parklets within the vicinity of the requested site, the operating days / hours of the business, and the design / fit out of the space, were not assessed as part of this approval process.
- 30. Further, due to the desire to support businesses getting approval for parklets as quickly as possible, consultation with the community was not carried out by Council; however a notification letter was provided to each business who was issued a parklet permit and they were encouraged to inform their neighbours.
- 31. This approach for parklets was due to the following aspects:



- (a) time constraints, to roll out the program and assist businesses as quickly as possible;
  - (b) that the space being requested (carparks) is a Council asset, and
  - (c) factoring in the *temporary* nature of the program until the end March 2021.
32. The outdoor program was initially introduced in large part as a health response, but there is no doubt that these new spaces have not only been a significant contributor to the economic recovery within Yarra, but they have also brought a sense of vibrancy, hope, and a place for people to reconnect and rediscover.
33. There are, however, many aspects and stakeholders that need to be considered should the Council consider extending the current temporary period past 31 March 2021 (see below).

#### Particular considerations

##### **Impact on amenity**

34. A small percentage of feedback from the survey highlights that the program has resulted in a number of complaints that relate to negative impacts (perceived or otherwise) to the amenity in the nearby area.
35. Increased noise, overcrowding of footpaths, increased rubbish, relocation of rubbish bins, reduction of parking, and poor utilisation of the spaces are some of the common complaints.

##### **Infrastructure hire & safety**

36. Following advice from Council's internal risk team, infrastructure in the form of 500 kg concrete bollards were sourced, and deployed on the outer boundaries of all parklet and road closure spaces.
37. This safety element was provided to mitigate against any vehicle impact.
38. The cost of this infrastructure package included;
- (a) hireage of 700 concrete bollards for 27 weeks (the time limited period);
  - (b) purchase of Yarra branded covers to the concrete bollards, and
  - (c) specialist labour to deploy and remove them.
39. The cost to Council has been \$515,000; which has been recovered by the State grant to Council.

##### **Construction of parklets**

40. As parklets were only approved through to the end of March 2021, some traders provided structures that are quite limited in their structural sufficiency.
41. There has been a level of tolerance by officers in this matter in the circumstances, and only those structures that provided a high risk have been made to be altered. That is, moderate and lower risk ones have been tolerated having regard to the limited time period of the parklet program.
42. Additionally, with the Autumn season, any extension to the program post 31 March may result in an increase of issues (blocked drainage in the kerb due to leaf litter, localised flooding, increased slip/trip hazards, structural integrity); and would require regular monitoring.
43. Should an extension to the program be granted, regular checks on all outdoor dining spaces would need to continue to occur, and a request for alterations, or ultimately the removal of (the parklet), may need to be made by officers to ensure public safety and impacts to amenity are at a minimum.

##### **Stakeholder approval**

44. Victoria Police (VicPol), the Melbourne Metropolitan Fire Brigade (MFB), Melbourne Water and Yarra Trams have expressed some concerns relating to some elements of the on-street dining.

45. VicPol have also noted that there has been an increase in the number of physical incidences surrounding areas where some parklets have been installed. Overcrowding and increased congestion within a confined space are two possible reasons provided.
46. It is also noted that the Department of Transport has only issued approval of parklets and road closures coming off main arterial roads until 31 March 2021.
47. Council officers are in close contact with these key stakeholders, and should Council wish to extend the program for a limited time period, officers will work through any ongoing issues and concerns related to the Yarra program.

**Council support to businesses to date**

48. Significantly, since inception, the program has delivered additional outdoor trading space to 488 hospitality traders within Yarra, which equates to almost one in two of the 1,100 hospitality businesses within Yarra.
49. Council has *waived* any application fees related to the outdoor dining program. This includes fee waivers attributed to;
  - (a) 150 businesses taking out footpath trading for the first time;
  - (b) 200 businesses extending existing footpath trading;
  - (c) 130 businesses creating parklets, and;
  - (d) 8 businesses using portions of laneways or roads,
50. Council has also refunded (six months) and waived (six months) footpath trading fees for all aspects of furniture on Council footpaths from 1 April 2020 through to 31 March 2021, totalling **\$714,170**.

Notes:

- (a) These fees relate to the number of tables and chairs on the footpath, signs, display of goods, planter boxes and the like;
- (b) These fees are 12-month fees with renewals ordinarily sent out in September, for payment by 1 October (as the billing period is 1 October to 30 September);
- (c) This year, however, due to the first two quarters being waived, the third and fourth quarter renewal is intended to be sent out in March, with payment due 1 April;
- (d) The normal anticipated fees for this period is shown below:

Footpath Trading	April 1 – September 30 (Q3 & Q4 renewal)
All Footpath Trading Fees	\$422,950 (for Q3 and Q4)

- (e) If a further three-month (one quarter) waiver to footpath trading was applied, that is, March, April and May), the cost to Council would be \$211,475; and

Footpath Trading	1 April – 30 June (Q3 waiver)
All Footpath Trading Fees	\$211,475

- (f) If this waiver was applied, Council would issue an invoice in June 2021 for the fourth quarter of footpath trading (1 July – 30 September 2021), and then the full renewal amount in September for the 2021/22 renewal year.
51. It is important to note that as *parklets* are brand new to Yarra, **there is currently no specific fee and therefore there has been no associated waiver** related to the carpark space as there is for the footpath.
52. A fee for parklets is possible and could be determined by Council. This could be based on the cost worked out by the estimated uncollected revenue (paid tickets and enforcement) within these spaces that is foregone, or a different method.

