



Agenda

Council Meeting

7.00pm, Tuesday 20 April 2021

Richmond Town Hall

Council Meetings

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

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

There are two ways you can participate in the meeting.

Public Question Time

Yarra City Council welcomes questions from members of the community.

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

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

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

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

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

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

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

Public submissions

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

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

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

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

Arrangements to ensure our meetings are accessible to the public

Council meetings are held at either the Richmond Town Hall or the Fitzroy Town Hall. The following arrangements are in place to ensure they are accessible to the public:

- Entrance ramps and lifts (off Moor Street at Fitzroy, entry foyer at Richmond).
- Interpreting assistance is available by arrangement (tel. 9205 5110).
- Auslan interpreting is available by arrangement (tel. 9205 5110).
- A hearing loop is available at Richmond only and the receiver accessory is available by arrangement (tel. 9205 5110).
- Proposed resolutions are displayed on large screen.
- An electronic sound system amplifies Councillors' debate.
- Disability accessible toilet facilities are available at each venue.

Recording and Publication of Meetings

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

Order of business

1. **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

Item

5.1 Future Funding for Yarra Energy Foundation

This item is presented for consideration in closed session because it contains private commercial information, being information provided by a business, commercial or financial undertaking that relates to trade secrets or if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage.

This item is considered applicable because it contains information provided by Yarra Energy Foundation on a commercial in confidence basis.

6. Confirmation of minutes

RECOMMENDATION

That the minutes of the Council Meeting held on Tuesday 30 March and Tuesday 6 April 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	Draft Annual Budget 2021/22	9	11	Wei Chen – Chief Financial Officer
8.2	493, 495 and 497 Swan Street, Richmond - Further Strategic Work	12	25	Fiona van der Hoeven - Practice Leader, Strategic Planning
8.3	Bridge Road and Victoria Street - Permanent Built Form Provisions	26	44	Fiona van der Hoeven - Practice Leader, Strategic Planning
8.4	Brunswick Street - Part time tram lane and bicycle upgrades	46	53	Simon Exon – Unit Manager Strategic Transport
8.5	Road Management Plan Review 2021	54	59	Graham Davis – Manager Building and Asset Management
8.6	Register of Public Roads	61	70	Peter Moran – Manager Traffic and Civil Engineering
8.7	Conclusion of Mayoral and Councillor Allowance Review	71	73	Rhys Thomas - Senior Governance Advisor

9. Notices of motion

Nil

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 Draft Annual Budget 2021/22

Trim Record Number: D21/34305

Responsible Officer: Director Corporate, Business and Finance

Purpose

1. To consider Council's Draft Annual Budget for 2021/22 and the Draft Revenue and Rating Plan, and to resolve to place these documents on public exhibition.

Background

2. Section 94 of the *Local Government Act 2020* provides that Council must prepare and adopt a Budget for each financial year and the subsequent 3 financial years.
3. Section 93 of the *Local Government Act 2020* requires a Council to prepare and adopt a Revenue and Rating Plan by the next 30 June after a general election for a period of at least the next 4 financial years.
4. Section 96 of the *Local Government Act 2020* provides that Council must develop the budget in accordance with its community engagement policy.
5. The external consultation below is the second stage of the community engagement plan which is developed in accordance with Council's community engagement policy 2020.

External Consultation

6. Significant community engagement was undertaken from November 2020 through to January 2021 inviting the community to share their priorities and aspirations for the future of Yarra. Over 1300 participants contributed to this stage of engagement and the results have assisted the in development of this Draft Budget.
7. A further engagement exhibition period seeking feedback on the Draft Budget and the Draft Revenue and Rating Plan, will occur upon adoption in principle of these documents.
8. Engagement during the exhibition period will be facilitated online, in person and via email and hard copy. The following methods will encourage and facilitate the Yarra community engaging in our budget consultation process:
 - (a) yoursayyarra.com.au/budget2122 – Feedback tool – Go live: Friday 23rd April 2021;
 - (b) Video 1 with the Mayor – Introducing the Budget – Available via yoursayyarra.com.au/budget2122 from Friday 30 April 2021;
 - (c) Hard copy draft budgets available at town halls and posted if requested; and
 - (d) Two in person presentation and Q and A events will be promoted to the broad community and held both during and outside of business hours.
9. The draft budget and the opportunity for community feedback will be promoted through the following:
 - (a) Yarra News (delivered to all households);
 - (b) News item and banner on Yarra Corporate website;
 - (c) Direct email campaign to community organisations, groups, neighbourhood houses and local schools (including inserts for school newsletters);
 - (d) Materials displayed in Public Housing foyers (including translated panels in the four top languages);
 - (e) Community radio including translated briefs for CALD radio;
 - (f) Yarra life eNews;
 - (g) Newsletters managed through a range of Yarra service areas;

- (h) Regular social media promotion throughout the exhibition period; and
 - (i) Direct emails to all Yarra advisory group members.
10. A Special Council Meeting will be held on Monday 7 June 2021 for Councillors to hear from community members wanting to speak to their feedback.
 11. Community members wanting to speak to their feedback in the Special Council meeting will be invited to register in advance and directed to the appropriate link to register according standard meeting procedure.
 12. Any alterations to the Draft Budget or the Draft Revenue and Rating Plan that are resolved by Council, as a result of the consultative process, will be incorporated into the resolution at the adoption of the Budget at the Council Meeting on Tuesday 22 June 2021.
 13. The Draft Budget has been developed through a rigorous process of review by Council and Council Officers. Council has placed an emphasis on the continuation of service delivery for our community and support for our residents.

Internal Consultation

14. Extensive internal consultation has been undertaken with key budget responsible officers which commenced in November 2020. The draft budget information has been discussed in detail with Councillors on several occasions from February 2021 to April 2021 and also with the Executive over the same time period.

Financial Implications

15. The ongoing financial viability of Council will depend on its ability to generate additional revenue, and to continue to tightly control cost pressures and operating expenditure.
16. Within the Draft Annual Budget, operating expenditure is provided for operations and core services, at the same high-quality service levels as 2020/21.
17. The proposed Capital Works Program is a comprehensive asset renewal and upgrade works program of \$38.7 million.

Economic Implications

18. Council's budget has wide-ranging economic implications for Yarra's citizens, particularly those reliant on Council infrastructure, services and funding, as well as those people that benefit from Council's strategic advocacy role.

Sustainability Implications

19. The Draft Annual Budget and the Draft Revenue and Rating Plan is prepared on the basis of achieving long-term financial sustainability of Council.

Social Implications

20. The Draft Annual Budget and the Draft Revenue and Rating Plan supports Council's social policies and services.

Human Rights Implications

21. There are no Human Rights implications.

Communications with CALD Communities Implications

22. The Draft Annual Budget 2021/22 and the Draft Revenue and Rating Plan will be advertised widely and explanation and guidance will be available regarding CALD (Culturally and Linguistically Diverse) community implications.

Council Plan, Strategy and Policy Implications

23. The Council Plan 2017-21 expires on 30 June 2021. A Council Plan 2021-25 is being developed and will be adopted by 31 October 2021 in accordance with the *Local Government Act 2020*. Yarra City Council is also developing its first Community Vision, which is a new requirement of the *Local Government Act 2020*. The Vision – Yarra 2036 - will

identify the long-term aspirations and priorities of the community and provide a future lens to guide planning and decision making.

24. The Draft Annual Budget 2021/22 has been structured according to the Strategic Objectives in the current Council Plan 2017-21. It is acknowledged that this will change once new Strategic Objectives are adopted as a result of the work in progress to develop a Community Vision and the Council Plan 2021-25.

Legal Implications

25. The annual budget process is a statutory process as specified in the Act.

Other Issues

26. There are no other issues.

Options

27. There are no alternative options.

Conclusion

28. Council endorsement of the Draft Annual Budget 2021/22 and the Draft Revenue and Rating Plan commences the public advertising and consultation process and it is recommended that Council adopt the Draft Annual Budget 2021/22 and the Draft Revenue and Rating Plan for that purpose.

RECOMMENDATION

1. That Council:
- (a) adopts, for the purpose of public consultation, the Draft Annual Budget 2021/22 at Attachment One as a draft of the budget prepared for the purpose of section 94 of the Local Government Act 2020;
 - (b) adopts, for the purpose of public consultation, the Draft Revenue and Rating Plan 2021-2025 at Attachment Two as a draft of the revenue and rating plan prepared for the purpose of section 93 of the Local Government Act 2020;
 - (c) gives notice under section 223 of the Local Government Act 1989 of Council's intention to grant a rate rebate of \$193.80 in the 2021/2022 year to each owner of rateable land who is an 'eligible recipient' within the meaning of the State Concessions Act 2004, with formal submissions being received until Friday 28 May 2021;
 - (d) notes that a meeting of Council will be held on Tuesday 7 June 2021 to hear feedback in relation to the draft budget and the draft revenue and rating plan and to hear formal submissions in relation to the rate rebate; and
 - (e) notes that a final decision on the budget, revenue and rating plan, and the rate rebate will be made at a Council meeting on Tuesday 22 June 2021.

CONTACT OFFICER: Wei Chen
TITLE: Chief Financial Officer
TEL:

Attachments

- 1 Draft Annual Budget 2021-2022
- 2 Draft Revenue and Rating Plan 2021-22

8.2 493, 495 and 497 Swan Street, Richmond - Further Strategic Work

Executive Summary

Purpose

The purpose of this report is for Council to consider:

- (a) the findings of the further strategic work undertaken for the land at 493-497 Swan Street; and
- (b) officer advice on whether additional built form requirements should apply to the properties at 493-497 Swan Street, Richmond via a *Design and Development Overlay* (DDO).

Key Issues

On 15 December 2020, Council resolved to adopt Amendment C191yara (Swan Street Major Activity Centre built form controls) with changes and authorised officers to:

- (a) *progress further strategic work as soon as practicable (subject to officers capacity and resources to undertake such work) for the land identified as Land subject to future strategic work at Map 2 of the Swan Street Framework Plan of clause 21.12; and*
- (b) *prepare a report for Council to consider by April 2021 in relation to the sites at 493-497 Swan Street based on the findings of the consultant team.*

In January 2021, Council engaged urban design and heritage consultants to undertake an independent review of the properties at 493, 495 and 497 Swan Street, Richmond.

The further strategic work recommended the following built form requirements for the three properties to better manage the design of new development:

- (a) building height: a *mandatory* maximum building height of 11m;
- (b) upper level setback: a *preferred* minimum upper level floor setback of 12m from the Swan Street front title boundary;
- (c) rear interface: a *preferred* maximum rear wall height of 11m on the boundary, consistent with interface "I" in Table 1 and Figure 1 in adopted DDO28, and
- (d) side interface to 499 Swan Street: a *preferred* maximum side wall height of 8m on the common boundary followed by an angled setback of 64° above the side wall, consistent with interface "I" in Table 1 and Figure 2 in adopted DDO28.

Officers consider that the recommended built form requirements would (amongst other things):

- (a) provide a higher level of clarity and certainty on outcomes for Council and the community;
- (b) protect and maintain the identified heritage fabric of the properties;
- (c) provide for an appropriate transition in scale from the 18m *mandatory* maximum height limit affecting 487-491 Swan Street to the 9m *mandatory* maximum height limit affecting land within the NRZ (including 499 and 501 Swan Street);
- (d) allow for the development of the properties, appropriate to the role and function of a Major Activity Centre; and
- (e) limit amenity impacts on adjoining residential properties.

A *Design and Development Overlay* would be the appropriate planning mechanism to implement the recommended requirements, which are based on a demonstrated need to control built form.

Until notice of approval of Amendment C191yara is published in the Government Gazette, Council cannot seek 'authorisation' from the Minister for Planning to prepare an amendment to the Scheme to include 493-497 Swan Street in Precinct four of Schedule 28 to the *Design and Development Overlay*.

Financial Implications

Costs associated with the amendment (including exhibition and Panel) would be met through the City Strategy Branch budget.

PROPOSAL

To implement the recommended built form requirements, Council has two options:

Endorse *493-497 the Swan Street, Richmond Built Form Review* (Hodyl & Co, March 2021) and the *Built Form Review: 493-499 Swan Street, Richmond Heritage Analysis & Built Form Review* (GJM Heritage, March 2021), and include it in a future amendment once Amendment C191yara is gazetted, and the strategic work has been completed for all land identified as "*Land subject to future strategic work*" at Map 2 of the Swan Street Framework Plan;

or

Endorse *493-497 Swan Street, Richmond Built Form Review* (Hodyl & Co, March 2021) and the *Built Form Review: 493-499 Swan Street, Richmond Heritage Analysis & Built Form Review* (GJM Heritage, March 2021) and include the three properties in a new, standalone DDO.

The officer recommendation is to pursue option a) based on the justification outlined in this report.

8.2 493, 495 and 497 Swan Street, Richmond - Further Strategic Work

Reference	D21/19306
Author	Alayna Chapman - Senior Strategic Planner
Authoriser	Director Planning and Place Making

Purpose

1. The purpose of this report is for Council to consider:
 - (a) the findings of the further strategic work undertaken for the land at 493-497 Swan Street; and
 - (b) officer advice on whether additional built form requirements should apply to the properties at 493-497 Swan Street, Richmond via a *Design and Development Overlay*.

Critical analysis

History and background

2. Amendment C191yara proposed to apply the *Design and Development Overlay* to four precincts in the Swan Street Major Activity Centre to better manage the scale and design of new development in the area.
3. During the public exhibition of Amendment C191yara in early 2019, the owners of 497 Swan Street, Richmond requested that their property be included within the boundary of Precinct 4 Burnley Station (**Submission 21**). Refer to figure 1.

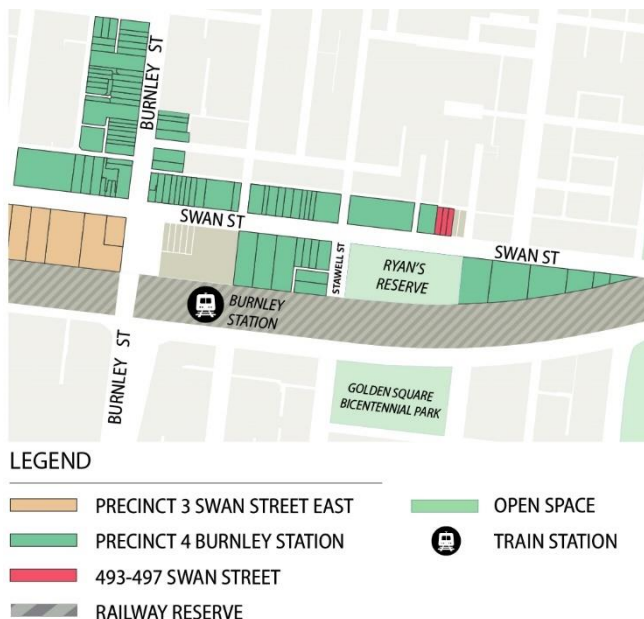


Figure 1. Swan Street Activity Centre precinct map

4. On 10 September 2019, Council considered Amendment C191yara and the submissions received to the amendment. Council resolved to refer all submissions to an independent Planning Panel and to:
 - (a) note, in preparing C191 Council acknowledge that there was a strategic justification to maintain the current C1 Zoning at 493-497 Swan Street Richmond; and
 - (b) refer Submission 21 to officers for further advice as to the opportunity to include properties at 493-497 Swan St Richmond into DDO17.

5. At the Amendment C191yara Planning Panel hearing in mid-2020, the Panel publicly considered 'Submission 21' together with additional written and verbal submissions from the owners of 497 Swan Street, Richmond.
6. The Panel, in their report, concluded that they did not support the Precinct 4 boundary of Schedule 28 to the *Design and Development Overlay (DDO28)* being realigned to include the properties at 493, 495 and 497 Swan Street, Richmond (**subject properties**) through Amendment C191yara because:
 - (a) *there is insufficient strategic work to support the proposal;*
 - (b) *the implications of applying the DDO28 provisions need to be clearly understood; and*
 - (c) *it is beyond the scope of the Amendment and should be reviewed through a separate process.*
7. At its meeting on 15 December 2020, Council resolved to adopt **Amendment C191yara** with changes and authorised officers to:
 - (a) *progress further strategic work as soon as practicable (subject to officers capacity and resources to undertake such work) for the land identified as Land subject to future strategic work at Map 2 of the Swan Street Framework Plan of clause 21.12; and*
 - (b) *prepare a report for Council to consider by April 2021 in relation to the sites at 493-497 Swan Street based on the findings of the consultant team.*
8. While the subject properties are not included in the adopted version of DDO28 (Attachment 1), they are identified, along with land north of Richmond Station, as land subject to future strategic work in the adopted *Swan Street Framework Plan* (Attachment 2) at clause 21.12.
9. Amendment C191yara is currently awaiting approval from the Minister for Planning.
10. In January 2021, Council officers engaged the urban design consultants Hodyl & Co to undertake an independent review of the subject properties (figure 2.) and recommend, if necessary, built form requirements to better manage the design of new development. The purpose of this strategic work was to inform the officer advice contained in this report.
11. Given the subject properties are of heritage significance, Council also engaged the heritage consultant's GJM Heritage in January 2021 to ensure that any built form recommendations consider the heritage values of the subject properties and achieve acceptable heritage outcomes.



Figure 2. 493-497 Swan Street, Richmond

12. At their request, the owners of 497 Swan Street (Kellehers Australia) met with Council officers on 3 February 2020 to present the findings from their own independent built form review of the subject properties.
13. On 15 March 2021, Council received a submission from Kellehers Australia on behalf of the owners of the three subject properties.
14. In summary, the submission proposed the following built form parameters for a future Design and Development Overlay (**DDO**) over the properties:
 - (a) building height: A 4 storey *mandatory* maximum building height (14m);
 - (b) upper level setback: A upper level setback of approximately 9m from Swan Street followed by an additional setback of approximately 14m at the fourth floor;
 - (c) rear interface: A *preferred* maximum rear wall height of 11m on the boundary followed by an angled setback of 45° above, consistent with interface “I” in *Table 1 – Street Wall Heights and Setbacks for Precinct 4* and Figure 1 in adopted DDO28; and
 - (d) side interface to 499 Swan Street: A *preferred* maximum side wall height of 11m on the common boundary followed by an angled setback of 2:1 above the side wall.
15. While consideration of this submission by Council is not a statutory requirement under the *Planning and Environment Act 1987*, on 16 March 2021, officers circulated this submission to its consultant team for consideration as part of their assessment.
16. On 22 March, 2021 officers provided the consultant team with additional architectural plans provided by Kellehers Australia.

Existing conditions

17. The subject properties front Swan Street and extend to an unnamed laneway to the north. They are located at the very eastern end of the Swan Street commercial centre, on the northern side of the street. These midblock properties have a lot width of approximately 6m and a depth of approximately 29m.
18. The subject properties form part of a terraced row of four narrow, single storey houses (figure 3.). The red-brick masonry terraced row share a single pitched gabled roof form, which is clad in terracotta tiles and, beyond the ridgeline, corrugated metal sheeting. Original chimneys with terracotta pots are located on two of the party walls.
19. The terraced row was constructed circa 1900-1915 for use as dwellings. While 493, 495 and 499 Swan Street, Richmond retain their original residential form, the frontage of 497 Swan Street includes an interwar shopfront addition, which projects an additional 2m to the southern boundary.
20. Only one of the terraced houses has a valid planning permit that applies to the land. Planning Permit No. 9917110 was issued 22 May, 2000 for 497 Swan Street, Richmond and has not been acted on. The endorsed plans (dated 8 September, 2020) show:
 - (a) part demolition of the rear;
 - (b) 8.5m tall (three storeys) rear addition;
 - (c) 9m upper level setback from the front title boundary; and
 - (d) 5.6m rear wall height on the boundary.

