



# Agenda

## Council Meeting

7.00pm, Tuesday 30 March 2021

MS Teams

## Council Meetings

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

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

There are two ways you can participate in the meeting.

## Public Question Time

Yarra City Council welcomes questions from members of the community.

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

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

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

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

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

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

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

## Public submissions

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

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

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

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

## Arrangements to ensure our meetings are accessible to the public

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

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

## Recording and Publication of Meetings

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

## Order of business

1. **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 C1567 Tender Report for Richmond Preschool Extension and Upgrade

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 presented on a commercial in confidence basis during a tender process.

## 6. Confirmation of minutes

### RECOMMENDATION

That the minutes of the Council Meeting held on Tuesday 16 March 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	Fitzroy-Collingwood Interim Planning Scheme provisions (stage 2) - Alexandra Parade, Victoria Parade (east of ACU) AND Fitzroy West	9	25	Fiona van der Hoeven – Assistant Manager City Strategy
8.2	Collingwood Town Hall Precinct Redevelopment Study	27	43	Lucas Gosling – Director Community Wellbeing
8.3	Recreation Services - Fees, Charges and Allocations	45	60	Sally Jones – Manager Recreation and Leisure Services
8.4	Consultation findings and next steps regarding the Consumption of Liquor in Public Places Local Law	61	86	Malcolm McCall – Manager Social Strategy and Community Development
8.5	Appointment of Authorised Officers under the Planning and Environment Act 1987	89	90	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.

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## 8.1 Fitzroy-Collingwood Interim Planning Scheme provisions (stage 2) - Alexandra Parade, Victoria Parade (east of ACU) AND Fitzroy West

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### Executive Summary

#### Purpose

The purpose of the report is for Council to consider requesting that the Minister for Planning, in accordance with Section 8 (1) (b) and 20 (4) of the *Planning and Environment Act 1987*, to introduce 'Interim' *Design and Development Overlays* (DDOs): Schedules 38, 39 and 40; to land along Alexandra Parade, Victoria Parade (east of ACU) and Fitzroy West.

#### Key Issues

Council and the Yarra community places great importance on planning provisions to better manage development pressure, change and provide as much certainty as possible for future development outcomes.

To respond to the increasing development pressure along Alexandra Parade and Victoria Parade, and the mixed use zone area in Fitzroy West, officers have prepared draft 'Interim' *Design and Development Overlays* (DDO's) with the advice of expert consultants to better guide development.

This work represents Stage 2 of a wider built form program in relation to the Fitzroy and Collingwood activity centres and precincts.

The work provides a strategically sound basis, ensuring a balance between maintaining Yarra's heritage fabric and protecting sensitive residential interfaces whilst guiding new development.

The work builds on and supports the *Yarra Housing Strategy 2018* and the *Yarra Spatial Economic and Employment Strategy 2018*.

#### Financial Implications

The administrative fee to DELWP for requesting the Minister for Planning to introduce 'Interim' DDOs would be met within the existing strategic planning budget.

### PROPOSAL

In summary, that Council:

- (a) note the officer report and attachments for the Fitzroy-Collingwood Stage 2 interim built form provisions for Alexandra Parade, Victoria Parade and the Fitzroy West Mixed Use Zone area;
- (b) adopt the three individual Precinct Review and Built Form Framework reports, supporting Heritage Analysis and Recommendations and the Traffic Engineering Assessment prepared by Hansen Partnership, GJM Heritage and Traffix Group at Attachments 1 to 7;
- (c) adopt the interim Design and Development Overlay Schedules 38, 39 and 40 included in Attachment 8;
- (d) request the Minister for Planning to introduce DDO schedules on an interim basis for the three Stage 2 Fitzroy-Collingwood precincts outlined above, in accordance with the amendment documentation outlined in the attachments;
- (e) authorise officers to consult with the Minister for Planning to assist the Minister to prepare, adopt and approve the Amendment; and
- (f) authorise the CEO to make any minor adjustments required to meet the intent of the resolution.

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## 8.1 Fitzroy-Collingwood Interim Planning Scheme provisions (stage 2) - Alexandra Parade, Victoria Parade (east of ACU) AND Fitzroy West

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<b>Reference</b>	D21/25744
<b>Author</b>	Joerg Langeloh - Project and Policy Coordinator
<b>Authoriser</b>	Director Planning and Place Making

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### Purpose

1. The purpose of the report is for Council to consider requesting that the Minister for Planning, in accordance with Section 8 (1) (b) and 20 (4) of the *Planning and Environment Act 1987*, to introduce 'Interim' *Design and Development Overlays* (DDOs) to land along Alexandra Parade, Victoria Parade (east of ACU) and Fitzroy West

### Critical analysis

#### History and background

##### Managing Growth in Yarra's activity centres

2. Demand for housing within the City of Yarra is high due to its proximity to employment opportunities, heritage character and cultural offerings.
3. This has led to increased levels of planning applications for multi-dwelling and commercial developments. This trend is supported by state and local policy that directs higher density housing and employment opportunities towards activity centres.
4. *Plan Melbourne* and the *Yarra Planning Scheme* generally direct job and housing growth towards major activity centres and to a lesser degree towards neighbourhood activity centres. The planning system in Victoria generally expects that these major activity centres accommodate a higher rate of change than other areas.
5. Activity centres are defined by state policy as community hubs where people shop, work, meet, relax and live. They should provide a broad range of goods, services and diverse offerings, focusing on mixed-use development including retail, commercial and residential, and should be well connected by transport modes. These centres support local economies and the development of 20-minute neighbourhoods outlined in *Plan Melbourne*.
6. Council and the Yarra community places great importance on planning controls to better manage change and provide as much certainty as possible for future development outcomes. This includes ensuring a balance between maintaining heritage fabric in Yarra's activity centres and protecting sensitive residential interfaces whilst guiding new development.
7. To address these issues, Council has been undertaking a program of preparing built form frameworks for its activity centres to enable the introduction of the interim *Design and Development Overlays* (DDOs) in the Yarra Planning Scheme, while permanent built form provisions are progressed. This work is well progressed in:
  - (a) Johnston Street (permanent provisions gazetted by the Minister for Planning (Minister));
  - (b) Queens Parade (permanent provisions for Parts 1 and 3 gazetted by the Minister);
  - (c) Swan Street (interim provisions in place; and permanent provisions currently being considered for approval by the Minister);
  - (d) Bridge Road and Victoria Street (interim provisions in place, and strategic work underway to inform permanent provisions);

- (e) Collingwood South (interim provisions in place);
- (f) Heidelberg Road (interim provisions currently being considered for approval by the Minister); and
- (g) Fitzroy and Collingwood Stage 1 (interim provisions for Brunswick, Smith, Johnston and Gertrude Streets and Mixed Use Zone areas behind those corridors and in Fitzroy East are currently being considered for approval by the Minister).

Fitzroy and Collingwood Activity Centres

8. The Fitzroy and Collingwood activity centres are important for Yarra and inner Melbourne. They host a variety of employment, cultural and housing opportunities and they are known for their heritage retail strips and former industrial history. The area has transitioned from its industrial past to an area characterised by its vibrant retail, hospitality and arts and culture scene, with greater levels of residential and some office developments.
9. Within Fitzroy and Collingwood, there are several overlapping activity centres and mixed use areas. They include the Brunswick Street and Smith Street Major Activity Centres, the Johnston Street and Gertrude Street Neighbourhood Activity Centres and Mixed Use Zone areas in Fitzroy East and adjacent to the major corridors.
10. These areas were part of a first stage (Stage 1) of Yarra’s built form program for Fitzroy and Collingwood (refer to Figure 1). These proposed interim provisions were informed by comprehensive background work, including independent urban design, heritage and traffic advice. On 19 December 2019 Council resolved to request interim DDOs from the Minister for stage 1. A decision on the request has not been made yet.
11. Stage 2 (subject of this report), includes the Fitzroy West Mixed Use zone area and the boulevards of Victoria Parade and Alexandra Parade (refer to Figure 1). Next to the activity centres, these areas are also experiencing increased development pressure, however, the Yarra Planning Scheme currently provides limited guidance about the preferred built form outcomes, including building heights and setbacks.
12. The introduction of interim DDOs into the Yarra Planning Scheme would fill the gap in policy in these areas and provide strong guidance for new developments.
13. Table 1 should be read in conjunction with Figure 1 to clearly illustrate the precincts and their stage of preparation.

**Table 1: Built Form Control – Stages**

Stage	Precinct
<p><b>Stage 1 Precincts</b> – completed, interim provisions currently being considered by the Minister for Planning.</p>	<p>Brunswick Street Precinct (<b>B</b>)                      Town Hall Precinct (<b>TH</b>)                      Fitzroy East Precinct (<b>FE</b>)                      Gertrude Street Precinct (<b>G</b>)                      Johnston Street – west of Smith Street (<b>J</b>)                      Smith Street (<b>S</b>)</p>
<p><b>Stage 2 Precincts</b> – subject of this report.</p>	<p>Alexandra Parade (<b>A</b>)                      Victoria Parade (<b>V</b>)                      Fitzroy West (<b>FW</b>)                      Note: Collingwood Mixed Use (North) (<b>CN</b>) is proposed to be included within a separate stage as it is subject to the outcome of a Victorian Heritage Register application.</p>

Figure 1: Built Form Control – Fitzroy and Collingwood Study Area and Precincts



Figure 2

Legend	Activity Spines	Mixed Use Precincts	Boulevard Precincts
study area	brunswick street	fitzroy west	alexandra parade
precinct boundary	smith street	fitzroy east	victoria parade
	gertrude street	collingwood	
	johnston street	town hall	

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 Dwg No.: UDD-025  
 Scale: 1:800 @A3  
 Date: 16.03.2020  
 Revision: A

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Discussion

Study Area

- The current stage 2 work covers the remaining 3 precincts in the Fitzroy and Collingwood Study Area - the major boulevards of Alexandra Parade and Victoria Parade to the north and south, and the mixed use precinct of Fitzroy West (see Fig 2 below).

**Figure 2: Stage 2 - Precinct Boundaries Map**

Fitzroy & Collingwood Stage 2 - Area Map



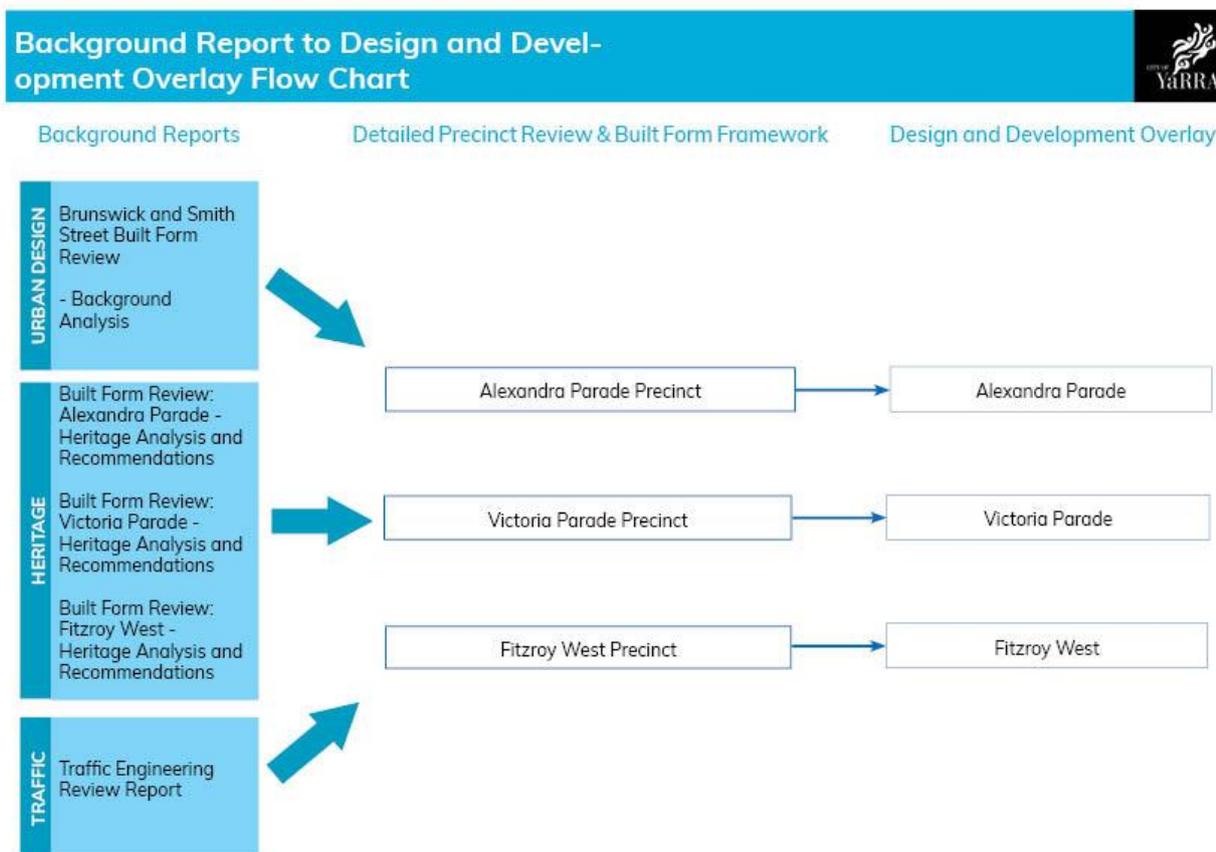
Legend

- DDO38 - Alexandra Parade
- DDO39 - Victoria Parade
- DDO40 - Fitzroy West

Approach

15. The interconnected nature of the Fitzroy/Collingwood activity centres, mixed use precincts and corridors means they are unique in comparison to other retail strips within inner Melbourne. A more holistic approach was taken to respond to the inter-relationship across the centres. This allowed the recognition of commonalities and differences between the areas.
16. Council commissioned ‘Hansen Partnership’ in association with ‘GJM Heritage Consultants’ and ‘Traffix Group’ to prepare a range of strategic work to underpin the introduction of interim DDO schedules for the precincts in Stage 2.
17. As per the built form work in Stage 1, the proposed built form provisions for Stage 2 have been informed by comprehensive strategic work (see Figure 3 for an overview), which included:
  - (a) overarching background documents analysing existing conditions, current built form, heritage fabric and traffic matters;
  - (b) detailed ‘Built Form Frameworks’ to provide specific context analysis, framework plans and built form provision recommendations;
  - (c) consideration of recent planning applications, Victoria Planning Panel recommendations and Victorian Civil and Administrative Tribunal (VCAT) decisions; and
  - (d) substantial testing of different options using cross sections and 3D-modelling.
18. Officers then translated the recommendations from the three individual Built Form Frameworks, heritage and traffic reports into three schedules to the DDO. The schedules draw on character distinctions found in the Built Form Frameworks.

**Figure 3: Fitzroy/Collingwood Stage 2 Activity Centres Built Form Work Overview**



*Brunswick and Smith Street Built Form Review – Background Analysis Report*

19. Hansen Partnership, with specialist advice from GJM Heritage Consultants and Traffix Group, prepared the *Brunswick and Smith Street Built Form Review – Background Analysis Report*.
20. The *Background Analysis Report* provides a detailed analysis on existing conditions (including policy, physical attributes, and recent development trends) across the entire study area for both Stages 1 and 2. It reviewed existing conditions and identified the general direction of a *preferred* future built form character for each Built Form Framework precinct.
21. The document assisted in identifying appropriate ways to accommodate growth and change within the retail corridors, boulevards and mixed use areas. A set of overarching principles guided the preparation of the subsequent Built Form Frameworks.

*Heritage Advice*

22. GJM Heritage were engaged to provide heritage advice to inform the Built Form Frameworks and prepared the following reports to assist officers in preparing built form provisions and controls for the area:
  - (a) *Built Form Review: Alexandra Parade – Heritage Analysis and Recommendations;*
  - (b) *Built Form Review: Victoria Parade – Heritage Analysis and Recommendations; and*
  - (c) *Built Form Review: Fitzroy West Mixed Use Precinct – Heritage Analysis and Recommendations*
23. The three 'Heritage Analysis and Recommendations' analysed gaps, inconsistencies and inaccuracies with the current heritage controls within Stage 2 and provided recommendations for addressing these issues. It considered the built form parameters that are required to ensure the values of the heritage places in the three precincts are appropriately managed and protected. The advice promotes good heritage outcomes being achieved for development on land subject to, or abutting, the Heritage Overlay.
24. The heritage advice has informed Hansen's Built Form Frameworks and ensured that DDO provisions appropriately respond to heritage fabric and values within Alexandra and Victoria Parades and the Fitzroy West Mixed Use Precinct. This combined work has had a strong influence on the proposed street wall heights, building setbacks and building heights in the proposed DDOs.

*Traffic Advice*

25. Traffix Group prepared a Traffic Engineering Assessment 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.

*Precinct Review and Built Form Frameworks*

26. Hansen Partnership, in association with GJM Heritage Consultants, subsequently prepared three 'Built Form Frameworks' for the Stage 2 precincts.
27. The Built Form Framework reports provide the strategic justification and evidence (alongside other reports) needed to enable the Minister to consider a request to prepare and approve interim DDO schedules. They would provide the basis for the preparation of future permanent planning controls.

Interim Design and Development Overlay Schedules

28. The 'Precinct Review and Built Form Framework Reports' for Victoria and Alexandra Parades include some allotments fronting the corridors that are currently zoned General Residential Zone (GRZ), Schedules 1, 3 and 4. As the GRZ, and its respective schedules, already guide future development, including overall heights and Clause 54 or 55 requirements, the decision was made to not include them in the respective DDO areas.

29. The recommended *interim* provisions provide a balance between heritage, sensitive residential interfaces and guiding change across the activity centres.
30. Heritage matters have been considered strongly in preparing the proposed interim DDO's. It means that strong built form provisions are proposed to protect the heritage character of the precincts with the majority of change concentrated in a few areas only, in locations with few heritage constraints.
31. Each DDO schedule has been tailored to address the unique built form typologies, heritage and character of that precinct. Table 2 provides a summary of the proposed future scale each in the proposed interim DDOs for each precinct.

**Table 2: Proposed DDO Precinct Summary of Future Scale**

<i>DDO Schedule</i>	<i>Summary</i>
<i>Alexandra Parade (DDO38)</i>	<ul style="list-style-type: none"> <li>• This precinct generally comprises land with a primary frontage to Alexandra Parade between George Street in the west and Hoddle Street in the east. The northern side of the Parade is defined by the extent of Commercial 2 Zone and Mixed Use Zone. The southern side reflects equally diverse zoning designation, comprising Commercial 1 Zone, Commercial 2 Zone and Mixed Use Zone. (Refer to Figure 2)</li> <li>• The Alexandra Parade boulevard is defined by a wide road profile and tree-lined central median. The Clifton Hill Shot Tower (Municipal Landmark) is a key feature of Alexandra Parade, maintaining views to the Shot Tower is a clear consideration for the future scale. The precinct is further characterised by varied lot sizes and inconsistent built forms with regards to age, height and style.</li> <li>• Future development along Alexandra Parade would confine taller buildings to the eastern and western ends of the precinct on larger allotments compromising non-contributory buildings. Development in the centre of the precinct and surrounding the Shot Tower would maintain key views to the Municipal Landmark. (Refer to Figure 4)</li> </ul>
<i>Victoria Parade (DDO39)</i>	<ul style="list-style-type: none"> <li>• This precinct comprises land subject to the Commercial 1 Zone on the northern side of Victoria Parade between Napier Street to the west and Hoddle Street to the east. (Refer to Figure 2)</li> <li>• Victoria Parade is a grand boulevard comprising a broad central median with tram tracks and established street trees which creates a strong public realm condition.</li> <li>• To the west of Wellington Street a finer grained subdivision pattern accommodating rows of traditional Victorian terraces is found, some being listed on the Victorian Heritage Register. East of Wellington Street, Victoria Parade is dominated by a mix of lot sizes and highly varied built form, including commercial buildings on large lots. There are minimal heritage buildings found to the east of Wellington Street.</li> <li>• The intent of this precinct is for future development along the western end of Victoria Parade to respect the valued and prominent heritage fabric. The eastern end of the boulevard forms part of one of Yarra's major employment precincts (known as the Gipps Street precinct) as identified in proposed local planning policy in the current planning scheme amendment C269. This area would provide opportunity for higher development as part of the employment precinct. (Refer to Figure 4)</li> </ul>
<i>Fitzroy West (DDO40)</i>	<ul style="list-style-type: none"> <li>• This precinct covers land subject to the Mixed Use Zone and Commercial 2 Zone between Nicholson Street in the west and to the rear of lots to Brunswick Street in the east. The study area extends north south between the rear lots of Johnston Street and properties with a frontage to Alexandra Parade at the corner of Nicholson Street. (Refer to Figure 2)</li> <li>• The Fitzroy West precinct is an eclectic area, comprising a network of narrow</li> </ul>

	<p>one-way streets and wider, tree lined streets in combination with a mix of building typologies. It is defined by clusters of attached traditional Victorian terraces of one and two storeys, larger heritage and non-contributory buildings, recent warehouses as well as scattered Victorian retail and commercial forms.</p> <ul style="list-style-type: none"><li>• Future development in the Fitzroy West precinct needs to strongly relate to its heritage fabric and street profile. It should be framed by a variety of low-rise heritage and mid-rise contemporary infill on larger allotments.</li><li>• Recommended building heights for the Fitzroy West precinct would support lower- to mid-rise development ranging from 3 to 6 storeys with a few minor sites which can accommodate up to 7 and 8 storeys. (Refer to Figure 4)</li></ul>
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**Figure 4: Stage 2 General Heights Map**

Fitzroy & Collingwood Built Form - Levels of Change  
Stage 2



32. The content of the proposed interim DDOs have considered and been guided by the key directions from Amendments C220 (Johnston Street), C231 (Queens Parade) and C191 (Swan Street). They follow the approach taken as per Stage 1 interim DDOs in Amendment C270.

*Built Form Design Controls within the DDOs*

33. The DDO schedules provide guidance on building heights, street wall heights, upper level setbacks, front setbacks, rear setbacks, building separation and access and movement.
34. Key proposed built form requirements are summarised below in Table 3. The proposed 'metrics' are summarised in Table 4.