53. In this regard, it is noted that the 130 parklets created as part of the Outdoor Dining Program have removed **233** carpark bays.
- (a) 61 of these bays were on high volume, paid parking metered streets (i.e. Brunswick, Gertrude);
  - (b) 13 of these bays were on medium volume, paid parking metered streets (i.e. Peel, Wellington), and
  - (c) 159 of these bays were on low volume, non-metered streets (i.e. Rathdowne, Highett)
54. The **estimated** forgone revenue from these parklets, from 1 October 2020 – 31 March 2021 is \$272,000.
55. It is also important to note that since 1 April 2020, other forms of assistance by Council to Yarra's small businesses have included:

Form of assistance	Dollars
waiving of <i>health</i> registration fees;	\$ 52,664
waiving of <i>food</i> registration fees;	\$ 527,694
competitive grants to small business;	\$ 410,000
first round of precinct recovery grants	\$ 160,000
second round of precinct recovery grants;	\$ 160,000
A #RediscoverYarra marketing campaign	\$ 20,000
Mentoring and online training	

Council expenses and revenues

56. For the period 1 October 2020 to 31 March, 2021 the estimated total cost of the outdoor dining program is as follows:

All-inclusive hire of concrete bollards, covers and labour	\$ 515,000
Provision of waived footpath trading fees (all aspects for 6 months)	\$ 422,950
Loss of parking revenue related to <i>parklets</i> only (loss from paid parking meters and fines)	\$ 272,000
Traffic management, inspection fees, materials / reflective tape	\$ 20,000
Reinstatement works required (Burnley Circus Site – as the storage area of the concrete blocks)	\$ 15,000
<b>Total</b>	<b>\$ 1,244,950</b>

57. Council did receive a grant of \$ 500,000 from the State Government to offset the programs cost, however, it is evident that the program has cost significantly more, and this cost has been carried by Council.
58. It should also be noted that while the program has incurred the above costs, the program has not been run through Councils own Quadruple Bottom Line (QBL) tool, which aims to provide an effective means of integrating triple bottom line (social, environmental & economic) and future climate considerations into Council decision making.
59. The QBL tool would be utilised for any future long-term decisions or policies related to the outdoor dining program, in particular for parklets and street/lane closures.

Costs associated to extending the temporary program

60. Council has provided a great deal of assistance to the local traders over the past 12 months seeking to help them recover from the COVID lockdown periods; that is ongoing.
61. In this regard, some costings for a possible fee for parklets is provided below for Council consideration. That could be required for an extension period at this stage (say 3 months). NB with further analysis and Council determinations regarding possible future seasonal programs etc., that could be modified if 'medium' to 'longer' term parklet approaches were considered appropriate in the future.
62. The tables below outline elements that need to be considered regarding any extension of the program. NB. The figures below are based on a possible 3 month extension (from 1 April – 30 June 2021) if that is the Council determination.
63. As said, the parklets to date have had no fee for the use of the space; yet the parklet areas are on Council land just like footpath areas which do attract a fee under the Council longstanding policy.
64. If Council wanted to extend the program, but also determined that a charge for the use of parking spaces attributed to parklets and road closures is appropriate, a pricing model needs to be considered.
65. It is noted that if a 3 month extension period was considered, the following costs (approx.) would apply to Council.

<b>Approx. Costs</b>	<b>Cost to Council - 1 April – 30 June 2021.</b>
Hire of concrete bollards + labour	\$ 120,000 per quarter
Loss of parking revenue	\$ 136,000 per quarter
Waiving of <u>all</u> footpath trading fees	\$ 210,000 per quarter
<b>Total</b>	<b>\$ 466,000 for 3 months</b>

66. There are different methods of how to calculate any fee for a parklet area. One model would be to have particular regard to the revenue foregone for *high*, *medium* and *low* demand parking areas for a 12 month period; and apply the prorata fee of one quarter.
67. In this regard, a variable pricing model (pa), based on **per carpark bay**, of say \$5,000 for *high*, \$2,500 for *medium*, and \$500 for *low*, could be introduced (see below table).

*Note that the proposed fees are per carpark, not per parklet space and that the majority of Yarra parklets are 2 bays)*

<b>Revenue - variable fee for use of carpark 1 April – 30 June 2021</b>	<b>Amount generated if all current parklet operators opted in, and uses existing space</b>	
61 x <u>High</u> volume, metered streets	\$1,250 per bay for 3 mths	\$76,250
13 x <u>Medium</u> volume, metered streets	\$ 620 per bay for 3 mths	\$8,060
159 x <u>Low</u> volume, non-metered streets	\$ 125 per bay for 3 mths	\$19,875
<b>TOTAL</b>		<b>Maximum of \$104,185</b>

68. Notes:
  - (a) In this scenario, if all parklets were extended but there was a fee attributed, Council would need to offer the traders the option of paying to continue, or to conclude 31 March;
  - (b) If all parklet operators continued to keep their parklets under the example fee structure above, the **maximum** revenue generated would be \$104,185 for the 3 mth period,

which would offset a significant part of the estimated \$136,000 loss in parking revenue; and

- (c) Different fee structures for *parklets* could be determined for an interim period, such as a flat rate per car space, notwithstanding the level of shopping centre / road.

#### Options regarding the current temporary outdoor dining program

- 69. In the February resolution, Council sought advice as to whether or not the outdoor dining program could be extended, and in giving this advice, the officers have regard to the various elements and also the community views.
- 70. This report provides commentary regarding this matter as well as the community feedback (see below and attachments).
- 71. In this regard, Council could either:
  - (a) not extend the program - on the basis that it was for a limited period only to assist traders with public health directives and to support the COVID recovery period;  
or
  - (b) extend the period for a few months in order to provide some additional outdoor trading period whilst Council considers the various aspects further (including the research currently being undertaken) and further briefings from officers.

