



Agenda

Council Meeting

7.00pm, Tuesday 7 December 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 Sophie Wade | Mayor |
| • Cr Edward Crossland | Deputy Mayor |
| • Cr Gabrielle de Vietri | Councillor |
| • Cr Stephen Jolly | Councillor |
| • Cr Herschel Landes | Councillor |
| • Cr Anab Mohamud | Councillor |
| • Cr Claudia Nguyen | Councillor |
| • Cr Bridgid O’Brien | Councillor |
| • Cr Amanda Stone | 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

The following items were deemed by the Chief Executive Officer to be suitable for consideration in closed session in accordance with section 66(2)(a) of the Local Government Act 2020. In accordance with that Act, Council may resolve to consider these issues in open or closed session.

RECOMMENDATION

1. That the meeting be closed to members of the public, in accordance with section 66(2)(a) of the Local Government Act 2020, to allow consideration of confidential information

Item

5.1 C1563 Fitzy Bowl Revitalisation Project Tender Evaluation Report

This item is to be considered in closed session to allow consideration of 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.

These grounds are applicable because the report contains information that has been submitted on a commercial in confidence basis as part of a procurement process.

5.2 Update on Progress of the Yarra Energy Foundation

This item is to be considered in closed session to allow consideration of 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.

These grounds are applicable because the report contains internal financial information provided by an independent entity that operates in a competitive commercial environment.

6. Confirmation of minutes

RECOMMENDATION

That the minutes of the Ceremonial Meeting held on Tuesday 16 November and Council Meeting held on Tuesday 23 November 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	Elizabeth Street Protected Bike Lanes Trial	9	16	Simon Exon – Unit Manager Strategic Transport
8.2	Amendment C297yara - Interim Heritage Overlays in Collingwood	17	20	Fiona Van der Hoeven – Practice Leader Strategic Planning
8.3	30m Strip of land abutting Yarra River at former AMCOR site	22	26	Bruce Phillips – Director Planning and Place Making
8.4	Arts and Culture Strategy 2022-2026	27	32	Siu Chan – Business Unit Manager Arts, Culture and Venues
8.5	City of Yarra Procurement Policy 2021	33	34	Wei Chen – Chief Financial Officer
8.6	Proposal to Declare Land Abutting Sandeman Place Fitzroy as Public Highway	35	39	Ivan Gilbert - Group Manager Chief Executive's Office
8.7	Appointment of Authorised Officers under the Planning and Environment Act 1987	41	42	Rhys Thomas - Senior Governance Advisor
8.8	Appointment of Council delegates	43	45	Rhys Thomas - Senior Governance Advisor

9. Notices of motion

Nil

10. Petitions and joint letters

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

11. Questions without notice

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

12. Delegate's reports

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

13. General business

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

14. Urgent business

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

8.1 Elizabeth Street Protected Bike Lanes Trial

Reference	D21/185659
Author	Simon Exon - Unit Manager Strategic Transport
Authoriser	Director Planning and Place Making

Purpose

1. For Council to consider extending the existing 12-month pilot trial of protected bike lanes on Elizabeth Street given the ongoing impacts on movement of persons due to the COVID-19 pandemic and also the significant difficulties with data collection.

Critical analysis

History and background

2. Elizabeth Street is designated as a 'strategic cycling corridor' by the Department of Transport and connects the central city via Albert Street in East Melbourne to Richmond and the inner east suburbs.
3. Protected (or separated) bike lanes on Elizabeth Street were first proposed in Council's 2010 Bicycle Strategy.
4. In December 2019, Council resolved to implement a 12-month trial of protected bike lanes on Elizabeth Street.
5. The 'Pilot and Trial' methodology (as detailed in that Council report) emphasised ongoing data collection and engagement with the community to assess how the trial is performing before a decision would be made on any permanent road design.
6. It is also noted that the 'Pilot and Trial' approach has been used as the first iteration of *possible* permanent protected bike lanes in this location using more permanent materials and landscaping.
7. The image below shows an image of the pilot and trial protected bike lanes outcome through the use of bollards and chevron paint lines to delineate the lanes.



Notes:

- (a) It is noted that the intention of any permanent protected bike lanes in this location, is to plant trees on the northern side of the roadway, between the separated bike lane (east bound) and the carriageway for vehicles (where the chevron lines are to the right hand side of the above image);
- (b) This would be tree plantings that, at semi maturity, would begin to provide some upper canopy, and hence shade and amenity improvements to this particular location;
- (c) The Elizabeth Street location was one of the identified areas in the adopted *Urban Forest Strategy (2017)* analysis of the need for tree plantings (upper canopy); and
- (d) The intent of any permanent works is that it comprise both protected bike lanes in each direction, with comfortable and safe space for cycling, and also the inclusion of vegetation.

The current Trial

- 8. The original intention was to deliver the trial project in April 2020. This was delayed due to practical matters associated with COVID-19 at that time, instead the trial was installed in July 2020.
- 9. The Council resolution stated that the installed trial design option would remain in situ between the conclusion of the trial at 12 months, and the production of a report to Council detailing its performance to inform decision making on any longer-term road treatment.
- 10. The resolution also stated that this report be produced as soon as practicable following the completion of the 12-month trial, but within six months of its completion.
- 11. The trial road configuration installed in July 2020 (in the specific layout as formally endorsed in December 2019) was again considered by Council in September 2020 (approximately three months after it was installed). This was in response to questions from some members of the local community regarding the rationale for certain aspects of the design. Some of these queries specifically related to the width of the protected bike lanes and why on-street car parking needed to be removed on the north side of the street to achieve these widths.
- 12. It is important to note that the protected bike lane widths are to create modern standard bike lanes. They are also compliant with the new draft State Government cycle design guidelines (yet to be formally released).
- 13. At this width, they provide the following benefits:
 - (a) enable cyclists of different speeds to pass each other;
 - (b) provide a more comfortable and safer riding environment;
 - (c) allow one cyclist to swerve around another cyclist in the event of a sudden stop due to an incident (a puncture or broken chain);
 - (d) increase the capacity of the bike lane;
 - (e) responds to feedback from cyclists using Wellington Street protected bike lanes (indicating that they should be wider for safety and passing);
 - (f) provide more space for cargo bikes, child trailers etc.;
 - (g) keep cyclists away from driver side car doors, and also away from the gutter and the drainage channel to the left; and
 - (h) allow cyclists to avoid any other debris in the bike lane (e.g. broken glass).
- 14. It is also noted that the requirement to remove parking along one side of this street was first acknowledged in the 2010 Council Bike Strategy; it was again acknowledged in the 2016 Council Bike Strategy Refresh.
- 15. Council resolved at the September 2020 meeting to continue with the trial design specifically as endorsed at the December 2019 meeting and installed three months prior in July 2020.

The evaluation phase

16. It is clear that pandemic lockdowns and anxieties of people around being exposed to COVID-19 have severely impacted everyone's lives in multiple ways, including the purpose of trips, distance of trips and way in which people travel. This has made assessing trials in any street environment in Melbourne very difficult.
17. The December 2019 Council resolution was made before COVID-19 occurred, and at that time, it was reasonable to assume that nothing would prevent data collection and other survey work from:
 - (a) being physically collected; and
 - (b) that the data collected would represent a normal ongoing situation of how infrastructure is used and performs to inform subsequent decision making.

Discussion

18. The pandemic is still ongoing, as are its impacts on transport and movement.
 19. Data collection over the last 12 months has been very challenging with continual and sometimes extended lockdowns making any informed assessment of a trial in a 'normal ongoing day to day setting' impossible. For example, commuter cycling, train and tram numbers are significantly down across the whole of inner Melbourne, as hundreds of thousands of people employed at CBD offices have primarily been working from home.
 20. Further, schools, universities, café's, shops, museums, galleries, hotels, sports stadiums and even children's playgrounds have also been closed with obvious impacts. It has been anticipated that once 80% of the population are vaccinated then most things will be able to open up in a COVID-19 safe way and will then be able to stay open. Some anxieties in persons will still no doubt exist for some time regarding travel modes.
 21. Notwithstanding COVID-19 and the lockdowns, three quarterly rounds of data collections and survey work have been undertaken by independent consultants engaged by Council (see Attachment 1).
 22. Quarterly reports providing a summary of the data collection have been provided to Councillors previously on Diligent Board software.
 23. A pop-up event targeted at CALD communities was also completed in March 2021.
 24. The '*Your Say Yarra*' page includes an interactive map of the project, which allows the community to add comments on the trial and is checked regularly by officers.
 25. A fourth and final quarterly round of data collection was scheduled for July 2021, but has not been possible due to further lockdowns until some days ago.
 26. The following statistical aspects are provided for information:
 - (a) there has been 317 contributions (including 12 attending the CALD interpreter assisted event in June); and
 - (b) 86% of those contributors were local to Richmond, Abbotsford or Collingwood.
 27. Further, the analysis of key themes identified in these contributions highlighted:
 - (a) 28% expressed support for the project because of improved safety (includes reference to improved experience of females and child cyclists);
 - (b) 4% were advocating for the extension of trial area;
 - (c) 22% raised concerns related to perceived safety issues (majority relating to narrowness of parking lanes and driving lanes and sight lines at intersections);
 - (d) 8% expressing dissatisfaction around parking removal and less availability of parking;
 - (e) 19% expressed concern at the perceived lack of transparency in the consultation (majority advocating a need to be consulted prior to the installation of the trial infrastructure), and
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(f) the remainder related to issues out of the scope of this engagement.