**Table 3: Proposed Built Form Requirements**

<b>Built Form Requirements</b>	<b>General Description of Proposed Elements</b>
<b>Street wall</b>	<ul style="list-style-type: none"> <li>• Retain the existing heritage street wall along streets.</li> <li>• Infill development must match the height of the adjacent heritage street wall to achieve a consistent heritage street wall.</li> <li>• New development would “turn a corner” and apply the same street wall height for a minimum distance along the side street.</li> <li>• <i>Mandatory</i> controls are proposed to areas with consistent heritage street walls to ensure this significant element of the street is retained. This is reflected in <i>DDO39 – Victoria Parade</i>.</li> <li>• Areas where there is limited heritage consistency, a new street wall would be created.</li> </ul>
<b>Upper level setbacks</b>	<ul style="list-style-type: none"> <li>• The recommended upper level setbacks ensures development does not overwhelm the heritage buildings and that the heritage streetscape remains a prominent and defining element of the Fitzroy/Collingwood areas.</li> <li>• Upper levels should avoid a stepped form. Certain heritage places may require a stronger setback, depending on the individual heritage building and development proposal.</li> <li>• Development within or adjacent to land subject to the Heritage Overlay would generally be required to provide for a 6m <i>preferred</i> setback behind the street wall.</li> <li>• In areas with consistent heritage character a <i>mandatory</i> 6m setback is proposed for: <ul style="list-style-type: none"> <li>○ <i>DDO38 Alexandra Parade</i> (heritage buildings);</li> <li>○ <i>DDO39 Victoria Parade</i> (land subject to or immediately adjacent to a HO along Victoria Parade and Wellington Street).</li> <li>○ <i>DDO40 Fitzroy West</i> (heritage buildings)</li> </ul> </li> <li>• <i>Preferred</i> (that is, discretionary) 3m upper level setbacks apply towards side streets.</li> </ul>
<b>Overall building heights</b>	<ul style="list-style-type: none"> <li>• The heights have been determined through an analysis of heritage values, lot depths, rear interface conditions and other built form elements (see Figure 4 – General Heights Map and Attachment 8).</li> <li>• <i>Mandatory</i> maximum height controls are proposed in <i>DDO40 – Fitzroy West</i> to Victorian terrace buildings within the Heritage Overlay, 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.</li> <li>• For areas with less heritage consistency <i>preferred</i> (discretionary) height</li> </ul>

	<p>provisions being more suitable.</p> <ul style="list-style-type: none"> <li>• <i>Alexandra Parade, Victoria Parade and Fitzroy West Schedules</i> include 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 achieve: <ul style="list-style-type: none"> <li>○ increased separation distances;</li> <li>○ higher ESD standards;</li> <li>○ increased private and communal open space;</li> <li>○ housing diversity; and</li> <li>○ no additional amenity impacts to residentially zoned properties.</li> </ul> </li> </ul>
<p><b>Rear interface and heights and setbacks</b></p>	<ul style="list-style-type: none"> <li>• DDOs address residential interfaces through boundary wall heights and building setbacks at the rear.</li> <li>• Rear interface heights are determined by the adjacent zone and whether a laneway separates the properties from the proposed DDO area.</li> <li>• These heights 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.</li> <li>• A maximum 8m boundary wall height is proposed for sites abutting properties in the Neighbourhood Residential Zone (NRZ) and General Residential Zone (GRZ) where there is no lane and 11.2m is proposed for land which abuts a laneway or is in the MUZ.</li> <li>• The assessment of visual bulk and potential overshadowing would also assist in determining the appropriate boundary wall height.</li> <li>• A <i>mandatory</i> 45 degree setback envelope for upper levels above the rear interface height is proposed towards residential interfaces. This is to ensure that development provides an appropriate transition to the lower scaled development in adjacent residential zones.</li> </ul>
<p><b>Overshadowing and daylight</b></p>	<ul style="list-style-type: none"> <li>• There are a range of provisions that would manage overshadowing and daylight access to public land and sensitive residential land.</li> <li>• <i>Mandatory</i> controls regarding limiting overshadowing on the opposite footpaths and kerb outstands between 10am and 2pm at the equinox (Sept) are proposed for main streets, wider side streets and kerb outstands with seating and planting as well as the central median of the two boulevards.</li> <li>• 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.</li> <li>• <i>Preferred</i> (discretionary) overshadowing and daylight access provisions are proposed referring to: <ul style="list-style-type: none"> <li>○ Clause 55.4-5 for adjoining land within the NRZ and/or GRZ;</li> <li>○ Clause 55.4-5 for single dwellings within the MUZ; and</li> <li>○ Ensure adequate daylight access to habitable room windows.</li> </ul> </li> </ul>
<p><b>Building layout</b></p>	<ul style="list-style-type: none"> <li>• The retention of commercial activity is integral to the vibrancy of these centres.</li> <li>• The schedules include provisions to ensure shop widths are not reduced to the extent they become commercially unviable and to incorporate floor to floor heights suitable for commercial activity (4m) at ground level, where heritage is not a constraint.</li> </ul>

<p><b>Common boundary and building separation</b></p>	<ul style="list-style-type: none"> <li>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"> <li>4.5m to a balcony or living room window; and</li> <li>3m to a commercial or non-habitable window.</li> </ul> </li> </ul>
<p><b>Heritage</b></p>	<ul style="list-style-type: none"> <li>The schedules include heritage design requirements which address upper level setbacks, design of upper levels and façade design.</li> <li>They are included to guide decision-making for commercial and industrial buildings, at least until such time as the heritage policy in Clause 22.02 is amended through Amendment C269, to more comprehensively address industrial, commercial and retail places.</li> <li>The proposed 'Interim' provisions provide for strong heritage protection through the above mentioned requirements on: <ul style="list-style-type: none"> <li>street wall height;</li> <li>overall height;</li> <li>façade design requirements;</li> <li>upper level visibility; and</li> <li>retaining heritage fabric and avoiding heritage facadism.</li> </ul> </li> <li>Heritage consideration has played a strong role in determining the proposed requirements to limit visibility and to retain the heritage character of streetscapes.</li> </ul>

**Table 4: Proposed Precinct Specific Control Metrics**

<b>DDO Schedule</b>	<b>Street Wall</b>	<b>Upper Level Setback</b>	<b>Building Heights</b>	<b>Rear Boundary Wall Height</b>
<p>DDO38 – Alexandra Parade</p>	<p><b>Discretionary</b> See Map 1 &amp; 2, Attachment 8.</p> <p>Match the parapet height of the adjacent heritage building to the width of boundary or 6m, whatever is less.</p>	<p><b>Mandatory</b> 6m for heritage buildings.</p> <p><b>Preferred (discretionary)</b> 6m for sites immediately abutting land subject to the HO.</p> <p>6m minimum for non-contributory sites on the northern side of Alexandra Parade and Cecil, Council George, Gore and Smith Streets.</p> <p>3m minimum for all other non-contributory sites.</p> <p>Upper levels above Noone Street should be visually limited from the opposite footpath.</p> <p>3m minimum for side streets.</p>	<p><b>Discretionary</b> See Map 1 &amp; 2, Attachment 8.</p> <p>Ranging between 11.2m (3 storeys) to 33.6m (10 storeys).</p>	<p><b>Discretionary</b> See rear controls Table 3</p>
<p>DDO39 – Victoria Parade</p>	<p><b>Mandatory</b> Street wall height within or adjacent to HO, match parapet height of adjacent heritage building to the width of</p>	<p><b>Mandatory</b> Minimum 6m for land subject to or immediately adjacent to a HO along Victoria Parade and Wellington Street</p>	<p><b>Discretionary</b> See Map 1 &amp; 2, Attachment 8.</p> <p>Ranging</p>	<p><b>Discretionary</b> See rear controls Table 3</p>

<b>DDO Schedule</b>	<b>Street Wall</b>	<b>Upper Level Setback</b>	<b>Building Heights</b>	<b>Rear Boundary Wall Height</b>
	boundary or 6m, whatever is less.  <b>Discretionary</b> See Map 1 & 2, Attachment 8.	<b>Discretionary</b> 6m minimum for all other sites.  3m minimum for side streets.	between 11.2m (3 storeys) to 40m (12 storeys, highest levels being limited from view).	
DDO40 – Fitzroy West	<b>Discretionary</b> See Map 1, Attachment 8.  Match parapet height of adjacent heritage building to the width of boundary or 6m, whichever is less.	<b>Mandatory</b> 6m minimum from principal street frontage of heritage buildings.  <b>Discretionary</b> 6m minimum from secondary street frontage of heritage buildings on corner sites.  6m minimum for non-contributory sites fronting Alexandra Parade and Nicholson, Cecil, Westgarth, Kerr and Argyle Streets and key corners at intersections.  3m minimum for non-contributory sites fronting Rose, Fitzroy, Spring and Henry Streets.  3m minimum for side streets.	<b>Mandatory</b> Victorian terraces within the HO - 11m/3 storeys.  See Attachment 8.  <b>Discretionary</b> See Map 1, Attachment 8.  Ranging between 11.2m (3 storeys) to 27.2m (8 storeys).	<b>Discretionary</b> See rear controls Table 3

*Mandatory Controls*

35. All three DDO schedules include *some* proposed mandatory controls which address elements most important to the respective locale, such as building heights, setback and street wall height.
36. 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.
37. Council officers have considered the Planning Practice Notes in the application of mandatory controls. Specifically the Practice Notes requires that mandatory controls must: be underpinned by comprehensive strategic work; consistent with state policy; take into consideration recent development activity; and provide capacity to accommodate growth.
38. It is considered that the extensive strategic work undertaken should provide sufficient justification for the use of some particular *mandatory* controls in the interim DDO schedules.
39. It is important to note that 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 DDO schedules.

*Collingwood North*

40. One precinct (Collingwood North) has not been included as part of the suite of DDO schedules being proposed as there is currently an application being considered by Heritage Victoria for the development of the Police Warehouse building located along Wellington Street. Once a decision is made by Heritage Victoria, work would be completed on the strategic evidence for a DDO on that precinct.

Options

41. There are two options for Council:
- (a) request the Minister for Planning for the introduction of three *interim* DDO schedules into the Yarra Planning Scheme under Section 8(1) b and Section 20(4) of the *Planning and Environment Act 1987*;
  - or
  - (b) undertake the full amendment process to seek permanent provisions in Alexandra Parade, Victoria Parade and Fitzroy West.
- NB. This option would require a longer process, expected to take a minimum of 18 months leaving the study area without built form provisions for an increased time period.
42. Interim DDO provisions are applied without community consultation, usually via a request for a Ministerial Amendment (under Section 20(4) of the *Planning and Environment Act 1997*). These (once approved by the Minister) form a holding position while the *permanent* provisions go through a full amendment process, including public exhibition and the ability to make submissions to an independent Planning Panel.
43. Interim provisions are usually applied for a set period of time – usually two years. Council can apply for an extension of the interims, but must be able to demonstrate that it has made progress on introducing permanent provisions.
44. It is ultimately the Minister for Planning who can provide approval for Interim DDO's, and any extensions to the Interim DDO's.
45. Officers recommend that Council undertake **Option A** as outlined above – seek Interim provisions at this point in time.
46. It is likely that the interim DDO schedules would expire after 2 years. During this time Council can progress permanent DDO schedules in a separate amendment, or possibly via a Standing Advisory Committee process that Council considered at its meeting on 2 March 2021.
47. The community would have an opportunity to submit during the processes seeking to introduce the permanent DDO schedules into the planning scheme.
48. The option of seeking Interim provisions firstly is consistent with the approach taken with Stage 1 and would provide increased certainty to the community. That is, it would come into effect sooner than a full amendment process to guide development in Alexandra Parade, Victoria Parade and Fitzroy West.

**Community and stakeholder engagement**

49. No formal external consultation has been undertaken to inform the draft 'Interim' DDO schedules; and there would be no formal statutory opportunity for the community to submit on the draft interim DDO schedules before it is submitted to the Minister for Planning.
50. Council has undertaken extensive consultation with the community through Amendments C220 (Johnston Street), C231 (Queens Parade) and C191 (Swan Street). The drafting of the interim DDO schedules for this Stage 2 proposal have been informed by those Amendments.

51. The community would have the opportunity to submit on the permanent DDO schedules as part of a planning scheme amendment that seeks to introduce permanent provisions. The Planning and Environment Act 1987 establishes an extensive public consultation process with minimum statutory requirements.
52. The strategic background reports and DDOs have been prepared with input from Council's Urban Design, Strategic Planning and Statutory Planning teams and Council's Senior Heritage Advisor.

## Policy analysis

### Alignment to Council Plan

53. The request to introduce 'Interim' DDO schedules for the Fitzroy/Collingwood activity centres also 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

54. The 'Interim' DDOs would seek to best manage the redevelopment of the land, this would provide an opportunity to address climate emergency objectives:
  - (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 distance to sustainable transport options, employment and services.

### Community and social implications

55. There are no specific social implications for requesting the Minister for Planning to introduce interim DDO's, that approach seeks to provide increased certainty to the community around future built form in the area outlined in this report.

### Economic development implications

56. There are no economic implications for requesting the Minister for Planning to introduce interim DDOs to the areas outlined in this report.
57. Planning provisions exist to manage development opportunities.

### Human rights and gender equality implications

58. There are no known human rights implications for requesting the Minister for Planning to introduce 'Interim' DDOs to the areas outlined in this report.

## Operational analysis

### Financial and resource impacts

59. The statutory request fee is accounted for in the strategic planning budget.

### Legal Implications

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

## Conclusion

61. Three *Heritage Built Form Reviews* and three *Built Form Frameworks* have been prepared and provide built form recommendations for the future development in the Fitzroy/Collingwood precincts of Alexandra Parade, Victoria Parade and the Fitzroy West Mixed Use Zone area.

62. 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.
63. The introduction of 'Interim' provisions as detailed in the three DDO schedules (Attachment 8) into the Yarra Planning Scheme would improve planning provisions across the precinct and provide greater planning certainty.
64. Interim DDOs, (once approved by the Minister), would form a holding position while the proposed *permanent* provisions go through a notification process and review by a Panel or an Advisory Committee.
65. Whilst no formal community consultation has been undertaken on the recommended 'Interim' DDO schedules, the community would have an opportunity to submit during formal exhibition processes to introduce permanent DDO schedules into the planning scheme.
66. It is recommended that Council now resolve to seek interim planning scheme provisions, from the Minister for Planning for the 3 areas subject to this report, as a means of seeking to manage development pressure and to steer development activity.

## RECOMMENDATION

1. That council:
  - (a) notes the officer report and attachments for the Fitzroy-Collingwood Stage 2 interim built form provisions for Alexandra Parade, Victoria Parade and the Fitzroy West Mixed Use Zone area;
  - (b) adopts for the purpose of supporting the amendment request, the three individual Precinct Review and Built Form Framework reports, supporting Heritage Analysis and Recommendations and the Traffic Engineering Assessment prepared by Hansen Partnership, GJM Heritage and Traffix Group at **Attachments 1 to 7**;
  - (c) requests the Minister for Planning in accordance with sections 8(1)(b) and section 20(4) of the *Planning and Environment Act* 1987 to introduce Design and Development Overlay Schedules 38, 39 and 40 on an interim basis into the Yarra Planning Scheme (**Attachment 8**);
  - (d) authorises officers to consult with the Minister, in accordance with sections 8(1)(b), 20(4) and 20(5) of the Act, to assist the Minister to prepare, adopt and approve the Amendment; and
  - (e) authorises the CEO to make any minor adjustments required to meet the intent of the above resolution.

## Attachments

- 1 Attachment 1 - Alexandra Parade Built Form Framework
- 2 Attachment 2 - Victoria Parade Built Form Framework
- 3 Attachment 3 - Fitzroy West Built Form Framework
- 4 Attachment 4 - Alexandra Parade Heritage Review V2
- 5 Attachment 5 - Victoria Parade Heritage Review V2
- 6 Attachment 6 - Fitzroy West Heritage Review V3

- 7** Attachment 7 - Traffic Engineering Assessment
- 8** Attachment 8 - DDO38, DDO39 and DDO40 Final V2
- 9** Attachment 9 - Statutory Documentation Final

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## 8.2 Collingwood Town Hall Precinct Redevelopment Study

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### Executive Summary

#### Purpose

To report on the work that has been completed in response to the direction in the 2019–20 budget to undertake a feasibility study examining the potential to develop social and affordable housing options in the Collingwood Town Hall Precinct and a further Motion to consider community infrastructure outcomes.

To receive direction from Council as to whether it wishes to take the next steps and pursue the redevelopment of the northern end of the Collingwood Town Hall Precinct, and if so, on what terms.

#### Key Issues

Council owns significant strategic land holdings in and around the Collingwood Town Hall Precinct. The precinct is well located to major transport infrastructure and includes a number of Council-owned properties that are either not utilised, underutilised or currently providing community services in buildings that are not fit-for-purpose.

In 2020, a feasibility study examining the potential for a mixed-use development in the northern part of the precinct was undertaken. The study has given Council an understanding of the potential of the sites to provide for the social needs of its community, including a community facility and social and affordable housing, while achieving some economic sustainability. The study has been an iterative process testing basic built form options and land use mixes to balance public benefits against development costs.

#### Financial Implications

Several scenarios have been explored with different financial impacts. An underlying premise in exploring this site has been to seek an outcome that would be financially viable with Council's contribution being in the form of a land-gift or long-term lease, i.e. without Council contributing capital investment. The study has found that it will be hard to design a proposal that delivers both community infrastructure and a significant proportion of social housing without a significant government subsidy.

Since beginning this study the social housing funding environment has changed drastically in response to the Victorian Government's \$5.3 billion Big Housing Build, announced in November 2020. Under this scheme, the state government is funding the construction of 12,000 new social and affordable properties across Victoria over four years.

This is likely to increase the ability of community housing providers to undertake projects, such as the one explored below. It could also potentially increase the number of social housing units that could viably be included in the proposal.

Commercial property valuations of the Council-owned sites suggest that Council holds assets to the value of about \$7.5 million on the corner of Vere and Hoddle Streets.

## PROPOSAL

1. That Council notes:
    - (a) the completion of the feasibility study in response to the direction within the 2019–20 budget to undertake a feasibility study examining the potential to develop social and affordable housing options in the Collingwood Town Hall Precinct and the further Council motion from August 2019 to expand the feasibility study to include previously considered community uses, and that this work included:
      - (i) Planning, urban design, massing and economic feasibility;
      - (ii) Community infrastructure costs and concepts;
      - (iii) Stakeholder engagement (including with potential joint-venture partners);
      - (iv) Commercial property valuations of council-owned land/buildings.
    - (b) the redevelopment of the northern end of the Collingwood Town Hall Precinct has been investigated on multiple occasions over the past ten years, including delivering social and affordable housing, arts and other community outcomes (considered in 2013–14), and the option of the Victorian RSL assuming responsibility for the restoration and reactivation of the Sailors and Soldiers Hall (considered in 2018);
    - (c) the many challenges evident in redeveloping the northern end of the Collingwood Town Hall Precinct, including:
      - (i) the deteriorating and underutilised Council-owned assets of Sailors and Soldiers Memorial Hall and the nineteenth century factories at 117–123 Vere Street;
      - (ii) the many and varied property owners and complicating infrastructure within and around the study area; and
      - (iii) the scale, land area and partners needed to achieve a financially viable mixed-use outcome at the site – with Council’s main contribution being the land – which delivers a high proportion of social housing, alongside fit-for-purpose community infrastructure, with resulting improvements to the urban realm.
  2. That Council thanks the Victorian Government for their contribution to the project, and thanks industry stakeholders for their time and thoughtful contribution to the stakeholder engagement exercise.
  3. That with respect to the northern end of the Collingwood Town Hall Precinct, Council determines from one or more of the following options, and instructs officers to progress with further work including:
    - (a) Continue to seek an outcome that delivers a mixed-use development, as explored through the feasibility work, that includes residential dwellings (with a minimum of 50% of dwellings allocated to social and affordable housing with the balance market housing); has no less than 1,000m<sup>2</sup> for a community hub (including contemporary library spaces, flexible arts and community rooms and consulting suites); and necessitates the acquisition of additional assets and a continued partnership with the Victorian Government, noting that additional land acquisitions will be required; or
    - (b) Commence the necessary work to facilitate the development of social and affordable housing through already Council-owned assets, such as specifically the leasing of the council-owned warehouse sites at 117–123 Vere Street to a Registered Housing Agency (RHA), with the refurbishment of the Sailors and Soldiers Hall not included; or
-

- (c) Commence the necessary work to develop a new community hub in the precinct, based around, and including the refurbishment of the Sailors and Soldiers Memorial Hall on Hoddle Street, with the development of social and affordable housing not included, noting that Council would need to find additional resources for further feasibility and a source of funding for any potential community infrastructure project; or
  - (d) Commence the necessary work to develop a new community hub in the precinct, based around, and including the refurbishment of the Sailors and Soldiers Memorial Hall on Hoddle Street, as well as facilitating the development of limited social and affordable housing through the leasing of the council-owned warehouse sites at 117–123 Vere Street to a Registered Housing Agency (RHA), noting that Council would need to find a source of funding for the community infrastructure project; or
  - (e) Instigate the process to potentially sell the underutilised Council assets such as 117–123 Vere Street and Sailors and Soldier at 152A Hoddle Street; or
  - (f) Leave the site as is.
4. That Council directs officers to produce a consultation and engagement strategy for the preferred option and report back to Council to seek endorsement for the strategy and approval to consult the community.

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## 8.2 Collingwood Town Hall Precinct Redevelopment Study

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<b>Reference</b>	D21/14760
<b>Author</b>	Tess Simson - Senior Policy Advisor
<b>Authoriser</b>	Manager Social Strategy and Community Development

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### Purpose

1. To report on the work that has been completed in response to direction in the 2019–20 budget to undertake a feasibility study examining the potential to develop social and affordable housing options in the Collingwood Town Hall Precinct. A further Council motion from August 2019 to expand the feasibility study to include previously considered community uses is also addressed.
2. To receive direction from Council as to whether it wishes to take the next steps and pursue the redevelopment of the northern end of the Collingwood Town Hall Precinct, and if so, on what terms.

### Critical analysis

#### History and background

3. This report looks at the feasibility work that has been done to investigate options for redeveloping the northern part of the Collingwood Town Hall (CTH) Precinct, including the Council buildings at 152A Hoddle Street (Sailors and Soldiers Memorial Hall) and warehouses at 117–123 Vere Street, as well as considering additional assets in the area.
4. The City of Collingwood purchased the Vere Street warehouses in the 1960s with the original intention of delivering offices for the organisation. One of the warehouses is now used by the Yarra Sculpture Gallery and the other functions as Council storage. The warehouses are underutilised and offer limited return to the community.
5. The Sailors and Soldiers Hall was originally constructed in the 1920s and was formerly the Collingwood RSL Hall. This heritage building is in a deteriorated state and currently unusable.
6. Opportunities for redevelopment of the site have been investigated on multiple occasions over the last 10 years. Several projects have considered delivering community outcomes for the site, including social housing, arts and other community facilities (2013–14), and the RSL assuming responsibility for the restoration and reactivation of the Sailors and Soldiers Hall (2018).
7. None of these projects has eventuated and the buildings on the corner of Hoddle and Vere Streets remain underutilised, slipping further into decline as useful assets, and posing some forthcoming liability.
8. As part of the 2019–20 Budget, \$100,000 was allocated to deliver a feasibility study that examines the potential for developing social and affordable housing options in the Collingwood Town Hall Precinct.
9. A subsequent motion on 13 August 2019 requested that officers provide advice and options on expanding the feasibility study to include, in addition to social and affordable housing:
  - (a) previously considered community uses: community meeting spaces and hot desks, a performance/exhibition space, arts spaces, affordable housing for artists; and

- (b) use of 150–152 Hoddle St as the Collingwood Library and/or a Maternal and Child Health Centre.
10. In early 2020, Councillors were engaged on the parameters for the project, identifying key outcomes and functions, and considering potential delivery models.
  11. Subsequently officers were directed to commission a feasibility study examining a mixed-use development in the northern part of the Collingwood Town Hall Precinct. Officers were also directed to receive a co-contribution of up to \$100,000 from the Victorian Government to conduct the study and work with representatives from the Department of Health and Human Services (DHHS) on the delivery of this study (with DHHS in an advisory role).
  12. The following studies have been completed in the past 15 months in response to the 2019–20 budget allocation and further Council resolutions:
    - (a) A feasibility study incorporating:
      - (i) planning, urban design, massing and economic feasibility;
      - (ii) community infrastructure costs and concepts;
    - (b) Stakeholder engagement (with private developers, community housing providers and DHHS); and
    - (c) Commercial property valuations of council-owned land/buildings.

The feasibility study

13. The feasibility study was underpinned by the following assumptions:
  - (a) Council recognises that it holds assets that are underutilised within the Collingwood Town Hall Precinct and is committed to investigating redevelopment of the precinct;
  - (b) Existing community functions are to be retained within the broader precinct and any additional functions to be considered will address known community need as recorded within the adopted policies, plans and strategies of Council;
  - (c) The Council owned properties at 117–123 Vere Street are underutilised and well located to provide for community uses;
  - (d) The Sailors and Soldiers Memorial Hall at 152A Hoddle Street offers significant opportunity for refurbishment or redevelopment. This facility has been closed to community use for more than 10 years and is in an extremely poor condition;
  - (e) The potential inclusion of the two additional properties (not owned by Council) at 125 and 127 Vere Street, would expand the quality and number of outcomes that can be achieved;
  - (f) Active community infrastructure including the Collingwood Library building, Maternal and Child Health building in Gahan’s Reserve and Willowview Centre, are currently operational, albeit not in fit-for-purpose buildings. While the relocation of these services would undoubtedly free up additional buildings in the precinct, this cannot occur until a new location and building is actually available;
  - (g) Consideration of the parking lots behind the Town Hall as well as Eddy Court Reserve (in between 127 Vere Street and the train line) provides further potential for improving the precinct; and
  - (h) There will be no net loss of open space.
14. The feasibility study looked at how to balance community benefit, financial feasibility and practical deliverability to produce a viable project at the northern end of the Collingwood Town Hall Precinct, incorporating Council-owned land and possible additional properties.

**Site map – Collingwood Town Hall Precinct investigation area**



15. The map above shows the investigation site, divided into four areas:
  - (a) Area 1 incorporates the Sailors and Soldiers Hall at 152A Hoddle Street, and VicRoads land (the Hoddle Street footbridge ramp and green space);
  - (b) Area 2 incorporates the two Council-owned warehouse buildings at 117 and 119–123 Vere Street;
  - (c) Area 3 incorporates the privately-owned property at 125 Vere Street, the DHHS duplex at 127 Vere Street and Eddy Court Reserve; and
  - (d) Area 4 incorporates the Yarra Council staff carpark at Eddy Court, north of Willowview, and includes some green space currently occupied by St Phillips Church but owned by Council.
  