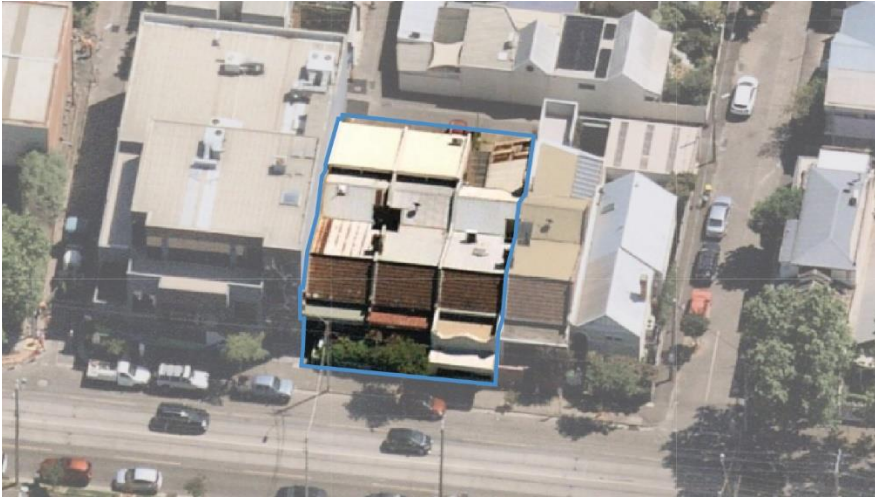


Figure 3. Aerial image of 493-497 Swan Street, Richmond

21. The property just east of the terraced row (501 Swan Street, Richmond) is a single storey house also dating from the Edwardian period. It occupies a corner site, addressing Swan Street to the south and bounded by Queen Street to the east and an unnamed laneway to the north. The properties from 493 to 501 Swan Street, Richmond form a cohesive early twentieth-century streetscape.
22. The property to the west of the terraced row at 487-491 Swan Street, Richmond is a three-storey, late twentieth-century commercial building. It occupies a corner site, addressing Swan Street to the south and bounded by Belgravia Street to the west and an unnamed laneway to the north. Council recently issued a Notice of Decision to Grant Permit (PLN20/0420) for this property that would allow for an 18m (five storey) office development – 11m podium with upper levels setback.

Current planning framework

23. The *Commercial 1 Zone (C1Z)* applies to the subject properties. The main purpose of the zone is to provide for a mix of uses at densities complementary to the role and scale of the commercial centre. There is limited built form guidance and no height or setback requirements within the existing Yarra Planning Scheme (**Scheme**) to guide development on the subject properties.
24. Land just west of the subject properties is included in both the C1Z and Schedule 17 to the *Design and Development Overlay* (Note: DDO17-4 will be superseded by DDO28 once it is approved by the Minister for Planning).
25. In interim DDO17-4, the property at 487-491 Swan Street is subject to:
 - (a) a *mandatory* maximum height limit of 18m;
 - (b) a *preferred* upper level setback of 5m; and a
 - (c) *preferred* maximum front street wall height of 11m.
26. Land immediately east of the subject properties (499 Swan Street onwards) is included in the *Neighbourhood Residential Zone (NRZ)*. The NRZ includes a *mandatory* maximum height limit of 9m.
27. The subject properties (along with the NRZ land to the north and east) are located within the *Bendigo Street Heritage Overlay Area (HO309)*. HO309 is primarily residential in character, with most properties dating to the late nineteenth or early twentieth centuries. The subject properties are considered typical examples of Edwardian dwellings types within HO309 and are graded 'contributory' to the wider precinct.

28. The adopted *Yarra Housing Strategy 2018* (**Strategy**) and exhibited local housing policy (clause 16.01-2L - *Location of Residential Development*, proposed via Amendment C269) include the subject properties within the 'moderate change area'. The Strategy states that the provisions of built form overlays in the Scheme should determine the scale and form of residential growth in moderate change areas.

Discussion

Built form review

29. The *493-497 Swan Street, Richmond Built Form Review* (**Review**), issued April 2021 by Hodyl & Co provides the logic and evidence to support the introduction of built form requirements to the three subject properties to better manage the design of new development. Refer to Attachment 3 for a copy of the Review.
30. The Review includes five key principles (based on urban design analysis and the heritage advice from GJM Heritage) that articulate the *preferred* built form objectives sought for the three subject properties, including:
- (a) *to avoid a visually dominant upper level from above the heritage buildings;*
 - (b) *to maintain the cohesiveness of the cluster of heritage buildings with a shared roof form;*
 - (c) *to provide an appropriate transition in scale to the heritage and residential buildings in the east;*
 - (d) *to sufficiently retain the existing heritage fabric, and*
 - (e) *to facilitate the delivery of buildings with a sufficient floorplate depth at upper levels (a minimum depth of 10m and a minimum width of 5m).*
31. The Review tested twelve different built form scenarios against the five key principles to determine whether the design outcome was either preferred, acceptable or unacceptable.
32. The twelve scenarios are in Appendix A of the Review. This level of rigorous built form testing at a site-specific level is appropriate for properties at the interface of a commercial centre and residential neighbourhood and necessary for detailed built form controls in a DDO.
33. The principles and their application have informed specific recommendations for building heights, setbacks above heritage buildings and residential interface treatments.
34. In summary, the Review recommends the following built form requirements to achieve good built form outcomes for the properties:
- (a) building height: a *mandatory maximum building* height of 11m;
 - (b) upper level setback: a *preferred* minimum upper level floor setback of 12m from the Swan Street front title boundary;
 - (c) rear interface: a *preferred* maximum rear wall height of 11m on the boundary, consistent with interface "I" in Table 1 and Figure 1 in adopted DDO28; and
 - (d) side interface to 499 Swan Street: a *preferred* maximum side wall height of 8m on the common boundary followed by an angled setback of 64° above the side wall, consistent with interface "I" in Table 1 and Figure 2 in adopted DDO28.
35. These requirements reflect advice by GJM Heritage contained in their report (refer to Attachment 4) to protect the identified architectural and heritage features (e.g. parapets, roofline treatments and view lines).
36. It is noted that no street wall height and setback requirements have been proposed, given the 'contributory' heritage grading of the subject properties.
37. The strategic basis for each recommended built form requirement is discussed in detail below.
-

Building height

38. The subject properties are uniquely positioned at the end of the Swan Street Activity Centre.
39. Any development of the subject properties should provide for an appropriate transition in built form scale from C1Z land down to NRZ land, which comprises lower scale attached and detached heritage houses.
40. The Review tested built form heights of 9m, 11m and 14.5m, having close regard to the application of the above key principles, particularly the desire to achieve visually recessive upper levels and an appropriate transition in scale to the heritage and residential buildings to the east.
41. The Review recommends a *mandatory maximum* building height of 11m.
42. It was determined that an 11m height limit would help ensure that new built form (while being visible above the ridgeline of the terrace row) would be visually recessive whilst accommodating development opportunities to the rear. A development of this height would also not visually dominate the western end of the *Bendigo Street Heritage Overlay Area*.
43. The Review has also had regard to surrounding approved and recently constructed development. These developments are important precedents that have been considered through detailed review to be acceptable.
44. A *mandatory maximum building height* of 11m would align with the proposed podium height of the approved 18m tall development at 487-491 Swan Street (see figure 4), providing an appropriate transition down in scale to the historic form of 499 and 501 Swan Street, Richmond to the east.

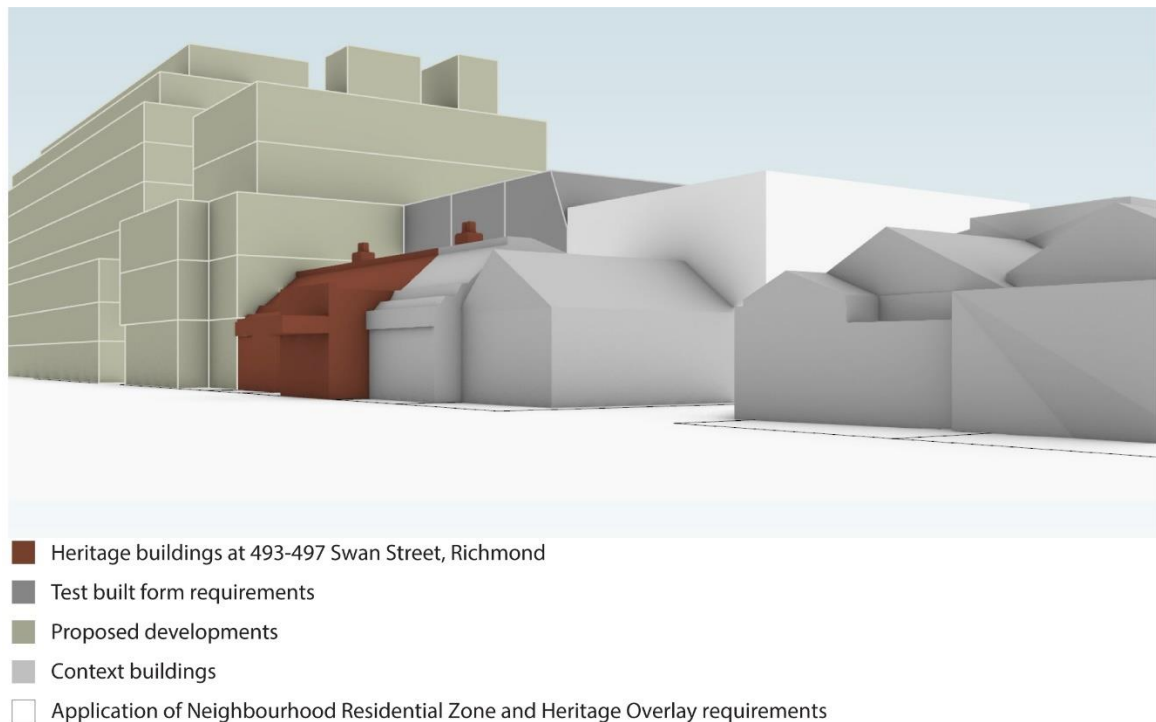


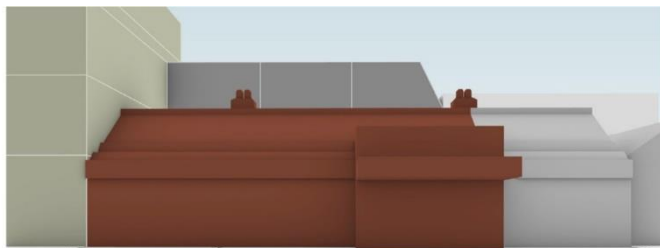
Figure 4. 3D modelling showing the recommended built form outcome, looking west from the southern footpath of Swan Street

45. The Review has been very selective in its application of *mandatory* controls to only where it is considered 'absolutely necessary', in accordance with *Planning Practice Note 60: Height and Setback Controls for Activity Centres (PPN60)*.
46. It is considered that the application of a *mandatory height control* is considered 'absolutely necessary' to achieve the preferred built form outcomes for the subject properties, having regard to their heritage fabric and sensitive residential interfaces. This is consistent with the criteria used to establish *mandatory* controls in adopted DDO28 and strongly supported by the Amendment C191yara Planning Panel.

47. Importantly, the *mandatory maximum* height control is underpinned by comprehensive strategic work that meets the requirements of PPN60. The comprehensive built form testing and heritage advice found that the three subject properties provide unique a transition to lower scale properties to the east and that this exceptional circumstance warrants the introduction of a *mandatory maximum* height controls.
48. The advantage of *mandatory* controls (where justified and appropriate) is that they can provide more certainty to all parties.

Upper level setback:

49. A sufficient upper level setback is critical to retaining the visibility of the three-dimensional form and depth of a heritage building, from the public realm. GJM Heritage identified the following extent of heritage fabric of the subject properties to be retained:
 - (a) all the built fabric from the Swan Street boundary to the ridgeline of the southern (tiled) roof slope facing Swan Street (including decorative ridge tiles); and
 - (b) the full extent of the chimneys above the roof line on the party walls between properties 493 and 495 and 497 and 499.
50. The Review tested 9m, 10m, 11m and 12m setbacks to understand which setback would best retain these architectural elements and their prominence.
51. The Review recommends a 12m setback to appropriately retain the original elements of the fabric of the contributory buildings, including the principal façade, primary roof form and chimneys. The setback is approximately the depth of two front rooms as sought by the exhibited heritage local policy at Clause 15.03-1L (proposed via Amendment C269).
52. A 12m upper level setback also aligns with the depth of the retained historic fabric of the front part of the neighbouring houses at 499 and 501 Swan Street, Richmond and would create a consistent setback for new development behind the heritage build form of this part of HO309.
53. It is considered that the Review has also appropriately considered the opportunities for the properties to accommodate additional development without adversely impacting on heritage fabric.
54. A 12m upper level setback from the front title boundary would retain a developable envelope of at least 17m (a minimum floorplate depth of 10m and width of 5m is required for a development to be considered feasible).



- Heritage buildings at 493-497 Swan Street, Richmond
- Test built form requirements
- Proposed developments
- Context buildings
- Application of Neighbourhood Residential Zone and Heritage Overlay requirements

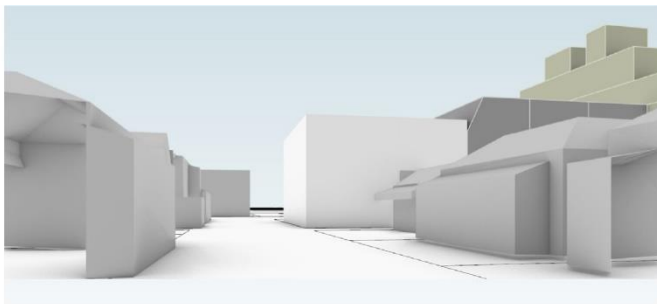
Figure 5. 3D modelling showing recommended built form outcome, looking north from the southern footpath on Swan Street.

Rear residential interface

55. While the rear of the subject sites' present opportunities for development, it is important that any development does not unreasonably impact the amenity of the adjoining sensitive residential areas to the north and east of the subject properties.
56. The rear of the subject sites is separated from the NRZ land to the north by an approximately 4m wide laneway. The adopted DDO28 includes a rear residential interface treatment for C1Z land abutting an existing laneway. This treatment was tested through the C191yara Panel process as appropriate for the Swan Street context. As such, the Review recommends the same interface treatment for the subject properties.
57. It is considered that a *preferred* maximum rear wall height of 11m on the boundary, consistent with interface "I" included in *Table 1 (Street Wall Heights and Setbacks for Precinct 4)* and shown in *Figure 1 (Interface with an existing laneway)* of DDO28, would ensure a developable envelope that corresponds with the proposed *mandatory* maximum 11m building height of the subject properties.

Rear residential interface

58. The property at 497 Swan Street, Richmond shares a boundary with the end terrace house at 499 Swan Street in the NRZ.
59. Adopted DDO28 includes a residential interface treatment for land in the C1Z directly abutting land in the NRZ. Given this treatment was also supported by C191yara Panel, the Review recommends the same treatment for the common boundary.
60. Applying a side wall height of 8m on the common boundary followed by an angled setback of 64° above the side wall, consistent with interface "I" included in *Table 1 (Street Wall Heights and Setbacks for Precinct 4)* and shown in *Figure 2 (Interface direct abuttal)* in adopted DDO28, would ensure an appropriate transition to the single storey dwelling at 499 Swan Street, achieving a key design principle.



- Heritage buildings at 493-497 Swan Street, Richmond
- Test built form requirements
- Proposed developments
- Context buildings
- Application of Neighbourhood Residential Zone and Heritage Overlay requirements

Figure 6. 3D modelling showing recommended built form outcome, looking south from the eastern footpath on Queen Street

Officer advice

61. While HO309 helps protect the heritage fabric of the subject properties, there is limited built form guidance to manage the scale and design of new development at the rear of the subject properties.
62. It is considered that the Review provides a sound strategic basis for the introduction of the recommended built form requirements, which would (amongst other things):
 - (a) provide a higher level of clarity and certainty for Council and the community;

- (b) protect and maintain the identified heritage fabric of the properties;
 - (c) provide for an appropriate transition in scale from the 18m *mandatory* maximum height limit affecting 487-491 Swan Street and to the 9m *mandatory* height limit affecting land within the NRZ (including 499 and 501 Swan Street);
 - (d) allow for the development of the properties, appropriate to the role and function of a Major Activity Centre; and
 - (e) limit amenity impacts on adjoining residential properties.
63. Officers consider that a *Design and Development Overlay* would be the appropriate planning mechanism to implement the recommended requirements, which are based on a demonstrated need to control built form.
64. It is important to note that the adopted DDO28 has not been approved by the Minister for Planning and is not in the Yarra Planning Scheme.
65. Until notice of approval of Amendment C191 yara is published in the government gazette, Council cannot seek 'authorisation' to prepare an amendment to the Scheme to include 493-497 Swan Street in Precinct four of DDO28.

Options

66. To implement the recommended built form requirements, Council has two options:
- (a) endorse *493-497 Swan Street, Richmond Built Form Review* (Hodyl & Co, April 2021) and the *Built Form Review: 493-499 Swan Street, Richmond Heritage Analysis & Built Form Review* (GJM Heritage, March 2021) and include it in a future amendment once Amendment C191 is gazetted and the strategic work has been complete for all land identified as “Land subject to future strategic work” at Map 2 of the Swan Street Framework Plan;
 - or
 - (b) endorse *493-497 Swan Street, Richmond Built Form Review* (Hodyl & Co, April 2021) and the *Built Form Review: 493-499 Swan Street, Richmond Heritage Analysis & Built Form Review* (GJM Heritage, March 2021) and include the properties in standalone, new DDO.
67. Officers recommend pursuing **option (a)** for the reasons listed below.
- (a) this would allow time for DDO28 to be approved and gazetted by the Minister for Planning. Given DDO28 has been tested through a rigorous Planning Panel process and applies to adjacent properties, it would likely be a more straightforward process to amend DDO28 to include 493-497 Swan Street in the Precinct 4 boundary rather than introduce a new separate DDO to just three properties;
 - (b) it would allow time for officers to progress strategic work for the remaining land identified as “*Land subject to future strategic work*” at Map 2 of the Swan Street Framework Plan. Officers could then implement any recommendations that arise from this work into the Scheme at the same time as the recommendations contained in the Review. One comprehensive amendment would be a cost and resource-efficient approach; and
 - (c) as adopted documents, *493-497 Swan Street, Richmond Built Form Review* (Hodyl & Co, April 2021) and the *Built Form Review: 493-499 Swan Street, Richmond Heritage Analysis & Built Form Review* would clearly outline Council’s expectations regarding the preferred development outcomes sought for the subject properties.

Community and stakeholder engagement

68. On 3 March 2021, the owners of 497 Swan Street and their consultants presented a submission on 493-497 Swan Street, Richmond.

69. On 15 March 2021, Council received a submission from Kellehers Australia on behalf of the owners of the three subject properties.

Policy analysis

Alignment to Council Plan

70. The work supports the following strategy in the Council Plan 2017-2021:

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

Climate emergency and sustainability implications

71. Redevelopment of the land would provide for an opportunity to address climate emergency objectives including:
- (a) opportunity for greater levels of sustainability through the redevelopment of land in keeping with Council's ESD policy; and
 - (b) facilitate sustainable communities that are walking distances to sustainable transport options, employment and services.