#### Options regarding any short term extension of the temporary outdoor dining program

- 72. As far as any temporary extension to the program, Council could:
  - (a) extend the program for say 2 months with it concluding at the end of Autumn (end May), on the basis that the weather would then most probably not be suitable for trade in the parklet areas;  
or
  - (b) extend the program for 3 months to give all concerned more time to assess the situation.
- 73. It is important that Council, as part of its considerations, have regard to the community responses to the surveys (see below the summary points and comments and also the Attachments).

*NB. If Council is predisposed to extend the current temporary program then it is recommended that it be for 3 months (until end June 2021). This would enable more time for Council to receive the research being undertaken and be able to consider that as part of its further deliberations.*

## Community and stakeholder engagement

### Community Sentiment

- 74. In response to the 2 February Council resolution regarding seeking community feedback on the program, two surveys were produced and have been widely promoted via all Council channels.
- 75. One survey asked for feedback from community members, while the other has sought feedback from business owners.
- 76. At the time of writing, there were 2727 survey responses in total.
- 77. An overview of the responses is outlined below.
- 78. Further, officers have provided a *summary* of the themes as stated in the survey responses (see Attachments 1 and 2). The full verbatim comments are also available in Attachments 3 and 4.

### Summary of survey responses

79. Most of the business owner surveys have been carried out in a 1-1 manner by Council officers, while the community survey was promoted via all available Council channels including:
- (a) Council's corporate website;
  - (b) digital newsletters (Yarra Life, Business, Arts & Culture);
  - (c) Yarra Life printed publication;
  - (d) all social media channels, and
  - (e) targeted letter drops to neighbouring properties surrounding parklets
80. The surveys remain open until 31 March 2021, however, a summary of initial results from the survey up until, and inclusive of 21 February are provided in this report.

### Community feedback

81. Of the **2,727 people** who have completed the survey to date:
- (a) 93% of respondents dined in a parklet;
  - (b) 49% of respondents said they visited this business especially for their parklet;
  - (c) 84% of respondents said they liked the vibe/atmosphere of the parklet;
  - (d) 84% also said they liked parklets as a better use of public space;
  - (e) 89% of people said they felt very safe or somewhat safe in the parklet;
  - (f) 94% found the parklet very accessible or somewhat accessible, and
  - (g) 95% were very likely to return to a parklet.
82. Regarding the removal of car parks:
- (a) 77% of respondents said removing car parking has had a very positive impact or some positive impact on the area;
  - (b) 13% said no impact, and
  - (c) 8% said some negative or very negative impact.
83. Regarding how respondents got to the parklet:
- (a) 79% of respondents walked for some of the journey to the parklet;
  - (b) 21% rode a bicycle;
  - (c) 18% caught public transport;
  - (d) Less than 10% drove a car, and
  - (e) Overwhelming sentiment is that finding a car park near the parklet was not difficult.
84. When asked if respondents wanted to see more parklets:
- (a) 75% said 'yes' on a permanent basis (year-round);
  - (b) 20% said 'yes' on a temporary basis (spring/summer months only), and
  - (c) 2% no, not at all.
85. Summarised Business feedback:
- (a) 125 business owners took the survey, and
  - (b) 39.00% have a parklet, 61.00% don't.
86. Of these surveys, the positive comments have been:
- (a) 98.00% of parklet operators said their customers love their parklet;
  - (b) 96% liked that their parklet increased their capacity of customers;

- (c) 92% liked that their parklet increased their business revenue;
- (d) 92% liked that their parklet creates a positive vibe/atmosphere for the area. 70% of business owners **without** parklets agreed with this, and
- (e) 92% said parklets were a better use of public space. 56% of business owners **without** parklets agreed with this.

87. Economic impacts:

- (a) **96%** of parklet operators said their parklet enabled them to **keep their staff employed** during COVID-19 restrictions, and
- (b) **83%** of parklet operators said their parklet enabled them to **keep their business open** during COVID-19 restrictions

88. Removing car parking:

- (a) 79% of parklet operators said removing car parking has had a very positive impact or some positive impact on the area;
- (b) 19% said no impact;
- (c) 2% said some negative, and
- (d) 0% said very negative impact.
- (e) 41% of business owners without parklets said removing car parking has had a very positive impact or some positive impact on the area;
- (f) 18% said no impact;
- (g) 18% said some negative, and
- (h) 18% said very negative impact.

89. Safety:

- (a) 100% of parklet operators said they felt that their parklet is very safe or somewhat safe.

90. Use:

- (a) 62% of businesses with parklets said their parklet is used by customers more than 80% of the time they're open, and
- (b) 26% said their parklet is use between 60% and 80% of the time they're open.

91. Cost:

- (a) 42% said they wouldn't be willing to pay for a parklet, and
- (b) 44% said they would be willing to pay \$500 per month.

**Option Analysis**

92. As said, there are *broadly three options* for the Council in relation to any extension of the temporary outdoor dining program.

Option 1- no extension to the temporary program

93. In this option:

- (a) all *footpath trading fees* (tables and chairs and other materials) would be reinstated from 1 April;
- (b) parklets and road closures would cease at end March 2021;
- (c) there would be no additional cost to Council; and
- (d) also see table below.



<b>Option 1</b>	<b>1 April – 30 June 2021</b>
<b>Outgoings</b>	<b>Council expenses</b>
None	Nil
<b>Income</b>	<b>Revenue raised</b>
Recommencement of <u>all</u> footpath trading fees	\$210,000
Estimated Parking revenue	\$136,000
<b>Total</b>	<b>\$346,000</b>

Option 2 - Council extends the program for 3 months and charges fees

94. In this option:

- (a) Council covers the cost of the concrete bollards;
- (b) reinstates all footpath trading fees from 1 April 2020;
- (c) introduces a fee for 'parklets' and road closures based on location; and
- (d) also see table below.