16. Three potential scenarios were developed, all predicated on the following set of parameters adopted by the previous Council:
  - (a) **Residential-only for any private component:** After assessing the sales value of residential versus commercial (office) floor space in this location, it was determined that residential dwellings would provide the highest value and best use for the location, therefore, commercial office space has not been included in the final study. A total of 200 residential dwellings has been modelled across the four areas;
  - (b) **Retention of the Sailors and Soldiers Hall:** The Soldiers and Sailors Hall is in poor condition, however it has individual heritage significance under the Yarra Planning Scheme. The study has been progressed to include the retention and refurbishment of the Memorial Hall for new community infrastructure. It is important to note that the retention and refurbishment comes with a cost-burden of about \$2.9M;
  - (c) **1,000m<sup>2</sup> allocated to community facilities:** The study has allocated approximately 1,000 square metres for community facilities as part of the development. It is assumed that this would be located in the refurbished Sailors and Soldiers Hall and at the ground floor level on the Hoddle/Vere Street corner. This amount of space can accommodate a medium-sized library and other flexible spaces such as allied health consulting rooms (MCH, etc.) and multi-purpose community rooms;
  - (d) **Building heights of three and five stories:** In keeping with surrounding buildings, in particular the recent residential development located opposite the precinct on Vere Street, a maximum building height of five stories has been modelled, with three stories

toward the street interface. As a point of reference, if this were increased to four and eight stories in areas 2, 3 and 4, an additional 90 market units could be built, improving the residual land value by approximately \$9M;

- (e) **No residential car parking provided:** Considering the excellent public transport connections in the area, the development has been modelled without residential parking, except for 10 share-car vehicle spaces. If the development were to include standard rates of basement car parking for a development of this size (7,950m<sup>2</sup> or 230 bays), this would have a negative impact on the residual land value by approximately \$6.4M; and
- (f) **High Environmentally Sustainable Design (ESD) standards and dwelling diversity achieved:** The development cost accounts for reaching high ESD standards and dwelling diversity through the delivery of a mixture of 1, 2 and 3 bedroom dwellings.

17. The consultants were asked to look at various scenarios, based on initial advice and the resolution of principles adopted by the previous Council. The three scenarios (see attachment 1) differ in terms of the ratios of social and affordable housing to private market residential housing.

Scenario A: Provides a minimum of 50% (comprising 30% social and 20% affordable) of dwelling stock as social and affordable housing units.

Scenario B: Provides 30% (comprising 20% social and 10% affordable) of dwelling stock as social and affordable housing units.

Scenario C: Provides 10% affordable housing units, with further social housing provided as air rights to others as opposed to being fully developed.

18. For Scenario C, the air-rights to develop social housing in areas 1 and 2, above and adjacent to the community facilities are transferred (sold/gifted/long-term leased) to a third party (e.g. registered housing association and/or the Victorian Government) to develop. This third party must secure their own finance to develop these dwellings. This helps to de-risk the project by decoupling the social housing component from the main redevelopment and makes it more attractive to potential developers.
19. Council has the additional option and could determine that an even greater proportion of social and affordable housing is required and desirable, up to 100%. Whilst not a specific area of study, in this scenario even greater levels of subsidy would be required over and above that determined by the feasibility study. Furthermore, it was noted during the market testing that some community housing operators dwellings that having a substantial majority of dwellings realised as social housing in any proposed development was not necessarily the best operating outcome for residents.
20. The feasibility study has illustrated the cost implications for Council to pursue a mixed-use development in the Collingwood Town Hall Precinct, on Council-owned land and with potential future acquisitions.
21. As tested through the study, the inclusion of the additional properties (not owned by Council) at 125 and 127 Vere Street (Area 3 on the map above) resulted in considerably more favourable financial and built form outcomes.
22. The modelling is based on calculations in which key variables such as sales price/m<sup>2</sup>, construction cost/m<sup>2</sup>, floorspace and other components can be readily altered to observe the impact on the viability of each development scenario. The approach has held project management and consultant costs, financing, development margins, profit and other development related costs constant (as a percentage of total construction costs) and the viability or otherwise of the different development scenarios is expressed by way of the residual land value.
23. The residual land value indicates the value of the land according to the development scenario being tested. A negative residual land value indicates a poor market outcome in which a developer would not be willing to undertake the development until:

- (a) market conditions have improved sufficiently to improve the commercial viability for that specific development option (for example, a significant increase in the apartment sale price per square metre); or
  - (b) a subsidy is available to fill the gap.
24. The conceptual modelling is a high-level exercise and is not a substitute for the detailed development costing and feasibility testing that would be required to advance a development to the next stage.

#### Feasibility study results

25. The results of the feasibility study show total development costs for the three scenarios ranging from \$91.5M (for scenarios A and B) to \$75.6M for scenario C. The three options presented have very different financial implications, with the residual land value ranging from -28M to +\$2M.
26. In each of these scenarios the underlying premise was that Council's contribution was the value extracted from its land holdings, sold or leased. However, what has become clear through this feasibility study is that this land value alone is not sufficient to deliver both community infrastructure and social and affordable housing. Therefore, a considerable additional subsidy is essential to deliver a viable project.
27. Additional work went into exploring the development of a community facility both in and adjacent to the Sailors and Soldiers Memorial Hall on Hoddle Street. A concept plan and probable costings have been prepared for a two-level expansion integrated with the existing hall, yielding a total floor area of about 1,600m<sup>2</sup>.
28. The preliminary design investigations have been based around a multipurpose library hub with gallery space and other flexible community rooms, consulting suites and a café. Yarra's Community Infrastructure Plan (2018) identifies the Sailors and Soldiers Memorial Hall and surrounds as an opportunity to deliver an integrated community space in the CTH Precinct. The functions included in the design investigation have all been listed in the Community Infrastructure Plan.
29. The design takes a sensitive approach to the existing heritage building, accentuating the existing features of the building, while adding new accessible spaces and entry points through the expanded footprint. A preliminary cost exercise estimates a cost of about \$12M to restore and fit-out a facility of this type of scale and function at this location.
30. The full feasibility study is shown at **Attachment 1**.

#### Further work

31. In response to these scenarios a market testing exercise was completed with stakeholders from the community housing and private development sectors to check the practical feasibility of the scenarios. Results of the stakeholder consultation are provided below in the section 'Community and stakeholder engagement'.
32. Additionally, commercial property valuations have been undertaken for council-owned properties in the precinct. Results of these are shown under the section 'Financial and resource implications'.
33. Councillors were engaged through a workshop in early 2021 to discuss the possible future of the site. This report has been prepared in response to that discussion and to report back on the full results of the work that has been done in response to the 2019–20 budget bid and directions of the previous Council.

#### Discussion

34. The studies mentioned above have significantly increased our knowledge about the site and the potential to deliver key outcomes that include social and affordable housing, contemporary fit-for-purpose community infrastructure and improvements to the urban realm and connectivity in the area, while ensuring minimal capital expenditure from Council.

35. The following list provides an example of some of the challenges that Council would need to address in order to progress the project:
- (a) The poor condition of the Sailors and Soldiers Hall (152A Hoddle Street) along with the heritage overlay presents considerable risk and associated cost. Restoring this building impacts on the overall viability of the project.
  - (b) The value of the land that Council owns is not enough in itself to fund both a new community facility and a high number of social housing dwellings. Significant additional subsidy is required to deliver both outcomes at the site.
  - (c) Several external interests within or adjoining the site would need to be addressed in progressing this project including:
    - (i) the VicRoads Hoddle Street overpass at the north-west corner of the site (currently not Disability Discrimination Act compliant);
    - (ii) access to, or relocation of, a CitiPower substation;
    - (iii) occupation of Council-owned land by St Phillips Church (see 'Legal Implications' section below) and road access to the Church;
    - (iv) acquisition of a private property at 125 Vere Street (see 'Legal Implications' section below);
    - (v) inclusion of a DHHS public housing duplex at 127 Vere Street; and
    - (vi) proximity to VicTrack land at the eastern boundary.
  - (d) Market testing revealed that there is interest in delivering a mixed-use development in the area from potential joint-venture partners, however Council's choice of project specifications and terms for transfer of land are key to bringing forth a feasible and desirable proposal. For example, should Council determine that it is desirable to only lease its land holdings on the site, private sales of dwellings becomes impossible and therefore greater subsidy would need to be sought to realise any outcome. Furthermore in this scenario, the funding source (presumably state government) would need to agree that this is an acceptable outcome, which has not been tested.
36. In response to the COVID-19 pandemic and ensuing economic recession, the funding environment has changed significantly since the commencement of this project. On 15 November 2020, the Victorian Government announced a \$5.3 billion stimulus package for social and affordable housing.
37. Over the coming four years, significant investment will go into delivering additional (primarily) social housing in Victoria. This growth will largely be delivered by the community housing sector and increases the likelihood of achieving a high proportion of social housing at the site. Under normal circumstances, and as was the case when the financial modelling was undertaken, the subsidy gap would need to be delivered by increasing the market component, however, now there is considerable government subsidy available in Victoria for the purposes of increasing social and affordable housing. Partnering with a Registered Housing Association for the project could be a way to seek funds from this funding stream to deliver these outcomes.
38. In consideration of the current funding environment and engagement with the Victorian Government, along with the results of the feasibility study, officers suggest that it is possible to achieve a high proportion of social and affordable housing alongside market housing at the site, as well as a community hub.
39. Considering the numerous studies and information provided in this report, Councillors now need to provide direction as to whether to progress this project and if so, under what terms.

Options

40. The work completed in response to the 2019–20 budget bid and subsequent motion has shown not only the cost implications for pursuing the specified outcomes, it has also significantly improved our understanding of the opportunities and limitations of the site and the assets therein.
41. It is important to note that significant resources have already gone into exploring opportunities for redeveloping this part of the CTH precinct. Any exploration of scenarios significantly different to those already considered will require additional work and resources to be allocated.
42. The *Yarra Property Strategy (2018)* articulates principles to drive Council's approach to managing the property portfolio. These include to:
  - (a) Strategically manage the property portfolio for the long term in the best interest of the community and service level requirements;
  - (b) Ensure properties are 'fit for purpose' to deliver services and benefits to the community;
  - (c) Manage properties that are maintained to a safe, compliant, energy efficient and modern-day standard and generally protected from deterioration; and
  - (d) Enable new and ongoing partnerships with community organisations to maximise the community benefit arising from facility use.
43. Council can now consider whether to take the next steps towards the redevelopment of the northern corner of the Collingwood Town Hall Precinct.
44. Drawing upon the insights from the feasibility study and associated work, Council could pursue one of the following options:
  - (a) Continue to seek an outcome that delivers a mixed-use development as explored through the feasibility work and supported by several Council Resolutions. This option necessitates the use of a larger footprint – i.e. including the acquisition of additional assets – as well as a level of comfort with a public-private outcome at the site and a continued partnership with the Victorian Government. This option would be based on the following requirements:
    - (i) no less than 1,000m<sup>2</sup> for a community hub, including contemporary library spaces, flexible arts and community rooms and consulting suites; and
    - (ii) a minimum of 30% and up to 50% of dwellings allocated to social and affordable housing.
  - (b) Using a smaller footprint, facilitate the development of social and affordable housing in the precinct by leasing the council-owned warehouse sites at 117–123 Vere Street to a Registered Housing Agency (RHA). With funding available through the 'Big Housing Build' there is likely to be interest from the community housing sector who could develop and manage the properties for the duration of the agreed lease term. In this scenario the Sailors and Soldiers Hall is not restored.
  - (c) Using a smaller footprint, develop a new Community Hub in the precinct, based around, and including the restoration of, the Sailors and Soldiers Memorial Hall on Hoddle Street. Possible ways to fund such a project could include:
    - (i) Council borrowings; or
    - (ii) Sale of other assets in the precinct to fund some/most of project. Estimated value of Council assets in the precinct are provided in the 'Financial and Resource Impacts' section below. It is worth noting that the market assessments for the Collingwood Library and Vere Street warehouses together equate to a similar amount as the probable costings for a library hub with a floor area of about 1,600m<sup>2</sup>, as explored in the feasibility study.

- (d) Develop a combination of b) and c) on the Council-owned sites at 117–123 Vere Street and 152A Hoddle Street, including the restoration of the Sailors and Soldiers Hall. Importantly, in this scenario, although the social housing can likely be achieved in the current funding environment, Council would need to find a way to pay for the community facility as there is no cross-subsidy coming from a market component.
45. If Council does not want to progress any of these proposed redevelopment options, it could:
- (a) Sell underutilised Council assets in the precinct to increase revenue to fund Council projects. The estimated commercial value of several assets in the precinct is provided in the 'Financial and Resource Impacts' section below. Property sales could provide Council revenue to be used for community outcomes within this precinct or elsewhere. Outside of planning controls, Council would have limited ability to influence any resulting development.
  - (b) Leave the site as it is. This would result in the continuation of unused and deteriorating buildings in the precinct and involve costs for essential maintenance to ensure safety of buildings.

### Community and stakeholder engagement

46. Potential joint-venture partners representing the private development and community housing sectors were engaged in October 2020 through a market-testing exercise. The engagement explored the practical feasibility and operational viability of the scenarios in relation to:
- (a) the thresholds of social and affordable housing provision;
  - (b) the underlying assumptions;
  - (c) potential housing models;
  - (d) on-site service requirements; and
  - (e) the interviewee's hypothetical interest in the project, based on the information available.
47. A confidential attachment summarising the outcome of the stakeholder engagement has been provided separately for Councillors. The results from the stakeholder engagement exercise showed that further clarity and certainty was required from Council in order to determine whether the proposal was viable. However, all participants indicated they would be interested in participating in the project – depending on the specific requirements and depending on who would pay for each aspect.
48. Participants were concerned about the risk imposed by including the heritage building (Sailors and Soldiers Hall) in the proposal. They were keen for Council to provide certainty around outcomes and clear objectives to make an Expression of Interest or a Request For Proposal submission worthwhile. Participants also expressed a desire to have some flexibility in how the outcomes would be achieved.
49. Neither all community housing participants nor all developers had consistent ideas, and there was some divergence of opinion when it came to the proportion of social housing that was appropriate for the site. The maximum suggested was a third. Some considered the proposal an underdevelopment of the site and some thought more carparking should be included.
50. The engagement process also identified that there are a small number of private developers who have experience in delivering social and affordable housing through non-traditional development models. They combine experience and understanding of commercial development with experience and understanding of non-market housing. They operate at a larger scale and volume than Registered Housing Authority developers and have more experience in development.
51. There has been ongoing engagement with DHHS (now DFFH) on the project and the department has also contributed funds toward the feasibility work.
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52. Results from Yarra's 2019 annual household customer satisfaction survey, a randomised sample of 800 households, showed that 59 percent of respondents strongly agreed that there must be more housing in the municipality for people on low incomes, and 34 percent were neutral or somewhat agreed.
53. A consultation program on Yarra's Social and Affordable Housing Strategy was conducted in July–August 2019. Results from this consultation showed that:
- (a) There was mixed feedback received on *Strategic Direction 2: Make effective and prudent direct investments in social and affordable housing*. Many considered this to be the most effective of the four strategic directions because it would have a clear and material impact, while some held concerns that such an investment may come at the expense of other outcomes for the local community; and
  - (b) Respondents also suggested that Strategic Direction 2 opened opportunities for joint developments with Council, Public and Community housing, as well as engaging private developers, and industry feedback was very positive, in particular amongst community housing providers who are keen to grow their affordable housing stock in a well-located area like Yarra. Any monetary or in-kind support greatly helps them achieve this.
54. To date this proposal has not been put to the community. Should Council adopt the Recommendation below, the next step would be to develop a comprehensive community engagement plan for the project and to return this to Council for endorsement.
55. A community engagement process would seek feedback on the principles of the project (development of the land, use of Council assets for these purposes, mix of public and private outcomes), as well as the specifics of the project through the development of built form and urban design guidelines for the site. This would test whether the community supports the broader concepts and provide a practical outcome to which they can contribute.
56. Urban design guidelines for the site could be used in progressing the project and as a basis for a potential Expression of Interest process.

## Policy analysis

### Alignment to Council Plan

57. Strategy 1.7 in the Council Plan (2017–2021) seeks to 'Promote an effective and compassionate approach to rough sleeping and advocate for affordable, appropriate housing.' Additionally, Strategy 4.2. seeks to 'Actively plan for Yarra's projected growth and development and advocate for an increase in social and affordable housing.'
58. Additionally, Strategy 7.1 is to 'Ensure Council's assets and financial resources are managed responsibly to deliver financial sustainability', including initiative 7.1.2 to 'Review Council's asset portfolio, with a focus on buildings, to ensure that maximum community benefit is being realised.'
59. Strategic justification for various elements of this project are presented in the following Council strategies:
- (a) *Yarra Housing Strategy (2018)* – Strategic Direction 4: Facilitate the provision of more affordable housing in Yarra;
  - (b) *Social and Affordable Housing Strategy (2019)* – Strategic Direction 2: Make effective and prudent direct investments in social and affordable housing;
  - (c) *Homelessness Strategy (2020)* – Strategic Direction 3: Work toward the ultimate goal of prevention by supporting an increase of affordable housing and appropriate support services;
  - (d) *Community Infrastructure Plan (2018)* – Vision: To identify current and future needs so that Council can deliver and influence the provision of quality, flexible and responsive community infrastructure to support a prosperous, liveable and sustainable City of Yarra; and

(e) *Collingwood Town Hall Precinct Urban Design Framework (2010).*

Climate emergency and sustainability implications

60. In the development scenarios, 200 dwellings along with community infrastructure are located proximate to the Collingwood train station, major bus routes and active transport options. For these reasons only ten share-car parking spaces have been included.
61. Should the project progress, further detailed studies at the next stages of the project would give due consideration to sustainability implications and ensure that any resulting development maintain high ESD standards and that public realm improvements consider urban heat island effects, storm water catchment and sustainability.
62. The project will strive to accelerate renewable energy, zero carbon buildings and promote efficient operations to contribute to a climate-adapted city, as outlined in Yarra's Climate Emergency Plan and in line with one of the set parameters of this project: To deliver a development with high ESD (and dwelling diversity).

Community and social implications

63. The Sailors and Soldiers Memorial Hall is not fit-for-purpose and the two Council-owned warehouse buildings at 117–123 Vere St Vere Street are used for storage. These council owned assets within the northern corner of the Collingwood Town Hall Precinct are underutilised and are currently not providing community benefit.
64. Summary demographics for the surrounding residential population (i.e. within a 400-metre radial catchment of the study location) are as follows: 43% of households are in public housing, 44% of households reside in flats or apartments, 37% speak a language other than English at home and 29% do not own a motor vehicle (ABS Census of Population and Housing, 2016).
65. A future redevelopment could contribute significantly to improving social outcomes in the municipality through the provision of social and affordable housing and new community infrastructure.
66. Across the municipality, it is estimated that more than 6,000 Yarra households (15%) are in housing stress. More than half of those in housing stress are rental households on very low incomes.
67. The Social and Affordable Housing Strategy supports housing equity and aims to increase the socio-economic diversity of our community by increasing affordable housing for a range of income groups.
68. The Strategy identifies affordable housing need for the following groups in Yarra:
  - (a) people who are experiencing homelessness;
  - (b) low-income households in the private market;
  - (c) Aboriginal and Torres Strait Islander people;
  - (d) people with a disability; and
  - (e) key workers.
69. Furthermore, Yarra's *Community Infrastructure Plan (2018)* identifies the Soldiers and Sailors Memorial Hall and surrounds as an opportunity to deliver an integrated community space in the Collingwood Town Hall Precinct that may include flexible/multipurpose meeting spaces (including for art and cultural activities) and access to services.
70. The Plan also notes the poor condition of the current Stanton Street (Collingwood) library, suggesting that improved community access to best value library services could be achieved through a modern space that is integrated with other services. Likewise, the Abbotsford Maternal and Child Health Centre in Gahan's Reserve could have better amenity and integration with compatible services.

Economic development implications

- 71. Currently, there are negligible economic benefits being generated from the properties at the corner of Hoddle and Vere Street. Any redevelopment could help rejuvenate and activate the area, with short-to-medium terms benefits through the actual development itself, and longer-term benefits through the provision of new community services, improved amenity and additional opportunities for residents to participate in the local economy.
- 72. Numerous studies point to the economic value of providing social housing, particularly as a stimulus measure in response to the current economic recession. Not only does it provide construction jobs in the short-term – nearly one in ten Australians work in the construction industry and many more are employed locally in manufacturing building products – but it also provides a lasting and much needed social outcome in providing housing to people in housing stress, those who are homeless, and key workers supporting local industries.
- 73. An independent review by KPMG of the 2008 Social Housing Initiative – a key component of the Nation Building Economic Stimulus Package mandated by the Rudd Government in response to the 2008 Global Financial Crisis – found that there was a multiplier effect of 1.3 for every dollar spent on social housing over a four-year period.
- 74. The current Victorian ‘Big Housing Build’ estimates that the \$5.3 billion government investment will generate \$6.7 billion in economic activity.

Human rights and gender equality implications

- 75. The dwellings at 125 and 127 Vere St are currently occupied. In the event that redevelopment did occur, the housing needs of these residents would need to be considered and efforts made to work with stakeholders (Office of Housing or others) on sourcing appropriate alternate accommodation during construction and options for right of return subsequent to project completion.

**Operational analysis**

Financial and resource impacts

- 76. The cost of acquiring the property at 125 Vere Street has been included in the costings, while the DHHS (now DFFH) property at 127 Vere Street has been factored in at no cost.
- 77. A Quantity Surveyor (QS) report for the remediation of the Sailors and Soldiers Memorial Hall, to make it structurally sound, safe for occupation and compliant with the building code, was undertaken in 2014. This report was reviewed and updated in January 2021 with a resulting estimated project cost of \$2.9 million. This assumes a project start date in January 2022 and does not include fit-out for a particular use.
- 78. Commercial property valuations for the Council-owned properties in the Collingwood Town Hall Precinct have been prepared with the following results:

<b>Property</b>	<b>Market assessment</b>
<b>Sailors and Soldiers Hall (152A Hoddle Street)</b>	\$1,450,000
<b>117 Vere Street (Yarra Sculpture Gallery)</b>	\$1,850,000
<b>119–123 Vere Street (Warehouse)</b>	\$3,850,000
<b>117 &amp; 119–123 Vere Street (combined site)</b>	\$6,000,000
<b>Collingwood Library (7–11 Stanton Street)</b>	\$5,250,000

- 79. The highest and best use for the Vere Street properties is for residential development with a height limit of 4 levels, assuming a rezone in accordance with the *Collingwood Town Hall Precinct Urban Design Framework*.

80. The individual market assessments of the Sailors and Soldiers Hall and the Collingwood Library take into account each building's heritage status and the estimated cost to refurbish them to a usable and compliant standard. The assessment is based on the highest and best use for the sites which was judged to be as office accommodation in accordance with public use. Although it is located outside the study site, the library has been assessed due to the proposed inclusion of a library facility in the new development, which would free up the existing building for sale or reuse.
81. Furthermore, a market assessment of the Council land and properties in the full study area that could be used for residential development – i.e. 117–123 Vere Street and Eddy Court north car park – has been valued at \$15,000,000 (if sold as an aggregated site). This higher value is due to the advantages associated with development yield and the ability to consolidate the site with 125 Vere and 127 Vere Street. The aggregated area of these three properties is 2,867m<sup>2</sup>. The Sailors and Soldiers Hall has not been included in this combined assessment due to its heritage status and the poor condition of the building which diminishes its market value and likelihood of being combined in a bigger residential site.
82. It is worth noting that the Council-owned property at 119–123 Vere Street (currently used as a Council storage facility) has an allocation of \$355,000 in the 2020–21 capital works program for the purpose of removing and remediating decommissioned underground tanks located within the building, previously used to store solvents. As well as removing the solvent tanks and disposing of any contaminated soil, the intent is to dispose most of the contents of the warehouse, which is primarily retired end-of-life parking ticket machines and old office furniture, understood to have no further value to Council.
83. Council has also investigated options to demolish both the 119–123 Vere St building (the Council storage facility) and the adjacent 117 Vere St building (currently leased to and utilised by the Yarra Sculpture Gallery). A preliminary estimate of the incremental cost to demolish both of the buildings in the 2021–22 budget year is \$330k (following on from the removal of the solvent tanks this budget year).
84. The feasibility study has modelled scenarios that are based on Council's contribution being primarily in the form of land holdings. However, it has become clear through this feasibility study that the land value alone is insufficient to deliver both community infrastructure and social and affordable housing. Additional subsidy is therefore essential to deliver a feasible project with a high social and affordable housing yield.
85. Since the start of this study there has however been a significant change in the funding environment for social housing, following the announcement of the Victorian Government 'Big Housing Build' in November 2020. Under this scheme \$5.3 billion has been allocated to deliver 12,000 new social and affordable housing dwellings over the next four years. Most, if not all, of this to be delivered by Registered Housing Associations (RHAs). This increases the likelihood of RHAs being able to access funds to contribute to a project like this.
86. Ongoing conversations with the Victorian Government suggest that it is interested to continue to explore opportunities to work with Council to achieve social housing outcomes at the site, with the inclusion of the public housing property at 127 Vere Street.
87. There are no significant external funding sources available for community infrastructure at this stage, although limited funding sources may be available in the future such as the 'living libraries infrastructure fund'.
88. In the event that a mixed-use development outcome was pursued, Council would have to make a decision on whether it would offer the land as freehold (to sell) or leasehold (to lease over a long period). A freehold arrangement increases the value that can be extracted from the land in the short-term and improves the likelihood of receiving interest in the site if/when it goes to market. It does, however, lead to less certainty and control over the outcomes. Alternatively, a leasehold arrangement may still be possible under certain scenarios and with particular products (such as build-to-rent) and would allow to retain the community assets in the long-term. There could be significant cost implications with this approach.