Community and social implications

72. There are no specific social implications to endorsing an approach that seeks to provide certainty to the community around future built form outcomes on these properties as part of a future amendment.

Economic development implications

73. There are no specific economic implications to endorsing an approach to provide certainty to the community around future built form outcomes on these properties as part of a future amendment.

Human rights and gender equality implications

74. There are no known human rights implications to endorsing an approach to provide certainty to the community around future built form outcomes on these properties as part of a future amendment.

Operational analysis

Financial and resource impacts

75. The strategic planning budget has absorbed the strategic work required for this work relating to the subject properties.
76. Unless initiated by a proponent the costs of an amendment would need to be funded through the YCC strategic planning budget.
77. A standalone amendment would defer officers away from progressing amendments and projects that affect a greater number of properties in other Activity Centres. Recent amendments have demonstrated that the procedure is very long and time and resource intensive.
78. Option (a); being include in a 'future' amendment (rather than a stand-alone amendment) would be the most cost effective for the Council and would not, it is considered' unduly prejudice the land owner seeking this analysis and possible change.

Legal Implications

79. There are no known legal implications or obligations.

Conclusion

80. On 15 December 2020, Council authorised officers to undertake further strategic work for the subject properties at 493-497 Swan Street, Richmond and prepare a report to be considered by Council in April 2021.

81. In January 2021, Council engaged urban design and heritage consultants to undertake an independent review of the subject properties.
82. The Review found that built form requirements are required to better manage built form outcomes.
83. The Review recommended specific requirements for building heights, setbacks above heritage buildings and residential interface treatments. The recommendations of the Review are supported by robust and comprehensive strategic work and testing.
84. Officers consider that the recommended built form requirements would (amongst other things) retain the extent of heritage fabric identified by GJM Heritage as important whilst allowing for visually recessive new development above and behind the subject properties.
85. A *Design and Development Overlay* would be the appropriate planning mechanism to implement the recommended requirements, which are based on a demonstrated need to control built form.
86. Until notice of approval of Amendment C191yara is published in the Government Gazette, Council cannot seek 'authorisation' to prepare an amendment to the Scheme to include 493-497 Swan Street in Precinct four of DDO28.
87. Officers recommend adopting *493-497 Swan Street, Richmond Built Form Review* (Hodyl & Co, April 2021) and the *Built Form Review: 493-499 Swan Street, Richmond Heritage Analysis & Built Form Review* (GJM Heritage, March 2021) as this would also allow time for DDO28 to be approved and gazetted by the Minister for Planning and time for officers to progress strategic work for the remaining land identified as "*Land subject to future strategic work*" at Map 2 of the Swan Street Framework Plan of clause 21.12, per the Council Resolution 15 December 2020.
88. By endorsing the documents, Council's expectations regarding the preferred development outcomes sought for the subject properties would be made clear until a future amendment to the Scheme to implement the built form requirements can be undertaken.

RECOMMENDATION

1. That Council:
 - (a) note the officer report in relation to the land at 493-497 Swan Street, Richmond;
 - (b) note Attachments 1, 2, 3 and 4 in relation to the findings of the further strategic work for the land at 493-497 Swan Street, and the officer advice on the further strategic work; and
 - (c) endorse:
 - (i) the *493-497 Swan Street, Richmond Built Form Review* (Hodyl & Co, April 2021) at Attachment 3; and
 - (ii) the *Built Form Review: 493-499 Swan Street, Richmond Heritage Analysis & Built Form Review* (GJM Heritage, March 2021) at Attachment 4,as the strategic analysis underpinning a future planning scheme amendment for these sites.
2. That Council notes the 2 options contained in the officer report regarding future planning scheme Amendment processes, and notes the officer recommendation to prepare a future planning scheme amendment in conjunction with other planning scheme amendments for the reason of efficiency of process and resource allocation.
3. That Council authorises officers to:
 - (a) prepare a report for Council to consider a future amendment that relates to all land identified as “*Land subject to future strategic work*” at Map 2 of proposed clause 22.12 of the Swan Street Framework Plan (**Map 2**) once the strategic work for the remaining land identified as “*Land subject to future strategic work*” at Map 2 has been completed and also after amendment C191yara has come into effect in the Yarra Planning Scheme.

Attachments

- 1 Attachment 1 - Schedule 28 to tot the Design and Development Overlay
- 2 Attachment 2 - Adopted Swan Street Framework Plan at clause 21.12 of the Yarra Planning Scheme
- 3 Attachment 3 - 493-497 Swan Street, Richmond Built Form Review
- 4 Attachment 4 - 493-497 Swan Street, Richmond Heritage Analysis & Built Form Review

8.3 Bridge Road and Victoria Street - Permanent Built Form Provisions

Executive Summary

Purpose

The purpose of the report is for Council to consider whether to:

- (a) proceed to introduce 'permanent' *Design and Development Overlays* (DDOs): Schedules 41-50 to land within the Bridge Road and Victoria Street Major Activity Centres;
- (b) request the Minister for Planning refer a proposed amendment implementing the permanent built form provisions to an Advisory Committee appointed under Section 151 of the *Planning and Environment Act 1987*; and
- (c) request the Minister for Planning in accordance with Section 8 (1) (b) and 20 (4) of the *Planning and Environment Act 1987*, to extend the 'Interim' Design and Development Overlays (DDOs): Schedules 21 and 22; to the Bridge Road and Victoria Street Major Activity Centres.

Key Issues

Yarra's activity centres are identified as key locations for residential and employment growth in both State and Local Policy.

The activity centres in Bridge Road and Victoria Street are experiencing development pressure due to their proximity to the CBD, public transport, vibrant retail offer and heritage character.

Presently there are interim *Design and Development Overlays* (DDO) within the planning scheme which inform heights, setbacks and interfaces for these centres.

With the expiry of the interim DDOs imminent, Council needs to progress permanent provisions as soon as possible to manage change and provide as much certainty as possible about future development outcomes.

Financial Implications

The costs associated with preparing strategic work to underpin permanent provisions; exhibition of the amendment and Advisory Committee fees have been considered within the strategic planning budget.

PROPOSAL

In summary, that Council:

- (a) adopt the proposed permanent built form provisions for Bridge Road and Victoria Street Activity Centres and the supporting documents, which informed the provisions, as the basis of a proposed amendment to the Yarra Planning Scheme;
- (b) request the Minister for Planning refer a proposed amendment implementing the permanent built form provisions to an **Advisory Committee** appointed under Section 151 of the *Planning and Environment Act 1987* to progress and consider the proposed provisions;
- (c) note that should the Minister for Planning determine not to proceed with an Advisory Committee, Council would proceed with the 'usual' full amendment process, seeking 'authorisation' from the Minister for Planning to exhibit an amendment; and
- (d) request the Minister for Planning to extend the expiry dates for the two DDO schedules which apply to the Bridge Road and Victoria Street Activity Centres on an interim basis for an extra 12 months while the permanent provisions are considered.

8.3 Bridge Road and Victoria Street - Permanent Built Form Provisions

Reference	D21/31513
Author	Kyle Everett - Strategic Planner
Authoriser	Director Planning and Place Making

Purpose

1. The purpose of the report is for Council to consider whether to:
 - (a) proceed to introduce 'permanent' *Design and Development Overlays* (DDOs): Schedules 41-50; to land within the Bridge Road and Victoria Street Major Activity Centres;
 - (b) request the Minister for Planning refer a proposed amendment implementing the permanent built form provisions to an Advisory Committee appointed under Section 151 of the *Planning and Environment Act 1987*; and
 - (c) request the Minister for Planning in accordance with Section 8 (1) (b) and 20 (4) of the *Planning and Environment Act 1987*, to extend the 'Interim' Design and Development Overlays (DDOs): Schedules 21 and 22; to the Bridge Road and Victoria Street Major Activity Centres for a further 12 months.

Critical analysis

History and background

Bridge Road and Victoria Street Major Activity Centres

2. The Victoria Street and Bridge Road Major Activity Centres are two of the five designated *major* activity centres within the City of Yarra and accordingly play an important role in accommodating a proportion of Melbourne's population and employment growth.
3. As major activity centres, Victoria Street and Bridge Road are required to play a significant role in achieving the directions of *Plan Melbourne 2017-2050* in relation to both housing and employment.
4. Council's *Housing Strategy* seeks to direct new housing to areas within or close to activity centres that have good access to public transport, open space and other services and limit housing growth in established residential areas, consistent with *Plan Melbourne*, State and local policy.
5. Bridge Road and parts of Victoria Street are intact turn of the century high streets generally of consistent scale and architectural quality.
6. Currently the two centres have interim provisions but not permanent planning provisions.
7. Yarra's communities place great importance on planning provisions to better manage change and provide as much certainty as possible about future development outcomes.
8. Without permanent DDOs, the Yarra Planning Scheme would not adequately guide the extent of change the centres should absorb, balanced with competing factors such as urban consolidation, protection and enhancement of heritage significance of the street and individual buildings, the quality and consistency of the streetscape and the amenity of adjoining residential properties.

Existing Interim Design and Development Overlays

9. Interim *Design and Development Overlays* (DDOs) - DDO21 and DDO22 currently apply to the Bridge Road and Victoria Street Major Activity Centres.

10. The interim DDOs were requested in June 2018 and were informed by three background reports:
 - (a) *Bridge Road - Victoria Street Built Form Framework (David Lock Associates, June 2018);*
 - (b) *Victoria Street and Bridge Road Built Form Review - Heritage Analysis & Recommendations (GJM Heritage, June 2018); and*
 - (c) *Traffic Engineering Assessment - Victoria Street and Bridge Road Activity Centres, Richmond (Traffix Group, June 2018).*
11. The interim DDOs were intended to form a holding position while the permanent provisions went through a full amendment process, including public exhibition and the ability to make submissions to an independent Planning Panel.
12. The interim DDOs were introduced into the *Yarra Planning Scheme* via a Ministerial amendment (under S20 (4) of the *Planning and Environment Act 1987*) on 15 November 2018. The request for a Ministerial amendment meant that interim DDOs were applied without community consultation.
13. The interim DDOs were applied for two years. An extension to those controls was requested in October 2020 and they were extended by the Minister for Planning until 30 June 2021.
14. However in his approval of the extension, the Minister noted:

'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.'
15. As the interim DDOs expire at the end of June 2021, Council needs to request an extension to the interim provisions and progress permanent provisions as soon as possible.

Discussion

16. The operation of the interim DDOs for the past two years has provided Council, developers, the community and VCAT with the opportunity to road test the DDOs.
17. Council has undertaken a review the interim DDOs to:
 - (a) test their suitability for translation into permanent provisions;
 - (b) recommend any necessary refinements to enhance the clarity and workability of the provisions, and
 - (c) ensure they will achieve the development outcomes sought for the centres.

Study area

18. The review is focussed on land covered by the existing interim DDOs. It is, however, proposed that the DDO is extended to also cover land in Commercial 2 Zone along Burnley Street, south of Bridge Road (see blue hatch on Figure 1) – a gap in the current Bridge Road DDO.
19. The interim DDOs do not apply to the entire activity centre areas and instead focus on commercial land as well as some land in a Mixed Use, Public Use Zone and Special Use Zone.
20. In some cases, the areas outside the two interim DDOs (but included within the activity centre boundaries) are subject to other DDOs or planning provisions which guide development. Alternatively, some sites such as the Jacques site in Griffiths Street have already been developed.

26. MGS Architects has undertaken substantial testing of different options using cross sections and 3D-modelling, including views to landmarks and the impacts of the proposed built form on heritage streetscapes and buildings. MGS Architects has worked closely with GJM Heritage to ensure the proposed provisions protect heritage buildings and streetscapes while still allowing appropriate development.
27. The review updates *preferred character statements* and provides specific built form recommendations such as building heights, street wall heights, upper level setbacks and residential interfaces.
28. The report provides the strategic justification and evidence (alongside the other reports) needed to inform the permanent provisions and provides the basis for the preparation of future permanent planning provisions.

Heritage Advice

29. GJM Heritage were engaged to provide heritage advice to inform the review of the interim DDOs and prepared the following reports to assist officers in preparing built form provisions and controls for the area:
 - (a) *Built Form Review: Bridge Road – Heritage Analysis and Recommendations (April 2021); and*
 - (b) *Built Form Review: Victoria Street – Heritage Analysis and Recommendations (April 2021).*

(See Attachments 2 and 3)
 30. The two reports considered the built form parameters that are required to ensure the values of heritage places in the two activity centres are appropriately managed and protected. The advice promotes good heritage outcomes for development on land subject to, or abutting, the Heritage Overlay.
 31. The heritage advice has informed MGS's Architects built form review and ensured that DDO provisions and controls appropriately respond to heritage fabric and values within Victoria Street and Bridge Road.
 32. This combined work has had a strong influence on the proposed street wall heights, building setbacks and building heights in the proposed DDOs.
 33. GJM Heritage has recommended further assessment to:
 - (a) investigate the possibility of creating individual 'statements of significance' which include the rear wings of buildings at 314 - 328 Bridge Road and terraced shops at 289-307 Bridge Road on corner of Bridge and Church Street;
 - (b) understand whether to apply a heritage overlay to the Bridge Hotel, 644 Bridge Road;
 - (c) understand whether to apply a heritage overlay to the Moderne office building at 240 Burnley Street (noting there is a live planning permit permitting the demolition of this building which has not been acted on);
 - (d) review the removal of 504 to 514 Bridge Road from HO310 - Bridge Road Precinct, Richmond (recognising that of these properties only 506 Bridge Road is graded 'contributory' in the *Database of Heritage Significant Areas* and this building has been substantially altered); and
 - (e) review the removal of 8 Garfield Street from HO407 - Marchants Aerated Waters and Cordials Pty Ltd as it appears no historic fabric has been retained on this part of the site through the development of nine storey apartment development. The part of the site where the heritage fabric is retained (21-31 York Street) would remain in HO407.
 34. This work would be undertaken separately to this planning scheme amendment as the limited timeframes has not permitted the detailed work necessary to include these changes in the amendment. They will therefore need to be implemented through a separate amendment process.
-

35. In addition to the above, GJM Heritage also considered the inclusion of local landmarks - the 'Victoria Street Gateway' within the roadway at the western end of Victoria Street and the clock tower of the Chợ Bến Thành commercial building for possible inclusion in a heritage overlay.
36. Their view was that:
- 'while these, or other, structures may ultimately warrant inclusion on the Heritage Overlay in future their recent construction makes placing their social or broader cultural value within an historical context difficult and it not recommended that heritage assessments are progressed at this stage.'*
37. Officers note that applying a heritage overlay on the basis of social significance is extremely challenging and has not been successful to date. A recent example is the proposal to identify the Corner Hotel on Swan Street as an individually significant building in HO035 on the basis of its social significance. This was not supported by the Swan Street Panel.

Traffic Advice

38. 'Traffix Group' prepared the *Traffic Engineering Assessment, Victoria Street and Bridge Road Activity Centres, Richmond (April 2021)* that informed the development of the DDOs. It focussed on identifying changes required to achieve safe and efficient vehicular and pedestrian access as the area is developed in accordance with the built form requirements (see Attachment 4).

Proposed Planning Scheme Amendment C291

39. The proposed amendment would consist of two key elements:
- (d) ten new schedules to Clause 43.02 *Design and Development Overlay* which will replace the two existing DDOs – DDO21 and DDO22; and
 - (e) proposed additions to Clause 21.12 Local Areas in the Municipal Strategic Statement.
- See Attachments 5 and 6 for the proposed changes to the Planning Scheme and amendment document.

Updates to Clause 21.12 Local Areas

40. This aspect of the amendment would insert *new policy* on both Victoria Street and Bridge Road Activity Centres in the Local Area Policy at Clause 21.12. This would include *Preferred Future Character Statements* and policy covering built form and heritage, access and movement and public realm.
41. It is envisaged this policy would be included in Clause 11.03-1L Activity Centres in the proposed *Planning Policy Framework* following the approval of Amendment C269.

Proposed Permanent Design and Development Overlay Schedules

42. The key tool within the *Victorian Planning Provisions* to implement built form provisions and controls is a DDO.
43. A DDO is a complementary planning tool to the zone and is one of a number of planning provisions in addition to policy which must be taken into account when determining a planning permit application.
44. It cannot act as a defacto heritage control, manage land use or address other issues such as shop vacancies or housing affordability. It must focus on design and development and achieve 'acceptable' outcomes in the context of the overall policy framework relevant to activity centres and housing and employment.
45. The proposed DDOs seek to provide a balance between heritage, sensitive residential interfaces and guiding change and facilitating development across the two activity centres.

46. Heritage matters have been carefully considered in preparing the proposed DDOs. The proposed DDOs seek to protect the heritage character of the centres with the majority of change concentrated in locations with fewer heritage constraints where a new built form character is sought.
47. The *Housing Strategy (2018)* identifies that of Yarra’s major activity centres, Bridge Road and Victoria Street would accommodate a greater share of housing growth with an estimated 3,300 new dwellings by 2031 to be accommodated in the Victoria Street activity centre and an estimated 2,600 new dwellings in the Bridge Road activity centre.
(Noting the supply is calculated for the entire activity centre and the DDOs do not apply to the entire activity centre.)
48. The *Housing Strategy* notes a large amount of development is already occurring along the western end of Bridge Road and the eastern end of Victoria Street (largely outside the DDO area).
49. The *Yarra Spatial Economic and Employment Strategy 2018* seeks to support growth in retail and other employment uses in the two activity centres (noting also the role of the Bridge Road activity centre as a health and education precinct). It also recognises their role as locations for housing growth.
50. Each DDO schedule has been tailored to address the unique built form typologies, heritage and character of that precinct.
51. A key change from the interim DDOs is the proposed splitting of the two DDOs into ten separate DDOs – that is, a sub precinct approach (see Figures 2 and 3 below).
52. A separate DDO schedule for each sub precinct provides the opportunity for precinct specific design objectives and provisions. This strengthens the design objectives and provides greater clarity and certainty regarding the intent of outcomes – it is noted, however, that each DDO is only permitted to have five objectives.
53. It also reduces the length and complexity of the provisions and improves the readability of the provisions. This reflects the approach taken with Swan Street and Fitzroy / Collingwood activity centres.