28. From the data collected between lockdowns, the following observations, at this time, can be made:

- (a) the proportion of women and children cycling on Elizabeth Street has increased. This aligns with Council objectives to get a wider cross section of society cycling in Yarra;
- (b) peak hour cycle journeys have reduced although interpeak trips have also increased. This could be down due to COVID-19 and/or the provision of safe facilities which are used for a broader range of purposes throughout the day;
- (c) 575 people have so far participated in intercept surveys on Elizabeth Street across the three quarters. 71% of survey participants encompassing a wide range of people using Elizabeth Street for various purposes across various transport modes said that they were satisfied or very satisfied with the project. This is a positive number particularly given approximately 70% of all respondents had not cycled to Elizabeth Street when interviewed;
- (d) further segmentation of the data showed that those most likely to be unsatisfied or very unsatisfied with the project tended to be people primarily using cars as a mode of transport;
- (e) the average vehicle speeds are now slightly lower;
- (f) traffic volumes have varied for obvious reasons;

Note:

- (i) the traffic volumes were lower, but have trended upwards at various times of the year depending on the COVID-19 situation; and
- (ii) this trend is consistent with traffic volumes across inner-Melbourne. It is assumed this is because people are avoiding public transport due to physical distancing, it could also be because some people do not feel safe using a bicycle on Melbourne's roads and consequently choose to drive; and
- (g) three rounds of extensive on-street and off-street car parking surveys covering thousands of spaces have been undertaken to date. This has shown that parking is still available in the local area. (NB. it should be noted that finding on-street parking is a common challenge for a busy inner-city area and street space is finite).

29. It is also noted that since the installation in July 2020, a number of small adjustments have been made to the trial in response to community feedback; these include:

- (a) removal of some bollards to reduce street clutter;
- (b) additional signage;
- (c) changes to some car parking restrictions;
- (d) the installation of disability permit bay; and
- (e) improvements to visibility splays for cars entering Elizabeth Street from side streets.

Options

30. There are two options available to Council.

31. **Option 1 – determine a position on the protected bike lanes.**

32. **Option 1** is that Council resolves to make a decision on the trial as soon as is practically possible. There are 2 sub options outlined below for Council consideration.

33. This would need to use data that has been collected over the course of the previous 12 months during the height of the COVID-19 pandemic.

34. Under this scenario officers would report back to Council on permanent options for Elizabeth Street. These options would include:

- (a) Option 1(a): returning the road to its pre-trial design. That is, reinstallation of relatively narrow unprotected bike lanes next to parked cars (on both sides of the road) and passing traffic; and
- (b) Option 1 (b): installing permanent protected bike lanes, trees and other street treatments.

NB. There is significant capital funding required to complete the works in a permanent manner; and this would be subject to further reporting to Council. It is noted that any permanent protected bike lanes works is in the many hundred of thousand of dollars.

35. **Option 2 – determine to extend the trial due to COVID-19 impacts on evaluation**

36. **Option 2** is that Council resolves to extend the trial by 12 months (e.g. from the date that 80% of the Victorian population is fully vaccinated being November). This would then be post metropolitan wide lockdowns enabling for people’s lives to return to some semblance of normality or a new post COVID-19 normality.

37. In this option, the evaluation processes would continue and provide a more realistic appraisal of the trial project to inform future decisions making by the Council. Officers would also explore opportunities for State Government to fund any permanent protected bike lane treatment on Elizabeth Street and report back as part of future discussions on treatments for this street.

NB. Some costs would be minor repair works to the road pavement as required which is anticipated to be approx. \$30K for a 12 months period.

Officer Recommendation on options

38. The officer recommendation is for Council to extend the trial (Option 2): so that more data can be collected for a solid 12-month period that is not peppered with lockdowns and significant disruptions to how people live and travel. It would also allow time for officers to pursue opportunities for State Government to help fund any permanent protected bike lanes in the future.

39. In Option 2, all aspects of how the trial currently operates, managed and monitored as agreed as part of the December 2019 resolution, would continue. This would include:

- (a) continuing with the specific existing design as installed in July 2020 (and endorsed by Council in December 2019 and endorsed again in October 2020);
- (b) continuing to authorise the Director, Planning and Place Making to instruct staff to make minor (or tweak type) adjustments to the trial where appropriate, and until Council forms an opinion on its future;
- (c) continuing the program of data collection and survey work;
- (d) continuing with a further pop up engagement event in the street in February 2022 targeted at the CALD community; and
- (e) officers continuing to keep Councillors informed on the above matters, including the survey and intercept data reports.

Community and stakeholder engagement

40. The formal Council meeting process provides an opportunity for external parties to comment on the topic of extending this existing protected bike lane trial. No other consultation has been undertaken on the specific topic of extending the trial.

41. Discussions have occurred with the City Works Division of Council to understand the road surface and trial infrastructure maintenance aspects should the trial be extended. The outcomes of these discussions are that a scheduled road re-sheet can be moved back as need be, without causing a significant asset management issue. Low cost patch ups (approx. \$ 30 K) to the road surface can also be undertaken as required over the next 12 months.

42. It is noted that the trial infrastructure (bollards, decals, signage and other things) is holding up relatively well and could remain in situ (with some patching as required), should the trial be extended by Council.
43. Council policies and procedures regarding CALD community consultation have been followed during the trial and would continue if the trial is extended by Council.
44. Further communication to the community would be implemented with all relevant stakeholders and residents to outline any extension of the trial or other decisions of Council.

Policy analysis

Alignment to Community Vision and Council Plan

45. The project is a pilot and trial of protected bike lanes in a particular street which is on a 'strategic cycling corridor'.
46. The Council Plan encourages the use of trials to improve safety in a specific environment.

Climate emergency and sustainability implications

47. Undertaking pilot and trials, and providing protected bike lanes to deliver infrastructure quickly, and relatively cheaply, to encourage cycling is consistent with a number Council's transport and Climate Emergency Plan objectives.

Community and social implications

48. There are not any known new social implications are associated with extending or not extending the trial.
49. Some community members have previously expressed concerns and implications of the trial. These were expressed in the September 2020 Council report and discussed at that meeting.

Economic development implications

50. No known economic implications associated specifically with extending the trial.
51. Some minor changes to the trial were made previously in response to feedback from a trader at the western end of the street.

Human rights and gender equality implications

52. There are no known specific human rights implications.
53. Some access, amenity and or economic issues have been expressed including from local religious organisations.
54. The intent of the pilot and trial, in part, is to encourage more usage of cycling as a means of accessing the city by all persons, including females and children, who at times, may be more anxious about cycling on roads with no protected lanes.

Operational analysis

Financial and resource impacts

55. The financial implications depend on the option being considered by Council. In this regard:
 - (a) the option of extending the trial for say 12 months (Option 2) would be the cost of incurring some minor road maintenance and material maintenance of approx. \$ 30 K to \$ 40 K; and
 - (b) the cost of returning the road to its pre-trial design would be approximately \$80 K (that is, to remove the trial infrastructure and reinstate the line-marking to the pre-trail condition).
 56. It is highlighted that changing / rearranging road space with permanent works is very expensive – that is why a trial has occurred in the first instance for evaluation purposes.
 57. It is noted for illustration, that the Wellington Street protected bike lanes (with concrete separator islands) was very expensive with a large component paid by State Government.
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58. The cost of any permanent changes to install protected bike lanes in Elizabeth Street aligned to the cross section of the current trial, include the following:
- (a) a full resheet of the full road of some \$ 700 K; that needs to be done within the next few years in any event; it is currently scheduled for 23/24;
 - (b) any permanent protected bike infrastructure (e.g. concrete kerbs / tree installations / soil preparations for trees etc) would need to be subject to full design aspects being resolved and what standard of fittings Council may determine to use – in this regard, the full cost of permanent protected bike lane infrastructure could range from \$500 K to approx. \$ 1 M, or possibly more (tbd through design work and specific costings); and
 - (c) any other variations of the current profile of the trial project (e.g. any crossings) would also need to be costed.
59. Further rounds of data collection and intercept survey work would be required.

Legal Implications

60. There are no known legal implication of an extension to the trial due to current circumstances of COVID-19 lockdowns over an extended period.

Conclusion

61. The Elizabeth Street protected bike lane trial was installed as a pilot and trial in July 2020. This approval by Council included specific dimensions of the various lanes – the reasons were outlined in the previous reports.
62. This route is on the 'strategic cycle corridor' in and out of the central city area and importantly, joins up with the separated bike lanes in Albert Street, East Melbourne.
63. The pilot and trial was endorsed to run for 12 months with Council due to decide on a permanent treatment within six months of the conclusion of the trial.
64. The pilot and trial is to inform future decision making of Council, and if were to be made permanent by a Council decision, it would also enable some tree planting on the northern side of the roadway, between the carriageway and the bike lane, as a means of separation, but also to provide upper canopy trees once they achieve semi maturity. This would add to the ambience of the street and add shade to the street which is currently lacking.
65. Three rounds of quarterly data collection have been completed over a 12-month period that has been heavily disrupted due to COVID-19 lockdowns; a fourth and final round has not been possible due to continual lockdowns over many months since mid this year.
66. This report provides options for the Council consideration; with one option being to consider extending the trial. That option would enable additional data to be collected during a new COVID-19 normal to inform decision making on the future of the pilot and trial and what should be the permanent treatment for Elizabeth Street.
67. Council is asked to determine the future of the current pilot and trial protected bike lanes on Elizabeth Street, Richmond and provide direction to officers.