<b>Option 2</b>	<b>1 April – 30 June 2021</b>
<b>Outgoings</b>	<b>Council expenses</b>
Hire of concrete bollards + labour	\$120,000
Loss of parking revenue	\$136,000
<b>Income</b>	<b>Revenue raised by fees</b>
Recommencement of all footpath trading fees	\$210,000
Variable parklet fees for use of carparks	\$104,185
<b>Total</b>	<b>\$58,185</b>

Option 3 - Council extends the existing program for 3 months (without fees) as it has been for the period from October 2020 to end March 2021.

95. In this option:

- (a) Council covers the hire cost of the concrete bollards;
- (b) Council waive all footpath trading fees;
- (c) does not charge a fee for operating a 'parklet' or road/lane closure; and
- (d) also see table below.

<b>Option 3</b>	<b>1 April – 30 June 2021</b>
<b>Outgoings</b>	<b>Council expenses</b>
Hire of concrete bollards + labour	\$120,000
Loss of parking revenue	\$136,000
Waiving of all footpath trading fees	\$210,000
<b>Income</b>	<b>Revenue raised by fees</b>
None	\$0

<b>Total</b>	<b>- \$466,000</b>
--------------	--------------------

In this option, the Council would incur a **cost of \$466,000**.

*Note: Council has applied to the State Government for a competitive grant of up to \$500,000 to support the temporary outdoor dining program. The awarding of this grant will only be known from 26 March 2021.*

## Policy analysis

### Alignment to Council Plan

96. Assisting traders and seeking to add to the vitality of the streets is consistent with the Council Plan and broad strategies including the 2020 *Economic Development Strategy*.

### Climate emergency and sustainability implications

97. Drainage is a matter that needs consideration of the parklets.
98. Localised flooding could occur if heavy rain occurs due to the parklets being in the kerb and channel of the roadway and can impede water flow. This risk may be more pronounced in autumn due to leaf litter.

### Community and social implications

99. The vitality of the local streets is important for the local community and visitation to Yarra.

### Economic development implications

100. Assisting traders return to profitable businesses is important and reflected in Council strategies and policies including the *Economic Development Strategy*.

### Human rights and gender equality implications

101. Community wellbeing and minimisation of disturbance to neighbours are matters for consideration.

## Operational analysis

### Financial and resource impacts

102. The outdoor dining program has been very important to support the local food and beverage economy and the assistance to traders has been very real (along with the increase in ambience in the local streets).
103. The program, in a broad sense, has been very well received and a number of positive comments have been received from many sources during the past few months. Some concerns have been expressed (see comments in attachments).
104. It has, however, been very resource intensive both in officer time and costs of materials and also a very heavy impact on the Council finances.
105. Some grant monies have been received from the State, but that has not offset the Council's very major expenses.
106. Council does need to seriously consider the cost of the program to Council as part of its consideration in any temporary extension of time for the current program.

### Legal Implications

107. Council can consider an extension of time providing the approvals are granted to coincide with the term that Council decides.
108. The current Council insurance policy exists up to end June 2021.
109. The granting of approvals is a logistical aspect only; however, adequate notice is required for the office to arrange the required approvals and any invoicing that Council determines.
110. Public safety and public liability are, nevertheless, matters that Council still need to have particular regard to.

### Other

- 111. The period of trading to date for parklets has been authorised by Council approvals until the end of March 2021.
- 112. The expectation is that at the end of this period (unless extended by Council) that all parklet structures as part of the temporary outdoor dining program be removed.
- 113. If the current authorised period is not extended, officers will need to ensure that the parklets are not used beyond the authorised date of end March 2021; and that within some weeks, the structures are removed.
- 114. Those structures that rely on the concrete blocks as part of the 'parklet arrangements', will need to be removed promptly due to the lease arrangement by Council of the blocks only until end March.
- 115. If the temporary period of parklets is extended by the Council, the officers view is that this does not relate to any new proposals, but rather only existing approved parklets.
- 116. Further, if parklets are not being used correctly or efficiently, then officers may seek their removal.

### Conclusion

- 117. The outdoor dining program was agreed to by Council to assist local businesses to comply with health directives and to support the economic recovery.
- 118. Yarra City Council provided an extensive program via a 4 tiered approach. The main approach was to encourage additional footpath dining and also to enable traders to utilise some road space (kerbside) for parklets to enable increased tables and chairs for diners.
- 119. The proactive approach from Yarra City Council has come at considerable cost with the hiring of concrete blocks and waivers for all aspects of footpath trading.
- 120. The use of the road space as *parklets* has also been for no charge to the traders during this temporary outdoor dining program. Council revenue has been impacted as a result of this program.
- 121. The temporary program has been very successful receiving widespread support from traders, many in the community and visitors to the city. That said, there has also been a number of concerns and complaints lodged at Council. Vic Police have also expressed concerns regarding public behaviours at some premises.
- 122. The program was instigated late last year with no consultation due to the urgency of enabling the trade to occur over the summer period.
- 123. The Council arrangement has been for the trading of parklets to be until the end of March 2021 only. Accordingly, many parklets were designed and installed as temporary arrangements and some are not designed for a medium to longer term.
- 124. The arrangements for the parklets has involved concrete blocks at the edges of the parklets as a means of reducing any incidents with nearby vehicles and the parklet areas. The ongoing matter of public safety regarding the parklets is a matter that Council needs to consider.
- 125. The Council sought information from officers in the February 2021 resolution and that has been provided in this report and with the community sentiments shown in the attachments.
- 126. Council officers are also working with other inner city Council officers regarding the value of the outdoor dining program; and also how the better parts of the program could be anticipated for a longer period. In this regard, research has been commissioned and that will be provided to Council over the coming months to form part of the considerations as to whether some form of further outdoor dining should occur in future seasons; that work is also engaging with abutting Councils; and further information will be able to be provided to Council mid this year.