Figure 3 – Bridge Road Proposed DDOs

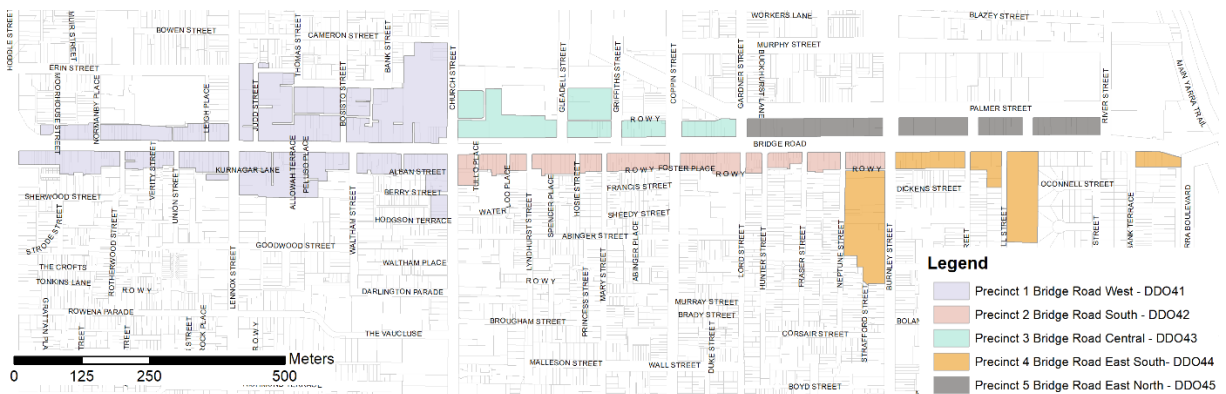


Figure 4 – Victoria Street Proposed DDOs



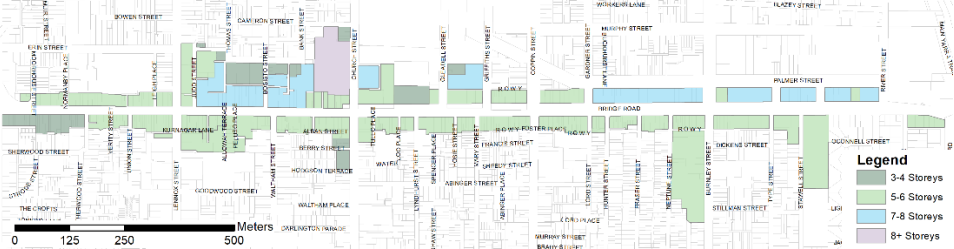
54. Minor adjustments to precinct boundaries in the interim DDOs are also proposed in the revised DDOs to better align with built form outcomes sought:
- (a) **Bridge Road:** the area east of Burnley Street included in Precinct 2 in interim DDO21 has been included in Precinct 4 in the proposed DDOs.
Commercial 2 zoned land outside the interim DDO on the south-western side of Burnley Street has also been included in Precinct 4 as the area contains large sites with high development potential; and
 - (b) **Victoria Street:** the area east of Church Street has been included in a new precinct – Precinct 5 to better reflect the different character, building typologies and lot characteristics and development opportunities than the area to the west.
55. The boundary changes are outlined in Attachment 7.



Proposed Built Form Provisions

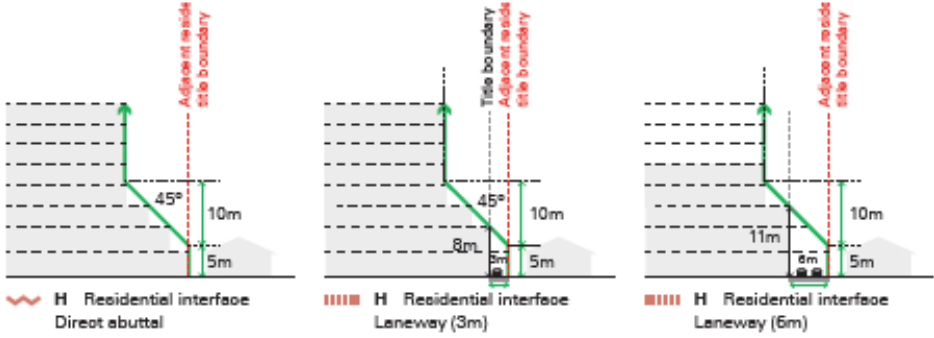
56. The proposed permanent DDO schedules update the interim provisions and provide guidance on building heights, street wall heights, upper level setbacks, front setbacks, rear setbacks, building separation and access and movement.
57. Key proposed built form requirements are summarised below in Table 1.
58. A comparison of the key ‘metrics’ in the interims and the proposed DDOs for each precinct are set out in Attachment 7. Specifically, the attachment compares overall building heights, street wall heights and upper level setbacks and outlines the reasons for those changes.

Table 1 - Key proposed built form requirements

Built Form Requirements	General Description of Proposed Elements
<p>Overall building heights</p>	<ul style="list-style-type: none"> The heights in the interim provisions were reviewed through an analysis of heritage values, lot depths, rear interface conditions and other built form elements (see Figures 5 and 6 General Heights Maps). <p>Figure 5 - Victoria Street Proposed DDOs - General height map</p> <p>Figure 6 – Bridge Road Proposed DDOs – General height map</p>

Built Form Requirements	General Description of Proposed Elements
	 <ul style="list-style-type: none"> • In some locations, heights have been reduced in response to impacts on: <ul style="list-style-type: none"> - heritage streetscape and buildings such as the visibility of upper levels; - views to landmarks; and /or - amenity of low rise residential areas. • The proposed reduction in heights and other changes to the DDOs are not expected to significantly impact on dwelling supply – as few changes have been made to the preferred locations for growth in the two centres: <ul style="list-style-type: none"> - Precinct 3, parts of Precinct 4 (southern side) and Precinct 5 (northern side) in Victoria Street - Parts of Precinct 1 and Precinct 5 in Bridge Road. • <i>Mandatory maximum</i> heights are proposed where there are consistent heritage streetscapes and are recommended to reduce the visual impact of new development and better respect the heritage significance of the heritage forms. This includes views to landmarks. • <i>Mandatory maximum heights</i> are also generally proposed where development abuts sensitive residential interfaces. • For areas with less heritage consistency or no direct abutments to low rise residential, there is an opportunity for a new form with <i>preferred</i> (discretionary) heights applying. • All schedules will retain a set of criteria that a development would need to comply with to exceed the <i>preferred</i> height limit. New development would need to be achieved: <ul style="list-style-type: none"> - increased separation distances; - higher ESD standards; - increased private and communal open space; - increased housing diversity, and - no additional amenity impacts to residentially zoned properties. • The criteria would be amended to apply to both residential and non-residential development, where relevant.
<p>Street wall</p>	<p>Heritage buildings and heritage streetscapes</p> <ul style="list-style-type: none"> • The proposed DDOs would retain the approach in the interim DDOs for heritage buildings and streetscapes; that is: <ul style="list-style-type: none"> - to retain the existing heritage street wall. - ensure infill development does not exceed the height of the adjacent heritage street wall to achieve a consistent heritage street wall. A minimum height of 8m (new) and a maximum height of 11m (no change) would apply. • <i>Mandatory maximum</i> controls are retained to ensure this significant element of the street is retained. • A new requirement is proposed for corner sites which requires new development to “turn a corner” and apply the same street wall height along the side street depending on block depth. (This addresses a gap in the interims.) <p>Areas of Change</p> <ul style="list-style-type: none"> • In areas where a new built form character is encouraged (e.g. there is limited heritage consistency), a new street wall would be created. This is to a maximum height of 15m (4

Built Form Requirements	General Description of Proposed Elements
	<p>storeys). This is reflected in Precinct 5 in Bridge Road (DDO45) and Precincts 3, 4 and 5 in Victoria Street (DDO48, DDO49 and DDO50).</p>
<p>Upper level setbacks</p>	<p>Heritage buildings and heritage streetscapes</p> <ul style="list-style-type: none"> In areas with a consistent heritage character and for other stand-alone heritage buildings in other areas, the interim DDOs apply a minimum 6m upper level setbacks for individually significant buildings and buildings in a 'significant heritage streetscape'. In line with the approaches of Johnston Street, Swan Street and Queens Parade, the concept of a 'Significant Heritage Streetscape' would be deleted. A 6m minimum mandatory upper level setback would apply regardless of whether a building is heritage and whether it is contributory or individually significant. (Again this approach has been supported in recent Planning Panel reports.) In addition, in areas with a consistent heritage character and for other standalone heritage buildings, a 9m upper level setback for heights above 15m is proposed to apply to the topmost level to reduce visibility of that level. <div style="display: flex; justify-content: space-around;"> <div data-bbox="485 725 954 779"> <p>Figure 7 – Interim DDOs - Upper level setbacks for heritage buildings</p>  </div> <div data-bbox="1107 725 1471 779"> <p>Figure 8 – Proposed DDOs – Upper setbacks for heritage buildings</p>  </div> </div> <ul style="list-style-type: none"> Significant testing was undertaken to ensure upper level setbacks do not overwhelm heritage buildings and streetscapes, ensuring they remain a prominent and defining element of Bridge Road and parts of Victoria Street. This was particularly the case in Precinct 2 in Bridge Road, a precinct with a very intact heritage streetscape. Elements such as roofs and the location of chimneys were also considered. Setbacks were tested to ensure chimneys could be retained. Upper level setbacks of 6m with the uppermost storey set back were tested in areas where heritage is a key consideration. Other options including 8m and 10m were tested in Precinct 2 – Bridge Road. GJM Heritage has supported 6m upper level setbacks with the uppermost storey setback and did not consider greater setbacks necessary. <p>Areas of change</p> <ul style="list-style-type: none"> Changes are also proposed in areas where a new built form is encouraged, lesser upper level setbacks are supported for infill buildings e.g. 4.5m. The application of reduced upper level setback in comparison to 6m applied other areas is generally accommodated with a higher street wall e.g. four storeys to optimise development potential. Examples of areas where this has been applied is in Precinct 5 in the Bridge Road activity centre and along Hoddle Street in Precinct 3 and Precinct 5 in the Victoria Street activity centre. <p>Corner sites</p> <ul style="list-style-type: none"> The proposed DDOs specify upper level setbacks on corner sites to address a gap in the existing DDO. Upper level setbacks were only specified in a small number of corner sites in the interim DDOs. An analysis of each corner was undertaken. Upper level setbacks on side streets are proposed to provide an appropriate transition from the primary street while retaining the prominence of heritage buildings on corners. On major corners with heritage buildings such as the intersection of Bridge with Church Street, Lennox or Coppin Streets, a <i>mandatory</i> 6m upper level setback is required. For other corners, a new requirement has been added to address side streets. On these

Built Form Requirements	General Description of Proposed Elements
	<p>streets, a <i>preferred</i> upper level setback of 6m would apply on side streets where there is a heritage building. A 3m (<i>preferred</i>) applies for other buildings.</p> <p>Sightlines</p> <ul style="list-style-type: none"> In line with other recent built form amendments (i.e. Johnston Street, Queens Parade and Swan Street), the various sightlines which sought to guide the visibility of upper levels have been removed (i.e. one-third; two-thirds sightline) and will be addressed through overall building heights and upper level setbacks.
<p>Residential interfaces - heights and setbacks</p>	<ul style="list-style-type: none"> The DDOs address residential interfaces through boundary wall heights and building setbacks at the rear. The provisions apply where the proposed DDO areas adjoin land in the Neighbourhood Residential Zone (NRZ) and General Residential Zone (GRZ). Other standards were tested (such as the provisions adopted in Swan Street). However, this testing has recommended the interfaces in the interims should be retained but updated diagrams would be developed to provide greater clarity. The residential interface heights are determined by the adjacent zone and whether a laneway separates the properties from the proposed DDO area. A maximum 5m boundary wall height is proposed where there is a direct abuttal with a residentially zoned property. Higher boundary wall heights are permitted where land which abuts a laneway. Above the boundary wall height, a setback of 45° angle applies to a height of 15m. <p>Figure 8 – Proposed DDOs - Residential interface requirements (no change from interims)</p>  <ul style="list-style-type: none"> The requirements are <i>preferred</i> (discretionary) to accommodate the vast variety of conditions on adjacent sites that are too numerous and varied to be expressed definitively in a DDO. These include topography changes, changing floor to ceiling heights in heritage buildings and garages/outbuildings to the rear of residential properties outside of the overlay areas. Building bulk when viewed from low rise residential areas and overshadowing of residential properties at the equinox was tested and resulted in the reduction of some building heights particularly on Richmond Hill.
<p>Overshadowing of the public realm</p>	<ul style="list-style-type: none"> The protection of sunlight to these locations is considered very important to retain quality public spaces to ensure 'life and attraction' at the street level for residents, workers and visitors. <i>Mandatory</i> controls apply preventing the overshadowing of the southern footpath of Victoria Street and Bridge Road between 11am and 2pm at the equinox. The requirements would be updated to: <ul style="list-style-type: none"> apply from 10am-2pm (consistent with the approach taken in Swan Street) replacing 11am-2pm. apply to whole of the footpath rather than a distance of 3m from the kerb. The overshadowing provision would remain as <i>mandatory</i>. The updated overshadowing controls have been tested and are achievable with the building heights specified in the proposed DDOs. Noting that where developments seek to exceed maximum discretionary heights, upper levels may need to be set back.

Built Form Requirements	General Description of Proposed Elements
	<ul style="list-style-type: none"> Mandatory overshadowing controls have been proposed by MGS Architects to prevent additional overshadowing of three small areas of public open space within the two activity centres - Alexander Reserve, Butler Street Park and the Victoria Street Gateway Triangle. <p>The consultants have proposed mandatory solstice controls apply to these pieces of public open space from 10am to 2pm. Officers support the protection of overshadowing of the public open space but support the application of a <i>preferred</i> equinox provision rather than a <i>mandatory</i> winter solstice control. This aligns with current policy in the planning scheme at Clause 22.10 – Built Form and Design Policy and 22.12 – Public Open Space Contribution and with proposed updated policy in Clause 15.01-1L Urban design in Amendment C269. All these policies use the equinox as the overshadowing measure for public open space.</p>
<p>Key pedestrian streets</p>	<ul style="list-style-type: none"> These streets provide (or could provide) important pedestrian and cycling connections to key local destinations such as: <ul style="list-style-type: none"> train stations, tram routes and shared paths; schools and educational facilities; community infrastructure, including childcare and community and health facilities; and Yarra River / Birrarung and other open space outside the centres. They may not currently prioritise pedestrian and/or cyclist movement over vehicles but could be upgraded in the future and enhanced as a key pedestrian and cycling route through footpath widening, canopy trees, seating and landscaping. Officers note that the DDOs themselves cannot compel Council or other parties to carry out works and create a green street; and in some cases only apply to a small portion of the street. However, it does flag their potential and seeks to ensure buildings respond to this. In the proposed DDO's, it is proposed that the concept would be supported by overshadowing provisions that protect sunlight access to footpaths. Officers note that overshadowing provisions in the interim DDOs already apply to some streets which have been identified as 'green streets' (see below). The overshadowing provisions would only apply to the portion of the street affected by the DDO – not their entire length. <p>Victoria Street</p> <ul style="list-style-type: none"> Streets where overshadowing of the footpath at the equinox is already protected in Interim DDO are Church Street, Nicholson Street and Lennox Street. The additional streets that are proposed to be added include Charles Street, Shelley Street, Lithgow Street, Albert Street and Davison Street. <p>Bridge Road</p> <ul style="list-style-type: none"> Streets where overshadowing of the footpath at the equinox is already protected in Interim DDO - Lennox Street, Church Street and Burnley Street. The additional streets that are proposed to be added are Gleadell Street, Griffiths Street, Gardner Street and Coppin Street.
<p>Views to landmarks</p>	<ul style="list-style-type: none"> A key element of the interim DDO21 and DDO22 is to ensure future development does not encroach into identified views to landmarks. It is intended that the proposed permanent provisions will include some changes to reflect further strategic work (including modelling) undertaken by MGS Architects in conjunction with Urban Circus. The specific views include: <ul style="list-style-type: none"> <i>Spire and belfry of St Ignatius Church</i> from: <ul style="list-style-type: none"> the tram stop at the intersection of Victoria Street and Church Street; the north east corner of the Bridge Road and Church Street intersection; and Citizens Park – path around oval at Highett Street / Gleadell Street entry. <i>Pelaco sign</i> from: <ul style="list-style-type: none"> North East corner of Tram Stop 13 on Wellington Street; and

Built Form Requirements	General Description of Proposed Elements
	<ul style="list-style-type: none"> - The footpath on the north west corner of Wellington Parade and Hoddle Street. - <i>Richmond Town Hall Clocktower</i> from: <ul style="list-style-type: none"> - South West Corner of Lennox Street and Bridge Road; - South East Corner of Burnley Street and Bridge Road; and - Citizens Park at the Path around oval at Highett Street / Church Street entry and central entry from Highett Street - <i>Skipping Girl Sign</i> from the south west corner of Leslie Street and Victoria Street. (Noting the view to the Skipping Girl sign would not be affected by development within the DDO.) • The views and their viewing points are identified in proposed Clause 15.03-1L in Amendment C269. The updated policy reflects the '<i>Landmarks Study</i>' undertaken by <i>Ethos Urban</i> which also informed this work. • The controls (including building heights for sites affected by the viewlines) are proposed to be <i>mandatory</i> to protect these important views. • Protecting these views has impacts on development heights. In particular, sites at: <ul style="list-style-type: none"> - 44-70 Bridge Road: the height has been lowered from 15m (approximately 4 storeys) to 11m (3 storeys) to protect views to the <i>Pelaco sign</i> from the corner of Hoddle Street and Wellington Parade. - 219-333 Bridge Road (the former police station and Richmond Town Hall): the heights have been lowered from 18m (approximately 5 storeys) to 15m (approximately 4 storeys). - 289-317 Bridge Road the heights are proposed as mandatory (with heights to remain at 5 storeys) to protect views to the St Ignatius Church from Citizens Park. • Officers note that some planning approvals marginally encroach on the blue sky around these views, however, they do not undermine the strategic justification to include provisions within any permanent DDOs.
Building design	<ul style="list-style-type: none"> • The proposed DDOs will continue to require that 'floor to floor heights' suitable for commercial activity (4m) at ground level, where heritage is not a constraint. • New requirements addressing active frontages, façade design, addressing blank walls and the location of building services have been added. The DDOs will also indicate opportunities for through block links to improve pedestrian permeability.
Building separation (Common boundary and side setbacks at upper levels)	<ul style="list-style-type: none"> • To reduce the need for screening, allow for daylight access and create views to blue sky between buildings when viewed from the street, minimum setbacks are proposed at upper levels between buildings: <ul style="list-style-type: none"> - 4.5m to a balcony or habitable room window - 3m to a commercial or non-habitable window. • The existing separation distances in the interim DDOs were tested and have been retained. However, requirements have been added addressing buildings on the same site, which is a gap in the current DDOs. • Building separation requirements would be clarified and strengthened for buildings over 21m in height to reduce the impacts of taller buildings and retain views of blue sky. • In addition, a requirement to break up building mass on large sites has also been proposed.
Front and side setbacks at ground level and above (vertical and horizontal setbacks)	<ul style="list-style-type: none"> • The interim and proposed DDOs generally seek to ensure buildings are built to their front and side boundaries especially in heritage areas. • Officers have investigated opportunities to create building setbacks to enhance opportunities for landscaping and enhanced entrances to buildings where that may be appropriate. • Investigations show that much of the Bridge Road centre is constrained by heritage where the desired outcome is that buildings are built to the boundary. There are some opportunities on the larger development sites in Burnley Street and the Officeworks site,

Built Form Requirements	General Description of Proposed Elements
	<p>where setbacks are already proposed.</p> <ul style="list-style-type: none"> • In Victoria Street, which is less constrained by heritage there may be opportunities around the train station, however some of these would be impacted on by heritage buildings and constructed developments. • Officers have not identified specific locations in the two activity centres but propose to include a new requirement which requires development to consider opportunities for increased ground floor and building setbacks to accommodate landscaping, outdoor dining, bike parking and building entrances.
Heritage	<ul style="list-style-type: none"> • The proposed provisions would delete the specific existing ‘Heritage Design Requirements’ which address upper level setbacks, design of upper levels and façade design for heritage buildings. • The ‘Heritage Design Requirements’ are proposed to be removed as they duplicate existing provisions in Clause 22.02 (Development Guidelines for Sites Subject to the Heritage Overlay) and proposed updates to municipal-wide heritage guidelines in the integrated Planning Policy Framework (PPF) included in Amendment C269yara. • This is consistent with the approach taken in Swan Street and also the approval of the DDO for Queens Parade. • Some specific heritage design requirements however would be included under ‘<i>Building Design</i>’ to address issues such as: ensuring upper levels are visually recessive and do not visually dominate the heritage building and the heritage streetscape; and avoiding large expanses of glazing. • Heritage consideration has played a key role in determining the proposed requirements to limit visibility and to retain the heritage character of streetscapes. The updated provisions provide for heritage protection through the other requirements including: <ul style="list-style-type: none"> – street wall heights; – overall building heights; – façade design requirements; – upper level setbacks and visibility, and – retention of heritage fabric and avoiding heritage facadism. • Full ‘concealment’ of new development is not required. Noting it is not universally applied in the Heritage Overlay across Victoria nor to Victorian Heritage Register sites. • The concept of a ‘Significant Heritage Streetscape’ will also be deleted. This was supported in the Queens Parade panel.
Vehicular and pedestrian access	<ul style="list-style-type: none"> • The proposed DDOs would include updated requirements for vehicular access as follows. <ul style="list-style-type: none"> – Inclusion of an Access Plan which outlines the preferred locations for vehicle access i.e. off laneways and side streets rather than a Victoria Street or Bridge Road frontage. These plans also show potential future one way streets and shared zones. – NB. These are included <u>for information only</u> to assist the community and applicants as DDOs cannot make changes to traffic management on streets. They would be the subject of consultation and assessment. – Requirement for ground floor setbacks at the rear where laneway widths constrain access. • Requirements for pedestrian access have been added.
Application requirements	<ul style="list-style-type: none"> • New requirements for wind analysis, an urban context report and an analysis of the ‘cumulative impacts’ of the development on traffic and laneways has been added.