RECOMMENDATION

1. That Council:
 - (a) notes the contents of the officers report on the Elizabeth Street protected bike lanes pilot and trial; and
 - (b) notes the options outlined for Council consideration, including abandoning the trial, or continuing with the trial at this stage for a further period in order to assess its performance with additional data.
2. That Council, having noted the officer report and options presented, now determine a course of action regarding the current pilot and trial protected bike lanes in Elizabeth Street, Richmond in order to provide direction to Council officers.
3. That, if this pilot and trial of protected bike lanes on Elizabeth Street is to continue for a further period of time, Council resolve as follows:
 - (a) to retain the current layout and configuration of the project as it currently exists including the specific width of the cycling lanes to provide lanes with maximum safety and passing manoeuvres on a strategic cycling route;
 - (b) to authorise the Director, Planning and Place Making to instruct staff to make minor adjustments to the trial, where appropriate, until Council forms an opinion on its future;
 - (c) that officers continue with the program of data collection and survey work to inform future Council decisions;
 - (d) that officers arrange a further pop up engagement event in the street in February 2022 targeted at the CALD community to gather further community opinions;
 - (e) to continue to run and monitor the *Your Say Yarra* web page regarding this trial; and
 - (f) note that officers will continue to provide updates to Councillors once further survey results are received.

Attachments

- 1 Elizabeth Street Memo Q1
- 2 Elizabeth Street Memo Q2
- 3 Elizabeth Street Memo Q3

8.2 Amendment C297yara - Interim Heritage Overlays in Collingwood

Reference	D21/178046
Author	Joerg Langeloh - Project and Policy Coordinator
Authoriser	Manager City Strategy

Purpose

1. The purpose of this report is to:
 - (a) inform Council of gaps in the heritage overlay as identified in the strategic background reports; and
 - (b) recommend that Council request the Minister for Planning consider the approval of interim Heritage Overlays as in recommended Amendment C297yara.

Critical analysis

History and background

2. GJM Heritage were engaged to provide heritage advice and prepared the following reports to assist officers in preparing interim design and development overlays (DDOs) for Alexandra and Victoria Parade:
 - (a) *Built Form Review: Alexandra Parade – Heritage Analysis and Recommendations* (see **Attachment 1**); and
 - (b) *Built Form Review: Victoria Parade – Heritage Analysis and Recommendations* (see **Attachment 2**).
3. These reports have informed the interim DDO's 38 and 39; and provided parts of the strategic justification for Amendment C288.
4. Amendment C288 was gazetted on 22 October 2021 and now forms part of the Yarra Planning Scheme.
5. Next to providing heritage advice that informed interim DDOs 38 and 39, the reports analysed gaps, inconsistencies and inaccuracies with the current heritage provisions along the Parades and provided recommendations for addressing these issues.
6. Two areas were considered to be gaps within the current heritage overlay:
 - (a) 484 Smith Street, Collingwood: Known as the Gasometer Hotel (See Figure 1); and
 - (b) 205-219 Victoria Parade, Collingwood: A row of shops between Islington and Hoddle Streets (see Figure 2).

Figure 1: 484 Smith Street, Collingwood



Figure 2: 205-219 Victoria Parade, Collingwood



Discussion

7. The GJM Heritage reports as in Attachments 1 and 2 include Heritage Citations and Statements of Significance (see **Attachments 3 and 4**) that outline the justification for including the two locations in the heritage overlay. Table 1 below provides a summary:

Table 1: Summary of the justification for including the 2 locations in the Heritage Overlay

484 Smith Street, Collingwood Taken from the Statement of Significance	205-219 Victoria Parade, Collingwood Taken from the Statement of Significance
Elements that contribute to the significance of the heritage place are, amongst others, the original, external form; materials and detailing of the building; integrity of its original design; façade parapet and pitched roofs behind.	The precinct contains a mix of single to two storey shops from the Victorian period. The brick buildings have rendered facades with some façade detailing present and visible chimneys. Some minimal alterations are present at ground level (i.e. wider shop windows).
The Gasometer Hotel is of local historical and architectural significance to the City of Yarra.	It was considered that “ <i>The buildings retain a high degree of integrity to the Victorian period in fabric, form and detail.</i> ” The alterations did, in GJM’s view, not “ <i>diminish the ability to understand and appreciate the precinct as a highly intact row of Victorian commercial premises.</i> ”
Its significance lies in being a suburban hotel on a prominent corner location and displaying typical characteristics of the early Victorian period in Collingwood.	The inclusion in the overlay is see as justified due to the precinct being illustrative of the historical development along the early major commercial thoroughfare in Yarra and being an intact, representative row of Victorian commercial premises.
Recommended grading: Individually Significant	Recommended grading: Contributory

- 8. With the gazettal of Amendment C288, development pressure has been acknowledged and responded to. The logical consequence would be to pursue interim HOs to ensure the heritage fabric is protected until permanent heritage overlays are in place.
- 9. The heritage advice for the interim DDOs for Amendment C288 utilised the findings regarding the two locations. Changes to the interim DDOs 38 and 39 are not necessary.

10. The recommended formal planning scheme amendment documents for C297yara are contained in **Attachment 5** for Council consideration.

Options

11. Council has the following options:
- (a) pursue a proposed interim HO amendment until the permanent heritage overlays are in place. This is recommended as the heritage fabric could be lost due to the lead-in times for planning scheme amendments; or
 - (b) commence a permanent amendment immediately. This is not recommended as permanent heritage overlays for these two locations are recommended to be part of the future Fitzroy-Collingwood built form provision amendment to introduce permanent DDOs.

Community and stakeholder engagement

12. The strategic background reports have been prepared with input from Council's Strategic Planning and Statutory Planning teams and Council's Senior Heritage Advisor.
13. The strategic background reports have been public since the Council Meeting of 30 March 2021, when the Fitzroy-Collingwood Stage 2 interim built form provisions for Alexandra Parade, Victoria Parade and the Fitzroy West Mixed Use Zone area were presented to Council. However, gaps in the heritage overlay were not specifically highlighted.
14. On 19 November 2021 landowners have been sent a letter to provide advance notice of C297 and this Council Meeting. It was undertaken to provide landowners some time to view the documentation, enquire with officers and decide whether to participate at the Council Meeting.
15. As part of a future targeted consultation approach to help inform future permanent DDOs and HOs for Fitzroy and Collingwood, landowners and interested parties would be able to provide feedback on the interim DDOs and interim HOs.
16. Following the targeted consultation, the intended permanent amendment process would include extensive public exhibition and allow for the opportunity to ask questions and make formal submissions. This is likely to occur in the first half of 2022.

Policy analysis

Alignment to Community Vision and Council Plan

17. The request to introduce the two interim HOs in Collingwood also supports the following strategy in the Council Plan:
- (a) *4.1 Protect Yarra's heritage and neighbourhood character.*

Climate emergency and sustainability implications

18. There are no sustainability implications for requesting the Minister for Planning to introduce interim HO's.

Community and social implications

19. There are no specific social implications for requesting the Minister for Planning to introduce interim HO's.
20. The approach seeks to provide increased certainty to the community around retaining valued heritage fabric in Collingwood.

Economic development implications

21. There are no economic implications to Council for requesting the Minister for Planning to introduce interim HOs to the two locations in Collingwood.

22. It is noted that for certain buildings and works, planning permission would be required. Depending on the type of works and value of construction, this may incur a planning permit application fee to the landowner.

Human rights and gender equality implications

23. There are no known human rights implications for requesting the Minister for Planning to introduce interim HO's to the areas outlined in this report.

Operational analysis

Financial and resource impacts

24. The costs were part of the interim built form provisions for Alexandra and Victoria Parades and Fitzroy West.
25. Future costs would occur for preparing permanent provisions in the future.

Legal Implications

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

Conclusion

27. Requesting interim heritage overlays is a logical consequence of the interim DDO's 38 and 39 having been gazetted to seek to ensure valued heritage fabric is being retained until permanent HO's are put in place.
28. Future permanent HO's would likely be part of the *Yarra Activity Centre Standing Advisory Committee* process along with permanent DDOs for Fitzroy-Collingwood. This is likely to commence in the beginning of 2022.
29. Community engagement would occur in two stages: First as part of a targeted, informal consultation to seek feedback on the interim provisions, and second as part of the formal exhibition of permanent provisions in 2022.

RECOMMENDATION

1. That Council:
 - (a) notes the officer report regarding the proposed Amendment to the Yarra Planning Scheme to be known as Amendment C297;
 - (b) notes the attachments regarding the recommended interim heritage overlay provisions for properties as outlined in the report;
 - (c) adopts for the purpose of supporting this amendment request, the supporting Heritage Analysis and Recommendations prepared by GJM Heritage at **Attachments 1, 2, 3, 4 and 5**;
 - (d) 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 Heritage Overlays HO's 506 and 508 on an interim basis into the Yarra Planning Scheme (**Attachment 3, 4 and 5**);
 - (e) 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
 - (f) authorises the CEO to make any minor adjustments required to meet the intent of the above resolution.