### Legal Implications

89. Officers have made contact with the property at 125 Vere Street, however at this stage no offer to purchase the property has been made.
90. Through the feasibility work, Officers have also discovered the occupation of Council land by St Philips Church and have requested that they enter into a licence agreement for a peppercorn licence fee to ensure that this can be terminated if/when required.
91. If Council sells or exchanges any land it must comply with section 114 of the *Local Government Act 2020*. This includes the requirement to:
  - (a) publish notice of the intention to sell at least four weeks prior;
  - (b) undertake a community engagement process; and
  - (c) obtain an up-to-date valuation of the land.
92. In the event that Council wishes to lease land it must comply with section 115 of the *Local Government Act 2020*, which stipulates that a lease term can be up to a maximum of 50 years and that Council must either include any proposal to lease land in a financial year in the budget or undertake a community engagement process in accordance with Council's community engagement policy in respect of the proposal before entering into the lease.
93. The only reason whereby Council may lease or sell assets without consideration is if it is to transfer, exchange or lease land to the Crown, a Minister, any public body, the trustees appointed under any Act to be held on trust for public or municipal purposes, or a public hospital. This is in accordance with section 116 of the *Local Government Act 2020*.
94. If this proposal were to progress to an Expression of Interest or Development Agreement, probity and legal advice would need to be sought to ensure a project that adequately balances community benefit, financial sustainability and risk.

### Conclusion

95. The feasibility study has illustrated the cost implications for Council to pursue a mixed-use development in the Collingwood Town Hall Precinct within a working set of parameters (i.e. development footprint, building height, community infrastructure, car parking, ESD standards and heritage considerations).
96. It examined how to balance community benefit, urban realm outcomes, financial feasibility and practical deliverability to produce a viable project at the northern end of the Collingwood Town Hall Precinct, incorporating Council-owned land and possible additional properties.
97. The results of the feasibility study show that total development costs for the three scenarios range from \$91.5M (for scenarios A and B) to \$75.6M for scenario C. The three options presented have very different financial implications with the residual land value ranging from -\$28 million to +\$2 million.
98. In each of these scenarios the underlying premise was that Council's contribution was the value extracted from its land holdings, sold or leased. However, it has become clear through this feasibility study that this land value alone is not viable to deliver both community infrastructure and social and affordable housing. Additional, considerable subsidy is therefore essential to deliver a feasible project.
99. The Victorian Government's \$5.3 billion Big Housing Build is a currently available means by which the subsidy gap may be filled for a future project, if Council were to progress a project in line with what has been modelled within the feasibility study.
100. Drawing upon the insights from the feasibility study and associated work, officers have considered other conceivable options for this location with different property footprints, including community infrastructure, with and without social and affordable housing.

101. With the feasibility studies and associated works complete, Council can now consider whether it wishes to take the next steps and pursue the redevelopment of the northern end of the Collingwood Town Hall Precinct, and if so, on what terms.

## RECOMMENDATION

1. That Council notes:
  - (a) the completion of the feasibility study in response to the direction within the 2019–20 budget to undertake a feasibility study examining the potential to develop social and affordable housing options in the Collingwood Town Hall Precinct and the further Council motion from August 2019 to expand the feasibility study to include previously considered community uses, and that this work included:
    - (i) Planning, urban design, massing and economic feasibility;
    - (ii) Community infrastructure costs and concepts;
    - (iii) Stakeholder engagement (including with potential joint-venture partners); and
    - (iv) Commercial property valuations of council-owned land/buildings;
  - (b) the redevelopment of the northern end of the Collingwood Town Hall Precinct has been investigated on multiple occasions over the past ten years, including delivering social and affordable housing, arts and other community outcomes (considered in 2013–14), and the option of the Victorian RSL assuming responsibility for the restoration and reactivation of the Sailors and Soldiers Hall (considered in 2018); and
  - (c) the many challenges evident in redeveloping the northern end of the Collingwood Town Hall Precinct, including:
    - (i) the deteriorating and underutilised Council-owned assets of Sailors and Soldiers Memorial Hall and the nineteenth century factories at 117–123 Vere Street;
    - (ii) the many and varied property owners and complicating infrastructure within and around the study area; and
    - (iii) the scale, land area and partners needed to achieve a financially viable mixed-use outcome at the site – with Council’s main contribution being the land – which delivers a high proportion of social housing, alongside fit-for-purpose community infrastructure, with resulting improvements to the urban realm.
2. That Council thanks the Victorian Government for their contribution to the project, and thanks industry stakeholders for their time and thoughtful contribution to the stakeholder engagement exercise.
3. That with respect to the northern end of the Collingwood Town Hall Precinct, Council determines from one or more of the following options, and instructs officers to progress with further work including:
  - (a) Continue to seek an outcome that delivers a mixed-use development, as explored through the feasibility work, that includes residential dwellings (with a minimum of 50% of dwellings allocated to social and affordable housing with the balance market housing); has no less than 1,000m<sup>2</sup> for a community hub (including contemporary library spaces, flexible arts and community rooms and consulting suites); and necessitates the acquisition of additional assets and a continued partnership with the Victorian Government, noting that additional land acquisitions will be required; or

- (b) Commence the necessary work to facilitate the development of social and affordable housing through already Council-owned assets, specifically the leasing of the council-owned warehouse sites at 117–123 Vere Street to a Registered Housing Agency (RHA), with the refurbishment of the Sailors and Soldiers Hall not included; or
  - (c) Commence the necessary work to develop a new community hub in the precinct, based around, and including the refurbishment of the Sailors and Soldiers Memorial Hall on Hoddle Street, with the development of social and affordable housing not included, noting that Council would need to find additional resources for further feasibility and a source of funding for any potential community infrastructure project; or
  - (d) Commence the necessary work to develop a new community hub in the precinct, based around, and including the refurbishment of the Sailors and Soldiers Memorial Hall on Hoddle Street, as well as facilitating the development of limited social and affordable housing through the leasing of the council-owned warehouse sites at 117–123 Vere Street to a Registered Housing Agency (RHA), noting that Council would need to find a source of funding for the community infrastructure project; or
  - (e) Instigate the process to sell the underutilised Council assets such as 117–123 Vere Street and Sailors and Soldier at 152A Hoddle Street; or
  - (f) Leave the site as is.
4. That Council directs officers to produce a consultation and engagement strategy for the preferred option and report back to Council to seek endorsement for the strategy and approval to consult the community.

## Attachments

- 1 FINAL - Collingwood Town Hall Precinct Feasibility Study - Summary Report - Ethos Urban

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## 8.3 Recreation Services - Fees, Charges and Allocations

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### Executive Summary

#### Purpose

The purposes of this Council report are:

- (a) To present the proposed policy for the allocation of sportsgrounds and facilities in Yarra (Attachment 1 - *Draft Sportsgrounds and Facilities Allocation Policy 2021*);
- (b) To present the findings of the fees and charges review undertaken by the Recreation and Leisure Services Branch, as well as the pricing options and Officer recommendations arising from the review; and
- (c) To seek adoption of the *Sportsgrounds and Facilities Allocation Policy (2021)* and endorsement of the Officer recommendations resulting from the fees and charges review.

#### Key Issues

The Recreation and Leisure Services branch manage Yarra's 19 sportsgrounds and 25 pavilions (facilities). These sportsgrounds and facilities are utilised by over 50 clubs for the facilitation of community sport and active recreation, to an estimated 8,000 participants on an annual basis.

The current allocations process for Council managed sportsgrounds and facilities is based upon criteria that no longer aligns with Council's values including inclusion, diversity and accessibility goals; nor does it support State Sporting Associations' safe sport, good governance and integrity frameworks. Consequently, Recreation and Leisure Services has conducted a review of the allocations process and developed a *Draft Sportsgrounds and Facilities Allocation Policy (2021)* for consideration.

Further, the review has highlighted that the fees and charges to hire Yarra's sportsgrounds and facilities are not aligned with the Council adopted *City of Yarra Pricing Policy (2019)*, nor do they address industry norms around cost recovery, asset management and stewardship. On this basis, Officers have developed options and structures to better align fees and charges with the Council adopted Policy, and to meet broader Council objectives.

#### Financial Implications

Due to the significant level of discounts applied to allocations for existing Yarra clubs and hirers, the baseline level of cost recovery currently being achieved by Council is extremely low (average 2.28%). Officers believe that a key outcome should be to reach 20% cost recovery, per industry standards and norms. If the current process and fees and charges structure continues, the result will be a failure to properly manage and maintain Yarra's sportsgrounds and facilities for future generations.

Officers acknowledge that the impacts of implementing the proposed fees and charges structure that aims to achieve a minimum 20% cost recovery will financially impact Yarra's existing seasonal clubs and hirers. Attachment 4 – *Yarra Sports Club Impact Study 2020*, demonstrates the level of cost recovery being achieved by the current fee structure, discounting mechanism and process and the impacts the proposed fees and charges structure will have on existing Yarra seasonal clubs.

Officers recommend taking a three-year staged approach to the implementation of the proposed fees and charges. Officer analysis (Attachment 4 – *Yarra Sports Clubs Impact Study 2020*) notes that the implications of taking a staged approach would result in the average increase in facility hire fees paid by a club being \$3,054 in year 1. It should be noted that this figure does not include additional surcharges for lighting (currently paid for by clubs playing at facilities with lighting) or turf wicket provisions, which would be charged separately and not subject to Council subsidies.

Officers' proposed application of a staged approach to implementing the recommended fee structure (Option 2 - Categorized Fee) would result in a minimum 20% cost recovery being achieved across all hireable sportsgrounds and facilities, even in the event of clubs and hirers achieving the highest level of subsidy, which is capped at 80% in year 3 of implementation. The below table shows the financial outcomes of the proposed three-year implementation strategy;

**Table 5 – Proposed three-year implementation impacts**

Cost Recovery	Year 1 Cost Recovery	Year 2 Cost Recovery	*Year 3 Cost Recovery	2019 Cost Recovery
Winter Sportsgrounds	\$22,514.66	\$33,771.65	\$45,676.09	\$8,048.20
Winter Pavilions	\$18,493.68	\$27,725.46	\$36,967.28	\$0.00
Summer Sportsground	\$16,819.55	\$25,229.33	\$33,639.10	\$8,854.12
Summer Pavilions	\$16,025.40	\$24,025.05	\$32,033.40	\$0.00
<b>TOTALS</b>	\$57,827.89	\$110,751.48	\$148,315.87	\$16,902.32

*\*Year 3 cost recovery minimum is based upon all hirers receiving the maximum 80% subsidy available via the sportsgrounds and facilities allocation criteria. However, in year 3, all clubs will not automatically receive the maximum subsidy as in year 1 and 2 of the implementation plan and will attract a subsidy directly linked to their actual allocation score.*

The proposed *Draft Sportsground and Facilities Allocation Policy (2021)* outlines the essential criteria and detailed framework for the weighting of applications for the use of Yarra's sportsgrounds and facilities, which includes the key guiding principle of 'Financial Management'. This key principle within the framework is intended to identify a club's fiscal capacity to pay the fees and charges associated with an application to use Yarra's sportsgrounds and facilities. However, if a club and/or hirer is able to demonstrate exemplary performance, via the allocation criteria framework, but is unable pay the associated hire fees in the ordinary full sum transaction process, Officers recommend that the current practice of extending the club payment flexibility via the introduction of a payment plan, be retained. The current practice sees the terms of any flexible payment plan initially negotiated by the Recreation unit and approved by the Director City Works and Assets.

## PROPOSAL

That:

- (a) Council endorse the *Draft Sportsgrounds and Facilities Allocation Policy (2021)* via a three-year implementation approach; and
- (b) Council adopt the fees and charges structure Option 2 – Categorized Fees, via a three-year implementation approach and these be included in the Fee Schedule as part of the 2021/22 Budget, to be implemented from 1 July 2021.

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## 8.3 Recreation Services - Fees, Charges and Allocations

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<b>Reference</b>	D21/24199
<b>Author</b>	James Pratt - Recreation and Leisure Services
<b>Authoriser</b>	Director City Works and Assets

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### Purpose

1. The purposes of this Council report are:
  - (a) To present the proposed policy for the allocation of sportsgrounds and facilities in Yarra (Attachment 1 - *Draft Sportsgrounds and Facilities Allocation Policy 2021*);
  - (b) To present the findings of the fees and charges review undertaken by the Recreation and Leisure Services Branch, as well as the pricing options and Officer recommendations arising from the review; and
  - (c) To seek adoption of the *Draft Sportsgrounds and Facilities Allocation Policy (2021)* and endorsement of the Officer recommendations resulting from the fees and charges review.

### Critical analysis

#### History and background

2. The Recreation and Leisure Services branch manage Yarra's 19 sportsgrounds and 25 pavilions (facilities). These sportsgrounds and facilities are utilised by over 50 clubs for the facilitation of community sport and active recreation, to an estimated 8,000 participants on an annual basis.
3. The Recreation and Leisure Services Branch has conducted a review into Yarra's sportsgrounds and facilities' allocation processes and identified the need to develop a formal policy that brings the processes into line with industry standards and practices, aligns them with Council policy, values and objectives, provides transparency and meets the expectations of current and prospective clubs, users and/or hirers of Yarra's sportsgrounds and facilities.
4. Historically, Yarra's sportsgrounds and facilities have been allocated to clubs, users and/or hirers based upon criteria that no longer aligns with Council's values including inclusion, diversity and accessibility goals; or supports State Sporting Associations' safe sport, good governance and integrity frameworks; or addresses industry norms around cost recovery, asset management and stewardship.
5. The proposed allocation policy (Attachment 1 - *Draft Sportsgrounds and Facilities Allocation Policy (2021)*) aims to progress Council's wider strategic objectives, positively influence the culture and behaviour of Yarra's clubs, users and/or hirers and responsibly manage community assets, per industry norms, by mandating fair, transparent minimum standards and qualifying criteria, so as to be eligible to receive allocation at a Yarra sportsground or facility.
6. Council adopted the *City of Yarra Pricing Policy in 2019*; this Policy provides guidance to the way fees and charges should be set for Council services. As part of the allocation review process, the officers undertook an extensive review of current fees and charges for the hire of Yarra's 44 sportsgrounds and facilities, in line with this Policy.

7. Industry standards and practices indicate that fees and charges in other jurisdictions are set based upon the principle of seeking to recover a percentage of the cost required to provide and maintain the facility. Research shows the level of cost recovery to hire Council-owned sportsgrounds and facilities is typically set at 20% of the costs to provide and maintain the sportsground and facility (*Attachment 2 – Local Government Benchmarking*). Analysis of the 2020 Winter and Summer seasonal allocations and fees paid by clubs and hirers in Yarra shows the level of cost recovery achieved in that period averaged 2.28%, noting, many Yarra clubs and hirers historically receive a 100% discount on hire fees.
8. Officers noted that the current fees and charges do not adhere to the adopted *City of Yarra Pricing Policy (2019)*. Yarra's current practice is an outlier to local government standards, and there is a demonstrated need to develop options that reflect Council's adopted Policy and to recover fair costs to provide and maintain sports facilities in Yarra, now and into the future.
9. Officers have developed three possible fees and charges structure options (*Attachment 3 – Sportsgrounds and Facilities Cost Assessments*), which establishes the cost of providing and maintaining Yarra's sportsgrounds and facilities, and seeks to implement a fees and charges structure based upon a percentage of cost recovery, as well as providing a lever to motivate and effect cultural change in clubs and hirers that is aligned with key guiding principles related to Council's values of inclusion, diversity, governance and community.
10. Officers recommend a 'Categorised Fee' (Option 2 outlined below), which establishes four separate categories of facilities based on quality/standard, capacity and activation purpose, with each category of facility having its own per-hour fee, per industry norms, standards and practices.
11. The proposed fees and charges structures within this report are designed to meet the objectives within Council's *Pricing Policy (2019)*.
12. Historically, existing sport clubs and/or hirers of Yarra's sportsgrounds and facilities have been given discounts based on the current allocation criteria, which in the majority of cases has led to almost 100% of their facility hire fees being waived.
13. Officers recognise that this review, and the options contained within, would require clubs and hirers to pay a fee for the use of these facilities that will be, at a minimum, 20% of the cost of their usage hours, which would be more than existing clubs and hirers are currently paying. However, Officers believe adjusting the allocation criteria would significantly increase the cultural, behavioural and governance performance of clubs and hirers who hire Council facilities, as well as align fees and charges with industry practices, which in turn benefits the community.
14. As a result of the draft policy and proposed recommendations, there would be meaningful increases in the expectations placed on clubs and hirers, as well as a requirement for hire fees to be paid.
15. Officers have carefully considered the likely ramifications on existing clubs and hirers and have sought to mitigate the impacts via a staged implementation approach to both the *Draft Sportsgrounds and Facilities Allocations Policy (2021)* and the proposed pricing structure. However, it must be acknowledged, that these recommendations if adopted, would result in seasonal clubs and hirers paying a minimum of 20% of the cost of their usage hours, due to Officer's proposal to realise a fair and equitable rate of return for the provision and maintenance of Yarra's 44 sporting facilities. The revenue generated from this contribution would assist in ensuring that appropriate standards of maintenance and reasonable future investments into these facilities are achieved.

Discussion

16. The current allocation process for seasonal sportsground and facility hire was established in 2010 and is no longer fit for purpose, is difficult for Officers to apply consistently and does not progress Council's objectives in relation to inclusion, diversity and governance principles, as required in Council's *Pricing Policy (2019)*. Moreover, the current process removes the ability for Officer's to constructively and positively influence club and/or hirer services, behaviour or culture.
17. Additionally, traditional sports, such as Australian rules football, football (soccer) and cricket, dominate the use of many Yarra facilities, which reinforces patterns of demand (i.e. when certain sports are visible, accessible and available, then people are more likely to participate in that sport, rather than sports that are not). The current allocation process has limited levers to promote and encourage a wider variety of organised sports, for instance new and/or emerging sports like lacrosse, touch rugby, fistball, ultimate frisbee, etc.
18. Yarra sportsgrounds and facilities are nearing their usage capacity. Compounding the issue is the fact there are many well established clubs and users within Yarra, which provides limited opportunity for new applications from sports, clubs and hirers. This is further exacerbated by the current allocations process that places a high weighting (30%), and therefore value, on a tenancy record and/or historical length of tenure, which has the potential to continue to lock out new applicants, sports, clubs and hirers with no history, that potentially might offer Yarra residents new activities and opportunities.
19. The current allocation process also does not incentivise clubs and hirers to actively drive introductory opportunities or modified activities and sports for people of all ages and abilities. This results in a lack of diversified sport opportunities that would ordinarily act as a mechanism to encourage participation and allow everyone to enjoy sport and recreation regardless of age, ability, etc. The provision of active recreation opportunities for members of underrepresented groups, those with a disability, CALD, women, juniors and others is at the core of what Recreation and Leisure Services seek to facilitate. Therefore, the allocation of sportsgrounds and facilities should encourage and favour clubs and hirers that proactively drive opportunities for such groups.
20. Historically, the current allocation criteria, and limited application of such criteria, has resulted in the following outcomes:
  - (a) Whilst there has been an overall increase in female participation rates within Yarra from 2016 to 2020, the ratio of female to male participants still remains significantly lower. The gender breakdown data for the Winter season 2019 reveals 70% male to 30% female ratio and the Summer season 2019/20 88% male to 12% female ratio;
  - (b) 10% of Yarra clubs have dedicated programs for people with a disability;
  - (c) 6% of Yarra sporting organisations actively promote an inclusive environment for the LGBT+ community; and
  - (d) 5% of Yarra clubs provide dedicated programs for participants facing varying challenges in their lives (e.g. homelessness, mental health issues, unemployment, CALD, substance and alcohol abuse, low income, etc.).
21. Furthermore, the current allocation process and criteria have no provision that encourages equitable programming for participants. For example, how clubs and/or hirers have programmed when and where teams train and play has predominately been the responsibility of the club and/or hirer, and the League or Association they play in; historically this has resulted in male teams and participants accessing the best/premiere facilities and preferred timeslots for training and matches.
22. The review of the current sportsgrounds and facilities allocation process has identified key opportunities for improvement, including:
  - (a) Guaranteeing allocation standards and criteria that clubs and hirers can be measured against and be held accountable to;

- (b) Ensuring that there is transparent, consistent application of the allocation criteria;
- (c) Alignment with branch-wide strategy, such as the Physical Activity Plan;
- (d) Adherence with wider Council values and objectives; and
- (e) Incentivising clubs and hirers to proactively achieve against the defined guiding principles and/or allocation criteria through the direct link to the proposed fees and charges for sportsground and facility hire.

23. The current allocation process has resulted in a heavily discounted fees and charges structure where clubs and hirers pay minimal amounts to hire Yarra’s sportsgrounds and facilities. The below table illustrates the level of discounts extended to clubs and hirers, based on the current allocation process and fees and charges structure:

**Table 1 - Fiscal impacts of sportsground and facilities allocation process and discount matrix**

Year	Allocation Value*	Discounts Applied**
16/17	\$229,565	\$202,025
17/18	\$256,607	\$225,879
18/19	\$262,731	\$233,220

\* Combined Winter and Summer seasonal allocations

\*\* Discounts applied to allocations via the current allocation criteria

- 24. Due to the significant level of discounts applied to allocations for existing Yarra clubs and hirers, the baseline level of cost recovery being achieved by Council is extremely low (average 2.28%). Officers believe that a key outcome should be to reach a minimum of 20% cost recovery, per industry norms, standards and practices, but that should the current process and fees and charges structure persist, this could contribute to a failure to properly manage and maintain Yarra’s sportsgrounds and facilities for future generations.
- 25. Officers also recognise that the impacts of implementing a fees and charges structure that aims to achieve a minimum 20% cost recovery will financially impact Yarra’s existing seasonal clubs and hirers. Attachment 4 – *Yarra Sports Club Impact Study 2020*, demonstrates the level of cost recovery being achieved by the current fee structure and discounting mechanism, and the impacts of the proposed fees and charges structure will have on existing Yarra seasonal clubs.
- 26. As detailed in Attachment 4 – *Yarra Sports Club Impact Study 2020*, the proposed increase in fees that would be paid by seasonal clubs and hirers will average \$3,054. In order to mitigate the negative fiscal impacts on community sport as a result of the proposed new allocations policy and fees and charges structure, Officers recommend a staged approach to implementation.
- 27. The recommended staged implementation approach would see the proposed fees and charges for the hire of Yarra’s sportsgrounds and facilities implemented over a three-year period, with a key outcome for Yarra’s existing seasonal clubs and hirers to reach the minimum of 20% cost recovery by year three. This approach is devised with consideration to the fact that existing seasonal clubs and/or hirers are currently paying minimal amounts, if anything at all, for the hire of Yarra’s sportsgrounds and facilities.
- 28. Due to the extremely low baseline of cost recovery currently being achieved by Council, and with the options detailed in this report focussed on achieving a level of 20% cost recovery, consideration could be given to staging the process over a longer time period, should Council wish to reduce fiscal implications on clubs and hirers further.
- 29. Noting a cost recovery of around 20% is standard elsewhere, and that Council is currently subsidising clubs and facility users to almost 100%, Council could alternatively decide to implement this change immediately, however Officers do note that this may come as a surprise to some clubs, and may be seen as an additional burden whilst trying to recover from the impacts on COVID-19.

Options

30. The *Draft Sportsgrounds and Facilities Allocation Policy (2021)* takes a deliberate and transparent approach towards improving the behaviour and standards of clubs and hirers of Yarra's sportsgrounds and facilities by recommending adherence to the following guiding principles:
- (a) **Community First** - Allocations reflect that the Yarra community is the priority, which extends broadly to include those who live, learn, work and play in Yarra. Opportunities to integrate this principle include;
    - (i) Partnerships with Yarra-based organisations (both commercial and Not-For-Profit) to facilitate programs delivery (e.g. Blind Sports, AAA Play, local schools);
    - (ii) Delivery of events and initiatives for the Yarra community (e.g. family days);
    - (iii) Modification of schedules to create space for other sports and/or active recreation opportunities; and
    - (iv) Demonstration of a strong community focus that is reflected across different mediums (e.g. website, social media, policies, participation base, programs, Council engagement).
  - (b) **Governance** – Allocations ensure that clubs and hirers' organisational conduct demonstrates alignment with their respective State Sporting Associations' safe sport, risk mitigation and compliance, good governance and integrity frameworks and cultures. Opportunities to integrate this principle include;
    - (i) Affiliation with the peak body;
    - (ii) Participation in club development and improvement initiatives;
    - (iii) Demonstrated club good governance (e.g. member protection policy, annual reports, constitution, AGM minutes) that are made available to members; and
    - (iv) Fulfilment of Agreement and Hirer obligations within agreed timelines.
  - (c) **Inclusion and Diversity** – Allocations mandate minimum requirements that incentivise clubs and hirers to activate programs, services and/or events that positively influence and improve the diversity of their members and participants. Opportunities to integrate this principle include;
    - (i) Modified formats and programs (e.g. beginners, mums, older adults, rehabilitation, etc.);
    - (ii) Different activities and options (e.g. club partnerships, fitness-based sessions, social play, etc.);
    - (iii) Non-competition-based participation (e.g. pay and play with no commitment to join a team, etc.);
    - (iv) Documented internal policy (of the club and/or hirer) regarding inclusion and diversity initiatives and targets;
    - (v) Creation of a visible presence of non-traditional participants (e.g. schedule allows prime/preferred allocations for different teams, promotional materials appeal to different groups, etc.); and
    - (vi) Demonstrated diversity within the decision-making bodies of the organisation (e.g. committees, boards, coaching, etc.).
  - (d) **Financial Management** – Allocations ensure that that clubs and hirers are fiscally responsible. Opportunities to implement this principle include;
    - (i) Club/Hirer information is available to its members (Financial reporting, Annual Reports);

- (ii) That a statement of financial position or annual report is provided to Council; and
- (iii) Demonstrated past hire performance and ability to cover usage costs to council.