Mandatory Controls

59. All ten DDO schedules include some proposed *mandatory controls* which address elements most important to the respective location, such as building heights, upper level setbacks and street wall heights.
60. Guidance of the application of *mandatory controls* is provided in the State Government *Planning Practice Note 59* and *60*. *Planning Practice Note 60* details that mandatory height and setback controls would only be considered in 'exceptional circumstances', where they are absolutely necessary to achieve the built form objectives or outcome identified within a comprehensive built form analysis.
61. Specifically the Practice Notes requires that *mandatory controls* must:
 - (a) be underpinned by comprehensive strategic work;
 - (b) consistent with state policy;
 - (c) take into consideration recent development activity; and
 - (d) provide capacity to accommodate growth.
62. The application of *mandatory controls* has been carefully considered and applied selectively and are not proposed to apply across all precincts and/or to all requirements within the proposed DDO schedules.
63. *Mandatory controls* are proposed in the proposed DDOs where it is considered 'absolutely necessary' (in accordance with PPN59), and would apply to:
 - (a) intact heritage streetscapes and heritage buildings;
 - (b) sites with sensitive interfaces with low scale residential properties;
 - (c) protect the southern footpaths of Victoria Street and Bridge Road from overshadowing; and
 - (d) protect views to key landmarks.
64. The extensive strategic work undertaken is considered by officers to provide sufficient justification for the use of *mandatory controls* in the DDO schedules where appropriate.

Extension of Interim DDOs

65. As outlined above, interim DDO21 (Bridge Road) and interim DDO22 (Victoria Street) will expire on 30 June 2021.
66. An extension of this expiry date for 12 months is required to ensure appropriate and orderly planning while permanent provisions are being considered for inclusion into the Yarra Planning Scheme (via due process).
67. It is proposed that Council request the Minister for Planning extend the interim provisions through a Ministerial amendment under section 20(4) of the *Planning and Environment Act 1987* (the Act).
68. Officers notes that exhibition and notification requirements of sections 17, 18 and 19 of the Act do not apply in respect of this form of amendment.

Next steps - Consideration of the proposed amendment

69. At its Ordinary Council meeting of 2 March 2021, Council considered a report outlining a *possible alternate approach to planning scheme amendment* offered by the Minister for Planning.
70. The Minister for Planning 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.
71. Council resolved to (in essence) 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”.

72. As part of 2 March 2021 resolution, Council resolved to provide a draft ‘Terms of Reference’ which sought 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.*
73. Should Council support progressing the proposed permanent provisions and referring an amendment to the Advisory Committee, officers anticipate this proposed amendment would then be placed on exhibition.
74. While the ‘Terms of Reference’ for the Advisory Committee process has not been finalised by the Minister for Planning, it is anticipated exhibition of the proposed amendment would involve:
- (a) notifying owners and occupiers in and around the two centres, community and interest groups, relevant Government Ministers and Departments and statutory bodies; and
 - (b) advertising the proposed amendment.
75. As outlined in the draft ‘Terms of Reference’ endorsed by Council, Council would then consider the submissions and form a preferred position from which to advocate to the Advisory Committee.
76. Officers anticipate there will be other submitters who would be able to have their opinions considered by the Advisory Committee itself.

Options

77. With regards to pursuing permanent built form provisions there are two options for Council:
- (a) request the Minister for Planning to refer proposed Amendment C291 to an **Advisory Committee** appointed under Part 7, section 151 of the *Planning and Environment Act 1987*;
- or
- (b) request ‘authorisation’ from the Minister for Planning so that Council could commence the ‘usual’ full amendment process for permanent provisions for Amendment C291 (which would also be assessed by a Panel along that pathway).
78. If Council wishes to progress permanent provisions through either options listed above, it is also recommended that Council request the Minister for Planning extend the current expiry provisions for DDO21 and DDO22 under Section 8(1)b and Section 20(4) of the *Planning and Environment Act 1987* for a further 12 months.

Community and stakeholder engagement

Consultation to date

79. Wider consultation has not been possible during the development of a proposed amendment given tight timeframes driven by the lapsing of the interim DDOs.
80. A small number of landowners and residents have contacted officers during the operation of the interim provisions, identifying gaps / issues. This feedback was provided to the consultants reviewing the interim provisions.

81. Officers have sought informal feedback from members of the *Heritage Advisory Committee* (HAC) on the operation of the interim provisions. Officers met with HAC members on 18 February 2021. Members also provided comprehensive written comments.
82. Officers have briefed the consultants on issues raised by the HAC, in particular, concerns about:
 - (a) the visibility of upper levels (i.e. upper level setbacks) and impacts of mid-rise building heights on heritage buildings;
 - (b) retention of chimneys and roof forms;
 - (c) retaining the prominence of corner buildings;
 - (d) views to important landmarks;
 - (e) addressing building bulk; and
 - (f) enhancing the clarity of the provisions / controls and being clear about the outcomes that are sought.
83. Officers have undertaken consultation with statutory planners on the operation of the existing provisions, development applications, existing planning permits and the proposed new provisions.
84. Further community and stakeholder engagement would occur during an Advisory Committee process.
85. As noted above, if Council resolves to refer a proposed amendment to an Advisory Committee, the proposed amendment documentation would be promptly exhibited and submissions sought (consistent with the intent of the Council resolved 'Terms of Reference' for the Advisory Committee approach).

Policy analysis

Alignment to Council Plan

86. The development of permanent DDO schedules for the Bridge Road and Victoria Street activity centres supports the following strategies in the Council Plan:
 - (a) *4.2 Actively plan for Yarra's projected growth and development and advocate for an increase in social and affordable housing; and*
 - (b) *4.3 Plan, promote and provide built form and open space that is accessible to all ages and abilities.*

Climate emergency and sustainability implications

87. The proposed amendment would assist in directing new housing and employment space to areas with good access to public transport, open space and other services. This would encourage a greater portion of trips to use sustainable forms of transport.
88. The amendment includes a provision within each DDO that encourages development that exceed preferred heights to achieve a 70% BESS 'environmental score'.
89. The amendment includes provision to encourage urban greening within new development and overshadowing controls to protect existing and future street trees and public amenity.

Community and social implications

90. There are no adverse community or social implications for preparing strategic work to underpin permanent built form provisions for the Bridge Road and Victoria Street Activity Centres.
91. Improved built form provisions would help provide clarity around the anticipated future development of the centres.

Economic development implications

92. There are no economic development implications for preparing strategic work to underpin permanent built form provisions for the Bridge Road and Victoria Street Activity Centres.
93. An amendment may aid in providing further stimulus to the retail precincts.

Human rights and gender equality implications

94. There are no known human rights implications for requesting the Minister for Planning to progress permanent DDOs or extend the existing interim DDOs for the areas outlined in this report.

Operational analysis

Financial and resource impacts

95. The costs associated with preparing strategic work to underpin permanent provisions has been considered within the strategic planning budget.
96. The costs associated with the exhibition of the amendment and Advisory Committee fees (or Panel fees) would be within the strategic planning budget.

Legal Implications

97. The amendment would be progressed in accordance with the provisions of the *Planning and Environment Act 1987*.

Conclusion

98. As the interim DDO provisions expire at the end of June 2021, Council urgently needs to progress permanent provisions as soon as possible.
99. Council officers engaged experts in urban design, heritage and traffic to review the operation of the interim built form provisions which apply to the Victoria Street and Bridge Road Major Activity Centres. They have prepared four reports and have made recommendations to inform the permanent built form provisions for these centres.
100. The reports' recommendations seek to balance the need to accommodate growth and development in activity centres with the strong heritage values and sensitive residential interfaces.
101. The permanent provisions are essential to put in place the on-going built form strategy for growth and change in the Victoria Street and Bridge Road Major Activity Centres on a permanent basis.
102. **The proposed amendment would seek to replace the interim provisions for Bridge Road - DDO21 and Victoria Street - DDO22 with ten (10) separate DDOs (DDO41- DDO50) within the *Yarra Planning Scheme* with permanent planning scheme provisions.**
103. 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 progression of the Council planning scheme amendments.
104. Council resolved to pursue this new pathway for planning scheme amendments in March 2021.
105. Officers now recommend that Council request the Minister for Planning to refer proposed Amendment C291 to an **Advisory Panel** appointed under Part 7, section 151 of the *Planning and Environment Act 1987*.
106. While an amendment to apply permanent DDOs is progressed, the interim DDOs will expire and their expiry provision will need to be extended.
107. It is recommended that Council request the Minister for Planning in accordance with sections 8(1) (b) and section 20(4) of the *Planning and Environment Act 1987* to extend the expiry provision within DDO21 and DDO22 for a further 12 months.

RECOMMENDATION

1. That Council:
 - (a) note the officer report and Attachments 1-7 introducing proposed permanent built form provisions for Bridge Road and Victoria Street Activity Centres;
 - (b) adopt the *Bridge Road & Victoria Street Activity Centres - Review of Interim Built Form Controls - Analysis and Recommendations (April 2021)*, supporting *Built Form Review: Bridge Road – Heritage Analysis and Recommendations (April 2021)*; and *Built Form Review: Victoria Street – Heritage Analysis and Recommendations (April 2021)* and the *Traffic Engineering Assessment, Victoria Street and Bridge Road Activity Centres, Richmond (April 2021)* prepared by MGS Architects, GJM Heritage and Traffix Group in Attachments 1, 2, 3 and 4 as the general basis for Amendment C291 to the *Yarra Planning Scheme*;
 - (c) adopt the amendment documentation for proposed Amendment C291, including proposed *Design and Development Overlay Schedules 41 to 50* at Attachments 5 and 6; as the basis for proposed Amendment C291;
 - (d) request the Minister for Planning refer proposed Planning Scheme Amendment C291, implementing the permanent built form provisions for the Bridge Road and Victoria Street Activity Centres, to an Advisory Committee under Part 7 Section 151 of the *Planning and Environment Act 1987*;
 - (e) determine that should the Minister for Planning decide not to proceed with an Advisory Committee, Council as the Planning Authority, apply to the Minister for Planning (Minister) under section 8A of the *Planning and Environment Act 1987*, for 'authorisation' to prepare the Amendment;
 - (f) request the Minister for Planning to prepare, adopt and approve Amendment C290 to the *Yarra Planning Scheme*, in accordance with the Minister's powers under sections 8(1)(b) and section 20(4) of the *Planning and Environment Act 1987* to extend the expiry dates for the two Design and Development Overlay schedules - DDO21 and DDO22 which apply to the Bridge Road and Victoria Street Activity Centres, on an interim basis for 12 months while the permanent provisions are formally considered;
 - (g) authorise officers to consult with the Minister, in accordance with sections 8(1)(b) and 20(4) of the Act, to assist the Minister to prepare, adopt and approve the Amendment to extend the interim provisions; and
 - (h) authorise the CEO to make any minor adjustments required to meet the intent of the resolution.

Attachments

- 1 Bridge Road and Victoria Street Activity Centres - Review of Interim Built Form Controls - Analysis and Recommendations (MGS Architects and Urban Circus, April 2021)
- 2 Built Form Review: Bridge Road - Heritage Analysis and Recommendations (GJM Heritage, April 2021)
- 3 Built Form Review: Victoria Street - Heritage Analysis and Recommendations (GJM Heritage, April 2021)
- 4 Traffic Engineering Assessment, Victoria Street and Bridge Road Activity Centres, Richmond (Traffix Group, April 2021)

- 5 Clause 43.02 Design and Development Overlays Schedules 41-50 and Clause 21.12 - Neighbourhoods
- 6 Proposed Amendment C291yara - Amendment documents
- 7 Comparison of key metrics - Interim and proposed provisions

8.4 Brunswick Street - Part time tram lane and bicycle upgrades

Reference	D21/33744
Author	Simon Exon - Unit Manager Strategic Transport
Authoriser	Director Planning and Place Making

Purpose

1. The Department of Transport (DoT) has proposed changes to the Brunswick Street roadway (including line marking and operations) to improve tram reliability, reduce tram journey times and improve conditions for cyclists.
2. The State Government is seeking Council approval for the changes so DoT can deliver the project before the end of this financial year.
3. If the project is not delivered before 30 June 2021 then the allocated funding will be lost and it will not be funded in the 2021-2022 financial year.

Critical analysis

History and background

4. Brunswick Street is a very busy local road managed by Council within a designated activity centre. Trams and bicycles share space with high volumes of traffic (primarily through traffic heading between the northern suburbs and the CBD). During the morning peak, trams run approximately every 2-6 minutes.
5. Brunswick Street has had part-time tram lanes (and associated 'No Stopping' zones) in operation (between Alexandra Parade and Victoria Parade) for decades.
6. Part-time tram lanes are used across Melbourne to increase tram reliability and speeds during peak travel times when otherwise trams would be slowed by high volumes of traffic.
7. Typically, these lanes rely on adjacent parking bays being designated as 'No Stopping' or 'Clearway' when the tram-lanes are operating so cars drive in the kerbside lane and trams have their own lane. Outside of peak periods, kerb side carparking means that traffic and trams share one lane.
8. The effectiveness of the part time tram lanes is undermined by low levels of driver awareness and compliance.
9. Brunswick Street is also a busy strategic bicycle corridor. 957 riders were counted during the 2020 Super Tuesday count (between 7am-9am) at the Gertrude Street intersection. This is even higher than Wellington Street at Langridge Street (866 riders in the same period), which has protected bike lanes.
10. Unfortunately, Brunswick Street has a high rate of crashes involving cyclists; with 63 crashes recorded in the last 5 years. These statistics reflect of many different types of road users sharing the same space, the high turnover of vehicles from parking bays, the nature of the road environment, and the lack of adequate bike facilities in some sections.
11. Brunswick Street's bike lanes are delineated by line marking and vary in width. In some places they are quite wide in others they are very narrow, and cyclists must travel very close to cars. In some sections, bike lanes only operate during 'No Stopping' times.
12. Research consistently shows that any bike route is only as good as its weakest link, and narrow bike lane sections are a major deterrent for potential cyclists; particularly women, children, and those over 40 years of age.

Discussion – ‘Existing Issues’, ‘Proposed Changes’, and ‘Officer Comments’

13. The proposal is for upgrades to linemarking and road operation to increase compliance with the part-time tram lanes thereby improving tram reliability and reducing delays. A significant bike lane improvement is also proposed at the southern end of Brunswick Street.
14. The scope of this project is limited by its allocated budget and timelines.
15. Upgrades to tram stops, or large-scale changes to the road environment or parking are not within scope.
16. The project does not attempt to resolve all issues for all road users along the length of the corridor, however, if approved it is likely to deliver some improvements that reflect Council's adopted policies.

General improvements to the part time tram lanes

17. The existing issues are:
 - (a) The part-time tram lanes are poorly defined and driver awareness of their operations is low;
 - (b) The part time-tram lanes (and relevant parking restrictions) operate at different times to the north and south of Johnston Street during the morning peak. This creates confusion for motorists:
 - (i) to the north of Johnston Street, they operate between 7.30 - 9.00am; and
 - (ii) to the south of Johnston Street, they operate between 7.00 - 9.00am.

DOT Proposal

18. The proposal by DoT is to:
 - (a) install ‘Yellow Wave’ linemarking to alert drivers to the presence of the part-time tram lanes and their times of operation (Figures 1 & 2);
 - (b) change the tram-lane operating time (and relevant parking restrictions) so both halves (north and south of Johnston Street) operate 7.00 - 9.00am during the morning peak;
 - (c) update all relevant signage, including parking restrictions signage; and
 - (d) activate overhead electronic signage to alert drivers to the tram lanes and make them aware that they must exit the lane.



Figure 1 – The existing part time tram-lanes on Brunswick Street are linemarked with a simple yellow line and rely on drivers observing small overhead signs to see times of operation.

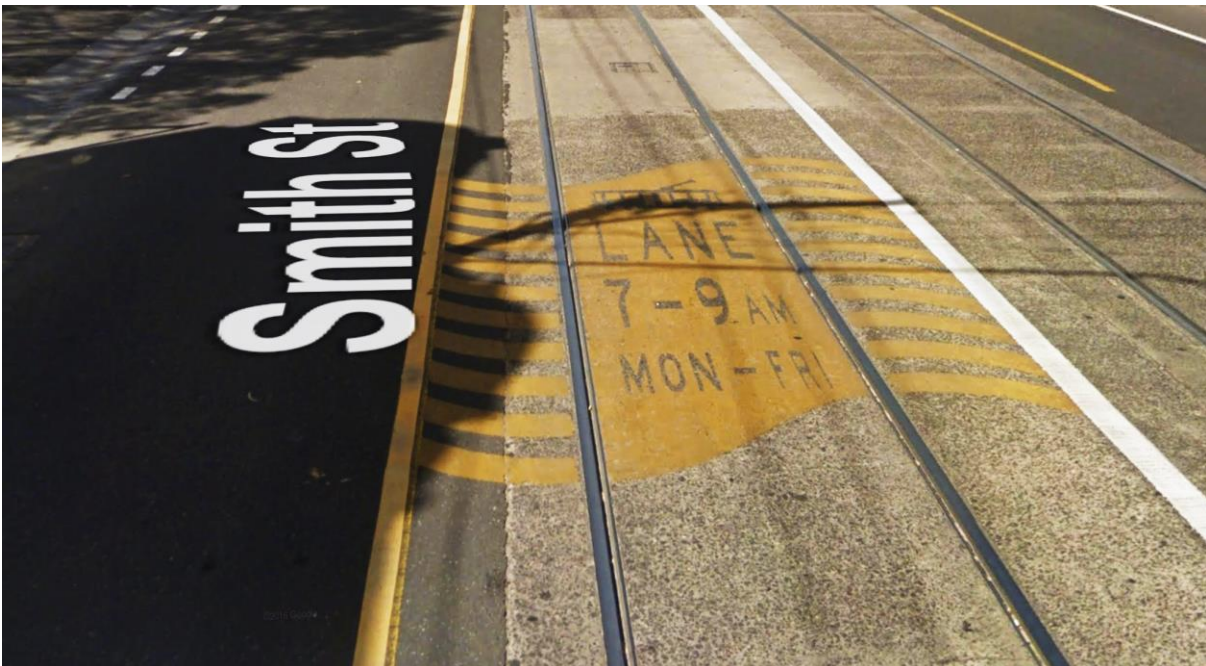


Figure 2 – It is proposed to install 'Yellow wave' linemarking to better alert drivers to tram lane operations. This has been in operation on Smith Street since 2013 and has resulted in improved driver compliance with the tram lanes.