Attachments

- 1 Alexandra Parade Heritage Review
- 2 Victoria Parade Heritage Review
- 3 Statement of Significance 484 Smith Street, Collingwood
- 4 Citation -Statement of Significance 205-219 Victoria Parade, Collingwood
- 5 C297yara Formal Amendment Documents

8.3 30m Strip of land abutting Yarra River at former AMCOR site

Reference	D21/187995
Author	Bruce Phillips - Director Planning and Place Making
Authoriser	Director Planning and Place Making

Purpose

1. This report provides a short overview of the advocacy by Yarra City Council to the State Government, since December 2015, seeking to have this portion of land, (30 m strip at the southern edge of the former AMCOR site) abutting the Yarra River, vested in the State Government.
2. The report tables a recent letter from the Department of Environment, Land, Water and Planning dated 19 November which advances this matter.

Critical analysis

History and background

Council approval of Development Plan

3. Council made its decision on the redevelopment scheme regarding the former AMCOR site (the proposed 'Development Plan') back in December 2015 – that followed 2 rounds of community consultation.
4. The Council decision had a number of matters that needed to be modified in the 'Development Plan' to satisfy the Council requirements – the 'Development Plan' was signed off in May 2016 following those changes.
5. The river front land (a 30 metre strip of land) is currently privately owned by Glenvill through the purchase of the larger site from the AMCOR group of companies. This strip of land is required to be kept for passive recreation and not for development or any other landuse (other than a pathway).
6. Regarding this portion of land the Council 2015 decision was, in essence, for YCC to not take on its ownership – largely, on the basis that the land directly abuts the metropolitan resource of the Yarra River, and it should ideally be in the ownership of the State as part of that portfolio.

Advocacy regarding river front land to be in State ownership

7. The CEO and Director, Planning and Place Making, in 2016, began holding discussions with Melbourne Water, DELWP and Parks Victoria – this was at a time before the Yarra River legislation (although mooted), and an action in the now 'Yarra (River) Strategic Plan' for the State to undertake a middle Yarra River structure plan.
8. Advocacy in this regard has continued since 2016; this has included a number of meetings with senior officers at the State level.
9. This report now tables a very recent letter from the State Government proposing that this current freehold riparian land (30 m strip), be converted to Crown Land with Yarra City Council then appointed as Committee of Management.
10. The DELWP letter, which outlines this indented approach is an Attachment to this report.

Current status of this river front land and what needs to be done

11. A particular aspect regarding this 30 m strip of land has always been that, in part, it is also still contaminated (like a number of other parts of the former AMCOR industrial site which were, but now decontaminated).

12. Meetings have been held with the developer (Glenvill) a number of times including with their Environmental Consultant (GHD), and the independent environmental Auditor, regarding the contamination aspects of this river frontage. Glenvill fully accept its obligation to decontaminate this land like it has on the other parcels of the larger site.
13. In those discussions, it became apparent that the western half of the 30 m strip is contaminated with friable asbestos – and the eastern half apparently not. This is because the former industrial activity effectively bulldozed the site towards the river over the 100 years of occupation, and material ended up in this 30 m area (NB: the eastern part of this land was below the area that, for many decades had houses; but never built on as a factory extension).
14. Both GHD and the independent Environmental Auditor have previously concluded that stripping out the soil on the western side of the subject land, to a required depth in order to clear the contamination is the only safe way of decontaminating that portion, and hence making it 'fit for purpose' as space for the public to use.
It is noted that this will have the consequential aspect of the required removal of trees and vegetation on that half of the subject land; which would then require extensive revegetation, and also an approach (with various approvals required) that returns a full landscape river environs setting (a natural landscape).
15. The eastern half of the subject land would not, it is understood, require that technique.
16. This decontamination has been discussed at length with Glenvill and consultants, but still needs much more consideration and also information to Councillors, Council and the community. There will need to be a communications and engagement plan prepared to enable the discussions that are required to occur (this has not been commenced at this stage).
17. It is also noted that the river bank 'slump' issue occurred (late 2018), and the above conversations, were effectively put on hold in order to deal with that important matter – which still requires some resolution in the overall scheme of the river bank area. Note: Council has had Alluvium Consultants assisting in its conversations with the current owner and its consultants.
18. Some interim drainage arrangements have been put in place by Glenvill with the permissions from both Council and Melbourne Water – this has been some agriculture pipes ('agi pipes') to assist in the removing the seepage that has pooled in some locations on the river front area.
19. In the past 12 months, there has also been a number of workshops (Glenvill / Glenvill consultants and various YCC staff), regarding how this river edge land will need to be resolved as both 'fit for purpose', and how it can be re landscaped towards a natural river setting, but with the required underlying engineering aspects resolved (such as the seepage issue, but not solely that).
20. The river edge considerations do require a great deal more work; both in discussion and collaboration amongst many disciplines, and then a community communications and engagement program for outlining the situation, the complexities and a way forward.
21. An approvals and works process will then be required to be determined.
22. In short, a 'natural landscape setting' needs to be the final outcome achieved, but with some significant engineering aspects embedded in the underlying area. This will require a carefully resolved landscaped vision to drive the outcome of a regenerated landscape river environs setting.

Discussion

23. In relation to the letter from DELWP attached, further Councillor briefings and then a formal Council report will be required to provide a solid basis for formal Council considerations of the suggested YCC Committee of Management proposal by the State.

24. The letter is, however, considered a very good outcome for Council and the community in that it would enable the land to be placed in public ownership and as part of the parkland area abutting the Yarra River; and also provide a basis for advancing the river front area with some added certainty for all concerned.
25. This approach can have regard to the vision of the Yarra River Act and what it effectively represents; a vision of parklands / green spaces assembled over the years abutting the Yarra River.

Options

26. Council is being simply 'advised only' in this officer report regarding the 19 November letter from the DELWP.
27. Council will need to consider a formal position regarding the Committee of Management aspect of this DELWP letter. That will be subject of a separate officer report to Council for a determination after considering the officer analysis of those obligations. That is most likely to be in February 2022 after internal consultation occurs regarding an analysis of the obligations and financial aspects of becoming the Committee of Management for the land in State ownership.

Community and stakeholder engagement

28. There has been no particular community engagement at this stage on the river bank area, other than the overall public process of the Development Plan considerations in 2015 and prior.
29. It is noted that the community has broadly expressed a desire that this land be vested in a public authority to ensure its future availability to the broader community.
30. The remediation of the land (an obligation on the Glenwill company as the developer), for the land to be provided in a proper state for vesting to the State, will require a significant communications and engagement strategy by Council and other relevant agencies such as DELWP and Melbourne Water.
31. It is noted that there will be some very sensitive aspects to work through including, regrettably, tree loss to enable part of this portion of land (the western half) to be decontamination from the friable asbestos that exists in the soil.
32. A very good remediation and replanting program will need to be put into place following the required engineering aspects to resolve, amongst other important aspects, some technical drainage issues with the land in question. A number of meetings have been held with Glenwill and its consultants over the past few years on many of these aspects; a deal of further work is still required.

Policy analysis

Alignment to Community Vision and Council Plan

33. The river bank area is very special; and must be resolved with a landscaped outcome and also 'fit for purpose' for public usage.
34. The *Yarra River Protection (wilip-gin Birrarung murrn) Act 2017* and the Yarra Strategic Plan (meaning the River) are relevant matters in relation to this land.
35. The Community Vision and the Council Plan themes support the sustainability and protection of sensitive lands in Yarra.

Climate emergency and sustainability implications

36. The protection of the river lands is very important for many reasons.

Community and social implications

37. The community expect this land to be made available for public access. That is also secured by a Section 173 Agreement with Glenwill.

38. It is noted that the level change in the land from the crest of the hill to the river bank is substantial; hence, it being largely for passive use and access to the river edge and the required walking path.

Economic development implications

39. No implications.

Human rights and gender equality implications

40. The *Yarra River Protection (wilip-gin Birrarung murron) Act* and indigenous group views are important aspects.
41. A letter was forwarded to the Wurundjeri Woi Wurrung cultural Heritage Aboriginal Corporation on 16 June, 2021 seeking any comments that they wish to make on this river bank area; no response has been received at this point in time, but is being followed up.

Operational analysis

Financial and resource impacts

42. Nil in noting this report and the attached letter from DELWP.
43. The Committee of Management aspects that is referred to in the attached letter, does have financial aspects (over time); that will need to be reported to Council in the near future once officers have had regard to the matters that this raises.

Legal Implications

44. Nil at this stage, other than matters mentioned above.

Conclusion

45. The advocacy to have this land in public ownership has been pursued since 2016 following the Council decision in December 2015 regarding the Development Plan.
46. This has included meeting with senior Executives at DELWP, Parks Victoria and Melbourne Water over a period of years.
47. The recent letter (19 November 2021) is a breakthrough on this topic and is 'in principle' a very good outcome for the Council and the community.
48. The impact of the Committee of Management status needs to be resolved and that will be subject of officer analysis and then reported to Council for a formal position to be determined.