31. The *Draft Sportsgrounds and Facilities Allocation Policy (2021)* aims to ensure that Yarra’s sportsgrounds and facilities are allocated to clubs and hirers that share and proactively progress Councils broader strategic objectives to provide inclusive, diverse, safe and welcoming recreation and organised physical activity opportunities for the community.
32. The criteria, as outlined in the *Draft Sportsgrounds and Facilities Allocation Policy (2021)*, are a deliberate and significant increase of the expectations placed on clubs and hirers to align behaviours and cultures with Councils broader strategic objectives. Officers propose that the implementation of essential criteria and weighting of applications against the detailed criteria be staged over a three-year period, in alignment with the proposed changes to the fees and charges structure.
33. The staged approach to implementation would see Yarra’s seasonal sports clubs afforded time, resources and assistance from the Recreation unit to develop club culture and governance practises, and align behaviours and approaches to inclusion and diversity, so that success is achieved and the desired criteria/standards are met by year 3 of the proposed policy’s adoption. The proposed implementation detail is as follows;

**Table 2 – Proposed implementation of Sportsgrounds and Facilities Allocation Policy (2021)**

Financial Year	Sportsgrounds and Facilities Allocation Policy (2021) – Implementation
2021/22	<p><b>Planning and Policy Socialisation</b></p> <p>Recreation unit will collaborate with clubs to discuss the expectations of the proposed Policy and essential criteria to assist them in developing a road map for how they will progress their standards in preparation for years 2 and 3 of the implementation approach.</p>
2022/23	<p><b>Essential Criteria Introduced</b></p> <p>All allocation applications will be subjected to the essential criteria requirements outlined in the policy and the Recreation unit will meet with clubs to discuss progression within their defined roadmap created in Year 1 of the implementation plan.</p>
2023/24	<p><b>Policy in effect</b></p> <p>The <i>Sportsgrounds and Facilities Allocation Policy (2021)</i> will be applied equitably in full.</p>

34. The ‘Planning and Policy Socialisation’ phase of this implementation approach is critical to the success and effectiveness of the proposed policy. Officers will work closely with clubs to contextualise policy expectations, identify potential gaps, provide guidance and develop strategies and plans to rectify any gaps via meaningful and achievable action plans, so as to support to clubs to adapt, succeed and thrive.
35. Officers believe that the introduction of a formalised approach, via the proposed policy, would act as a motivator for clubs and hirers to meet the defined expectations, in order to achieve an allocation of a Yarra sportsground or facility. It is proposed that clubs and hirers be further incentivised, via the subsidies offered, to exceed expectations against the defined mandatory criteria and thus ensure that a ‘best practise’ approach is taken across all areas of a club and/or hirer’s organisation. The total criteria (including sub-criteria) adds to 100 (refer Attachment 1 – *Draft Sportsgrounds and Facilities Allocations Policy 2021*). The level of subsidy would be applied utilising an applicants’ allocation criteria score and is proposed to integrate with the pricing structure as below:

**Table 3 – Seasonal hire subsidies**

<b>Subsidy Level</b>	<b>Subsidy Percentage</b>	<b>Qualification</b>
<b>Subsidy Level 1</b>	50%	Allocation Criteria Score between 20 and 29
<b>Subsidy Level 2</b>	60%	Allocation Criteria Score between 30 and 49
<b>Subsidy Level 3</b>	70%	Allocation Criteria Score between 50 and 69
<b>Subsidy Level 4</b>	80%	Allocation Criteria Score between 70+

36. When determining the proposed fees and charges structure, Officers undertook a site by site analysis of the costs to deliver Council's sportsgrounds and facilities, including consideration of the costs of contracted sportsground turf maintenance, irrigation costs, building maintenance costs for pavilions, utilities, building insurance costs and costs of administration (Attachment 3 – *Sportsgrounds and Facilities Cost Assessments*). Officers then compared the total costs of delivery against the total hours of hire for each sportsground and facility, resulting in a per-hour price being able to be established.
37. When undertaking the investigation, Officers also analysed the costs related to providing and maintaining turf pitches for cricket, which is estimated at \$10,000 annually and is an additional cost to Council outside of the existing turf maintenance contract. Turf pitches are considered a premier playing surface and require extensive resources and maintenance to provide and preserve. Consequently, Officers recommend developing and applying a separate surcharge fee in addition to the hire fee charge to hirers (where applicable). These surcharge fees would be intended to sit separately from the full fee payable for facility hire and would not be subjected to any subsidy system per the *Draft Sportsgrounds and Facilities Allocation Policy (2021)*, as the intention would be to recover 100% of the cost to supply this level of service and facility.
38. Officers believe that the current allocations process and pricing structure does not reflect, or adequately recoup, a fair and equitable percentage of the costs to deliver and maintain Yarra's sportsgrounds and facilities; nor do they reflect the Council adopted *City of Yarra Pricing Policy (2019)*. Consequently, Officers have developed three pricing options for consideration as follows;
- Option 1 – Universal Fee (not recommended)** – This pricing model bundles the total costs of delivering Yarra's sportsgrounds and facilities against the total hireable hours of these facilities to produce a flat fee per hour. Fees and charges for sportsgrounds and pavilions have been separated. This fee structure, whilst simplistic in nature, does not allow for variations in the costs, quality or usage for each specific site, which would result in clubs and hirers paying either well above the costs of delivery, or well below the cost of delivery depending upon the ground and pavilions hired. Consequently, Officers do not recommend this pricing model;
  - Option 2 – Categorised Fee (recommended)** – This pricing model aligns sportsgrounds based on their quality/standard, capacity and activation purpose, to establish four separate categories, each category with their own per hour fee. These categories have been informed by, and align with, State Sporting Associations and Local Government industry standards and norms and is therefore, the recommended option by Officers; and
  - Option 3 – Site Specific Fee (not recommended)** – This pricing model breaks down the specific costs of delivery per site to ascertain an hourly rate of hire for each individual site. Whilst this methodology is the most accurate, it is however, the most complex and difficult to administer with the monies recovered not commensurate with the work required to implement this methodology. Furthermore, it may result in clubs/users paying a comparatively high fee for a facility requiring a high level of maintenance expenditure (for reasons beyond their control), which may not be fair. Consequently, Officers do not recommend this pricing model.

39. To demonstrate the impact of each of these pricing structures on clubs and hirers of Yarra's sportsgrounds and facilities, a club impact analysis has been conducted based upon allocations issued for the 2020 season (Attachment 4 – *Yarra Sports Clubs Impact Study 2020*).
40. **Option 2 – Categorised Fee Structure** – has been recommended by Officers as the most suitable pricing model as it;
- (a) Is informed by industry standards and norms that categorise facilities based on the following principles;
    - (i) Ground size;
    - (ii) Level of competition played;
    - (iii) Sports lighting capacity; and
    - (iv) Risk factors;
  - (b) Recognises that each of Yarra's sportsgrounds have variations in activation capacity, quality, features and cost and has sought to align like for like facilities into four simple categories that can be easily interpreted by the community;
  - (c) Is the approach most commonly used by State Sporting Associations and Local Government; and
  - (d) Allows for appropriate charging for each category of facility, based on the above key factors and informed by the analysis of each category's delivery costs.
41. Officers conducted an extensive facility audit that has taken into consideration the abovementioned factors and categorised each Yarra sportsground into;
- (a) **Premier** - Premier grounds are suitable for professional and/or semi-professional sport. They are suitable for hosting events with the capacity to secure the perimeter and manage access and are generally the preferred location for pre-season matches. The following Yarra sports grounds are considered to be Premier facilities:
    - (i) Bastow 1 Pitch; and
    - (ii) Victoria Park.
  - (b) **Community 1** - Community 1 grounds are suitable for all age groups and all standards of community level sport including having a ground size that is suitable for all grades of community level competition and sports lights that meet the standard for winter season night matches. The following Yarra sports grounds are considered to be Community 1 facilities:
    - (i) Alphington Park Oval;
    - (ii) Fairfield Park Oval;
    - (iii) Fletcher 1 Pitch;
    - (iv) Loughnan Oval;
    - (v) Peterson Oval;
    - (vi) Ramsden Oval; and
    - (vii) Yambla Reserve.
  - (c) **Community 2** - Community 2 grounds are suitable for some community level competition; however, the appropriate grade of competition is restricted based on specific factors related to ground size, surface quality and shared spaces (parks, walking tracks, etc.). The following Yarra sports grounds are considered to be Community 2 facilities:
    - (i) Alan Bain Reserve;
    - (ii) Alfred Crescent Oval;

- (iii) Bastow 2 Soccer Pitch;
- (iv) Burnley Oval;
- (v) Citizens Park;
- (vi) Coulson Reserve;
- (vii) Fletcher 2 Oval; and
- (viii) George Knott Soccer Pitch.

(d) **Training Grounds** - Training grounds are suitable for community level training but not competition due to grounds size restrictions, surface quality or lack of amenities. The following Yarra sports grounds are considered to be Training Ground facilities:

- (i) Walker Street Reserve.

42. Officers acknowledge that the implementation of the proposed fees and charges structure, would result in an increase in the fees paid by existing seasonal clubs and hirers to use Yarra’s sportsgrounds and facilities. Officers therefore recommend a staged approach to implementation. For example, should the recommended pricing model of Option 2 - Categorized Fee be approved, it would be implemented over a three-year period as follows:

**Table 4 - Proposed implementation of fees and charges structure**

Financial Year	Fees and Charges – 3 Year Implementation	
2021/22	Seasonal Fees set to <b>50%</b>	Casual Fee set to <b>80%</b>
2022/23	Seasonal Fees set to <b>75%</b>	Casual Fee set to <b>100%</b>
2023/24	Seasonal Fees set to <b>100%</b>	Casual Fee set to <b>120%</b>

43. The proposal to implement the fees via a staged approach recognises the low baseline cost currently being paid by clubs. The above implementation period of the proposed pricing structure will see seasonal fees commence in year 1 at 50% of the recommended full fee, 75% in year 2, and 100% of the recommended fee in year 3. This approach will ensure that clubs and hirers are afforded the time to prepare and resource themselves adequately to continue to hire and use Yarra’s sporting facilities.

44. Council may determine that the fiscal impacts on seasonal clubs and hirers as a result of recommended Option 2 – Categorized fees is too great, even starting at a 50% reduction of the fee in year 1 and may choose to either lower the level of baseline cost recovery from 20% or seek to extend the staged approach over a longer period of time (currently three years). However, Officers believe that the implementation of the new pricing structure, staged over a three-year period is necessary due to: the current pricing structure no longer being relative to the costs of delivery; the significant levels of discounts being applied; the ability to introduce a policy and criteria which supports broader Council objectives of participation and inclusion and align with Council’s values and State Sporting Associations’ good governance and integrity frameworks; and the opportunity to better reflect industry norms around cost recovery, asset management and stewardship.

### Community and stakeholder engagement

45. Officers have conducted extensive industry research including interviewing Local Government Authorities (*Attachment 2 – Local Government Benchmarking*) and State Sporting Associations for the purposes of benchmarking against comparable markets and to ensure that pricing is set in a fair and competitively neutral manner.

46. The *City of Yarra Pricing Policy (2019)* does not call for community consultation when setting Council’s fees and charges. Consequently, community and stakeholder engagement in the development of the proposed pricing structure has not been a factor in the development of such options and recommendations. Fees and charges are however included in the

proposed Budget and a formal consultation is undertaken, allowing for community feedback as part of this process.

47. Officers have considered the current baseline of fees currently being charged, as well as the effect the proposed pricing structure would have on existing seasonal clubs and hirers, and therefore recommend that implementation occur via a staged approach over a three-year period.
48. Additionally, Officers recommend aligning the implementation of the proposed pricing structure with the *Draft Sportsgrounds and Facilities Allocation Policy (2021)*, with year 1 of the process designed to socialise and contextualise the policy and actively assist clubs and hirers to understand and achieve against the proposed policy's criteria. The Recreation unit would help through direct and close support/contact with club representatives, so as to undertake gap analysis, and develop strategies and action plans to ensure that the proposed criteria contained within Attachment 1 – *Draft Sportsgrounds and Facilities Allocation Policy (2021)* could be met.

## Policy analysis

### Alignment to Council Plan

49. The *Draft Sportsgrounds and Facilities Allocation Policy (2021)* aims to deliver on the following identified Council objectives;
  - (a) Council Plan 2017-2021:
    - (i) Strategy 1.2 – Promote a community that is inclusive, resilient, connected and enjoys strong mental and physical health and wellbeing;
    - (ii) Strategy 1.3 – Provide health promoting environments that encourage healthy eating and active living;
    - (iii) Strategy 1.6 – Promote a gender equitable, safe and respectful community;
    - (iv) Strategy 1.8 – Provide opportunities for people to be involved in and connect with their community;
    - (v) Strategy 2.1 – Build resilience by providing opportunities and places for people to meet, be involved in and connect with their community;
    - (vi) Strategy 2.2 – Remain a highly inclusive municipality, proactive in advancing and advocating for the rights and interests of specific groups in the community and community issues;
    - (vii) Strategy 2.5 – Supports community initiatives that promote diversity and inclusion; and
    - (viii) Strategy 7.1 – Ensure Councils assets and financial resources are managed responsibly and deliver financial sustainability;
  - (b) Access and Inclusion Strategy 2018-2024:
    - (i) Strategy 1.7 – Create neighbourhoods that are safe and promote a sense of belonging;
    - (ii) Strategy 2.1 – Provide and/or support the community to provide a diverse range of accessible community services and arts, cultural, sport and recreational activities that are creative and fun for all abilities and ages; and
    - (iii) Strategy 4.3 – Raise community awareness of people living with an invisible disability.

### Climate emergency and sustainability implications

50. There are no climate emergency or environmental sustainability issues that have been identified as a result of this report.

### Community and social implications

51. The review of the current sportsgrounds and facilities allocation process has identified some significant gaps in the criteria that no longer aligns with Council's values including inclusion, diversity and accessibility goals, or supports State Sporting Associations' safe sport, good governance and integrity frameworks, which Officers have sought to address via the *Draft Sportsgrounds and Facilities Allocation Policy (2021)*.
52. The proposed policy has a clear intention of ensuring that emphasis is placed upon the provision of welcoming, inclusive and accessible organised sporting opportunities for the Yarra community that is provided by clubs and hirers with safe sport, good governance and integrity frameworks in place, thereby ensuring positive impacts on the opportunities and outcomes for the community.
53. Officers recognise that the criteria proposed within the *Draft Sportsgrounds and Allocations Policy (2021)* would potentially increase expectations of some current club behaviours and practises and this may require some additional work; other clubs will be well-placed to meet these obligations based on existing practices. Noting not all clubs will be as well-equipped Officers propose that should the *Draft Sportsgrounds and Allocations Policy (2021)* be adopted, the implementation be staged over three years to enable the Recreation unit to work directly with clubs to socialise and contextualise the expectations of the policy; provide advice and guidance; afford development opportunities including formal club development workshops; and offer close support that would progress Council's community, inclusion, diversity, accessibility and good governance objectives, as well as assist clubs to adapt, succeed and thrive.

### Economic development implications

54. There are no immediate economic development implications as a result of this report.

### Human rights and gender equality implications

55. The essential and weighted criteria developed in the *Draft Sportsgrounds and Facilities Allocation Policy (2021)* by Officers, aims to meaningfully and deliberately progress inclusion, accessibility and equity opportunities in organised sport and recreation for the Yarra community. Further, Officers also aim to ensure clubs are supported to be welcoming, safe and well-governed.
56. Officers have developed the criteria in the *Draft Sportsgrounds and Facilities Allocations Policy (2021)* seeking to ensure that marginalised or specific cohorts (i.e. women, juniors, disabled, CALD, etc.) are not prioritised in any prescribed order, in recognition that there are many types of underrepresented groups, including new and emerging cohorts. This flexibility within the proposed Policy will enable clubs to target and develop their own custom markets, audiences and member bases, as well as ensure the policy remains relevant within an ever-changing landscape.

## Operational analysis

### Financial and resource impacts

57. Due to the significant level of discounts applied to allocations for existing Yarra clubs and hirers, the baseline level of cost recovery currently being achieved by Council is extremely low (currently averaging 2.28%). Officers believe that a key outcome should be to reach 20% cost recovery, per industry standards and norms, but that should the current process and fees and charges structure persist, the result will be a failure to properly manage and maintain Yarra's sportsgrounds and facilities for future generations. Officers also recognise that the impacts of implementing a fees and charges structure that aims to achieve a minimum 20% cost recovery will financially impact Yarra's existing seasonal clubs and hirers. Attachment 4 – *Yarra Sports Club Impact Study 2020*, demonstrates the level of cost recovery being achieved by the current fee structure, discounting mechanism and process and the impacts the proposed fees and charges structure will have on existing Yarra seasonal clubs.

58. Officer analysis demonstrates the implications of taking a three-year staged approach to the implementation of the recommended option, Option 2 - Categorized Fee (Attachment 4 – *Yarra Sports Clubs Impact Study 2020*), would result in the average increase in facility hire fees paid by a club being \$3,054 in year 1. It should be noted that this figure does not include additional surcharges for lighting (currently paid for by clubs playing at facilities with lighting) or turf wicket provisions, which would be charged separately and not subject to Council subsidies.
59. Officers' proposed application of a staged approach to implementing the recommended fee structure (Option 2 - Categorized Fee) would result in a minimum 20% cost recovery being achieved across all hireable sportsgrounds and facilities, even in the event of clubs and hirers achieving the highest level of subsidy, which is capped at 80% in year 3 of implementation. The below table shows the financial outcomes of the proposed three-year implementation strategy:

**Table 5 – Proposed three-year implementation impacts**

Cost Recovery	Year 1 Cost Recovery	Year 2 Cost Recovery	*Year 3 Cost Recovery	2019 Cost Recovery
Winter Sportsgrounds	\$22,514.66	\$33,771.65	\$45,676.09	\$8,048.20
Winter Pavilions	\$18,493.68	\$27,725.46	\$36,967.28	\$0.00
Summer Sportsground	\$16,819.55	\$25,229.33	\$33,639.10	\$8,854.12
Summer Pavilions	\$16,025.40	\$24,025.05	\$32,033.40	\$0.00
<b>TOTALS</b>	<b>\$57,827.89</b>	<b>\$110,751.48</b>	<b>\$148,315.87</b>	<b>\$16,902.32</b>

*\*Year 3 cost recovery minimum is based upon all hirers receiving the maximum 80% subsidy available via the sportsgrounds and facilities allocation criteria. However, in year 3, all clubs will not automatically receive the maximum subsidy as in year 1 and 2 of the implementation plan and will attract a subsidy directly linked to their actual allocation score.*

60. The proposed *Draft Sportsground and Facilities Allocation Policy (2021)* outlines the essential criteria and detailed framework for the weighting of applications for the use of Yarra's sportsgrounds and facilities, which includes the key guiding principle of 'Financial Management'. This key principle within the framework is intended to identify a club's fiscal capacity to pay the fees and charges associated with an application to use Yarra's sportsgrounds and facilities. However, if a club and/or hirer is able to demonstrate exemplary performance, via the allocation criteria framework, but is unable pay the associated hire fees in the ordinary full sum transaction process, Officers recommend that the current practice of extending the club payment flexibility via the introduction of a payment plan, be retained. The current practice sees the terms of any flexible payment plan initially negotiated by the Recreation unit and approved by the Director City Works and Assets.
61. In addition to the club development support proposed (refer to paragraph 54), and as per normal practices, Officers would also work with clubs to notify and assist with possible external funding and grant opportunities relevant to grassroots sport, engagement, participation and membership.

#### Legal Implications

62. The criteria identified in the *Draft Sportsgrounds and Facilities Allocations Policy (2021)* that form part of the allocation framework related to governance and finance are designed to advance club management and practices related to financial management, risk mitigation, dispute resolution, child safety, integrity, etc. These criteria are in addition to other mandatory requirements, such as Responsible Service of Alcohol (where required) and food-handling certification (where required) and have been informed by peak bodies such as Sport and Recreation Victoria, Sport Australia and State Sporting Associations.

## Conclusion

63. The Recreation and Leisure Services' Branch review into sportsgrounds and facilities' allocation processes has identified the need for critical areas of improvement to ensure alignment with industry best practise, as well as Council policies, values and objectives that positively influence the culture and behaviours of clubs and hirers who receive allocations and utilise Council's sportsgrounds and facilities.
64. The *Draft Sportsgrounds and Facilities Allocation Policy (2021)* proposes to implement a suite of balanced, relevant and transparent criteria that directly ties to Council's values and objectives, as well as State Sporting Associations safe sports and integrity frameworks, to ensure that sport within the City of Yarra is accessible, inclusive, equitable, well-managed and well-governed for all who live, learn, work and play in Yarra.
65. Officers propose that should the *Draft Sports Grounds and Allocations Policy (2021)* be adopted, the implementation be staged over three years, because of the increased expectations that will be placed on clubs, noting that the Recreation unit would work closely with clubs to socialise and contextualise the expectations on clubs and provide guidance, development and support to clubs and hirers to adapt, succeed and thrive.
66. As part of the allocation review process, Recreation and Leisure Services also undertook an extensive review of current fees and charges to hire Yarra's sportsgrounds and facilities. The review identified that the current pricing practices are an outlier to industry standards and norms. Research shows the level of cost recovery to hire Council-owned sportsgrounds and facilities is typically set at 20% of the costs to provide and maintain the sportsground and facility (*Attachment 2 – Local Government Benchmarking*). Analysis of the 2020 Winter and Summer seasonal allocations and fees paid by clubs and hirers, however, shows the level of cost recovery achieved in that period averaged 2.28%, noting, many Yarra clubs and hirers historically receive a 100% discount on hire fees.
67. Officers believe that the current and fees and charges are inadequate and do not adhere to the adopted *City of Yarra Pricing Policy (2019)*. Yarra's current practice is also an outlier to local government standards, and there is a demonstrated need to develop options that recover fair costs to provide and maintain sports facilities in Yarra, now and into the future.
68. Officers recommend a Categorised Fee pricing model (Option 2) be adopted, as it aligns facilities based on their quality/standard, capacity and activation purpose, to establish four separate categories, each category with their own per-hour fee. These categories have been informed by, and align with, State Sporting Associations and Local Government industry standards and norms.
69. Should the *Draft Sportsgrounds and Facilities Allocation Policy (2021)* and the proposed Categorised Fee pricing model (Option 2) be implemented, Officers acknowledge that existing seasonal clubs and hirers will experience an increase in fees paid to hire Yarra's sportsgrounds and facilities. However, Officers believe the implementation of an allocations policy and a new pricing structure is necessary due to: the current pricing structure no longer being relative to the costs of delivery; the significant levels of discounts being applied; the ability to introduce a Policy and criteria which supports broader Council objectives of participation and inclusion and align with Council's values and State Sporting Associations' good governance and integrity frameworks; and the opportunity to better reflect industry norms around cost recovery, asset management and stewardship.

## RECOMMENDATION

1. That:
  - (a) Council endorse the *Sportsgrounds and Facilities Allocation Policy (2021)* via a three-year implementation approach, from 1 July 2021; and
  - (b) Council adopt the fees and charges structure Option 2 – Categorised Fees, via a three-year implementation approach and these be included in the Fee Schedule as part of the 2021/22 Budget, to be implemented from 1 July 2021.

## Attachments

- 1 DRAFT - Sportsgrounds and Facilities Allocations Policy 2021
- 2 Local Government Benchmarking
- 3 Sportsgrounds and Facilities Cost Assessments
- 4 Yarra Sports Clubs Impact Study 2020

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## 8.4 Consultation findings and next steps regarding the Consumption of Liquor in Public Places Local Law

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### Executive Summary

#### Purpose

To present findings from the consultation and research undertaken in response to Resolution Item 6372 on 8 October 2019. This report also provides information on subsequent work required in response to the sunseting of the *Consumption of Liquor in Public Places Local Law* on 19 October 2021.

To seek support for the specified parameters for a broad stakeholder engagement in line with the timelines and corresponding milestones for the 2021 calendar year, and to note that direction will be sought from Council at the meeting on 1 June for a decision to commence formal consultation on the future of any local law or an alternative response in relation to public consumption of liquor in public places.