127. The Council is now asked to determine if it wishes to extend the outdoor dining program or not. If the Council is predisposed to do so, it is recommended that it be for 3 months until the end of June 2021.
128. Importantly, if Council does wish to extend the temporary outdoor dining program, the following decisions are required from the Council:
- (a) is the footpath trading fees for all components to be reinstated from 1 April 2021;
  - (b) is a fee to be introduced for 'parklets' (either a one flat rate per car space, or a varied fee depending on whether the street is a *high*, *medium* or *low* demand street), and
  - (c) if a fee is to be imposed for a 'parklet' from 1 April to end June, what is that fee to be?
- Note: the office requires these decisions so it may inform traders; and depending on the Council decision, arrange for invoices to be sent to traders.*
129. It is noted that during this COVID recovery period, officers have applied some discretion to the location of various footpath trading furniture / features. At the conclusion of the current program, officers will then recommence enforcement of the Footpath Trading Guidelines which is principally to maintain proper pedestrian pathways including the clearances and pathways for disabled persons.
130. Council is requested to now consider the officer report, the survey results and commentary from both traders and the local community, and form an opinion as to whether or not extend the outdoor dining program as a temporary arrangement.

## RECOMMENDATION

1. That Council note:
- (a) the officer report in response to the Council 2 February, 2021 resolution requesting a report and surveys of the local community and traders participating in the temporary outdoor dining program;
  - (b) the attachments outlining the comments from businesses and community members following the consultation with the community;
  - (c) that the program has been broadly commended, but there has been some concerns expressed by some local community members;
  - (d) the survey results (both quantitative and qualitative) provided in response to the questions posed (as shown in the Attachments (both summary version and verbatim versions));
  - (e) the costs of the temporary outdoor dining program and the impact on the Council finances to date;
  - (f) that officers have engaged with many State agencies and emergency services as part of the set up for the temporary outdoor dining program up to the end March 2021;
  - (g) the public safety aspects of the outdoor dining program insofar as it relates to the parklets in the kerbside of roads;
  - (h) that officers are undertaking further research with other Melbourne inner city Councils regarding the value of the outdoor dining program, and will be in a position to inform Council of that research in the middle of this year;
  - (i) that notwithstanding the grant received to date from the State Government, the cost to the Council in providing support and assistance to the local traders has been well in excess of those monies; and has been a major impact on the Council resources and finances, and

- (j) that the quality of the outdoor dining facilities provided by traders varies, and that some are not designed for a medium term period and / or do impact on the Council facilities such as drainage, parking facilities and the like.
- 2. That Council now determine if it wishes to extend the temporary outdoor dining program or not until end June 2021.
- 3. That Council now determine from the following options regarding this temporary outdoor dining program to instruct the organisation:
  - (a) Option 1 – cease the temporary outdoor dining program at end March 2021, and that footpath trading fees for all components of footpath trading be reinstated from 1 April 2021;
  - (b) Option 2 – extend the temporary outdoor dining program until end June 2021 on the following basis:
    - (i) no kerbside trading fees be applied for that period, but that all footpath trading fees be reinstated from 1 July 2021, and
    - (ii) no fees for parklets until end June 2021.
  - (c) Option 3 – extend the temporary outdoor dining program until end June 2021 on the following basis:
    - (i) all kerbside trading fees be applied from 1 April to end June 2021, and ongoing,
    - (ii) that a fee be applied for all parklets for this extension period based on the number of whole car spaces being used, (noting that any future programs may have a different fee after due Council consideration of any future outdoor dining programs), and
    - (iii) that Council determine the monthly fee for the use of the parklet for this temporary extension of the outdoor dining program.
- 4. That Council in considering part 3 above, have particular regard to the officer report as part of its deliberations, including the extent of Council waivers and revenue forgone during the period of this temporary outdoor dining program, and also the matters of public safety and public liability aspects that does exist with the parklet approach due to the proximity of moving vehicles nearby.
- 5. That if the Council determines that the outdoor dining program regarding *temporary* parklets is to conclude at the end of March 2021, that Council recognise that:
  - (a) officers will not renew any Council consents for those items, and
  - (b) that officers will commence a process to require the structures to be removed within 14 days.
- 6. That Council also acknowledge that in any extension period, if a particular issue arises with specific parklets that the CEO may require modifications and or removals to ensure adequate public safety and drainage aspects are attended to.
- 7. That Council note that at the end of any extension period by the Council to the temporary outdoor dining program that officers will revert back to the full compliance requirements of Footpath Trading regarding spacings and dimensions of the materials and furniture of the footpath.
- 8. That Council receive further information from officers once the analysis from the research, in conjunction with other inner city Councils, has been received and considered by officers.
- 9. That the CEO be authorised to operationalise all aspects to deliver on the Council resolutions above.

## Attachments

- 1 Attachment 1 - Summarised Report on Community parklet feedback report 19 Feb 2021.docx2
- 2 Attachment 2 - Summarised Report on Business Owners Parklet Feedback Report 19 Feb.docx 1
- 3 Attachment 3 - Verbatim Comments community parklet feedback report 19 Feb 2021
- 4 Attachment 4 - Verbatim comments Business owner parklet feedback report 19 Feb 2021

---

## 8.4 Rating Hardship Report

---

<b>Reference</b>	D21/16076
<b>Author</b>	Wei Chen - Acting Chief Financial Officer
<b>Authoriser</b>	Director Corporate, Business and Finance

---

### Purpose

1. To report on the creation and implementation of Council's COVID-19 Financial Hardship Policy and its impact on the community.