RECOMMENDATION

1. That Council note:
 - (a) the officer report regarding the 30 m strip of land abutting the Yarra River at the former AMCOR site, and in particular the advocacy that has been undertaken by Council officers to have the land vested in the State;
 - (b) the letter received from the Department of Environment, Land, Water and Planning dated 19 November as shown in the Attachment 1; and
 - (c) the letter sent to the Wurundjeri Woi Wurrung Cultural Heritage Aboriginal Corporation as shown in Attachment 2.
2. That Council write to the Secretary of the Department of Environment, Land, Water and Planning to:
 - (a) thank the Department for its considerations and the letter dated 19 November 2021;
 - (b) inform the Department that Council is very pleased with the broad intent of the letter; and
 - (c) inform the Department that Council officers will be further analysing the Committee of Management obligations and reporting back to Council in the near future and that Council will then provide a formal response to the letter received on 19 November, 2021.

Attachments

- 1 Letter from DELWP on Riparian land in Alphington
- 2 Riparian land in Alphington
- 3 Letter to the Wurundjeri Woi Wurrung Cultural Heritage Aboriginal Corporation

8.4 Arts and Culture Strategy 2022-2026

Reference	D21/170392
Author	Siu Chan - Unit Manager Arts, Culture and Venues
Authoriser	Unit Manager Arts, Culture and Venues

Purpose

1. To seek Council endorsement of the Arts and Culture Strategy 2022-2026 and approval for the 2022 Year 1 Action Plan to be implemented.

Critical analysis

History and background

2. Council received a report in October which presented the new draft Arts and Culture Strategy 2022-2026 and outlined the process that has been undertaken in its development.
3. Council noted the extraordinary circumstances under which the new strategy was developed and the significant impact the COVID-19 pandemic continues to have on the creative sector and the broader community; Council noted it has a critical role to play in supporting the recovery and optimising the opportunities.
4. Council noted the draft Arts and Culture Strategy was developed over two years and over 400 people (in the community and within council) had the opportunity to provide feedback in three distinct phases.
5. The draft Arts and Culture Strategy 2022–2026 sets out to build on the values and successes of the 2016–2020 strategy, while also responding to the threats and opportunities presented by the pandemic and the climate emergency.
6. It sets out five priorities:
 - (a) Our Aboriginal and Torres Strait Islander arts and cultures are at the heart of Yarra;
 - (b) Artists are essential to a thriving Yarra;
 - (c) Our arts and culture shape Yarra’s places and spaces;
 - (d) We celebrate and support our creative and diverse community; and
 - (e) Our arts contribute to an ecologically sustainable future.
7. To be delivered through six initiatives:
 - (a) We will increase our Aboriginal and Torres Strait Islander cultural competence;
 - (b) We will raise the prominence of Aboriginal and Torres Strait Islander arts in Yarra;
 - (c) We will safeguard our artists’ future;
 - (d) We will ensure that all of Yarra benefits from our arts and culture;
 - (e) Our arts and culture will present us with alternative futures; and
 - (f) Our arts and culture will advance Yarra’s sustainability goals.
8. In October, Council resolved for the draft Arts and Culture Strategy to be put on public exhibition for further community input as the final stage in endorsing the Arts and Culture Strategy 2022-2026. That process has now been completed and the feedback has been reviewed and incorporated where appropriate.

9. A 2022 Year 1 Action Plan has been drafted in accordance with the five priorities and six initiatives. This outlines 34 discreet actions with 13 of these as ongoing actions as well as 21 new actions.
10. Both the Arts and Culture Strategy 2022-2026 and the Year 1 Action Plan are now presented to Council for endorsement.

Discussion

11. Council's vision for arts and culture is unchanged and focused on championing a strong vibrant arts and culture sector where everyone in Yarra can enjoy a vibrant city and arts and culture is an everyday experience for all.
12. The impact of the COVID-19 pandemic is unparalleled and particularly detrimental to our creative community. This has led to an explicit focus on initiatives and actions to revitalise the creative economy and the arts and culture sector.
13. The Year 1 Action Plan responds to many issues and themes raised by the COVID-19 pandemic. Some of the proposed actions include:
 - (a) Delivering a new activation program to employ and showcase creatives in Yarra;
 - (b) Hosting a series of events that bring Yarra's artists, communities and generations together, provide skills and resource-sharing opportunities, and build connections between artists and representatives from other sectors;
 - (c) Partnering with Music Victoria and inner city councils to undertake a Live Music Census that will provide valuable data to inform our work;
 - (d) Review Yarra's arts grants scheme to identify ways to increase accessibility to the program and encourage collaboration between applicants with shared goals; and
 - (e) Trial a discounted use scheme for community facilities to creative practitioners.
14. Some explicit actions to address diversity and inclusion:
 - (a) Review Yarra's arts grants scheme to identify ways to increase accessibility to the program and encourage collaboration between applicants with shared goals;
 - (b) Accessible Live Music Venues project which will upskill independent live music venues (up to 500 capacity) in the City of Yarra to improve their access and inclusion practices; and
 - (c) Facilitate greater access to the program through more targeted communication and support e.g.: arts grant writing/presentation workshops for CALD communities.
15. In Year 1, Council will also continue its focus on Aboriginal and Torres Strait Islander community, consolidating on some of the work already achieved as well and expanding on new opportunities identified. These actions included:
 - (a) Raise the prominence of Aboriginal and Torres Strait Islander arts in Yarra:
 - (i) Up to two Aboriginal and Torres Strait Islander members to be recruited to the Yarra Arts Advisory Committee;
 - (b) Present a program that celebrates Aboriginal and Torres Strait Islander arts, culture and community:
 - (i) Smith Street Dreaming. (Ongoing); and
 - (ii) Aboriginal and Torres Strait Islander arts festival.
 - (c) Expand the documentation and celebration of the history of Yarra, that includes Aboriginal and Torres Strait Islander peoples:
 - (i) Second stage of review of policies for public art, monuments, plaques, place names as part of Black Lives Matter actions; and
 - (ii) Investigate the creation of a tribute to Archie Roach and Ruby Hunter.

16. In addressing the new priority on ecological sustainability in Year 1:
 - (a) Artist-in residence role to contribute to opportunities to accelerate climate action; and
 - (b) Provide targeted information online (e.g. FAQ) to support creative organisations and individuals develop sustainable practices and contribute to the circular economy.

Options

17. Not relevant to this report.

Community and stakeholder engagement

18. The draft Arts and Cultural Strategy 2022 – 2026 was put on public exhibition from 20 October to 10 November.
19. This was promoted through:
 - (a) Your Say Yarra;
 - (b) Yarracityarts website;
 - (c) Yarracityarts social media posts and electronic direct mail; and
 - (d) Directly to consultation participants.
20. Two submissions were received during the exhibition period.
21. The submissions raised the opportunity to consider services to marginalised and under-represented cohorts; to ensure Council provided inclusive services that considered particularly people with disabilities and for equal representation of women artists in public art and collection development.
22. Priority 4 of the Strategy highlights the commitment of Council in strengthening inclusion and supporting vulnerable communities. This will be integrated into ongoing programs and annual action plans will identify further specific ways this support will be delivered, such as those in the Year 1 Action Plan.

Policy analysis

Alignment to Community Vision and Council Plan

23. The Arts and Culture Strategy 2022-2026 is aligned with the Community Vision. It responds strongly to:
 - (a) Theme 1 – Strong and vibrant community:
 - (i) Ensure a trusting, safe and welcoming environment to invite active participation of people from all backgrounds with tolerance and acceptance;
 - (ii) Create opportunities for meaningful exchange of our experiences, culture and arts;
 - (iii) Encourage and facilitate community engagement by amplifying lesser-heard voices and addressing gaps; and
 - (iv) Celebrate Aboriginal and Torres Strait Islander culture and country.
 - (b) Theme 4 – Environmental sustainability:
 - (i) Lead the way in climate change mitigation and resilience within Yarra and extend our impact through advocacy and innovative partnership; and
 - (ii) Promote and facilitate a more efficient and effective waste management strategy that inclusively engages the community through education and awareness.
24. It is also aligned with the Council Plan 2021-2025, particularly to four of the six Strategic Objectives:

- (a) Climate and environment: Yarra urgently mitigate climate change while also adapting to its impacts and developing resilience in everything we do. The community, business and industry are supported and encouraged to do the same;
- (b) Social equity and health: Yarra's people have equitable access and opportunities to participate in community life. They are empowered, safe and included;
- (c) Local economy: Yarra's neighbourhoods and major activity centres, nightlife and employment precincts are thriving, accessible and connected. They support and inspire diverse creative communities, cultural activities, businesses, and local employment; and
- (d) Place and nature: Yarra's public places, streets and green open spaces bring our community together. They are planned to manage growth, protect our unique character and focus on people and nature.

Climate emergency and sustainability implications

- 25. Climate emergency and sustainability is one of the five identified priorities in the Arts and Cultural Strategy. Artists can help us imagine alternative futures and art and culture have a major role to play in achieving Council's sustainability goals.
- 26. Yarra Council was one of the first in the world to declare a climate emergency, and it is a key priority for Council that it reduces its carbon emissions to slow climate changes such as extreme heat and reduced annual rainfall. Yarra's goals include achieving net zero emissions by 2030, as well as enabling the community to take climate action.