#### Key Issues

The consumption of liquor in public places and the associated issues are complex. It is important to note that the Aboriginal and Torres Strait Islander community in Yarra has consistently voiced concerns that the local law affords opportunities for prejudice, stereotypes and profiling.

There is a clear need for Council to acknowledge the local Aboriginal and Torres Strait Islander community's view on this issue, and the historical trauma that has been brought to light through consultation discussions. With this view made clear, it is recommended that the next step is to continue this conversation with the wider community included, noting that the use of public spaces – and the behaviours considered acceptable within public spaces, including the consumption of liquor – remains a contested issue that presents significant public safety challenges, but is also constant point of debate within the community. Community safety and public amenity issues within our entertainment and night-time economy precincts must be considered with regard to the consumption of liquor in public places, particularly considering the current context. It is important to consider that any snap decisions made without a full picture and consultation process could result in serious ramifications within the community and challenge important stakeholder relationships.

This report represents a crucial first stage of a number of important stages of work. Further work will ensure Council has a full picture of available options, including bench-marking with similar municipalities and consideration of associated costs and resourcing, to ensure any future decisions in response to issues arising from public consumption of liquor are fully understood by and discussed with the entire community and all stakeholders.

#### Financial Implications

Any further work determined to be undertaken at the direction of Council is likely to result in additional costs and resourcing implications. Upon the direction of Council on the next stages of work beyond the scope of this report and before deciding on the future of any Local Law (or an alternative response) related to the consumption of liquor in public places, it is recommended that Council direct officers to conduct further investigation into understanding how such responses would be resourced and commissioned.

#### PROPOSAL

The principal purpose of this report has been to present the consultation and associated research findings requested in Resolution 6372 to Council for consideration.

The presentation of the consultation findings and associated research is the preliminary stage of a multi-faceted program of work which includes:

- (a) a thorough and nuanced investigation of multiple options;

- (b) broad stakeholder engagement including continued engagement with the Aboriginal and Torres Strait Islander community;
- (c) generating a proposal and seeking a direction from Council in mid-2021; and
- (d) completing the required statutory process (es).

In establishing future directions or when making decisions on the matters discussed in this report, Council gives due consideration to the following matters:

- (a) The current context cannot be separated from the community's perceptions of *Local Law 8*, which reverberates into the *Consumption of Liquor in Public Places Local Law* (adopted in October 2019), and will continue through to any future local law that affords an opportunity to discriminate;
- (b) That inequity and racism is still viewed as inherent in the current *Consumption of Liquor in Public Places Local Law*, and that the consultation findings, associated research and majority of the steering committee feedback demonstrates that trauma felt by the Aboriginal and Torres Strait Islander community continues today;
- (c) The issues of public drunkenness as compared to the consumption of liquor in public places are distinct, yet unavoidability related;
- (d) This situation presents an opportunity for Council to address the evident historical and ongoing distress and trauma experienced in the Aboriginal and Torres Strait Islander community;
- (e) There have been significant moments when Australian governments have made sincere and genuine efforts to apologise to the Aboriginal and Torres Strait Islander communities for past wrongs;
- (f) The issues brought to light through this consultation are interlinked with a changing external environment including in relation to legislation, such as the repeal of public drunkenness from the *Summary Offences Act*. There is the possibility of a trial site for the Victorian Government's new model of care to be in the City of Yarra;
- (g) Legal advice is that Council can only revoke an existing local law by making a new local law, with regard to the current *Consumption of Liquor in Public Places* local law due to sunset on 19 October 2021;
- (h) It is paramount that the opinions and experiences of the Aboriginal and Torres Strait Islander community are valued and shared in broader consultation and engagement on this matter;
- (i) Acknowledgement that the use of public spaces – and the behaviours considered acceptable within public spaces, including the consumption of liquor – remains a contested issue and a constant point of debate within the community;
- (j) Acknowledgement that community safety and public amenity issues within our entertainment and night-time economy precincts, including in relation to major events such as New Year's Eve and the AFL Grand Final, must be considered with regard to the consumption of liquor in public places.

Endorse the following timelines and corresponding milestones for the 2021 calendar year:

- (a) 30 March: Initial report to Council Meeting;
- (b) April: Broad stakeholder engagement;
- (c) Early May: Consultation results analysed; and
- (d) 17 May: Council Briefing;

Support the following lines of inquiry for the broad stakeholder engagement:

- (a) Whether to allow the current *Consumption of Liquor in Public Places Local Law* to sunset on 19 October 2021; and

- (b) Whether it is appropriate to create a mechanism within a new local law or Yarra's General Local Law 2016 that enables Council to prescribe measures to promote public health and amenity at certain places and/or certain times and/or for certain events; and
- (c) Whether it is beneficial or desirable to create a complementary alcohol and other drug policy, one that is referenced in any future local law and explicitly articulates Council's positions and objectives regarding community safety, health promotion and harm minimisation, including harm reduction; and
- (d) How to support a local health-based response with regard to the issue of alcohol related harm, particularly episodic, and that responds to the unique context of Yarra with its popular entertainment and night time economy precincts, destination parks and reserves, and major public events.

Note that direction will be sought from Council at the meeting on 1 June for a decision to commence formal consultation on the future of any local law or an alternative response in relation to public consumption of liquor in public places.

Acknowledges the historical distress and trauma experienced in the Aboriginal and Torres Strait Islander community and that this cannot be separated from this community's perceptions of Local Law 8, which reverberates into the Consumption of Liquor in Public Places Local Law (adopted in October 2019).

Maintains its commitment to the ongoing dialogue with the Aboriginal and Torres Strait Islander community as it considers the future of local laws for the consumption of liquor in public places, and the means by which a socially just, health-based approach can be promoted.

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## 8.4 Consultation findings and next steps regarding the Consumption of Liquor in Public Places Local Law

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<b>Reference</b>	D21/24332
<b>Author</b>	Sarah Ernst - Policy Advisor
<b>Authoriser</b>	Director Community Wellbeing

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### Purpose

1. To present findings from the consultation and research undertaken in response to Resolution Item 6372 on 8 October 2019. This report also provides information on subsequent work required in response to the sunset of the *Consumption of Liquor in Public Places Local Law* on 19 October 2021. This report represents the first stage of a number of stages of work that are recommended to be undertaken before deciding on the future of any Local Law (or an alternative response) related to the consumption of liquor in public places.

### Critical analysis

#### History and background

2. Following the direction of a Council resolution in October 2019 (Resolution Item 6372), officers have undertaken a consultation project to explore the impacts of regulation and enforcement of Yarra's local liquor law (concerning public consumption of alcohol), specifically for Yarra's Aboriginal and Torres Strait Islander community. Additionally, officers were asked to conduct research and examine opportunities to progress a socially-just, public health-based approach, as an alternative response to the *Consumption of Liquor in Public Place Local Law* (See D19/188873, Action Sheet 11.1).
3. Council officers engaged expert consultants to undertake in-depth consultation with public street drinkers, particularly from the Aboriginal and Torres Strait Islander community, on their experiences of drinking in public spaces, interactions with police or other law enforcement, opinions on current health and welfare-based responses/preferences and solutions for in-situ engagement to promote social inclusion as well as individual health, wellbeing and community safety.
4. This consultation was overseen by officers in conjunction with a steering committee of community members, stakeholders and experts with considerable combined knowledge. Members include representatives from Aboriginal and Torres Strait Islander community service providers, Department of Justice, Department of Health, Department of Families, Fairness and Housing, Victoria Police, alcohol and drug policy experts, legal services, Neighbourhood Justice Centre, health services, and outreach workers. The particulars of this group are discussed under the heading: Regular meetings between the Aboriginal and Torres Strait Islander community, relevant Council Officers and Victoria Police.
5. The purpose of the consultation was to seek understanding of the impact of Yarra's *Consumption of Liquor in Public Places Local Law* (due to sunset on 19 October 2021), particularly on Aboriginal and Torres Strait Islander people, and the community's preferred response(s) to the issues associated with public consumption of alcohol. A report on the findings of this consultation was provided to officers on Friday 12 February 2021 and is currently being considered.
6. The consultation findings (see Attachment 1 for full report) have been shared and presented to the community at an independently facilitated round-table discussion at the February Yana Ngargna meeting, involving community members and relevant local service providers. The consultation findings have also been discussed at the stakeholder working group meetings.

7. The outputs from this consultation, including the Aboriginal and Torres Strait Islander community's response to the issues, along with further in-house research and analysis, will form key information used by Council officers to provide informed advice as to Council's options concerning any future Local Law on Consumption of Liquor in Public Places, or an alternative approach, and any associated work that those options entail.

### **Local Law 8 (2009)**

8. By way of background, the local law to control consumption of liquor in public places was first introduced in 2009. At the time this was a contentious decision as it was perceived by many people in the community as being an action targeting the local Aboriginal and Torres Strait Islander community who identify as the Parkies, who would regularly gather on Smith Street in Collingwood, which has long been a traditional meeting place for Aboriginal and Torres Strait Islander people.
9. Public behaviour on Smith Street was of great concern to Council at that time, as there was frequent street drinking and tensions with some residents and traders around the main shopping area. These issues were a focus of the 2008–2009 actions in the Council Plan, including social and cultural work through the Smith Street Community Plan.
10. In 2009, it appears that the law itself was considered a contentious solution, with the original report presenting the proposed local law to Council on 20 October 2009 confirming that,  

'Many submissions reflected a strong view that the local law is discriminatory and will target disadvantaged and marginalised groups (indigenous people, African, young people, homeless and people with a mental illness) in an unfair and inequitable manner.'
11. The 2009 report further notes that, by contrast,  

'A small number of submissions argued against the view that the local law is discriminatory and asked that it be applied to protect the interests of the broader community.'
12. It has become clear through the current consultation and discussions with Aboriginal and Torres Strait Islander community members and the majority of stakeholder groups that this view of inequity and racism is still viewed as inherent in the local law today.
13. The historical distress and trauma experienced in the Aboriginal and Torres Strait Islander community cannot be separated from this community's perceptions of *Local Law 8*, which reverberates into the *Consumption of Liquor in Public Places Local Law* (adopted in October 2019).
14. It is also noted that the issues of public drunkenness as compared to the consumption of liquor in public places are distinct, yet in the view of many, unavoidably related. While the process undertaken by Council officers has been directed to examine public *drinking*, not *drunkenness*, as defined in the current local law, the nature of qualitative data collected throughout the consultation (and indeed the development of perception) is that it is based on the experiential perspective of participants who do not necessarily view the laws and associated issues as distinct. This is discussed in further detail throughout the report.

### **Consumption of Liquor in Public Places Local Law 2019**

15. In anticipation of Local Law 8 sunseting on 19 October 2019, Council was bound by statutory obligations to undertake wide public consultation and a new law was drafted, the *Consumption of Liquor in Public Places Local Law 2019*.
16. The objectives of the law are stated as follows:
  - (a) to control the consumption and possession of Liquor in Public Places within the Municipal District, including where such consumption or possession may interfere with the amenity and enjoyment of Public Places or of land in the vicinity of Public Places;
  - (b) promoting the minimisation of alcohol-related harm by restricting the opportunity for unregulated public drinking within the Municipal District;

- (c) supporting the effective governance of the Municipal District by promoting improved amenity of public spaces and discouraging anti-social behaviour;
  - (d) providing an effective means for police to deal with unregulated public drinking;
  - (e) improving the management of festivals and events to reduce risk to attendees, organisers, and Council; and
  - (f) the peace, order and good government of the Municipal District.
17. Formal submissions on the draft 2019 law were invited from the community in August and September 2019. During this period more than 30 submissions were received with views expressed on key issues raised including:
- (a) The unfair impact on Aboriginal and Torres Strait Islander people and people facing disadvantage;
  - (b) A stated misplaced focus on the consumption of alcohol instead of anti-social behaviour;
  - (c) The need to exercise alternatives to law enforcement and address alcohol-related harms through community education and health promotion;
  - (d) A conviction that a council should not be allowed to prohibit public drinking through local laws;
  - (e) A belief that public drinking should be entirely prohibited and that permitting alcohol use in parks makes these less welcoming places;
  - (f) A desire to restrict public drinking to only licensed venues and events; and
  - (g) A concern for the welfare of young children exposed to public drinking.
18. Half of the submissions received in relation to the renewal of the local law did not support its extension in the current form. A number of submitters also presented at the Council meeting.
19. On 8 October 2019, Yarra Council resolved to update its regulation of public drinking by adopting the *Consumption of Liquor in Public Places Local Law* on 19 October 2019. The local law was adopted to operate for up to two years, rather than the standard 10 years and remains in place until 19 October 2021.
20. In resolving to adopt the Consumption of Liquor in Public Places Local Law on 19 October 2019, a number of items were requested to be undertaken prior to the law sunset on 19 October 2021. These items are presented in this report.

**Regular meetings between the Aboriginal and Torres Strait Islander community, relevant Council Officers and Victoria Police**

21. As requested by Resolution Item 6372, item J, the recent consultation was overseen by Council officers in conjunction with a steering committee of community members, stakeholders and experts with considerable combined knowledge. Members of this working group included representatives from Aboriginal and Torres Strait Islander community service providers, Department of Justice, Department of Health, Department of Families, Fairness and Housing, Victoria Police, alcohol and drug policy experts, legal services, Neighbourhood Justice Centre, health services and outreach workers and the consultation's researchers.
22. The first meeting of the steering committee was held on 19 February 2020, following the appointment of expert consultants to undertake the consultation. The COVID-19 pandemic impacts came into effect in mid-March 2020, leading to Stage 3 and 4 restrictions. In the face of continued uncertainty, the committee was informed in early May 2020 that the consultation was placed on hiatus.

23. Despite the consultation pause, a meeting placeholder for 9 September 2020 was put in place, to provide updates back to the committee. In June 2020, Councillors were informed of the progress of the consultation, and there was broad support for the project to remain on hiatus until safe to resume, noting that it would be unlikely (particularly in light of the unpredictability of the COVID-19 situation) to be before November 2020. With the Stage 4 lockdown continuing, the meeting scheduled with the committee for September was rescheduled to October, pending new information.
24. With the easing of restrictions and the hard lockdown in Melbourne in November 2020, virtual meetings were resumed with the committee. The committee met virtually on 28 October 2020, 25 November 2020 and 12 December 2020. The most recent meeting of the committee was held virtually on 25 February 2021, where the findings of the final report were discussed (following the discussion of the report with the Aboriginal and Torres Strait Islander community the previous week, at the Yana Ngargna meeting).

### Discussion

#### **Coroner's findings in the case of Ms Tanya Day**

25. Item K (i) of Resolution 6372 requests research regarding the findings into the death of Ms Tanya Day in 2017, which occurred while she was in police custody having been arrested solely for public drunkenness.
26. Coroner English's findings and recommendations in relation to the inquiry into the death of Ms Tanya Day resulted in the Victorian Government moving to repeal criminalisation of *public drunkenness* under the Summary Offences Act. Coroner English noted that this repeal was first recommended in 1989 as an outcome of the Royal Commission to Aboriginal Deaths in Custody (Commission Recommendation 79).
27. The Coroner's inquest had the scope not only to examine the appropriateness of medical treatment that Ms Day received from the ambulance service, but all of the actions leading up to that point on the day of her incarceration, examining not only *what* happened but *why* (paragraph 98), and whether systemic racism was a factor (paragraph 100).
28. On 5 December 2017, Ms Day fell asleep on a V/Line train. Upon finding her asleep with her legs in the aisle while checking tickets, the conductor woke (and startled) Ms Day, at which point he judged Ms Day to be under the influence of alcohol and/or drugs and formed the view that she was 'unruly' (paragraph 181). He notified the driver to contact the police so that Ms Day could be put off the train. The Coroner noted that the conductor had the capacity to use discretion to either leave Ms Day alone (as it was established he often did with the three plus sleeping people he came across on trains every week), or initiate a medical response, as is advised in V/Line's mental health guidelines.
29. According to the Coroner's report, Victorian Police policy is to use a coma scale of 1 (no response) to 5 (completely awake and oriented in their environment) to assess those in their custody continuously, according to their level of awareness, clarity and coherence (paragraph 262). Despite Ms Day falling between the ratings of 3 ('Meaningless and Unintelligible') and 2 ('Confused'), both of which recommend that medical advice and/or assistance be sought, this was not considered by the arresting or supervising officers (paragraphs 264–275). This failure of procedure demonstrates that, while protocols may be in place, unless they are a part of a core process, it remains a matter of discretion as to how and whether they are applied at the time of an incident.
30. While in police custody, Ms Day sustained traumatic head injuries from falling hard against the concrete walls and floor of her cell on multiple occasions, incidents that were visible through the closed-circuit camera feed. Medical assistance was not urgently sought, ultimately resulting in Ms Day's death from these injuries. The Coroner noted that, while it was possible that Ms Day would not have made a full recovery even with urgent medical attention, a significant opportunity to save her life was missed.

31. Coroner English found that structural racism and unconscious bias influenced the decision to remove Ms Day from the train on which she was sleeping instead of letting her be, and a lack of alternative pathways available to the police, combined with the pressure of social and legal expectation to take action, resulted in Ms Day's incarceration.
32. No evidence could be established by the Coroner that Ms Day caused any disruption, and it was concluded that a snap judgement was made that she was 'Aboriginal' and a 'trouble-maker' and that this resulted in her being put off the train, with the subsequent events occurring solely because she was deemed to be drunk. Had public drunkenness not been an offence, Coroner English concluded, Ms Day could have been assisted by medical professionals instead, without relying on the inherent unconscious bias embedded in the discretion of those in power. First, this was seen in the discretion of the train conductor, and then that bias was seen in the discretion of the police officers.
33. While no witnesses 'admitted to holding racist beliefs' (paragraph 108), the Coroner notes that the application of systemic racism through unconscious bias inherent in discretion as to whether or not to charge Ms Day and when and how to act on that was considerable and of relevance (paragraph 113), with police discretion as it applies to public drunkenness being 'very broad' (paragraph 114).
34. On this matter of discretion, Coroner English recognises that it is an essential part of modern policing, used not to decide whether an offence has occurred, but what action to take in response (paragraphs 116–118). Further to this, Coroner English notes that discretion is also inherently problematic as it leaves considerable room for discrimination and unconscious bias (paragraphs 116 –120). The Coroner observed that guidelines that could assist in mitigating these problems are essential. However, currently they do not exist in relation to drunkenness, and if they did they would likely be ineffective, as judgements are made quickly and under pressure and discretion can 'easily end up operating adversely against those who lack power and influence' (Commissioner Wootten speaking on a previous Aboriginal death in custody case and quoted by Coroner English, paragraph 119).
35. The attending police officer who responded to the call from V/Line to remove Ms Day from the train is a case in point. Senior Constable Thomas noted, that while he believed Ms Day to be intoxicated, he observed that 'she wasn't causing any trouble, she was asleep'. SC Thomas took Ms Day into custody any way because it was clear that she was unable to remain on the train, due to the community and V/Line expectations, and from a welfare perspective he was afraid he would be liable later on if he left her on the train and something happened (paragraphs 244–249).
36. Coroner English noted that choice made in removing Ms Day from the train, was at least in part to do with the expectations of V/Line, and the associated time pressures, and the social pressures from 'the disgusted looks' of other passengers. Although Coroner English felt that the unconscious bias from the arresting officer could not be clearly defined, the other pressures were equally detrimental to the decision made. Accordingly, in the end, while to do otherwise was considered by the Senior Constable, the various social pressures to act quickly and remove Ms Day from the train outweighed other discretionary considerations, despite the view of Victorian Police being that arrests for drunkenness should be used as 'a last resort not a first' (paragraphs 249–253).
37. In addition to recommending the repeal of the offence of public drunkenness as an outcome of the inquest into Ms Day's experiences and subsequent death, the Coroner was asked by Ms Day's family to consider the charge of negligent manslaughter in relation to Ms Day's death. Coroner English determined that, based on the evidence that demonstrated a chain of serious failures by those responsible for taking and caring for Ms Day in custody, there may be a case for negligent manslaughter. While no action has yet been taken by the Director of Public Prosecutions, Coroner English has instructed the principal registrar to refer the matter to the Director for consideration (paragraphs 624–625).

### **Victorian Government public drunkenness repeal**

38. Item K (ii) of Resolution 6372 instructs officers to give consideration to the Victorian Government's repeal of the charge of public drunkenness in the *Summary Offences Act*.
39. Following the State Coroner's recommendations from Ms Day's case, the Victorian Government of Victoria convened an Expert Reference Group (ERG) to report on public drunkenness in Victoria. In August 2020, the ERG delivered a report recommending that the Victorian Government abolish public drunkenness laws altogether, to be replaced by a health-focussed response model.
40. Legislation to decriminalise public drunkenness by amending the *Summary Offences Act* was passed in the Victorian Parliament on 19 February 2021. This marks the commencement of a two-year process to repeal the offence and replace it with a health-based response model that will be designed and trialled by the Victorian Government in consultation with the Aboriginal and Torres Strait Islander community, health experts and Victoria Police. It is noted that the Victorian Government's decriminalisation legislation will not take effect until 7 November 2022, following multiple trial sites throughout Victoria and once a health response is in place.
41. There is a working group of stakeholders, of which the Municipal Association of Victoria is part, to work on processes to support the repeal, and it is possible that there will be a review of local public drinking laws across Victorian Municipalities. While there is not yet any formal advice as to the relationship of local laws to the amendments in the *Summary Offences Act*, it is a possibility that local laws prohibiting consumption of liquor in public spaces would run counter to the state's legislation. This is a matter that is yet to be looked at, along with many other factors, during the next two years.
42. The Victorian Government's decision to establish a public health response model, to put services in place of criminalisation, sets it apart from other states in Australia where public drunkenness offences have been repealed. The additional step towards adopting a state-government driven, health-focussed model of care has not been contemplated or applied to the same degree in many other jurisdictions.
43. The Victorian Government's website states the following:

*The government acknowledges the unacceptable, disproportionate impact that Victoria's current public drunkenness laws have had on Aboriginal people. We acknowledge that Victoria is one of only two states that have not yet decriminalised public drunkenness, and that the Aboriginal community have long advocated for public drunkenness to be decriminalised to help Victoria work towards a more just and equitable system. The ERG's report builds on a legacy of three decades of work and activism, including the 1991 Royal Commission into Aboriginal Deaths in Custody, and the recommendations of the Deputy State Coroner's inquest into the death of Ms Day.*

*The government is fully committed to decriminalising public drunkenness and implementing a public health model to ensure that those who are intoxicated in public can access the healthcare and support they need. The ERG's report provides a framework for reform that the government supports and will work to take forward and implement.*

*The ERG's vision is that those who are intoxicated in public and at risk to themselves or others will be safe, will have access to culturally-appropriate care, will have minimal contact with the criminal justice system, and that the safety of the community and first responders will be protected. A key aim of the model is to reduce incarceration and prevent deaths in custody.*
44. The Victorian Government's commitment comprises two key parts: firstly, the model is to be based upon minimising the role of a law enforcement response to public intoxication. Secondly, the model is based upon increasing access to health and social services as the primary response to public intoxication.
45. The four key components of the proposed health model focus on the following:

- (a) Community outreach (to support immediate response, in-situ);
  - (b) Transportation (immediately, to a place of safety);
  - (c) Sobering care (initial service period); and
  - (d) Health and social care pathways (longer-term assessment).
46. The ERG's report included 86 recommendations and detailed advice on the possible design of the health model. The Victorian Government has stated that it supports the ERG's proposed overall approach and acknowledges that adequate resourcing is a key factor in the successful implementation of these reforms. It is noted that an initial \$16 million has been allocated in the 2020–21 State Budget to commence implementation of the reforms. This includes the establishment several trial sites across the State where the public health model will be trialled and refined.
47. The ERG has recommended a 24-month implementation period for the public health model to:
- (a) Establish trial sites for the health model in specific areas in Victoria; and
  - (b) Work closely with the Aboriginal community, first responders and the broader community to enact a cultural shift in our response to public intoxication.
48. The ERG's report states that approximately 50 percent of all public drunkenness offences between April 2014 and March 2019 occurred within eight local government areas (LGAs) in metropolitan Melbourne and in Greater Geelong: City of Melbourne, Greater Dandenong, Mornington Peninsula, City of Port Phillip, City of Yarra, Greater Geelong, City of Frankston and City of Stonnington. In relation to the number (percentage) of public drunkenness offences between 2014 and 2019, the City of Yarra ranks in the top five municipalities for arrests related to public drunkenness.
49. It is noted that three, possibly four trial sites are currently being contemplated by the Minister for Health The Hon. Martin Foley MP, with the expectation of a non-standardised approach taken in each site. This is to ensure different areas can test different models of care which reflect the local circumstances of that location and population. It is understood that the Minister for Health will formally announce the trial locations before April 2021, with the intention of establishing and commencing the trials in July 2021. No public announcement of the trial sites has been made at the time this report was prepared.
50. It is noted that the issues of public drunkenness as compared to the consumption of liquor in public places are distinct, yet in the public eye the strong perception is that they are related. To date the process undertaken by officers has been directed to examine public *drinking* as defined in the current local law, not *drunkenness*. However, it is important to note that the nature of qualitative data collected throughout the impact consultation is that it is based on the experiential perspective of participants who do not necessarily view the laws and associated issues as distinct.
51. However, the repeal of *public drunkenness* as a criminal offence does not preclude or prohibit the presence of a local law that prohibits public drinking, as is evidenced by many jurisdictions both in Australia and internationally (for example the City of Sydney local law that prohibits drinking, despite public drunkenness being decriminalised in 1979).