### Critical analysis

#### History and background

2. Council has always had a Rates Financial Hardship policy to provide support for ratepayers when they experience financial hardship. When the impact of COVID-19 was becoming apparent, Council promptly developed a COVID-19 specific financial hardship policy in March 2020 as part of Yarra's Economic and Community Support Package. Both policies are attached to this report.
3. The Revenue team worked closely with Access Yarra and Communications to create a portal on Council's website, specifically for the intake of COVID-19 financial hardship applications.
4. The portal has streamlined the application process as much as possible by collecting relevant information from the initial submission.
5. Ratepayers who enquire by phone are guided to Council's website for electronic applications or may apply in writing if they do not have access to the internet. A form was further developed by the Coordinator Revenue Services for such instances that reflects the same process as the portal application.
6. The policy, portal, form and agreed process for managing applications were goals that required staff to work together from different departments with great urgency and were completed and functioning within a few weeks of the COVID-19 outbreak occurring in Victoria.
7. Additionally, new methods of tracking and managing hardship applications and arrangement were swiftly developed in Council's corporate systems. This allowed the continual analysis of data such as whether the number of new applications correlated to the COVID-19 wave outbreaks (which was the most common requested relief type) and whether ratepayers were making payment when agreed.

### Discussion

#### Relief Options

8. The COVID-19 Hardship policy provides multiple relief mechanisms for ratepayers including arrangements, deferrals and waivers:
  - (a) **Arrangements** allow for the payment of the rates instalments in smaller amounts, on a basis that best suits the ratepayer such as monthly, weekly or fortnightly. By breaking the instalment payment into smaller parts, the payment schedule is more manageable for the ratepayer and assists in keeping the account up to date. The payment schedule is adaptable to suit the availability of funds for the ratepayer and can be paid early or have other flexibility built in as needed. An arrangement can also be a short-term extension of time to pay instalments;



- (b) **Deferrals** move the due date of the instalment or instalments to an agreed date between Council and the ratepayer. Applications for deferral often requested that payment for the 2020/21 year be extended to 31 March 2021 or 30 June 2021. Deferrals give relief in that instalment notices reminding the ratepayer of the amount due are not constantly being received and creating stress for the ratepayer. The ratepayer can be confident that Council does not expect payment until the agreed date and can plan accordingly;
- (c) **Waiver** of rates results in the removal of the amount waived from the rate account. These funds are no longer payable to Council at all; and
- (d) **Interest** is being held for the period of 16 March 2020 to 30 June 2021 in accordance with the policy. Therefore, no interest has been applied for late or non-payment for this period.

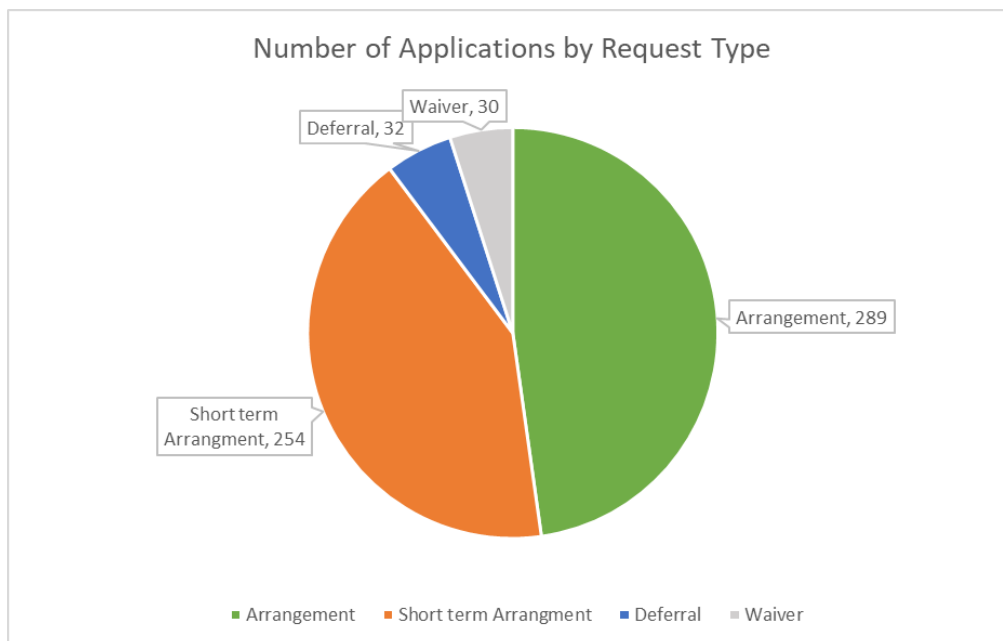
#### Criteria

- 9. Council cannot define strict criteria of eligibility as each applicants' circumstances are unique. Ratepayers who are applying for hardship consideration are varied and include self-funded retirees, real estate agents, business owners, families or first homeowners and more.
- 10. However, the stipulation for providing rates waivers to applicants is they must be experiencing extreme financial hardship as a result of COVID19. Each application is assessed on its own merit. Council requests information such as whether Job Keeper or Job Seeker has been applied for and/or granted, or whether the State Revenue Office has provided a reduction in Land Tax due to hardship.
- 11. Where this information is not available, further detail is requested with sensitivity to the applicants' situation.
- 12. The initial assessment and discussion with applicants allowed the Revenue Team to be effective in delivering tailored and flexible relief to ratepayers. Over 95% of requests were approved based on the initial application.
- 13. Most arrangements, deferrals and interest waiver applications are handled by the Revenue team. These are dealt with in a set manner of escalation based on the application. The policy allows the Revenue team to approve arrangements for within the current financial year.