Community and social implications

- 27. Yarra's population is economically and culturally diverse. While our socio-economic profile is relatively high, Yarra has pockets of disadvantage characterised by high unemployment and underemployment, and low-income households. It has a younger median age than Victoria as a whole, but it has fewer children and young adults, and fewer people over the age of 50. Our older residents value their ability to independently access a range of social and cultural programs and services.
- 28. The pandemic has put pressure on Yarra's community and repeated lockdowns have increased social isolation, and exacerbated risks to the community's wellbeing. Our most vulnerable residents – the aged, the homeless, the poor and the isolated – are also the most susceptible to the disease and the economic disruption it created.
- 29. This strategy seeks to continue to ensure that all of Yarra's residents across all our neighbourhoods benefit from the presence of arts and cultural initiatives, and that all feel included. Facilitating events, activities and intergenerational dialogue to build social connectedness for older residents are some of the initiatives that are identified in the strategy.

Economic development implications

- 30. Arts and culture continue to be important to Yarra's economy and communities. They are an important subset of the creative industries, which form one of Yarra's top four sectors of economic strength.
- 31. A key theme of Yarra's Economic Development Strategy is a 'creative, inclusive and sustainable economy' and Council aims to make Yarra a global hub for the arts sector. These industries are also growing.
- 32. Jobs in the creative industries are significant in Yarra, especially in the two identified creative precincts of Cremorne and Richmond and Collingwood where there are 5,528 creative jobs (15% of all jobs in area) and 2,178 creative jobs (18.8% of all jobs in area) respectively.
- 33. Arts and culture are also important generators for tourism and visitation. In the decade to 2019, total visitation to Yarra more than doubled, until more than half a million visitors were coming to Yarra every year. Many visitors and tourists are drawn by Yarra's arts and culture, as well as the night-life to which they are connected.

Human rights and gender equality implications

34. Equal access to and participation in artistic and cultural life is recognised in international law as a human right (International Covenant on Economic, Social and Cultural Rights, Article 15. Further to this, the arts can help give voice to those who aren't always able to access a platform to do so or have the power to speak up.

Operational analysis

Financial and resource impacts

35. The trend in funding and supporting arts and cultural activity across the Australia has seen an increased investment by local government authorities and state governments, most sharply demonstrated in the targeted funding packages for arts and cultural sector recovery that have been made available during the pandemic.
36. Over the three year period between 2018–2021, Yarra invested \$2.3 million in grants to community groups, including annual grants, Room to Create studio grants, and small project grants.
37. The Arts and Culture Strategy 2022-2026 initiatives include a review of the funding programs and distinct projects that will require further investments, either secured externally or by Council. There will be options for Council to consider reallocation of existing resources according to these priorities.
38. The Year 1 Action Plan has outlines 34 discreet actions, of which 21 are new and 13 ongoing. A majority of these actions have confirmed funding and some new initiatives where funding needs to be allocated by Council or are being sought from external agencies, these include:
 - (a) A public artwork to celebrate Archie Roach and Ruby Hunter - an application is being submitted to the State Government;
 - (b) An arts activation program – funding sought from State Government for the outdoor activation funding scheme; and
 - (c) An artist in residence project to address the ecological sustainability – a submission to Council to support via the budget process.

Legal Implications

39. Not relevant to this report.

Conclusion

40. Arts and culture are a core part of Yarra's identity and a strategy that outlines Council's vision and priorities is an important public testament of our intent.
41. Through an extensive consultation process with over 400 community members and all of Council departments over a two year period, five priorities and six initiatives have been developed to help Council achieve a vision that places arts and culture at the core of a strong and vibrant community.
42. The priorities and initiatives are critical to Yarra today in a post-pandemic, climate emergency landscape.
43. What these priorities and initiatives will look like can be demonstrated in the Year 1 Action Plan, where 21 new actions have been identified alongside 13 ongoing projects to be supported. Further Annual Action Plans are to be developed in subsequent years.
44. The Strategy affirms Council's commitment to the Aboriginal and Torres Strait Islander community, celebrates the cultural diversity and rich creativity of our city, recognises the unparalleled challenges faced by the creative sector arising from the pandemic and places our faith in artists to help the community to respond to the greatest challenge of our time – the climate emergency.

45. The previous strategy provided a roadmap for the establishment of important major initiatives for our communities and demonstrate the impact arts and culture can have. Projects such as: the Stolen Generations marker, *Remember Me*, a permanent tribute to Aboriginal people taken and lost from their families; the Room to Create program has provided medium and long term homes to seven important arts organisations and short term studio spaces; and the Leaps and Bounds music festival to support local venues and musicians through the traditional winter 'downtime', are some of the achievements that have contributed to the city's reputation as a creative city.
46. Many of these initiatives will continue to be supported with new actions planned annually during the life of this Strategy.
47. Yarra is well-known for its live music: prior to the pandemic, it was home to 75 music venues that presented over 16,000 gigs per year and in 2022 we will have a chance to review these figures again through the Live Music Census Project.
48. Yarra it is also home to numerous galleries and visual arts studios, theatre, performance, literature, public art, design, digital arts and film and craft. There are planned actions to bring these creatives together to increase opportunities for sharing and collaboration at the outset of the new Strategy.
49. It is anticipated that at the conclusion of this new Arts and Culture Strategy at the end of 2026, Yarra Council will have created a significant body of work and will have made an indelible impact on the people and the places across the municipality.

RECOMMENDATION

1. That Council:
 - (a) Council adopts the Arts and Culture Strategy 2022-2026 and
 - (b) Approves the Year 1 Action Plan.

Attachments

- 1 Arts and Culture Strategy 2022-2026 Final
- 2 Year 1 Action Plan - Arts and Culture Strategy 2022-2026

8.5 City of Yarra Procurement Policy 2021

Reference	D21/186949
Author	Wei Chen - Chief Financial Officer
Authoriser	Director Corporate, Business and Finance

Purpose

1. To present the Procurement Policy 2021 for council adoption.

Critical analysis

History and background

2. The new Local Government Act 2020 (the Act) is the most ambitious reform to the local government sector in over 30 years. The fundamental procurement practice principles remain the same, but the Act has made significant changes in the governance/administrative requirements on procurement activities.
3. Council is now more autonomous in setting thresholds and defining the processes and procedures to apply to procurement.
4. Council must adopt a Procurement Policy by 31 December 2021.
5. Council must review its Procurement Policy at least once during each 4 year term of the Council.

Discussion

6. Yarra City Council consistently strives to be a leader in sustainability in local government.
7. Our Procurement Policy 2021 reaffirms our commitment to climate emergency, sustainable procurement and social procurement. It is aligned with our aim to achieve ethical, sustainable and socially responsible procurement.
8. The Procurement Policy 2021 has been updated, in line with the changes in the Act.

Options

9. There are no other options.

Community and stakeholder engagement

10. The Procurement Policy 2021 has gone through an internal consultation process, in particular, with council staff in the sustainability, risk and governance areas.

Policy analysis

Alignment to Community Vision and Council Plan

11. The Procurement Policy 2021 is aligned to Community Vision and Council Plan.

Climate emergency and sustainability implications

12. The Procurement Policy 2021 will further strengthen Council's commitment to climate emergency and sustainability.

Community and social implications

13. The Procurement Policy 2021 will further strengthen Council's commitment to support local and indigenous business.

Economic development implications

14. There are no economic development implications.

[Human rights and gender equality implications](#)

15. The Procurement Policy 2021 will ensure the council staff act consistently with the human rights in the Charter of Human Rights and Responsibilities Act 2006 while undertaking procurement activities.

Operational analysis

[Financial and resource impacts](#)

16. The Procurement Policy 2021 will ensure a transparent process for procurement and a consistent approach to achieving best value for money, including optimal financial and social outcomes for the community when procuring goods/services and works.

[Legal Implications](#)

17. The Procurement Policy 2021 will fulfil Council's legal obligations in accordance with the Act.

Conclusion

18. Our procurement policy is being updated to reflect the changes required under the new Act while reaffirming our commitment to climate emergency, sustainability and social procurement.

RECOMMENDATION

1. That Council adopt the Procurement Policy 2021.

Attachments

- 1 Procurement Policy 2021

8.6 Proposal to Declare Land Abutting Sandeman Place Fitzroy as Public Highway

Reference	D21/182806
Author	Ivan Gilbert - Group Manager Chief Executive's Office
Authoriser	Group Manager Chief Executive's Office

Purpose

1. For Council to consider whether to declare the hiatus land and referenced parcel of common property at the southern end of Sandeman Place, Fitzroy (**Subject Land**) to be a public highway pursuant to section 204(1) of the *Local Government Act 1989 (Act)*.