## Research

### Geographies of exclusion: Street drinking, gentrification and contests over public space

52. Item K (iii) of Resolution 6372 instructs officers to consider 'Geographies of exclusion: street drinking, gentrification and contests over public space'.
53. The research paper 'Geographies of exclusion: street drinking, gentrification and contests over public space', by Pennay, Manton and Savic (2014), published in the *International Journal of Drug Policy*, asserts that local laws that restrict drinking in public places have proliferated in Greater Melbourne as a result of inner-urban gentrification. It builds on the work of the same name by Sibly (1995), arguing that such local laws create geographical

exclusions of socially and economically marginalised communities in the inner city. People who cannot afford to live in private housing or drink in bars and restaurants are also excluded from public (and therefore social) spaces, amplifying socio-economic stratification and promoting isolation and stigma in communities.

54. Drawing on observational data, interviews and conversations with stakeholders and street drinkers in focus groups, the researchers compare the laws of three inner-urban municipalities (the Cities of Yarra, Darebin and Maribyrnong), evaluating the effectiveness of the public drinking bylaws versus their social impact. Through this study they build a case for considering whether laws such as these should be repealed and replaced with a more socially responsible management strategy, such as a public health-based response.
55. The study focuses specifically on daytime street drinkers, rather than on drinkers associated with the night-time economy (NTE), as this is a group of people who already live outside of the socio-economic mainstream. The researchers note that in addition to polarised socio-economic demographics resulting from the contrast of Yarra's large housing estates with extensive gentrification and urban renewal, Yarra holds a special connection for Aboriginal and Torres Strait Islander people as a place to live, visit and meet.
56. Each of the three cities compared in the study has some level of socio-economic polarisation and disadvantaged community members who are further marginalised as a result of geographical and time-based drinking restrictions. Amongst the municipalities in the study, however, the element of special connection for the Aboriginal and Torres Strait Islander community was (and is) unique to Yarra and noted as being based on both twentieth century history and pre-colonial traditions.
57. The comparative analysis of public drinking restrictions across the municipalities unearthed three key findings:
  - (a) The location of 'hotspots' for street drinking was strongly influenced by urban renewal and gentrification, creating tensions over popular, busy social spaces;
  - (b) The language used in the laws created a dichotomy of 'good' versus 'bad' drinkers and drinking behaviours, defining boundaries of inclusion and exclusion; and
  - (c) The methods of implementation and enforcement of local laws influenced production of space and use of key hotspot areas, displacing street drinkers and furthering their social exclusion, but also giving rise to types of resistance to these restrictions.
58. In Yarra's case, the study found that some of the key hotspots for street drinking, such as Smith Street, were chosen particularly by Aboriginal and Torres Strait Islander people because these places have always been traditional meeting places in the area. Gathering in these places is considered an important way of maintaining social and cultural connection.
59. It appears from the study that it is common for restricted spaces to be contested: in all three municipalities, places with restrictions are generally considered to be vibrant shopping strips that are central to the social and economic activities of the area. It was a common concern of local traders in these areas that business could be compromised by the presence of street drinkers due to negative perceptions of safety and compromised amenity.
60. The researchers noted that, while the rhetoric around the idea of 'good' and 'bad' drinking tended to run along class lines (e.g. middle-class wine and cheese in the park versus a couple of cans of beer sitting on the street), there was also a spectrum of good and bad behaviours understood amongst street drinkers. In Maribyrnong, two marginalised groups of people from different cultural backgrounds were displaced by local drinking laws, with conflict arising between them over other spaces. One group felt compelled to return to the designated dry zone despite the restrictions, as it was perceived to be a safer option. The researchers observe that, in cases such as this, the visibility of street drinkers can be heightened because of issues relating to race and ethnicity intersecting with the restrictions.

61. In all three municipalities studied, the researchers observed that the local laws restricting consumption of liquor in public places contributed to socio-economic marginalisation, reinforcing existing inequity. Policies that target marginalised communities, the study found, serve only to distract from the larger structural inequities faced by these groups, creating barriers to addressing these systemic issues through policy and other measures. It is for this reason that the researchers conclude by recommending that local laws of this nature be reconsidered in favour of alternative policies and strategies that favour a more socially holistic approach.

Local laws in similar municipalities

62. Item k (iv) of Resolution 6372 instructed officers to consider similar local laws in nearby inner-Melbourne municipalities, including the Cities of Melbourne, Darebin and Boroondara.
63. Local laws in similar municipalities are implemented in a variety of ways with restrictions based around timing, geography, or a combination of both.
64. At present it appears that there are only two municipalities in Greater Melbourne that do not have a local law to restrict drinking in public, being Whittlesea, and Bayside.
65. Bayside has a *Neighbourhood Amenity* local law that this council is considering replacing with something that more closely resembles Yarra Council's local law.
66. Whittlesea has an *Alcohol Management Policy and Action Plan*, which is due for renewal and currently being evaluated. Whittlesea officers have advised that, to date, research for the current evaluation has not demonstrated a compelling reason for introducing local laws to restrict consumption of liquor in public places, and that such laws are not currently a local priority or area of specific concern for the Whittlesea area. It is noted that the Whittlesea and Yarra municipalities are not easily or obviously comparable.
67. It appears that no other inner-city municipality has contemplated alternatives to a local law related to the issue of consumption of liquor in public places and there is no comparable precedent to draw upon, including in relation to health-based approaches.
68. With regard to Yarra's neighbouring and comparable municipalities, all have a local law that restricts public drinking to varying degrees. The respective local laws restrict consumption of liquor in public places by using a combination of geographical and time-based restrictions and most are not standalone laws. Local laws for other comparable inner Melbourne municipalities are as follows (see attachments to this report for copies of each document referenced in the table):

Municipality	Restriction type: Geographical/ Timed	Standalone law? Y/N	Comments
Yarra	Both	Y	<p><i>Consumption of Liquor in Public Places 2019</i></p> <ul style="list-style-type: none"> <li>Yarra has a standalone local law that bans the consumption of liquor in public places (drinking or unsealed containers) throughout the whole municipality, with the exemption of prescribed places between 9am and 9pm.</li> <li>Additional restrictions operate in Council's parks on holidays including New Year's Eve and January 26.</li> </ul>
Boroondara	Geographical	N	<p><i>City of Boroondara – Amenity Local Law</i></p> <ul style="list-style-type: none"> <li>Boroondara Council's Amenity Local Law provides a mechanism for Council to prescribe alcohol-restricted zones.</li> </ul>

			<ul style="list-style-type: none"> <li>Boroondara has a historical designated dry zone in the area bounded by Burwood, Auburn and Barkers roads, and Power Street.</li> </ul>
Darebin	Both	N	<p><i>Darebin General Local Law</i></p> <p>Darebin Council's General Local Law makes provision for Council to restrict alcohol consumption in the municipality based on timing and geography.</p> <p>At present there are restrictions on alcohol consumption in two zones:</p> <ol style="list-style-type: none"> <li>Surrounding Preston Market Shopping precinct in Preston, between Bell Street, Plenty Road, Murray Road, High Street, Regent Street, Spring Street and St Georges Road.</li> <li>Edwardes Street shopping precinct in Reservoir, between Ralph Street, High Street, Cleeland Street, Olive Street and Byfield Street.</li> </ol>
Melbourne	Both	N	<p><i>City of Melbourne's Activities Local Law 2019</i></p> <p>Consumption of liquor is controlled under the City of Melbourne's <i>Activities Local Law 2019</i> and is banned in public places in the central business district 24 hours a day, every day, with the ban specified also for the following events:</p> <ul style="list-style-type: none"> <li>New Year's Eve</li> <li>Melbourne Moomba Waterfest</li> <li>The Australian Grand Prix</li> </ul> <p>Consumption of liquor is also banned at major events in the streets and reserves of Carlton, in the area bounded by Victoria Parade and Swanston, Elgin and Nicholson streets and applies during the following events:</p> <ul style="list-style-type: none"> <li>Carnivale on Lygon</li> <li>New Year's Eve</li> <li>The Australian Grand Prix</li> <li>The Carlton Italian Fiesta</li> </ul> <p>Exemptions from the ban are:</p> <ul style="list-style-type: none"> <li>Licensed outdoor dining</li> <li>'Responsible consumption' in public parks and gardens by individuals or groups of 50 people or less (other than during major events, as above.)</li> </ul>
Maribyrnong	Both	N	<p><i>General Purposes Local Law 2015</i></p> <p>Part 3, 'Consumption of alcohol in public places', provides a mechanism for Council to designate restricted areas through geography or specific times.</p> <p>Maribyrnong also has an <i>Alcohol and Other Drugs Policy</i>, which outlines the Council's overall position and the guiding principles followed in the municipality with regards to harm reduction through advocacy, research,</p>

			<p>partnerships, information provision and leadership. Policy acknowledges that social determinants of health in disadvantaged areas of the community and public health responsibilities.</p>
Moreland	Both	N	<p>Moreland City Council General Local Law 2018</p> <p>Moreland’s local law bans the drinking of alcohol in public places at all times, with the following exemptions:</p> <ul style="list-style-type: none"> <li>• Licensed outdoor dining areas (footpath trading)</li> <li>• Local parks and reserves on weekends and public holidays where the drinking of alcohol is permitted from 11am–6pm and from 11 am–10 pm during summer</li> <li>• Special events that have a Temporary Liquor Licence</li> <li>• Festivals</li> </ul>
Port Phillip	Both	N	<p><i>City Of Port Phillip's Local Law No 1 (Community Amenity) 2013</i></p> <ul style="list-style-type: none"> <li>• Consumption of alcohol is banned in streets and public places across Port Phillip from 8pm until 9am, with additional geographical and time-based restrictions.</li> <li>• Consumption and carrying of alcohol (in sealed or unsealed containers) on the foreshore area, including the beach and surrounding park, is entirely banned during the summer period, from 1 November until 31 March inclusive.</li> <li>• Bans are also specified for the following events: <ul style="list-style-type: none"> <li>(a) St Kilda Festival</li> <li>(b) New Year’s Eve</li> <li>(c) January 26 and</li> <li>(d) The Australian Grand Prix</li> <li>(e) Moomba Waterfest</li> </ul> </li> <li>• Port Phillip also has a procedures manual that is to be read in conjunction with Local Law 1, which prescribes places and provides additional information regarding application of the local law.</li> </ul>
Stonnington	Geographical – whole municipality	N	<p><i>Stonnington’s General Local Law 2018 (No.1)</i></p> <p>Consumption of liquor is banned in public places in Stonnington except for licensed premises or where a permit or exemption has been expressly issued by Council. This applies to unsealed containers of liquor and drinking, but people may carry sealed containers of liquor with them.</p>

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Information on how the Local Law sits amongst other related laws, including the *Crimes Act 1958 (Vic)*, the *Summary Offences Act 1966* and other related laws

69. Legal advice sought to clarify Council's options regarding the Local Law to restrict the consumption of alcohol in public places makes reference only to the relationship with the *Summary Offences Act 1966* (and the associated *Summary Offences Amendment (Decriminalisation of Public Drunkenness) Bill 2020*, which passed the Victorian Parliament on 19 February 2021, as mentioned above). Accordingly, it is this, rather than the *Crimes Act 1958 (Vic)*, to which we look.
70. Specifically, the advice has regard to the act in considering the consequences of repealing the Local Law, the advice notes the Victorian Police have 'move on' powers under section 6 of the Act, reproduced as follows, as per the advice:
- (1) A police officer, or a protective services officer on duty at a designated place, may give a direction to a person or persons in a public place to leave the public place, or part of the public place, if the police officer or protective services officer suspects on reasonable grounds that—
    - (a) the person is or persons are breaching, or likely to breach, the peace; or
    - (b) the person is or persons are endangering, or likely to endanger, the safety of any other person; or
    - (c) the behaviour of the person or persons is likely to cause injury to a person or damage to property or is otherwise a risk to public safety.
  - (2) A direction under this section may be given orally.
  - (3) A direction under this section may direct the person or persons not to return to the public place or part of a public place or not to be in that public place or part for a specified period of not more than 24 hours.
  - (4) A person must not without reasonable excuse contravene a direction given to the person under this section.  
Penalty: 5 penalty units.
  - (4A) A protective services officer may only exercise the power to give a direction under this section in relation to a person who is at a public place that is at, or in the vicinity of, a designated place.
  - (5) This section does not apply in relation to a person who, whether in the company of other persons or not, is —
    - (a) picketing a place of employment; or
    - (b) demonstrating or protesting about a particular issue; or
    - (c) speaking, bearing or otherwise identifying with a banner, placard or sign or otherwise behaving in a way that is apparently intended to publicise the person's view about a particular issue.
71. Further, the advice notes that should the consumption of alcohol lead to disorderly conduct, section 17A of the *Summary Offences Act* also provides provision under which Victorian Police could issue an infringement notice.
72. There is not yet any forthcoming information as to the nature of any review of municipal local laws to restrict public drinking that may arise from the repeal of public drunkenness as an offence under the *Summary Offences Act*. However, in a presentation to the Municipal Association of Victoria, representatives of the Victorian Government indicated that the repeal of Public Drunkenness must occur in parallel with other processes, such as an examination of local laws.

73. The use of the summary offences act however is a reactive tool for managing behaviour around public events is limited to situation where an offence either has already or is highly likely to occur, whereas the local law has enabled the opportunity for early intervention measures including education of the law, requests to cease and the tipping out of alcohol from open containers.

## **The consultation**

### Methodology and timelines

74. As directed by Council in item J of Resolution 6372, Council officers commissioned researchers from Monash University (in partnership with Turning Point and the Centre for Alcohol Policy Research at La Trobe University) to explore the experiences and needs of people who drink in public spaces in the City of Yarra.
75. The researchers were tasked with undertaking consultation with Aboriginal and Torres Strait Islander people and other marginalised street drinkers and to conduct qualitative research into the lived experience and sentiments of street drinkers in the City of Yarra. This included gauging the impacts of regulation and enforcement of public drinking laws and examination of the means to progress a socially just, public health approach.
76. Between November 2019 and February 2020, the researchers were appointed and commenced preparing the approach, methodology and processes to gain ethics approval to undertake the consultation. From January 2020, recruitment commenced with a significant focus on ensuring that the majority of participants were street drinkers from Aboriginal and Torres Strait Islander backgrounds.
77. The Aboriginal Partnerships and Social Strategy Units have worked closely together since October 2019 to facilitate the ongoing consultation with the Aboriginal and Torres Strait Islander community and other relevant Aboriginal community service stakeholders.
78. Part of this process was to ensure the project was guided by a stakeholder steering committee, which held its first session on 19 February 2020. Membership comprised local health and welfare service providers, Yarra Council officers, Victoria Police and representatives from Aboriginal and Torres Strait Islander services and organisations. This committee was established in line with the request of Council Resolution 6372 item I) to investigate options of conducting regular meetings with the Aboriginal and Torres Strait Islander community, relevant Council officers and Victoria Police to discuss the operation of the Local Law.
79. The consultation commenced in early March 2020. In response to the COVID-19 worldwide pandemic, a state of emergency was declared by Premier Daniel Andrews in the state of Victoria on 16 March 2020. On 30 March 2020, Stage three restrictions were introduced for a period of at least four weeks (with only four reasons to leave your home: food and supplies, medical care, exercise, and work or education).
80. Stage three or four restrictions related to COVID-19 continued for the best part of April 2020 through to late October 2020 in metropolitan Melbourne. For this entire period, the consultation was unable to continue, and the project was placed on hiatus.
81. Following a reconvening of the stakeholder steering committee meeting in late October 2020, the consultation recommenced in November 2020. Recruitment was carried out by publicising the consultation through the researchers existing alcohol-treatment service networks and Council officers helped facilitate community connections.
82. Consultation concluded in January 2021 with a total of 40 participants. It is noted that 63 percent of participants were from an Aboriginal and/or Torres Strait Islander background.
83. The report was provided to Council officers from the consultants on 12 February 2021 and finalised during the subsequent week (see Attachment 1).

84. On 18 February 2021, the first Yana Ngargna meeting for the year was held. The main agenda item for the meeting was the tabling and discussion of the findings from the consultation report, with the purpose to discuss the findings and provide advice from the community to Council. Following the meeting, information was sent out to all members of Yana Ngargna, to invite additional opportunity for those from the Aboriginal and Torres Strait Islander community to respond to the findings in the report and provide advice back to Council.
85. A stakeholder Steering Committee meeting was held on 25 February 2021, of which the purpose was to discuss the findings and provide additional advice and information to council.

#### Context

86. Just as the law was considered a contentious solution in 2009, the consultation indicated that the law is deemed by those community members who are against it to be racist and discriminatory with adverse effects directed towards vulnerable populations, such as the Aboriginal and Torres Strait Islander community. This view is a long-held perspective, with historical reference often made to the origins of Local Law 8 in 2009.
87. There is a lack of hard data as to enforcement of the local law since 2013, because it is said to be used as a cautionary tool, a situation that makes it difficult to quantify its application and analyse this alongside anecdotal evidence. With respect to public events, the local law has tended to be used extensively as an engagement tool by police to ensure existing public drinking stops, rather than as a punitive enforcement or fining tool. Council's local laws team can confirm that no fines have been realised in the last 8 years.
88. As mentioned elsewhere in this report, it is noted that the issues of public drunkenness as compared to the consumption of liquor in public places are distinct, yet unavoidably related, especially in the minds of those not entrenched in the topic. To date the process undertaken by officers has been directed to examine public *drinking*, not *drunkenness*, as defined in the current local law. However, it is important to note that the nature of qualitative data collected throughout the impact consultation is that it is based on the experiential perspective of participants who do not necessarily view the laws and associated issues as distinct.
89. There is currently a Memorandum of Understanding (Protocol) that outlines an agreement between Council and the Victorian Police as to the manner of enforcement of the Local Law, however there is no mechanism to determine how closely this is followed, or how effective it is. Anecdotal evidence is that it has become difficult to monitor in recent years, it is said to be used as a cautionary tool, and that relationships between the Victorian Police and community stakeholders need to be re-established, as they have deteriorated for a variety of reasons (e.g. turnover of community service workers and local police members, people having moved on, passed away or ceased street drinking).
90. As per Council's request, officers, as a part of the ongoing consultation, have conducted regular meetings as to the operation of the Local Law with the Aboriginal and Torres Strait Islander community and other community services and stakeholders, including the Victoria Police and representatives from the Department of Health and Human Services and Department of Justice. One of the actions to come out of the group is a commitment to reconvene the Smith Street Working Group and begin rebuilding relationships between stakeholders through this and similar initiatives.
91. In terms of wider context, were Council not to have any Local Law in place concerning public consumption of alcohol in public places, there would be no mechanism to restrict consumption of liquor outside of licensed premises in activity centres, nor in the municipality on New Year's Eve, January 26, or at festivals and around sporting events, including the AFL Grand Final Day and evening.

#### Findings and themes

92. The researchers explored three interconnected areas in interviews and focus groups with research participants:
  - (a) Experiences of public drinking;

- (b) Views and impacts of the public drinking local law; and
- (c) Suggestions and desires for appropriate ways of responding to public drinking.

93. Key themes of the findings are grouped under each discussion area as follows:

Experiences of public drinking	Views and impacts of the public drinking local law	Participant suggestions for preferred response
<ul style="list-style-type: none"> <li>• Positive:                             <ul style="list-style-type: none"> <li>• Pleasure and social connection</li> <li>• Cultural and community connection</li> </ul> </li> <li>• Negative:                             <ul style="list-style-type: none"> <li>• Health harms</li> <li>• Exposure to violence</li> <li>• Experiences of stigma</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• The law unfairly targets marginalised groups</li> <li>• The law is ineffective</li> <li>• Repeal the law</li> </ul>	<ul style="list-style-type: none"> <li>• Preferred responders: outreach, community, health and legal aid workers</li> <li>• Suggested services: wet houses, sobering up services and outreach</li> <li>• Broader response: access to health and social services, outreach and emergency worker training</li> </ul>

94. As mentioned in previous sections of this report, the results were discussed with the consultation steering group, as well as in an independently facilitated session of the Yana Ngargna advisory group.
95. While the Yana Ngargna group agreed with the themes that emerged in participant interviews, there were concerns raised as to what an alternative response would look like, what this might involve and whether it would be appropriately resourced. The issue of how to respond to and manage safety around major public events however, was not specifically presented to the group for input.
96. Both groups noted the complexity of attitudes and feelings towards the law given the Aboriginal and Torres Strait Islander community’s historical experience as a key demographic for Local Law 8 (as discussed in the Background section above). It was felt by the group that it is important to acknowledge the impact of this and that it cannot be extricated from the current discussion.
97. One respected Elder noted that, having completed this initial stage of consultation with street drinkers and Aboriginal and Torres Strait Islander community and service providers, the discussion must now be broadened out to include other stakeholders and the wider community. Particularly, he noted the importance of trader associations and liquor licensees (including packaged liquor outlets) with regard to addressing alcohol harms and local impacts.

**Other issues**

Community relations and law enforcement

98. Over many years, Council has sustained and strengthened many significant and respectful working relationships with a number of key stakeholders in the community. Some of these networks include the Yarra Drug and Health Forum, Yana Ngargna Advisory Committee, the Yarra Aboriginal Support Network (YASN), Community Partnerships meeting, Local Safety Reference Group, to name only a few.
99. Drawing on these relationships, and as requested by Resolution 6372, item j, the consultation was overseen by Council officers in conjunction with the newly established steering committee of community members, stakeholders and experts with considerable combined knowledge. Members of this working group include Aboriginal and Torres Strait Islander community service providers, Department of Justice, Department of Health, Department of Families, Fairness and Housing, Victoria Police, alcohol and drug policy experts, local legal services, Neighbourhood Justice Centre, health services, outreach workers and the consultation’s expert researchers.

100. Through the current consultation and discussions with community members, it has become clear within the steering committee that the majority (but not all) stakeholder groups view inequity and racism as being inherent in the current Consumption of Liquor in Public Places Local Law 2019 (and historically in Local Law 8). It is evident that the historical and intergenerational trauma experienced in the Aboriginal and Torres Strait Islander community cannot be separated from the perception of these local law(s).
101. The consultation findings and feedback from the Aboriginal and Torres Strait Islander community (and the majority of the stakeholder group), have been clear and consistent in holding the view that the local law represents an opportunity for discrimination towards the Aboriginal and Torres Strait Islander community.
102. Further to this, and as mentioned above, within the steering committee it has become apparent that the relationships once held between the Aboriginal and Torres Strait Islander community and Victoria Police, such as the time in which the Smith Street Working Group was in operation, have deteriorated. Although it is difficult to untangle the exact touchpoints between the community and Victoria Police, discussions have revealed that relationships are not what they once were. There is some recognition that this is due, in part, to the turnover of community service workers and local police members with established relationships but also due to some people having moved on, passed away or ceased street drinking.
103. It is noted that Victoria Police have consistently attended the steering committee meetings, however it is not straightforward to translate the good will that may exist at the more senior levels into informed discretionary behaviours at the operational level. To do so requires consistency and ongoing dedication for people to build trusting and respectful relationships at all levels of interaction over time. There has been a clear commitment from Victoria Police to do this. Cultural awareness is essential as well as robust processes within all stakeholder groups that interact in the public domain.
104. Some in the stakeholder group have made the assertion that, from a quantitative perspective, it can be difficult to pinpoint the particulars of the damage that this local law is viewed to have caused to the Aboriginal and Torres Strait Islander community, as compared to the influence, intersection and application of many other laws – including, for example, the offence of public drunkenness. This has been viewed as especially difficult when considering the significance (or lack thereof) placed on anecdotal, qualitative evidence in the weighting of decision-making.
105. This issue of guiding the application of discretion in enforcement speaks to the barriers that must be addressed if structure to guide police and community relations in Yarra is to be enacted effectively and consistently. While practical collaborative working groups, such as the Smith Street Working Group, have been measurably proven to improve community relationships, health outcomes and amenity in contested public spaces, the overall mechanisms available in Yarra's Memorandum of Understanding with the Victorian Police are viewed as limited in effectiveness.

#### Contemporaneous issues in Yarra

106. The use of public space (and what behaviours are considered acceptable within public spaces) remains a contested issue and constant point of debate within the community. This contest has continued in the intervening period since the current local law was adopted in October 2019, including as outlined in the sections above.
107. It is noted that, since Local Law 8 was adopted in 2010, there have been a number of problematic incidents within public spaces in Yarra, which have involved the public consumption of liquor. Perhaps the most significant of these was the illegal dance party that took place in Edinburgh Gardens on New Year's Eve in 2013, which attracted up to 20,000 revellers and resulted in several assaults and a clean-up bill of more than \$30,000. Since then, there has been a ban on drinking on New Year's Eve in all public spaces in Yarra, with all-ages entertainment programmed in Edinburgh Gardens to create a family-friendly environment, and additional temporary infrastructure in Yarra's parks to increase amenity.