Officer comments

19. Collectively these changes would significantly increase driver awareness of the part-time tram lanes and simplify their operation. Increased awareness will improve driver compliance so the part tram lanes work better.

Tram Priority Improvements at the Gertrude St intersection (southbound only)

20. The existing issues are:

- (a) during the morning peak right-turning vehicles can take multiple light phases to clear, blocking the intersection including tram tracks;
- (b) outside of the morning peak, queues of right-turning vehicles can extend beyond the nearest parking bay which blocks left-turning and through-traffic from accessing the intersection. These queues can cause significant delays to trams, traffic and bicycles outside of peak times;
- (c) cars are expected to merge from 2-lanes to 1-lane as they approach Hanover Street (where the part-time tram lane currently begins in this section), but in practice many cars continue to drive on the tram tracks up to the Gertrude Street intersection; and
- (d) the south-bound bike lane in this section only operates during the morning peak (i.e. when cars are not parked). This is not good enough given the volume of cyclists and the designation of Brunswick Street as Strategic Cycling Corridor.

DOT Proposal

21. These involve:

- (a) introducing a 7am-9am right-turn ban from Brunswick Street (south-bound) into Gertrude Street this would to keep right-turners out of the way of trams;
- (b) converting the inner traffic lane from ‘through-and-right’ to ‘right-turn only’ (outside of peak times);
- (c) removing four parking bays on the approach to the Gertrude Street intersection - to allow left-turning and through traffic to pass right-turners and stay off the tram tracks (outside of peak times (these spaces are currently time-restricted to 2-hours for most the day with no-stopping between 7am-9am), and
- (d) extending the existing part-time tram lane north to King William Street to keep cars in single-lane.

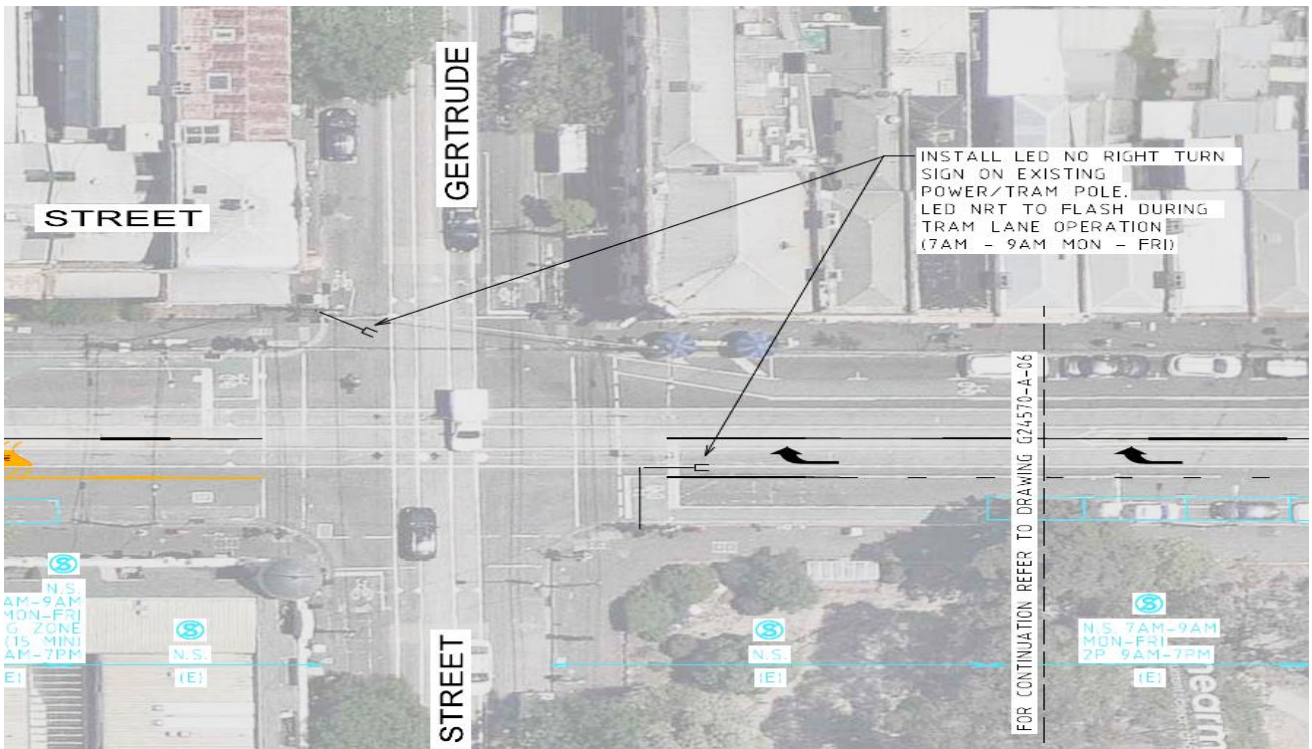


Figure 3 – Right-turns into Gertrude Street will be banned between 7am-9am – Monday to Friday, and four parking bays will be removed from the northern approach to this intersection so it operates better. The turn-ban will improve tram reliability and speed during the morning peak, while the removal of parking bays is expected to improve tram reliability all day.

Officer comments

22. Most of the traffic turning right from Brunswick Street into Gertrude Street continues through to Nicholson Street which is a (state designated) preferred traffic route. The (peak hour) right-turn ban into Gertrude Street would encourage drivers to use alternate streets to access Nicholson Street. This would reduce traffic volumes and tram delays on Brunswick Street and Gertrude Street.
23. The small number of vehicles which require local access to this section of Gertrude Street during peak periods can still gain access via Fitzroy Street, Nicholson Street, or roads to the east of Brunswick Street. This may be less convenient for a small number of individuals but would provide significant benefits for tram passengers and other road users.
24. The removal of parking spaces on the approach to Gertrude Street would improve the operation of the intersection significantly. It also would provide bike riders with a longer dedicated lane on the approach to the intersection outside of peak times.
25. Car parking removal is always a sensitive topic, regardless of the benefits of doing so. These parking spaces are located adjacent to the Fitzroy DHHS housing estate. The DHHS site has a large off-street carpark for residents and plus off-street parking areas for visitors and loading. The removal of four parking bays represents the removal of 12% of on-street spaces on this part of Brunswick Street, but less than 3% of on-street spaces directly adjacent to the housing estate when the other three street-frontages are also considered. It is not considered the removal of these four spaces would have a significant impact to parking conditions for residents or visitors to the estate, or to surrounding businesses or residents on Brunswick Street.

Bicycle facility Improvements

26. The existing issues are:
 - (a) at the approach to Victoria Parade, there is currently inadequate road space to provide: a tram lane; two traffic lanes and a suitable bike lane;
 - (b) the bike lane at this location is effectively squeezed into the remaining space and has a width of just 0.6-0.7m (which is narrower than many bicycle handlebars);
 - (c) Austroads and VicRoads guidelines indicate bike lanes must have a minimum width of 1.2m, but recommend a width of at least 1.5m depending on bicycle and traffic volumes;
 - (d) cars often encroach into the already narrow bike lane and when this happens it is unusable;
 - (e) bikes travelling through the intersection must pass a conflict point with left-turning cars; and
 - (f) there were three recorded crashes which resulted in injury involving cyclists at this intersection between 1 July 2016 and 30 June 2020.



Figure 4 – Existing conditions at Brunswick Street x Victoria Parade.

DOT Proposal

27. Install a new protected bike lane on the approach to Victoria Parade (*Figure 4*) and reducing conflict between bikes and turning vehicles, by:
 - (a) removing the kerb-side traffic lane for 60m on the approach to Victoria Parade;
 - (b) installing a protected bike lane for approximately 60m on the approach to the intersection;
 - (c) removing three parking bays on the approach to the bike lane;
 - (d) banning left-turns for vehicles from Brunswick Street into Victoria Parade, and
 - (e) continuing the protected bike lanes through the centre-median on Victoria Parade.

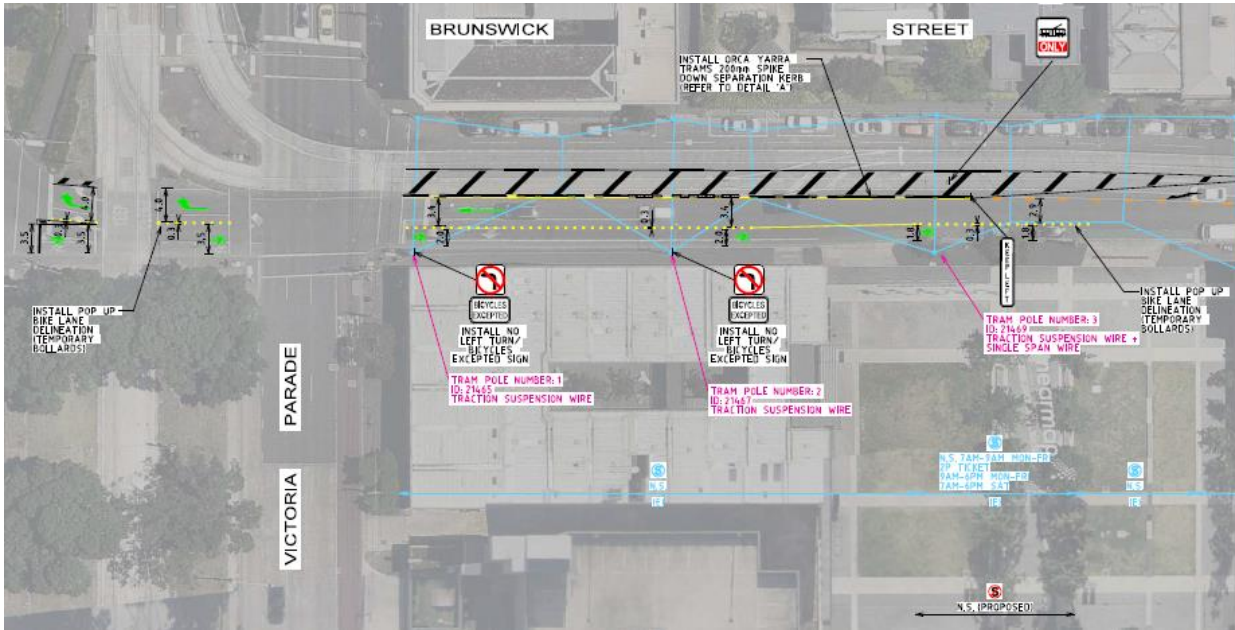


Figure 5 – The kerb-side traffic lane on the approach to Victoria Parade is proposed to be removed and replaced with a protected bike lane. The protected lane would continue through the centre-median on Victoria Parade. The left-turn into Victoria Parade would be banned to remove conflict between bikes and left-turning vehicles.

Officer comments

28. The proposed construction of a protected bike lane at the approach to Victoria Parade, and banning of left-turns would greatly improve capacity, amenity, and safety for cyclists at this key intersection.
29. Vehicles wishing to turn left-into Victoria Parade would need to find an alternate route which would reduce traffic volumes on Brunswick Street, improving cyclist safety and further reducing delays to trams particularly when the part time tram lanes are not in operation.
30. The removal of the left traffic lane would reduce traffic capacity through the intersection, which may result in some additional queuing during busy periods. DOT and Council’s Traffic Engineering Units have both indicated increased queuing is not likely to be significant. These changes may increase traffic in the City of Melbourne nearby (particularly Albert Street) as vehicles find alternate routes east from Brunswick Street.
31. The three parking bays are adjacent the Australian Catholic University and are 2P time restricted metered bays. These bays represent 5% of on-street parking spaces located on Brunswick Street between Victoria Parade and Gertrude Street. The removal of these spaces is not considered to significantly impact parking availability along this section of Brunswick Street.

Options

32. There are two options in relation to this project:

Option 1 – Support the proposal

33. In this option, Council would resolve to support the changes proposed by DOT and would note:
- (a) the removal of seven (7) on-street car parking spaces, including (3) metered spaces;
 - (b) the removal of the kerbside lane on the approach to the Victoria Parade intersection and ban of left-turns into Victoria Parade to allow for the construction of a protected bike lane; and
 - (c) the implementation of a 7am-9am right-turn ban from Brunswick Street (southbound) into Gertrude Street.
34. Following this DOT would aim to complete the project by 30 June 2021.

Option 2 – Not provide approval

35. Council would resolve to not support the changes proposed by DOT and the project would not proceed.
36. DOT has indicated that there is no opportunity to carry over funding for this project into the 2021-2022 financial year, therefore if approval is subject to conditions which cannot be easily (and quickly) met, the project would not proceed.

Community and stakeholder engagement

37. This project is being proposed by DOT, therefore all community and stakeholder engagement would be managed by DOT. DOT has indicated that the community notification process would begin within a week of Council resolving to support this project.
38. This would include notifying businesses and residents along Brunswick Street about the project, what changes are proposed with regards to road operations and parking and why the works are occurring.

Policy analysis

Alignment to Council Plan

39. This project aims to improve tram reliability and speed and improve bike rider safety and therefore aligns with the Council Plan, particularly 'Key objective 6' which states that "*Connectivity and travel options are environmentally sustainable, integrated and well-designed*".

Climate emergency and sustainability implications

40. Improving tram reliability and speed and reducing dangers faced by riders would both encourage more use of trams and bikes along Brunswick Street. These goals align with Council's commitments to move towards zero emissions transport.

Community and social implications

41. The proposed changes would support transport choice by improving reliability of tram services and making cycling conditions safer. Whilst some drivers may need to take alternate routes to their destinations no major detours would be required. The removal of seven parking bays is unlikely to have a material impact on parking availability in the general area.

Economic development implications

42. There are no known economic development implications.

Human rights and gender equality implications

43. There are no known human rights or gender equity implications.

Operational analysis

Financial and resource impacts

44. The removal of seven (7) parking bays, including three (3) metered bays is likely to result in a reduction in revenue totalling approximately \$31K to \$46K per annum.
45. This comprises an estimated \$16K reduced parking revenue and some \$15K to \$30 K reduced infringement revenue.
46. Once works are complete there is unlikely to be any additional impact on staff resourcing.

Legal Implications

47. There are no known legal implications.

Conclusion

48. The Department of Transport (DOT) has proposed changes to linemarking and road operations on Brunswick Street to improve conditions for trams and bike riders.
49. If installed, there would be minor impacts to cars with some drivers required to find alternate routes and a small reduction in the number of on-street carparks on Brunswick Street.
50. The project aligns with Council's commitments to providing transport choices and promoting active and public transport and should be supported.
51. Whilst the scope of the project does not try to resolve all transport issues on Brunswick Street it would be a valuable "*steppingstone*" to more a more holistic review of the roadway and road operations as part of future projects. If supported by Council, DOT would aim to complete the works by 30 June 2021.

RECOMMENDATION

1. That Council note the report of officers regarding the proposed changes by the Department of Transport to some parts of Brunswick Street, Fitzroy in order to:
 - (a) improve tram priority in the morning peak;
 - (b) improve the throughput of trams along the street by reducing delays caused by vehicles on the tram tracks, and
 - (c) also provide safer bicycle lanes in key locations, and in particular install a protected bike lane at the intersection of Brunswick Street and Victoria Parade.
2. That Council note that to implement these changes the following is required to occur:
 - (a) introduce a morning peak right-turn ban southbound from Brunswick Street onto Gertrude Street;
 - (b) the removal of seven on-street carparking spaces (including three metered spaces), and
 - (c) the removal of the kerbside lane on the approach to the Victoria Parade intersection and install a ban of left-turns for motor vehicles into Victoria Parade.
3. That Council resolve to support the Department of Transport initiatives and authorise the CEO to write a letter of support to the Department to enable the changes to occur before 30 June 2021.

Attachments

There are no attachments for this report.

8.5 Road Management Plan Review 2021

Reference	D21/1165
Author	Bon Tee - Coordinator Asset Management
Authoriser	Director City Works and Assets

Purpose

1. The purpose of this report is to:
 - (a) advise Council that, in accordance with the requirements of the Road Management Act 2004, a review of Council's Road Management Plan (RMP) 2017-2021 has been undertaken;
 - (b) provide the findings and outcomes from that review;
 - (c) outline the requirements to publish the review;
 - (d) recommend amendments to the RMP as a result of the review; and
 - (e) outline process required to amend the RMP.

Critical analysis

History and background

2. The Road Management Act 2004 (the Act) aims to deliver improved and more efficient road management practices, a safer road network and fairer and clearer rights for road users and responsibilities for road managers.
3. The Act and insurance law reforms introduced in July 2004 created a comprehensive package of civil liability protection for councils and other road authorities.
4. The key features of the Act are:
 - (a) the requirement for a road authority to have a Road Management Plan (RMP) in place in order to receive a level of statutory protection against civil liability claims under the Act;
 - (b) establishes through a Code of Practice, the allocation of responsibility between road authorities for managing different parts of the road reserve (e.g. roadway, footpath, service road);
 - (c) requires a road authority to establish a Register of Public Roads listing each public road for which it is responsible;
 - (d) clearly defines powers and obligations in regard to traffic management (including clearways), access management, road works by utilities, and maintenance of public transport infrastructure within road reserves;
 - (e) continues to provide municipalities with responsibility for parking on arterial roads;
 - (f) provides for Department of Transport (DoT) to implement clearways on declared arterial roads, subject to consultation with Councils, affected landowners, traders and the community in accordance with a Code of Practice;
 - (g) confirms DoT responsibility for the declared arterial network, whilst allowing for DoT and Councils to enter into arrangements to transfer or delegate to one another for any operational or coordinating functions; and

- (h) allows for a Code of Practice for utilities works on the road reserve, requiring utility authorities to obtain consent from road authorities for certain works; adequately reinstate roads after completion of works; and be responsible for the repair of road infrastructure damaged by failure of utility infrastructure (e.g. burst water mains).
5. The Code of Practice for Road Management Plans associated with the Act states that the contents of an RMP should include:
 - (a) a description of those assets on public roads for which a road authority is responsible;
 - (b) the standard, or target condition, of those assets to be maintained by a road authority; and
 - (c) a management system as established and implemented by a road authority to discharge its duty to inspect, maintain, and repair public roads for which it is responsible.
 6. The Road Management Plan section 54 and the Road Management (General) Regulations 2016 sections 8 – 13 define the requirements for the review and amendment of Road Management Plans.
 7. Council is required to review its RMP every four years, with the review to be completed by the required date of adoption for the new Council Plan (meaning the current RMP review is due by 31 October 2021 under the new Local Government Act 2020).
 8. Council is required to give public notice in the Victoria Government Gazette and a newspaper generally circulating in the area stating:
 - (a) that Council has completed the review of its RMP;
 - (b) whether Council intends to amend its RMP or not; and
 - (c) where the report can be obtained or inspected.
 9. Council may choose to amend the RMP following the review, but is not obliged to.
 10. If Council decide to amend the RMP, Council must also include in the public notice:
 - (a) the purpose and general purport of the proposed RMP;
 - (b) where the proposed RMP can be obtained or inspected; and
 - (c) that any person who is aggrieved by the proposed amended RMP may make a submission to Council within a specified period (of at least 28 days in duration).
 11. Following the public submission period, if Council adopt an amended RMP, a further public notice in the Victoria Government Gazette and a newspaper generally circulating in the area is required stating that:
 - (a) that Council has amended its RMP; and
 - (b) where the amended RMP can be inspected.
 12. Council first adopted an RMP in 2004, with updated versions subsequently adopted in 2009, 2013 and 2017.