Critical analysis

History and background

2. Factual background

- 2.1 The Subject Land is shown as the hatched area on the plans attached (refer **Attachment 1** Copy of Public Notice) to this Report and includes:
 - 2.1.1 the 'hiatus land' not contained in any certificate of title, shown hatched on the plan at Figure A (**Hiatus Parcel**); and
 - 2.1.2 part of the common property on registered plan of strata subdivision no. SP023103J at 75-79 Webb Street, Fitzroy, being part of the land contained in certificate of title volume 12137 folio 050, shown hatched on the plan at Figure B (**Webb Parcel**).
- 2.2 Sandeman Place is a bluestone laneway of approximately 4 metres in width that provides vehicular and pedestrian access to the rear of the properties at 174-178 George Street and 75-79 Webb Street, Fitzroy, from Charles Street, Fitzroy. The laneway comes to a dead-end at its southern end approximately 5.16 metres south of the northern boundary of 174-178 George Street where it abuts the Hiatus Parcel.
- 2.3 In March 2020, the lot owners of 75-79 Webb Street (**Webb St Owners**) sought assistance from Council because the lot owners of 174-178 George Street (**George St Owners**) erected a fence and steel gates that extended through, and enclosed a significant portion of, the Hiatus Parcel (**2020 Fence**). The Webb St Owners assert that the 2020 Fence substantially interferes with their ability to execute turning movements into and out of the common property 75-79 Webb Street so that they can exit Sandeman Place with vehicles in a forward direction (refer photograph on page 5 of **Attachment 2**).
- 2.4 Council officers are satisfied that the Hiatus Parcel was historically used to accommodate vehicular and pedestrian traffic from both 174-178 George Street and 75-79 Webb Street, Fitzroy, from at least 2009 until the erection of the 2020 Fence and, in all likelihood, far longer. On this basis, Council officers are satisfied that the Hiatus Parcel is a 'right of way' within the meaning of the Act and, therefore, constitutes a 'road' within the broad meaning specified in the Act, in respect of which Council is entitled to consider making a declaration pursuant to section 204(1) of the Act. Officers note, however, that the George St Owners assert that part of the Hiatus Parcel has been continuously and exclusively possessed by them, the implication being that it is not a 'road' for the purposes of the Act.
- 2.5 The Webb Parcel also appears as part of the navigable section of Sandeman Place and has been used for vehicular access to the common property at the rear of 75-79 Webb Street, Fitzroy, since at least 2009. The Webb Parcel has been included as part of the Subject Land to ensure uninhibited vehicular access to the rear of 73 Webb Street and 75-79 Webb Street, based on an Engineering Report commissioned by Council (see **Attachment 2** Engineering Report) which revealed that the Webb Parcel is required to be maintained as part of the laneway to ensure that a B99 design vehicle can proceed to the termination (southern boundary) of the Subject Land.

- 2.6 If Council resolves to declare the Subject Land to be a public highway under section 204(1) of the Act, the Subject Land will become a 'public road' under section 17(1)(c) of the *Road Management Act 2004 (RMA)* and must be included on Council's Register of Public Roads in accordance with s 17(2) of the RMA.

3 Previous decisions

- 3.1 Council, at its meeting of 20 July 2021, resolved to commence the statutory processes under sections 204(1), 207A and 223 of the Act to declare the Subject Land a public highway.
- 3.2 On 3 September 2021, Council published a notice in *The Age*:
- 3.2.1 giving notice that Council proposes to declare the Subject Land a public highway under section 204(1) of the Act; and
- 3.2.2 inviting submissions under section 223 of the Act by 1 October 2021 (see **Attachment 1** Copy Public Notice);
- 3.3 Additionally, by letters served by Registered Post and letters hand delivered to occupiers, Council issued copies of the public notice to the owners and occupiers of the properties likely to be affected by the proposed declaration of the Subject Land as a public highway.

4. Public consultation

- 4.1 Council received two written submissions in response to its public notice published pursuant to s 223 of the Act. These are discussed below.
- 4.2 *Submission one – one of the Webb St Owners*
- 4.2.1 One of the Webb St Owners sent an email to Council officers raising concerns regarding the necessity of including the Webb Parcel as part of the Subject Land.
- 4.2.2 While this response did not specifically identify that it was a submission made under s 223 of the Act, given that it was received during the period for submissions, Council is treating it accordingly. Further, the response did not expressly oppose or support the proposed declaration, however it is nonetheless appropriate to consider its content and address the issues that it raises.
- 4.2.3 Following a process under s 204(1), 207A and 223 of the Act provides transparency associated with the proposed declaration and ensures the integrity of the decision-making process.
- 4.2.4 With respect to the purpose of including the Webb Parcel as part of the Subject Land, as noted at paragraph 2.4 above, this is to ensure uninhibited vehicular access by B99 design vehicles to the termination (southern boundary) of the proposed public highway.
- 4.3 *Submission two – the George St Owners*
- 4.3.1 Council received a submission from the legal representative of the Owners Corporation Plan no. RP015268 and the owners of units 1-4 of 174-178 George Street (being the 'George St Owners'). The submission opposed the proposed declaration to the extent that it included in the Subject Land the part of the Hiatus Parcel shaded in yellow in the diagram (refer **Attachment 3**). (**Opposed Parcel**).
- 4.3.2 By way of summary, this submission raised the following matters in opposition to the inclusion of the Opposed Parcel within the proposed declaration:
- (a) the George St Owners assert that the Opposed Parcel has been continuously and exclusively used and occupied by them and their predecessors for at least 40 years, for car parking purposes. The assertion is that the George St Owners are now the legal owners of the Opposed Parcel based on the doctrine of adverse possession and, by inference, the Opposed Parcel is not a 'road' which is capable of a public highway declaration. Such occupation is the basis for the George St Owners claiming the legal right to erect the 2020 Fence;
- (b) the Opposed Parcel is not '*reasonably required for general public use*' and, on that basis, Council cannot reasonably declare the Opposed Parcel to be a public highway under s 204(1) of the Act; and
- (c) based on their asserted legal ownership of the Opposed Parcel, the George St Owners are entitled to apply to the Registrar of Titles to amend the title boundaries of the relevant folios comprising 174-178 George Street, to incorporate the Opposed Parcel within those parcels.

The submission did not raise any matters for consideration in respect of the Webb Parcel or the balance of the Hiatus Land (excluding the Opposed Parcel).

4.3.3 Council officers provide the following comments in response to the submissions made by the George St Owners:

(a) Adverse possession / ownership claim

- (i) The Opposed Parcel is 'hiatus land' and does not have a title or registered proprietor.
- (ii) The onus is on the George St Owners to prove that they are entitled to be registered as owner of the fee simple estate in the Opposed Parcel based on the doctrine of adverse possession. This requires the George St Owners to prove that they have accrued at least 15 years of continuous and exclusive possession of the Opposed Parcel, to the exclusion of all others, prior to the Opposed Parcel becoming a road. Once the Opposed Parcel became a road, the George St Owners would need to show 30 years of continuous and exclusive possession to obtain a legal title free from the road status. No evidence has been provided to Council by the George St Owners to support their assertions.
- (iii) Aerial images of the Subject Land obtained by Council show that prior to erection of the 2020 Fence, the Opposed Parcel was openly accessible to third parties via Sandeman Place (refer **Attachment 2**). This evidence contradicts the George St Owners' claims that they have been in exclusive and continuous possession of the Opposed Parcel, to the exclusion of all others, for any period longer than approximately 20 months.
- (iv) A number of the Webb St Owners (two) have provided statements to Council in which they state that they (and their predecessors) have been accessing and using the Opposed Parcel for some 30 years prior to erection of the 2020 Fence for the purpose of vehicle movements and using that land for access between Sandeman Place and the common property at the rear of 75-79 Webb Street. This evidence contradicts the George St Owners' claims that they have been in exclusive and continuous possession of the Opposed Parcel, to the exclusion of all others, for any period longer than approximately 20 months.
- (v) Although it is not free from doubt, the evidence provided and available to Council indicates that the George St Owners have not accrued rights of adverse possession over the Opposed Parcel and, therefore, are not the legal owners of the Opposed Parcel.

(b) Whether the Opposed Parcel legally form part of the proposed declaration

- (i) Section 204(1) of the Act does not expressly require that Council make a decision that a road is 'reasonably required for general public use' before it can declare that road to be a public highway.
- (ii) However, as the effect of declaring the Subject Land to be a public highway is that it will be:
 - A) *'open to the public for traffic as a right, irrespective of whether the road is in fact open to traffic'* (section 3(1) of the Act); and
 - B) a 'public road' for the purposes of the RMA (section 17(1)(c) of the RMA),the relevant issue for determination by Council is whether the Subject Land is reasonably required for public use. Council must act reasonably and consider all relevant considerations in reaching its decision.
- (iii) Officers consider that it is open to Council to consider declaring the Subject Land to be a public highway, for the reasons set out at paragraph 2.3 and 2.4 above.
- (iv) Officers propose that it is reasonable to declare the whole of the Subject Land (including the Opposed Parcel) to be reasonably required for public use and a public highway under the Act, having regard to the following:
 - A) adjoining landowners have stated that the whole of the Subject Land is needed to facilitate vehicular and pedestrian access to 174-178 George Street, 73 Webb Street and 75-79 Webb Street, Fitzroy. The factual basis of

these statement is supported by the swept path diagrams in the Engineering Report commissioned by Council (see **Attachment 2.**);