108. Over the last 10 years, the AFL Finals period has continued to attract significant crowds to the MCG. It is notable that, particularly over the last five years, Grand Final Day is an increasingly popular occasion for thousands of people to congregate near the MCG at locations in and around Swan Street, and has become the principal location to watch live sport or socialise after attending a nearby match, regardless of which teams feature in significant matches.
109. Over the last few years, there have been some incidents of anti-social behaviour, on Grand Final Day in particular, which have involved issues around consumption of liquor (sometimes in public places), and also public drunkenness. It is noteworthy that each year a significant amount of work is undertaken to ensure community safety and public amenity is maintained for this occurrence, with the local law forming the nucleus of the safety strategy. This preparedness commences months in advance of the Grand Final Day, led by Council officers, with active contributions and communications with external stakeholders and Council, to maintain amenity and promote community safety and wellbeing during the day and into the evening and next morning.
110. Most recently, the effects of the COVID-19 pandemic restrictions on limiting indoor gatherings and restricting movement outside a 5–25 kilometre radius has amplified the use of outdoor public areas and particularly parks and gardens, some of which are 'prescribed areas' that allow the consumption of liquor between certain hours, under the *Consumption of Liquor in Public Places Local Law*. The use of outdoor public spaces to meet within limited groups, and for a time as the sole opportunity for congregation, has created some disturbance and mounting concerns from the community, particularly over the recent summer months.
111. In terms of the dynamic public context related to the contested use and tolerable behaviours in public spaces (and indeed the consumption of liquor and anti-social behaviours in public spaces), it is noted that on 15 December 2020, Council Resolution 6859 required officers to, among a number of other requirements, establish an Edinburgh Gardens Working Group of regular park users, local residents and a representative of Fitzroy North Primary School, to inform future management of the gardens in peak periods over summer and public holidays.
112. The Terms of Reference document for this working group is currently being prepared, with a working group to meet as soon as possible upon completion. Officers have been directed to ensure the working group represents the diverse users of the Gardens, residents and key stakeholders and that the working group meet as soon as possible after the conclusion of the selection process.
113. This recent Resolution showcases the contested use of public spaces within the municipality, and particularly relates to issues including (but not limited to) the consumption of liquor and anti-social behaviours. As is the case for this work with regard to the local law, Council officers are currently undertaking a cross-organisational approach to meet the requirements of this Resolution, too.
114. The City of Yarra is renowned for being home to a unique, dynamic and celebrated night-time economy which unfortunately, has been significantly impacted by the COVID-19 pandemic. The issue of consumption of liquor in and around entertainment precincts (publicly and/or within licensed venues) and related community safety concerns remains a live tension which is managed through productive relationships, frequent communication and information sharing with Victoria Police, traders' associations, licensed venues, the Yarra Street Pastors and various others servicing and accessing the space. It is noted that the amplified use of outdoor areas and extensions to outdoor trading areas/use of parklets in response to the COVID-19 pandemic remains a key area of consideration in relation to crime statistics and public order, particularly noted by Victoria Police.

115. The duty of care and responsibility to the community in and around entertainment precincts and particularly around events and public holidays such as Grand Final Day remains an important issue with changing contexts and it must be kept in mind when considering mechanisms to respond to issues arising from the public consumption of liquor. Further investigation into how this could be best managed remains a key consideration for Council to provide further direction.

Other notable considerations

116. As raised by some in the Aboriginal and Torres Strait Islander community during discussion of the findings, it is important to note that consultation on the current local law has been limited to one demographic, while the future regarding public consumption of liquor in Yarra is yet to be decided and is subject to consultation with a number of other affected stakeholder groups.
117. It is fundamental that the Aboriginal and Torres Strait Islander community is part of any future actions taken in response to public consumption of alcohol, although the issues at stake are large and complex, and cannot be resolved from a single perspective. This matter also requires that a diverse variety of stakeholders, and the wider community become part of the conversation around any future direction taken by Council.
118. Elements of alternative responses, such as a public health model include the need to consider:
- (a) Transportation;
  - (b) Outreach workers;
  - (c) Health workers;
  - (d) Sobering up facilities with accommodation that is both culturally and gender appropriate; and
  - (e) Programs to involve people in supportive activities that encourage social connection.
119. Any alternatives or complements to a bylaw will have to be considered, planned, consulted on, and effectively costed and resourced. Consideration will also need to be given to the repeal of public drunkenness from the *Summary Offences Act* (a two-year repeal process with different health-based responses being trialled in parallel) and possible implications for public consumption of liquor local laws across Victoria.
120. A preliminary discussion was held with Aboriginal and Torres Strait Islander health, legal and cultural service providers and while considerable good will was shown from all involved to develop a feasible health model as an alternative response to the local law, it was agreed that any alternative option would require planning and a network of partners with considerable resources and a long-term commitment. Otherwise, as one person at the Yana Ngargna meeting noted, it could just be 'dumped' on existing, over-worked, under-resourced services to fulfil the obligations of the model, making their situation worse and impacting negatively on outcomes for the community.
121. An intention of the current local law is to manage public amenity and community safety as a pre-emptive tool (e.g. the escalation of anti-social behaviours as canvassed earlier). The risk in this is the way in which pre-empting behaviours lends itself to judgements involving unconscious bias and other prejudicial factors that can influence the discretion required for enforcement.
122. It is important to note that the Aboriginal and Torres Strait Islander community in Yarra has consistently voiced concerns that the local law affords opportunities for prejudice, stereotypes and profiling. This view has been made clear to Council through the invitation to consult. With this view made clear, the next step is to continue this conversation with the wider community. It would be a risk for Council not to acknowledge the local Aboriginal and Torres Strait Islander view on this issue, and the historical trauma that has been brought to light through consultation discussions. It would equally be a risk not to consult also with the wider community regarding the impact of any changes to the local law, as any snap

decisions made without a full picture and consultation process could have serious ramifications amongst the community and undermine stakeholder relationships.

123. In relation to the municipal night-time economy, licensed venues have expressed concerns to Council officers regarding pre-loading prior to attending events and side-loading during the course of visits to entertainment precincts. These practices enable people to get drunk and maintain a level of drunkenness affordably, but without the protections associated with licensed environments. Victoria Police have made it abundantly clear throughout the stakeholder group meetings and in submissions to the local law adopted in 2019 that they view the local law as an essential tool for their policing around crime prevention, community safety and keeping the peace.
124. In a 2014 evaluation of Yarra's Local Law 8 by Pennay et al for the National Drug Law Enforcement Research Fund, titled *Prohibiting public drinking in an urban area: Determining the impacts on police, the community and marginalised groups*, the researchers note that support for Local Law 8 at that time, while lower than other comparable municipalities, was still an 'overwhelming majority', being 67.9 percent of the residents and traders consulted (p. 49). It was also observed that the law appeared to have had a strong effect on improving amenity and perceptions of safety, although the recent nature of the law at that point made it difficult to definitively say (p. 57). However, residents in the study's focus groups reflected that, while they were pleased with the effects of the law on street drinking during the day, they were still concerned about problematic behaviours resulting from drinking at night in association with entertainment precincts (p. 49). It was noted that this appeared to be the main focus of amenity concerns after the introduction of the law.
125. Although gender has not been a central part of the discussion of consumption of liquor in Yarra to date, it is important to note the demographic breakdown of consultation participants in the current consultation, of whom 35 percent identify as women and 5 percent as LGBTIQ+. Drinking in public places, both with regard to street drinking, and also as an effect of the night-time economy, has considerable impact on people's perceptions of safety, and gender is no small part of this. Literature concerned with managing behaviours associated with the night-time economy point to the key demographic at the heart of the issues as primarily being men. It is problematic anti-social behaviours by men that laws and strategies around managing the night-time economy seek to address. Accordingly, it is key that consideration be given to gender analysis at the next stage of work in this matter.

### Options

126. In establishing future directions or when making decisions on the matters discussed in this report, it is advised that Council give due consideration to the following matters:
- (a) The current context cannot be separated from the community's perceptions of *Local Law 8*, which reverberates into the *Consumption of Liquor in Public Places Local Law* (adopted in October 2019), and will continue through to any future local law that affords an opportunity to discriminate;
  - (b) That inequity and racism is still viewed as inherent in the current *Consumption of Liquor in Public Places Local Law*, and that the consultation findings, associated research and majority of the steering committee feedback demonstrates that trauma felt by the Aboriginal and Torres Strait Islander community continues today;
  - (c) The issues of public drunkenness as compared to the consumption of liquor in public places are distinct, yet unavoidably related;
  - (d) This situation presents an opportunity for Council to address the evident historical and ongoing distress and trauma experienced in the Aboriginal and Torres Strait Islander community;
  - (e) There have been significant moments when Australian governments have made sincere and genuine efforts to apologise to the Aboriginal and Torres Strait Islander communities for past wrongs;

- (f) The issues brought to light through this consultation are interlinked with a changing external environment including in relation to legislation, such as the repeal of public drunkenness from the *Summary Offences Act*. There is the possibility of a trial site for the Victorian Government’s new model of care to be in the City of Yarra;
- (g) Legal advice is that Council can only revoke an existing local law by making a new local law, with regard to the current *Consumption of Liquor in Public Places* local law due to sunset on 19 October 2021;
- (h) It is paramount that the opinions and experiences of the Aboriginal and Torres Strait Islander community are valued and shared in broader consultation and engagement on this matter;
- (i) Acknowledgement that the use of public spaces – and the behaviours considered acceptable within public spaces, including the consumption of liquor – remains a contested issue and a constant point of debate within the community;
- (j) Acknowledgement that community safety and public amenity issues within our entertainment and night-time economy precincts, including in relation to major events such as New Year’s Eve and the AFL Grand Final, must be considered with regard to the consumption of liquor in public places.

127. Support the following parameters for the broad stakeholder engagement:

- (a) Continue the conversation with the Aboriginal and Torres Strait Islander community, including about how to address the evident historical and ongoing distress and trauma experienced;
- (b) Whether to allow the current Consumption of Liquor in Public Places Local Law to sunset on 19 October 2021; and
- (c) Whether it is appropriate to create a mechanism within a new local law or Yarra’s General Local Law 2016 that enables Council to prescribe measures to promote public health and amenity at certain places and/or certain times and/or for certain events; and
- (d) Whether it is beneficial or desirable to create a complementary alcohol and other drug policy, one that is referenced in any future local law and explicitly articulates Council’s positions and objectives in regard to community safety, public health promotion and harm minimisation, including harm reduction; and
- (e) How to support a local health-based response with regard to the issue of alcohol related harm, particularly episodic, and that responds to the unique context of Yarra with its popular entertainment and night-time economy precincts, destination parks and reserves, and major public events.

128. Note that direction will be sought from Council at the meeting on 1 June for a decision to commence formal consultation on the future of any local law or an alternative response in relation to public consumption of liquor in public places.

### Community and stakeholder engagement

129. The community engagement and research undertaken so far was stage one of the work required to inform Council of impacts and options regarding the future of the *Consumption of Liquor in Public Places 2019* Local Law.

130. The timeframe for the process between now and the sunseting of the law in October 2021 is as follows, with the current stage highlighted:

Date	Action
18 – 23 February	Consultation report received and discussed with community and stakeholders
<b>15 March</b>	<b>Council Briefing</b>

<b>30 March</b>	<b>Report to Council Meeting</b>
April	Broad stakeholder engagement
Early May	Consultation results analysed
17 May	Council Briefing
<b>1 June</b>	<b>Council Meeting – decision to commence formal consultation</b>
Mid-June to mid-July	Formal consultation undertaken
Late July	Consultation results analysed
August	Proposal finalised
6 September <i>or</i> 4 October	Council Briefing – proposal for review
<b>5 October <i>or</i> 19 October</b>	<b>Council Meeting – decision on local law</b>
<b>19 October</b>	<b>Existing law sunsets</b>

131. As noted above, a respected Elder in the steering group raised concerns that the consultation had not yet included traders’ associations and licensees, despite the responsibility these groups hold in regard to supply of liquor in Yarra. The Elder suggested that broadening the conversation to involve the wider community is the next logical step in the process of Council deciding on the future response to public drinking and it would be remiss not to do so on such a contentious issue.
132. Council’s recently adopted Engagement Policy commits to a process that ensures transparent and accountable engagement, which seeks to ensure that Yarra’s community clearly understands ‘the scope and potential impact of a decision, the type of influence they can have on it’ and that they are made aware of the outcomes of their participation. This is achieved through a cycle of three stages:
- (a) Empowering with information;
  - (b) Explaining the scope of influence; and
  - (c) Report back on the outcome and next steps.

## Policy analysis

### Alignment to Council Plan

133. Objective 2, An Inclusive Yarra, is applicable to this work through Strategy 2.2, as follows:

*Remain a highly inclusive municipality, proactive in advancing and advocating for the rights and interests of specific groups in the community and community issues.*

### Climate emergency and sustainability implications

134. Nil.

### Community and social implications

135. As noted above, there are inherent risks and potentially negative implications if a continued consultation process is not followed through with the wider community (e.g. traders, residents, Edinburgh Gardens Committee).

### Economic development implications

136. Consultation with traders is an important part of the wider consultation to come, as discussed throughout this report.
137. It is noted that due to the implications of COVID-19, many traders will be under pressure to make up for lost revenue, particularly in the hospitality and entertainment industries.

138. Contested public spaces, such as Edinburgh Gardens are experiencing heightened community demand and commensurate issues in relation to socialisation and the safety of the community during easing restrictions and development of a 'COVID-normal'.

#### Human rights and gender equality implications

139. When the existing local law was brought before Council in October 2019, it included a compatibility statement with regard to Victoria's Human Rights Charter. Another assessment will be undertaken with any statutory process that results from the next stages of this work.
140. As noted in the discussion above, there are considerable gender implications to reflect upon with regard to any consumption of liquor in public places response. Issues for consideration include but are not limited to: safety, health, anti-social behaviours and the impacts of masculine binge drinking culture. It is recommended that a detailed gender analysis be carried out as part of the next stage of work on this matter.

### Operational analysis

#### Financial and resource impacts

141. Alternative responses to manage the consumption of liquor in public places would require considerable financial and human resources. Further work is necessary to understand how such responses would be resourced and commissioned.

#### Legal Implications

142. In relation to the time horizon and life of the current *Consumption of Liquor in Public Places Local Law*, the following legal advice has been received in regard to the *Legislation Act 1984*, the *Local Government Act 1989* (current until 1 July 2021), and the *Local Government Act 2020* (from 1 July 2021 onwards).

- (i) *Council can only revoke an existing local law by making a new local law. As much is clear from the Interpretation of Legislation Act 1984 (the ILA).*
- (ii) *A local law revoking an existing local law does not require the approval of the Minister or, for that matter, any external party.*
- (iii) *Until 1 July this year, the statutory process for revoking an existing local law (by making a new local law) is governed by the 1989 Act. In broad terms, this involves Council:*

3.1 *resolving to give public notice of its intention to make a local law (which revokes an existing local law) and inviting submissions under s 223 of the 1989 Act.*

*Notice must also appear in the Victoria Government Gazette (the Gazette);*

3.2 *considering any submissions that are made under s 223;*

*and*

3.3 *resolving to make the local law (the effect of which is to revoke the existing local law), and to give public notice of this.*

*Notice must also appear in the Gazette.*

*From 1 July onwards, the process will be governed by the Local Government Act 2020 (the 2020 Act). That process is not altogether certain, given the possibility that Regulations may be made as to where any public notice must appear.*

*What is clear is that – broadly speaking – the process will involve Council:*

3.4 *resolving to give notice on its internet site of its intention to make a new local law (revoking an existing local law);*

3.5 *undertaking a community engagement process, in accordance with its community engagement policy;*

- 3.6 *obtaining a certificate from an Australian lawyer with the requisite qualifications that the local law will be consistent with the 'local law requirements' set out in the 2020 Act; and*
- 3.7 *resolving to make the local law (having the effect of revoking the existing local law), and to give public notice of this in the Gazette and on Council's internet site.*

## Conclusion

- 143. The consumption of liquor in public places and the associated issues are complex. It is important to note that the Aboriginal and Torres Strait Islander community in Yarra has consistently voiced concerns that the local law affords opportunities for prejudice, stereotypes and profiling.
- 144. With this view made clear, the next step is to continue this conversation with the wider community. Further work is required, as set out throughout this report, to ensure that Council has a full picture of the available options, associated costs and resourcing, and that the impact of any decisions taken by Council in response to issues arising from public consumption of liquor are fully understood by and discussed with the broader community and all stakeholders.
- 145. There is a clear need for Council to acknowledge the local Aboriginal and Torres Strait Islander community's view on this issue, and the historical trauma that has been brought to light through consultation discussions. Council must also consult with the wider community regarding the impact of any changes to the local law, particularly in the current context, as any snap decisions made without a full picture and consultation process could have serious ramifications amongst the community and challenge important stakeholder relationships.

## RECOMMENDATION

- 1. That Council:
  - (a) note that the principal purpose of this report has been to present the consultation and associated research findings requested in Resolution 6372 to Council for consideration.
  - (b) note that the presentation of the consultation findings and associated research is the preliminary stage of a multi-faceted program of work which includes:
    - (i) a thorough and nuanced investigation of multiple options;
    - (ii) broad stakeholder engagement including continued engagement with the Aboriginal and Torres Strait Islander community;
    - (iii) generating a proposal and seeking a direction from Council in mid-2021; and
    - (iv) completing the required statutory process(es);
  - (c) note that in establishing future directions or when making decisions on the matters discussed in this report, Council gives due consideration to the following matters:
    - (i) the current context cannot be separated from the community's perceptions of *Local Law 8*, which reverberates into the *Consumption of Liquor in Public Places Local Law* (adopted in October 2019), and will continue through to any future local law that affords an opportunity to discriminate;
    - (ii) that inequity and racism is still viewed as inherent in the current *Consumption of Liquor in Public Places Local Law*, and that the consultation findings, associated research and majority of the steering committee feedback demonstrates that trauma felt by the Aboriginal and Torres Strait Islander community continues today;

- (iii) the issues of public drunkenness as compared to the consumption of liquor in public places are distinct, yet unavoidably related;
  - (iv) this situation presents an opportunity for Council to address the evident historical and ongoing distress and trauma experienced in the Aboriginal and Torres Strait Islander community;
  - (v) there have been significant moments when Australian governments have made sincere and genuine efforts to apologise to the Aboriginal and Torres Strait Islander communities for past wrongs;
  - (vi) the issues brought to light through this consultation are interlinked with a changing external environment including in relation to legislation, such as the repeal of public drunkenness from the *Summary Offences Act*. There is the possibility of a trial site for the Victorian Government's new model of care to be in the City of Yarra;
  - (vii) legal advice is that Council can only revoke an existing local law by making a new local law, with regard to the current *Consumption of Liquor in Public Places* local law due to sunset on 19 October 2021;
  - (viii) it is paramount that the opinions and experiences of the Aboriginal and Torres Strait Islander community are valued and shared in broader consultation and engagement on this matter;
  - (ix) acknowledgement that the use of public spaces – and the behaviours considered acceptable within public spaces, including the consumption of liquor – remains a contested issue and a constant point of debate within the community;
  - (x) acknowledgement that community safety and public amenity issues within our entertainment and night-time economy precincts, including in relation to major events such as New Year's Eve and the AFL Grand Final, must be considered with regard to the consumption of liquor in public places;
- (d) endorse the following timelines and corresponding milestones for the 2021 calendar year:
- (i) 30 March: Report to Council Meeting;
  - (ii) April: Broad stakeholder engagement;
  - (iii) Early May: Consultation results analysed; and
  - (iv) 17 May: Council Briefing;
- (e) support the following lines of inquiry for the broad stakeholder engagement:
- (i) Whether to allow the current *Consumption of Liquor in Public Places Local Law* to sunset on 19 October 2021; and
  - (ii) Whether it is appropriate to create a mechanism within a new local law or within Yarra's General Local Law 2016 that enables Council to prescribe measures to promote public health and amenity at certain places and/or certain times and/or for certain events; and
  - (iii) Whether it is beneficial or desirable to create a complementary alcohol and other drug policy, one that is referenced in any future local law and explicitly articulates Council's positions and objectives regarding community safety, health promotion and harm minimisation, including harm reduction; and
  - (iv) How to support a local health-based response with regard to the issue of alcohol related harm, particularly episodic, and that responds to the unique context of Yarra with its popular entertainment and night time economy precincts, destination parks and reserves, and major public events;

- (f) note that direction will be sought from Council at the meeting on 1 June for a decision to commence formal consultation on the future of any local law or an alternative response in relation to public consumption of liquor in public places;
- (g) acknowledges the historical distress and trauma experienced in the Aboriginal and Torres Strait Islander community and that this cannot be separated from this community's perceptions of Local Law 8, which reverberates into the Consumption of Liquor in Public Places Local Law (adopted in October 2019); and
- (h) maintains its commitment to the ongoing dialogue with the Aboriginal and Torres Strait Islander community as it considers the future of local laws for the consumption of liquor in public places, and the means by which a socially just, health-based approach can be promoted.

## Attachments

- 1 Yarra - Consultation on public drinking report FINAL 26 Feb 2021
- 2 Yarra - Consumption of Liquor in Public Places Local Law 2019
- 3 Boroondara - Amenity Local Law
- 4 Maribyrnong - General-Purposes-Local-Law-2015
- 5 Maribyrnong - Alcohol-and-Other-Drugs-Policy-2017-2021
- 6 Melbourne - Activities-local-law-2019
- 7 Moreland - General-local-law-2018
- 8 Port Phillip - Local-law-number-1-community-amenity
- 9 Port Phillip - Updated-procedures-and-protocols-manual
- 10 Stonnington - General-local-law-2018

## 8.5 Appointment of Authorised Officers under the Planning and Environment Act 1987

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<b>Reference</b>	D21/23229
<b>Author</b>	Rhys Thomas - Senior Governance Advisor
<b>Authoriser</b>	Group Manager Chief Executive's Office

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### Purpose

1. To provide for the formal appointment of Council Officers as Authorised Officers pursuant to Section 147(4) of the Planning and Environment Act 1987 and Section 313 of the Local Government Act 2020.

### Critical analysis

#### History and background

2. In order to conduct inspection, enforcement and prosecution activities on Council's behalf, officers require specific authorisation under the relevant legislation. While authorisation for most legislation is provided by the Chief Executive Officer acting under delegation, specific provisions of the Planning and Environment Act 1987 require that the authorisation be made directly by Council resolution.

#### Discussion

3. In order to undertake the duties of office, staff members listed in the recommendation require authorisation under the Planning and Environment Act 1987.
4. In addition, authorisation must also be provided under section 313 of the Local Government Act 2020 in order to enable these officers to commence enforcement action where necessary.

#### Options

5. No options are presented in this report.

### Community and stakeholder engagement

6. No community engagement has been undertaken.

### Policy analysis

#### Alignment to Council Plan

7. As part of Objective 7: A leading Yarra, the City of Yarra Council Plan 2017-2021 contains the strategy "*Maintain a culture of transparency, governance, ethical practice and management of risks that instils a high level of community respect and confidence in Council decision-making*".
8. The transparent appointment of authorised officer ensures compliance with the law and Council's commitment to good governance.

#### Climate emergency and sustainability implications

9. This report has no climate emergency or sustainability implications.

#### Community and social implications

10. This report has no community or social implications.

#### Economic development implications

11. This report has no economic development implications.

### Human rights and gender equality implications

12. This report has no human rights or gender equality implications.

### Operational analysis

#### Financial and resource impacts

13. There are no financial or resource impacts of this report.

#### Legal Implications

14. Appointment of Authorised Officers under the Planning and Environment Act 1987 requires a formal resolution of Council. Where such authorisation is proposed to be granted, provision is also made to allow the respective officer to also initiate proceedings on behalf of Council (as provided in Section 313 of the Local Government Act 2020).

### Conclusion

15. That Council formally appoint the officers listed below as Authorised Officers pursuant to Section 147 (4) of the Planning and Environment Act 1987 and Section 313 of the Local Government Act 2020. The Instruments of Appointment and Authorisation document will be signed accordingly by the Chief Executive Officer.

### RECOMMENDATION

1. In the exercise of the powers conferred by s 147(4) of the Planning and Environment Act 1987, Council resolves that:
  - (a) Tim DALZIEL; and
  - (b) Allison PASZNYK,be appointed and authorised as set out in the instrument at **Attachment One**; and
  - (c) each instrument comes into force immediately it is signed by Council's Chief Executive Officer, and remains in force until Council determines to vary or revoke it.

### Attachments

- 1 TEMPLATE Instrument of Appointment and Authorisation - Planning Enforcement Officer