#### Current status

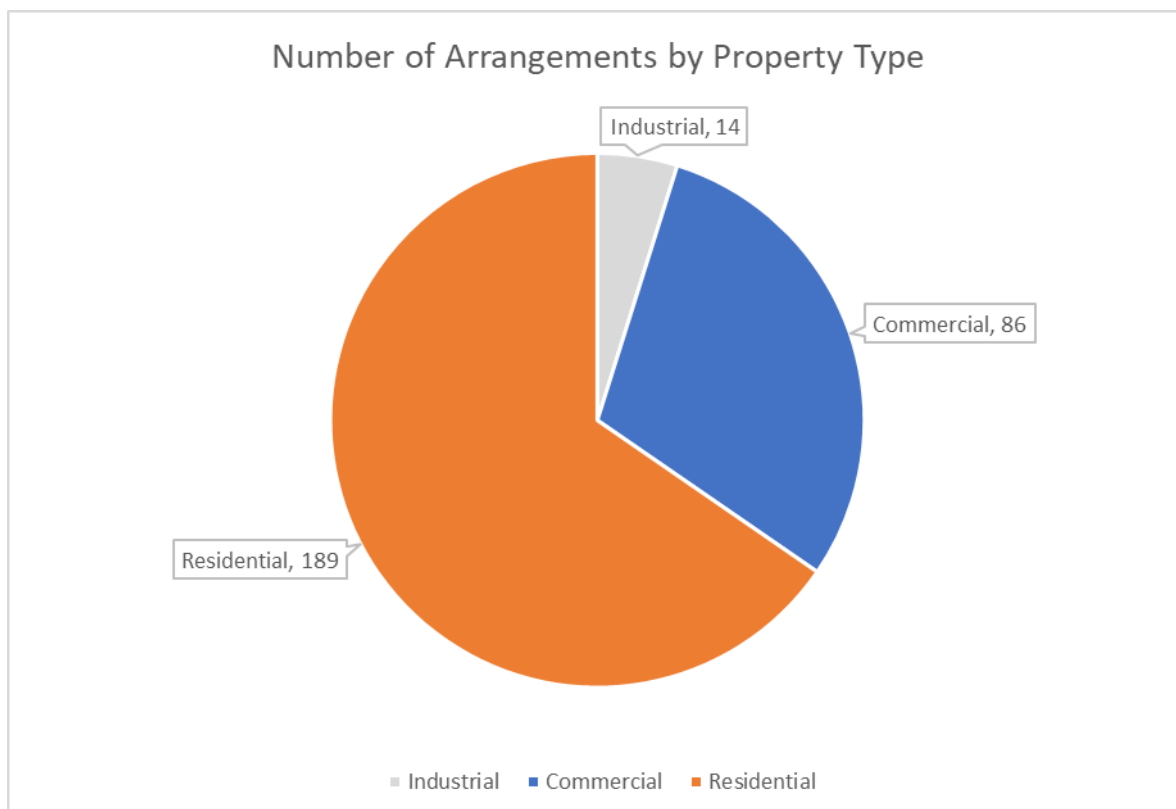
- 14. The Revenue Team have fielded over 600 enquiries for relief. This includes over 60 applications for deferral or waiver, approximately 300 extended arrangements and 250 short term arrangements. Chart 1 indicates the number of applications by request type.

Chart 1



15. The majority of applications for extended arrangements have been received from ratepayers for residential and commercial properties. Chart 2 indicates the number of extended arrangements by property type.

Chart 2



16. Feedback from Yarra ratepayers have been overwhelmingly positive when communicating with Revenue staff. For example, ratepayers have emailed in response to Council's support of their applications stating:

*"We appreciate all your efforts and help during the current climate - it is something that will not be forgotten or understated"*

*"I can't thank you enough- this has made a major impact in helping us to cope! Our appreciation goes beyond words!"*

*"Thank you for working through this request. It has and continues to be of great assistance."*

17. All applications for arrangements, deferral and waiver requests processed to date have been approved within the COVID-19 period.

Assistance to Renters

18. Council does not hold and is not advised of tenant/renter information. We cannot support tenants directly as rental agreements are private matters between tenant, landlord and managing agent. Council has no legal ability to be involved in private lease agreements and does not have the resources to maintain a tenant database.
19. However, to assist tenants as much as possible, Council is providing deferral or waiver relief for landlords who are providing rent relief to their tenants, on approval of application.
20. Additionally, the State Government has provided temporary legislation supporting tenants by giving them the following rights:
- (a) tenants can negotiate temporary rent reductions with their landlords without being required to repay any difference between the agreed amount and pre-COVID19 amount;
  - (b) tenants can apply for a DHHS rent relief grant of up to \$3000 if they are experiencing financial hardship during COVID-19; and
  - (c) tenants cannot have rent increased, be blacklisted, or be evicted between 29 March 2020 and (currently extended to) 28 March 2021.
21. The State Government has also provided land tax reductions through the State Revenue Office. Assisting landlords in keeping their costs down minimises the impact of rental income decrease and consequently alleviate pressure on tenants.

Next steps

22. The hardship policy will continue being promoted on the rates instalment notices and Council's website.
23. In addition, the Revenue team is planning on launching a project next month to contact ratepayers who have not made any payment nor contacted council in 2020/21. Revenue staff receive enquiries regularly from ratepayers in distress during non-COVID years and understand that being in financial hardship is often a difficult topic for ratepayers to approach and discuss.
24. Therefore, the team will undertake this project to reach out to ratepayers who can potentially take advantage of the COVID-19 Financial Hardship Policy but may have been reluctant to approach Council in the first instance. It is the goal of the Revenue team to ensure that support is provided to all community members who need it.
25. The COVID-19 Financial Hardship Policy places Council in a position to be able to provide continual and further support to ratepayers as the pandemic continues.
26. The Ombudsman's office is conducting an investigation into how local councils are responding to ratepayers in financial hardship. The investigation is expected to be completed in the first half of 2021. Council anticipates a positive outcome of the investigation and any recommendations put forth by the Ombudsman's office will be welcomed.

Options

27. N/A

## Community and stakeholder engagement

28. Council will continue to consult with the community and other stakeholders with regards to this policy.

## Policy analysis

### Alignment to Council Plan

29. N/A

### Climate emergency and sustainability implications

30. N/A

### Community and social implications

31. This policy provides direct support to the community through rates relief and has a positive impact on community welfare.