- B) it is not fatal to Council's decision that members of the public (other than adjoining landowners) may not have been using the Subject Land to date, as the purpose of the proposed declaration is to crystallise the rights of the public so that they are protected into the future. Officers consider that it is essential that the Subject Land be open for general public use, so that Sandeman Place is safely and properly navigable to members of the public who use it (as they are entitled to do);
 - C) the fact that Sandeman Place is a dead-end laneway does not necessarily mean that it is not reasonably required for public use going forward;
 - D) officers consider that the whole of the Subject Land is required for traffic management purposes, to facilitate the functionality of Sandeman Place as a laneway accessible to vehicles. The Opposed Parcel, in particular, is required to this end, as it is essential for the turning of vehicles at the southern end of Sandeman Place, consistent with its use over a number of years prior to the erection of the fence and gates by the George St Owners. In short, without the Opposed Parcel being included in the declaration, the ability of vehicles to use the balance of the Subject Land would be limited from a traffic management and functionality standpoint; and
 - E) the proposed declaration does not appear to interfere with any property rights of the George St Owners, for the reason set out at paragraph (a)(v) above.
- (v) Officers do not agree with the George St Owners' assertion that the declaration of the Opposed Parcel as a public highway would be contrary to the objectives of the RMA or the Act. Rather, such declaration serves the objectives of the relevant legislation, including the following objectives/principles of:
- A) achieving the best outcomes for the municipal community, including future generations (section 9(2)(b) of the Act);
 - B) establishing a system for the management of safe and efficient public roads that best meet the needs and priorities of State and local communities (section 4(2)(b) of the RMA); and
 - C) providing for the protection of roads against damage and interference (section 4(2)(k) of the RMA).
- (c) The George St Owners' proposal to obtain title to the Subject Land
- With respect to the intention of the George St Owners to amend their titles to incorporate the Opposed Parcel, given that there is evidence that they have not historically enjoyed continuous and exclusive possession over the Opposed Parcel, it is suggested that an application of this kind is unlikely to succeed. Council should also object to any such application on the basis that the Opposed Parcel is a 'road' for the purposes of the RMA.

Discussion

5. Following general discussion on the matter, the process has been subject to a statutory requirement.

Options

6. For Council to determine on the matter of declaring the subject parcels of land as public highway.

Community and stakeholder engagement

7. The statutory advertisement process enabled community / stakeholder engagement.

Policy analysis

Alignment to Community Vision and Council Plan

8. Not relevant to this report.

[Climate emergency and sustainability implications](#)

9. Not relevant to this report.

[Community and social implications](#)

10. A Council determination will provide clarity to the status of currently, hiatus land.

[Economic development implications](#)

11. Not relevant to this report.

[Human rights and gender equality implications](#)

12. Not relevant to this report.

Operational analysis

[Financial and resource impacts](#)

13. If the subject land is declared to be public highway, Council will be responsible for appropriate maintenance of the road.

[Legal Implications](#)

14. The consideration and processing of the matter has been addressed in accordance with legislative requirements.

Conclusion

15. That Council, having given public notice of its proposal to declare the road shown hatched on the plan in the relevant public notice (**Subject Land**) as a public highway under section 204(1) of the *Local Government Act 1989 (Act)*, and having considered all submissions in response to that notice:

- 15.1 resolves to declare the Subject Land to be a public highway pursuant to section 204(1) of the Act, for the reason that the whole of the Subject Land is required for public use;
- 15.2 authorises the publishing of a notice in the *Victoria Government Gazette* declaring the Subject Land to be a public highway pursuant to section 204(1) of the Act; and
- 15.3 notifies submitters in writing of its decision and the reasons for the decision.

RECOMMENDATION

1. That Council, having given public notice of its proposal to declare the road shown hatched on the plan in the relevant public notice (**Subject Land**) as a public highway under section 204(1) of the *Local Government Act 1989 (Act)*, and having considered all submissions in response to that notice:

- (a) resolves to declare the Subject Land to be a public highway pursuant to section 204(1) of the Act, for the reason that the whole of the Subject Land is required for public use;
- (b) authorises the publishing of a notice in the *Victoria Government Gazette* declaring the Subject Land to be a public highway pursuant to section 204(1) of the Act; and
- (c) notifies submitters in writing of its decision and the reasons for the decision.

Attachments

- 1 Attachment 1 - Copy of public notice published in The Age
- 2 Attachment 2 - Engineering Report (Triangle)
- 3 Attachment 3 - Diagram of Opposed Parcel

8.7 Appointment of Authorised Officers under the Planning and Environment Act 1987

Reference	D21/182623
Author	Rhys Thomas - Senior Governance Advisor
Authoriser	Group Manager Chief Executive's Office

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 Strategic Objective 6: Democracy and Governance, the City of Yarra Council Plan 2021-2025 contains the strategy "*Practice good governance, transparency and accountable planning and 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) Maharshi PATEL,
be appointed and authorised as set out in the instrument at **Attachment One**; and
 - (b) 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

8.8 Appointment of Council delegates

Reference	D21/191451
Author	Rhys Thomas - Senior Governance Advisor
Authoriser	Group Manager Chief Executive's Office

Purpose

1. To appoint Councillors as delegates for the 2021/2022 Council year.

Critical analysis

History and background

2. In order to assist the Council to undertake its extensive range of functions, Council has established a number of Advisory Committees, to which it appoints both Councillors and community representatives; and appointed delegates to represent it on a range of external organisations.
3. While most appointments were made at the Council meeting of 16 November 2021 (adjourned to 23 November 2021), two appointments remain outstanding.

Discussion

Environment Advisory Committees

4. The Environment Advisory Committee is a Council Advisory Committee established to represent interests pertaining to all aspects of urban environmental sustainability including (but not limited to) climate change; resource efficiency across water, waste and energy; urban greening and natural capital; local food systems; and the built environment, by providing advice to Council on policy, strategy and other strategic opportunities to progress the organisation's response to these issues.
5. At the Council meeting of 16 November 2021, Cr Stone was appointed to the committee. As there are two positions for Councillors, an additional appointment is required.

Collingwood Children's Farm Management Committee

6. The Collingwood Children's Farm Management Committee oversees the management of the Collingwood Children's Farm. Council has the ability to nominate one member to the Committee
7. At the Council meeting of 16 November 2021, no-one appointed to the committee. An appointment is now required.

Metropolitan (Local Government) Waste Management Forum

8. The Metropolitan (Local Government) Waste Management Forum is a forum to develop, support and promote waste reduction and recycling programs.
9. At the Council meeting of 16 November 2021, Cr Nguyen and Cr Stone (substitute) were appointed to the committee. In reviewing the committee allocations, it has been determined that Council should rescind this decision and make two new appointments at this meeting.

Process

10. Before considering the officer's recommendation, Council should seek nominations for the 2021/2022 vacancies.
11. Where the number of nominations exceeds the number of appointments Council intends to make, Council is required to conduct an election to determine which candidates shall be

presented for ratification. The process for these elections is set out in the City of Yarra Governance Rules 2020 and is conducted using the procedure for electing the Mayor set out at Chapter Two, Part A.

12. In summary, this process is as follows:
 - (a) any number of Councillors may be nominated for each vacancy;
 - (b) no seconder is required;
 - (c) the nominee must consent to their nomination;
 - (d) Councillors present shall vote by a show of hands;
 - (e) in the event that no candidate receives a majority, candidates shall be eliminated in accordance with the provisions of the Governance Rules 2020; and
 - (f) in the event of an election being required for a Committee with multiple vacancies, an election shall be conducted for the first vacancy, then a further election for the second vacancy, and so on.
13. Following the conduct of any election or elections as required, Council then ratifies these outcomes (together with the appointment of representatives where the number of nominations matched the number of vacancies) in accordance with the officer's recommendation.

Options

14. In the case of the Environment Advisory Committee (which is constituted by Council), it is open to Council to appoint a different number of representatives than the number of vacancies. In the case of the Collingwood Children's Farm Management Committee, the number of appointments must match the number of vacancies.

Community and stakeholder engagement

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

Policy analysis

Alignment to Community Vision and Council Plan

16. In its Yarra 2036 Community Vision, Council articulated an objective for a community that is *"informed and empowered to contribute to the shared governance of Yarra, (where) decision-making is through access, inclusion, consultations and advocacy."*
17. The City of Yarra Council Plan 2021-2025 commits Council to *"provide opportunities for meaningful, informed and representative community engagement to inform Council's decision-making"* and to *"practice good governance, transparency and accountable planning and decision-making."*
18. The ongoing operation of community advisory committees and the appointment of Councillors to all committees in an open and transparent process underpins both the Yarra 2036 Community Vision and the City of Yarra Council Plan 2021-2025 and demonstrates Council's ongoing commitment to good governance.

Climate emergency and sustainability implications

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

Community and social implications

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

Economic development implications

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

Human rights and gender equity implications

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

Operational analysis

Financial and resource impacts

23. The financial and resource impacts of operating the committee set out in this report are minimal and included in the operational budgets of the relevant Council programs.

Legal Implications

24. The recommendations of this report have been structured to ensure that where necessary, committee members are lawfully appointed in accordance with the relevant provisions of the body.
25. In the case of the environment Advisory Committee, Council is free to appoint any number of members, regardless of the number specified in its Terms of Reference.

Conclusion

26. This report recommends the appointment of delegates to two bodies.

RECOMMENDATION

1. That in addition to the appointment of Cr Stone made at the Council meeting of 16 November 2021, Council appoint Cr _____ to the Environment Advisory Committee for 2021/2022 Council year.
2. That Council appoint Cr _____ to the Collingwood Children's Farm Management Committee for the 2021/2022 Council year.
3. That Council rescind the decision at the Council meeting of 16 November 2021 to appoint Cr Nguyen and Cr Stone (substitute) to the Metropolitan Waste Forum, and instead appoint Cr _____ and Cr _____ (substitute) for the 2021/2022 Council year.

Attachments

There are no attachments for this report.