Discussion

13. The assets covered by the RMP include roads, kerb and channel, lanes, pathways (within road reserves) and shared zones, drainage pipes and pits.
14. The RMP focus is on the operational activities in road management and is based on the Code of Practice for Road Management Plans.

15. A detailed review has been undertaken by officers of the current Yarra RMP 2017-2021 and road maintenance practices and processes with respect to the requirements of the Road Management Act 2004. This included standards, levels of service, approach to asset lifecycle management, systems, knowledge of assets, works programs, monitoring of road infrastructure condition, reporting and monitoring mechanisms for maintenance and maintenance intervention levels, and inspection programs.
16. The review process involved the following:
 - (a) workshops to engage and to obtain feedback from internal stakeholders;
 - (b) benchmarking against neighbouring councils' maintenance standards and practices; and
 - (c) seeking advice from Council's insurer (MAV Insurance - Liability Mutual Insurance) on the content of the RMP.
17. The method and findings from that review are summarised in **Attachment 1 – Road Management Plan Review Report 2021**.
18. Based on the recommendations of the report, officers have drafted a proposed amended RMP attached as **Attachment 2 – Draft Road Management Plan 2021**.
19. The Road Management (General) Regulations 2016 requires Council to ensure that the standards and priorities given in relation to the inspection, maintenance and repair of the classes of road to which the Council's Road Management Plan applies are safe, efficient and appropriate for use by the community.
20. The RMP (current and proposed versions) applies to Public Roads as listed in Council's Register of Public Roads (as may be amended by Council from time-to-time) and specifically does not apply to Non-Public Roads that are not listed in the register. The Register of Public Roads is a document referenced in the RMP.
21. A separate report to Council on the Register of Public Roads is scheduled to be presented at the same meeting, on 20 April 2021, with a recommended updated Register of Public Roads for endorsement and a recommended process for the ongoing management of this register.
22. The key changes to the proposed Draft RMP 2021 are the following.
 - (a) New sub-section (1.11) Management policy in relation to Laneways Passageways and Right of Ways in Yarra;
 - (b) Street lighting, traffic and pedestrian operated signals and open space pedestrian bridges excluded;
 - (c) Updated lists of Shared Roads, Major On-road Bicycle Routes, Shared Zones and High Pedestrian Traffic Streets;
 - (d) Inspection frequencies altered from nominal to maximum;
 - (e) Inspection frequency for High Pedestrian Traffic footpath – period increased from 4-monthly (nominal) to 7-monthly (maximum);
 - (f) Include defect mode for property drain with >30mm protrusion at kerb face;
 - (g) Minimum clearance of street trees revised and separately specified for over arterial and Council roads;
 - (h) Specific response times for tree root damage, crack sealing and tree pruning included; and
 - (i) Management systems updated to reflect Asset Management Information System workflow processes.
23. The proposed Draft RMP 2021 has no ending year incorporated in the title, to avoid the inference that Council must adopt an amended RMP in after the next review cycle due in 2025 (although that course of action will be open to Council at that juncture).

24. Standards proposed for road maintenance are predicated on the following considerations:
 - (a) meeting reasonable community expectations with regard to road maintenance;
 - (b) minimising risk to human safety and exposure of Council to civil claims;
 - (c) working within projected available financial and staff resources;
 - (d) recognition of Council's unique environment, particularly the heritage significance of bluestone lanes and the constraints due to street trees; and
 - (e) feedback from Council staff on the effectiveness and efficiency of past performance and identified opportunities for improvement.
25. Changes to levels of service and intervention levels in the proposed Draft RMP 2021 are not expected to have any material impact on the level of funding allocated in Council's Long-Term Financial Strategy.
26. The proposed amendments do not alter the intent of the relevant sections nor do they seek to absolve Council of its responsibilities under the Road Management Act.
27. The Age newspaper will be used for the publication of public notices (along with the Victorian Government Gazette) as required.
28. The RMP Review Report and the Draft RMP 2021 will be made available on Council's website and also for inspection or copying at Council's Customer Service Centre at Richmond Town Hall.
29. Following consideration of any submissions received and finalisation of the proposed amended RMP, Council may adopt the proposed amended RMP.
30. Planned timeframes are (subject to Council approval):
 - (a) Report to Council on review and seeking endorsement of proposed Draft RMP 2021 to commence amendment process – 20 April 2021;
 - (b) Public notice of review and intention to amend RMP – 27 April 2021;
 - (c) Public submission period – 1 May 2021 to 28 May 2021;
 - (d) Report to Council on submissions received and seeking adoption of final proposed RMP 2021 – 20 July 2021; and
 - (e) Public notice of amended RMP 2021 – 27 July 2021.

Options

31. Council has an option to not amend its RMP following the review of the RMP 2017-2021, however the officer recommendation is for Council to commence the process to amend the RMP by the giving of public notice that it intends to do so.

Community and stakeholder engagement

32. The review involved officers from Asset Management, Infrastructure Traffic and Civil Engineering, Open Space Services, Strategic Transport, and Risk and Safety.
33. Officers engaged in organised discussions with peers from the neighbouring municipalities of Moreland, Banyule and Boroondara to share knowledge of, and collaborate on, RMP matters.
34. Officers also engaged with MAV Insurance - Liability Mutual Insurance for a review of the existing RMP 2017-2021 and for specific items of further advice.
35. Subject to Council's approval, following a public notice of Council's intention to amend its RMP, there will be a 28-day period for public submissions on the proposed RMP.
36. A further report will be presented to Council to consider any submissions received and to propose a final version of the amended RMP 2021 for adoption by Council.

Policy analysis

Alignment to Council Plan

37. The proposed Draft RMP 2021 is aligned with the “A Connected Yarra” strategic objective of the *Yarra Council Plan 2017-2021*.
38. The proposed Draft RMP 2021 has been developed in accordance with Council’s Asset Management Policy and Asset Management Strategy.

Climate emergency and sustainability implications

39. The proposed Draft RMP 2021 continues to recognise the importance of giving priority to pedestrians, cyclists and public transport users in line with Council’s Strategic Transport Statement. Initiatives in the plan in support of this includes:
 - (a) consideration of the needs of cyclists during the planning of all capital works and road maintenance activities. In some instances, this may result in resurfacing of the bike lane only on a particular road;
 - (b) higher inspection frequencies and shorter response times on high use pedestrian footpaths relative to other footpaths; and
 - (c) increased number of roads with on-road bike routes listed at higher maintenance standards and a higher response priority for repair.
40. Through the annual capital works plan, separate allocations are sought for programs such as Safety Around Schools, Pedestrian Safety, Spot Safety and DDA compliance works, all of which contribute to pedestrian and cyclist safety, as do discrete projects funded such as those under the Bicycle Strategy.
41. The early identification of defects under the RMP assists with the preservation and extension of useful lives of road assets and reduces the extent of necessary remedial interventions, meaning less material consumption and less machinery usage.
42. The systematic inspections process allows for packaging up of defects similar in nature and/or in close proximity, reducing the overall impact of works.

Community and social implications

43. The Draft RMP 2021 will continue to provide for a sustainable, safe, convenient and efficient transport system and street environment that meets the needs of the community.
44. The Draft RMP 2021 recognises Council’s Road Materials Policy which seeks to comply with heritage requirements and conserve and repair the traditional street fabric sympathetic to the character of the municipality by encouraging the retention of bluestone road and laneways.

Economic development implications

45. The responsible management of road-related infrastructure is essential to ensure that all forms of transport can operate as effectively and efficiently as possible. The Draft RMP 2021 will continue to optimise the use of available road funding, which will lead to economic benefits to various entities across the municipality.

Human rights and gender equity implications

46. There are no known human rights or gender equality implications.

Operational analysis

Financial and resource impacts

47. The proposed Levels of Service (inspection and maintenance) have been based on what Council is able to achieve within existing budgetary constraints and priorities. There are no anticipated financial implications resulting from the proposed amendments to the RMP.

48. Council's Road Materials Policy seeks to provide an efficient and cost-effective approach for the distinct requirements of repair/maintenance and reconstruction of road assets and the existing infrastructure.
49. Service levels within the Draft RMP 2021 have been based on funding provided in the 2020/21 budget as listed below:
 - (a) Roads, Footpaths, Kerb and Channels, and Lanes (Capital Expenditure) \$7,945,000;
 - (b) Drainage (Capital Expenditure) \$2,110,000;
 - (c) Road Maintenance (Operating Expenditure) \$4,693,000; and
 - (d) Street, Lane and Drain Cleaning (Operating Expenditure) \$3,959,000.
50. Maintenance of the service levels in the Draft RMP 2021 assumes on-going funding of road asset capital and maintenance expenditure in accordance with Council's Long-Term Financial Strategy.

Legal Implications

51. The Road Management Act 2004 clarifies the legal responsibilities for the different categories of road assets within the road reserve.
52. Under the Road Management Act section 103, an RMP provides Council with a statutory 'policy defence' against claims for acts or omissions which are in accordance with an RMP made by Council, providing that the RMP is reasonable; this assists Council to manage claims and litigation relating to the road network.

Conclusion

53. A review of Council's RMP has been completed as required by the Road Management Act. As a result of the review, officers recommend that Council commence the process to amend its RMP by the giving of public notice that it intends to do so, with a further report to be brought to Council on the public submissions and a final amended RMP 2021 for adoption by Council.

RECOMMENDATION

1. That Council:
 - (a) note that Road Management Act 2004 and Road Management (General) Regulations 2016 specify the requirements for the review of Council's Road Management Plan and the process for adopting an amended Road Management Plan;
 - (b) note that the required review of Council's Road Management Plan 2017-2021 has been undertaken as outlined in this report;
 - (c) note that Council is required to give public notice of the outcomes of the review in the Victoria Government Gazette and a newspaper generally circulating in the area;
 - (d) endorses the Road Management Plan Review Report 2021 to be advertised by such public notice;
 - (e) approves the commencement of the process to amend its Road Management Plan and endorses the proposed Draft Road Management Plan 2021 to also be advertised in the same public notice;
 - (f) note that, in accordance with sections 54(2) and 54(3) of the Road Management Act 2004 to amend the Road Management Plan, the public notice will state:
 - (i) the purpose and general significance of the proposed Road Management Plan;
 - (ii) that a copy of the proposed Road Management Plan can be inspected or obtained at the Richmond Town Hall Customer Service Centre and on Council's public website; and

- (iii) that any person who is aggrieved by the proposed Road Management Plan may make a submission to the Yarra City Council within a period of 28 days after the day on which notice is given; and
- (g) note that following the required 28-day period, officers will provide a further report to Council on the submissions received and a proposed final Road Management Plan 2021 for adoption by Council.

Attachments

- 1 Road Management Plan Review Report 2021
- 2 Draft Road Management Plan 2021

8.6 Register of Public Roads

Executive Summary

Purpose

To advise Council of the assessment and update of Council's Register of Public Roads.

To seek Council endorsement confirming 'public roads' listed on the presented Register of Public Roads.

To advise of the proposed reporting to Council to ensure compliance with statutory procedural obligations going forward.

Key Issues

As per the requirements of the Road Management Act 2004 (the Act) Council established a Register of Public Roads (Register) in 2004 listing all the 'public roads' for which it is responsible.

While Council has managed road infrastructure since that time as per the requirements of the Act, there is an ongoing need for Council to reconsider and reconfirm which 'roads' are required as 'public roads', under the definitions outlined in the Act.

This formal decision will assist to reduce Council's exposure to legal challenge and may resolve some of the current and future conflicts as to the status of 'roads' in Yarra.

In line with a Council resolution of 3 December 2019, officers have undertaken a high-level assessment to determine whether each individual road on the register is *reasonably required for general public use* and therefore a 'public road' according to the Act.

This assessment has concluded that each individual 'public road' previously listed on the Register (bar a few exceptions identified in paragraph 39) should be a 'public road', until such time Council declares the 'roads' not to be 'public roads'.

Notably this also includes the 'public roads' on the Register that are currently obstructed and occupied in some form by landowners or occupiers.

An updated Register has been presented as part of this report so that Council can accordingly make a formal decision on 'public road' status.

This will ensure that the Register complies with the Act and will clear any ambiguity around the 'public road' status of individual 'roads' on the Register.

It is a requirement for Council to make a formal decision when there is a change to the status of a 'public road'.

A change to the status of a 'public road' tends to occur infrequently (potentially up to 10 times a year based on information provided on the Register), although this could potentially change.

It is proposed that Council receive a quarterly report to formally declare 'public road' status (or not) noting that this may not be required every quarter.

This level of reporting aligns with internal processes being implemented by officers to address customer enquires relating to 'public roads', which tend to be time and resource intensive due to the complexity of the range of issues involved.

There is no statutory requirement relating to how often or when Council receives the reports to determine 'public road' status. There is flexibility within this approach for Council to consider urgent issues outside of this process, or to change the approach in the future as it sees fit.

There is no statutory requirement to advertise or consult on any change to the 'public road' status of any 'roads' as it solely a decision of Council so that it can fulfil its road management duties.

Notwithstanding this, the Register is a reference document to Council's Road Management Plan, a draft version of which is currently being presented to Council for adoption.

Subject to Council's approval, the draft Road Management Plan will be subject to formal community consultation and public submissions.

The public may make submissions on the updated Register through the Road Management Plan review process.

Financial Implications

The operational requirements of managing 'public roads' is set out in Council's Road Management Plan.

There is no notable change from the list of 'public roads' as set out in previous Registers.

There will be a change in the number of 'public roads' over time with new 'public roads' established and existing 'public roads' reclassified or discontinued.

This represents business as usual and there are no notable financial impacts associated with an increase or decrease in 'public roads' in line with current practices.

The additional reporting to meet statutory obligations will require officer time. The additional officer time required to implement the recommended approach can be resourced through existing budget allocations.

PROPOSAL

That Council:

Notes that officers have undertaken a high-level assessment of each individual 'road' listed on Council's existing Register of Public Roads.

Resolves that the 'roads' listed on the updated version of the Register of Public Roads presented in this report are reasonably required for general public use and therefore Council 'public roads'.

Instructs officers to prepare a quarterly report to Council (if required) that presents any changes that require Council's written declaration on the 'public road' status of a 'road'

8.6 Register of Public Roads

Reference	D21/20583
Author	Danny Millican - Coordinator Civil Engineering
Authoriser	Director City Works and Assets

Purpose

1. To advise Council of the assessment and update of Council's Register of Public Roads.
2. To seek Council endorsement confirming 'public roads' listed on the presented Register of Public Roads.
3. To advise of the proposed reporting to Council to ensure compliance with statutory procedural obligations going forward.

Critical analysis

History and background

4. The *Road Management Act 2004* (the Act) requires a road authority (i.e. Council) to establish a Register of Public Roads (Register) listing each 'public road' for which it is responsible.
5. Yarra's current Register was initially adopted by Council in 2004 and has been a publicly accessible document since adoption.
6. The Register has been updated as and when new 'roads' have been established and when existing 'roads' have been formally discontinued as 'roads', or on occasion, found not to be 'roads' at all.
7. From a road infrastructure management perspective, 'public roads' on the Register have been managed in line with Council's Road Management Plan (RMP) since 2004 without notable issue – noting that separate issues relating to the contest of ownership and restricted access (i.e. private fencing and occupation of laneways and passageways) has occurred on numerous occasions since 2004, and will most likely continue to occur.
8. In the context of the Act, a Council 'public road' is a 'road', which can be a road, street, laneway, passageway or Right of Way (ROW), which Council has formally decided it has the statutory duty to inspect, maintain and repair in line with Council's RMP.
9. In the context of Council managed 'roads' in Yarra, a 'road' is a 'public road' if:
 - (a) The 'road' has been declared as a 'municipal road' under a relevant Act; or
 - (b) Council (or its delegate) has made a formal decision that the 'road' is *reasonably required for general public use*.
10. Most laneways and passageways currently on Council's Register would not be declared 'municipal roads' and would therefore be considered 'public roads' on the basis that these 'roads' are *reasonably required for general public use*.
11. Once Council has formally decided that a 'road' is *reasonably required for general public use*, the 'road' must be added to Council's Register.
12. The reverse is true for a 'road' which ceases to be 'public road' and removed from the Register; that is, Council (or its delegate) needs to formally decide that the 'road' is not *reasonably required for general public use*.
13. Any absence of a formal Council decision of 'public road' status (both now and in future) could leave Yarra exposed to legal contest, particularly around ownership and access to 'roads', even though Council has been managing 'public roads' in line with its ability to comply with the requirements of Council's RMP.

14. For most 'roads' on historic versions of the Register (named streets, many laneways and some passageways) the 'public road' status is clear.
15. For some 'roads' on historic versions of the Register (narrow laneways and passageways and 'roads' that are currently obstructed by private gates or occupied) the 'public road' status is less obvious.
16. However, many of the 'roads' (where the 'public road' status is less obvious) do or may have:
 - (a) Existing public functions particularly around drainage of private buildings and land into Council land and drainage systems – which needs to adequately function or otherwise there may be financial or liability risks to Council; and
 - (b) Current or future access needs (as demonstrated when Council instructs the removal of privately installed obstructions and provides public access).
17. Examples of the various types of streets, laneways, passageways and ROWs on the register are shown in **Attachment 1**.
18. Officers have received advice on this issue which has recommended that Council go through the process of assessing then presenting the Register to Council to allow it to formally decide which 'roads' should be included on the Register as 'public roads'.
19. This will ensure that the Register complies with the Act and will clear up any ambiguity around the 'public road' status of individual 'roads' on the Register.
20. To assist with the review and assessment of 'public roads', a policy (Management Policy for Laneways, Passageways and Rights of Way in Yarra) was developed and adopted by Council in 2019.
21. This policy includes criteria and factors for consideration when determining 'public road' status.
22. When adopting the Policy (3 December 2019), Council resolved that:
 - (a) Council adopts the Management Policy in relation to laneways, passageways and Rights of Way (ROWs) in Yarra;
 - (b) Officers proceed with the assessment of Council's Register of Public Roads based on the directions set out in the adopted Policy;
 - (c) Council instructs officers to prepare a draft amendment to Council's Road Management Plan (2017-2021) that incorporates the adopted Policy;
 - (d) Council instructs officers to prepare a report to Council on the draft amendment to Council's Road Management Plan (2017-2021) in early 2020 prior to public exhibition; and
 - (e) Council note that options for other future possible uses of non-public roads - outlined in Paragraph 63 of this report and including open space, urban agriculture, green infrastructure, laneway activation - will be considered on a case by case basis and subject to a council resolution.
23. This report provides advice on the outcome of b) so that Council can accordingly make a formal decision on 'public roads' to be included on Council's Register.
24. A report covering items c) and d) was received by Council in March 2020 and is ultimately being addressed through the draft version of an amended RMP currently being presented to Council for consideration.