### Economic development implications

32. N/A

### Human rights and gender equity implications

33. N/A

## Operational analysis

### Financial and resource impacts

34. Council has resolved to forgo up to \$2.0m across a 16 month period by way of waived interest charges, payment deferrals and waivers; as a component of its Covid-19 Relief Package.

### Legal Implications

35. N/A

## Conclusion

36. Yarra has implemented a COVID-19 hardship policy to provide focussed relief for ratepayers in hardship. The feedback from the community has been positive and Yarra will continue to reach out to ratepayers in need to discuss their situation.

## RECOMMENDATION

1. That Council notes this report on Rating Hardship.

## Attachments

- 1 COVID19 Financial Hardship Policy
- 2 Yarra Rates Hardship Policy

---

## 8.5 Request to Remove Significant Tree

---

<b>Reference</b>	D20/173024
<b>Author</b>	Ivan Gilbert - Group Manager Chief Executive's Office
<b>Authoriser</b>	Group Manager Chief Executive's Office

---

### Purpose

1. To in accordance with the “Guidelines for the consideration of applications under Council's Local Law No 3”, consider a formal review of a determination by delegated Officers to refuse the application for a permit to remove a significant tree from property 12 Park Avenue, Richmond.

### Critical analysis

#### History and background

2. The owner of property 12 Park Avenue Richmond has now applied for formal review by Council of the refusal by the delegated Officers to approve the issue of a permit to allow the removal of a significant tree on their property, 12 Park Avenue, Richmond.
3. In accordance with the Council's adopted Guidelines (**Attachment One**), delegated Officers have:
  - (a) processed and subsequently refused an initial application for a permit to remove the subject tree, a Canary Island Date Palm, which is located within the front east-facing yard of the subject property; and
  - (b) processed a formal request from the property owner for review of the initial delegated Officers investigation and reiterated the initial refusal to issue a permit to remove the tree.

#### Options

4. That Council, having in accordance with the “Guidelines for the consideration of applications under Council's Local Law No 3, considered the application for review of the delegated Officers decisions to refuse a permit, now determine to:
  - (a) approve the issue of a permit to remove the Canary Island Date Palm tree located on property 12 Park Avenue, Richmond; OR
  - (b) uphold the delegated Officer determinations to not approve a permit for removal of the Canary Island Date Palm tree located at property 12 Park Avenue, Richmond and advise the applicant accordingly including a requirement that the applicant to undertake periodic maintenance of the tree in accordance with the recommendations of the qualified arborist.

### Community and stakeholder engagement

5. Not relevant to this report.

### Policy analysis

#### Alignment to Council Plan

6. Not relevant to this report.

#### Climate emergency and sustainability implications

7. Council's policies regarding the retention of significant trees is directly related to the issues of climate emergency and associated sustainability implications.

#### Community and social implications

8. There is notable community support for the retention of tree and vegetation cover across the municipality as a climate control measure, hence the adoption by Council of its policy related to the retention of significant trees as defined.

#### Economic development implications

9. Not relevant to this report.

#### Human rights and gender equity implications

10. Not relevant to this report.

### Operational analysis

#### Financial and resource impacts

11. Not relevant to this report.

#### Legal Implications

12. There are potential legal implications related to the Council requiring the retention of trees on private property. It is therefore appropriate for the Council to undertake its evaluation in accordance with Clauses 3.3.1 and 3.3.2 of the referenced “Guidelines” (*as attached*).

### Conclusion

13. That Council determine on the matter.

## RECOMMENDATION

That Council having considered the application for review of the delegated Officers decisions to refuse a permit for the removal of a significant tree (*Canary Island Date Palm*) located on property 12 Park Avenue, Richmond, note the report and determine to:

- (a) now approve the issue of a permit to remove the subject tree; **OR**
- (b) uphold the delegated Officer decisions to not approve a permit for removal of the said tree; and advise the applicant accordingly.

## Attachments

- 1 Guidelines for consideration of applications under Council's Local Law No 3.

---

## 9.1 Notice of Motion No. 3 of 2021 - Resumption of Weekly Kerbside Recycling Collections

---

<b>Reference</b>	D21/15500
<b>Author</b>	Ivan Gilbert - Group Manager Chief Executive's Office
<b>Authoriser</b>	Group Manager Chief Executive's Office

---

I, Stephen Jolly, Councillor, hereby give notice that it is my intention to move the following motion at the Ordinary Meeting of Council to be held on 2 March 2021:

*"That Council:*

*(a) note its formal motion of 26 June 2020:*

*"That:*

- (a) Council endorse the roll out of glass bin only in October 2020;*
  - (b) Council endorse a fortnightly collection for recycling and a fortnight collection of glass; and*
  - (c) appropriate communication commence with the community and relevant stakeholders to prepare for an October 2020 glass bin roll out.";*
- (b) note the very significant level of community opposition to the arrangement and also complaints concerning overflowing bins, etc. as a result of the fortnightly collection; and*
- (c) now determine to reinstate the kerbside recycling service to a weekly collection."*

## RECOMMENDATION

1. That Council:

(a) note its formal motion of 26 June 2020:

*"That:*

- (a) Council endorse the roll out of glass bin only in October 2020;*
  - (b) Council endorse a fortnightly collection for recycling and a fortnight collection of glass; and*
  - (c) appropriate communication commence with the community and relevant stakeholders to prepare for an October 2020 glass bin roll out.";*
- (b) note the very significant level of community opposition to the arrangement and also complaints concerning overflowing bins, etc. as a result of the fortnightly collection; and
- (c) now determine to reinstate the kerbside recycling service to a weekly collection.

## Attachments

There are no attachments for this report.