[Discussion](#)

Assessment and endorsement of the register

25. A high-level assessment of each individual 'road' on the Register has been undertaken by officers.

26. The Register has been assessed based solely on whether or not the existing 'public roads' on the Register should be 'public roads' (as guided by Council policy) so that Council can continue its statutory duty to inspect, maintain and repair the 'roads' in line with Council's RMP – as is the current commitment with 'public roads' on the Register.
27. In this respect, the assessment assumes that all laneways/passageways on the Register are 'roads', from which a decision can be made that an individual 'road' should be a 'public road'.
28. This approach is considered necessary as the 'road status' and ownership of some laneways/passageways identified as 'public roads' can be difficult to prove without detailed due diligence and legal analysis; there is currently no allocated resources or funding for this purpose (to the extent that would be required by such a wide scale review) and officers believe a suitable alternative approach has been identified to consider whether individual roads should be declared as 'public roads' (as per the recommendation, and outlined below).
29. Legal advice obtained by officers has indicated that, while not entirely without risk, it is open to Council to undertake this approach so that it can fulfil its road management duties to inspect, maintain and repair 'public roads'.
30. Where there is a contest over access or ownership of an individual laneway or passageway, the required detailed due diligence or legal analysis will be undertaken on a case by case basis.
31. The recent assessment by officers was undertaken on the version of the Register dated 30 May 2018 which is the latest publicly accessible version of the Register on Council's website (refer to **Attachment 2**).
32. The version of the Register which has been updated based on the recent assessment is included as **Attachment 3**.
33. 'Roads' that have been discontinued since the May 2018 update of the Register have been indicated as such on the updated Register.
34. No other 'roads' have been considered for addition to or removal from the Register as part of this specific assessment.
35. The majority of 'public roads' listed on the Register have been on the Register since prior to 2011.
36. Sixty-four (64) 'public roads' have been added to the Register since 2011, with the date the 'public road' was added included on the updated version of the Register.
37. There are approximately:
 - (a) 750 streets on the Register that are managed by Yarra (such as Smith Street or Rathdowne Street within activity areas, or residential streets);
 - (b) 2,540 laneways, passageways and rights of way on the Register managed by Yarra; and
 - (c) 620 'public roads' (predominantly laneways, passageways and rights of way) on the Register that are currently obstructed by private gates or built over.
38. The review of the Register has concluded that each individual 'public road' previously listed on the Register (bar a few exceptions explained below) should be considered to be *reasonably required for general public use* and therefore 'public roads', until such time as Council is presented with evidence suggesting otherwise.
39. The following 'roads' on the May 2018 version of the Register have been determined not to be 'public roads' for the reasons set out in Table 1. These 'roads' have not been included in the updated version of the Register presented in **Attachment 3**.

Table 1 – ‘Roads’ on the Register now not considered to be ‘public roads’

Lane	Location	Suburb	Reason not a ‘public road’
47.1	2 Reeves Street	Clifton Hill	It has been determined through the statutory planning process that this lane is crown land and has been subsequently sold by the State Government.
193	144 Johnston Street	Abbotsford	This ‘road’ has previously been found not to be a Council ‘road’, and the landowner/occupier has been subsequently informed in writing.
2081	782 Brunswick Street	Fitzroy North	This ‘road’ has previously been found not to be a Council ‘road’, and the landowner/occupier has been subsequently informed in writing.

40. The assessment of ‘roads’ listed of the Register generally found that either:
- (a) The individual ‘road’ meets the assessment criteria to be a ‘public road’, or
 - (b) There is no clear basis in which to question historical decisions regarding the inclusion of individual ‘roads’ (particularly laneways and passageways) on the Register during or since 2004, in that:
 - (i) The laneway and passageway network is complex in its function, particularly from an access and stormwater drainage perspective;
 - (ii) There would have been historical arrangements that have led to how a laneway or passageway should function and be managed, particularly regarding private drainage into the nearest Council asset (i.e. the laneway or passageway);
 - (iii) Council has committed to and has managed its laneways and passageways on this basis prior to and since 2004; and
 - (iv) Absent any suggestion otherwise, the laneway and passageway network provides important linkages for both pedestrians and vehicles throughout the municipal district.
41. All gated or obstructed laneways and passageways currently on the Register have been assessed as ‘public roads’, on the basis that these ‘roads’ may have a current or future ‘public road’ function, and any change to this should be made by a decision of Council, based on how it decides to manage its infrastructure as per Council’s RMP.
42. There are both advantages and disadvantages to deciding that gated or obstructed roads are ‘public roads’ – noting that whichever approach Council could adopt (i.e. retaining or removing obstructed roads as ‘public roads’) comes at some form of risk to Council.
43. A high-level assessment of the advantages and disadvantages to retaining or removing obstructed ‘roads’ as ‘public roads’ is presented in **Attachment 4**.
44. The key risk to Council relates to possible liability for injury, loss or damage where Council has not been able to maintain or repair a laneway to an appropriate standard given that the laneway is obstructed. There would be no change in this level of liability as this reflects the current position.
45. This is an ongoing risk that will need to be managed by Council in line with its resources to do so.
46. The primary risk of not including gated or obstructed ‘roads’ as ‘public roads’ on the Register of Public Roads is that 3rd parties may make a claim on this land and argue by Council not including the road on Councils Register of Public Roads, that Council has acknowledged the roads is not a road and thereby no longer *reasonably required for general public use*.

47. The assessment has identified that on balance that the current proposal of no change to current service provision and management represents a reasonable decision based on the information available to Council.
48. Based on the findings of the officer assessments, it is proposed that Council resolve that the roads presented on the Register (as shown in **Attachment 3**) are 'reasonably required for general public use' and are therefore 'public roads'.
- Management of the register including Council endorsement of 'public roads'
49. The Register is a living document and the Act requires it to be managed as such.
50. New 'public roads' (such as those in the Yarrabend development) will occasionally be established, and the status of some existing 'public roads' will change over time for various reasons.
51. Council receives ongoing community and internal requests to help resolve issues relating to access and ownership of privately gated or obstructed laneways or passageways.
52. The requests are often complex in nature and can take many months (or longer) to resolve. It is often the case that there are many wider issues at play including historical land management, private and public amenity, perception of crime, neighbour and property disputes, all of which can complicate decision making.
53. Officers are proposing an internal process that involves a quarterly cross-organisational officer meeting to review batches of customer enquiries to determine recommended next steps in terms of:
- (a) Possible asset retention i.e.:
 - (i) Removing obstructions and providing previous access;
 - (ii) Removing the 'public road' status of the road but retaining the 'road' as a Council 'road';
 - (iii) Permitting the occupation of a 'road' where removing obstructions or discontinuance of the 'road' is not recommended at that time; and
 - (iv) Discontinuing the 'road' and leasing the land or retaining the land under Council management (subject to statutory processes);
 - (b) Possible asset disposal i.e. discontinuance and sale of a 'road' (subject to statutory processes); and
 - (c) Any change to 'public road' status of an individual 'road' resulting from detailed due diligence.
54. There will be a requirement for Council to formally endorse changes to the Register.
55. Should Council initially endorse the proposed update to the Register, it is proposed that Council subsequently receives a quarterly report to consider any proposed change to the 'public road' status (or not) of a 'road', noting that this may not be required every quarter.
56. This approach may not reduce the overall resolution time of customer enquiries – as the enquiries remain complex and will involve a number of steps - but it does provide a formalised process and timeframe for consideration which may assist with enquiry resolution and provides a record of decision making.
57. It is noted that customer enquiries involving risk to Council (i.e. liability claims) may need to be dealt with outside this process.
58. The statutory road discontinuance process can also occur outside of this internal process as required.
59. There is no statutory requirement relating to how often or when Council receives the reports to determine 'public road' status. There is flexibility within this approach for Council to consider urgent issues outside of this process, or to change the approach in the future as it sees fit.
-

Options

60. Council is required to make a formal decision for a road to be a 'public road' (or cease to be a 'public road') as it is a legislative requirement.
61. As detailed in this report, officers have undertaken a high-level assessment of 'roads' listed on the Register and have presented an updated version (**Attachment 3**).
62. The current proposal is for Council to resolve that the roads presented on the Register (as shown in **Attachment 3**) are 'reasonably required for general public use' and are therefore 'public roads'.
63. Following this initial process, Council will be required to make subsequent formal decisions for any roads that become (or cease to be) 'public roads'.
64. The current proposal is that Council receives reports on a quarterly basis for it to decide on 'public road' status of the presented 'roads' (if any).
65. There is no statutory requirement relating to how often or when Council receives the reports to determine 'public road' status. There is flexibility within this approach for Council to consider any issues considered more urgent outside of this process, or to change this approach in the future as Council sees fit.
66. Council could decide not to include roads that are gated or obstructed on the Register of Public Roads, however based on the assessment outlined above and in **Attachment 4**, officers recommend against doing so.
67. There is an option for Council to delegate the formal process of declaring 'public roads' to the appropriate responsible officer at Council.
68. This has not been proposed at this stage but can be facilitated at the direction of Council.

Community and stakeholder engagement

69. There is no statutory requirement to advertise or consult on any change to the 'public road' status of any 'roads', as it solely a decision of Council so that it can fulfil its road management duties.
70. The Register of Public Roads is a reference document for the purposes of Council's Road Management Plan (RMP).
71. A draft version of an amended RMP is being presented to Council for consideration at the same meeting this report is being considered.
72. Once Council has adopted the draft RMP, the document may, depending on the nature of any changes proposed, need to be advertised, as per section 54 of the Act, including an invite for public submissions.
73. As a reference document to the RMP, the updated version of the Register will be available for review, and the public may make submissions on the Register through the RMP review process.
74. Any changes to the status of 'public roads' subsequent to this initial process, will be published in a Council report which can be viewed by the public prior to the meeting of Council.
75. There will be an ongoing requirement to respond to and address community enquiries relating to access and ownership of individual 'roads'. As is currently the case, this will be undertaken in line with Council's communication protocols.

Policy analysis

Alignment to Council Plan

76. Council is required by the Act to list 'public roads' for which it is responsible on its Register.

77. The Register has been reviewed in line with the proposed amendment to Council's RMP and in line with the direction set out in Council's 'Management Policy in Relation to Laneways Passageways and Rights of Way in Yarra'.

Climate emergency and sustainability implications

78. The Register identifies which 'roads' in Yarra are 'public roads' so that Council can fulfil its road management duties as set out in the RMP.
79. There are no climate emergency or sustainability implications with the current or ongoing management of the Register.

Community and social implications

80. The Register identifies which 'roads' in Yarra are 'public roads' so that Council can fulfil its road management duties as set out in the RMP.
81. The ownership and access to certain roads on the Register is contested.
82. It is proposed that any 'contested' roads remain on the Register until the outcome of the contest is resolved and a formal decision is made.

Economic development implications

83. Yarra's road management duties and requirements are set out in Council's RMP.
84. There are no economic implications associated with the current on ongoing management of the Register.

Human rights and gender equality implications

85. There are no human rights or gender equality implications associated with the current and ongoing management of the Register.

Operational analysis

Financial and resource impacts

86. The operational requirements of managing 'public roads' is set out in Council's RMP.
87. There is no notable change from the list of 'public roads' as set out in previous Registers.
88. There will be a change in the number of 'public roads' over time with new 'public roads' established and existing 'public roads' reclassified or discontinued.
89. This represents business as usual and there are no notable financial impacts associated with an increase or decrease in 'public roads' in line with current practices.
90. The additional reporting to meet statutory obligations will require officer time. The additional officer time required to implement the recommended approach can be resourced through existing budget allocations.

Legal Implications

91. Council is required by the *Road Management Act 2004* to list 'public roads' for which it is responsible on its register.

Conclusion

92. Council is required to make a formal decision for a road to be a 'public road' (or cease to be a 'public road') as it is a legislative requirement.
93. To ensure that Council complies with its statutory obligations, officers have undertaken an assessment of each 'public road' on the Register and have put forward an updated Register for formal Council decision and adoption.
94. It is recommended that Council resolve that the 'roads' listed in the updated Register (**Attachment 3**) to be *reasonably required for general public use* and therefore public roads.
95. This will ensure that Council's Register is compliant with the Act.

96. There will be an ongoing requirement for Council to make formal decisions every time there is a change to the 'public road' status of a 'road'.
97. It is recommended that Council receive a quarterly report to formally declare 'public road' status (or not) noting that this may not be required every quarter.
98. This level of reporting aligns with internal processes being implemented by officers to address customer enquires relating to 'public roads', which tend to be time and resource intensive due to the complexity of the range of issues involved.

RECOMMENDATION

1. That Council:
 - (a) notes that officers have undertaken a high-level assessment of each individual 'road' listed on Council's existing Register of Public Roads;
 - (b) resolves that the 'roads' listed on the updated version of the Register of Public Roads presented in this report are *reasonably required for general public use* and therefore Council 'public roads'; and
 - (c) instructs officers to prepare a quarterly report to Council (if required) that presents any changes that require Council's formal decision on the 'public road' status of a 'road'.

Attachments

- 1 Attachment 1 Examples of Public Roads on Register
- 2 Attachment 2 Register of Public Roads 30 May 2018
- 3 Attachment 3 Updated Register of Public Roads April 2021
- 4 Attachment 4 Assessment of retaining or removing the 'public road' status of obstructed 'roads'

8.7 Conclusion of Mayoral and Councillor Allowance Review

Reference	D21/30586
Author	Rhys Thomas - Senior Governance Advisor
Authoriser	Group Manager Chief Executive's Office

Purpose

1. To determine the Mayoral and Councillor allowances for the 2020-2024 Council term, until such time as the new provisions of the Local Government Act 2020 take effect.

Critical analysis

History and background

2. The Local Government Act 2020 provides that the annual allowance for the Mayor, Deputy Mayor and Councillors will be required to be set in accordance with a determination of the Victorian Independent Remuneration Tribunal under the Victorian Independent Remuneration Tribunal and Improving Parliamentary Standards Act 2019.
3. At the time of writing this report, the Minister has not yet made the necessary request of the Tribunal and Councils are advised to continue to plan to conduct a review of allowances under section 74(1) of the Local Government Act 1989. Following a request from the Minister, the tribunal has a period of six months within which it can make a determination.
4. The Local Government Act 1989 requires that the Council must, within the period of six months after a general election, review and determine the level of the Mayoral allowance and Councillor allowance. Further, section 74(4) requires that prior to finally resolving on the matter, Council must include public consultation in the review process and consider any submissions received under the provisions of section 223.
5. On 1 December 2020, Council commenced this process and considered a report to determine the Mayoral and Councillor allowances for the 2020/2021 Council year within the following permissible ranges:

	Base allowance	Superannuation equivalent	Total
Lowest permissible Mayoral allowance	\$ 0.00	\$ 0.00	\$ 0.00
Highest permissible Mayoral Allowance	\$ 81,204.00	\$ 7,714.38	\$ 88,918.38
Lowest permissible Councillor allowance	\$ 10,914.00	\$ 1,036.83	\$ 11,950.83
Highest permissible Councillor allowance	\$ 26,245.00	\$ 2,493.28	\$ 28,738.28

6. At that meeting, Council determined to continue the long-standing practice of setting the allowances at the maximum amount permissible.
7. In establishing this practice, Council had regard to the Local Government (Councillor Remuneration Review) Panel report prepared for the then Victorian Department of Planning and Community Development into the roles and responsibilities of Councillors. That report recommended that allowance classifications be set to enable Councils to appropriately reflect the extent of responsibility of the Council concerned and importantly, to not constitute a barrier to candidates nominating for election.
8. Council noted the extensive time commitment required of Yarra City Councillors to attend formal and informal meetings throughout the year, in addition to their general commitment to serve their constituents.
9. Council then resolved on 1 December 2020:

1. *That Council:*
 - (a) *give public notice of its intent to set:*
 - (i) *the Mayoral allowance at \$88,918.38; and*
 - (ii) *the Councillor allowance at \$28,738.28; and*
 - (b) *hear and consider any submissions received at a Council Meeting scheduled at least 28 days after the public notice of such proposal.*

Discussion

10. Following that resolution, Council gave public notice of its intention to set the Mayoral and Councillor Allowances at \$88,918.38 and \$28,738.28 respectively and invited submissions under section 223 of the Local Government Act 1989.
11. No submissions were received, and Council is now in a position to make a determination in relation to Mayoral and Councillor Allowances.

Options

12. Council must make a determination on allowances at this meeting. By alternate resolution, Council may determine to establish a Mayoral or Councillor allowance at a lower level, provided it is within the range set out in the table above. By setting this amount at a percentage of the maximum, rather than an absolute figure, adjustments may still be made in accordance with declarations made by the Minister for Local Government and any changes by the Commonwealth to the Superannuation Guarantee.
13. This would be achieved by inserting the relevant percentage into the following motion:
 - (1) *That Council set the Mayoral and Councillor allowances at the following levels:*
 - (a) *a Mayoral allowance of ___% of the maximum; and*
 - (b) *a Councillor allowance of ___% of the maximum.*

Community and stakeholder engagement

14. Section 74(4) of the Local Government Act 1989 provides that any person has a right to make a submission in relation to the setting of Mayoral and Council Allowances, in accordance with provisions set out in section 223 of the Act.
15. Following Council's 1 December 2020 resolution, a public notice of Council's intent regarding Mayoral and Councillor Allowances was published and a period of at least 28 days was provided for response.
16. There were no submissions made to Council.

Policy analysis

Alignment to Council Plan

17. As part of the commitment to 'A Leading Yarra', the City of Yarra Council Plan 2017-2021 contains the following strategies:
 - (a) *"Ensure Council's assets and financial resources are managed responsibly to deliver financial sustainability"; and*
 - (b) *"Maintain a culture of transparency, governance, ethical practice and management of risks that instils a high level of community respect and confidence in Council decision-making".*
18. Transparently setting Mayoral and Councillor allowances at a public Council meeting and allowing members of the public to make submissions in relation to the determined amounts before a final decision is made reflects these commitments.

Climate emergency and sustainability implications

19. There were no climate emergency or sustainability implications identified in the development of this report.

Community and social implications

20. There were no community or social implications identified in the development of this report.

Economic development implications

21. There were no economic development implications identified in the development of this report.

Human rights and gender equality implications

22. There were no human rights implications identified in the development of this report.
23. The Australian Local Government Women's Association has identified the setting of low allowances as presenting a significant barrier to the participation of women in local Councils. They advocate for the setting of allowances at a level that appropriately reflects the contemporary nature of the role, including issues such as demands on time, effect on work and the impact on family life.

Operational analysis

Financial and resource impacts

24. Allowance for the continuation of Mayoral and Councillor allowances at the current level has been provided for in Council's operational budget.
25. By resolving that allowances be set at the maximum level, allowances may be adjusted in accordance with declarations made by the Minister for Local Government and any changes by the Commonwealth to the Superannuation Guarantee.

Legal Implications

26. The finalisation of this review will satisfy Council's obligations under section 74(1) of the Local Government Act 1989 to undertake a review of Mayoral and Councillor Allowances by 24 April 2021.

Conclusion

27. This report recommends that Council determine in accordance with its statement of intention to set the Mayoral and Councillor allowances at the maximum permissible level.

RECOMMENDATION

1. That Council set the Mayoral and Councillor allowances at the maximum permissible level, which, at the date of this meeting, is:
 - (a) a Mayoral allowance of \$88,918.38; and
 - (b) a Councillor allowance of \$28,738.28.

Attachments

There are no attachments for this report.